### STUDENT EXPRESSION DISTRIBUTION OF NONSCHOOL LITERATURE

FNAA (LEGAL)

#### **Protected Speech**

Activities such as distributing literature, displaying signs, petitioning for change, and disseminating information concerning issues of public concern are protected by the FirstAmendment. <u>Schenck v. Pro-Choice Network</u>, 519 U.S. 357 (1997) (recognizing leafletting and commenting on matters of public concern as protected speech); <u>Boos v. Barry</u>, 485 U.S. 312 (1988) (recognizing public issue signs as protected speech); <u>Meyer v. Grant</u>, 486 U.S. 414 (1988) (recognizing the solicitation of signatures for a petition drive as protected speech)

# Limitations on Expression

The District may prohibit expression by students if:

- 1. It materially and substantially interferes with school activities;
- 2. It materially and substantially interferes with the rights of other students or teachers; or
- The District can demonstrate reasonable cause to believe that the expression would engender material and substantial interference.

### No Viewpoint Discrimination

The District shall not discriminate based on the viewpoint expressed in private, student-to-student, non-disruptive speech. <u>Morgan v. Swanson</u>, 659 F.3d 359 (5th Cir. 2011) (recognizing private, non-disruptive, student-to-student speech expressing a religious viewpoint as protected speech)

#### **Prior Review**

The District may subject student expression to prior screening under clear and reasonable regulations.

## Time, Place, and Manner Limitations

The District may limit student expression in manner, place, or time by means of reasonable, viewpoint-neutral regulations.

Shanley v. Northeast Indep. Sch. Dist., 462 F.2d 960 (5th Cir. 1972); Canady v. Bossier Parish Sch. Bd., 240 F.3d 437 (5th Cir. 2001) [See also CPAB for use of the District's mail system]

DATE ISSUED: 3/5/2012

UPDATE 93 FNAA(LEGAL)-P