

STATE OF NEW YORK

4402

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

Introduced by M. of A. LUPARDO, NOLAN, GLICK, PALMESANO, ROZIC, SEAWRIGHT, MAGNARELLI, SIMON, L. ROSENTHAL, GOTTFRIED, ENGLEBRIGHT, J. RIVERA, STIRPE, FAHY, ABBATE, COLTON, ABINANTI, HUNTER, NIOU, J. M. GIGLIO, SALKA, STECK, TAYLOR, HEVESI, FERNANDEZ, JEAN-PIERRE, MIKULIN, M. MILLER, WALSH, RA, DiPIETRO, McDONOUGH -- Multi-Sponsored by -- M. of A. COOK, GALEF -- 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:

Section 1. The education law is amended by adding a new article 18 to 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.

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

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

1. "Educational institution" means a public high school.

2. "School-sponsored media" means any material that is prepared, written, published, or broadcast by a student journalist at an educational institution, distributed or generally made available to members of the student body, and prepared under the direction of a student media advisor. "School-sponsored media" shall not include media intended for

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

LBD03638-02-1

1 distribution or transmission solely in the classroom in which the media
2 is produced.

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

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

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

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

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

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

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

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

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

39 § 863. Exemptions. Nothing in this article shall impose a duty on
40 educational institution administrators to review school-sponsored media
41 prior to publication. To the extent that an educational institution
42 administrator chooses to engage in pre-publication review, the follow-
43 ing forms of expression shall not be protected by this article:

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

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

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

47 4. Expression that incites students to commit an unlawful act where
48 such unlawful act would be both imminent and likely to occur, to
49 violate the policies of the educational institution, or to materially
50 and substantially disrupt the orderly operation of such educational
51 institution.

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

1 institution, student media advisor, employee, parent, legal guardian or
2 administrator of an educational institution shall be held liable in any
3 civil or criminal action for any expression made or published by
4 students, except in cases of willful or wanton misconduct. Nothing in
5 this section shall be construed to create any private action on behalf
6 of a student other than to seek injunctive relief allowing the publica-
7 tion of the speech in question.

8 § 2. This act shall take effect immediately.