

DISTRIBUTION AND DISPLAY OF NON-SCHOOL MATERIAL

Policy Code:

5210

Students and the educational program must be the focus of the school system. In order to maintain an educational environment conducive to learning and to minimize intrusions upon instructional time, distribution and display of non-school material will be limited in accordance with this policy and policy 5240, Advertising in the Schools. School officials shall screen and approve the distribution or display of non-school material on school property. (The term “non-school material” is defined in section E.)

This policy applies to the distribution and display of non-school material by students and school-related groups (as defined in section E) and by governmental agencies, educational institutions, and non-profit entities as permitted in section B.

A. DISTRIBUTION AND DISPLAY BY STUDENTS

Students wishing to distribute or display on campus any publication, leaflet, or other written material that is not school-sponsored must submit the publication or material to the principal for review prior to distribution. The principal shall prohibit distribution or display when the publication or material contains speech that is prohibited as specified in section C but otherwise shall not discriminate on the basis of viewpoint in granting or denying a student permission to distribute or display non-school publications or materials. If permission to distribute or display a publication or material is denied, the student may request review of the principal’s decision as specified in section D.

B. DISTRIBUTION AND DISPLAY BY NON-STUDENTS

NOTE: The board may choose from several options with regard to the distribution and display of non-school literature by non-students. In addition, the board may choose to adopt a different option for its secondary schools than for its elementary schools. This approach may be necessary if the board would like to adopt Option Four for its high schools. Option Four would permit distribution and display of religious literature along with a wide variety of other materials. However, with regard to the distribution and display of religious literature in elementary schools, in *Peck v. Upshur* (1998) the Fourth Circuit indicated that school officials should have a greater concern with possible coercion in elementary schools due to the impressionability of young elementary-age children. The Fourth Circuit also has noted that elementary students may be unable to fully recognize and appreciate the difference between government and private speech. Thus, under current Fourth Circuit case law, Option Four is not permissible in elementary schools. Option One, Two or Three should be selected for elementary schools.

OPTION ONE [This is the most restrictive option of the four options presented in this model policy. It does not permit any distribution or display of non-school material by non-students or non-school-sponsored organizations.]

1. Only school-sponsored and curriculum-related publications and materials may be distributed or displayed during the school day, on school grounds, or at school activities. The term “school-sponsored or curriculum-related publications and materials” is defined in section E.
2. The superintendent is authorized to adopt any additional regulations deemed necessary to implement this policy.
3. Nothing in this policy will be construed to create a public forum or a limited public forum that would allow non-students access to school property for the purpose of distributing or displaying non-school material.

OPTION TWO [This option permits distribution and display of (1) school-sponsored and curriculum-related publications and materials and (2) information from school-related groups such as the PTA or booster clubs.]

1. Distribution and display of “school-sponsored or curriculum-related publications and materials” as defined in section E are permitted during the school day, on school grounds, and at school activities.
2. Distribution and display of publications and materials by school-related groups that have received prior approval of the [principal or superintendent or designee] pursuant to the standards in section C and the standards for review of the decision in section D are permitted at reasonable times and places as designated by the [principal or superintendent or designee]. The term “school-related group” is defined in section E. The [principal or superintendent or designee] shall not discriminate on the basis of viewpoint in granting or denying permitted school-related groups permission to distribute or display non-school material.
3. The superintendent is authorized to adopt regulations regarding approval forms, how many times a year groups may distribute or display publications or materials, delivery and bundling requirements, etc.
4. Nothing in this policy will be construed to create a public forum that would allow non-students access to school property for the purpose of distributing or displaying non-school publications and materials.

OPTION THREE [This option permits distribution and display of (1) school-sponsored and curriculum-related materials and publications; (2) publications and materials from school-related groups such as the PTA or booster clubs, and (3) specified publications and materials from several other viewpoint neutral categories of non-school groups. The board may choose to remove or add to any of these categories of groups from the approved list.]

1. Distribution and display of “school-sponsored or curriculum-related publications and materials” as defined in section E are permitted during the school day, on school

grounds, and at school activities.

2. Distribution and display of publications and materials from school-related groups that have received prior approval of the [principal or superintendent or designee] pursuant to the standards in section C and the standards for review of the decision in section D are permitted at reasonable times and places as designated by the [principal or superintendent or designee]. The term “school-related group” is defined in section E. The [principal or superintendent or designee] shall not discriminate on the basis of viewpoint in granting or denying permitted school-related groups permission to distribute or display non-school material.
3. The following agencies and organizations are permitted to distribute or display educational information or information about programs and activities of interest to students:
 - a. local, state, and federal government agencies and departments;
 - b. non-profit organizations that offer educational, recreational, cultural, or character development activities or programs for school-aged children, including but not limited to scouts, YMCA or YWCA, organized youth sport leagues, etc.);
 - c. school/business partnerships or incentive programs that directly enhance or support the school’s educational program; and
 - d. community colleges, universities, and other non-profit institutions of higher education.

