

S. 18 Testimony by Ken Page, VPA Executive Director and a member of the Hazing, Harassment and Bullying Prevention Council, February 3, 2017

For the record, I am Ken Page, Executive Director of the Vermont Principals' Association. I have previously testified in the capacity of VPA Director. However, I also serve on the Secretary-appointed Hazing, Harassment and Bullying Advisory Council. It is in this capacity that I am testifying today. I have been member of the advisory council since its inception in 2012. Because of my experience working in schools, I have been encouraged to speak by the Agency of Education to share my perspective on this bill. In 2012, the legislature established an Advisory Council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. The Council reports annually to the State Board and the House and Senate Committees on Education. The council's role is to advise the Secretary; we do not have authority beyond that.

One runs the risk of contradicting oneself when testifying twice on the same bill. So, I will do my best to stay consistent with my previous testimony.

Let me say that I am in agreement with Nicole Mace of the Vermont School Board's Association when she writes that the bill would "...explicitly allow a school district to regulate content that interferes with the districts obligation to provide a "safe, orderly, civil and positive learning environment' pursuant to 16 VSA 570..." including "...the ability to exercise editorial control over the content that could be considered harassment or bullying. "

A review of the bill before us leads me to the main question: Is it not fair then to conclude that in section 2 (d), a school, therefore, may restrain the distribution of content in student media under these four criteria:

1. Is libelous or slanderous.
2. Constitutes and unwarranted invasion of privacy.
3. Violates federal or state law.
4. Creates the imminent danger of inciting students to violate the law or school rules, or materially and substantially disrupt the orderly operation of a school?

Additionally, Nicole Mace recommended that this bill should explicitly allow districts to exercise editorial control over obscene content. I agree with this as well as well. She cites Supreme Court case precedent, and I believe, this would fit under 2 (d) (subsection 93), which may constitute a violation of federal law.

Since unlawful content would be a violation of state law, it would appear then that the dominant issue that emerges, is *prior review*, and whether this practice is a journalistically and educationally a sound practice. Most would agree that it is not; however, I have spoken to one Vermont high school principal who said his board many years ago approved a policy of prior review. I contend, however, that a principal's review of content before publishing is indeed a form of censorship which sorely interferes and undermines the teachable opportunity for the journalism teacher or student media adviser. Here is where we, as administrators, get into trying to be the protectors of the school image and culture and we exert this same protectionism on those who we consider to be vulnerable.

As I said in my original testimony, no one would want this law to result in anyone being hurt or cause them to hurt themselves. Under the law, all educators, and not just the principal, have the obligation to ensure a "safe, orderly, civil and positive learning environment." So, in some sense, this bill represents a "trust-them" moment. If we all believe, as I do, that schools need to be

microcosms of adult life, then a watered-down, non-controversial, non-opinionated student press, does not help to make kids independent thinkers or contribute to them becoming responsible adults and informed citizens. Student journalism under the auspices of a highly-trained media advisor represents very authentic work. I have learned over the years, that when it comes to assignments, kids readily distinguish real work from work that does not matter. And, kids also know when you trust them and when you simply say that you trust them.

In my previous testimony I stated that principals who responded to my call their views on S. 18, asked what prompted this, or what problem we were trying to solve. Several principals said that they didn't see a problem, that kids had first amendment rights and most seemed to think that they were advised about what content they were allowed to print in their student publications.

*So, what's the problem?* When I began thinking about the bill and when I heard from a few principals, I previously believed that the problem had to do with relevancy. This didn't seem to be a widespread problem. Although the passage of this bill would be an important victory for media advisors, I wasn't sure if it wasn't just a bill looking for a problem.

But, that was then, and this is now. With the proliferation of fake news, the assault on the media and the subtle restrictions on the free press, we need a re-look at this issue.

Now, for my over-generalizations: My experience in working in schools in with school leaders for over 40 years, is that students who take on the position of student reporters and student leaders are often quite responsible students who see the big picture and see themselves as supporters of the culture. I realize that as school leaders we need to relinquish control if we want students to have authentic experiences. But, we can't be promoting independent thinking and personalized learning plans on one hand, and then be controlling the content of their written expression on the other. We educators can, however, do all we can as leaders to assure student safety, and assure a safe, orderly, civil and positive learning environment.

And, as I recommended in my previous testimony, the best way to do this is to assure that the bill:

1. Separates post-secondary from prek-12;
2. Relies on a consistent school board policy;
3. Requires that the school administration, the media adviser and the school principal agree upon procedures for content in the form of an editorial policy;
4. Includes funding for professional development of the media adviser.

I sought out the opinions of others from the Hazing, Harassment and Bullying Prevention Council before this testimony. This is the sense of a few comments I received:

1. As it relates to free speech, one member expressed concerns that could surface in a high school student publication regarding separation of church and state issues in the public school environment;
2. A concern was raised is about potential disruptions to a safe and inclusive school climate, by members of groups that are "dominant" in a high school, at the potential expense of "marginalized" groups of students in the school. Here is where she thought the role of the student media advisor was instrumental in helping students to understand potential impacts of their speech, even if the effects might not be what those students initially "intended" by their writing or their words.
3. Another said "If schools are doing a good job of teaching respectful behavior, then no bullying or harassment will show up in student publications." Although there may be fears that student journalists would be disrespectful to other students, he thinks it is more likely some students will be more tempted to be disrespectful of adults, including political figures

and authority figures. He adds that smaller schools may not have a journalism teacher, but, he added, every teacher in every school should be teaching respectful behavior. The aim is to teach the importance of having civil discourse everywhere.

4. Still another thought that a detailed legal review was needed before this bill should advance.

We know that there is no age limitation for first amendment rights to begin. My perspective as a member of the Hazing, Harassment and Bullying Prevention Council is that this indeed may make our jobs a bit more difficult and may cause us to rethink issues.

But, as a citizen I believe that this inconvenience is well worth the investment of time because the pay-off in the form of independent-thinking students will be worth it for years to come. So, in summation, I have heard nothing that would dissuade me from wanting you to continue your dialogue of this issue. It would show our students that we are willing to both listen to them and to pay attention to their writing. Thank you.