

## Resolution

WHEREAS, a number of issues relating to the Playwickian have come to light over the last several months causing the School Board and School District administration to examine the policies and practices associated with the Playwickian and the Howler; and

WHEREAS, an investigation was conducted to determine what the actual policies, practices and controls associated with the Playwickian were; and

WHEREAS, counsel for the School District advised the School Board that staff that participated in the investigation and provided information were forthcoming and cooperative, for which the School Board extends its thanks; and

WHEREAS, section 511 of the School Code, 24 P.S. §5-511, provides, in relevant part, that:

- a) The board of school directors in every school district shall prescribe, adopt, and enforce such reasonable rules and regulations as it may deem proper, regarding (1) the management, supervision, control, or prohibition of . . . school publications, . . . and other activities related to the school program, including raising and disbursing funds for any or all of such purposes and for scholarships, and (2) the organization, management, supervision, control, financing, or prohibition of organizations, clubs, societies and groups of the members of any class or school, and may provide for the suspension, dismissal, or other reasonable penalty in the case of any appointee, professional or other employe, or pupil who violates any of such rules or regulations;" 24 P.S. §5-511(a); and

WHEREAS, section 12.9 of the regulations of the State Board of Education provides, in relevant part:

- (a) The right of public school students to freedom of speech is guaranteed by the Constitution of the United States and the Constitution of the Commonwealth.

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- (g) School newspapers and publications must conform to the following:
  - X (1) Students have a right and are as free as editors of other newspapers to report the news and to editorialize within the provisions in paragraphs (4) and (5).
  - (2) School officials shall supervise student newspapers published with school equipment, remove obscene or libelous material and edit other material that would cause a substantial disruption or interference with school activities.
  - (3) School officials may not censor or restrict material simply because it is critical of the school or its administration.
  - (4) Prior approval procedures regarding copy for school newspapers must identify the individual to whom the material is to be submitted and establish a limitation on the time required to make a decision. If the prescribed time for

approval elapses without a decision, the material shall be considered authorized for distribution.

(5) Students who are not members of the newspaper staff shall have access to its pages. Written criteria for submission of material by nonstaff members shall be developed and distributed to all students;" 22 Pa.Code §12.9(g); and

WHEREAS, counsel for the School District has made recommendations for the improvement of policies, practices and controls with respect to the Playwickian and the Howler; and

WHEREAS, in addition to the paper version of the Playwickian, the newspaper has been published on-line at a website that has not been properly authorized by the School District; and

WHEREAS, a draft policy was reviewed by the School District's policy committee on Tuesday, April 29, 2014, and was referred to the full School Board for consideration; and

WHEREAS, the School District received comments about the policy, as written and referred by the Committee; and

WHEREAS, in consideration of the comments received, as well as finding some typographical errors, changes to the policy are being recommended by counsel for the School District, all as more thoroughly identified below where language is underscored or stricken;

NOW, THEREFORE, *be it resolved* that:

1. the Policy set forth hereinafter be and is hereby approved effective immediately;
2. the Policy be incorporated into the Code of Student Conduct; —
3. the Superintendent or his designee(s) is hereby authorized and shall take those actions necessary to ensure that this policy is properly disseminated and enforced;
4. all policies, practices and protocols that are inconsistent with the contents of the following policy are hereby rescinded and of no effect;
5. policies 600 and 605 as they currently exist are hereby rescinded and replaced with the following Policy 600;
6. the Superintendent or his designee shall conduct a review of the Board's policies to identify those policies and practices that may be inconsistent with the following policy and to make recommended changes consistent with the following policy;
7. the Playwickian website that presently exists shall be dismantled immediately and recreated on the School District's website in accordance with the terms, conditions, and limitations set forth in the following policy;
8. any Social Media site currently connected to the Playwickian, the Redskin and the Howler shall be and is hereby no longer sponsored, recognized, or related to the School District and shall not be used by any School District employee as a School District account or site;
9. if any teacher desires to use Social Media by setting up an account or site as part of his or her instruction or activities, the rules set forth in the following Policy 600 must be fulfilled; and

10. the Superintendent shall work with legal counsel to review other policies of the School District that implicate First Amendment Free Speech Rights to ensure that all such policies are in accordance with applicable law and legal standards.