All publications and materials that one of the permitted agencies or organizations would like to distribute or display must be submitted to the [principal or superintendent or designee] for approval prior to distribution or display. Approval for distribution or display will be granted pursuant to the standards in section C and the standards for review of decisions in section D. If approved, the publications and materials will be distributed or displayed at reasonable times and places as designated by the [principal or superintendent or designee].

4. The [principal or superintendent or designee] shall not discriminate on the basis of viewpoint in granting or denying permitted agencies and organizations permission to distribute or display non-school materials.
5. The superintendent is authorized to adopt regulations regarding approval forms, how many times a year groups may distribute or display publications or materials, delivery and bundling requirements, etc.
6. Nothing in this policy will be construed to create a public forum that would allow non-students unrestricted access to school property for the purpose of distributing or

displaying publications or materials.

OPTION FOUR [This option is identical to OPTION THREE except that in Item #4 of this option, the board specifically creates, in high schools only, a neutral equal access provision for display and distribution of other literature not otherwise permitted in Item #3. As noted above, in the Fourth Circuit case of *Peck v. Upshur* the court permitted Bibles to be made available to high school students from a display table subject to various restrictions but indicated that this practice was not constitutionally permissible in elementary schools. Option Four is designed to structure a policy that permits practices approved in *Peck* without going beyond what is permitted in *Peck*.]

1. Distribution and display of “school-sponsored or curriculum-related publications and materials” as defined in section E are permitted during the school day, on school grounds, and at school activities.
2. Distribution and display of publications and materials from school-related groups that have received prior approval of the [principal or superintendent or designee] pursuant to the standards in section C and the standards for review of the decision in section D are permitted at reasonable times and places as designated by the [principal or superintendent or designee]. The term “school-related group” is defined in section E. The [principal or superintendent or designee] shall not discriminate on the basis of viewpoint in granting or denying permitted school-related groups permission to distribute or display non-school material.
3. In all schools of this school system, the following agencies and organizations are permitted to distribute or display educational information or information about programs and activities of interest to students:
 - a. local, state, and federal government agencies and departments;
 - b. non-profit organizations that offer educational, recreational, cultural, or character development activities or programs for school-aged children, including but not limited to scouts, YMCA or YWCA, organized youth sport leagues, etc.);
 - c. school/business partnerships or incentive programs that directly enhance or support the school’s educational program; and
 - d. community colleges, universities, and other non-profit institutions of higher education.

All publications and materials that one of the permitted agencies or organizations would like to distribute or display must be submitted to the [principal or superintendent or designee] for approval prior to distribution or display. Approval for distribution or display will be granted pursuant to the standards in section C and the standards for review of decisions in section D. If approved, the publications and

materials will be distributed or displayed at reasonable times and places as designated by the [principal or superintendent or designee].

The [principal or superintendent or designee] shall not discriminate on the basis of viewpoint in granting or denying permitted agencies and organizations permission to distribute or display publications and materials.

The superintendent is authorized to adopt regulations regarding approval forms, how many times a year groups may distribute or display publications and materials, delivery and bundling requirements, etc.

4. In addition to the distribution and display of publications and materials permitted in all schools in Item #3 above, the distribution and display of other publications and materials are permitted in high schools in order to provide high school students with access to a wide variety of educational materials from various viewpoints. All materials to be distributed or displayed under this provision must be submitted to the [principal or superintendent or designee] for approval prior to distribution or display. Approval for distribution or display will be granted pursuant to the standards in section C and the standards for review of the decision in section D.

In addition, distribution and display of publications and materials under this provision are subject to the following restrictions.

- a. Distribution or display of these materials is limited to one time per year per organization.
- b. Distribution or display of these materials is limited to a table in [a location such a hallway in front of the library or a similar location where students would not feel pressured to take materials].
- c. Groups approved to distribute or display these publications or materials are responsible for setting up the table and taking it down at the end of the day.
- d. The table may contain a sign that says, "Free materials. Please take one."
- e. Distribution and display of these materials in classrooms or in any other instructional setting is not permitted.
- f. No announcements advertising the availability of these materials are permitted over the PA or through other school media.
- g. Neither members of the group providing the material nor any other individual may stand at the table and encourage students to accept the publications or material.
- h. The table where the publication or materials are located must display a sign

stating that materials are neither sponsored nor endorsed by the school system, its agents, or its employees, and that the views and information contained in the materials do not reflect the approval or disapproval of the school board or school officials.

- i. The [principal or superintendent or designee] shall not discriminate on the basis of viewpoint in granting or denying permission to distribute or display publications and materials under this provision.
 - j. The superintendent is authorized to adopt any additional regulations deemed necessary to implement distribution or display of materials under this provision.
 - k. The principal is responsible for enforcing the restrictions imposed by the board on distribution and display of materials and publications under this provision.
5. The superintendent is authorized to adopt regulations regarding approval forms, how many times a year groups may distribute or display publications and materials, delivery and bundling requirements, etc.

