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**MEMORANDUM**

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**TO:** HOUSE STANDING COMMITTEE ON EMERGING ISSUES  
**SUBJECT:** HB 2058 INFORMATION  
**DATE:** FEBRUARY 1, 2016

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HB2058, also known as the “Cronkite New Voices Act,” seeks to limit/abrogate the United States Supreme Court case of *Hazelwood v. Kuhlmeier*, a case that has been in existence for nearly thirty (30) years and has been the seminal case regarding student speech in a school-sponsored newspaper. We would like to express some concern as it relates to a K-12 context and by no means address whether or not HB 2058 is appropriate in a higher education context.

HB2058 does not set forth the correct standard under *Hazelwood*. For example, the bill states that a school can prohibit speech that causes a disruption, but as you know, we do not have to wait for actual disruption. And, the bill doesn’t mention the “invades the rights of others” prong. The passage of HB2058 would take away the local control of a school district/school board in making determinations as to what speech may be appropriate in a school-sponsored newspaper.

In the *Hazelwood* case, the Court answered the question regarding whether educators possessed authority over school-sponsored publications that members of the public might reasonably believe were the beliefs or positions of the school district itself.

The Court held that, “Educators are entitled to exercise greater control over...student expression to assure that participants learn whatever lessons the activity is designed to teach, that readers or listeners are not exposed to material that may be inappropriate for their level of maturity, and that the views of the individual speaker are not erroneously attributed to the school. Hence, a school may in its capacity as publisher of a school newspaper...‘disassociate itself,’...not only from speech that would ‘substantially interfere with [its] work...or impinge upon the rights of other students,’ but also from speech that is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences.”

The Court further reasoned that, “A school must be able to set high standards for the student speech that is disseminated under its auspices – standards that may be higher than those demanded by some newspaper publishers...in the ‘real’ world – and may refuse to disseminate student speech that does not meet those standards. In addition, a school must be able to take into account the emotional maturity of the intended audience in determining whether to disseminate student speech on potentially sensitive topics, which might range from the existence of Santa Claus in an elementary school setting to the particulars of teenage sexual activity in a high school setting.”

Aside from attempting to do away with a case that has guided school districts regarding issues of student speech in school-sponsored publications for nearly three decades, HB 2058 also raises questions regarding liability. Should a student be permitted to be “responsible for determining the news, opinion,

feature, and advertising content of school-sponsored media” as HB 2058 specifies and the school is not permitted to “sanction a student operating as an independent journalist,” who then will be liable if a student prints defamatory statements or violates other provisions of law? The liability question is a point that must be answered.

HB 2058, while well intentioned, would seek to require schools to sign off on speech that may or may not be sanctioned by the school district and then potentially be held liable for decisions of student journalists. This is extremely concerning and will likely have the practical effect of districts simply canceling their programs.

Finally, today’s technology and readily available social media, brings into question the need for HB 2058. If a student disagrees with a decision made by a school district or sponsor of the school sponsored newspaper, a significant number of avenues exist, through Facebook, Twitter, or even their own news blog for students to report on the story they feel is newsworthy but their school felt was inappropriate, for one reason or another, for publication in the school newspaper.

Please do not hesitate to contact me if you wish to discuss this bill further. I would also encourage members of the committee to discuss HB 2058 and the practical ramifications of the bill with their local school districts, especially student newspaper sponsors and/or principals.