

1 AN ACT relating to student journalist freedom.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) The General Assembly hereby finds that:*

6 *(a) Freedom of expression through school-sponsored media is a fundamental*
7 *principle in our democratic society granted by the First Amendment to the*
8 *United States Constitution and Section 1 and Section 8 of the Constitution*
9 *of Kentucky;*

10 *(b) A robust and free student press is critical to the development of informed*
11 *and civic-minded students;*

12 *(c) Student journalists are denied the right to free expression guaranteed to*
13 *other students, and their work censored when the speech of other students*
14 *would not be similarly infringed; and*

15 *(d) Teachers who defend their students' freedom of expression do so at great*
16 *professional risk.*

17 *(2) It is the intent of the General Assembly to restore and protect freedom of*
18 *expression through school-sponsored media for public high school students and*
19 *the jobs of the teachers who appropriately support these rights, in order to*
20 *encourage students to become educated, informed, and responsible members of*
21 *society.*

22 *(3) For the purposes of this section:*

23 *(a) "School-sponsored media" means any material that is prepared,*
24 *substantially written, published, or broadcast in any media by a student*
25 *journalist at a public high school under the direction of a student media*
26 *advisor and distributed or generally made available to members of the*
27 *student body and does not include media intended for distribution or*

1 transmission for classroom purposes only;

2 (b) "Student journalist" means a public high school student who gathers,
3 compiles, writes, edits, photographs, records, or prepares information for
4 inclusion in school-sponsored media; and

5 (c) "Student media advisor" means an individual employed, appointed, or
6 designated at a public high school to supervise or provide instruction
7 relating to school-sponsored media.

8 (4) Except as provided in subsection (5) of this section, a student journalist has the
9 right to exercise freedom of speech and of the press in school-sponsored media
10 regardless of whether the media is supported financially by the school, uses the
11 facilities of the school, or is produced in conjunction with a course or class in
12 which the student is enrolled. A student journalist is responsible for determining
13 the news, opinion, feature, and advertising content of the school-sponsored
14 media. Student media advisors may teach professional standards of English and
15 journalism to student journalists, consistent with this section.

16 (5) This section does not authorize or protect expression by a student journalist that:

17 (a) Is libelous or slanderous;

18 (b) Constitutes an unwarranted invasion of privacy;

19 (c) Is obscene;

20 (d) Violates federal law;

21 (e) Publishes information federal or state law requires the school district to
22 maintain confidential; or

23 (f) So incites students as to create a clear and present danger of the:

24 1. Commission of an unlawful act;

25 2. Violation of a lawful school district policy; or

26 3. Material and substantial disruption of the orderly operation of the
27 school determined from specific facts, including past experience in the

1 school and current events influencing student behavior and not on an
2 undifferentiated fear or apprehension.

3 (6) There shall be no prior restraint of material prepared for school-sponsored media
4 except insofar as the material violates the standards of subsection (5) of this
5 section. School officials shall have the burden of showing prior justification for
6 the limitation of student journalist expression under this section and afford
7 students a timely opportunity for an appeal.

8 (7) Nothing in this section shall be construed as authorizing the publication of an
9 advertisement in school-sponsored media that promotes the purchase of a product
10 or service that is unlawful for purchase or use by minors.

11 (8) A student journalist shall not be disciplined for acting in accordance with
12 subsection (4) of this section.

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

15 (a) Refusing to infringe on conduct that is protected by this section, the First
16 Amendment to the United States Constitution, or Section 1 or Section 8 of
17 the Constitution of Kentucky; or

18 (b) Acting to protect a student journalist engaged in permissible conduct
19 protected under this section, the First Amendment to the United States
20 Constitution, or Section 1 or Section 8 of the Constitution of Kentucky.

21 (10) Each local school board shall adopt a written policy:

22 (a) Providing for student journalists' exercise of freedom of speech and press in
23 school-sponsored media in accordance with this section;

24 (b) Providing reasonable provisions for the time, place, and manner of
25 distribution of school-sponsored media; and

26 (c) Establishing a procedure that allows for a timely appeal of decisions to the
27 school-based decision making council and ultimately to the local school

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board.

(11) No expression made by student journalists in the exercise of free speech or free press rights under this section shall be deemed to be an expression of school policy and no school official or school district shall be held responsible in any civil or criminal action for any expression made or published by student journalists.

(12) Any student journalist, individually or through a parent or guardian, or student media advisor may institute proceedings for injunctive or declaratory relief in any court of competent jurisdiction to enforce the rights provided in this section. Nothing in this section shall be construed to create any private action on behalf of a student other than to seek injunctive relief allowing the publication of the speech in question. A court may award reasonable attorneys' fees to a plaintiff that substantially prevails.