

STUDENT JOURNALIST PRESS FREEDOM RESTORATION ACT

Short title.

This act shall be known and may be cited as the “Student Journalist Press Freedom Restoration Act”.

Preamble.

(1) The legislature finds that:

- (a) freedom of expression through school-sponsored media is a fundamental principle in our democratic society granted by the First Amendment to the United States Constitution [and appropriate state constitutional citation];
- (b) a robust and free student press is critical to the development of informed and civic-minded adults;
- (c) student journalists are denied the right to free expression guaranteed to other students, and their work censored when the speech of other students could not be infringed; and
- (d) teachers who defend their students’ freedom of expression do so at great professional risk.

(2) It is the intent of the legislature to restore and protect freedom of expression through school-sponsored media for both public school students and students at public institutions of higher education in this state, and the jobs of the teachers who appropriately support these rights, in order to encourage students to become educated, informed and responsible members of society.

Definitions.

As used in this section:

(1) “School-sponsored media” means any material that is prepared, substantially written, published or broadcast, in any media, by a student journalist at a public middle, or high school or college or university under the direction of a student media adviser and distributed or generally made available to members of the student body. School-sponsored media does not include media intended for distribution or transmission for classroom purposes only.

(2) “Student journalist” means a public or private middle or high school or college or university student who gathers, compiles, writes, edits, photographs, records, or prepares information for inclusion in school-sponsored media.

(3) “Student media adviser” means an individual employed, appointed, or designated by a public secondary school or higher education institution to supervise or provide instruction relating to school-sponsored media.

Student journalists' freedom of expression

(a) Except as provided in subsection (b) of this section, a student journalist has the right to exercise freedom of speech and of the press in school-sponsored media regardless of whether the media is supported financially by the school, uses the facilities of the school, or is produced in conjunction with a course or class in which the student is enrolled. Subject to subsection (b) of this section, a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. Student media advisers may teach professional standards of English and journalism to student journalists, consistent with this subsection.

(b) This section does not authorize or protect expression by a student that:

(1) Is libelous or slanderous;

(2) Constitutes an unwarranted invasion of privacy;

(3) Is obscene;

(4) Violates federal or state law; or

(5) So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of a lawful school district policy, or the material and substantial disruption of the orderly operation of the school. Administrators must base a forecast of material and substantial disruption on specific facts, including past experience in the school and current events influencing student behavior, and not on undifferentiated fear or apprehension.

(c) There shall be no prior restraint of material prepared for official school publications except insofar as the material violates the standards of section (b). School officials shall have the burden of showing prior justification for their limitation of student journalist expression under this section and affording students a timely opportunity for appeal.

(d) Nothing in this section shall be construed as authorizing the publication of an advertisement in school-sponsored media that promotes the purchase of a product or service that is unlawful for purchase or use by minors.

(e) A student journalist may not be disciplined for acting in accordance with subsection (a) of this section.

(f) A student media adviser may not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against for:

(1) Refusing to infringe on conduct that is protected by this section or the First Amendment to the United States Constitution [or relevant section of the state constitution]; or

(2) Acting to protect a student journalist engaged in permissible conduct under subsection (a) of this section or the First Amendment to the United States Constitution [or appropriate section of the state constitution].

(g) Each school board subject to this chapter shall adopt a written policy for the exercise of the right of student journalists to freedom of speech and the press in school-sponsored media in accordance with this section.

(1) The policy must include reasonable provisions for the time, place, and manner of distribution of student expression.

(2) The policy must include a provision allowing for the timely appeal within the school district of decisions made pursuant to this section.

(h) No expression made by students in the exercise of free speech or free press rights shall be deemed to be an expression of school policy, and no school officials or school district shall be held responsible in any civil or criminal action for any expression made or published by students.

(i) Any student, individually or through a parent or guardian, or student media adviser may institute proceedings for injunctive or declaratory relief in any court of competent jurisdiction to enforce the rights provided in this section. Nothing in this section shall be construed to create any private action on behalf of a student other than to seek injunctive relief allowing the publication of the speech in question. A court may award reasonable attorneys' fees to a plaintiff that substantially prevails.

SECTION 2. This act shall take effect upon passage.