

Milton Town School District

Policy

F29: STUDENT SELF-EXPRESSION AND STUDENT DISTRIBUTION OF NON-SCHOOL SPONSORED LITERATURE

Policy

The Constitution of the United States and the Constitution of Vermont guarantee the right of public school students to freedom of speech. The Milton Town School District Board of School Trustees respects the right of students to express themselves in word or symbol and to distribute and post materials in areas designated for posting as a part of that expression. The Board also recognizes that the exercise of that right must be limited by the district's responsibility to provide a safe and orderly environment in which to accomplish its central goal of educating its students.

Student Distribution of Non-School Sponsored Literature

It is the policy of the Milton Town School District to allow limited distribution of non-school sponsored literature on school grounds or at school events by students. Accordingly, the superintendent/principal may permit the distribution of non-school sponsored literature without discrimination as to the viewpoint of the literature in accordance with this policy.

Non-school sponsored literature means any printed, written, or electronic materials prepared by non-school organizations, groups, or individuals for posting or general distribution that are not prepared as a part of the curricular or approved extracurricular programs of the district. It also includes materials prepared by district employees acting on their own behalf or on behalf of a community group. Non-school sponsored materials includes such things as fliers, invitations, announcements, pamphlets, posters, photographs, pictures, films, audio recordings, digital media recordings, and electronic messages. Literature prepared as under the supervision of instructional personnel as part of instruction or authorized classroom activities is not restricted by this policy.

Distribution means handing to others on school property or during school-sponsored events; posting on school property such as walls, bulletin boards, and district web-sites; placing upon desks, tables, on or in lockers; making available in school offices; delivered with or via classroom or school newsletters; or engaging in any other manner of delivery of non-school sponsored literature to others while on school property or during school functions.

This policy prohibits the distribution of literature that:

- a) Is libelous, defamatory, obscene, lewd, vulgar, or profane;
- b) Violates federal, state or local laws;
- c) Advocates the use or availability of any substance or material that may reasonably be believed to constitute a direct and substantial danger to the health or welfare of students such as tobacco, alcohol, intoxicants, or illegal drugs;
- d) Incites violence, unlawful acts or the violation of Board policies or school rules;
- e) Interferes with or advocates interference with the rights of any individual or the orderly operation of the schools and their programs;
- f) Discriminates against, attacks or denigrates any group on account of any unlawful consideration;
- g) Is primarily of a commercial nature, including but not limited to all material that primarily seeks to advertise for sale products or services; or

- h) Solicits funds or services for an organization, with the exception of solicitations authorized in Board policy e.g. Policy E106: Fundraising to Support School Programs.

When a student wishes to distribute more than ten copies of non-school sponsored literature, the literature shall be submitted to the Principal for prior review as to the following:

- a) to confirm that the literature includes the name of the person or organization sponsoring the distribution, and that there is no implication that the literature is endorsed by the school district, and
- b) to confirm that the literature does not fall in one of the prohibited categories listed above.

Prior review of literature is not required when the non-school sponsored literature is distributed by a student to other attendees at a meeting of a non-curriculum related student group authorized to meet at school during non-instructional time.

Even when prior review is not required, students must comply with all other provisions of this policy regarding the distribution of literature.

The Superintendent/Principal may place reasonable time, place, and manner restrictions on the distribution of non-school sponsored literature.

Student Self-Expression

Students have a right to express themselves on school property and at school functions, through speech or expressive actions, provided they do not materially and substantially interfere with the orderly operation of the school and the rights of others.

This policy prohibits student self-expression that:

- a) Is libelous, defamatory, obscene, lewd, vulgar, or profane;
- b) Violates federal, state or local laws;
- c) Advocates the use or availability of any substance or material that may reasonably be believed to constitute a direct and substantial danger to the health or welfare of students such as tobacco, alcohol, intoxicants or illegal drugs;
- d) Incites violence or unlawful acts; or
- e) Interferes with or advocates interference with the rights of any individual or the orderly operation of the schools and their programs.

The context in which students express themselves may affect the amount of latitude they are afforded in their speech. In the context of school-sponsored publications, when a reasonable listener would perceive that the speech is endorsed by the school district, more control may be exercised. School district representatives may exercise editorial control over the style and content of student speech in school-sponsored expressive activities, such as class work or a school newspaper, so long as their actions are reasonably related to legitimate pedagogical concerns.

Date Warned: 6/27/2011

Date Adopted: 7/11/2011

Legal Reference(s): *Morse v. Frederick, 551 U.S. ___, 127 S. Ct. 2618 (2007)*

Good News Club v. Milford Central Schools, 533 U.S. 98 (2001)
Rosenberger v. Univ. of Virginia, 515 U.S. 819 (1995)
Lamb's Chapel v. Center Moriches Union Free School Dist., 508 U.S. 384 (1993)
Hazelwood Sch. Dist. v. Kuhlmeier, 484 U.S. 260, 271 (1988)
Bethel School District No. 403 v. Fraser, 478 U.S. 675 (1986)
Perry Educ. Ass'n v. Perry Local Educ. Ass'n, 460 U.S. 37 (1983)
Tinker v. Des Moines Indep. Community Sch. Dist., 393 U.S. 503 (1979)
Wisniewski v. Board of Educ. of the Weedsport Central Sch. Dist., No. 06-3394-cv (2d Cir. July 5, 2007)
Guiles v. Marineau, 461 F.3d 320 (2d Cir. 2006)
Peck v. Baldwinsville Central Sch. Dist., 426 F.3d 617 (2d Cir. 2005)
Walz v. Egg Harbor Twnp. Bd. of Educ., 342 F.3d 271 (3d Cir. 2003)
Chiu v. Plano Indep. Sch. Dist., 339 F.3d 273 (5th Cir. 2003)
Hedges v. Wauconda Community Unit Sch. Dist. No. 118, 9 F.3d 1295 (7th Cir. 1993)
Raker v. Frederick Cty. Pub. Sch., 470 F. Supp. 2d 634 (W.D. Va. 2007)
M.A.L. v. Kinsland, No. 07-10391 (E.D. Mich. Jan. 30, 2007)
Cross Reference: