

1 TO THE HONORABLE SENATE:

2 The Committee on Education to which was referred Senate Bill No. 18
3 entitled “An act relating to freedom of expression for students” respectfully
4 reports that it has considered the same and recommends that bill be amended
5 by striking out all after the enacting clause and inserting in lieu thereof the
6 following:

7 Sec. 1. 16 V.S.A. chapter 42 is added to read:

8 CHAPTER 42. STUDENT RIGHTS

9 § 1623. FREEDOM OF EXPRESSION

10 (a) Findings.

11 (1) The General Assembly finds that freedom of expression and
12 freedom of the press are fundamental principles in our democratic society
13 granted to every citizen of the nation by the First Amendment to the U.S.
14 constitution and to every resident of this state by Vt. Const. Ch. I, Art. 13.

15 (2) These freedoms provide all citizens, including students, with the
16 right to engage in robust and uninhibited discussion of issues.

17 (3) The General Assembly intends to ensure free speech and free press
18 protections for both high school students and students at institutions of higher
19 education in this State in order to encourage students to become educated,
20 informed, and responsible members of society.

21

1 (b) Definitions. As used in this chapter:

2 (1) “~~Student media~~ Media adviser” means an individual employed,
3 appointed, or designated by a school or its governing body to supervise or
4 provide instruction relating to school-sponsored media.

5 (2) “School” means a public school ~~or independent school~~ operating in
6 the State.

7 (3) “School-sponsored media” means any material that is prepared,
8 written, published, or broadcast by a student journalist at a school as part of a
9 school-supported program or activity and is distributed or generally made
10 available to an audience beyond the classroom in which the material is
11 produced.

12 (4) “Student journalist” means a student enrolled at a school who
13 gathers, compiles, writes, edits, photographs, records, or prepares information
14 for dissemination in school-sponsored media.

15 (5) “Student supervisor” is a student who is responsible for editing
16 school-sponsored media.

17 (c)(1) Subject to subsection (e) of this section, a student journalist may
18 exercise freedom of speech and freedom of the press in school-sponsored
19 media.

20 (2) Subdivision (1) of this subsection shall not be construed to be
21 limited by the fact that the school-sponsored media are:

1 (A) supported financially by a school or its governing body, or by use
2 of facilities owned by the school; or

3 (B) produced in conjunction with a class in which the student
4 journalist is enrolled.

5 (d)(1) Subject to subsection (e) of this section, the student supervisors of
6 school-sponsored media are responsible for determining the content of their
7 respective media.

8 (2) ~~Subdivision~~ Subject to subdivision (1) of this subsection, shall not be
9 ~~construed to prevent a media adviser from teaching~~ may teach professional
10 standards of English and journalism to student journalists.

11 (e) This section shall not be construed to authorize or protect content of
12 school-sponsored media that:

13 (1) is libelous or slanderous;

14 (2) constitutes an unwarranted invasion of privacy;

15 ~~(3) is false as to any person who is not a public figure or involved in a~~
16 ~~matter of public concern; [this repeats libel standard in (1)]~~

17 (3) may be defined as ~~obscene, gratuitous~~ profanity, threatening, or
18 intimidating;

19 (4) may be defined as ~~harassment,~~ hazing, or bullying under 16 V.S.A.
20 § 11;

21 (5) violates federal or State law; or

1 (6) creates the imminent danger of ~~inciting students to violate the law or~~
2 ~~school rules, or to materially and substantially disrupt the orderly operation of~~
3 ~~a school~~ of materially or substantially disrupting the ability of the school to
4 perform its educational mission.

5 (f) ~~Nothing in this section shall be construed to authorize the prior restraint~~
6 ~~of any school sponsored media, except as to content specified in subsection (d)~~
7 ~~of this section.~~ A school is prohibited from subjecting school-sponsored
8 media, other than that listed in subsection (e) of this section, to prior restraint.

9 A school may restrain the distribution of content in student media described in
10 subsection (e), provided that the school's administration shall have the burden
11 of providing lawful justification without undue delay. Content shall not be
12 suppressed solely because it involves political or controversial subject matter,
13 or is critical of the school or its administration.

14 (g) A student journalist may not be disciplined for acting in accordance
15 with this section.

