

I. PURPOSE

The purpose of this policy is to protect the exercise of students' and employee's free speech rights, taking into consideration the educational objectives and responsibilities of NWSISD. NWSISD member school districts' policy shall supercede NWSISD policy.

II. GENERAL STATEMENT OF POLICY

A. NWSISD recognizes that students and employees have the right to express themselves while on NWSISD controlled property or at NWSISD program or activity sites. This protection includes the right to distribute, at a reasonable time and place and in a reasonable manner, non-NWSISD sponsored material.

B. To protect First Amendment rights, while at the same time preserving the integrity of the educational objectives and responsibilities of NWSISD, the school board adopts the following regulations and procedures regarding distribution of non-NWSISD sponsored material on NWSISD controlled property and at NWSISD programs or activities.

III. DEFINITIONS

A. "Distribute" or "Distribution" means circulation or dissemination of material by means of handing out free copies, selling or offering copies for sale, accepting donations for copies, or posting or displaying material, or placing material in internal employee or student mailboxes.

B. Non-NWSISD sponsored material" or "unofficial material" includes all materials or objects intended for distribution, except student newspapers, employee newsletters, literary magazines, yearbooks and other publications funded and/or sponsored or authorized by NWSISD. Examples of non-NWSISD 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 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.

D. "Minor" means any person under the age of eighteen (18).

E. "Material and substantial disruption" of a normal school activity means:

1. Where the normal NWSISD program or 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 NWSISD program or activity is voluntary in nature (including, but not limited to cultural club activities, after school programs, and tutoring activities) "material and substantial disruption" is defined as student rioting, unlawful seizures of property, conduct inappropriate to the event, participation in a 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 at NWSISD programs or activities or in the student's home school district, current events influencing student activities and behavior, and instances of actual or threatened disruption relating to the written material in question.

- F. "NWSISD programs or activities" means any program or activity sponsored by NWSISD.
- 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. Students involved in NWSISD sponsored programs and activities, and NWSISD employees have the right to distribute, at reasonable times and places as set forth in this policy, and in a reasonable manner, non-NWSISD sponsored material.
- B. Requests for distribution of non-NWSISD sponsored material will be reviewed by the Executive Director or their designee 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 (e.g., threats of violence, defamation of character or of a person's race, religious 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 NWSISD or its programs or activities, will cause the commission of unlawful acts or the violation of lawful NWSISD regulations.
- C. Distribution by students, employees, and the public of nonschool-sponsored materials on NWSISD controlled property are subject to reasonable time, place, and manner restrictions set forth below. In making decisions regarding the time, place, and manner of distribution, the Executive Director 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 NWSISD's educational objectives, discipline, programs or activities;
3. whether the materials can be distributed from the office or other isolated location so as to minimize disruption;
4. the quantity or size of materials to be distributed;
5. whether distribution would require assignment of NWSISD employees, use of NWSISD equipment, or other resources;
6. whether distribution would require that non-school persons be present on NWSISD controlled property;
7. whether the materials are a solicitation for goods or services not requested by the recipients.

V. TIME, PLACE, AND MANNER OF DISTRIBUTION

- A. No non-NWSISD sponsored material shall be distributed during and at the place of a normal NWSISD program or activity if it is reasonably likely to cause a material and substantial disruption of that program or activity.
- B. Distribution of non-NWSISD sponsored material is prohibited when it blocks the safe flow of traffic within corridors and entrance ways of the locations of NWSISD programs or activities, and their parking lots. Distribution shall not impede entrance to or exit from NWSISD programs or activities in any way.
- C. No one shall coerce a student or employee to accept any publication.
- D. The time, place, and manner of distribution will be solely within the discretion of the Executive Director or their designee, consistent with the provisions of this policy.

VI. PROCEDURES

- A. Any student or employee wishing to distribute (as defined in this policy) non-NWSISD sponsored material must first submit for approval a copy of the material to the Executive Director or her/his designee at least 3 working days in advance of desired distribution time, together with the following information:
 1. Name and phone number of the person submitting the request and, if a student, the NWSISD program or activity in which he or she is participating.
 2. Date(s) and time(s) of day of intended for distribution.
 3. Location where material will be distributed;
 4. If intended for students, the grade(s) of students to whom the distribution is intended.
 5. If intended for students, the NWSISD program or activity site(s) the material will be distributed or displayed.
- B. Within two working days, the Executive Director or their designee, will review the request and render a decision. In the event that permission to distribute the material is denied or limited, the person submitting the request should be informed in writing of the reasons for the denial or limitation.
- C. If the person submitting the request does not receive a response within two working days, the person shall contact the office to verify that the lack of response was not due to an inability to locate the Executive Director or their designee.

- D. Permission or denial of permission to distribute material does not imply approval or disapproval of its contents by either the Executive Director or the school board, or the individual reviewing the material submitted.

VII. DISCIPLINARY ACTION

- A. Distribution by any student of non-NWSISD 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 NWSISD's or the student's home school district's Student Discipline Policy.
- B. Distribution by any employee of non-NWSISD 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, NWSISD policies and procedures, and/or governing statute.
- C. Any other party violating this policy will be requested to leave the NWSISD controlled property or NWSISD program or activity site immediately and, if necessary, the police will be called.

VIII. NOTICE OF POLICY TO STUDENTS AND EMPLOYEES

A copy of this policy will be available at NWSISD's administrative office and its program and activities' sites.

IX. IMPLEMENTATION

The Executive Director may develop any additional guidelines and procedures necessary to implement this policy for submission to the school board for approval. Upon approval by the school board, such guidelines and procedures shall be an addendum to this policy.

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)

Cross References:

NWSISD Policy 403 (Discipline, Suspension and Dismissal of NWSISD Staff)
NWSISD Policy 506 (Student Discipline)
NWSISD Policy 512 (NWSISD Sponsored Student Publications and Activities)
MSBA Service Manual, Chapter 13, School Law Bulletin "K" (Personal Liability of Individual School Board Members for Dollar Damages for Violation of Students Civil Rights Under the Civil Rights Act of 1871)

Adopted:

January 15, 2003

Revised:

December 17, 2003

May 15, 2019