

JAN 22 2021

A BILL FOR AN ACT

RELATING TO STUDENT JOURNALISM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This Act shall be known and may be cited as the
2 Hawaii Student Journalism Protection Act.

3 SECTION 2. The legislature finds that states may enhance
4 the protections guaranteed by the First Amendment of the United
5 States Constitution through state laws and regulations. The
6 legislature further finds that student journalists attending
7 Hawaii public schools and colleges need additional protection
8 against censorship, and that advisors need additional
9 protections against retaliation for refusing to illegally censor
10 student journalists.

11 The purpose of this Act is to establish the Hawaii Student
12 Journalism Protection Act in order to:

- 13 (1) Allow student journalists at public schools and
14 colleges to exercise freedom of speech and freedom of
15 the press in school-sponsored media; and
16 (2) Protect advisors from retaliation for refusing to
17 infringe upon student press freedom.



1 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§302A- Student journalists; school sponsored media.

5 (a) A student journalist shall be allowed to exercise freedom
6 of speech and freedom of the press in school-sponsored media and
7 shall not be disciplined for acting in accordance with this
8 section. A student journalist is responsible for determining
9 the news, opinion, feature, and advertising content of school-
10 sponsored media.

11 (b) Nothing in this section shall be construed to prevent
12 a student media advisor from teaching professional standards of
13 English language use and journalism to student journalists or
14 determining grades and credit for such purposes.

15 (c) Nothing in this section shall be construed to
16 authorize or protect student expression that:

- 17 (1) Is libelous or slanderous;
18 (2) Constitutes an unwarranted invasion of privacy;
19 (3) Violates state or federal law;
20 (4) Is obscene; or



1 (5) So incites students as to create a clear and present
2 danger of the commission of an unlawful act, the
3 violation of unlawful school or board policies, or the
4 material and substantial disruption of the orderly
5 operation of the school; provided that the
6 determination of a risk of material and substantial
7 disruption shall be based upon specific facts
8 including past experience in the school and current
9 events influencing student behavior, and not on
10 undifferentiated fear or apprehension.

11 (d) There shall be no prior constraint of material
12 prepared for school-sponsored media except as provided in
13 subsection (c). School officials shall have the burden of
14 showing justification without undue delay prior to a limitation
15 of student expression under this section and shall establish a
16 reasonable period of review for material prepared for school-
17 sponsored media. If the period of review elapses without a
18 decision, the material prepared for school-sponsored media shall
19 be considered authorized.

20 (e) No publication or other expression of material by
21 student journalists in the exercise of rights under this section



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1 shall be deemed to be an expression of the school, board, or
2 department. No state agency, member of the board, officer of
3 the department, or employee of any agency or the board shall be
4 held responsible in any civil or criminal action for the
5 publication or other expression of material by student
6 journalists in the exercise of rights under this section.

7 (f) A student media advisor shall not be dismissed,
8 suspended, disciplined, reassigned, transferred, or otherwise
9 retaliated against for:

10 (1) Acting to protect a student journalist engaged in
11 conduct protected under this section or the First
12 Amendment to the United States Constitution; or

13 (2) Refusing to infringe on conduct that is protected by
14 this section or the First Amendment to the United
15 States Constitution.

16 (g) The board shall adopt a written policy for the
17 exercise of the right of student journalists to freedom of
18 speech and the press in school-sponsored media in accordance
19 with this section; provided that the policy shall include:

20 (1) Reasonable provisions for the time, place, and manner
21 of distribution of student expression; and



1 (2) A procedure for the timely appeal of decisions made
2 pursuant to this section.

3 (h) For the purposes of this section:

4 "School-sponsored media" means any material:

5 (1) Prepared, written, published, or broadcast in any
6 media by a student journalist at a school;

7 (2) Distributed or generally made available, either free
8 of charge or for a fee, to members of the student
9 body; and

10 (3) Prepared under the direction of a student media
11 advisor, regardless of whether the material is
12 supported financially by the school or by use of
13 facilities of the public school or produced in
14 conjunction with a class for which the student is
15 enrolled.

16 "School-sponsored media" does not include material intended for
17 distribution or transmission for classroom purposes only.

18 "Student journalist" means a student who determines,
19 gathers, compiles, writes, edits, photographs, records, or
20 prepares information or advertising for inclusion in school-
21 sponsored media.



