

STATE OF NEW YORK

9801

IN ASSEMBLY

February 9, 2018

Introduced by M. of A. LUPARDO -- read once and referred 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

3 Section 860. Short title.

4 861. Definitions.

5 862. Student journalist free speech rights.

6 863. Exemptions.

7 864. Liability.

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

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

12 1. "Educational institution" means a public or private educational
13 institution or separate school or department of a public or private
14 educational institution, and includes: an academy; an elementary or
15 secondary school; an extension course; a kindergarten; a school system;
16 a school district; an intermediate school district; a business, nursing,
17 professional, secretarial, technical, or vocational school; a college; a
18 university; a public or private educational testing service or adminis-
19 trator; and an agent of an educational institution. Educational insti-
20 tution shall be construed broadly to include public and private insti-
21 tutions of higher education to the greatest extent consistent with
22 constitutional limitations.

23 2. "School-sponsored media" means any material that is prepared,
24 substantially written, published, or broadcast by a student journalist
25 at an educational institution, distributed or generally made available
26 to members of the student body, and prepared under the direction of a
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EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 student media advisor. "School-sponsored media" shall not include media
2 intended for distribution or transmission solely in the classroom in
3 which the media is produced.

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

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

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

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

21 3. Nothing in this section shall preclude a student media advisor from
22 teaching professional standards of English and journalism to student
23 journalists.

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

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

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

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

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

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

35 4. Expression that incites students to commit an unlawful act, to
36 violate the policies of the educational institution, or to materially
37 and substantially disrupt the orderly operation of such educational
38 institution.

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

46 § 2. This act shall take effect immediately.