LENAPE TECHNICAL SCHOOL

SECTION: PUPILS

TITLE: STUDENT EXPRESSION/DISTRIBUTION AND POSTING OF MATERIALS

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June 20, 2019

220. STUDENT EXPRESSION/DISTRIBUTION AND POSTING OF MATERIALS

1. Purpose

The right of public school students to freedom of speech is guaranteed by the Constitution of the United States and the constitution of the Commonwealth. The Joint Operating Committee respects the right of students to express themselves in word or symbol and to disseminate non-school materials to others as a part of that expression. The Joint Operating Committee also recognizes that exercise of that right is not unlimited and must be balanced with the school's responsibility to maintain a safe and orderly school environment and to protect the rights of all members of the school community.[1]

This policy addresses student expression in general as well as dissemination of expressive materials that are not part of school-sponsored activities (non-school materials).

This policy does not apply to materials sought to be disseminated as part of the curricular or extracurricular programs of the school, which shall be regulated separately as part of the educational program.

2. Definitions

For the purpose of this policy, **dissemination** shall mean students distribution or publicly displaying non-school materials to others:

1. On school property or during school-sponsored activities by placing such materials upon desks, tables, on or in lockers, walls, doors, bulletin boards, or easels; by handing out such materials to other persons; or by any other manner of delivery to others; or
2. At any time or location when creating or sending information using email, websites, online platforms, social media channels or other technological means that are owned, provided or sponsored by the school.

Expression means verbal, written, technological or symbolic representation or communication.

Non-school materials means any printed, technological or written materials, regardless of form, source or authorship, that are not prepared as part of the curricular or approved extracurricular program of the school. This includes, but is not limited to fliers, invitations, announcements, pamphlets, posters, online discussion areas and digital bulletin boards, personal websites and the like.

2. Authority	**Limitations on Student Expression** Students have the right to express themselves unless such expression is likely to or does materially and substantially disrupt or interfere with the educational process, including school activities, schoolwork, discipline, safety and order on school property or at school functions; threatens serious harm to the school or community; encourages unlawful activity; or interferes with another's rights. Student expression is prohibited to the extent that it:[1] 1. Violates federal, state or local laws, Joint Operating Committee policy or school rules or procedures. 2. Is libelous, defamatory, obscene, lewd, vulgar, or profane.[2] 3. Advocates the use or advertises the availability of any substance or material that may be reasonably believed to constitute a direct or serious danger to the health or welfare of students, such as tobacco/vaping products, alcohol or illegal drugs. 4. Incites violence, advocates use of force or threatens serious harm to the school or community. 5. Materially and substantially disrupts or interferes with the educational process, such as school activities, schoolwork, discipline, safety and order on school property or at school functions. 6. Interferes with, or advocates interference with, the rights of any individual or the safe and orderly operation of the school and school programs; or 7. Violates written procedures on time, place and manner for posting and dissemination of otherwise protected expression. Student expression that occurs on school property or at school-sponsored events or occurs at any time or place when created or communicated using school-provided equipment, email, websites, or other technological resources, is subject to this policy. The limitations, prohibitions and requirements of this policy shall apply to expression that occurs outside the foregoing circumstances only when and to the extent that the out-of-school expression: [1][2][3][4] 1. Incites violence, advocates use of force or otherwise threatens serious harm directed at students, staff or the school environment. 2. Materially and substantially disrupts or interferes with the educational process, such as school activities, school work, discipline, safety and order on school property or at school functions; or 3. Interferes with, or advocates interference with, the rights of any individual or the safe and orderly operation of the school and programs.

Dissemination of Non-School Materials.

The Joint Operating Committee requires that dissemination of non-school materials shall occur only at the places and during the times set forth in written procedures. Such procedures shall be written to permit the safe and orderly operation of the school, while recognizing the rights of students to engage in protected expression. [1][4]

The Joint Operating Committee requires that a student or students who wish to disseminate non-school materials on school property shall obtain approval by submitting them at least three (3) school days in advance of planned distribution or posting to the building for prior review to the Administrative Director or appropriate personnel designated by the Administrative Director.

If the non-school materials include matters prohibited by this policy, the building administrator or appropriate personnel designated by the Administrative Director shall promptly notify the students of the nature of the violation and that they may not disseminate the materials until the violation is corrected and the materials are resubmitted for approval.

If notice of disapproval is not given during the period between submission and the time for the planned dissemination, students may consider the request approved and proceed with the dissemination as requested, subject to all other established, and requirements relating to time, place and manner of dissemination. Students may nonetheless be directed to cease or suspend dissemination if it is later determined that the materials or the dissemination of them are in violation of this policy or implementing rules or procedure.

Students who disseminate printed non-school materials shall be responsible for clearing any litter that results from their activity and shall schedule the event so that they do not miss instructional time themselves.

Printed non-school materials displayed in a fixed location of a building shall bear the date when placed in each location. The school may remove the materials within ten (10) days of the posting or other reasonable time as stated in applicable procedures.

Review of Student Expression

Review of non-school materials proposed for dissemination shall be conducted promptly so as to avoid unreasonable delay in dissemination.

School officials shall not censor or restrict non-school materials or other student expression for the sole reason that it is critical of the school or its administration, or because the views espoused are unpopular or may make people uncomfortable.

Student-initiated religious expression is permissible, and apart from regarding time,

	place and manner shall not be restricted unless the expression violates some other aspect of this policy, e.g., because it is independently determined to be in violation of this policy for reasons other than the religious nature of the content. Appeal of the reviewer's decision may be made to the Administrative Director and then to the Joint Operating Committee, in accordance with Joint Operating Committee policy and procedures.
3. Delegation of Responsibility	The Administrative Director shall assist the building administrator in determining the designation of the places and times non-school materials may be disseminated in the school. Such designations may take into account maintenance of the flow of student traffic throughout the school and shall limit dissemination of non-school materials to non-instructional times. When the student dissemination of non-school materials or other student expression violates this policy, the building administrator may determine what, if any, disciplinary or other consequences should be imposed. Disciplinary actions shall be in accordance with applicable Joint Operating Committee policy and the Code of Student Conduct.[6][7] The Administrative Director shall ensure that building administrators and other staff involved in reviewing non-school materials proposed for dissemination and evaluating whether violations of this policy have occurred receive training regarding applicable standards and procedures. Special emphasis shall be given to understanding the limitations on school officials' authority to regulate off-campus student expression, as well as the need to articulate in detail the nature and extent of disruption to or interference with the school environment thought to be caused by or off-campus student expression and the specific manner by which the student expression involved is thought to have caused it. The Joint Operating Committee policy and any procedures written to implement this policy shall be referenced in student handbooks so that students can access them for further information. Legal references: 1. 22 PA Code 12.9 2. 22 PA Code 12.2 3. 24 P.S. 511 4. 24 P.S. 1850.1 5. Pol. 219 6. Pol. 218 7. Pol. 113.1 Mahanoy Area School District v. B.L., 594 U.S> ____(2021) Pol. 816