



TESTIMONY IN SUPPORT OF SB 1099 - Cronkite New Voices Act
2/28/24

Thank you for considering SB 1099, restoring and protecting the press freedom of Missouri's student journalists. The Student Press Law Center stands in strong support of this legislation, but regretfully 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, Missouri's student journalists have come of age under a U.S. Supreme Court decision, discredited by every journalist 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 every other student 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 student media censorship must be "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.

For 36 years, Missouri has held this legacy for student media censorship. During that time, SPLC has seen a real need in Missouri among student journalists: their calls have unfortunately elevated the state as our second most frequent to use our free legal hotline, and sixth most censored, in the country. It is impossible to know how many more censored student journalists haven't called. Stories covering anything from student mental health to alleged rodent problems in Missouri schools have been labeled controversial and student voices have routinely been censored by administrations under the *Hazelwood* ruling.



Nationwide, SPLC has seen yearbooks censored because students wore MAGA shirts or the swim team wore bathing suits, newspapers censored for reporting on graffiti visible to all students, and administrators restricting 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.

Despite this legacy, students at Kirkwood High School have enjoyed a level of press freedom that every student journalist should have in the state. In 2023, their yearbook garnered national and international media attention for the community backlash it received over some of its content. The administration stood behind its students and the yearbook rightfully went uncensored. This is the legacy that student media could have in Missouri under SB 1099. No longer will students journalists across the state have different rights depending on the luck of where they attend school.

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. SB 1099 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. SB 1099 merely ensures that students are no longer censored for subjective or ambiguous reasons, enables student journalists to tell the truth without fear of reprisal, protects capable and supportive advisers, and allows Missouri's schools to fulfill their mission to produce the engaged thinkers ready to be our next generation of leaders.

Missouri 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 no published libel lawsuit in the country holding a school district liable for work published by its student media.)

Thank you for your support of SB 1099, and Missouri's student journalists.

SUBMITTED BY: Jonathan Gaston-Falk, staff attorney
jfalk@splc.org