C. DISTRIBUTION AND DISPLAY STANDARDS FOR NON-SCHOOL MATERIALS

School officials shall apply the following standards to approve the distribution or display of all non-school material on school property:

1. While materials will not be screened for viewpoint, the reviewer shall prohibit the distribution or display of any publication or material that (a) is vulgar, indecent, or obscene; (b) contains libelous statements, personal attacks, or abusive language, such as language defaming a person's character, race, religion, ethnic origin, gender, family status, or disability; (c) causes or clearly threatens to cause a material and substantial disruption of a school activity; (d) encourages the commission of unlawful acts or the violation of lawful school regulations; (e) is inappropriate considering the age of the students in the school; (f) contains information that is inaccurate, misleading, or false; or (g) advertises any product or service not permitted to minors by law.

The [principal or superintendent's designee, depending on who makes the initial decision] shall notify the superintendent before approving or prohibiting distribution or display of any publications or materials that raise a question as to whether a specific action by school officials might violate the Establishment of Religion Clause, the Free Exercise of Religion Clause, or the free speech rights guaranteed by the First Amendment of the U.S. Constitution. The superintendent shall consult with the board attorney to determine the legally appropriate course of action.
2. The distribution of non-school material must not interfere with instructional time.

3. Non-school publications and materials distributed or displayed to students must be clearly identified, through the method of distribution or otherwise, as non-school materials that are neither endorsed nor necessarily reflective of the views of the school board or the school system.
4. In order to minimize disruption to the learning environment, political campaign materials may not be distributed to students or employees (including through employee mailboxes and e-mail) or made available on school grounds during school time or at school events. However, on election days, posters and printed materials are permitted at school buildings used as polling places in accordance with state law and board of elections requirements.

This provision does not prohibit a teacher from using political literature or campaign material for instructional purposes. However, any teacher using these materials for instructional purposes shall not use his or her position to promote a particular candidate, party, or position on a specific issue. The teacher also shall attempt to use a variety of materials that represent balanced and diverse viewpoints on the political spectrum.

D. PROCEDURES FOR REQUESTING DISTRIBUTION OR DISPLAY OF NON-SCHOOL MATERIALS

1. Any individual or organization wishing to distribute or display non-school-sponsored publications or materials must first submit for approval a copy of the publication or material to the [principal or superintendent or designee] at least five school days in advance of the distribution or display time, along with the following information: (a) the name and phone number of the individual submitting the request; (b) the date(s) and time(s) of day of intended distribution or display; (c) the desired location for distribution or display of material; and (d) if the distribution or display is intended for students, the grade(s) of students for whom the distribution or display is intended.
2. Within five school days, the [principal or superintendent or designee] shall review the request and render a decision. In the event permission to distribute or display the material is denied or restricted, the individual submitting the request will be informed in writing of the reasons for the denial or restriction.
3. Any request denied or restricted by the [principal or superintendent or designee] may be appealed in writing to the [superintendent or designee or board, depending on who made the initial decision]. [If the principal made the initial decision, the superintendent or designee shall review the decision and render a decision within 10 school days. Any request denied by the superintendent or designee may be appealed to the board of education.] The board will review the request at its next regularly scheduled meeting. As appropriate, the superintendent or the board will consult with the board attorney concerning a request to distribute or display non-school literature.
4. Permission or denial of permission to distribute or display material does not imply

approval or disapproval of its contents by school system administrators, the school board, or the individual reviewing the material submitted.

E. DEFINITIONS

The following terms used in this policy are defined as follows:

1. Obscene

“Obscene” describes any speech or work that the average person, applying contemporary community standards (as opposed to “national standards”), would find, taken as a whole, appeals to prurient interest; or that depicts or describes, in a patently offensive way, sexual conduct specifically defined by applicable law; and that, taken as a whole, lacks serious literary, artistic, political, or scientific value.

2. Libelous Statement

Libelous statements are false and unprivileged statements about a specific person that injure that person’s reputation in the community.

3. Non-School Material

Non-school material includes any publication or other written information that is not a school-sponsored or curriculum-related publication or material.

4. Material and Substantial Disruption

A material and substantial disruption is any conduct that for any reason, including inappropriateness of time, place, or type of behavior, significantly interferes with school functions, classroom instruction, or the rights of other students or school employees. Examples of material and substantial disruption include, but are not limited to, demonstrations, destruction of property, injury to students or other persons, shouting or boisterous conduct, and anything that significantly distracts students from instruction or prevents school personnel from performing their educational responsibilities.

5. School-Sponsored or Curriculum-Related Publications and Materials

School-related materials or publications are: (a) materials published by the school system for distribution (i.e. school calendars, menus, school newsletters, etc.); (b) materials that are approved by school officials and related to activities or events that are officially sponsored by the school (i.e. announcements for sports teams, clubs, field trips, school plays, and concerts); or (c) materials that are directly related to instruction.

6. School-Related Group

School-related groups are organizations formed to support the school in an area of recognized need, such as the PTA, the PTO, teachers' and principals' organizations, and booster clubs.

The superintendent shall adopt necessary regulations to ensure that this policy is implemented throughout the school system.

Legal References: U.S. Const. amend. I; *Peck v. Upshur*, 155 F.3d 274 (1998); G.S. 115C-36, -47

Cross References: Collections and Solicitations (policy 5220), Advertising in the Schools (policy 5240)

Adopted: