

Advertising and Promotion

The Governing Board establishes this policy to ensure effective and consistent standards for advertisements and promotions by nonschool groups in school-sponsored publications, on District and school websites and social media, and on school facilities and grounds. Student speech shall be regulated in accordance with BP/AR 5145.2 - Freedom of Speech/Expression.

(cf. 1113 - District and School Websites)

(cf. 1114 - District-Sponsored Social Media)

(cf. 1330 - Use of School Facilities)

(cf. 5145.2 - Freedom of Speech/Expression)

(cf. 6145.5 - Student Organizations and Equal Access)

***Note: Whichever option(s) the District chooses, school officials should ensure that they enforce the policy in a consistent manner, as courts look beyond the District's intent as stated in its policy and look to the actual practice of school officials in determining whether a District facility or publication is a "nonpublic" or "limited public" forum. See Board of Education of the Westside Community Schools v. Mergens. Because this area of law is complex, it is strongly recommended that legal counsel be consulted prior to the adoption of policy in this area. ***

OPTION 1: Nonpublic Forum

The Board believes that in order to maintain focus on academic achievement in District schools, students' exposure to the persuasive influence of marketing should be minimized. The Superintendent or designee shall not allow any advertisement from any nonschool group to be included in any District- or school-sponsored publication, website, or social media, or to be posted on any school property such as school buildings, athletic fields, scoreboards, or billboards. In addition, no nonschool group's announcement, flyer, or other promotional material shall be disseminated by the District or distributed at any school facility or on school grounds.

***Note: Districts that have created a "nonpublic forum" must delete the remainder of this policy in order to ensure that their "nonpublic forum" status is maintained. ***

Advertising and Promotion

OPTION 2: Limited Public Forum

***Note: When the Board chooses Option 2, it may adopt reasonable rules to achieve its intended purpose for the forum, as long as the rules do not discriminate against members of the public based on their viewpoints. It is recommended that Districts maintain limits on the scope of the topics and/or groups permitted in order to avoid creating a designated public forum for use by the general public. Districts with questions about how to maintain a limited public forum should consult legal counsel. ***

The Board desires to promote positive relationships between District schools and the community in order to enhance community partnerships, support, and involvement in the schools. The Superintendent or designee may, consistent with the criteria established in this policy, approve:

1. Distribution of noncommercial materials that publicize services, special events, public meetings, or other gatherings of interest to students or parents/guardians

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 6162.8 - Research)

2. Distribution of promotional materials of a commercial nature to students or parents/guardians

(cf. 1700 - Relations Between Private Industry and the Schools)

3. Paid advertisements on school property, including, but not limited to, advertisements on school buildings, athletic fields, scoreboards, and billboards

4. Paid advertisements in school-sponsored publications, yearbooks, announcements, and other school communications, including web sites and social media

5. Products and materials donated by commercial enterprises for educational use, including those that bear the name and/or logo of the donor,

Advertising and Promotion

as long as they do not unduly promote the donor or any commercial activity or product

(cf. 3290 - Gifts, Grants and Bequests)
(cf. 6161.11 - Supplementary Instructional Materials)

Prior to the distribution, posting, or publishing of any nonschool group's promotional materials or advertisement, the Superintendent, principal, or designee shall review the materials or advertisement based on the criteria listed below. He/she may not disapprove materials or advertisement in an arbitrary or capricious manner or in a way that discriminates against a particular viewpoint on a subject that is otherwise allowed by Board policy.

All materials to be distributed shall bear the name and contact information of the sponsoring entity.

As necessary, the Superintendent, principal, or designee shall require a disclaimer on any nonschool group's promotional materials to be distributed, posted, or published, stating that the distribution, posting, or publishing of the materials does not imply District endorsement of the group's activities, products, or services. District- and school-sponsored publications shall include a disclaimer stating that the District or school does not endorse any advertised products or services.

