

AGENDA



**Addison Central School District
Policy Committee
Committee Meeting
Tuesday, June 25, 2024, 5:30 pm - 6:30 pm
208 Charles Avenue, Middlebury VT & Virtual Connection**

ACSD District Vision and Mission

OUR VISION

Our vision is for all ACSD students to reach their full learning potential, have a sense of belonging in our schools, and enrich our community and the communities where they live in the future.

OUR MISSION

Our mission is to provide high-quality, equitable, and varied learning environments that inspire a passion for learning and growth among our students.

Please click the link below to join the webinar: <https://us06web.zoom.us/j/85062252040>

- A. Call to Order Upon Reaching a Quorum
 - 1. Introductions - Board Members, Administrators and Staff
- B. Public Comment - Agenda Items
- C. Recommendation to Approve Minutes of 6/4/2024
- D. Committee Discussion:
 - 1. E21 Distribution of School Sponsored Literature
- E. Public Comment - Any Topic
- F. Adjournment

***Public Comment Guidelines:**

Public comments are encouraged and welcome at each regular board meeting during the period designated for public comment. Comments are limited to three minutes per person. Citizens will be called to make their statement by the board chair. Public comments regarding personnel, students or legal matters will not be heard by the Board.

MINUTES



**Addison Central School District
Policy Committee
Committee Meeting
Tuesday, June 4, 2024, 4:15 pm - 5:15 pm
208 Charles Avenue, Middlebury VT & Virtual Connection**

ACSD District Vision and Mission

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OUR MISSION

Our mission is to provide high-quality, equitable, and varied learning environments that inspire a passion for learning and growth among our students.

A. Call to Order Upon Reaching a Quorum

Jamie called the meeting to order at 4:15 pm.

1. Introductions - Board Members, Administrators and Staff

Jamie McCallum, Steve Orzech, Ellen Whelan-Wuest, Laura Harthan, Dr. Wendy Baker, Dr. Laura Nugent

B. Public Comment - Agenda Items

No public comment

C. Recommendation to Approve Minutes of 5/7/2024

Move: Steve Orzech Second: Jamie McCallum Status: Passed

D. Committee Discussion:

1. A21 - Public Participation at Board Meetings

Jamie reminded that at the most recent full board meeting, members of the state and community engagement committee brought this issue up as a potential barrier to community engagement at board meetings.

Ellen said she strongly feels that breaking up the public comment so that some public comments come at the end of the meeting. Steve noted that the board has, in the past, had members of the public talk at great length on topics and take up a lot of time at board meetings. Ellen agreed that a limit on timing is important and useful, but her main issue is making members of the public wait until the end of the meeting to speak.

The board discussed whether it would be best or appropriate to aim for proposing this change through policy or procedural changes.

The committee agreed that the policy, as written, doesn't establish or require any particular order of public comment, and that it would make sense to move forward with Ellen (or whoever wants) to request that this item be added to the agenda of a full board meeting.

2. Policy/Governance discussion: ENDS policies

Jamie explained that his understanding is that an ENDS policy is a framework that allows us to create a policy whereby the superintendent would understand our goals and would potentially be evaluated by the extent to which the superintendent met those goals.

Jamie included some sample ENDS policies in the Boardpaq documents.

Wendy had asked Jamie about ENDS policies when she met with Jamie during her onboarding, she explained that having an ENDS policy means you can measure other policies against that, and also establish progress monitoring and progress monitoring schedules around meeting that policy.

Puts in policy- these are the ends that are really important to the district, which is important because a Strategic Plan is not binding.

Steve asked if Wendy, as superintendent is comfortable with the absolutes that are in the sample language that we have in Boardpaq.

Wendy replied that anyone can scrutinize our ability to meet our goals, and these are the ends so there has to be a plan with a timeline that the superintendent brings to the board in reporting on it.

Wendy explained that having this kind of policy makes it easier for the administration to clarify that these are the ends we are striving for.

Ellen said that it sounds like an important point in what Wendy explains is that this type of policy doesn't have a timeline attached to it, and it's more like establishing the destination we want to get to and not the means of getting there but it does mean the administration will have to report on our progress getting there, and ensure that these goals are more protected in policy rather than a non-binding Strategic Plan which could be abandoned by a new board at any time.

