



Adopted: May 20, 2015

EMID 6067 Board Policy 505

Revised: October 17, 2018

505 DISTRIBUTION OF NON-DISTRICT-SPONSORED MATERIALS ON INTEGRATION PROGRAM 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 EMID.

II. GENERAL STATEMENT OF POLICY

- A.. EMID recognizes that students and employees have the right to express themselves in the EMID district spaces and at integration events. This protection includes the right to distribute, at a reasonable time and place and in a reasonable manner, non-district-sponsored material.
- B. To protect First Amendment rights, while at the same time preserving the integrity of the objectives and responsibilities of EMID, the Board adopts the following regulations regarding distribution of non-district-sponsored material at the EMID district office and at integration program locations, following the Guidelines in Section IV of this policy.

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 materials, or placing material in staff office areas.
- B. "Non-district-sponsored material" or "unofficial material" includes all materials or objects intended for distribution, except EMID newsletters and other publications funded and/or sponsored or authorized by the Executive Director. Examples of non-district-sponsored materials include, but are not limited to: leaflets, brochures, buttons, badges, flyers, petitions, posters, tangible objects, and underground newspapers whether written by students or employees or others.
- C. "Obscene to minors" means:



1. The average person, applying contemporary community standards, would find the material, taken as a whole, appeal 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, excretory function, 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 integration program activity or workday means where the normal activity of the program or workday is impeded by activities including, but not limited to, rioting, unlawful seizures of property, conduct inappropriate to the event or circumstance, participation in a district boycott, demonstration, sit-in, stand-in, walk-out, or other related forms of activity.

In order for expression to be considered disruptive, specific facts must exist upon which the likelihood of disruption can be forecast, including past experience in the district, current events influencing activities and behavior, and instances of actual or threatened disruption relating to the written material in question.

F. “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 and employees of EMID have the right to distribute, at reasonable times and places as set forth in this policy and any related procedure, and in a reasonable manner, non-district-sponsored material.

B. Requests for distribution of non-district-sponsored materials will be reviewed by the Executive Director 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 district regulations.
- C. Distribution by students and employees of non-district-sponsored materials at the EMID district office or at integration program events 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. if the material is related to EMID's programs;
 2. the extent to which distribution is likely to cause disruption of or interference with the district's objectives, discipline, or programming;
 3. if the materials can be distributed from a location which minimizes the physical disruptions to surrounding activities of other groups;
 4. the quantity and/or size of materials to be distributed;
 5. if distribution would require assignment of district staff, use of district equipment, or other resources;
 6. if distribution would require that non-district persons be present at the EMID district office or at the integration program location;
 7. if the materials are a solicitation for goods and services not requested by the recipients.

V. TIME, PLACE, AND MANNER OF DISTRIBUTION



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

VI. DISCIPLINARY ACTION

- A. Distribution by any student of non-district-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 EMID's Student Discipline Policy.
- B. Distribution by an employee of non-district-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 and/or district policies and procedures.
- C. Any other party violating this policy will be requested to leave the premises immediately and, if necessary, the police will be called.

VII. NOTICE OF POLICY TO STUDENTS AND EMPLOYEES

The content of this policy will be published in student and employee handbooks.

VIII. IMPLEMENTATION

The Executive Director may develop any additional guidelines and procedures necessary to implement this policy for submission to the Board for approval. Upon approval by the 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. 1987)
Roark v. South Iron F-I School Dist., 573 F.3d 556 (8th Cir. 2009)



Victory Through Jesus Sports Ministry Foundation v. Lee's Summit R-7 School Dist., 640 F.3d 329 (8th Cir. 2011), cert. denied 565 U.S. 1036, 132 S.Ct. 592 (2011)

Cross References:

EMID Policy 403 (Discipline, Suspension, and Dismissal of EMID Employees)
EMID Policy 506 (Student Discipline)
EMID Policy 512 (District-Sponsored Student Publications and Activities)
EMID Policy 904 (Distribution of Materials on EMID Program Locations by Non-district Persons)