



Sunset Park High School

Displaying Student Works of Art Policy

(Drafted April 18, 2018)

(Approved by School Leadership Team, April 26, 2018)

This policy applies to prominent¹ displays of artworks on school grounds, including visual art pieces and performances. It does not apply to classroom-based and displayed work as individual, professional discretion and authority of teachers with support from their direct supervisors are respected and recognized. This does apply to performances to which the larger school population and/or public are invited which are solely under the auspices of the school (i.e. performances co-facilitated by CFL: Life Lines and SPHS are exempt from this policy as it is the responsibility of Life Lines staff and leadership to review material. Responsibility for the content of Life Lines performances rests squarely with Life Lines leadership).

Sunset Park High School recognizes student voice and freedom of expression as essential not only to civic engagement and leadership in a democratic society but also to the process of teaching and learning itself. While SPHS does not necessarily endorse all views or ideas expressed in artistic displays and performances governed by this policy, students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” (*Tinker v. Des Moines*, 1969). It is therefore the policy of Sunset Park High School that students be afforded protection against censorship.

Such constitutional protection does not extend to the following classifications of expression:

1. Any expression that materially or substantially disrupts school operations;
2. Any defamatory expression, including libel and/or slander;
3. Any expression that is obscene as to minors and lacking in artistic, literary, political or scientific value

While SPHS respects the First Amendment rights of all students to freely express and exercise their religious views, SPHS neither promotes nor endorses any religious views expressed in student artworks covered by this policy.

Guidelines:

1. Faculty members and staff who work with students to develop prominent visual arts displays and performances will:
 - a. Guide students to an understanding of the nature, function, and ethics of free expression
 - b. Nurture among students a realization and vision that encompasses intelligent choices, a focused and unified production or display, and a central concept based on cultural, artistic, and educational growth
 - c. Function as liaisons between members of the school community and students to ensure communication of artistic intent and context.
2. Faculty members and staff who identify students’ desire to prominently display a work of art or perform a work of art should alert the Principal as soon as possible (this can be face-to-face, via e-mail or by phone). Prominently can be defined as larger than 8 ½” by 11” and/or displayed in any space outside of

¹ For the purpose of this policy, prominent works are defined as any visual artworks larger than 8 ½” by 11” and/or any performances exhibited in any space outside of the classroom. Prominent artworks particularly include exhibitions and performances in heavily trafficked spaces, where the larger community may congregate to view or experience the display or performance.

the classroom, including and particularly any heavily trafficked space in which it is likely that the larger community may congregate and view or experience the display or performance.

Faculty members and staff should ensure students include the appropriate context for the display or performance of a work of art. While not an exhaustive list this may include: artist's statement, chronology of experiences that informed the work, connection to larger work (i.e. citywide, national, international), curator's statement, historical/contemporary connections, and/or other works of art that served as inspiration. In short, contextual information should respond to the following questions:

- a. How was this a learning experience for students? How did it come to be? What did students learn through the process?
- b. Why do they want to bring the work to a larger audience in the school community and/or beyond?

--Contextual information, like any good art, should show, not tell, the responses to the questions above without taking away the viewer/audience member's ability to authentically respond to the work of art.

--For visual art displays, this may include visual and print resources that are displayed with the work of art itself. For performances, this should be included in some kind of distributed program or playbill.

3. Once alerted about the planned display of an artwork or performance, the Principal will work with School Leadership Team (SLT) leadership (including Co-Chairpersons, UFT Chapter Leader and PTA President) and the faculty/staff advisor to allot time during the next SLT meeting for students to present the work, context and plans for school community engagement after the work is performed or displayed. The SLT will, by consensus, determine if the work of art falls into the guidelines as stated above and discuss with students whether it will be permanently or temporarily displayed. The work will be then be performed or displayed. It should be noted that SLT consultation is not about censorship. Instead, it is about supporting students and protecting students' First Amendment rights even in the face of controversy from within or outside of the school. SLT members, with the exception of the Principal and CBO representative, are elected by their constituent groups and, thus, represent students, families and UFT members. By law, they are also open meetings so members of the broader school, Sunset Park and NYC community can attend as well though they do not have voting power. This process is meant to both symbolically and operationally signify school community approval for students' freedom of expression.
4. Handling concerns, complaints or requests for removal from within or outside the school community:
 - a. Requests shall be directed in writing to the Principal.
 - b. Upon receipt of the request, the Principal shall promptly notify the teacher and student artist.
 - c. Pending formal review by the School Leadership Team (SLT), the art display or performance at issue shall be left in its original and unaltered state. Any unauthorized removal or vandalism of art displays will be subject to investigation and disciplinary action.
 - d. Student artists shall be invited to submit a statement to the SLT.
 - e. Requests will be reviewed by the SLT and also include relevant faculty and/or staff member which renders a judgment on the basis of the selection criteria cited in the policy, as well as a statement by the student artist(s) where possible.
 - f. Student artists shall be notified of the decisions of the SLT and be permitted to file a formal appeal.

