

## **Student Journalist Press Freedom Restoration Act**

### **What does the bill do?**

This bill allows for the censorship of student media only if it is libelous or slanderous, contains an unwarranted invasion of privacy, violates state or federal law, or incites students to violate the law or school policy or disrupt the orderly operation of a school. The bill also prohibits retaliation against student media advisers who refuse to censor student journalists.

### **Why is this bill needed?**

In 1988 the U.S. Supreme Court ruled in *Hazelwood v. Kuhlmeier* that school administrators can censor school-sponsored media when “reasonably related to legitimate pedagogical concerns.” This vague standard has allowed administrators to engage in subjective and arbitrary censorship without an articulable “pedagogical concern.” Censored stories often address issues adults don’t want to discuss, are critical of the school administration, expose scandals in the school, or just make the school “look bad.”

### **Don’t students already have free speech rights?**

The “Tinker Standard” protects student speech unless it is libelous, an invasion of privacy, or creates a “clear and present danger” of a “material and substantial disruption” of the school. Under *Hazelwood*, student journalists actually have fewer rights than the general student body solely because they are journalists. This legislation restores the Tinker standard for all students.

### **Who supports this bill?**

This legislation is supported nationally by the American Bar Association, the Journalism Education Association, the Society of Professional Journalists, the Association for Education in Journalism and Mass Communication, the National Council of Teachers of English, the American Society of News Editors and more. Other state-specific support is pending, but we expect testimony from students and advisers who have been affected.

### **Won’t this result in a lot of libel lawsuits?**

Libel and other content-based lawsuits against student newspapers are extremely rare. To date, the Student Press Law Center is not aware of any reported court decision where a school district has been held liable for material published by its high school student media. As of 2019, there is more than 170 years of combined history with these laws in 14 states, and if schools were being deluged by libel suits, we would certainly know it by now. They aren’t.

### **Why shouldn’t administrators direct what appears in school-sponsored media?**

The bill clearly establishes that the work of student journalists does not reflect the views of a school. It has never been possible to keep students from being exposed to upsetting or offensive information by tearing pages out of newspapers or yearbooks; it is even less so in the age of smartphones and virtual home assistants. The student media serves a valuable “rumor control” function, deflating rumor and instead discussing these matters in an accountable, balanced way while presenting verifiable facts and giving school authorities an opportunity to be heard and present their side.

### **Why should students have the same rights as experienced professionals?**

They shouldn’t, and they won’t under this bill. Schools are unique settings charged with ensuring students have a safe, effective place to learn. This bill does not infringe upon that.

### **Who else has this bill?**

Similar laws are in place in Arkansas, California, Colorado, Illinois, Iowa, Kansas, Maryland, Massachusetts, Nevada, North Dakota, Oregon, Rhode Island, Vermont and Washington.

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### **THE BILL DOES**

**Allow school officials to stop publication of student media in certain cases,** including concerns of libel or slander, violations of state or federal law or school board policy, privacy violations, or material disruption of the school day.

**Allow school boards to adopt policies relating to student media,** including addressing the appropriate time, place, and manner of school sponsored media.

**Protect teachers who refuse to unlawfully interfere with student speech.** No teacher may be fired, disciplined, or reassigned for following the law.

**Bring the conversations students are having on social media back into the light.** Student journalists want to talk about the things important to students, and to do so transparently. They have a responsibility to seek responses from administrators and spark a dialogue which cannot happen in the shadow of social media.

**Put the rights of journalists back in line with those of every other student on campus.** Students' free speech rights (with some limits) were clarified by the U.S. Supreme Court in the Tinker v. Des Moines decision. But students creating school-sponsored media are held to a different and subjective standard. This bill brings everyone back under the Tinker standard.

### **THE BILL DOES NOT**

**Allow student journalists to publish with impunity and without feedback.** Advisers and administrators may still discuss with students what is appropriate to publish. Student journalists weigh this feedback and the tenets of journalistic ethics in pursuing their work.

**Give student journalists the same rights as experienced professionals.** Schools are unique settings with a responsibility to protect student safety. This legislation ensures advisers and administrators can act as is appropriate in such situations.

**Open schools up to lawsuits.** Libel and other content-based lawsuits against student newspapers are *extremely* rare. To date, the Student Press Law Center is aware of no reported court decision where a school district has been held liable for material published by its high school student media.

**Impact student who are not actively creating student media, or interfere with school social media policies.** This bill covers only student journalists in the creation of school-sponsored media, and does not give students rights beyond the Tinker standard.

**Stop teachers and administrators from teaching or discussing proper English usage or journalistic ethics.** The bill expressly protects this ability.