

# STATE OF NEW YORK

9801--B

## 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 -- again reported from said committee with amendments, 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

3  
4 Section 860. Short title.

5 861. Definitions.

6 862. Student journalist free speech rights.

7 863. Exemptions.

8 864. Liability.

9  
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, private or charter middle  
15 or high school.

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

17 3. Nothing in this section shall preclude a student media advisor from  
18 teaching professional standards of English and journalism to student  
19 journalists or from grading the performance of a student in accordance  
20 with such standards.

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 dismissed, suspended,  
28 disciplined, reassigned, transferred, or otherwise retaliated against  
29 solely for acting to protect a pupil engaged in the conduct authorized  
30 under this article; and further no student media advisor or employee  
31 shall be dismissed, suspended, disciplined, reassigned, transferred or  
32 otherwise retaliated against solely for an action, undertaken in good  
33 faith with this article, which results in the prohibition of the publi-  
34 cation of speech pursuant to this article.

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

37 8. This section shall not apply to any private middle or high school  
38 that is controlled by a religious organization, to the extent that the  
39 application of this section would not be consistent with the religious  
40 tenets of the organization.

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

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

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

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

46 4. Expression that incites students to commit an unlawful act, to  
47 violate the policies of the educational institution, or to materially  
48 and substantially disrupt the orderly operation of such educational  
49 institution.

50 § 864. Liability. No expression made by students in the exercise of  
51 free speech or freedom of the press protected by this article shall be  
52 deemed to be an expression of policy, opinion or position of the educa-  
53 tional institution, nor shall any such expression be considered to be an  
54 endorsement in any way by the educational institution and no educational  
55 institution, student media advisor, employee, parent, legal guardian or  
56 administrator of an educational institution shall be held liable in any

1 civil or criminal action for any expression made or published by  
2 students, except in cases of willful or wanton misconduct. Nothing in  
3 this section shall be construed to create any private action on behalf  
4 of a student other than to seek injunctive relief allowing the publica-  
5 tion of the speech in question.  
6 § 2. This act shall take effect immediately.