

Policy #: 904
Title: DISTRIBUTION OF MATERIALS AT MSA BY NON-SCHOOL PERSONS
Date of Initial Approval:06-02-2021
Revision/Re-authorization Dates:
Reviewers: MSA Instructional Leadership Team

I. PURPOSE

The purpose of this policy is to provide for distribution of materials appropriate to the school setting by individuals who are not employees or students (non-school persons) at the Minnesota State Academies (MSA) on MSA property in a reasonable time, place, and manner which does not disrupt the educational program nor interfere with the educational objectives of MSA.

II. GENERAL STATEMENT OF POLICY

- A. MSA intends to provide a method for individuals who are not employees or students at the Minnesota State Academies (MSA) and non-school 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 MSA board adopts the following regulations and procedures.

III. DEFINITIONS

- A. **“Distribution”** means 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. **“Materials”** includes all materials and objects intended by non-school persons or non-school organizations for distribution. Examples of non-school-sponsored materials include, but are not limited to, leaflets, brochures, buttons, badges, flyers, petitions, posters, underground newspapers whether written by students, employees or others, and tangible objects.
- C. **“Non-school person”** means any person who is not currently enrolled as a student in or employed by the MSA.
- 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 such as intimate sexual acts (normal or perverted), masturbation, excretory functions, and lewd exhibition of the genitals; 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 means:

1. Where the normal school activity is an educational program of MSA 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 school athletic events, school plays and concerts, and lunch periods) “material and substantial disruption” is defined as student rioting, 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 the expression to be considered disruptive, specific facts must exist 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 MSA 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, other theatrical productions, and in-school lunch periods.

H. **“Libelous”** is a false and unprivileged statement about a specific individual that tends to harm the individual’s reputation or to lower them in the esteem of the community.

IV. GUIDELINES

- A. Non-school 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 campus directors on a case-by-case basis. However, distribution of the following materials is always prohibited. Prohibited materials include those that:
1. are obscene to minors;
 2. are libelous;
 3. are pervasively indecent or vulgar or contain 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. advertise any product or service not permitted to minors by law;
 5. advocate violence or other illegal conduct;
 6. 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);
 7. present 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, or will cause the commission of unlawful acts or the violation of lawful school regulations.
- C. Permission for non-school persons to distribute materials on MSA property is a privilege and not a right. In making decisions regarding permission for such distribution, the campus directors 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 the buildings or campuses;
 4. the quantity or size of materials to be distributed;
 5. whether distribution would require assignment of MSA staff, use of MSA equipment, or other resources;
 6. whether distribution would require that non-school persons be present on the MSA campuses;
 7. whether the materials are a solicitation for goods or services not requested by the recipients.

V. TIME, PLACE, AND MANNER OF DISTRIBUTION

If permission is granted pursuant to this policy for the distribution of any materials, the time, place, and manner of distribution will be solely within the discretion of the campus directors, consistent with the provisions of this policy.

The campus directors will establish dates that the materials can be distributed and/or posted and any materials left after those dates will be discarded.

VI. PROCEDURES

- A. Any non-school person wishing to distribute materials must first submit for approval a copy of the materials to the campus director at least five days in advance of desired distribution time, together with the following information:
 1. Name and contact information of the person submitting the request.
 2. Date(s) and time(s) of day of requested distribution.
 3. If material is intended for students, the grade(s) of students to whom the distribution is intended.
 4. The proposed method of distribution.
- B. The campus director will review the request and render a decision within 48 hours. The campus director will assign a location and method of distribution and will inform the persons submitting the request whether non-school persons may be present to distribute the materials. The campus director will also determine the end-date of the distribution (i.e., date when flyers will be taken off bulletin boards). If permission to distribute the materials is denied or limited, the person submitting the request will be informed of the reasons for the denial or limitation.
- C. Permission or denial of permission to distribute material does not imply approval or disapproval of its contents by either the school, the administration of MSA, the MSA board, or the individual reviewing the material submitted.
- D. If permission to distribute materials is denied, the non-school person or organization may request reconsideration of the decision through the superintendent. The request for reconsideration must be in writing and must set forth the reasons why distribution is desirable and in the interest of the school community. The superintendent will respond within 48 hours of the request for reconsideration.
- E. Additional procedures or guidelines relevant to this policy may be developed by the MSA administration and will be posted on the MSA website.

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. Materials left on campus without permission will be immediately discarded.

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)

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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 Assn v. Perry Local Educators' Assn, 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:

MSBA/MASA Model Policy 505 (*Distribution of Non-school-Sponsored Materials on School Premises by Students and Employees*)

MSBA/MASA Model Policy 512 (*School-Sponsored Student Publications*)