



TESTIMONY IN SUPPORT OF HB 1309

Pennsylvania Student Journalism Protection Act

April 29, 2024

Thank you for considering HB 1309, restoring and protecting the press freedom of Pennsylvania's student journalists. The Student Press Law Center stands in strong support of this legislation. 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, Pennsylvania'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 Pennsylvania, this confusion has created a patchwork where students across the state and even within the same districts operate under different standards. Just last year, a PA adviser contacted the SPLC for guidance on whether her students could be censored just for covering a book ban at their school. Meanwhile, a student in another district was able to push back against compelled speech because of a favorable board policy allowing them to refuse publication. And at yet another school this year, student journalists were left in a state of publication limbo for over a month as their principal decided whether an article about covering certain topics in health class was allowed to be published. These stories, and countless others, present a troubling truth, that student journalists, their advisers, and even administrators are uncertain about the rights of student journalists. Without the clear guidelines that this bill provides, this confusion will continue to prevent students from learning the skills needed to be the civically engaged critical thinkers we all want in the world. The Commonwealth of Pennsylvania deserves such critical thinkers.

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. HB 1309 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. HB 1309 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 Pennsylvania's schools to fulfill their mission to produce the engaged thinkers ready to be our next generation of leaders.

Pennsylvania 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, and that suit occurred just before that state adopted a law similar to this.)

Thank you for your support of HB 1309, and Pennsylvania's student journalists.

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