5. Effective Strategies to Discuss Controversial Art

(With gratitude and credit to Dan Wever, Art Teacher)

Faculty and staff advisors should use the following protocol as a guide in engaging students in discussions about art with the broader school community.

Follow the Critical Response Protocol

1. What do you notice/see? (Observation)
2. How does it make you feel? (Emotions)

3. What does it remind you of? (Association)
4. What do you think this is about? (Interpretation)
5. What questions does it raise? (Examination)

*People are sometimes really quick to jump to #2 and then to #4. Only looking at those questions will generate a reactionary response. It's what we see in social media a lot, jumping to conclusions based on surface level readings. Following the steps one at a time helps to form a deeper understanding.

Definitions—unprotected speech:

The following classifications of speech are not protected by the First Amendment. Use of the following during a performance, production, speech or in a display of a work of art, may subject the user to legal and/or official school action:

1. Material that has content that is “obscene as to minors.” “Minor” includes any person under the age of eighteen. “Obscene as to minors” is defined as follows:

- a. where the average person, applying contemporary community standards, would find that the work of art, taken as a whole, appeals to a minor's prurient interest;
- b. where the work of art depicts or describes, in a patently offensive way, sexual conduct such as actual or simulated sexual intercourse (normal or deviate), masturbation, excretory functions, and actual lewd exhibition of genitalia; and
- c. where the work of art, taken as a whole, lacks serious literary, artistic, political, or scientific value.

2. Material that has content that is “defamatory.” “Defamatory” is defined as the depiction of false unprivileged communication about an individual which injures that person's reputation in the community or good name. If the depiction is written, it is libelous. If it is spoken, it is slander.

a. If the false depiction is about a “public figure” or “public official,” as defined below, then, in order to constitute defamation, the false depiction must have been presented “with actual malice,” i.e., that the arts student knew that the depiction was false, or that the depiction was presented with reckless disregard for the truth without trying to verify the truthfulness of the presented depiction.

(1) A public official is a person who holds an elected or appointed public office.

(2) A public figure includes the following persons: one who has general fame and notoriety in the community; one who has voluntarily injected himself or herself into a public controversy in order to influence the resolution of the issues involved; and one who is an involuntary public figure and who is directly affected by the actions of the other public officials.

(3) School employees are considered to be public officials or public figures in depictions concerning their school-related activities.

b. If the false depiction concerns a private individual, then, in order to constitute defamation, the false depiction must have been presented willingly or negligently, i.e., the arts students failed to exercise the care that a reasonably prudent person would exercise regarding the truth of the depiction.

c. Notwithstanding the preceding, under “the fair comment rule,” a student is free to express an

opinion on matters of public interest and the student enjoys the privilege of criticizing the performance of school employees, provided the comment is free from actual malice.

3. Material that has content that will cause “a material and substantial disruption of school activities.”

a. Disruption is defined as: student rioting; unlawful seizures of property; destruction of property; widespread shouting or boisterous conduct; or substantial student participation in a school boycott; sit-in; stand-in; walkout; or other related form of activity. Material that stimulates heated discussion or debate does not constitute the type of disruption prohibited.

b. In order for a student work of art to be considered disruptive, there must exist specific facts upon which it would be reasonable to predict that a clear and present likelihood of an immediate, substantial, material disruption of normal school activity would occur if the work of art were presented. Undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression.

c. In determining whether a student work of art is disruptive, consideration must be given to the context of the presentation as well as the content of the material. In this regard, consideration should be given to the past experiences of the school in dealing with:

(1) similar material;

(2) supervising the students;

(3) current events that influence student attitudes and behavior; and

(4) instances of actual or threatened disruption prior to or contemporaneously with the presentation of the student performance and/or publication in question.

d. School personnel must act to protect the safety of advocates of unpopular viewpoints.

The First Amendment guarantees students’ protection from government regulations “respecting an establishment of religion, or prohibiting the free exercise thereof...” While SPHS supports students’ rights to freely express and exercise their religious views, the school neither endorses nor prescribes any such expression.