1 "Student media advisor" means an individual employed,
2 appointed, or designated by a school to supervise or provide
3 instruction relating to school-sponsored media."

4 SECTION 4. Chapter 304A, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows

7 "§304A- Student journalists; university sponsored
8 media. (a) A student journalist shall be allowed to exercise
9 freedom of speech and freedom of the press in university-
10 sponsored media and shall not be disciplined for acting in
11 accordance with this section. A student journalist is
12 responsible for determining the news, opinion, feature, and
13 advertising content of university-sponsored media.

14 (b) Nothing in this section shall be construed to prevent
15 a student media advisor from teaching professional standards of
16 English language use and journalism to student journalists or
17 determining grades and credit for such purposes.

18 (c) Nothing in this section shall be construed to
19 authorize or protect student expression that:

20 (1) Is libelous or slanderous;

21 (2) Constitutes an unwarranted invasion of privacy;



1 (3) Violates state or federal law;
2 (4) Is obscene; or
3 (5) So incites students as to create a clear and present
4 danger of the commission of an unlawful act, the
5 violation of unlawful university policies, or the
6 material and substantial disruption of the orderly
7 operation of the university; provided that the
8 determination of a risk of material and substantial
9 disruption shall be based upon specific facts
10 including past experience in the university and
11 current events influencing student behavior, and not
12 on undifferentiated fear or apprehension.

13 (d) There shall be no prior constraint of material
14 prepared for university-sponsored media except as provided in
15 subsection (c). University officials shall have the burden of
16 showing justification without undue delay prior to a limitation
17 of student expression under this section and shall establish a
18 reasonable period of review for material prepared for
19 university-sponsored media. If the period of review elapses
20 without a decision, the material prepared for university-
21 sponsored media shall be considered authorized.



1 (e) No publication or other expression of material by
2 student journalists in the exercise of rights under this section
3 shall be deemed to be an expression of the university or the
4 board of regents. No state agency, member of the board of
5 regents, officer of the department, or employee of any agency or
6 the board of regents shall be held responsible in any civil or
7 criminal action for the publication or other expression of
8 material by student journalists in the exercise of rights under
9 this section.

10 (f) A student media advisor shall not be dismissed,
11 suspended, disciplined, reassigned, transferred, or otherwise
12 retaliated against for:

13 (1) Acting to protect a student journalist engaged in
14 conduct protected under this section or the First
15 Amendment to the United States Constitution; or

16 (2) Refusing to infringe on conduct that is protected by
17 this section or the First Amendment to the United
18 States Constitution.

19 (g) The board of regents shall adopt a written policy for
20 the exercise of the right of student journalists to freedom of



1 speech and the press in university-sponsored media in accordance
2 with this section; provided that the policy shall include:

3 (1) Reasonable provisions for the time, place, and manner
4 of distribution of student expression; and

5 (2) A procedure for the timely appeal of decisions made
6 pursuant to this section.

7 (h) For the purposes of this section:

8 "Student journalist" means a student who determines,
9 gathers, compiles, writes, edits, photographs, records, or
10 prepares information or advertising for inclusion in university-
11 sponsored media.

12 "Student media advisor" means an individual employed,
13 appointed, or designated by the university to supervise or
14 provide instruction relating to university-sponsored media.

15 "University-sponsored media" means any material:

16 (1) Prepared, written, published, or broadcast in any
17 media by a student journalist in the university
18 system;

19 (2) Distributed or generally made available, either free
20 of charge or for a fee, to members of the student
21 body; and



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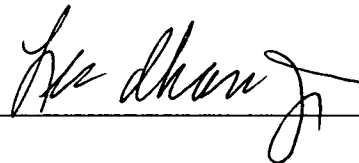
1 (3) Prepared under the direction of a student media
2 advisor, regardless of whether the material is
3 supported financially by the school or by use of
4 facilities of the university or produced in
5 conjunction with a class for which the student is
6 enrolled.

7 "University-sponsored media" does not include material intended
8 for distribution or transmission for classroom purposes only."

9 SECTION 5. New statutory material is underscored.

10 SECTION 6. This Act shall take effect upon its approval.

11

INTRODUCED BY: 



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Report Title:

Student journalism; School-sponsored Media; University-sponsored Media; Freedom of Press

Description:

Establishes freedom of press protections for student journalists producing school-sponsored media or university-sponsored media unless subject to certain exceptions.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

