Title: **Student Expression/Distribution and Posting of Materials**
Code: 220
Book: Policy Manual
Section: 200 Pupils

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 Board respects the right of students to express themselves in word or symbol and to distribute and post materials in areas designated for posting as a part of that expression. The Board also recognizes that the exercise of that right must be limited by the district'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 and distribution and posting of materials that are not part of district-sponsored activities. Materials sought to be distributed or posted as part of the curricular or extracurricular programs of the district shall be regulated as part of the school district’s educational program.

Definitions

Distribution means students issuing nonschool materials to others on school property or during school-sponsored events; placing upon desks, tables, on or in lockers; or engaging in any other manner of delivery of nonschool materials to others while

on school property or during school functions. When email, text messaging or other technological delivery is used as a means of distributing or accessing nonschool materials via use of school equipment or while on school property or at school functions, it shall be governed by this policy. Off-campus or after hours distribution, including technological distribution, that does or is likely to materially or substantially interfere with the educational process, including school activities, school work, 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 is also covered by this policy.

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

Nonschool materials means any printed, technological or written materials meant for posting or general distribution that are not prepared as part of the curricular or approved extracurricular programs of the district. This includes, but is not limited to, fliers, invitations, announcements, pamphlets, posters, Internet bulletin boards, personal websites and the like.

Posting means publicly displaying nonschool materials on school property or at school-sponsored events, including but not limited to affixing such materials to walls, doors, bulletin boards, easels, the outside of lockers; on district-sponsored or student websites; through other district-owned technology and the like. When email, text messaging or other technological delivery is used as a means of posting nonschool materials via use of school equipment or while on school property or at school functions, it shall be governed by this policy. Off-campus or after hours posting, including technological posting, that does or is likely to materially or substantially interfere with the educational process, including school activities, school work, 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 is also covered by this policy.

Authority

Students have the right to express themselves unless such expression is likely to or does materially or substantially interfere with the educational process, including school activities, school work, 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.[1]

Student expression that occurs on school property or at school-sponsored events is fully governed by this policy. In addition, off-campus or after hours expression is governed by this policy if the student expression involved constitutes unprotected expression as stated in this policy and provided the off-campus or after hours expression does or is likely to materially or substantially interfere with the educational process, including school activities, school work, 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.[1][2][3]

The Board requires that distribution and posting of nonschool 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 schools, while recognizing the rights of students to engage in protected expression.[1][4]

Unprotected Student Expression

The Board reserves the right to designate and prohibit manifestations of student expression that are not protected by the right of free expression because they violate the rights of others or where such expression is likely to or does materially or substantially interfere with school activities, school work, discipline, safety and order on school property or at school functions. While the following list is not intended to be exhaustive, such expression shall not be protected if it:

1. Violates federal, state or local laws, Board policy or district rules or procedures.

2. Is libelous, defamatory, obscene, lewd, vulgar or profane.[3]

3. Advocates the use or advertises the availability of any substance or material that may reasonably be believed to constitute a direct and serious danger to the health or welfare of students, such as tobacco/nicotine, alcohol or illegal drugs.

4. Incites violence, advocates use of force or threatens serious harm to the school or community.

5. Is likely to or does materially or substantially interfere with the educational process, such as school activities, school work, 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 schools and their programs.

7. Violates written school district procedures on time, place and manner for posting and distribution of otherwise protected expression.

Spontaneous student expression which is otherwise protected speech is not prohibited by this section.

Discipline for Engaging in Unprotected Expression

The Board reserves the right to prohibit the posting or distribution of nonschool materials containing unprotected expression and to prohibit students from engaging in other unprotected student expression, as well as to stop unprotected student expression when it occurs. The Board reserves the right to discipline students for engaging in unprotected expression. Where such expression occurs off campus and away from school functions, a nexus between the unprotected expression and a material and substantial disruption of the school program must be established.

Distribution of Nonschool Materials

The Board requires that students who wish to distribute or post nonschool materials on school property shall submit them at least one (1) school day in advance of planned distribution or posting to the building principal or designee, who shall forward a copy to the Superintendent.[1]

If the nonschool materials contain unprotected expression as stated in this policy, the building principal or designee shall notify the students that they may not post or distribute the materials because the materials constitute a violation of Board policy.

If notice is not given during the period between submission and the time for the planned distribution or posting, students may proceed with the planned distribution or posting, provided they comply with written procedures on time, place and manner of posting or distribution of nonschool materials.

Students who post or distribute nonschool materials in compliance with this provision may still be ordered to desist such

distribution if the materials are later found to be unprotected expression under this policy.

Students who distribute printed 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.

Posting of Nonschool Materials

If a school building has an area where individuals are allowed to post nonschool materials, students may post such items as well, if the materials do not constitute unprotected expression and the items are submitted for prior review in the same manner as if the students were going to distribute them.

Such materials shall be officially dated, and the district may remove the materials within ten (10) days of the posting or other reasonable time as stated in the procedures relating to posting.

Review of Student Expression

School officials shall not censor or restrict nonschool 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 shall not be prohibited except as to time, place and manner of distribution, or if the expression involved violates some other part of this policy, e.g., because it is independently determined to be unprotected expression under the standards and definitions of this policy.

The review for unprotected expression shall be reasonable and not calculated to delay distribution.

Appeal of the reviewer's decision may be made to the Superintendent and then to the Board, in accordance with Board policy and district procedures.

Delegation of Responsibility

The Superintendent shall assist the building principal in determining the designation of the places and times nonschool materials may be distributed in each school building. Such designations may take into account maintenance of the flow of student traffic throughout the school and shall limit distribution of nonschool materials to noninstructional times.

The building principal may determine disciplinary action for students who distribute or post nonschool materials in violation of this policy and district procedures, or who continue the manifestation of unprotected expression after a person in authority orders that they desist. Disciplinary actions shall be included in the disciplinary Code of Student Conduct.[5]

This Board policy and any procedures written to implement this policy shall be referenced in student handbooks so that students can access them for further information.

Adopted: **October 21, 1981**
Last Revised: **July 28, 2020**

Legal References:

- 1. 22 PA Code 12.9
- 2. 24 P.S. 511
- 3. 22 PA Code 12.2
- 4. 24 P.S. 510
- 5. Pol. 218