Wendy suggested looking to the roles and responsibilities policies from other districts like those whose ENDS policies we referenced today to see how they augment or support the ENDS policies and where those are different from our current roles and responsibilities policies.

Linking the roles and responsibilities to the ENDS policy helps make it clear that any changes in roles/responsibilities would speak to making progress toward the ENDS policies.

Jamie asked how we would go forth with drafting a new policy like this without having a VSBA draft to start from. Wendy suggested that starting with the strategic plan would make sense. Another idea would be to consider some ends that are not as weighted academically. But starting with figuring out which of our goals in the strategic plan would make sense in an ENDS policy and starting from there.

Jamie shared a concern he has heard that an ENDS policy can shift authority from the board or limit the board's ability to govern. He asked Wendy to explain that, if she can. Wendy offered that when this concept was first rolled out it was about holding the Superintendent accountable and ensuring that the Board would not interfere with that. It would give people the ability to think broadly about how to support the superintendent to do the right thing. For example, in small rural schools the conversation is often about keeping local tradition vs. doing what needs to be done to bring students ahead. Those things can sometimes be at odds. So superintendents often need to identify things that have to happen, like a supervision and evaluation practices. There is a previous agreement about what that looks like but it is not implemented consistently across the district. This fall there will be new rubrics rolled out to ensure consistent effective supervision and evaluation in every school.

Ellen clarified that this would not be a policy that would allow the superintendent to anything with the justification of meeting the policy or working towards the ends. Wendy confirmed that this could not violate charter or law. She also suggested researching how ENDS policies do or don't play out in different districts, whether these are controversial and why.

Ellen volunteered to work on drafting something for the committee to consider. Laura said she would help with that as well.

3. E20: Community Use of School Facilities

Board discussed whether or not our current policy on the use of district facilities.

Ellen asked if we could first ask our lawyers to review our current policy to establish where and if it needs revision/strengthening.

Laura pointed out that in the past we've started to make changes to policies only to find out that what we had was considered by VSBA as model policy, so it may be prudent to review first before making changes.

Laura also suggested that with whatever policy we have, any requests for use of facilities should go through a legal review.

Wendy asked where we could find the referenced E20 procedures- Laura found it on the ACSD website.

Steve asked if there are any stipulations in either policy (current and recommended) that would allow to limit based on private entities using school buildings. Ellen found a section in the VSBA policy recommendation that speaks to this.

Wendy offered to speak with Pietro Lynn about ways to revise and update our current policy, which does feel fairly minimal.

The committee supported this course of action.

E. Public Comment - Any Topic

F. Adjournment

Jamie thanked Dr. Laura Nugent for her work with our committee the last few months.

Steve brought up that Barb Wilson had emailed the board with the district's current superintendent evaluation process and that this committee may need to be ready to act on revising our policy and procedures related to this.

Wendy and Jamie discussed working over the summer ways the board could evaluate current district policies to ensure that equity takes place as intended. This would start with a review of what is out there and has been adopted by other districts that are farther ahead of ACSD in some ways on this issue. For example, we may not have in policy anything that speaks to curriculum materials being cross-cultural.

Wendy said that the summer would be a good time to start thinking about how the committee start to engage with finding a person or organization that has done this well. She suggested contacting the national school board association first.

Steve pointed out that the committee should work through the policy manual to review what needs to be updated over the summer as well. Wendy said she'll be reviewing our policies in depth so she can take notes on what policies need updating. Jamie suggested that he take all the A policies, Steve take B, Ellen will do C & D, Laura will do E/F. The rule is to flag any policies that were adopted more than 3 years ago (2021).

Meeting adjourned at 5:30pm

Respectfully submitted by Ellen Whelan-Wuest

Move: Steve Orzech Second: Ellen Whelan-Wuest Status: Passed

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Addison Central School District

Policy: Distribution of Non-School Sponsored Literature in Schools

File Code: E21

Warned: January 6, 2017

Adopted: January 17, 2017

Amended: May 7, 2018

While encouraging community sponsored activities, it is the responsibility of the board and district to assure that district resources are focused on student achievement and to assure the least amount of disruption or distraction from class work during school hours. This policy defines the circumstances under which materials and information can be distributed to Addison Central School District students.

