

**North Wasco County
School District 21**

Code: **KI/KJ**
Adopted: 6/23/04
Readopted: 2/08/07

Commercial Activities

The Board recognizes that public schools provide a potential market for commercial activities. Therefore, it is important that the district protects students and parents from exploitation and ensures that commercial activities do not interfere with the educational program. Except for instruction relating to advertising, student shall not be required to listen to, read, or be subjected to commercial advertising in the classroom or in school-provided materials in curriculum-related activities, except as provided by this policy.

The district reserves the right, in its unfettered and sole discretion, to refuse to permit any or all advertisement, sponsorship or exclusive rights contracts with any entity expressing interest in such commercial activity. Any commercial activity that requires a financial commitment from the district shall first be presented to the Board for approval.

Definitions:

1. "Advertisement": Any payment of money or other economic benefit to a school or to the district that requires visual, audio or video placement of a name, slogan or product message on a district property, publication or broadcast. The term advertisement does not include traditional fund raising activities such as job-a-thons or magazine sales, and underwriting for the district's radio stations, nor does it apply to outright gifts to which no quid pro quo is attached.
2. "Sponsorship": Any payment of money or other economic benefit to a school or to the district in exchange for recognition.
3. "Exclusive Rights Contracts": Any payment of a premium or provision of some economic benefit to a school or the district for the right to be a sole provider of a service or product. This term includes limited exclusive rights contracts where more than one provider may supply the same or similar service or product.
4. "Purchase of Goods and Services": Purchase of services or goods by the district for a project of service required by the district.

Advertisements

No advertisement, as defined by this policy, shall be allowed unless it fits one or more of the following categories, and is approved by the building principal and/or program manager:

1. Paid advertisement in a high school student newspaper or other district publication;

2. Instructional aids furnished by private sources when the advertising is reasonable, non-intrusive and not inherent to the content. Such instructional aids must be used in a timely manner that is consistent with the district's policies and practices related to curriculum and instruction, controversial issues and the use of district property;
3. Signs on athletic fields that meet the city's sign code;
4. Advertising in the program for an extracurricular activity;
5. A pro-school advertisement for an organization approved by the Board of Directors;
6. The display of product names on vending machines that have been placed in the school for the use of students, staff and the public at secondary schools and other district facilities (vending machines with product names may only be placed in staff rooms at elementary schools);
7. Incidental advertisements that appear when students are using various Internet services.

Sponsorships

The Board encourages district staff to seek sponsorships to help support district programs and services, but no sponsorship agreement shall require that the district's program and services be delivered in a specific manner.

The sponsor may be acknowledged in district publications or broadcasts and on school premises. The acknowledgement should not minimize or take away from the district's role or responsibility for the activity or service.

Exclusive Rights Contracts

The Board may from time-to-time consider the approval of an exclusive rights contract if it will result in substantial benefit to the district, its schools and their respective students and is consistent with the district's mission, policies and goals. The Board's consideration of such benefit may include, but is not limited to, the impact on students as well as the amount of funds that will be generated, how the funds will be used, and what alternative sources of funding are available.

All such contracts must be issued to conform with purchasing procedures established by law and Board policy. No site will be required to be a party to an exclusive rights contract unless it has agreed in advance or unless the Board determines that there is an overriding interest by the district for all schools or a specific set of schools to participate.

Exclusive rights contracts shall not include provisions that would allow marketing activities, including advertising, to take place in district classrooms, hallways or lunchrooms, except that vending machines at secondary schools may be display product name.

Prior to approving an exclusive rights contract, the Board shall, after conducting a public hearing, determine whether the substantial benefit of the contract justifies the required advertising, sale of products or other contract provision.

Purchase of Goods and Services

From time-to-time the district may contract for goods and services, particularly in its food service program, where the display of product names is necessary. Such arrangements shall be issued to conform with purchasing procedures established by law and Board policy, and be necessary to the economical use of the good or service, and shall not include provisions that would allow marketing activities, including advertising, to take place in district facilities other than where the product is being utilized.

Prohibited Commercial Activities

The above policy notwithstanding, no commercial activity as defined or allowed by this policy shall be associated with tobacco, alcohol, illegal drugs or weapons; contain vulgar and plainly offensive, obscene, or sexually explicit language; advocate the violation of law or district policy; advance any religious or political organization; promote, favor or oppose a candidate for elected office or a ballot measures; be associated with any company or individual whose actions are inconsistent with the district's mission and goals or community values; or otherwise be in violation of law.

The district shall provide no personally identifiable data about a student to the sponsor of a commercial activity without the consent of a parent, unless approved by the superintendent of his/her designee, as provided by OAR 581-021-0340. Likewise, no student, in order to participate in a school program or school sponsored activity, shall be required to provide personally identifiable data to the sponsor of a commercial activity without the consent of the parent, unless approved by the superintendent or his/her designee, as provided in OAR 581-021-0340.

Students shall not be required to complete any survey or questionnaire that is designed to provide marketing information to a vendor or business about their interests and preferences for a particular vendor, business or product.

Any commercial activity allowed by this policy shall be respectful of all people without regard to their disability, race, color, national origin, ethnicity, sexual orientation, age, religion, martial status, socioeconomic status, cultural background, familial status, physical characteristics or linguistic characteristics.

The superintendent may recommend for approval by the Board revenue-enhancing activities that include, but are not limited to, contracts or agreements for:

1. Exclusive advertising and/or rental, sale, lease or use of any product or service throughout the district or at specified locations or times to a person, business or corporation in exchange for goods or services (e.g., scoreboards, electronic message boards, athletic gear, exclusive right to sell beverages, bottled water, snacks, meals, etc.);
2. Products or services that require the dissemination of advertising to staff, students, parents or others or allow any person, business or corporation to obtain information from staff, students, parents or others for the purposes of market research;
3. The use of district facilities or grounds in exchange for products, services or financial considerations (cell phone towers, etc.);

4. Technology hardware, software, satellite hook-up and/or access in exchange for free or reduced prices and/or fees and/or advertising rights, or agreement to use equipment a certain number of hours of the day, month, etc.;

Contracts shall include a provision allowing the district to terminate the contract if it is determined by the district to have an adverse impact on district programs, services or activities. Revenue derived shall be used for programs, services and/or activities as determined by the district.

All contracts considered for approval are subject to the competitive procurement requirements of Board policies DJ - District Purchasing, DJC - Bidding Requirements and the local contract review board's public contracting rules. Competitive procurement as used in this policy includes monetary as well as in-kind contributions (i.e., scoreboards, computers, other equipment or materials).

END OF POLICY

Legal Reference(s):

[ORS 279.015 \(2\)\(a\)](#)
[ORS 332.107](#)

[ORS 332.593](#)

[ORS 339.880](#)
[ORS 646.185](#)

32 Op Atty Gen 209 (1965).

46 Op Atty Gen 239 (1989).