



ADMINISTRATIVE PROCEDURE

SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 9350

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CATEGORY: **Community Relations**

EFFECTIVE: **7-30-92**

SUBJECT: **Display of Commercial Materials/Advertising;
Distribution of Literature and/or Sales by
Nonstudents and Community Organizations**

REVISED: **4-22-05**

A. PURPOSE AND SCOPE

1. To outline administrative procedures governing display of commercial materials/advertising; distribution of literature and sales on school property by persons other than students and community organizations as defined in C.2.a.

2. **Related Procedures:**

Criteria for instruction and for adoption and use of instructional materials	4050
Release of directory-type student information	6525
Student clubs, general	6240
Student free speech	6210

B. LEGAL AND POLICY BASIS

1. **Reference:** Board policy: A-3500, D-4010, D-6700, H-5100, H-5150, H-8650, H-8800, I-1200, I-1210, I-1255, J-4500, J-8500, K-6000, K-6500, K-9100, K-9500; Education Code Sections 48900, 51500, 51501, 51511, 51520, 51521, 51550, 51551, 51820.

2. **District Policy**

- a. **Interference with school and family activities.** Distribution of authorized materials and literature to students in schools must be kept at a minimum to prevent undue interference with the instructional program and annoyance to families at home.
- b. **District endorsements.** The district, its schools, and its employees must not recommend any commercial product or service, or aid in distributing literature or publicity, endorsing or recommending such products or services unless specific approval has been obtained by the principal. Staff members must inform the Communications Department and the Office of School Site Support of any campaign or drive that claims to have the sanction of the district. Company-sponsored foreign study programs approved by the Board of Education are excepted (Procedure 4307).

- c. **Distribution through “third parties.”** San Diego Unified School District, any of its official agencies or organizations, any individual school, organizations approved by the Associated Student Body (ASB) of any school, and district employees, may not solicit others (including students) to display or distribute literature or publicity that they themselves are prohibited from displaying or distributing under the provisions of this procedure.

C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the Chief Administrative Officer, Office of School Site Support.
2. **Definitions**
 - a. **Persons other than students:** Community organizations, San Diego Unified School District, any of its official agencies or organizations, any individual school, organizations approved by the ASB of any school, district employees while on school site or in the presence of students, and any person who is not a student or an employee of the district.
 - b. **Literature:** Any printed or written materials.
 - c. **Publicity:** Information presented with the idea of attracting interest or support.
 - d. **Commercial materials/advertising:** Materials for purposes of sale of products or services to students, staff, or parents/guardians.
 - e. **Core subjects:** Language arts, mathematics, science, history-social studies, and visual and performing arts.
3. **Authorized Distribution or Display of Literature and Publicity on School Sites**
 - a. **Athletic activities.** Literature and publicity advertising Little League, Pop Warner Football, Junior Hockey, Junior Basketball, or any other athletic activity for youth sponsored by a nonprofit public organization may be sent home via students only once during the school year.
 - b. **Public Entity Park and Recreation Department materials.** Literature and publicity advertising activities officially sponsored by the park and recreation departments of public entities may be sent home via students.

- c. **Parent-Teacher Association (PTA) and Community Advisory Committee (CAC) information.** Literature and publicity advertising activities by, or containing information from, the PTA or CAC may be taken home by students.
 - d. **American Red Cross Youth Services** is the only organization authorized by district policy to collect money from students and to distribute material for this purpose in schools. Other organizations may be so authorized by future board action or may apply annually to the board for authority to collect money and distribute related materials.
 - e. **Academic and instructional program materials.** Literature and publicity advertising academic instruction programs in core subjects for students offered by public educational institutions or nonprofit organizations.
 - f. **Commercial materials/advertising.** Approval for display of commercial materials must be obtained in advance by the principal. (Refer to D.2.) Individual site agreements for display of commercial materials/advertising may be voided by districtwide exclusive vendor agreements.
 - g. **School Foundations.** Literature and publicity advertising fund raising activities and events of foundations whose sole purpose is to raise money for specific district schools or for the district as a whole.
4. **Unauthorized Sales and/or Restricted Distribution or Display of Literature and Publicity**
- a. **On-campus solicitation—limitation.** During school hours, and within one hour before school opening and within one hour after school closing, no materials used (or any activity) by teachers or others shall be permitted for purposes of soliciting students to subscribe to or contribute to the funds of, to become members of, or to work for, any organization *not directly* under control of school authorities unless the organization is a nonpartisan, charitable organization organized for charitable purposes by an act of Congress or the purpose of the solicitation has been approved by the Board of Education (Education Code Section 51520), as for American Red Cross Youth Services.
 - b. **Unauthorized solicitation.** No person shall solicit any other person to contribute to any fund, or to purchase any item of personal property, upon representation that the money received is to be used for the benefit of the school or the student body, without prior written approval of the governing board or its designee. This prohibition does not apply to any solicitation or contribution the

total proceeds of which are delivered to the school, nor to solicitation or transfer to be effected by a testamentary act (Education Code Section 51521).

- c. **Advocates of unlawful acts.** No material that advocates the commission of an unlawful act shall be displayed or distributed.
- d. **Commercial salesmen/agents on district property.** Commercial salesmen or agents shall not be permitted to discuss business on district property. Representatives of textbook publishers, school furnishing houses, and student activity suppliers may be exempted from this restriction by the division head (Procedure 4500). Salesmen, vendors, and/or peddlers are prohibited from using district property for purposes of selling or distributing items for personal use or consumption by district employees or students except as provided above.
- e. **Distribution of campaign-type materials to homes.** School personnel may not, except as private citizens on their own time, distribute literature or publicity supporting or opposing school bond or tax elections, legislative proposals, or materials of a partisan political nature.
- f. **Literature/publicity violating existing laws.** No literature or publicity may be displayed or distributed that violates existing laws covering specific matters including, but not limited to:
 - (1) **Harmful matter:** Matter that, taken as a whole, the predominant appeal of which to the average person, applying contemporary standards, is to prurient interest; i.e., a shameful or morbid interest in nudity, sex, or excretion; and is matter which taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters; and is matter which taken as a whole is utterly without redeeming social importance for minors. (Penal Code Sections 313, 313.1; *Ginsburg v. New York*, 390 U. S. 629, 1968)
 - (2) **Profanity:** Matter containing words that, according to standards of the San Diego Unified School District community, are deemed to be profanity. (Education Code Section 48900; Penal Code Section 415; California Code of Regulations, Title 5, Section 300)
 - (3) **Prejudicial or discriminatory matter:** Matter advocating prejudice or discrimination on account of race, religion, creed, color, marital status, sex, sexual orientation, national or ethnic origin, or disability. (Education Code Sections, 51500, 51501; District Policy A-3500)

- (4) **Injurious matter:** Matter that encourages or advocates the use of tobacco, intoxicating liquor, narcotics, or other hallucinogenic or dangerous drugs. (Education Code Section 48900; California Code of Regulations, Title 5, Section 301)
- (5) **Materials or instruction concerning human reproduction and venereal disease.** This matter may not be distributed because state law prohibits students from receiving such information in the schools without first having written approval of their parents/guardians. (Education Code Sections 51550, 51551, 51820; Procedure 4189)
- (6) **Libel or slander:** Matter, disseminated either in writing or verbally, that defames a person or, in some cases, a private organization. (Civil Code Sections 44 *et seq.*)
- (7) **Distribution of literature by the public on sidewalks adjacent to schools.** Peaceful picketing and handing out leaflets by members of the public on public sidewalks adjacent to district schools are activities that are protected by the First Amendment. However, these activities may be prohibited if they materially disrupt the operation of the schools, involve substantial disorder, or invade the rights of others. For example, boisterous activities that interfere with school operations, blocking school entrances, and inciting pupils to leave school may be prohibited. (*Grayned v. City of Rockford*, 33 L.Ed.2d 222)

D. IMPLEMENTATION

1. **Request from Outside Group to Distribute Literature.** Principal, upon receipt of request to publicize a matter, or to distribute literature in school, determines whether a subject is authorized, type of distribution involved, and so on. If authorized, takes appropriate action as follows:
 - a. **Within school only:** Distribution is made at principal's discretion. Distributing organization should be required to pack or bundle materials in sets corresponding to class size (approximately 35 per set) to avoid placing this workload on school staff.
 - b. **Community-wide** (outside local school boundaries): Coordinates with other principals involved, or refers request to the Office of School Site Support for handling.

- c. **Appeal Procedure.** Decision of the school principal may be appealed to the Chief Administrative Officer, Office of School Site Support, who shall render a decision within ten (10) workdays.
2. **Commercial Materials.** Principal submits "Request for Display of Commercial Materials Form" (see attachment).
 - a. Form is reviewed by the Office of School Site Support, Communications Department, Financial Operations Division, and Business Operations Division.
 - b. If all four offices approve request, Business Operations Division communicates in writing approval to principal and files request form.
 - c. If all four offices disapprove request, Business Operations Division communicates in writing disapproval to principal and files request.
 - d. If approval or disapproval is not unanimous by all four offices, the request will be considered by the Executive Committee.

E. FORMS AND AUXILIARY REFERENCES

1. Request for Approval to Display Commercial Materials on School Property, Attachment

F. REPORTS AND RECORDS

G. APPROVED BY

Kerry B. Flanagan

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For the Superintendent of Public Education