

**DISTRIBUTION AND DISPLAY OF
NON-SCHOOL MATERIAL**

Policy Code: **5210**

1 The Transylvania County Board of Education (the “board”) believes Sstudents and the
2 educational program must be the focus of the school system. In order to maintain an educational
3 environment conducive to learning and to minimize intrusions upon instructional time,
4 distribution and display of non-school material will be limited in accordance with this policy and
5 policy 5240, Advertising in the Schools. School officials shall screen and approve the
6 distribution or display of non-school material on school property. (The term “non-school
7 material” is defined in Section E.)
8

9 This policy applies to the distribution and display of non-school material by students and school-
10 related groups (as defined in Section E) and by governmental agencies, educational institutions,
11 and non-profit entities as permitted in Section B.
12

13 **A. DISTRIBUTION AND DISPLAY BY STUDENTS**

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15 Students wishing to distribute or display on campus any publication, leaflet, or other
16 written material that is not school-sponsored must submit the publication or material to
17 the principal for review prior to distribution. The principal shall prohibit distribution or
18 display when the publication or material contains speech that is prohibited as specified in
19 Section C but otherwise shall not discriminate on the basis of viewpoint in granting or
20 denying a student permission to distribute or display non-school publications or
21 materials. If permission to distribute or display a publication or material is denied, the
22 student may request review of the principal’s decision as specified in Section D.
23

24 **B. DISTRIBUTION AND DISPLAY BY NON-STUDENTS**

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26 **NOTE: The board may choose from several options with regard to the distribution and**
27 **display of non-school literature by non-students. In addition, the board may choose to**
28 **adopt a different option for its secondary schools than for its elementary schools. This**
29 **approach may be necessary if the board would like to adopt Option Four for its high**
30 **schools. Option Four would permit distribution and display of religious literature along**
31 **with a wide variety of other materials in high schools. However, with regard to the**
32 **distribution and display of religious literature in elementary schools, in *Peck v. Upshur***
33 **(1998) the Fourth Circuit indicated that school officials should have a greater concern with**
34 **possible coercion in elementary schools due to the impressionability of young elementary-**
35 **age children. The Fourth Circuit also has noted that elementary students may be unable to**
36 **fully recognize and appreciate the difference between government and private speech.**
37

38 **OPTION ONE [This is the most restrictive option of the four options presented in this**
39 **model policy. It does not permit any distribution or display of non-school material by non-**
40 **students or non-school-sponsored organizations.]**
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- 42 1. Only school-sponsored and curriculum-related publications and materials may be
43 distributed or displayed during the school day, on school grounds, or at school

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44 activities. The term “school-sponsored or curriculum-related publications and
45 materials” is defined in Section E.

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47 2. The superintendent is authorized to adopt any additional regulations deemed
48 necessary to implement this policy.

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50 3. Nothing in this policy will be construed to create a public forum or a limited
51 public forum that would allow non-students access to school property for the
52 purpose of distributing or displaying non-school material.
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OPTION TWO [This option permits distribution and display of (1) school-sponsored and curriculum-related publications and materials and (2) information from school-related groups such as the PTA or booster clubs.]

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58 1. Distribution and display of “school-sponsored or curriculum-related publications
59 and materials” as defined in Section E are permitted during the school day, on
60 school grounds, and at school activities.

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62 2. Distribution and display of publications and materials by school-related groups
63 that have received prior approval of the [principal or superintendent or designee]
64 pursuant to the standards in Section C and the standards for review of the decision
65 in Section D are permitted at reasonable times and places as designated by the
66 [principal or superintendent or designee]. The term “school-related group” is
67 defined in Section E. The [principal or superintendent or designee] shall not
68 discriminate on the basis of viewpoint in granting or denying permitted school-
69 related groups permission to distribute or display non-school material.
70

71 3. The superintendent is authorized to adopt regulations regarding approval forms,
72 how many times a year groups may distribute or display publications or materials,
73 delivery and bundling requirements, etc.
74

75 4. Nothing in this policy will be construed to create a public forum that would allow
76 non-students access to school property for the purpose of distributing or
77 displaying non-school publications and materials.
78

OPTION THREE [This option permits distribution and display of (1) school-sponsored and curriculum-related materials and publications; (2) publications and materials from school-related groups such as the PTA or booster clubs, and (3) specified publications and materials from several other viewpoint neutral categories of non-school groups. The board may choose to remove or add to any of these categories of groups from the approved list.]

