

Facility Neutrality and Equal Access for Student Non-Curricular Groups

Adopted: January 24, 2012

Reviewed October 28, 2014; July 18, 2017; October 27, 2020



POLICY STATEMENT

It shall be the policy of the Board of Minnesota Online High School to maintain nonsectarian school facilities in compliance with Minn. Stat. §124D.10 subd. 8(d). It shall further be the policy of the Board of Minnesota Online High School to ensure “equal access” to its facilities as required by 20 U.S.C. §§4701-4073 (2010), to ensure non-discriminatory treatment under the Minnesota Human Rights Act (Minn. Stat. §363A et. seq.) and to provide rights as required by other applicable statutes, rules, regulations and case law. In order to ensure that the school’s facilities are nonsectarian and to ensure equal access to those facilities as required by law, the Board of Minnesota Online High School adopts the following policy regarding facility neutrality and equal access.

POLICY TERMS

1. Equal Access to Facilities; Applicability

The Equal Access Act ensures that non-curricular student groups are given a fair opportunity to conduct meetings and have “access” (defined below) to public secondary school facilities on the same terms as other, similarly situated groups. The Act applies to Minnesota Online High School because 1) it is a public secondary school; 2) it receives federal funds; 3) it has created a “limited open forum” (defined below); 4) it allows one or more “non-curricular student groups” (defined below) to meet on its leased premises during “non-instructional” time. The definitions of these terms are provided below.

Minnesota Online High School seeks to ensure that all non-curricular student groups have a fair opportunity to meet, regardless of the religious, political or philosophical views of the group, and regardless of the sexual orientation or gender identity of group members.

2. Definition of Terms

A. “Access”

Ensuring equal “access” means providing access to meeting spaces on or within the school’s virtual or leased premises. It also includes providing the types of recognition and privileges afforded to other groups at the school. Such privileges include, for example, the right of student groups to use school media, including the public address system, the school newspaper and the school bulletin board to announce their meetings on the same terms as other non-curriculum related student groups. Any policy concerning the use of school media must be applied to all non-curriculum related student groups in a non-discriminatory manner.

B. “Limited open forum”

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36 Minnesota Online High School charter school has created a “limited open forum” because
37 it provides an opportunity for at least one “non-curriculum related student group” to hold
38 meetings on the school’s virtual or leased premises during “non-instructional time”.

39 C. “Meeting”

40 A meeting is a group of two or more students convening for a non-curriculum related
41 purpose, and may include a prayer service, Bible reading, or other worship exercise.

42 D. “Non-curricular student groups”

43 A student group is “non-curricular” if it does not directly relate to the body of courses
44 offered at the charter school. A student group does not directly relate to the school’s
45 curriculum if:

- 46 i. The group’s subject matter is not being taught or will not soon be taught in a
47 regularly offered course at the school;
- 48 ii. The group’s subject matter does not concern the body of school courses as a whole;
- 49 iii. Participation in the group is not required for a particular course; and
- 50 iv. No academic credit is awarded as a result of participation in the group.

51 E. “Non-instructional time”

52 “Non-instructional time” is time set aside by the school before actual classroom instruction
53 begins or after actual classroom instruction ends. At MNOHS, non-instructional time
54 refers to hours outside “core hours”, as defined in the MNOHS staff handbook, and also
55 time outside any synchronous class meetings that may be conducted by a MNOHS teacher.
56 MNOHS students are not required to attend at specific hours of the day, and can access the
57 school’s learning management system at any time. However, full-time teachers are
58 required to keep “core hours”, which constitutes a common time during which the school’s
59 virtual and leased premises are occupied with school-day activities (e.g., actual classroom
60 instruction). In addition, any teacher may schedule a synchronous class meeting outside
61 of core hours, and these meetings are also considered to be actual classroom instruction”

62 2. Limitations on Non-Curricular Student Group Meetings

63 The following limitations apply to non-curricular student groups that seek equal access to
64 school facilities:

- 65 A. Meetings must be voluntary and student-initiated;

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- 67 B. Meetings may not be sponsored by the school, school officials, the government, or any of
68 the agents or employees of those groups. (“Sponsored” includes leading, promoting or
69 participating in the meeting. It does not include the assignment of a teacher or other school
70 official to the meeting for supervisory purposes.);
71
- 72 C. School officials, employees or agents are present at religious meetings only in a non-
73 participatory role;
74
- 75 D. Meetings do not materially and substantially interfere with the orderly conduct of
76 educational activities within the school (see section 4 below); and
77
- 78 E. Non-school persons do not direct, control or regularly attend activities of the non-curricular
79 student groups.

80 3. Authority of the School to Maintain Discipline and Well-being of Students and Faculty

81 When implementing this policy, Minnesota Online High School retains the right to ban
82 unlawful groups, to maintain order and discipline on school premises, and to protect the well-
83 being of students and faculty. Meetings that materially and substantially interfere with the
84 orderly conduct of educational activities will not be permitted. School officials, however, may
85 not ban groups or suppress student speech based on the unpopularity of the groups’ message
86 or on unfounded fears that the group may incite violence or disruption. A student group will
87 not be subject to regulation if the fear of a “material and substantial interference” with the work
88 of the school is not caused by the student group itself, but instead is caused by those who
89 oppose the group’s formation or message.

90 4. Limitations on Implementation of the Policy

91 In adopting and implementing this policy, Minnesota Online High School will not:

- 92 A. Influence the form or content of any prayer or other religious activity;
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- 94 B. Require any person to participate in prayer or other religious activity;
95
- 96 C. Expend public funds beyond the incidental costs of providing the space for non-curricular
97 student group meetings;
98
- 99 D. Require an employee to attend meetings that would conflict with their religious beliefs;
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- 101 E. Sanction meetings that are otherwise unlawful; and
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- 103 F. Otherwise discriminate against an individual in violations of their rights.

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105 **5. Student Distribution of Literature**

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107 Minnesota Online High School students have a right to distribute literature, whether religious,
108 political or philosophical, in the same time, manner, and place terms as are applied to other
109 literature that is unrelated to school curriculum or activities.