

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5064

65th Legislature
2018 Regular Session

Passed by the Senate March 5, 2018
Yeas 45 Nays 4

President of the Senate

Passed by the House March 2, 2018
Yeas 91 Nays 6

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5064** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5064

AS AMENDED BY THE HOUSE

Passed Legislature - 2018 Regular Session

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; creating a new section; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that freedom of
7 expression through school-sponsored media is a fundamental principle
8 in our democratic society granted by the First Amendment to the
9 United States Constitution and by Article I, section 5 of the state
10 Constitution. It is the intent of the legislature to protect freedom
11 of expression through school-sponsored media for both public school
12 students and students at public institutions of higher education in
13 this state in order to encourage students to become educated,
14 informed, and responsible members of society.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.600
16 RCW to read as follows:

17 (1) Student editors of school-sponsored media are responsible for
18 determining the news, opinion, feature, and advertising content of
19 the media subject to the limitations of subsection (2) of this
20 section. This subsection does not prevent a student media adviser

1 from teaching professional standards of English and journalism to the
2 student journalists. A student media adviser may not be terminated,
3 transferred, removed, or otherwise disciplined for complying with
4 this section.

5 (2) School officials may only prohibit student expression that:

6 (a) Is libelous or slanderous;

7 (b) Is an unwarranted invasion of privacy;

8 (c) Violates federal or state laws, rules, or regulations;

9 (d) Incites students to violate federal or state laws, rules, or
10 regulations;

11 (e) Violates school district policy or procedure related to
12 harassment, intimidation, or bullying pursuant to RCW 28A.300.285 or
13 the prohibition on discrimination pursuant to RCW 28A.642.010;

14 (f) Inciting of students so as to create a clear and present
15 danger of:

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

17 (ii) The violation of lawful school district policy or procedure;

18 or

19 (iii) The material and substantial disruption of the orderly
20 operation of the school. A school official must base a forecast of
21 material and substantial disruption on specific facts, including past
22 experience in the school and current events influencing student
23 behavior, and not on undifferentiated fear or apprehension; or

24 (g) Is in violation of the federal communications act or
25 applicable federal communication commission rules or regulations.

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

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

33 (5) Expression made by students in school-sponsored media is not
34 necessarily the expression of school policy. Neither a school
35 official nor the governing board of the school or school district may
36 be held responsible in any civil or criminal action for any
37 expression made or published by students in school-sponsored media.

38 (6) Each school district that includes a high school shall adopt
39 a written student freedom of expression policy in accordance with

1 this section. The policy may include reasonable provisions for the
2 time, place, and manner of student expression.

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

5 (a) "School-sponsored media" means any matter that is prepared,
6 substantially written, published, or broadcast by student
7 journalists, that is distributed or generally made available, either
8 free of charge or for a fee, to members of the student body, and that
9 is prepared under the direction of a student media adviser. "School-
10 sponsored media" does not include media that is intended for
11 distribution or transmission solely in the classrooms in which they
12 are produced.

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

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

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.10
20 RCW to read as follows:

21 (1) Students at institutions of higher education have the right
22 to exercise freedom of speech and of the press in school-sponsored
23 media, whether or not the media are supported financially by the
24 school or by use of school facilities, or are produced in conjunction
25 with a class. All school-sponsored media produced primarily by
26 students at an institution of higher education are public forums for
27 expression by the student journalists and student editors at the
28 particular institution. Student media, whether school-sponsored or
29 nonschool sponsored, are not subject to mandatory prior review by
30 school officials.

31 (2) Student editors of school-sponsored media are responsible for
32 determining the news, opinion, feature, and advertising content of
33 the media. This subsection does not prevent a student media adviser
34 from teaching professional standards of English and journalism to the
35 student journalists. A student media adviser may not be terminated,
36 transferred, removed, or otherwise disciplined for refusing to
37 suppress the protected free expression rights of student journalists.

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

1 (a) Is libelous or slanderous;
2 (b) Constitutes an unwarranted invasion of privacy;
3 (c) Violates the federal communications act or any rule or
4 regulation of the federal communications commission; or
5 (d) So incites students as to create a clear and present danger
6 of:
7 (i) The commission of unlawful acts on school premises;
8 (ii) The violation of lawful school regulations, policies, or
9 procedures; or
10 (iii) The material and substantial disruption of the orderly
11 operation of the school. A school official must base a forecast of
12 material and substantial disruption on specific facts, including past
13 experience in the school and current events influencing student
14 behavior, and not on undifferentiated fear or apprehension.
15 (4) Any student enrolled in an institution of higher education
16 may commence a civil action to obtain appropriate injunctive and
17 declaratory relief as determined by a court for a violation of
18 subsection (1) of this section by the institution of higher
19 education. Upon a motion, a court may award reasonable attorneys'
20 fees to a prevailing plaintiff in a civil action brought under this
21 section.
22 (5) Expression made by students in school-sponsored media is not
23 the expression of school policy. Neither a school official nor the
24 governing board of any institution of higher education may be held
25 responsible in any civil or criminal action for any expression made
26 or published by students in school-sponsored media unless school
27 officials or the governing board have interfered with or altered the
28 content of the student expression.
29 (6) The definitions in this subsection apply throughout this
30 section unless the context clearly requires otherwise.
31 (a) "School-sponsored media" means any matter that is prepared,
32 substantially written, published, or broadcast by student
33 journalists, that is distributed or generally made available, either
34 free of charge or for a fee, to members of the student body, and that
35 is prepared under the direction of a student media adviser. "School-
36 sponsored media" does not include media that is intended for
37 distribution or transmission solely in the classrooms in which they
38 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. 4.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

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