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85 1. Distribution and display of “school-sponsored or curriculum-related publications
86 and materials” as defined in Section E are permitted during the school day, on

87 school grounds, and at school activities.
88

89 2. Distribution and display of publications and materials from school-related groups
90 that have received prior approval of the [principal or superintendent or designee]
91 pursuant to the standards in Section C and the standards for review of the decision
92 in Section D are permitted at reasonable times and places as designated by the
93 [principal or superintendent or designee]. The term “school-related group” is
94 defined in Section E. The [principal or superintendent or designee] shall not
95 discriminate on the basis of viewpoint in granting or denying permitted school-
96 related groups permission to distribute or display non-school material.
97

98 3. The following agencies and organizations are permitted to distribute or display
99 educational information or information about programs and activities of interest to
100 students:

- 101 a. local, state, and federal government agencies and departments;
- 102 b. non-profit organizations that offer educational, recreational, cultural, or
103 character development activities or programs for school-aged children,
104 including, but not limited to, scouts, YMCA or YWCA, organized youth
105 sport leagues, etc.);
- 106 c. school/business partnerships or incentive programs that directly enhance
107 or support the school’s educational program; and
- 108 d. community colleges, universities, and other non-profit institutions of
109 higher education.
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115 All publications and materials that one of the permitted agencies or organizations
116 would like to distribute or display must be submitted to the [principal or
117 superintendent or designee] for approval prior to distribution or display.
118 Approval for distribution or display will be granted pursuant to the standards in
119 Section C and the standards for review of decisions in Section D. If approved, the
120 publications and materials will be distributed or displayed at reasonable times and
121 places as designated by the [principal or superintendent or designee].
122

123 4. The [principal or superintendent or designee] shall not discriminate on the basis of
124 viewpoint in granting or denying permitted agencies and organizations permission
125 to distribute or display non-school materials.
126

127 5. The superintendent is authorized to adopt regulations regarding approval forms,
128 how many times a year groups may distribute or display publications or materials,
129 delivery and bundling requirements, etc.

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131 6. Nothing in this policy will be construed to create a public forum that would allow
132 non-students unrestricted access to school property for the purpose of distributing
133 or displaying publications or materials.
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135 **OPTION FOUR [This option is identical to OPTION THREE except that in Item #4 of**
136 **this option, the board specifically creates, in high schools only, a neutral equal access**
137 **provision for display and distribution of other literature not otherwise permitted in Item**
138 **#3. As noted above, in the Fourth Circuit case of *Peck v. Upshur* the court permitted Bibles**
139 **to be made available to high school students from a display table subject to various**
140 **restrictions but indicated that this practice was not constitutionally permissible in**
141 **elementary schools. Option Four is designed to structure a policy that permits practices**
142 **approved in *Peck* without going beyond what is permitted in *Peck*.]**

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144 1. Distribution and display of “school-sponsored or curriculum-related publications
145 and materials” as defined in Section E are permitted during the school day, on
146 school grounds, and at school activities.
147
148 2. Distribution and display of publications and materials from school-related groups
149 that have received prior approval of the [principal or superintendent or designee]
150 pursuant to the standards in Section C and the standards for review of the decision
151 in Section D are permitted at reasonable times and places as designated by the
152 [principal or superintendent or designee]. The term “school-related group” is
153 defined in Section E. The [principal or superintendent or designee] shall not
154 discriminate on the basis of viewpoint in granting or denying permitted school-
155 related groups permission to distribute or display non-school material.
156
157 3. In all schools of this school system, the following agencies and organizations are
158 permitted to distribute or display educational information or information about
159 programs and activities of interest to students:
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161 a. local, state, and federal government agencies and departments;
162
163 b. non-profit organizations that offer educational, recreational, cultural, or
164 character development activities or programs for school-aged children,
165 including, but not limited to, scouts, YMCA or YWCA, organized youth
166 sport leagues, etc.);
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168 c. school/business partnerships or incentive programs that directly enhance
169 or support the school’s educational program; and
170
171 d. community colleges, universities, and other non-profit institutions of
172 higher education.