### Policy 600—Publications<sup>1</sup>

<p>Policy, Generally</p>	<p>1. <u>Policy, Generally.</u> Subject to the terms, conditions and limitations set forth herein, it is the policy of the School District to offer one or more courses in which students are taught relevant material and skills relating to the writing and production of a school newspaper, the yearbook and other school publications. It is also the policy of the School District to ensure that proper controls and supervision over School District publications exist and are implemented.</p> <p>School sponsored publications are developed within the adopted curriculum. Any course associated with the production of school publications or content for school publications shall be considered to be a laboratory situation in which the students publish the school newspaper or other publication applying skills they have learned in class. The lessons to be learned in the applicable courses include development of journalistic skills under deadline pressure, the legal, moral, and ethical restrictions imposed upon journalists within the school community, and responsibility and acceptance of criticism for articles of opinion.</p> <p>The classroom teacher(s) and/or advisor(s) provided by the School District to oversee the publication of School District publications shall, in the first instance, have the authority to control the applicable school publication in accordance with the terms, conditions and limitations set forth in this Policy and within budgetary constraints. By way of example, and not limitation, the teacher(s)/advisor(s) have the following power and authority:</p> <ol style="list-style-type: none"> <li>a. to select the editors and officers of the publication;</li> <li>b. to schedule publication dates; decided the number of pages for each issue;</li> <li>c. to assign story ideas to class members, advise students on the development of their stories;</li> <li>d. to review the use of quotations, to edit stories, to select and to edit the letters to the editor; and</li> <li>e. to deal with the printing company.</li> </ol>
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<sup>1</sup> By way of attribution, many of the words, phrases, terms and provisions contained in this Policy were copied from other sources in whole or in part, with or without editorial or stylistic changes. Among the sources of material copies are Supreme Court decisions, statutory provisions, regulatory provisions, and source material from the Student Press Law Center.

After issues of School District publications have been approved by the applicable teacher(s)/advisor(s), the issue must be submitted for review by the Principal or his/her designee.

The School District recognizes and adopts the principle that the First Amendment rights of students in the public schools "are not automatically coextensive with the rights of adults in other settings," *See, Bethel School District No. 403 v. Fraser*, 478 U.S. 675, 682, 106 S.Ct. 3159, 3164, 92 L.Ed.2d 549 (1986). The School District further recognizes and adopts the principle that student rights must be "applied in light of the special characteristics of the school environment." *Tinker, supra*, 393 U.S., at 506, 89 S.Ct., at 736; cf. *New Jersey v. T.L.O.*, 469 U.S. 325, 341-343, 105 S.Ct. 733, 743-744, 83 L.Ed.2d 720 (1985). The School District will not tolerate student speech that is inconsistent with its "basic educational mission," *Fraser, supra*, 478 U.S., at 685, 106 S.Ct., at 3165.

The School District does not intend to open the pages of its publications to indiscriminate use by its student reporters and editors, or by the student body generally. The School District reserves all legal rights that it has and School District publications for their intended purpose as a supervised learning experience for students. Accordingly, school officials are entitled under this Policy to regulate the contents of School District publications in any reasonable manner that is consistent with applicable law and constitutional principles.

2. Official School District Publications. The following publications are and shall be owned, supervised and managed by the School District and, except as otherwise stated herein, shall be produced primarily by students under the direction and supervision of the designated teacher(s) and/or faculty advisor(s), the High School Principal, and the students:
  - a. The Playwickian;
  - b. The Yearbook, whose name shall remain the "Redskin"; and
  - c. The Howler.
3. Publication Formats.
  - a. Playwickian. The Playwickian shall be published in both paper and electronic form.
    - i. Paper Publication of Playwickian.
      1. After a fair process for the solicitation of competitive quotes, and taking into account reasonably relevant factors, the printer shall be selected by the Advisor, subject to oversight and approval by the Principal, the Superintendent and the School Board with regard to those printing contracts in excess of One Hundred Dollars (\$100).

