



## 904 DISTRIBUTION OF MATERIALS ON SCHOOL DISTRICT PROPERTY BY NON-SCHOOL PERSONS

### I. PURPOSE

The purpose of this policy is to provide for distribution of materials appropriate to the school setting by non-staff and non-students on school district property in a reasonable time, place, and manner which does not disrupt the educational program nor interfere with the educational objectives of the school district.

### II. GENERAL STATEMENT OF POLICY

- A. The school district intends to provide a method for non-school persons and organizations to distribute materials appropriate to the school setting, within the limitations and provisions of this policy.
- B. To provide for orderly and non-disruptive distribution of information/materials (on a case by case limited basis), the School Board adopts the following regulations and procedures.

### III. DEFINITIONS

- A. "Distribution" means circulation or dissemination of information/materials (on a case by case limited basis) by means of handing out free copies, offering copies for sale, accepting donations for copies, posting or displaying materials, or placing materials in internal staff or student mailboxes, book bags or backpacks.
- B. "Materials" includes all materials and objects intended by non-school persons or non-school organizations for distribution. Examples of non-school-sponsored materials include but are not limited to leaflets, brochures, buttons, badges, flyers, petitions, posters, underground newspapers whether written by students, employees or others, and tangible objects. Such materials will be granted on a minimal basis as determined through this policy.
- C. "Non-school person" means any person who is not currently enrolled as a student in or employed by the school district.
- D. "Obscene" means that the average person, applying community standards, would find that the material contains information which is patently offensive, appeals to the prurient interest and, taken as a whole, lacks serious literary, artistic, political, or scientific value. Examples of materials that are obscene include, but are not limited to, materials that depict or describe intimate sexual acts, masturbation,

excretory functions, or lewd exhibition of genitalia.

E. "Obscene to minors" means:

1. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the unhealthy interest of minors of the age to whom distribution is requested;
2. The material depicts or describes, in a manner that is patently offensive to

~~prevailing standards in the adult community concerning how such conduct should be presented to minors of the age to whom distribution is requested, sexual conduct such as intimate sexual acts (normal or perverted), masturbation, excretory functions, and lewd exhibition of the genitals; and~~

~~3. The material, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.~~

F. “Minor” means any person under the age of eighteen ~~(18)~~.

G. “Material and substantial disruption” of a normal school activity means:

1. Where the normal school activity is an educational program of the school district for which student attendance is compulsory, “material and substantial disruption” is defined as any disruption which interferes with or impedes the implementation of that program.
2. Where the normal school activity is voluntary in nature (including school athletic events, school plays and concerts, and lunch periods) “material and substantial disruption” is defined as student rioting, unlawful seizures of property, conduct inappropriate to the event, participation in a school boycott, demonstration, sit-in, stand-in, walk-out, or other related forms of activity.

In order for expression to be considered disruptive, there must exist specific facts upon which the likelihood of disruption can be forecast, including past experience in the school, current events influencing student activities and behavior, and instances of actual or threatened disruption relating to the written material in question.

H. “School activities” means any activity sponsored by the school, including but not limited to, classroom work, library activities, physical education classes, official assemblies and other similar gatherings, school athletic contests, band concerts, school plays, other theatrical productions, and in-school lunch periods.

I. “Libelous” is a false and unprivileged statement about a specific individual that tends to harm the individual’s reputation or to lower him or her in the esteem of the community.

#### IV. GUIDELINES

A. Non-school persons and organizations may, within the provisions of this policy, be granted permission to distribute, at reasonable times and places as set forth in this policy, and in a reasonable manner, materials and objects which are appropriate to the school setting.

