

CHAPTER 309

AN ACT concerning student speech and supplementing chapters 36 and 62 of Title 18A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.18A:36-44 School student's right to freedom of speech and press.

1. a. Except as otherwise provided in section 2 of this act, a public school student shall have the right to exercise freedom of speech and of the press.

b. By the first full school year next following the date of enactment of this act, each school district shall adopt a written policy concerning student freedom of expression in accordance with the provisions of section 2 of this act. The policy shall include reasonable provisions for the time, place, and manner of student expression. The policy may also include limitations on language that may be defined as profane, harassing, threatening, or intimidating.

C.18A:36-45 Definitions relative to student's right to freedom of speech and press.

2. a. As used in this section:

"School-sponsored media" means any material that is prepared, substantially written, published, or broadcast by a student journalist at a public school, distributed or generally made available to members of the student body, and prepared under the direction of a student media adviser. School-sponsored media does not include media intended for distribution or transmission solely in the classroom in which the media is produced.

"Student journalist" means a public school student who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

"Student media adviser" means an individual employed, appointed, or designated by a school district to supervise or provide instruction relating to school-sponsored media.

b. Except as otherwise provided in subsection c. of this section, a student journalist has the right to exercise freedom of speech and of the press in school-sponsored media, regardless of whether the media is supported financially by the school district or by use of school district facilities, or produced in conjunction with a class in which the student is enrolled. Subject to subsection c. of this section, a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. This subsection shall not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists.

c. This section does not authorize or protect expression by a student that:

- (1) is libelous or slanderous;
- (2) constitutes an unwarranted invasion of privacy;
- (3) is profane or obscene;
- (4) violates federal or State law; or

(5) so incites students as to create a clear and present danger of the commission of an unlawful act, the violation of school district policies, or the material and substantial disruption of the orderly operation of the school.

d. A school district shall not authorize any prior restraint of any school-sponsored media except for the types of expression described in subsection c. of this section. When a school official determines that the restraint of student expression is necessary, the school official shall simultaneously identify the provision within subsection c. of this section under which the limitation of student expression is appropriate.

e. A school district shall not sanction a student operating as an independent journalist.

f. An employee of a school district shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a student engaged in the conduct authorized under this section, or refusing to infringe upon conduct that is protected by this section, the First Amendment to the United States Constitution, or paragraph 6 of Article I of the New Jersey Constitution.

C.18A:62-67 Definitions relative to student's right to freedom of speech and press.

3. a. As used in this section:

“School-sponsored media” means any material that is prepared, substantially written, published, or broadcast by a student journalist at a public institution of higher education, distributed or generally made available to members of the student body, and prepared under the direction of a student media adviser. School-sponsored media does not include media intended for distribution or transmission solely in the classroom in which the media is produced.

“Student journalist” means a student at a public institution of higher education who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

“Student media adviser” means an individual employed, appointed, or designated by a public institution of higher education to supervise or provide instruction relating to school-sponsored media.

b. Except as otherwise provided in subsection c. of this section, a student journalist has the right to exercise freedom of speech and of the press in school-sponsored media, regardless of whether the media is supported financially by the public institution of higher education or by use of institution facilities, or produced in conjunction with a course in which the student is enrolled. Subject to subsection c. of this section, a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. This subsection shall not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists.

c. This section does not authorize or protect expression by a student that:

- (1) is libelous or slanderous;
- (2) constitutes an unwarranted invasion of privacy;
- (3) is profane or obscene;
- (4) violates federal or State law; or

(5) so incites students as to create a clear and present danger of the commission of an unlawful act, the violation of policies of the public institution of higher education, or the material and substantial disruption of the orderly operation of the institution.

d. An employee of a public institution of higher education shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a student engaged in the conduct authorized under this section, or refusing to infringe upon conduct that is protected by this section, the First Amendment to the United States Constitution, or paragraph 6 of Article I of the New Jersey Constitution.

4. This act shall take effect immediately.

Approved December 21, 2021.