

CERTIFICATION OF ENROLLMENT  
**SUBSTITUTE SENATE BILL 5064**

Chapter 125, Laws of 2018

65th Legislature  
2018 Regular Session

STUDENT FREEDOM OF EXPRESSION

EFFECTIVE DATE: June 7, 2018

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

CYRUS HABIB

**President of the Senate**

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

FRANK CHOPP

**Speaker of the House of Representatives**

Approved March 21, 2018 11:11 AM

JAY INSLEE

**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.

BRAD HENDRICKSON

**Secretary**

FILED

March 23, 2018

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5064**

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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.

Passed by the Senate March 5, 2018.

Passed by the House March 2, 2018.

Approved by the Governor March 21, 2018.

Filed in Office of Secretary of State March 23, 2018.

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