
SENATE BILL 5064

State of Washington

65th Legislature

2017 Regular Session

By Senators Fain, Rolfes, Rivers, Pedersen, Ranker, Mullet, Billig, Becker, Braun, King, Darneille, Chase, Carlyle, and Palumbo

Read first time 01/11/17. Referred to Committee on Early Learning & K-12 Education.

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) Except as provided in subsection (3) of this section, public
9 high school students have the right to exercise freedom of speech and
10 of the press in school-sponsored media, whether or not the media are
11 supported financially by the school or by use of school facilities,
12 or are produced in conjunction with a class.

13 (2) Student editors of school-sponsored media are responsible for
14 determining the news, opinion, feature, and advertising content of
15 the media subject to the limitations of subsection (3) of this
16 section. This subsection does not prevent a student media adviser
17 from teaching professional standards of English and journalism to the
18 student journalists. A student media adviser may not be terminated,
19 transferred, removed, or otherwise disciplined for refusing to
20 suppress the protected free expression rights of student journalists.

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

3 (a) Is libelous or slanderous;

4 (b) Constitutes an unwarranted invasion of privacy;

5 (c) Violates the federal communications act or any rule or
6 regulation of the federal communications commission; or

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

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

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

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

16 (4) Any student, individually or through his or her parent or
17 guardian, enrolled in a public high school may commence a civil
18 action to obtain appropriate injunctive and declaratory relief as
19 determined by a court for a violation of subsection (1) of this
20 section. Upon a motion, a court may award reasonable attorneys' fees
21 to a prevailing plaintiff in a civil action brought under this
22 section.

23 (5) Expression made by students in school-sponsored media is not
24 the expression of school policy. Neither a school official nor the
25 governing board of the school or school district may be held
26 responsible in any civil or criminal action for any expression made
27 or published by students in school-sponsored media unless school
28 officials or the governing board have interfered with or altered the
29 content of the student expression.

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

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

36 (a) "School-sponsored media" means any matter that is prepared,
37 substantially written, published, or broadcast by student
38 journalists, that is distributed or generally made available, either
39 free of charge or for a fee, to members of the student body, and that
40 is prepared under the direction of a student media adviser. "School-

1 sponsored media" does not include media that is intended for
2 distribution or transmission solely in the classrooms in which they
3 are produced.

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

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

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

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

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

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

31 (a) Is libelous or slanderous;

32 (b) Constitutes an unwarranted invasion of privacy;

33 (c) Violates the federal communications act or any rule or
34 regulation of the federal communications commission; or

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

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

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

1 (iii) The material and substantial disruption of the orderly
2 operation of the school. A school official must base a forecast of
3 material and substantial disruption on specific facts, including past
4 experience in the school and current events influencing student
5 behavior, and not on undifferentiated fear or apprehension.

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

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

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

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

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

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

36 NEW SECTION. **Sec. 3.** If any provision of this act or its
37 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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