

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 Sections 1 and 8 of the Constitution of*
9 *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 is censored when the speech of other students*
14 *would not be similarly infringed upon; and*

15 (d) *Student media advisors and other teachers who defend their students'*
16 *freedom of expression do so at great 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 *safeguard the jobs of the student media advisors who appropriately support these*
20 *rights in order to encourage students to become educated, informed, and*
21 *responsible members of society.*

22 (3) *As used in this section:*

23 (a) *"School-sponsored media":*

24 1. *Means any material that is prepared, substantially written, published,*
25 *or broadcast in any media by a student journalist at a public high*
26 *school under the direction of a student media advisor and distributed*
27 *or generally made available to members of the student body; and*

1 2. Does not include media intended for distribution or transmission for
2 classroom purposes only;

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

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

9 (4) (a) Except as provided in subsection (5) of this section, a student journalist has
10 the right to exercise freedom of speech and of the press in school-sponsored
11 media regardless of whether the media is supported financially by the
12 school, uses the facilities of the school, or is produced in conjunction with a
13 course or class in which the student journalist is enrolled.

14 (b) A student journalist is responsible for determining the news, opinion,
15 feature, and advertising content of the school-sponsored media.

16 (c) Student media advisors may teach professional standards of English and
17 journalism to student journalists consistent with this section.

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

19 (a) Is libelous or slanderous;

20 (b) Constitutes an unwarranted invasion of privacy;

21 (c) Is obscene;

22 (d) Violates federal law;

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

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

26 1. Commission of an unlawful act;

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

1 3. Material and substantial disruption of the orderly operation of the
2 school determined from specific facts, including past experience in the
3 school and current events influencing student behavior, and not on an
4 undifferentiated fear or apprehension.

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

10 (7) This section shall not be construed as authorizing the publication of an
11 advertisement in school-sponsored media that promotes the purchase of a product
12 or service that is unlawful for purchase or use by minors.

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

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

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

20 (b) Undertaking acts compliant with this section; or

21 (c) Acting to protect a student journalist engaged in permissible conduct
22 protected under this section, the First Amendment to the United States
23 Constitution, or Section 1 or 8 of the Constitution of Kentucky.

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

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

27 (b) Providing reasonable provisions for the time, place, and manner of

1 distribution of school-sponsored media; and

2 (c) Establishing a procedure that allows for a timely appeal of decisions to the
3 school-based decision making council and ultimately to the local school
4 board.

5 (11) An expression made by a student journalist in the exercise of free speech or free
6 press rights under this section shall not be deemed to be an expression of school
7 policy, and a school official or school district shall not be held responsible in any
8 civil or criminal action for any expression made or published by a student
9 journalist.

10 (12) Any student journalist, individually or through a parent or guardian, or student
11 media advisor may institute proceedings for injunctive or declaratory relief in any
12 court of competent jurisdiction to enforce the rights provided in this section. This
13 section shall not be construed to create any private action on behalf of a student
14 other than to seek injunctive relief allowing the publication of the school-
15 sponsored media in question. A court may award reasonable attorney's fees to a
16 plaintiff that substantially prevails.

17 ➔Section 2. This Act may be cited as the New Voices Act.