

## DISTRIBUTION OF NONCURRICULAR STUDENT PUBLICATIONS

### I. Definitions

The following definitions apply to the following terms as used in this policy:

A. *"Obscene to minors"* is defined as:

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

B. *"Minor"* means any person under the age of 18.

C. *"Material and substantial disruption"* of a normal school activity is defined as follows:

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 which 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, school plays and concerts, and lunch periods), "material and substantial disruption" is defined as student rioting, unlawful seizures of property, widespread shouting or boisterous 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 material in question.

- D. *"School activities"* means any activity of students sponsored by the school and includes -- by way of example, and not by way of limitation -- 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. *"Unofficial material"* includes all written or pictorial communications except school publications funded and/or sponsored or authorized by the school. Examples include leaflets, buttons, badges, insignia, brochures, flyers, petitions, placards, underground newspapers, websites, links to websites, and e-mails, whether created by students or others.
- F. *"Libelous"* is a false and unprivileged statement about a specific individual that tends to harm the individual's reputation, or to lower him or her in the esteem of the community.
- G. *"Distribution"* means circulation or dissemination of unofficial material by means of handing out free copies, selling or offering copies for sale and accepting donations for copies or delivery via district technology. It includes displaying unofficial material in areas of the school which are generally frequented by students.

## II. Guidelines

Students may distribute, at reasonable times and places, unofficial material, including but not limited to petitions, buttons, badges, or other insignia. If the district allows students to use its technology resources for noncurricular purposes, any exchange of unofficial material which is delivered or accessed using district technology resources is also subject to this policy. However, students cannot distribute expressions which:

- A. Are obscene to minors.
- B. Are libelous.
- C. Are pervasively indecent or vulgar (secondary schools)/contain any indecent or vulgar language (elementary schools).
- D. Advertise any product or service not permitted to minors by law.
- E. Constitute 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).
- F. Present a clear and present likelihood that, either because of their content or their manner of distribution, 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 procedures.

### III. **Procedures**

Anyone wishing to distribute unofficial material must first submit for approval a copy of the material to the principal or designee 24 hours in advance of desired distribution time, together with the following information:

- A. Name and phone number of the person submitting request.
- B. Date(s) and time(s) of day of intended distribution.
- C. Location where material will be distributed.
- D. The grade(s) of students to whom the distribution is intended. Within 24 hours of submission, the principal (or his or her designee) will render a decision whether the material violates the Guidelines in Section I or the time, place and manner restrictions in Section III of this policy. In the event that permission to distribute the material is denied, the person submitting the request should be informed in writing of the reasons for the denial.

Permission to distribute material does not imply approval of its contents by the school, the administration, the Board, or the individual reviewing the material submitted.

If the person submitting the request does not receive a response within 24 hours of submission, the person shall contact the office to verify that the lack of response was not due to an inability to locate the person. If the person has made this verification and there is no response to the request, the material may be distributed in accordance with the time, place and manner provisions in Section III.

If the person is dissatisfied with the decision of the principal (or designee), the person may submit a written request for appeal to the superintendent of schools or his or her secretary.

If the person does not receive a response within three days (not counting Saturdays, Sundays and holidays) of submitting the appeal, the person shall contact the office of the superintendent to verify that the lack of response is not due to an inability to locate the person.

If the person has made this verification and there is no response to the appeal, the material may be distributed in accordance with the time, place and manner provisions in Section III.

At every level of the process, the person submitting the request shall have the right to appear and present the reasons supported by relevant witnesses and material, as to why distribution of the unofficial material is appropriate.

**IV. Time, Place and Manner of Distribution**

The distribution of unofficial material shall be limited to a reasonable time, place and manner as follows:

- A. No unofficial material may 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 unofficial material is prohibited when it blocks the safe flow of traffic within corridors and entrance ways of the school or when it disrupts the use of district technology resources.

**V. Disciplinary Action**

Distribution by a student of unofficial material prohibited in Section I or in violation of Section III may be treated as a violation of the student discipline code.

**VI. Notice of Policy to Students**

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

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***Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.***

Tentatively Approved: 03/19/09

Adopted: May 21, 2009

Revised:

Cross Ref: EHB, Technology Usage  
JFH, Student Complaints and Grievances  
KI, Public Solicitations/Advertising in District Facilities

Legal Ref: §§ 167.161 - .171, 573.010, RSMo.

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

East Carter County R-II School District, Ellsinore, Missouri

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