

## 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

### A. DISTRIBUTION AND DISPLAY BY STUDENTS

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14  
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

### B. DISTRIBUTION AND DISPLAY BY NON-STUDENTS

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25  
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 *Peek 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.]~~**  
41

- 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.~~

46  
47                    ~~2. The superintendent is authorized to adopt any additional regulations deemed~~  
48                    ~~necessary to implement this policy.~~

49  
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.~~

53  
54                    ~~**OPTION TWO [This option permits distribution and display of (1) school-sponsored and**~~  
55                    ~~**curriculum-related publications and materials and (2) information from school-related**~~  
56                    ~~**groups such as the PTA or booster clubs.]**~~

57  
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.~~

61  
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  
79                    ~~**OPTION THREE [This option permits distribution and display of (1) school-sponsored**~~  
80                    ~~**and curriculum-related materials and publications; (2) publications and materials from**~~  
81                    ~~**school-related groups such as the PTA or booster clubs, and (3) specified publications and**~~  
82                    ~~**materials from several other viewpoint neutral categories of non-school groups. The board**~~  
83                    ~~**may choose to remove or add to any of these categories of groups from the approved list.]**~~

84  
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

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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  
102 a. local, state, and federal government agencies and departments;

103  
104 b. non-profit organizations that offer educational, recreational, cultural, or  
105 character development activities or programs for school-aged children,  
106 including, but not limited to, scouts, YMCA or YWCA, organized youth  
107 sport leagues, etc.);

108  
109 c. school/business partnerships or incentive programs that directly enhance  
110 or support the school’s educational program; and

111  
112 d. community colleges, universities, and other non-profit institutions of  
113 higher education.

114  
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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- 130  
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.  
134

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 *Peek 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 *Peek* without going beyond what is permitted in *Peek*.]~~

- 143  
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:~~  
160  
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.);~~  
167  
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.

185  
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.”  
215

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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.~~

**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:

- 1.     While materials will not be screened for viewpoint, the reviewer shall prohibit the distribution or display of any publication or material that (a) is vulgar, indecent, or obscene; (b) contains libelous statements, personal attacks, or abusive 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

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- 302 submitting the request; (b) the date(s) and time(s) of day of intended distribution  
303 or display; (c) the desired location for distribution or display of material; and (d)  
304 if the distribution or display is intended for students, the grade(s) of students for  
305 whom the distribution or display is intended.  
306
- 307 2. Within five school days, the ~~{principal or~~ superintendent or designee} shall review  
308 the request and render a decision. In the event permission to distribute or display  
309 the material is denied or restricted, the individual submitting the request will be  
310 informed in writing of the reasons for the denial or restriction.  
311
- 312 3. Any request denied or restricted by the ~~{principal or superintendent or~~ designee}  
313 may be appealed in writing to the ~~{superintendent or designee or board, depending~~  
314 ~~on who made the initial decision}~~. ~~{If the principal made the initial decision, T~~he  
315 superintendent or designee shall review the decision and render a decision within  
316 10 school days. Any request denied by the superintendent ~~or designee~~ may be  
317 appealed to the board of education.} The board will review the request at its next  
318 regularly scheduled meeting. As appropriate, the superintendent or the board will  
319 consult with the board attorney concerning a request to distribute or display non-  
320 school literature.  
321
- 322 4. Permission or denial of permission to distribute or display material does not imply  
323 approval or disapproval of its contents by school system administrators, the  
324 school board, or the individual reviewing the material submitted.  
325

326 **E. DEFINITIONS**

327  
328 The following terms used in this policy are defined as follows:  
329

330 **1. Obscene**

331  
332 “Obscene” describes any speech or work that the average person, applying  
333 contemporary community standards (as opposed to “national standards”), would  
334 find, taken as a whole, appeals to prurient interest; or that depicts or describes, in  
335 a patently offensive way, sexual conduct specifically defined by applicable law;  
336 and that, taken as a whole, lacks serious literary, artistic, political, or scientific  
337 value.  
338

339 **2. Libelous Statement**

340  
341 Libelous statements are false and unprivileged statements about a specific person  
342 that injure that person’s reputation in the community.  
343

344 **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**

361  
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)

383  
384 Adopted:  
385