

[First Reprint]

SENATE, No. 108

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Concerns speech rights of student journalists at public schools and public institutions of higher education.

CURRENT VERSION OF TEXT

As reported by the Assembly Education Committee on March 17, 2021, with amendments.

(Sponsorship Updated As Of: 6/24/2021)

1 AN ACT concerning student speech and supplementing chapters 36
2 and 62 of Title 18A of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. Except as otherwise provided in section 2 of this act, a public
8 school student shall have the right to exercise freedom of speech and
9 of the press.

10 b. By the ¹**[2020-2021]** first full¹ school year next following
11 the date of enactment of this act¹, each school district shall adopt a
12 written policy concerning student freedom of expression in accordance
13 with the provisions of section 2 of this act. The policy shall include
14 reasonable provisions for the time, place, and manner of student
15 expression. The policy may also include limitations on language that
16 may be defined as profane, harassing, threatening, or intimidating.

17

18 2. a. As used in this section:

19 “School-sponsored media” means any material that is prepared,
20 substantially written, published, or broadcast by a student journalist
21 at a public school, distributed or generally made available to
22 members of the student body, and prepared under the direction of a
23 student media adviser. School-sponsored media does not include
24 media intended for distribution or transmission solely in the
25 classroom in which the media is produced.

26 “Student journalist” means a public school student who gathers,
27 compiles, writes, edits, photographs, records, or prepares
28 information for dissemination in school-sponsored media.

29 “Student media adviser” means an individual employed,
30 appointed, or designated by a school district to supervise or provide
31 instruction relating to school-sponsored media.

32 b. Except as otherwise provided in subsection c. of this section,
33 a student journalist has the right to exercise freedom of speech and
34 of the press in school-sponsored media, regardless of whether the
35 media is supported financially by the school district or by use of
36 school district facilities, or produced in conjunction with a class in
37 which the student is enrolled. Subject to subsection c. of this
38 section, a student journalist is responsible for determining the news,
39 opinion, feature, and advertising content of school-sponsored
40 media. This subsection shall not be construed to prevent a student
41 media adviser from teaching professional standards of English and
42 journalism to student journalists.

43 c. This section does not authorize or protect expression by a
44 student that:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AED committee amendments adopted March 17, 2021.

- 1 (1) is libelous or slanderous;
- 2 (2) constitutes an unwarranted invasion of privacy;
- 3 (3) violates federal or State law; or
- 4 (4) so incites students as to create a clear and present danger of
- 5 the commission of an unlawful act, the violation of school district
- 6 policies, or the material and substantial disruption of the orderly
- 7 operation of the school.

8 d. A school district shall not authorize any prior restraint of
9 any school-sponsored media except for the types of expression
10 described in subsection c. of this section. School officials shall
11 have the burden of showing justification without undue delay prior
12 to a limitation of student expression under this section.

13 e. A school district shall not sanction a student operating as an
14 independent journalist.

15 f. An employee of a school district shall not be dismissed,
16 suspended, disciplined, reassigned, transferred, or otherwise
17 retaliated against solely for acting to protect a student engaged in
18 the conduct authorized under this section, or refusing to infringe
19 upon conduct that is protected by this section, the First Amendment
20 to the United States Constitution, or paragraph 6 of Article I of the
21 New Jersey Constitution.

22

23 3. a. As used in this section:

24 "School-sponsored media" means any material that is prepared,
25 substantially written, published, or broadcast by a student journalist
26 at a public institution of higher education, distributed or generally
27 made available to members of the student body, and prepared under
28 the direction of a student media adviser. School-sponsored media
29 does not include media intended for distribution or transmission
30 solely in the classroom in which the media is produced.

31 "Student journalist" means a student at a public institution of
32 higher education who gathers, compiles, writes, edits, photographs,
33 records, or prepares information for dissemination in school-
34 sponsored media.

35 "Student media adviser" means an individual employed,
36 appointed, or designated by a public institution of higher education
37 to supervise or provide instruction relating to school-sponsored
38 media.

39 b. Except as otherwise provided in subsection c. of this section,
40 a student journalist has the right to exercise freedom of speech and
41 of the press in school-sponsored media, regardless of whether the
42 media is supported financially by the public institution of higher
43 education or by use of institution facilities, or produced in
44 conjunction with a course in which the student is enrolled. Subject
45 to subsection c. of this section, a student journalist is responsible
46 for determining the news, opinion, feature, and advertising content
47 of school-sponsored media. This subsection shall not be construed

1 to prevent a student media adviser from teaching professional
2 standards of English and journalism to student journalists.

3 c. This section does not authorize or protect expression by a
4 student that:

- 5 (1) is libelous or slanderous;
- 6 (2) constitutes an unwarranted invasion of privacy;
- 7 (3) violates federal or State law; or
- 8 (4) so incites students as to create a clear and present danger of
9 the commission of an unlawful act, the violation of policies of the
10 public institution of higher education, or the material and
11 substantial disruption of the orderly operation of the institution.

12 d. An employee of a public institution of higher education shall
13 not be dismissed, suspended, disciplined, reassigned, transferred, or
14 otherwise retaliated against solely for acting to protect a student
15 engaged in the conduct authorized under this section, or refusing to
16 infringe upon conduct that is protected by this section, the First
17 Amendment to the United States Constitution, or paragraph 6 of
18 Article I of the New Jersey Constitution.

19

20 4. This act shall take effect immediately.