It is the policy of Addison Central School District to allow limited distribution of non-school sponsored literature on school grounds or at school events by community members or district employees acting in their own behalf or on behalf of a community group. Accordingly, the Superintendent may permit the distribution of non-school sponsored literature without discrimination as to the viewpoint of the literature in accordance with this policy

Non-school sponsored materials include but are not limited to literature means any printed, written, or electronic materials prepared by non-school organizations, groups or individuals for posting or general distribution that are not prepared as a part of the curricular or approved extracurricular programs of the district. It also includes materials prepared by School District employees acting in their own behalf or on behalf of a community group. Non-school sponsored materials includes such things as fliers, invitations, announcements, pamphlets, posters, photographs, pictures, films, audio recordings, digital media recordings, and electronic messages.

Distribution means handing non-school literature to others on school property or during school-sponsored events; posting on school property such as walls, bulletin boards, and District websites and social media accounts; placing upon desks, tables, on or in lockers; making available in principal's office; or engaging in any other manner of delivery of non-school sponsored literature to others while on school property or during school functions.

All non-school sponsored literature intended for distribution on school property or at school-sponsored events shall be submitted to the Superintendent or designee for prior review as instructed in the ACSD Distribution Guidelines.

This policy prohibits the distribution of literature that:

- a) Is libelous, defamatory, obscene, lewd, vulgar, or profane;
- b) Violates federal, state or local laws;

- c) Advocates the use or availability of any substance or material that may reasonably be believed to constitute a direct and substantial danger to the health or welfare of students, such as tobacco, alcohol or illegal drugs;
- d) Incites violence;
- e) Interferes with or advocates interference with the rights of any individual or the orderly operation of the schools and their programs;
- f) Is primarily of a commercial nature, including but not limited to all material that primarily seeks to advertise for sale products or services; or
- g) Whose primary purpose is fund-raising.
- h) Advocates for a specific political and/or religious viewpoint.

All non-school sponsored literature intended for distribution on school property or at school-sponsored events shall be submitted to the Superintendent for prior review as to the following:

- a) To confirm that the literature includes the name of the person or organization sponsoring the distribution, and that there is no implication that the literature is endorsed by the School District, and
- b) To confirm that the literature does not fall in one of the prohibited categories listed above.

Prior review of literature is not required when the non-school sponsored literature is distributed by an attendee to other attendees at a meeting intended for adults held after school hours.

The Superintendent may place reasonable time, place, and manner restrictions on the distribution of non- school sponsored literature.

Non-school sponsored literature may not be used during instructional time or school-sponsored activities unless it is of educational value to the school program, benefits District students or the school community, and is factually accurate.

Notwithstanding anything in this policy, the School District may adopt more restrictive rules for signs or messages on school property that bears the school imprimatur due to their location. For example, the School District may restrict the content of messages on advertising displayed on baseball field fences or brick pavers in walkways if advertising space is sold in those locations to raise money for the School District. Selling advertising in that way does not create a public forum in those locations.

DISTRIBUTION OF NON-SCHOOL SPONSORED LITERATURE IN THE SCHOOLS¹

ADOPTION NOTES – This text box and the disclaimer should be removed prior to adoption.

(a) General – As with all model policies, VSBA recommends that each board carefully review this model prior to adoption to assure suitability with the district’s own specific circumstances, internal coding system, current policies, and organizational structures. Highlighted language or blank, underscored spaces indicate areas which Boards must change/complete to reflect local personnel titles, policy references, duty assignments etc. There may also be optional language for the board to consider; in this case the word [OPTIONAL] should be removed.

*(b) **This model policy requires the board to make a choice between Option A or Option B.** Legal references are listed for convenience, but do not need to be included in the policy as adopted.*

(c) Any model policies listed under “cross-reference” indicate a reference to another related VSBA model policy. A district should check its own current policies to assure internal consistency.

(d) Withdrawn and earlier versions of revised policies should be maintained separately as part of the permanent records of the District.

