

ASPEN ACADEMY

Adopted:

Revised: March 22, 2016 May 16, 2017

Reviewed: April 2015, April 2018

505 DISTRIBUTION OF NONSCHOOL-SPONSORED MATERIALS ON SCHOOL PREMISES BY STUDENTS AND EMPLOYEES

I. PURPOSE

The purpose of this policy is to address and balance the exercise of students' and employees' free speech rights regarding nonschool-sponsored matters with, and against, the educational objectives and responsibilities of the school and those other factors discussed in this policy. While the right to free speech is educationally important and a constitutionally protected right, Aspen Academy is entitled to place reasonable, time, place, and manner restrictions on the right to speech and the distribution of materials within school sponsored activities and facilities. As a general matter, this policy is not intended to apply to school-sponsored speech and distribution of materials which tend to be formulated under supervision and subject to other policies, but the principles established herein may be applicable to school-sponsored speech and distribution of materials.

II. GENERAL STATEMENT OF POLICY

- A. The school recognizes that students and employees have the right to express themselves on school property. This protection includes the right to distribute, at a reasonable time and place and in a reasonable manner, nonschool-sponsored material.
- B. To protect First Amendment rights, while at the same time preserving the integrity of the educational objectives and responsibilities of the school, the school board adopts the following regulations and procedures regarding distribution of nonschool-sponsored material on school property and at school 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, posting or displaying material in student areas, or placing material in internal staff or student mailboxes.
- B. "Nonschool-sponsored material" or "unofficial material" includes all materials or objects intended for distribution, except school newspapers, employee newsletters, literary magazines, yearbooks and other publications funded and/or sponsored or authorized by the school. Examples of nonschool-sponsored materials include but are not limited to invitations, 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, may include, but not limited to sexual conduct such as intimate sexual acts (normal or perverted), masturbation, excretory functions, or 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 school activity is an educational program 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) "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 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 written material in question.

- F. "Normal hours of operation" means during the school day and for a reasonable amount of time prior to, and after, school for arrivals and departures, which presently is typically from 8:00 a.m. until 4:00 p.m., Monday through Friday, of each academic year.
- G. "School activities" means any activity sponsored by the school including, but not limited to, arrival and departure from school, classroom work, lunch and recess, traveling on school grounds during normal school hours, library activities, field trips, physical education classes, official assemblies and other similar gatherings, school athletic contests, band concerts, school plays and 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 that individual in the esteem of the community.

IV. GUIDELINES

- A. Requests for distribution of non-school sponsored material shall be submitted in accordance with the procedures established below prior to distribution. Aspen reserves the right to deny distribution of any materials that fail to comply with this policy or that are prohibited by this policy. In determining the appropriateness of distribution of nonschool sponsored materials, Aspen encourages its decision makers (teachers, educational assistants, directors, Board of Directors, etc.) to consider the totality of circumstances when deciding whether speech and/or the distribution of materials should be permitted.
- B. Materials Generally Prohibited. Aspen will generally prohibit distribution of material that:
 - 1. is obscene to minors;

2. is libelous or slanderous;
 3. is lewd, 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, drug use, 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, sexual orientation, or gender);
 7. presents a clear and present likelihood that, it 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 regulations.
- C. Distribution by students and employees of nonschool-sponsored materials on school 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 administration 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'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 hallways;
 4. the quantity or size of materials to be distributed;
 5. whether distribution would require assignment of school staff, use of school equipment, or other resources;
 6. whether distribution would require that nonschool persons be present on the school grounds;
 7. whether the materials are a solicitation for goods or services not requested by the recipients.

V. TIME, PLACE, AND MANNER OF DISTRIBUTION

- A. Nonschool sponsored material must be approved prior to distribution in accordance with the other provisions of this policy.
- B. Between building opening at 8:00am and after 3:15pm and until the building closes at 4:00pm, students may distribute approved material(s).
- C. No one shall pressure, bully, intimidate and/or coerce a student or staff member to accept any materials distributed.
- D. The time, place, and manner of distribution will be solely within the discretion of the administration, consistent with the provisions of this policy.

VI. TEXTBOOKS, BINDERS AND /OR PLANNERS

Any materials used to cover text books, binders, and/or planners shall not materially or substantially disrupt the school's educational objectives, discipline, or school activities, nor shall they otherwise violate this policy.

VII. PROCEDURES

- A. Any person wishing to distribute non-school sponsored material must first submit for approval a copy of the material to the Director, or designee, at least 3 school days in advance of desired distribution time with the following information:
 - 1. Name and phone number of the person submitting the request and, if a student, the room number of his or her homeroom/advisory class.
 - 2. Date(s) and time(s) of day 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.
- B. Within three (3) school days, the Director, or 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 three (3) school days, the person may distribute the proposed materials.
- D. If the person is dissatisfied with the decision of the Director, or designee, the person may submit a written request for appeal to the Director. If the person does not receive a response within three (3) school days of submitting the appeal, the person submitting the request should be informed in writing of the reasons for the denial or limitation.
- E. Permission or denial of permission to distribute material does not imply approval or disapproval of its contents by either the school, the administration of the school, the school board, or the individual reviewing the material submitted.

VIII. DISCIPLINARY ACTION

- A. Distribution by any student of material prohibited herein or in violation of the provisions above may be halted and disciplinary action may be taken in accordance with the school's Student Discipline Policy.
- B. Distribution by any employee of nonschool-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, hiring agreement, school policies and procedures, and/or governing statute.
- C. Any other party violating this policy will be requested to leave the school property immediately and, if necessary, the police will be called.

IX. NOTICE OF POLICY TO STUDENTS AND EMPLOYEES

A copy of this policy will be available on the school's website and in the office.

X. IMPLEMENTATION

The school administration may develop any additional guidelines and procedures necessary to implement this policy, provided such guidelines and procedures do not conflict with or violate the protections afforded students under this policy. This policy shall be reviewed annually.