

Guide for Public High School Leafletting and Petitioning

A resource for counter-recruitment at schools

LEAFLETTING AND PETITIONING BY HIGH SCHOOL STUDENTS

Students at public high schools have rights, including the right to practice free speech on campus. Students' First Amendment rights are protected by federal law and, in some cases, by state law and school district policies (note: private schools are in a special category and do not always fall under the same laws). It is always wise to check on local school rules; however, the rights described here are guaranteed by federal laws and should apply everywhere. This means that you can distribute literature produced by students or community organizations at any school, subject to the guidelines described below. (For a more detailed brochure on students' rights in schools, contact COMD at <http://comdsd.org/publications.htm>.)

Content Guidelines

When literature is distributed on school grounds, there are some limits that school administrators can legally place on the content. Specifically, this means:

- The literature that you hand out should not contain anything "obscene" or "libelous" (see definitions below).
- The material cannot advocate breaking the law or school rules (see definitions).
- The material cannot cause a substantial "disruption" of the orderly operation of the school—for example, a call for a school strike or class boycott (see definitions).
- Literature should carry the name of the person or organization that produced it.

These are very general guidelines, and sometimes student free speech policies vary from school district to school district. Also, sometimes there are slightly different rules for literature that is created by students vs. literature created by an outside group. It may be useful for you to get a copy of your district's policies on student free speech, but remember that whatever the local policy is, it cannot be so strict that it prevents students from exercising their basic free speech rights.

Time, Place and Manner Guidelines

In addition to rules about content, there are also rules concerning the way you distribute material:

- Students who are leafletting or passing around a petition should not violate the rights of others on campus and should not block halls or entrances so students can't get to where they are going.
- Leaflets and petitions should not be circulated in a way that would disrupt the normal functioning of the school. For example, doing it during class without the teacher's permission might be considered disruptive.
- If a school has a specific rule about when and where students can distribute material, it should be followed. If you feel it is too restrictive, you may want to get legal advice and challenge it.
- In general, you should distribute literature during lunch, before school or after school, and in a place where you won't be blocking the flow of pedestrian or automobile traffic

DEFINITIONS

The terms "obscene" and "libelous" are defined according to current legal standards, not the principal's opinion of what is obscene or libelous. Contact a civil liberties group regarding current legal definitions.

To “advocate breaking the law or school rules” means encouraging students to commit an immediate unlawful act on school grounds or to break lawful school regulations. “Disruption” of the school means a substantial disruption of the orderly operation of the school. Creating controversy is not disruptive by itself. Furthermore, a violent threat from someone who disagrees with you would not be justification for censoring you, unless your words were deliberately designed to provoke a fight. The school must protect your right of expression first and should control anyone who threatens to deprive you of it. Leaving flyers or petitions around to be picked up, or leaving them on the windshields of cars, as opposed to handing them to people, may violate your school district rules or local laws by causing a litter problem. However, students should know that they are only responsible for litter that they create themselves. If a leafletter hands someone a leaflet, and that person later throws it on the ground, the school cannot legally hold the leafletter responsible or ban leafletting because of it. If you are asked to clean up leaflets that others have dropped, even though you are not responsible for them, there are reasons you might want to offer to pick them up: in order to keep those leaflets from being wasted, in order to demonstrate good will, or because you don’t like to see litter yourself. However, if the administration uses the litter issue as a form of harassment, you might want to refuse to pick them up.

Telling the Administration Ahead of Time

The school administration may have a legal right to see the literature and to know where and when you wish to distribute it ahead of time. This is so they can see if it would violate any of the guidelines mentioned above and, if so, warn you about it. It’s a good idea to give it to the principal at least one day before you plan to distribute it. Some schools may try to discipline you just for not doing this, regardless of what was in the literature.

If the principal believes the material is obscene, libelous or would cause a substantial disruption of the school, or if your activity is not planned for the times and places that are spelled out in school policy, the principal is supposed to warn you that you could be disciplined if you go ahead with it. You CANNOT legally be disciplined just because the administration doesn’t like the message in the material, or because they want to avoid controversy.

Even if you are warned that you might be disciplined for distributing the material, you might want to go ahead with it anyway, but it is advisable to get an outside legal opinion before you do this. Some people argue that any restraint on free speech is unacceptable, and the authors of this leafletting guide do not necessarily disagree. The point we are making here is that First Amendment rights of high school students are guaranteed up to a certain point. We are not telling you that you should never challenge the limits you are given, but only what those legal limits are.