Option A - for school districts that do not allow any distribution of non-school literature:²

Policy

The _____ School District does not allow any distribution of non-school sponsored literature on school grounds or at school events by community members, or district employees acting on their own behalf or on behalf of a community group.³

Definitions

1. **Non-school sponsored literature** means any printed, written, or electronic materials prepared by non-school organizations or individuals that are not made as a part of the

¹ This policy does not apply to student distribution of materials. The rules for student speech are different. See the policy on student distribution of literature.

² A school district has the legal right to preserve its facilities exclusively for the purpose of conducting its educational programs. A school district is a non-public forum and is not required to be made open to all. *Lamb’s Chapel v. Center Moriches Union Free School Dist.*, 508 U.S. 384, 390 (1993). Once a district prohibits all distribution of non-school sponsored materials, it must be consistent.

Although a forum will not become open by inadvertence, a district following Option A shall not allow community members to distribute non-school sponsored materials. In addition, the district shall not distribute such materials on behalf of any community group. For example, districts adopting this prohibition would not be allowed to post fliers announcing community sports events, would not be allowed to send home fliers inviting children to join community organizations, and would not be allowed to have a shelf in the office for private summer camp brochures.

³ The district should clearly delineate in its policy whether parent-teacher organizations are school-sponsored organizations. If they are not, then any distribution of literature by such groups will violate this policy and will open the door for all other community groups to distribute literature. Policies that allow decisions as to which groups will be considered school-sponsored organizations in the “sole discretion” of the superintendent are vulnerable to legal attack; it is better to spell them out in policy.

curricular or approved extracurricular programs of the district. They include such things as fliers, invitations, announcements, pamphlets, posters, photographs, pictures, audio recordings, digital recordings, and electronic messages. Materials prepared under the supervision of school staff as part of classroom instruction or classroom activities are not restricted by this policy.

2. **Distribution** means circulating non-school sponsored literature in ways that include: handing to others on school property or during school-sponsored events; posting on school property such as walls, bulletin boards, and district web-sites; placing upon desks, tables, on or in lockers; or making available in the principal's office.

Option B - for school districts that allow distribution of non-school literature:

Policy

It is the policy of the _____ School District to allow limited distribution of non-school sponsored literature on school grounds or at school events by community members, or district employees acting on their own behalf or on behalf of a community group. Accordingly, the superintendent or designee may permit the distribution of non-school sponsored literature without discrimination in accordance with this policy.⁴

Definitions

1. **Non-school sponsored literature** means any printed, written, or electronic materials prepared by non-school organizations or individuals that are not made as a part of the curricular or approved extracurricular programs of the district. They include such things as fliers, invitations, announcements, pamphlets, posters, photographs, pictures, audio recordings, digital recordings, and electronic messages. Materials prepared under the supervision of school staff as part of classroom instruction or classroom activities are not restricted by this policy.
2. **Distribution** means circulating non-school sponsored literature in ways that include: handing to others on school property or during school-sponsored events; posting on school property such as walls, bulletin boards, and district web-sites; placing upon desks, tables, on or in lockers; or making available in the principal's office.

Administrative Responsibilities

1. The superintendent may authorize the distribution of non-school sponsored literature by community members, or district employees acting in their own behalf or on behalf of a community group for following purposes, provided all relevant procedures are followed:⁵
 - a. Literature from parent-teacher organizations;
 - b. Literature from school booster organizations;

⁴ A totally public forum is one where all materials may be distributed; the classic example is a public park. A limited public forum is one where certain categories of material may be distributed. *NAACP Legal Defense and Ed. Fund, Inc.*, 473 U.S. 788 (1985) and *Travis v. Owego-Apalachin School Dist.*, 927 F.2d 688 (2d Cir. 1991) (good overview of differences among types of public forums). School districts may create a limited public forum by allowing outside groups to distribute literature on a limited basis as long as the criteria for allowing or prohibiting distribution are reasonable and viewpoint neutral.

In a limited public forum, once the district allows a community group to distribute materials for one purpose then it and must allow all other community groups wishing to distribute materials dealing with the same topic, even if their view of the topic is different. The basic principle is that restrictions on distribution of materials may not be based on a group's viewpoint. *Lamb's Chapel v. Center Moriches Union Free School Dist.*, 508 U.S. 384 (1993); *Good News Club v. Milford Central Schools*, 533 U.S. 98 (2001). In these cases, the Supreme Court specifically held that religious groups' use of school facilities must be permitted when other groups seeking to teach morals have been permitted to use facilities; the same approach applies to distribution of materials.