Requests for distribution of materials will be reviewed by the Communications Department on a case-by-case basis. However, distribution **will not be permitted of any material contains any information, word, image, or depiction that:**

- **is obscene;**
- **is lewd, vulgar, or profane;**
- **is defamatory;**
- **creates or is reasonably forecasted to create a material and substantial disruption;**
- **promotes a product or item that the law or school policy prohibits minors from using or possessing on school property;**
- **advocates or incites violence or conduct that would violate the law or a school district policy;**
- **disparages, demeans, or discriminates against an individual or group based on protected class status;**
- **harasses, threatens, or otherwise violates the rights of others;**
- **violates any school district policy;**
- **is contrary to the District's basic educational mission; or**
- **is otherwise inappropriate for students based on the content of the material and the age of the students in the school where the distribution would occur.**

**B. of the following information is always prohibited. Material is prohibited that:**

**1. is obscene to minors;**

**2. is libelous;**

**3. is pervasively indecent or vulgar or contains any indecent or vulgar language or representations, with a determination made as to the appropriateness of the material for the age level of students to which it is intended;**

**4. advertises any product or service not permitted to minors by law;**

**5. advocates violence or other illegal conduct;**

**6. constitutes insulting or fighting words, the very expression of which injures or harasses other people (e.g., threats of violence, defamation of character or of a person's race, religious or ethnic origin);**

**7. presents a clear and present likelihood that, either because of its content or the manner of distribution, it will cause a material and substantial disruption of the proper and orderly operation and discipline of the school or school activities, will cause the commission of unlawful acts or the violation of lawful school regulations.**

C. Permission for non-school persons to distribute materials on school district property is a privilege and not a right. In making decisions regarding permission for such distribution, for groups or community organizations, the Communications Department will consider factors including, but not limited to the following criteria:

1. The requesting entity must be a Non-Profit Organization, **SoWashCo Schools** ~~District 833~~ Parent Group (including PTA, PTO, and Boosters), or a **SoWashCo Schools** ~~District 833~~ Student Organization.
2. Information shared must be an offer of student opportunities to enhance student achievement and wellness and/or support **SoWashCo Schools** ~~District 833~~ programs and opportunities.
3. Each group/organization will be allowed to share (post) no more than four flyers over the course of the school year (commencing July 1 and ending June 30). Note that each city is an organization, each athletic association is an organization so as a result, that organization will have the opportunity to post four flyers each year. Within those types of organizations, the divisions/departments would need to coordinate with a

single person at the top level of the organization to share information.

4. If the group/organization meets all eligibility listed, a link will be provided to their organization on the district's website under "community links".

## V. TIME, PLACE, AND MANNER OF DISTRIBUTION

Coordination of the postings will be done through the Communications Department. An email can be sent to the department through [flyers@sowashco.org](mailto:flyers@sowashco.org). This will be the central location for people to send their information (single page) in a PDF format. If permission is granted pursuant to this policy for the distribution of any materials, the time, place and manner of distribution will be solely within the discretion of the Communications Department, consistent with the provisions of this policy.

## VI. VIOLATION OF POLICY

Any party violating this policy or distributing information/materials without permission will be directed to leave the school property immediately and, if necessary, the police will be called.

## VII. IMPLEMENTATION

The Communications Department may develop any additional guidelines and procedures necessary to implement this policy for submission to the School Board for approval.

**Legal References:** U. S. Const., amend. I  
*Hazelwood School District v. Kuhlmeier*, 484 U.S. 260, 108 S.Ct. 562, 98 L.Ed.2d 592 (1988)  
*Doe v. South Iron R-1 School District*, 498 F.3d 878 (8th Cir. 2007)  
*Bystrom v. Fridley High School*, 822 F.2d 747 (8th Cir. 1987)  
*Cornelius v. NAACP Legal Defense and Educational Fund, Inc.*, 473 U.S. 788, 105 S.Ct. 3439, 87 L.Ed.2d 567 (1985)  
*Perry Education Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 103 S.Ct. 948, 74 L.Ed.2d 794 (1983)  
*Roark v. South Iron R-1 School Dist.*, 573 F.3d 556 (8th Cir. 2009)  
*Victory Through Jesus Sports Ministry Foundation v. Lee's Summit R-7 School Dist.*, 640 F.3d 329 (8<sup>th</sup> Cir. 2011), cert. denied \_\_\_U.S.\_\_\_, 132 S.Ct. 592 (2011)

**Cross References:** MSBA/MASA Model Policy 505 (Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees)  
MSBA/MASA Model Policy 512 (School-Sponsored Student Publications)  
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