

MINNETONKA PUBLIC SCHOOLS

#505 DISTRIBUTION OF NON-SCHOOL-SPONSORED MATERIALS ON SCHOOL PREMISES BY STUDENTS AND EMPLOYEES

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 District.

II. GENERAL STATEMENT OF POLICY

- A. The District 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 the District, the School Board adopts the following regulations and procedures regarding distribution of non-school-sponsored material on school property and at school activities by students and employees.

III. DEFINITIONS

- A. "Distribution" means circulation or dissemination of material by either electronic applications or by means of handing out free copies, selling or offering copies for sale, accepting donations for copies, or posting or displaying material.
- B. "Non-school-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 the school. Examples of non-school-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. "Material and substantial disruption" of a normal school activity means:
 - 1. Where the normal school activity is an educational program of the District for which student attendance is compulsory, "material and substantial disruption" is defined as any disruption that interferes with or impedes the implementation of that program.
 - 2. Where the normal school activity is voluntary in nature (including, without limitation, school athletic events, field trips, foreign travel, school-sponsored transportation, school plays and concerts, and lunch periods) "material and

substantial disruption" is defined as student disruptions, 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. School officials will strive to maintain consistency in working with potential disruptions in a respectful manner.

- D. "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, and in-school lunch periods.
- E. A "peaceful protest" is defined as an avenue for expressing disagreement in a respectful manner that does not disrupt the learning environment.
- F. "Libelous" is a false 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 District have the right to distribute, at reasonable times and places as set forth in this policy, and in a reasonable manner, non-school-sponsored material.
- B. Requests for distribution of non-school-sponsored material will be reviewed by the Superintendent, or designee, 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, service or activity not permitted to minors by law;
 5. Advocates violence or 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); and
 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. The District shall permit peaceful avenues for expressing disagreement provided such acts do not disrupt the learning environment or incite more disruptive behaviors.
 - D. In the event that a decision is made by the designee of the Superintendent, an appeal of an adverse decision to the Superintendent shall be available.

V. TIME, PLACE, AND MANNER OF DISTRIBUTION

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

VI. PROCEDURES

Procedures for the approval of materials for distribution and the condition for such distribution shall be established by the Superintendent.

VII. DISCIPLINARY ACTION

- A. Distribution by any student of non-school-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 the District's Student Discipline and Code of Conduct Policy.
- B. Distribution by any employee of non-school-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, District policies and procedures, and/or governing statute.

- C. Any other party violating this policy will be requested to leave the school property immediately and, if necessary, the police will be called. Legal action may be a consequence of such policy violation at the discretion of the School Board.

VIII. NOTICE OF POLICY TO STUDENTS AND EMPLOYEES

A copy of this policy will be published in student handbooks and posted in school buildings.

IX. PROCEDURES

The Board directs the Superintendent to develop procedures for the implementation of this policy.

Legal References: U.S. Constitution, First Amendment.
 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. 1986).

Cross References: Policy 506 (Student Discipline)
 Policy 512 (School Sponsored Student Publications)
 MSBA Policy 904 (Distribution of Materials on School District Property by Nonschool Persons)
 MSBA Service Manual, Chapter 13, School Law Bulletin "K" (Personal Liability of Individual School Board Members for Dollar Damages for Violation of Students Civil Rights Under the Civil Rights Act of 1871)
 Policy 524: Electronic Technologies Acceptable Use

Adopted September 16, 2004