- 2. Contracts may be awarded by the edition or by the year, whichever seems most advantageous to the Advisor and Principal. No contract may be awarded for more than two (2) school years.
- 3. The Playwickian shall be financed by the sale of papers, advertising, student activities, fundraising, and/or Board appropriations.
- ii. Electronic Publication of Playwickian. Each paper edition of the Playwickian shall also be published on the School District's website. In reproducing the Playwickian on the School District's website, the school district's webmaster shall ensure the following:
  - 1. That the entire publications is reproduced on-line;
  - 2. That only the current issue is "posted" with an archive accessible through links to past editions going back at least three calendar years; and
  - 3. That "comments," "likes" and those sort of features shall not be allowed on the website in general or in connection with the Playwickian.
- b. Redskin. The Redskin Yearbook shall be published in a hardbound book in a style and format customary for such yearbooks.
  - i. After a fair process for the solicitation of competitive quotes, and taking into account reasonably relevant factors, the printer shall be selected by the Advisor(s), subject to oversight and approval by the Principal, the Superintendent and the School Board.
  - ii. After a fair process for the solicitation of competitive quotes, and taking into account reasonably relevant factors, the photographer shall be selected by the Principal, subject to oversight and approval by the Superintendent and the School Board.
  - iii. Contracts may be awarded for printing and/or photography for up to two (2) years.
  - iv. The Redskin yearbook shall be financed by the sale of yearbook, advertising, student activities, fundraising, and/or Board appropriations.
- 4. Intellectual Property. In order to preserve and protect the intellectual property rights of the School District associated with the School District publications subject to this policy, the solicitor shall register any trademarks or logos associated with the Playwickian, the Redskin and the Howler and shall periodically ensure that the registrations are properly maintained. The Playwickian, the Redskin and the Howler shall be appropriately copyrighted and marked that the School District owns the copyright. No one may reproduce or republish the Playwickian, the Redskin, the Howler or any part of the Playwickian, the Howler or the Redskin in violation of the School District's copyright or other intellectual property rights.

5. Social Media Connected to School District Publications and School District Courses or Instruction. It is the policy of the School District that the teacher(s)/Advisor(s) may incorporate the use and teaching of Social Media and how such tools relate to the publication of school publications or instruction in the classroom provided the following terms, conditions, and limitations are followed:
- a. Unless the context clearly indicates otherwise, the term "Social Media" when capitalized herein shall mean any Internet service that is encompassed within the concept of social media, including by way of example and not limitation, Facebook,<sup>TM</sup> Twitter,<sup>TM</sup> Tumblr,<sup>TM</sup> blogs, Pinterest,<sup>TM</sup> and Google+<sup>TM</sup>.
  - b. Any Social Media that is used in connection with any School District publication shall be used in connection with instruction and shall be subject to the terms, conditions, and limitations of this Policy.
  - c. Whether Social Media is used shall be determined by the applicable teacher(s)/Advisor(s). Once initiated, the teacher(s)/Advisor(s) may discontinue using Social Media. If a School District sponsored Social Media site or account is discontinued, it must be taken down to the extent possible.
  - d. The ownership of any license to use Social Media shall be in the name of the School District. Any such Social Media account or site shall specifically state in a conspicuous place that it is a School District site or account, shall state that it is subject to review and editing by the School District and that content may be removed by the School District in its sole discretion.
  - e. No Social Media may be used by any teacher/Advisor in connection with any class, School District activity or School District publication unless the School District has the ability to edit it, delete content from it, and close the account or site from viewing or use.
  - f. School District employees and officials may not communicate with School District students on Social Media or their private email accounts or texting accounts without notifying the Principal of any such communication.
  - g. The Social Media authorized herein must be reviewed by the Advisor(s) daily and the Advisor shall delete any content from the account where the content meets the following standards:
    - i. Where it is reasonably believed that readers should not be exposed to material that may be inappropriate for their level of maturity;
    - ii. Where the views of the individual speaker may be erroneously attributed to the school, any school employee or official, or to the school district;
    - iii. Where the speech is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar

- or profane, or unsuitable for immature audiences;
- iv. Where the writing does not reflect high standards that the School District desires;
- v. Where, taking into account the emotional maturity of the intended audience, content is felt to be inappropriate;
- vi. Where the content might reasonably be perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with the shared values of a civilized social order;
- vii. Where the content is not accurate in whole or in part;
- viii. Where the content has not been adequately researched or developed;
- ix. Where the material constitutes unlawful discrimination, unlawful retaliation, unlawful harassment, unlawful intimidation, bullying or hazing;
- x. Where the material impinges on the rights of others;
- xi. Where the material supports particular candidates for office;
- xii. Where the material contains (a) racial or ethnic slurs/symbols, (b) gang affiliations, (c) vulgar, subversive, or sexually suggestive language or images”;
- xiii. Where the material promotes products that students may not legally buy; such as alcohol, tobacco, and illegal drugs or promotes conduct that is unlawful;
- xiv. Where the material incites violence; advocates use of force; or encourages violation of federal, state or municipal law, Board policy or district rules or regulations.
- xv. Where the content is likely to or does materially or substantially interfere with the educational process, including school activities, school work, or discipline and order on school property or at school functions;
- xvi. Where the material has been posted for a reasonable length of time; and/or
- xvii. Where the material threatens serious harm to the school or community.
- h. The Advisor(s) shall keep a full and complete record of any and all content that is deleted from any Social Media site that is sponsored by the School District and shall provide said record to the Principal monthly by the 5<sup>th</sup> day of each month for the preceding month.
- i. The Advisor(s) may have students assist in the review and deletion of inappropriate material from School District sponsored Social Media sites or accounts, provided, however, that this function is part of the educational function and is reviewed and monitored by the teacher(s)/Advisor(s). The teacher(s)/Advisor(s) is ultimately responsible for ensuring that inappropriate material is not kept on any School District sponsored account or site.

6. Masthead. Each edition of the Playwickian shall contain a masthead.

The masthead shall contain the following:

- a. A listing of all editors and officers of the Playwickian;
- b. The policy of the newspaper, in the form and content set forth hereafter;
- c. A listing of all contributing writers to the Playwickian;
- d. The manner in which students who are not in the applicable class or on the newspaper staff may submit material for publication.

7. Playwickian Policy. The policy of the Playwickian which shall be published as part of the masthead of the newspaper shall be as follows:

“Policy. Subject to applicable law and the terms, conditions and limitations set forth in Policy 600 of the Board of School Directors of the Neshaminy School District and this policy statement, it is the policy of School District that student journalists shall have the right to determine the content of the Playwickian. Except for advertisements, all content shall be prepared by students, subject to editing by others.

Students: (a) strive to produce media based upon professional standards of accuracy, objectivity and fairness; (b) review material to improve sentence structure, grammar, spelling and punctuation; (c) check and verify all facts and verify the accuracy of all quotations; and (d) in the case of editorials or letters to the editor concerning controversial issues, determine the need for rebuttal comments and opinions and provide space therefore if appropriate.

As examples, and not limitations on the proper authority of school officials, the following types of expression will not be approved for publication: (a) material that is obscene; (b) the work, taken as a whole, lacks serious literary, artistic, political or scientific value; (c) indecent or vulgar language is not obscene.; (d) material that violates the legal or constitutional rights of others; (e) material that will cause a material and substantial disruption of school activities; and (f) any other material that the school authorities reasonably believe should be prohibited.

Within the terms, conditions and limitations of Policy 600 and this policy statement, students are free to express opinions. Specifically, a student may criticize school policy or the performance of teachers, administrators, school officials and other school employees.

The viewpoints expressed by anyone in this paper shall not be deemed to be the viewpoint(s) of: (1) the School District; (2) any official or employee of the School District; or (3) any student other than the student(s) who expressed the viewpoint.



8. Student Rights. School Newspaper. Playwickian.

- a. Subject to the rules set forth herein, students have a right and are as free as editors of other newspapers to report the news and to editorialize in any School District newspaper.
- b. School officials may not censor or restrict material simply because it is critical of the school or its administration; but may censor or restrict the material under the other applicable rules set forth herein.
- c. Students who are not members of the newspaper staff shall have access to its pages in accordance with the terms, conditions and limitations set forth in the Playwickian for the submission of such material.