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173
174 All publications and materials that one of the permitted agencies or organizations
175 would like to distribute or display must be submitted to the [principal or
176 superintendent or designee] for approval prior to distribution or display.
177 Approval for distribution or display will be granted pursuant to the standards in
178 Section C and the standards for review of decisions in Section D. If approved, the
179 publications and materials will be distributed or displayed at reasonable times and
180 places as designated by the [principal or superintendent or designee].
181

182 The [principal or superintendent or designee] shall not discriminate on the basis of
183 viewpoint in granting or denying permitted agencies and organizations permission
184 to distribute or display publications and materials.
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186 The superintendent is authorized to adopt regulations regarding approval forms,
187 how many times a year groups may distribute or display publications and
188 materials, delivery and bundling requirements, etc.
189

190 4. In addition to the distribution and display of publications and materials permitted
191 in all schools in subsection 3, above, the distribution and display of other
192 publications and materials are permitted in high schools in order to provide high
193 school students with access to a wide variety of educational materials from
194 various viewpoints. All materials to be distributed or displayed under this
195 provision must be submitted to the [principal or superintendent or designee] for
196 approval prior to distribution or display. Approval for distribution or display will
197 be granted pursuant to the standards in Section C and the standards for review of
198 the decision in Section D.
199

200 In addition, distribution and display of publications and materials under this
201 provision are subject to the following restrictions.
202

203 a. Distribution or display of these materials is limited to one time per year
204 per organization.
205

206 b. Distribution or display of these materials is limited to a table in [a location
207 such a hallway in front of the library or a similar location where students
208 would not feel pressured to take materials].
209

210 c. Groups approved to distribute or display these publications or materials
211 are responsible for setting up the table and taking it down at the end of the
212 day.
213

214 d. The table may contain a sign that says, “Free materials. Please take one.”
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- 216 e. Distribution and display of these materials in classrooms or in any other
217 instructional setting is not permitted.
- 218
- 219 f. No announcements advertising the availability of these materials are
220 permitted over the PA or through other school media.
- 221
- 222 g. Neither members of the group providing the material nor any other
223 individual may stand at the table and encourage students to accept the
224 publications or material.
- 225
- 226 h. The table where the publication or materials are located must display a
227 sign stating that materials are neither sponsored nor endorsed by the
228 school system, its agents, or its employees, and that the views and
229 information contained in the materials do not reflect the approval or
230 disapproval of the school board or school officials.
- 231
- 232 i. The [principal or superintendent or designee] shall not discriminate on the
233 basis of viewpoint in granting or denying permission to distribute or
234 display publications and materials under this provision.
- 235
- 236 j. The superintendent is authorized to adopt any additional regulations
237 deemed necessary to implement distribution or display of materials under
238 this provision.
- 239
- 240 k. The principal is responsible for enforcing the restrictions imposed by the
241 board on distribution and display of materials and publications under this
242 provision.
- 243
- 244 5. The superintendent is authorized to adopt regulations regarding approval forms,
245 how many times a year groups may distribute or display publications and
246 materials, delivery and bundling requirements, etc.
- 247

C. DISTRIBUTION AND DISPLAY STANDARDS FOR NON-SCHOOL MATERIALS

School officials shall apply the following standards to approve the distribution or display of all non-school material on school property:

- 250 1. While materials will not be screened for viewpoint, the reviewer shall prohibit the
251 distribution or display of any publication or material that (a) is vulgar, indecent,
252 or obscene; (b) contains libelous statements, personal attacks, or abusive
253 language, such as language defaming a person’s character, race, religion, ethnic
254 origin, gender, family status, or disability; (c) causes or clearly threatens to cause
255 a material and substantial disruption of a school activity; (d) encourages the
256 distribution or display of any publication or material that (a) is vulgar, indecent,
257 or obscene; (b) contains libelous statements, personal attacks, or abusive
258 language, such as language defaming a person’s character, race, religion, ethnic
 origin, gender, family status, or disability; (c) causes or clearly threatens to cause
 a material and substantial disruption of a school activity; (d) encourages the

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259 commission of unlawful acts or the violation of lawful school regulations; (e) is
260 inappropriate considering the age of the students in the school; (f) contains
261 information that is inaccurate, misleading, or false; or (g) advertises any product
262 or service not permitted to minors by law.

263
264 The [principal or superintendent’s designee, depending on who makes the initial
265 decision] shall notify the superintendent before approving or prohibiting
266 distribution or display of any publications or materials that raise a question as to
267 whether a specific action by school officials might violate the Establishment of
268 Religion Clause, the Free Exercise of Religion Clause, or the free speech rights
269 guaranteed by the First Amendment of the U.S. Constitution. The superintendent
270 shall consult with the board attorney to determine the legally appropriate course
271 of action.