Criteria for Approval

***Note: The following section is for use by Districts that select Option 2 (limited public forum) above and may be revised to reflect criteria established by the Board. ***

The Superintendent, principal, or designee shall not accept for distribution, or allow on school property, any materials or advertisements that:

1. Are lewd, obscene, libelous, or slanderous
2. Incite students to commit unlawful acts, violate school rules, or disrupt

Advertising and Promotion

135 the orderly operation of the schools

136

137

138 3. Promote any particular political interest, candidate, party, or ballot
139 measure, unless the candidates or advocates from all sides are provided the
140 opportunity to present their views to the students during school hours or during
141 events scheduled pursuant to the Civic Center Act

142

143

144

145

146

147

148

149

150

151

152

153

154

155

156

157

158

159

160

161

162

163

164

165

166

167

168

169

170

171

172

173

174

175

176

177

178

179

180

(cf. 1160 - Political Processes)

(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

4. Contain prayer or proselytizing language

5. Position the District on any side of a controversial issue

(cf. 6144 - Controversial Issues)

6. Discriminate against, attack, or denigrate any group on account of any
unlawful consideration

(cf. 0410 - Nondiscrimination in District Programs and Activities)

7. Promote the use or sale of materials or services that are illegal or
inconsistent with school objectives, including, but not limited to, materials or
advertisements for tobacco, intoxicants, and movies or products unsuitable for
children

(cf. 5131.6 - Alcohol and Other Drugs)

(cf. 5131.62 - Tobacco)

8. Promote during the school day any food or beverage that does not
comply with state nutritional standards pursuant to Education Code
49430-49434, including a corporate incentive program that offers free or
discounted foods or beverages that do not meet nutritional standards as
rewards for students who reach certain academic goals. This prohibition does
not include advertising on clothing with brand images worn on school grounds,
advertising contained in product packaging, or advertising of infrequent school

Advertising and Promotion

181 fundraising events involving food or beverages that do not meet the nutritional
182 standards. (Education Code 49431.9)
183

184
185 (cf. 3550 - Food Service/Child Nutrition Program)
186 (cf. 5030 - Student Wellness)
187

188 9. Solicit funds or services for an organization, with the exception of
189 solicitations authorized in Board policy
190

191
192 (cf. 1321 - Solicitation of Funds from and by Students)
193

194 10. Distribute unsolicited merchandise for which an ensuing payment is
195 requested
196

197
198 The Superintendent or designee may also consider the educational value of
199 the materials or advertisements, the age or maturity of the students in the
200 intended audience, and whether the materials or advertisements support the
201 basic educational mission of the District, directly benefit the students, or are of
202 intrinsic value to the students or their parents/guardians.
203

204
205 (cf. 0000 - Vision)
206

207
208 Schools may establish additional criteria pertaining to the content of
209 advertisements in school publications and yearbooks, as deemed appropriate
210 by the Superintendent or designee in accordance with law and Board policy.
211

212

213

214

215 Legal Reference:

216 EDUCATION CODE

217 7050-7058 Political activities of school officers and employees

218 35160 Authority of governing boards

219 35160.1 Broad authority of school Districts

220 35172 Promotional activities

221 38130-38139 Civic Center Act

222 49430-49434 The Pupil Nutrition, Health, and Achievement Act of 2001, especially:

223 49431.9 Advertisement of non-nutritious foods

224 BUSINESS AND PROFESSIONS CODE

225 25664 Advertisements encouraging minors to drink

Advertising and Promotion

| | |
|-----|--|
| 226 | CALIFORNIA CONSTITUTION |
| 227 | Article 1, Section 2 Free speech rights |
| 228 | U.S. CONSTITUTION |
| 229 | Amendment 1, Freedom of speech and expression |
| 230 | UNITED STATES CODE, TITLE 42 |
| 231 | 1751-1769j School Lunch Program |
| 232 | 1773 School Breakfast Program |
| 233 | COURT CASES |
| 234 | Hills v. Scottsdale Unified School District, (2003) 329 F.3d 1044 |
| 235 | DiLoreto v. Downey Unified School District, (1999) 196 F.3d 958 |
| 236 | Yeo v. Town of Lexington, (1997) 131 F.3d 241 |
| 237 | Hemry v. School Board of Colorado Springs, (D.Col. 1991) 760 F.Supp. 856 |
| 238 | Bright v. Los Angeles Unified School District, (1976) 18 Cal. 3d 450 |
| 239 | Lehman v. Shaker Heights, (1974) 418 U.S. 298 |
| 240 | |
| 241 | Management Resources: |
| 242 | WEBSITES |
| 243 | CSBA: http://www.csba.org |
| 244 | |
| 245 | |
| 246 | |
| 247 | CSBA: (11/01 4/13) 12/17 |
| 248 | Adopted: |
| 249 | |
| 250 | |
| 251 | |
| 252 | |
| 253 | |
| 254 | |
| 255 | |
| 256 | |
| 257 | |
| 258 | |
| 259 | |
| 260 | |