

# STATE OF NEW YORK

9801--A

## IN ASSEMBLY

February 9, 2018

Introduced by M. of A. LUPARDO, NOLAN, GLICK, PALMESANO, ROZIC, SEAWRIGHT, MAGNARELLI, D'URSO, ARROYO, JAFFEE, SIMON, GIGLIO, LAWRENCE, L. ROSENTHAL, RIVERA, FAHY, GOTTFRIED -- Multi-Sponsored by -- M. of A. BUCHWALD, COOK, GALEF -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to enacting the student journalist free speech act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The education law is amended by adding a new article 18 to  
2 read as follows:

### ARTICLE 18

#### STUDENT JOURNALIST FREE SPEECH ACT

##### Section 860. Short title.

##### 861. Definitions.

##### 862. Student journalist free speech rights.

##### 863. Exemptions.

##### 864. Liability.

10 § 860. Short title. This article shall be known and may be cited as  
11 the "student journalist free speech act".

12 § 861. Definitions. For the purposes of this article the following  
13 terms shall have the following meanings:

14 1. "Educational institution" means a public or charter middle or high  
15 school.

16 2. "School-sponsored media" means any material that is prepared,  
17 substantially written, published, or broadcast by a student journalist  
18 at an educational institution, distributed or generally made available  
19 to members of the student body, and prepared under the direction of a  
20 student media advisor. "School-sponsored media" shall not include media  
21 intended for distribution or transmission solely in the classroom in  
22 which the media is produced.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 3. "Student journalist" means a student enrolled in an educational  
2 institution who gathers, compiles, writes, edits, photographs, records,  
3 or prepares information for dissemination in school-sponsored media.

4 4. "Student media advisor" means an individual employed, appointed, or  
5 designated by an educational institution to supervise or provide  
6 instruction relating to school-sponsored media.

7 § 862. Student journalist free speech rights. 1. Except as otherwise  
8 provided in section eight hundred sixty-three of this article, a student  
9 journalist shall have the right to exercise free speech and of the press  
10 in school-sponsored media, regardless of whether the media is supported  
11 financially by the educational institution or by use of the facilities  
12 of an educational institution or produced in conjunction with a class in  
13 which the student is enrolled.

14 2. Subject to section eight hundred sixty-three of this article, the  
15 appropriate student journalist shall be responsible for determining the  
16 news, opinion, feature, and advertising content of school-sponsored  
17 media.

18 3. Nothing in this section shall preclude a student media advisor from  
19 teaching professional standards of English and journalism to student  
20 journalists.

21 4. There shall be no prior restraint of material prepared for official  
22 publications of an educational institution except for the material  
23 described in section eight hundred sixty-three of this article.

24 5. Educational institution administrators shall have the burden of  
25 demonstrating justification without undue delay prior to a limitation of  
26 student expression under this article.

27 6. No student media advisor or employee shall be terminated from  
28 employment, transferred, or relieved of his or her duties as defined in  
29 subdivision four of section eight hundred sixty-one of this article for  
30 refusal to abridge or infringe upon the right to freedom of expression  
31 conferred by this act.

32 7. Political expression by students in school-sponsored media shall  
33 not be deemed the use of public funds for political purposes.

34 § 863. Exemptions. The following forms of expression shall not be  
35 protected by this article:

36 1. Expression that is libelous, slanderous or obscene;

37 2. Expression that constitutes an unwarranted invasion of privacy;

38 3. Expression that violates federal or state law; or

39 4. Expression that incites students to commit an unlawful act, to  
40 violate the policies of the educational institution, or to materially  
41 and substantially disrupt the orderly operation of such educational  
42 institution.

43 § 864. Liability. No expression made by students in the exercise of  
44 free speech or freedom of the press protected by this article shall be  
45 deemed to be an expression of policy of the educational institution, and  
46 no educational institution, employee, parent, legal guardian or adminis-  
47 trator of an educational institution shall be held liable in any civil  
48 or criminal action for any expression made or published by students,  
49 except in cases of willful or wanton misconduct.

50 § 2. This act shall take effect immediately.