If You Are Hassled

Even though students have the legal right to practice free speech on campus, students are still sometimes hassled by the school administration or school security for passing out literature on campus. Sometimes this is because the administrators and security personnel themselves do not know what the legal rights of students are. Sometimes it is because they don’t like the idea of students having rights, and they will arbitrarily make up rules, policies or laws as they go along. Students who are told they can’t distribute material should ask to see the school district’s policy on students’ First Amendment rights. The principal’s office should have a copy. Often, just getting the principal to read it will be enough to make them change their minds. If it doesn’t, appealing to the school district office will sometimes help. However, if the policy is more restrictive than the guidelines described here, and they hold onto their position, you may want to consult with a local chapter of the American Civil Liberties Union or National Lawyers Guild and challenge the policy in court.

LEAFLETTING BY NON-STUDENTS

Non-students can effectively reach students by passing out leaflets and other materials on the sidewalk in front of local high schools before school starts (usually between 6:30 and 7:30 a.m.). This time of the school day is better than doing it when school lets out, because not all students leave school at the same time. Also, morning leafletting will stimulate in-school discussions during the day and, thus, will help you reach many more students overall.

A leafletting coordinator should be appointed to tell everyone where to meet and at what time. Check for back entrances that should be covered, and try to reach buses that unload on public property. Sometimes leafletting outside can be timed to coincide with inside leafletting that is being organized by students.

Important Tips

- Non-student leafletters cannot go onto school grounds and must stay on public property, usually the bordering sidewalk. If a dispute with school authorities is anticipated or you are unsure about boundaries, you may want to visit the city or county planning department first to research property lines.
- Leafletters can hand leaflets to students who are walking by on the sidewalk, or who get off buses or out of cars, as long AS YOU DO NOT HAVE TO STEP ONTO SCHOOL PROPERTY.
- It is important to remember that you should NEVER BLOCK PEDESTRIAN OR AUTOMOBILE TRAFFIC.
- It is a good idea for every leafletter to be stationed close to at least one other leafletter so that no one will be alone if they are hassled. If possible, new leafletters should be paired with an experienced person.
- Always take along paper and pen so you can take notes if there any problems. It is also important for someone to have a camera, audio tape recorder and/or video camera, if possible. A video camera often makes school officials more cooperative. As the leafletting activity gets started, take a few pictures just to document where people are standing and to show that entrances and traffic are not being blocked.
- Most students will simply take the leaflets without saying anything, but be prepared for some to express their views—positive and negative. Be sure leafletters are familiar with the literature in case students or others ask questions. It is useful to have a few samples of other materials—e.g., stickers, petitions and book covers—to give to students who respond enthusiastically to your message.

If You Are Hassled

Occasionally, a school security guard, administrator or school cop will come out to challenge leafletters. If this happens, very politely explain that you are engaging in a constitutionally-guaranteed free speech activity, and that what you are doing is entirely legal (no permit is needed). If the person claims you are breaking the law, ask them to please cite the law they think you are breaking. (Note: handing out leaflets does not fit the legal definition of “loitering.”)

Don’t worry about threats to call the police, since the police will usually uphold your right to be there. Should the police actually show up and claim that you are doing something illegal, they will probably give you a warning to leave before issuing you a citation. We don’t recommend that you continue to leaflet and get cited unless you have thoroughly researched the school property line and discussed the consequences of a citation with the rest of your group ahead of time.

Once in a great while, school authorities will claim that the sidewalk is school property and that leafletters are trespassing. This can be a very sticky situation since it is not always obvious where school property begins and ends. If you think that the school or police are bluffing, then you may want to continue to leaflet, especially if the sidewalk clearly appears to be public property. But, again, it is not recommended that you get cited unless you have done research and prepared for it.

Usually in these little confrontations it is a good idea to have one leafletter act as a spokesperson, with someone else taking down notes and recording the conversation, while the rest continue to leaflet.

Follow Up

After you are done leafletting, remember to report back to the group regarding student reactions, any problems you had, and how many leaflets and other materials you handed out. If there were serious problems with school administrators or police, it may be necessary to do additional follow-up, such as researching property lines and consulting with the [local ACLU](#) or [National Lawyers Guild](#).