16 (h) A media adviser may not be dismissed, suspended, disciplined,
17 reassigned, transferred, or otherwise retaliated against for:

18 (1) acting to protect a student journalist engaged in conduct protected by
19 this section; or

20 (2) refusing to infringe on conduct that is protected by this section, by
21 the first amendment to the U.S. Constitution, or by the Vermont Constitution.

1 (i) Each school or its governing body shall adopt a written policy consistent
2 with the provisions of this section.

3 (j) No expression made by students in school-sponsored media shall be
4 deemed to be an expression of school policy. ~~no~~ No school, the governing
5 body of any school, or any official, employee, or agent of any school or its
6 governing body shall be held liable in any civil or criminal action for any
7 expression made or published by students in school-sponsored media, except
8 for content listed in subsection (e) of this section to the extent that the school
9 or its governing body had actual knowledge of this content.

10 Sec. 2. 16 V.S.A. § 180 is added to read: **[CONFORMING CHANGES TO**
11 **BE MADE]**

12 § 180. STUDENT RIGHTS—FREEDOM OF EXPRESSION

13 (a) Definitions. As used in this chapter:

14 (1) “School” means a public post-secondary school that operates
15 primarily or exclusively in the State.

16 (2) “School-sponsored media” means any material that is prepared,
17 written, published, or broadcast by a student journalist at a school as part of a
18 school-supported program or activity and is distributed or generally made
19 available to an audience beyond the classroom in which the material is
20 produced.

1 (3) “Student journalist” means a student enrolled at a school who
2 gathers, compiles, writes, edits, photographs, records, or prepares information
3 for dissemination in school-sponsored media.

4 (4) “Student media adviser” means an individual employed, appointed,
5 or designated by a school or its governing body to supervise or provide
6 instruction relating to school-sponsored media.

7 (b)(1) Subject to subsection (d) of this section, a student journalist may
8 exercise freedom of speech and freedom of the press in school-sponsored
9 media.

10 (2) Subdivision (1) of this subsection shall not be construed to be
11 limited by the fact that the school-sponsored media are:

12 (A) supported financially by a school or its governing body, or by use
13 of facilities owned by the school; or

14 (B) produced in conjunction with a class in which the student
15 journalist is enrolled.

16 (c)(1) Subject to subsection (d) of this section, the student supervisors of
17 school-sponsored media are responsible for determining the content of their
18 respective media.

19 (2) Subdivision (1) of this subsection shall not be construed to prevent a
20 student media adviser from teaching professional standards of English and
21 journalism to student journalists.

1 (d) This section shall not be construed to authorize or protect content of
2 school-sponsored media that:

3 (1) is libelous or slanderous;

4 (2) constitutes an unwarranted invasion of privacy;

5 (3) violates federal or State law; or

6 (4) creates the imminent danger of inciting students to violate the law or
7 school rules, or to materially and substantially disrupt the orderly operation of
8 a school.

9 (e) Nothing in this section shall be construed to authorize the prior restraint
10 of any school-sponsored media, except as to content specified in subsection
11 (d) of this section. A school may restrain the distribution of content in student
12 media described in subsection (d), provided that the school's administration
13 shall have the burden of providing lawful justification without undue delay.

14 (f) A student journalist may not be disciplined for acting in accordance
15 with this section.

16 (g) A student media adviser may not be dismissed, suspended, disciplined,
17 reassigned, transferred, or otherwise retaliated against for:

18 (1) acting to protect a student journalist engaged in conduct protected by
19 this section; or

20 (2) refusing to infringe on conduct that is protected by this section, by
21 the first amendment to the U.S. Constitution, or by the Vermont Constitution.

1 (h) Each school or its governing body shall adopt a written policy
2 consistent with the provisions of this section.

3 (i) No expression made by students in school-sponsored media shall be
4 deemed to be an expression of school policy, and no school, the governing
5 body of any school, or any official, employee, or agent of any school or of its
6 governing body shall be held liable in any civil or criminal action for any
7 expression made or published by students in school-sponsored media.

8 Sec. 3. EFFECTIVE DATE

9 This act shall take effect on July 1, 2017.

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12 (Committee vote: _____)

13

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Senator _____

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FOR THE COMMITTEE