TRIO Wolf Creek Distance Learning Charter School #4095

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

I. PURPOSE

The purpose of this policy is to protect the exercise of students' and employees' free speech rights, taking into consideration the educational objectives and responsibilities of TRIO Wolf Creek Distance Learning Charter School.

II. GENERAL STATEMENT OF POLICY

A. The charter 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 charter 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. "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.

B. "Non-school-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 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 charter school activity is an educational program of the charter school 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 charter school activity is voluntary in nature (including, without limitation, 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 expression to be considered disruptive, there must exist specific facts upon which the likelihood of disruption can be forecast, including past experience in the charter school, current events influencing student activities and behavior, and instances of actual or threatened disruption relating to the written material in question.

F. "School activities" means any activity sponsored by the charter school 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, and in-school lunch periods.

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.

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IV. GUIDELINES

A. Students and employees of the charter school have the right to distribute, at reasonable times and places as set forth in this policy, and in a reasonable manner, nonschool-sponsored material.

B. Requests for distribution of nonschool-sponsored material will be reviewed by the administration 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 the school or school activities, will cause the commission of unlawful acts or the violation of lawful school regulations.

V. TIME, PLACE, AND MANNER OF DISTRIBUTION

A. No nonschool-sponsored material shall be distributed during and at the place of a normal school activity if it is reasonably likely to cause a material and substantial disruption of that activity.

B. Distribution of nonschool-sponsored material is prohibited when it blocks the safe flow of traffic within corridors and entrance ways of the school, and school parking lots. Distribution shall not impede entrance to or exit from school premises in any way.

C. No one shall coerce a student or staff member to accept any publication.

VI. PROCEDURES

A. Any student or employee wishing to distribute nonschool sponsored material must first submit for approval a copy of the material to the administrator at least 24 hours in advance of desired distribution time, together with the following information:

1. Name and phone number of the person submitting the request.

2. Date(s) and time(s) of day intended display or distribution.

3. Location where material will be displayed or distributed;

4. If intended for students, the grade(s) of students to whom the display or distribution is intended.

B. Within one school day, the administrator 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 is dissatisfied with the decision of the administrator, the person may submit a written request for appeal to the school board. If the person does not receive a response within three (3) school days (not counting Saturdays, Sundays and holidays) of submitting the appeal, the person shall contact the office of the Director to verify that the lack of response is not due to an inability to locate the person.

D. 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 charter school, or the individual reviewing the material submitted.

VII. DISCIPLINARY ACTION

A. Distribution by any student 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 disciplinary action will 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, collective bargaining agreement, charter school policies and procedures, and/or governing statute.

C. Any other party violating this policy will be requested to leave the charter school property immediately and, if necessary, the police will be called.

VIII. NOTICE OF POLICY TO STUDENTS AND EMPLOYEES

A copy of this policy will be published in the student handbook which is available on the Charter School's website and posted in the school building.

IX. IMPLEMENTATION

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

Legal References: U.S. Constitution, First Amendment.
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. 1987).
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 Dis*t., 640 F.3d 329 (8th Cir. 2011), cert. denied 565 U.S. 1036, 132 S.Ct. 592 (2011)

Cross References: Policy 403 (Discipline, Suspension and Dismissal of Charter School Employees)
Policy 506 (Student Discipline)
Policy 512 (School Sponsored Student Publications)
Policy 904 (Distribution of Materials on School District Property by Non-school Persons)