

Policy 904 DISTRIBUTION OF MATERIALS ON SCHOOL DISTRICT PROPERTY BY NONSCHOOL PERSONS

I. PURPOSE

The purpose of this policy is to provide for distribution of materials appropriate to the school setting by nonstaff and nonstudents on school district property in a reasonable time, place, and manner which does not disrupt the educational program nor interfere with the educational objectives of the school district.

II. GENERAL STATEMENT OF POLICY

- A. The school district intends to provide a method for nonschool persons and organizations to distribute materials appropriate to the school setting, within the limitations and provisions of this policy.
- B. To provide for orderly and nondisruptive distribution of materials, the school board adopts the following regulations and procedures.

III. DEFINITIONS

- A. “Distribute” or “Distribution” means the electronic or physical circulation or dissemination of materials by means of handing out free copies, selling or offering copies for sale, accepting donations for copies, posting or displaying materials, or placing materials in internal staff or student mailboxes.
- B. “Nonschool-sponsored material” or “unofficial material” includes all materials or objects intended by nonschool persons or nonschool organizations for distribution. 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, employees or others, and tangible objects.
- C. “Nonschool person” means any person who is not currently enrolled as a student in or employed by the school district.
- D. “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, excretory functions, or lewd exhibition; and
 - 3. The material, taken as a whole, lacks serious literary, artistic, political, or

scientific value for minors.

- E. “Minor” means any person under the age of eighteen (18).
- F. “Material and substantial disruption” of a normal school activity is defined as any disruption which interferes with or impedes the implementation of a compulsory or voluntary school 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.
- G. “School activities” means any activity sponsored by the school.
- H. “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. Nonschool persons and organizations may, within the provisions of this policy, be granted permission to distribute, at reasonable times and places as set forth in this policy, and in a reasonable manner, materials and objects which are appropriate to the school setting.
- B. Requests for distribution of materials will be reviewed by the superintendent or designee on a case-by-case basis. However, distribution of the following materials 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, religion, 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. Permission for nonschool persons to distribute materials on school district property is a privilege and not a right. In making decisions regarding permission for such 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. The time, place, and manner of distribution will be solely within the discretion of the administration, consistent with the provisions of this policy.
- B. No one will coerce a student or staff member to accept any publication.

VII. VIOLATION OF POLICY

Any party violating this policy or distributing materials without permission will be directed to leave the school property immediately and, if necessary, the police will be called for assistance.

VII. IMPLEMENTATION

The school district administration may develop any additional guidelines and procedures necessary to implement this policy.

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Adopted: 12/08/08; Reviewed: 07.01.19; Revised: 12.02.19 (non-substantive changes)

School Board

INDEPENDENT SCHOOL DISTRICT 659

Northfield, Minnesota

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)

Doe v. South Iron R-1 School District, 498 F.3d 878 (8th Cir. 2007)

Bystrom v. Fridley High School, 822 F.2d 747 (8th Cir. 1987)

Cornelius v. NAACP Legal Defense and Educational Fund, Inc., 473 U.S. 788, 105 S.Ct. 3439, 87 L.Ed.2d 567 (1985)

Perry Education Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37, 103 S.Ct. 948, 74 L.Ed.2d 794 (1983)

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: Board Policy 505 (Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees)
Board Policy 512 (School-Sponsored Student Publications)