

# STATE OF NEW YORK

7355

## IN SENATE

January 9, 2018

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Education

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. "School official" means a high school principal or the designee of  
15 such principal.

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

22 3. "Student journalist" means a public high school student who gath-  
23 ers, compiles, writes, edits, photographs, records, or prepares informa-  
24 tion for dissemination in school-sponsored media.

25 4. "Student media advisor" means an individual employed, appointed, or  
26 designated by a school district to supervise or provide instruction  
27 relating to school-sponsored media.

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

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1 § 862. Student journalist free speech rights. 1. Except as otherwise  
2 provided in section eight hundred sixty-three of this article, a student  
3 journalist shall have the right to exercise free speech and of the press  
4 in school-sponsored media, regardless of whether the media is supported  
5 financially by the school district or by use of school facilities or  
6 produced in conjunction with a class in which the student is enrolled.

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

11 3. Nothing in this section shall preclude a student media advisor from  
12 teaching professional standards of English and journalism to student  
13 journalists.

14 4. There shall be no prior restraint of material prepared for official  
15 school publications except for the material described in section eight  
16 hundred sixty-three of this article.

17 5. School officials shall have the burden of demonstrating justifica-  
18 tion without undue delay prior to a limitation of student expression  
19 under this article.

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

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

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

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

25 4. Expression that incites students to commit an unlawful act, to  
26 violate the policies of the school district, or to materially and  
27 substantially disrupt the orderly operation of the school.

28 § 864. Liability. No expression made by students in the exercise of  
29 free speech or freedom of the press protected by this article shall be  
30 deemed to be an expression of school policy, and no school district,  
31 employee, parent, legal guardian or official of a school district shall  
32 be held liable in any civil or criminal action for any expression made  
33 or published by students, except in cases of willful or wanton miscon-  
34 duct.

35 § 2. This act shall take effect immediately.