

**TESTIMONY IN SUPPORT OF HF 4083**  
**STUDENT JOURNALISM; STUDENT EXPRESSION**

**March 12, 2024**

Thank you for considering HF 4083, restoring and protecting the press freedom of Minnesota's student journalists. The Student Press Law Center stands in strong support of this legislation, but regrettably cannot attend the hearing in person. We would be happy to answer any questions or concerns the committee may have regarding this legislation or other student press freedom matters.

The Student Press Law Center (SPLC) is an independent, non-partisan organization that, since 1974, has helped students of all ages participate in civic life and learn essential skills, ethics and values through the vehicle of journalism. Our hotline provides free legal services to student journalists and advisers. As such, we see daily the significant need for such legislation.

For more than a generation, Minnesota's student journalists have come of age under a U.S. Supreme Court decision, discredited by every journalism education organization in America, that teaches them to doubt themselves and report what is popular instead of what is important to their communities, guarantees them less freedom of expression than other students on campus, and places advisers at risk of professional consequences for trusting what their students are capable of.

While most students are held to the so-called "Tinker Standard," a legal precedent stemming from the U.S. Supreme Court's *Tinker v. Des Moines (1969)* ruling that student speech cannot be censored unless that speech violates state and federal laws (including those against libel and slander, as well as privacy and copyright laws) or materially or substantially disrupts the school environment, student journalists face a much different standard. In *Hazelwood School District v. Kuhlmeier (1988)*, the Court ruled that most student media could be censored if school officials could show that their censorship was "reasonably related to legitimate pedagogical concerns." Unfortunately, what constitutes "legitimate pedagogical concerns" has never been clarified or widely understood. While a student journalist adhering to proper journalistic procedures is unlikely to stumble over the "Tinker Standard," responsible students are often censored by *Hazelwood* for writing stories that administrators at another school would never contend violates any legitimate pedagogical standard. *Hazelwood* specifically allows school officials to censor student journalists simply by declaring an article, for example, "poorly written," "biased," "unsuitable" or — a line lifted directly from the Court's opinion — "inconsistent with the shared values of a civilized social order." *Hazelwood* remains, three decades after the Court's ruling, an arbitrary and capricious standard that causes confusion among student journalists and school administrators alike.

In Minnesota, this confusion is on full display. A Minnesota high school media adviser contacted our free legal hotline for guidance when administration told her that she needed to censor "anything controversial" when students wanted to cover Black History Month. Administration

provided no further definition of what “controversial” meant. (Advisers are already in a tenuous position between their employment to the district and their unique responsibility to convey best practices to their journalism students, necessitating the adviser protections in this bill.) The same high school administration threatened to completely shut down its broadcasting program, a threat directly related to the program’s balanced and well-researched coverage of Black History Month. Another Minnesota high school’s administrator wanted to censor a piece about suicide reporting in the aftermath of a suicide in the community, stifling any and all conversation in a safe and monitored environment. The administrator had not even reviewed the piece. Such situations give rise to unrestricted and unhelpful rumors on social media that lack the useful speech guardrails of this bill.

Nationwide, SPLC has seen yearbooks censored because students wore MAGA shirts or the swim team wore bathing suits. Newspapers have been censored for reporting on graffiti visible to all students and administrators routinely censor pieces providing oversight into the administrators’ own activities. Award-winning advisers have been reassigned or fired for refusing to infringe upon students from reporting on, among other things, the high cost of feminine hygiene products, a vigil for a current student, the improper withholding of documents relating to an administrator’s resignation and curriculum changes. In recent months, students have reported blanket restrictions to any commenting on decisions by administration, reporting sudden disappearances of staff, or even discussing community events.

The result of *Hazelwood* censorship is not that students do not grapple with the issues that make adults nervous, it is simply that they do so disempowered by their administrators and informed by rumor and social media algorithms instead of rigorous fact-checking and journalistic ethics. Students learn that adults believe them incapable of the sort of discourse we expect them to engage in the moment they graduate.

We recognize there are instances in which administrators may need to exert authority to keep their students safe and the school day orderly. HF 4083 protects that authority. School officials can step in, for example, when there are concerns about an unwarranted invasion of privacy, or the media will be demonstrably disruptive to the school environment - the same “Tinker standard” they apply to all other students. HF 4083 merely ensures that students are no longer censored for subjective or ambiguous reasons. It enables student journalists to tell the truth without fear of reprisal, protects capable and supportive advisers and allows Minnesota’s schools to fulfill their mission to produce the engaged thinkers ready to be our next generation of leaders.

We have one recommendation as an addition to the bill. Subdivision 4 provides: “Student journalist policy. School districts and charter schools must adopt and post a student journalist policy consistent with this section.” We would recommend providing a deadline to implement this policy requirement. Without it, there is little to no incentive for school district boards of education to memorialize this statute at the local level. We have seen ample evidence of this delay: such laws that were passed half a decade ago have not seen local implementation even today. Therefore, we would recommend adding a requirement to implement Subdivision 4 by the first day of classes in the next school year following this bill’s adoption.

Minnesota will join the seventeen states that have already enacted similar student press freedom laws. The verdict is clear; these laws do not impact the safety of the school or keep administrators from intervening when necessary. In no state has there been an outbreak of unethical journalism. No school has had a libel lawsuit. (In fact, libel lawsuits against high school student journalism programs are exceedingly rare; to date, we are aware of *just one* published libel lawsuit in the country ever holding a school district liable for work published by its student media.)

Thank you for your support of HF 4083, and Minnesota's student journalists.

SUBMITTED BY: Jonathan Gaston-Falk, staff attorney

[jfalk@splc.org](mailto:jfalk@splc.org)