

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: [DIFFERENCES FROM SEC. 1  
11 ARE HIGHLIGHTED]

12 § 180. STUDENT RIGHTS—FREEDOM OF EXPRESSION

13 (a) Findings.

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

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

20 (3) The General Assembly intends to ensure free speech and free press  
21 protections for both high school students and students at institutions of higher

1 education in this State in order to encourage students to become educated,  
2 informed, and responsible members of society.

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

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

7 (2) “School” means a public **postsecondary** school operating in the  
8 State.

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

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

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

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

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

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

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

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

10           (2) Subject to subdivision (1) of this subsection, a media adviser may  
11 teach professional standards of English and journalism to student journalists.

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

14           (1) is libelous or slanderous;

15           (2) constitutes an unwarranted invasion of privacy;

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

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

20           (5) violates federal or State law; or

1           (6) creates the imminent danger of materially or substantially disrupting  
2 the ability of the school to perform its educational mission.

3           (f) ~~A school is prohibited from subjecting school sponsored media, other~~  
4 ~~than that listed in subsection (e) of this section, to prior restraint. A school~~  
5 ~~may restrain the distribution of content in student media described in~~  
6 ~~subsection (e), provided that the school's administration shall have the burden~~  
7 ~~of providing lawful justification without undue delay. Absent a showing that a~~  
8 ~~particular publication will cause direct, immediate, and irreparable harm that~~  
9 ~~would warrant the issuance of a prior restraint order against the private media,~~  
10 ~~school officials are not authorized to censor or subject to prior restraint the~~  
11 ~~content of school sponsored media.~~ Content shall not be suppressed solely  
12 because it involves political or controversial subject matter, or is critical of the  
13 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 school, the governing body of  
5 any school, or any official, employee, or agent of any school or its governing  
6 body shall be held liable in any civil or criminal action for any expression  
7 made or published by students in school-sponsored media, except for content  
8 listed in subsection (e) of this section to the extent that the school or its  
9 governing body had actual knowledge of this content.

10 Sec. 3. EFFECTIVE DATE

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

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14 (Committee vote: \_\_\_\_\_)

15

\_\_\_\_\_

16

Senator \_\_\_\_\_

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FOR THE COMMITTEE