

**505 DISTRIBUTION OF NONSCHOOL-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 school district.

**II. GENERAL STATEMENT OF POLICY**

The school district recognizes that students and employees have the right to distribute, at a reasonable time and place, and in a reasonable manner, nonschool-sponsored material on school property, while at the same time it is the School Board's responsibility to preserve the integrity of the educational objectives and responsibilities of the school district.

**III. DEFINITIONS**

A. "Distribute" or "Distribution" means the electronic or physical 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 or material produced in classes as a part of the curriculum and other publications funded and / or sponsored or authorized by the school. 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, excretory functions, or lewd exhibition; 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 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.

- F. “School activities” means any activity sponsored by the school.
- 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. 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;
  - 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.
- B. 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. 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 shall coerce a student or staff member to accept any publication.

## **VI. 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 the school district's Student Discipline Policy.
- 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, school 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.

## **VII. NOTICE OF POLICY TO STUDENTS AND EMPLOYEES**

A copy of this policy will be posted on the School District's website.

## **VIII. IMPLEMENTATION**

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

Policy 505 - Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees  
Adopted: 4/23/07

School Board  
INDEPENDENT SCHOOL DISTRICT 659  
Northfield, MN

**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. 1986)  
*Roark v. South Iron R-1 School Dist.*, 573 F.3d 556 (8<sup>th</sup> Cir. 2009)  
*Victory Through Jesus Sports Ministry Foundation v. Lee's Summit R-7 School Dist.*, 640 F.3d 329 (8<sup>th</sup> Cir. 2011), cert. denied U.S., 132 S.Ct. 592 (2011)

**Cross References:** Board Policy 403 (Dismissal of Employees)  
Board Policy 506 (Student Discipline)  
Board Policy 512 (School-Sponsored Student Publications)  
Board Policy 904 (Distribution of Materials on School District Property by Nonschool Persons)