⁵ This list is merely an example. An individual school district could decide to make this list broader or narrower. However, when designating categories, a district must remain viewpoint neutral.

- c. Literature from professional organizations comprised of the school district employees;
 - d. Literature regarding social, civic and recreational meetings;
 - e. Literature regarding entertainment; and
 - f. Literature regarding private academic tutoring, music lessons, or non-school sponsored athletics.
2. The superintendent shall establish procedures for the distribution of non-school sponsored literature, which:
- a. May include reasonable time, place, and manner restrictions.⁶
 - b. Shall not discriminate based on viewpoint.
 - c. Shall prohibit the distribution of literature that:
 - i. Is obscene, vulgar, or profane, or harms the reputation of others⁷
 - ii. Violates federal, state or local laws;
 - iii. Advocates the use or availability of tobacco, alcohol or illegal drugs;⁸
 - iv. Incites violence;
 - v. Interferes with or advocates interference with the orderly operation of the schools and their programs;⁹
 - vi. Primarily seeks to advertise for sale products or services;¹⁰ or
 - vii. Has fundraising as a primary purpose.¹¹
 - d. Shall require that the superintendent or designee review all literature before it is distributed to confirm that the literature:
 - i. includes the name of the person or organization sponsoring the distribution;
 - ii. does not imply that it is endorsed by the school district; and
 - iii. does not fall in one of the prohibited categories listed above.

⁶ Examples of a “time” restriction are that literature be distributed before or after regular school hours. A “place” restriction might be that literature be posted only on bulletin boards and not on windows, or that it be made available on a specified table in the principal’s office. A “manner” restriction might specify whether or not persons distributing the material may stand at the main entrance to the building, or might limit the number of copies of a pamphlet that may be distributed. *Hedges v. Wauconda Community Unit Sch. Dist. No. 118*, 9 F.3d 1295 (7th Cir. 1993). Such restrictions must be applied without discrimination as to viewpoint of group or individual who wishes to distribute non-school sponsored literature. Note that the courts have held a school district’s internal mail distribution system is not a public forum, and thus school districts are not required to allow the mail system to be used for distribution of non-school sponsored materials. *Perry Educ. Ass’n v. Perry Local Educ. Ass’n*, 460 U.S. 37 (1983).

⁷ *Bethel School District No. 403 v. Fraser*, 478 U.S. 675 (1986) (student may be disciplined for giving speech at school assembly that contained sexual innuendos and vulgar language). T-shirt that impugned character of sitting U.S. president was not vulgar or offensive within meaning of *Fraser* according to Second Circuit Court of Appeals. *Guiles v. Marineau*, 461 F.3d 320 (2d Cir. 2006).

⁸ *Morse v. Frederick*, 551 U.S. 393 (2007) (school officials may prohibit speech that they reasonably believe advocates illegal drug use, so long as the speech cannot be interpreted as commenting on any political or social issue). Student had First Amendment right to wear T-shirt that criticized President Bush by depicting him as a drug and alcohol user and a “chicken-hawk” because it did not advocate use of drugs. *Guiles v. Marineau*, 461 F.3d 320 (2d Cir. 2006).

⁹ The standard for evaluating the reasonableness of controls on student self-expression and student speech is whether or not the speech substantially or materially disrupts school activity or could reasonably be forecast to cause such disruption. *Tinker v. Des Moines Indep. Community Sch. Dist.*, 393 U.S. 503 (1979) (students protesting Vietnam War entitled to wear black armbands).

¹⁰ As indicated here, a district could choose to prohibit all distribution of literature that promotes the sale of products or services. As with all viewpoint neutral prohibitions, care must be taken that the prohibition is evenly enforced without exceptions. If a district wishes to allow distribution of materials supporting some commercial activity but not others, it must make the distinction based on criteria that are objective and viewpoint neutral.

¹¹ A common question may be whether students selling items to raise money for parent-teacher organizations is permitted. If such organizations are clearly delineated (either in this policy or elsewhere) as school-sponsored groups and their literature is delineated as school-sponsored literature, then distribution of their fundraising materials would not be restricted by this policy.