- 272
273 2. The distribution of non-school material must not interfere with instructional time.
274
275 3. Non-school publications and materials distributed or displayed to students must
276 be clearly identified, through the method of distribution or otherwise, as non-
277 school materials that are neither endorsed nor necessarily reflective of the views
278 of the school board or the school system.
279
280 4. In order to minimize disruption to the learning environment, political campaign
281 materials may not be distributed to students or employees (including through
282 employee mailboxes and e-mail) or made available on school grounds during
283 school time or at school events. However, on election days, posters and printed
284 materials are permitted at school buildings used as polling places in accordance
285 with state law and board of elections requirements.

286
287 This provision does not prohibit a teacher from using political literature or
288 campaign material for instructional purposes. However, any teacher using these
289 materials for instructional purposes shall not use his or her position to promote a
290 particular candidate, party, or position on a specific issue. The teacher also shall
291 attempt to use a variety of materials that represent balanced and diverse
292 viewpoints on the political spectrum.

293
294 **D. PROCEDURES FOR REQUESTING DISTRIBUTION OR DISPLAY OF NON-SCHOOL**
295 **MATERIALS**

- 296
297 1. Any individual or organization wishing to distribute or display non-school-
298 sponsored publications or materials must first submit for approval a copy of the
299 publication or material to the [principal or superintendent or designee] at least five
300 school days in advance of the distribution or display time, along with the
301 following information: (a) the name and phone number of the individual

submitting the request; (b) the date(s) and time(s) of day of intended distribution or display; (c) the desired location for distribution or display of material; and (d) if the distribution or display is intended for students, the grade(s) of students for whom the distribution or display is intended.

2. Within five school days, the [principal or superintendent or designee] shall review the request and render a decision. In the event permission to distribute or display the material is denied or restricted, the individual submitting the request will be informed in writing of the reasons for the denial or restriction.
3. Any request denied or restricted by the [principal or superintendent or designee] may be appealed in writing to the [superintendent or designee or board, depending on who made the initial decision]. [If the principal made the initial decision, the superintendent or designee shall review the decision and render a decision within 10 school days. Any request denied by the superintendent or designee may be appealed to the board of education.] The board will review the request at its next regularly scheduled meeting. As appropriate, the superintendent or the board will consult with the board attorney concerning a request to distribute or display non-school literature.
4. Permission or denial of permission to distribute or display material does not imply approval or disapproval of its contents by school system administrators, the school board, or the individual reviewing the material submitted.

E. DEFINITIONS

The following terms used in this policy are defined as follows:

1. Obscene

“Obscene” describes any speech or work that the average person, applying contemporary community standards (as opposed to “national standards”), would find, taken as a whole, appeals to prurient interest; or that depicts or describes, in a patently offensive way, sexual conduct specifically defined by applicable law; and that, taken as a whole, lacks serious literary, artistic, political, or scientific value.

2. Libelous Statement

Libelous statements are false and unprivileged statements about a specific person that injure that person’s reputation in the community.

3. Non-School Material

345
346 Non-school material includes any publication or other written information that is
347 not a school-sponsored or curriculum-related publication or material.
348

349 **4. Material and Substantial Disruption**

350
351 A material and substantial disruption is any conduct that for any reason, including
352 inappropriateness of time, place, or type of behavior, significantly interferes with
353 school functions, classroom instruction, or the rights of other students or school
354 employees. Examples of material and substantial disruption include, but are not
355 limited to, demonstrations, destruction of property, injury to students or other
356 persons, shouting or boisterous conduct, and anything that significantly distracts
357 students from instruction or prevents school personnel from performing their
358 educational responsibilities.
359

360 **5. School-Sponsored or Curriculum-Related Publications and Materials**

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362 School-related materials or publications are: (a) materials published by the school
363 system for distribution (i.e. school calendars, menus, school newsletters, etc.); (b)
364 materials that are approved by school officials and related to activities or events
365 that are officially sponsored by the school (i.e. announcements for sports teams,
366 clubs, field trips, school plays, and concerts); or (c) materials that are directly
367 related to instruction.
368

369 **6. School-Related Group**

370
371 School-related groups are organizations formed to support the school in an area of
372 recognized need, such as the PTA, the PTO, teachers' and principals'
373 organizations, and booster clubs.
374

375 The superintendent shall adopt necessary regulations to ensure that this policy is implemented
376 throughout the school system.
377

378 Legal References: U.S. Const. amend. I; *Peck v. Upshur*, 155 F.3d 274 (1998); G.S. 115C-36, -
379 47

380
381 Cross References: Collections and Solicitations (policy 5220), Advertising in the Schools (policy
382 5240)

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384 Adopted:
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