9. Authority of School Officials.

- a. The applicable teacher(s)/advisor(s), school principal(s) and superintendent shall have the right and authority to censor or prohibit any material proposed for publication in the Playwickian and in the Howler for any of the following reasons:
  - i. Where for any reasonable reason the material should be prohibited from publication;
  - ii. Where it is reasonably believed that readers should not be exposed to material that may be inappropriate for their level of maturity;
  - iii. Where the views of the individual speaker may be erroneously attributed to the school, any school employee or official, or to the school district;
  - iv. Where the speech is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences;
  - v. Where the writing does not reflect high standards that the School District desires;
  - vi. Where, taking into account the emotional maturity of the intended audience, an article or editorial is felt to be inappropriate;
  - vii. Where the article or editorial might reasonably be perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with the shared values of a civilized social order;
  - viii. Where the content is not accurate in whole or in part;
  - ix. Where the content has not been adequately researched or developed;
  - x. Where material is graded material and does not achieve of a grade of at least a "B" ("pass/fail" content shall not be published);

- xi. Where the material constitutes, may arguably constitute, or be considered as evidence of unlawful discrimination, unlawful retaliation, unlawful harassment, unlawful intimidation, bullying or hazing;
  - xii. Where the material impinges on the rights of others;
  - xiii. Where the material supports particular candidates for office;
  - xiv. Where the material contains (a) racial or ethnic slurs/symbols, (b) gang affiliations, (c) vulgar, subversive, or sexually suggestive language or images”;
  - xv. Where the material promotes products that students may not legally buy; such as alcohol, tobacco, and illegal drugs or promotes conduct that is unlawful;
  - xvi. Where the material incites violence; advocates use of force; or encourages violation of federal, state or municipal law, Board policy or district rules or regulations.
  - xvii. Where the material is likely to or does materially or substantially interfere with the educational process, including school activities, school work, or discipline and order on school property or at school functions;
  - xviii. Where the material threatens serious harm to the school or community;
  - xix. Where the material violates written school district administrative regulations or procedures on time, place and manner for posting and distribution of otherwise protected expression.
- b. In making these assessments, school officials and employees are expected to fulfill their role to awakening each child to cultural values, to prepare each child for later professional training, and to help each child to adjust normally to his or her environment.
- c. Prior approval for publication of the Playwickian and Howler must be provided by the Principal or his/her designee. Each edition of any publication shall be provided to the Principal or his/her designee at least ten (10) school days prior to the time that the edition is due to be sent to the printer. Although the Principal or his/her designee is expected to review the edition as soon as reasonably practicable, it must be reviewed within seven (7) calendar days. Everything shall be deemed approved unless something is specifically disapproved and the teacher(s)/advisor(s) as applicable is notified in writing within seven (7) days that one or more things are to be removed from the edition. If the prescribed time for approval elapses without a decision, the material shall be considered authorized for distribution.

10. Rules of Construction.

*New Section*

- a. Nothing herein shall be construed as an intent to create a public forum or a limited public forum with regard to any School District Publication. On the contrary, it is the intent of the Board of School Directors of the School District that School District publications be considered government speech for purposes of the First Amendment and to the extent permitted by the First Amendment.
- b. Nothing herein shall be construed to violate the constitutional or legal rights of any person and if two or more interpretations can be given to any provision herein, some constitutional and some not, it is intended to give only the constitutional and/or legal interpretation.
- c. The term "Redskins" when referring to the School District mascot and when used to express the writer's viewpoint about the term shall not be construed as a racial or ethnic slur and is not intended by the Board of School Directors as a racial or ethnic slur. Consequently, no student or school official or employee shall censor or prohibit use of the term or of an article or editorial that has been submitted that contains the word and where the word is used in a constitutionally permitted way in accordance with the Free Speech rights of the student author. However, the use of the word or term is not a license to violate any of the other terms and conditions of this Policy. An article or editorial that contains the term may be censored or prohibited for other reasons consistent with this policy or if used in a demeaning manner or as a racial slur.
  - i. It is not the intent of the Board of School Directors to limit or restrict students in their editing of work for school district publications. Consequently, no student editor shall be disciplined for editing or editorial decisions, including the deletion of the word "Redskin" from any article or editorial or for objecting to its use in any advertisement.
  - ii. Where any material or words, including the word "Redskins" is edited or deleted from an article or editorial submitted by a student, the student affected may appeal the decision to the Principal who shall have final authority in determining what material may be used in accordance with applicable law.