- iv. Prior review of literature shall not be required when the non-school sponsored literature is distributed by an attendee to other attendees at a meeting intended for adults held after school hours.¹²
- e. May include more restrictive rules for signs or messages on school property that bears the school imprimatur due to their location. For example, the school district may restrict the content of messages on advertising displayed on baseball field fences or brick pavers in walkways if advertising space is sold in those locations to raise money for the school district. Selling advertising in that way does not create a public forum in those locations.¹³
- 3. The superintendent or designee may deny a request to distribute non-school sponsored literature on school grounds or at school events by community members, or district employees acting in their own behalf or on behalf of a community group for the following reasons:
 - a. The non-school sponsored literature is likely to cause a material and substantial disruption to school operations.
 - b. The non-school sponsored literature promotes or sponsors a political party.¹⁴
 - c. The non-school sponsored literature could reasonably be expected to or actually does give rise to a riot or public disturbance.
 - d. The non-school sponsored literature promotes unlawful activities.

VSBA Versions:	06/05/2024
Date Warned:	
Date Adopted:	
Legal Reference(s):	<i>Good News Club v. Milford Central Schools</i> , 533 U.S. 98 (2001) <i>Lamb's Chapel v. Center Moriches Union Free School Dist.</i> , 508 U.S. 384, 390 (1993) <i>Cornelius v. NAACP Legal Defense and Ed. Fund, Inc.</i> , 473 U.S. 788 (1985) <i>Perry Educ. Ass'n v. Perry Local Educ. Ass'n</i> , 460 U.S. 37 (1983) <i>Travis v. Owego-Apalachin School Dist.</i> , 927 F.2d 688 (2d Cir. 1991) <i>Chiu v. Plano Indep. Sch. Dist.</i> , 339 F.3d 273 (5 th Cir. 2003) <i>DiLoreto v. Downey Unified Sch. Dist. Bd. of Educ.</i> , 196 F.3d 958 (9 th Cir. 1999), cert. denied 529 U.S. 1067 (2000) <i>Hedges v. Wauconda Community Unit Sch. Dist. No. 118</i> , 9 F.3d 1295 (7 th Cir. 1993) <i>Kiesinger v. Mexico Academy and Cent. Sch.</i> , 427 F. Supp. 2d 182 (N.D.N.Y. 2006)
Cross Reference:	<i>Student Distribution of Literature</i> <i>Community Use of Facilities</i>

¹² Prior review of literature is allowed by the law primarily for the purpose of preventing disruption of the School's educational activities. Those concerns are not present when literature is distributed after school hours to adults, so prior review can be viewed as an unconstitutional prior restraint. *Chiu v. Plano Indep. Sch. Dist.*, 339 F.3d 273 (5th Cir. 2003).

¹³ *Kiesinger v. Mexico Academy and Cent. Sch.*, 427 F. Supp. 2d 182 (N.D.N.Y. 2006) (holding that school district may constitutionally exclude bricks in walkway containing religious or political messages, but may not restrict references to God by certain names and not others based on the particular religious viewpoint of those references); *DiLoreto v. Downey Unified Sch. Dist. Bd. of Educ.*, 196 F.3d 958 (9th Cir. 1999), cert. denied 529 U.S. 1067 (2000) (holding that school district may restrict advertising on baseball fence to messages that contain no political or religious content).

¹⁴ In *Hickock v. Orange County Comm. College*, 472 F. Supp. 2d 469 (S.D.N.Y. 2006), the court held that the college's policy of excluding events that promote activities of political parties is an appropriate restriction for a limited public forum because it is viewpoint neutral. If a school district adopts a policy that permits political events, then it must permit all political groups to hold events regardless of their viewpoint.

DISCLAIMER: This model policy has been prepared by the Vermont School Boards Association for the sole and exclusive use of VSBA members, as a resource to assist member school boards with their policy development. School Districts should consult with legal counsel and revise model policies to address local facts and circumstances prior to adoption, unless the model policy states otherwise. VSBA continually makes revisions based on school districts' needs and local, state and federal laws, regulations and court decisions, and other relevant education activity.