Policy #:**505**
Title: **DISTRIBUTION OF NONSCHOOL-SPONSORED MATERIALS ON SCHOOL PREMISES BY STUDENTS AND EMPLOYEES**
Date of Initial Approval: 01-20-2021
Revision/Re-authorization Dates: 12-06-2023; 10-23-2026
Reviewers: MSA Superintendent; MSA Instructional Leadership Team

I. PURPOSE

The purpose of this policy is to protect the exercise of students' and employees' free speech rights, taking into consideration the educational objectives and responsibilities of the Minnesota State Academies (MSA).

II. GENERAL STATEMENT OF POLICY

A. MSA recognizes that students and employees have the right to express themselves on school property. This protection includes the right to distribute, at a reasonable time and place and in a reasonable manner, nonschool-sponsored material.

B. To protect First Amendment rights, while at the same time preserving the integrity of the educational objectives and responsibilities of MSA, the MSA Board adopts the following regulations and procedures regarding distribution of nonschool-sponsored material on MSA property and at school activities.

III. DEFINITIONS

A. **"Distribute"** or **"Distribution"** means circulation or dissemination of material by means of handing out free copies, selling or offering copies for sale, accepting donations for copies, posting or displaying material, or placing material in internal staff or student mailboxes.

B. **"Nonschool-sponsored material"** or **"unofficial material"** includes all materials or objects intended for distribution, except school newspapers, employee newsletters, literary magazines, yearbooks, and other publications funded and/or sponsored or authorized by MSA. Examples of nonschool-sponsored materials include, but are not limited to, leaflets, brochures, buttons, badges, flyers, petitions, posters, and underground newspapers whether written by students or employees or others, and tangible objects.

C. **"Obscene to minors"** means:

1. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient 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, or lewd exhibition of the genitals; and
3. The material, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

D. **"Minor"** means any person under the age of eighteen (18).

E. **"Material and substantial disruption"** of a normal school activity means:

1. Where the normal school activity is an educational program of MSA 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, specific facts must exist 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.

F. **"School activities"** means any activity sponsored by MSA 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 and other theatrical productions, and in-school lunch periods.

G. **"Libelous"** is a false and unprivileged statement about a specific individual that tends to harm the individual's reputation or to lower that individual in the esteem of the community.

IV. GUIDELINES

A. Students and employees of the school district have the right to distribute, at reasonable times and places as set forth in this policy, and in a reasonable manner, nonschool-sponsored material.

B. Requests for distribution of nonschool-sponsored material will be reviewed by the administration on a case-by-case basis. However, distribution of the materials listed below is always prohibited. Material is prohibited that:

1. is obscene to minors.
2. is libelous or slanderous.
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 or promotes 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. Distribution by students and employees of nonschool-sponsored materials on MSA property are subject to reasonable time, place, and manner restrictions set forth below. In making decisions regarding the time, place, and manner of distribution, the administration will consider factors including, but not limited to, the following:

1. whether the material is educationally related
2. the extent to which distribution is likely to cause disruption of or interference with the school district's educational objectives, discipline, or school activities.
3. whether the materials can be distributed from the office or other isolated location so as to minimize disruption of traffic flow in hallways
4. the quantity or size of materials to be distributed.
5. whether distribution would require assignment of school district staff, use of school district equipment, or other resources.
6. whether distribution would require that nonschool persons be present on the school grounds
7. whether the materials are a solicitation for goods or services not requested by the recipients.

V. TIME, PLACE, AND MANNER OF DISTRIBUTION

A. No nonschool-sponsored material shall be distributed during and at the place of a normal school activity if it is reasonably likely to cause a material and substantial disruption of that activity.

B. Distribution of nonschool-sponsored material is prohibited when it blocks the safe flow of traffic within corridors and entrance ways of the school, and school parking lots. Distribution shall not impede entrance to or exit from school premises in any way.

C. No one shall coerce a student or staff member to accept any publication.

D. The time, place, and manner of distribution will be solely within the discretion of the administration, consistent with the provisions of this policy.

VI. PROCEDURES

A. Any student or employee wishing to distribute (as defined in this policy) nonschool-sponsored material must first submit for approval a copy of the material to the campus director or designee at least 48 hours in advance of desired distribution time, together with the following information:

1. Name and contact information (phone number/email address) of the person submitting the request.
2. Date(s) and time(s) of day intended for distribution.
3. Location where the person desires to distribute the material.
4. If material is intended for students, the grade(s) of students to whom the distribution is intended.

B. Within one school day, the campus director or designee will review the request and render a decision. If permission to distribute the material is denied or limited, the person submitting the request should be informed via email of the reasons for the denial or limitation.

C. If the person submitting the request does not receive a response within one school day, the person shall contact the office to verify that the lack of response was not due to an inability to locate the person. A lack of response does not constitute permission to distribute the materials.

D. If the person is dissatisfied with the decision of the campus director or designee, the person may submit a written request for appeal to the superintendent. If the person does not receive a response within three (3) school days (not counting Saturdays, Sundays, and holidays) of submitting the appeal, the person shall contact the Superintendent's Office to verify that the lack of response is not due to an inability to locate the person.

E. Permission or denial of permission to distribute material does not imply approval or disapproval of its contents by either the school, the MSA administration, the MSA board, or the individual reviewing the material submitted.

VII. DISCIPLINARY ACTION

A. Distribution by any student of nonschool-sponsored material prohibited herein or in violation of the provisions of time, place, and manner of distribution as described above will be halted and disciplinary action will be taken in accordance with MSA Policy #506 – Student Discipline.

B. Distribution by any employee of nonschool-sponsored material prohibited herein or in violation of the provisions of time, place, and manner of distribution as described above will be halted and appropriate disciplinary action will be taken, in accordance with any individual contract, collective bargaining agreement, MSA policies and procedures, and/or governing statutes.

C. Any other party violating this policy will be requested to leave the school property immediately and, if necessary, the police will be called.

VIII. NOTICE OF POLICY TO STUDENTS AND EMPLOYEES

This policy will be listed in the Parent/Student Handbook and posted on the MSA website.

IX. IMPLEMENTATION

MSA administration may develop any additional guidelines and procedures necessary to implement this policy. Those procedures will also be posted on the MSA website.

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)
Bethel Sch. Dist. No. 403 v. Fraser, 478 U.S. 675, 106 S.Ct. 3159, 92 L.Ed.2d 549 (1986)
Tinker v. Des Moines Indep. Sch. Dist., 393 U.S. 503, 89 S.Ct. 733, 21 L.Ed.2d 731 (1969)
Bystrom v. Fridley High School, 822 F.2d 747 (8th Cir. 1987)
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 (8th Cir. 2011), cert. denied 565 U.S. 1036, 132 S.Ct. 592 (2011)

Cross References:
MSA Policy 506 (Student Discipline)
MSA Policy 512 (School-Sponsored Student Publications and Activities)
MSA Policy 904 (Distribution of Materials by Nonschool Persons)