

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 the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the 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
14 U.S. Constitution and to every resident of this State by Vt. Const. Ch. I,
15 Art. 13.

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

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

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

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

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

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

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

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

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

19 (2) Subdivision (1) of this subsection shall not be construed to be
20 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) Subject to subdivision (1) of this subsection, a media adviser may
9 teach professional standards of English and journalism to student journalists.

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

12 (1) is libelous or slanderous;

13 (2) constitutes an unwarranted invasion of privacy;

14 (3) may be defined as obscene, gratuitously profane, threatening, or
15 intimidating;

16 (4) may be defined as harassment, hazing, or bullying under 16 V.S.A.
17 § 11;

18 (5) violates federal or State law; or

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

1 (f) A school is prohibited from subjecting school-sponsored media, other
2 than that listed in subsection (e) of this section, to prior restraint. A school
3 may restrain the distribution of content in student media described in
4 subsection (e), provided that the school’s administration shall have the burden
5 of providing lawful justification without undue delay. Content shall not be
6 suppressed solely because it involves political or controversial subject matter,
7 or is critical of the school or its administration.

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

10 (h) A media adviser may not be dismissed, suspended, disciplined,
11 reassigned, transferred, [or otherwise retaliated against] for:

12 (1) taking reasonable and appropriate action to protect a student
13 journalist for engaging in conduct protected by this section; or

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

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

18 (j) No expression made by students in school-sponsored media shall be
19 deemed to be an expression of school policy. No school, the governing body
20 of any school, or any official, employee, or agent of any school or its
21 governing body shall be held liable in any civil or criminal action for any

1 expression made or published by students in school-sponsored media, except
2 for content listed in subsection (e) of this section to the extent that the school
3 or its governing body had actual knowledge of this content.

4 Sec. 2. 16 V.S.A. § 180 is added to read:

5 § 180. STUDENT RIGHTS—FREEDOM OF EXPRESSION

6 (a) Findings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (1) is libelous or slanderous;

9 (2) constitutes an unwarranted invasion of privacy;

10 (3) may be defined as obscene, gratuitously profane, threatening, or
11 intimidating;

12 (4) may be defined as harassment, hazing, or bullying under 16 V.S.A.
13 § 11;

14 (5) violates federal or State law; or

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

17 (f) Absent a showing that a particular publication will cause direct,
18 immediate, and irreparable harm that would warrant the issuance of a prior
19 restraint order against the private media, school officials are not authorized to
20 cancel or subject to prior restraint the content of school-sponsored media.

1 Content shall not be suppressed solely because it involves political or
2 controversial subject matter, or is critical of the school or its administration.

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

5 (h) A media adviser may not be dismissed, suspended, disciplined,
6 reassigned, transferred, [or otherwise retaliated against] for:

7 (1) [taking reasonable and appropriate action] to protect a student
8 journalist [for engaging] in conduct protected by this section; or

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

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

13 (j) No expression made by students in school-sponsored media shall be
14 deemed to be an expression of school policy. No school, the governing body
15 of any school, or any official, employee, or agent of any school or its
16 governing body shall be held liable in any civil or criminal action for any
17 expression made or published by students in school-sponsored media, except
18 for content listed in [subsection (f) of this section] to the extent that the school or
19 its governing body had actual knowledge of this content.

20 Sec. 3. EFFECTIVE DATE

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

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3 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE