

## Distribution of Non-School Materials

Students

### **Rationale:**

The United States Supreme Court has held that although public school students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate,” their First Amendment rights are not the same as those of adults in different settings.<sup>1</sup> The extent of their First Amendment rights must be determined in light of the “special characteristics of the school environment,”<sup>2</sup> with due consideration to the educational mission and values of public school education.<sup>3</sup>

The School Committee is also aware that elementary school students generally lack the maturity and cognitive ability to understand that a school or teacher announcement of a non-school sponsored activity or organization is not necessarily a stamp of approval of that activity or organization. In fact, several courts have noted such announcements might violate the Establishment Clause of the Constitution if they concern activities sponsored by religious organizations.<sup>4</sup>

Therefore, students shall not distribute non-school materials to students anywhere within the school.

### **Definition:**

Non-school materials. Materials including newspapers, flyers, notices, books, pamphlets or other written or printed material produced by an organization, individual or group of individuals other than the School Committee or the school and not related to school business. “Non-school materials” includes, but is not limited to, materials which express commercial endorsements or religious or political beliefs or points of view that student could reasonably believe to be sponsored, endorsed or given official imprimatur by the school. “Non-school materials” does not include such items as birthday cards or Valentine’s Day cards, or other special occasion cards or individual invitations to a birthday party, for example, which are typically given in sealed envelopes addressed to an identified student or teacher.

### **Procedure:**

a. If a student, teacher or other person is uncertain as to whether a particular item is a “non-school material” he or she may request a determination from the principal, or his designee, within the school in which the materials are sought to be distributed. The principal shall make a determination and convey it to the person within 4 hours of the request. If the person is dissatisfied with the principal’s determination, he or she may submit to the Superintendent, or his designee, a written request for review of that determination. The review shall be completed within 24 hours (not including weekends

and holidays) with the results of the review conveyed to the person submitting the request within that time.

b. In making his or her determination the principal shall consider the definition of “non-school materials” and the following:

(1) Material that is defamatory, obscene, pornographic, indecent or vulgar shall not be distributed.

(2) So-called “hate” literature that attacks any religious, racial or ethnic groups or disparages any person or group on the basis of age, sex, religion, race, national origin or handicap shall not be distributed.

(3) Materials that promote hostility, disorder, violence or the commission of a crime shall not be distributed.

(4) Material that is not appropriate to the emotional or cognitive development of the intended student recipient shall not be distributed.

(5) Material that the principal has reason to anticipate will substantially interfere with the work of the school or impinge upon the rights of other individuals shall not be distributed.

c. If material is not determined to be “non-school material,” a teacher may distribute it within his or her classroom or permit a student to distribute it within the classroom.

d. If a student is found to be distributing non-school materials within the school, the principal or any staff member shall direct the student to cease its distribution.

e. Examples of materials permitted to be distributed:

(1) Materials such as a party invitation contained in a sealed envelope addressed to a particular student.

(2) Materials relating to school-sponsored or town-sponsored extracurricular activities such as physical education, summer recreation programs, holiday parties, library story hours, town parades, or town scholastic or athletic teams.

(3) Materials such as notices of registration for Girl Scouts, Boy Scouts, Little League and other activities related to the school’s educational mission and non-profit organizations approved by the Superintendent.

f. If the material is approved, the student(s) will be allowed to distribute such material at any entrance or exit to the school both before and after school and at a place near the cafeteria

designated by the principal during all lunch periods. Such material may also be left in the main office so that other students may obtain a copy during the school day.

g. Students shall not distribute materials in a manner which disrupts any school activity or blocks or impedes the safe flow of traffic within corridors and entrance ways of the school. Students who distribute non-school materials shall be responsible for cleaning up such materials thrown on the floors, in the school, or on the grounds outside the school.

[Tinker v. Des Moines, Independent Community School Dist.](#), 393 U.S. at 503, 506 (1969). See also [Hazelwood School District v. Kuhlmeier](#), 484 U.S. 260, 273 (1988).

[Bethel School District No. 403 v. Fraser](#), 478 U.S. 675, 685-686 (1986).

See e.g. [Bell v. Little Axe Independent School Dist. No. 70](#), 766 F.2d 1391, 1405 (10<sup>th</sup> Circ. 1985); [DeNooyer by DeNooyer v. Livonia Public School](#), 799 F. Supp. 744, 751 (E.D. Mich. 1992); [Slotterback v. Interboro School Dist.](#), 766 F.Supp. 280, 296-297 (E.D. Pa. 1991).

Policy Adopted 06/16/94