
SUBSTITUTE SENATE BILL 5064

State of Washington

65th Legislature

2017 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by Senators Fain, Rolfes, Rivers, Pedersen, Ranker, Mullet, Billig, Becker, Braun, King, Darneille, Chase, Carlyle, and Palumbo)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to the freedom of expression rights of students
2 at public schools and institutions of higher education; adding a new
3 section to chapter 28A.600 RCW; adding a new section to chapter
4 28B.10 RCW; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.600
7 RCW to read as follows:

8 (1) Student editors of school-sponsored media are responsible for
9 determining the news, opinion, feature, and advertising content of
10 the media subject to the limitations of subsection (2) of this
11 section. This subsection does not prevent a student media adviser
12 from teaching professional standards of English and journalism to the
13 student journalists. A student media adviser may not be terminated,
14 transferred, removed, or otherwise disciplined for complying with
15 this section.

16 (2) School officials may only prohibit student expression that
17 is:

18 (a) Libelous or slanderous;

19 (b) An unwarranted invasion of privacy;

1 (c) Obscene or indecent pursuant to the federal communications
2 act or any rule or regulation of the federal communications
3 commission;

4 (d) Inciting of students so as to create a clear and present
5 danger of:

6 (i) The commission of unlawful acts on school premises;

7 (ii) The violation of lawful school regulations; or

8 (iii) The material and substantial disruption of the orderly
9 operation of the school. A school official must base a forecast of
10 material and substantial disruption on specific facts, including past
11 experience in the school and current events influencing student
12 behavior, and not on undifferentiated fear or apprehension; or

13 (e) In violation of applicable federal communication commission
14 rules or regulations.

15 (3) Political expression by students in school-sponsored media
16 shall not be deemed the use of public funds for political purposes,
17 for purposes of the prohibitions of RCW 42.17A.550.

18 (4) Any student, individually or through his or her parent or
19 guardian, enrolled in a public high school may file an appeal of any
20 alleged violation of subsection (1) of this section pursuant to
21 chapter 28A.645 RCW.

22 (5) Expression made by students in school-sponsored media is not
23 necessarily the expression of school policy. Neither a school
24 official nor the governing board of the school or school district may
25 be held responsible in any civil or criminal action for any
26 expression made or published by students in school-sponsored media.

27 (6) Each school district that includes a high school shall adopt
28 a written student freedom of expression policy in accordance with
29 this section. The policy may include reasonable provisions for the
30 time, place, and manner of student expression.

31 (7) The definitions in this subsection apply throughout this
32 section unless the context clearly requires otherwise.

33 (a) "School-sponsored media" means any matter that is prepared,
34 substantially written, published, or broadcast by student
35 journalists, that is distributed or generally made available, either
36 free of charge or for a fee, to members of the student body, and that
37 is prepared under the direction of a student media adviser. "School-
38 sponsored media" does not include media that is intended for
39 distribution or transmission solely in the classrooms in which they
40 are produced.

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

4 (c) "Student media adviser" means a person who is employed,
5 appointed, or designated by the school to supervise, or provide
6 instruction relating to, school-sponsored media.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.10
8 RCW to read as follows:

9 (1) Students at institutions of higher education have the right
10 to exercise freedom of speech and of the press in school-sponsored
11 media, whether or not the media are supported financially by the
12 school or by use of school facilities, or are produced in conjunction
13 with a class. All school-sponsored media produced primarily by
14 students at an institution of higher education are public forums for
15 expression by the student journalists and student editors at the
16 particular institution. Student media, whether school-sponsored or
17 nonschool sponsored, are not subject to mandatory prior review by
18 school officials.

19 (2) Student editors of school-sponsored media are responsible for
20 determining the news, opinion, feature, and advertising content of
21 the media. This subsection does not prevent a student media adviser
22 from teaching professional standards of English and journalism to the
23 student journalists. A student media adviser may not be terminated,
24 transferred, removed, or otherwise disciplined for refusing to
25 suppress the protected free expression rights of student journalists.

26 (3) Nothing in this section may be interpreted to authorize
27 expression by students that:

28 (a) Is libelous or slanderous;

29 (b) Constitutes an unwarranted invasion of privacy;

30 (c) Violates the federal communications act or any rule or
31 regulation of the federal communications commission; or

32 (d) So incites students as to create a clear and present danger
33 of:

34 (i) The commission of unlawful acts on school premises;

35 (ii) The violation of lawful school regulations; or

36 (iii) The material and substantial disruption of the orderly
37 operation of the school. A school official must base a forecast of
38 material and substantial disruption on specific facts, including past

1 experience in the school and current events influencing student
2 behavior, and not on undifferentiated fear or apprehension.

3 (4) Any student enrolled in an institution of higher education
4 may commence a civil action to obtain appropriate injunctive and
5 declaratory relief as determined by a court for a violation of
6 subsection (1) of this section by the institution of higher
7 education. Upon a motion, a court may award reasonable attorneys'
8 fees to a prevailing plaintiff in a civil action brought under this
9 section.

10 (5) Expression made by students in school-sponsored media is not
11 the expression of school policy. Neither a school official nor the
12 governing board of any institution of higher education may be held
13 responsible in any civil or criminal action for any expression made
14 or published by students in school-sponsored media unless school
15 officials or the governing board have interfered with or altered the
16 content of the student expression.

17 (6) The definitions in this subsection apply throughout this
18 section unless the context clearly requires otherwise.

19 (a) "School-sponsored media" means any matter that is prepared,
20 substantially written, published, or broadcast by student
21 journalists, that is distributed or generally made available, either
22 free of charge or for a fee, to members of the student body, and that
23 is prepared under the direction of a student media adviser. "School-
24 sponsored media" does not include media that is intended for
25 distribution or transmission solely in the classrooms in which they
26 are produced.

27 (b) "Student journalist" means a student who gathers, compiles,
28 writes, edits, photographs, records, or prepares information for
29 dissemination in school-sponsored media.

30 (c) "Student media adviser" means a person who is employed,
31 appointed, or designated by the school to supervise, or provide
32 instruction relating to, school-sponsored media.

33 NEW SECTION. **Sec. 3.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

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