

[Second Reprint]

**SENATE, No. 108**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**Assemblyman RALPH R. CAPUTO**

**District 28 (Essex)**

**Assemblyman HAROLD "HAL" J. WIRTHS**

**District 24 (Morris, Sussex and Warren)**

**Co-Sponsored by:**

**Senators Doherty, Singleton, Greenstein, Assemblyman Space, Assemblywoman Vainieri Huttle, Assemblymen Peterson, DiMaio, Assemblywomen DiMaso, Reynolds-Jackson, Assemblyman Peters, Assemblywoman Stanfield, Assemblymen Benson, Verrelli, Giblin, Assemblywoman Carter, Assemblyman McKeon, Assemblywomen Murphy, Dunn, Timberlake, Assemblyman DePhillips, Assemblywoman Jasey, Assemblymen Chiaravalloti, Johnson, Karabinchak, Holley, Mukherji, Assemblywoman Lopez, Assemblymen Zwicker, Tully and Assemblywoman Swain**

**SYNOPSIS**

Concerns speech rights of student journalists at public schools and public institutions of higher education.

**CURRENT VERSION OF TEXT**

As amended on December 2, 2021 by the Senate pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 6/24/2021)

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

3

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

6

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

10 b. By the <sup>1</sup>**[2020-2021]** first full<sup>1</sup> school year next following  
11 the date of enactment of this act<sup>1</sup>, each school district shall adopt a  
12 written policy concerning student freedom of expression in accordance  
13 with the provisions of section 2 of this act. The policy shall include  
14 reasonable provisions for the time, place, and manner of student  
15 expression. The policy may also include limitations on language that  
16 may be defined as profane, harassing, threatening, or intimidating.

17

18 2. a. As used in this section:

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

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

29 “Student media adviser” means an individual employed,  
30 appointed, or designated by a school district to supervise or provide  
31 instruction relating to school-sponsored media.

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

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

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AED committee amendments adopted March 17, 2021.

<sup>2</sup>Senate amendments adopted in accordance with Governor's recommendations December 2, 2021.

- 1 (1) is libelous or slanderous;
- 2 (2) constitutes an unwarranted invasion of privacy;
- 3 <sup>2</sup>(3) is profane or obscene;<sup>2</sup>
- 4 <sup>2</sup>[(3)] (4)<sup>2</sup> violates federal or State law; or
- 5 <sup>2</sup>[(4)] (5)<sup>2</sup> so incites students as to create a clear and present
- 6 danger of the commission of an unlawful act, the violation of school
- 7 district policies, or the material and substantial disruption of the
- 8 orderly operation of the school.
- 9 d. A school district shall not authorize any prior restraint of
- 10 any school-sponsored media except for the types of expression
- 11 described in subsection c. of this section. <sup>2</sup>[(School officials shall
- 12 have the burden of showing justification without undue delay prior
- 13 to a limitation of student expression under this section] When a
- 14 school official determines that the restraint of student expression is
- 15 necessary, the school official shall simultaneously identify the
- 16 provision within subsection c. of this section under which the
- 17 limitation of student expression is appropriate<sup>2</sup>.
- 18 e. A school district shall not sanction a student operating as an
- 19 independent journalist.
- 20 f. An employee of a school district shall not be dismissed,
- 21 suspended, disciplined, reassigned, transferred, or otherwise
- 22 retaliated against solely for acting to protect a student engaged in
- 23 the conduct authorized under this section, or refusing to infringe
- 24 upon conduct that is protected by this section, the First Amendment
- 25 to the United States Constitution, or paragraph 6 of Article I of the
- 26 New Jersey Constitution.
- 27
- 28 3. a. As used in this section:
- 29 “School-sponsored media” means any material that is prepared,
- 30 substantially written, published, or broadcast by a student journalist
- 31 at a public institution of higher education, distributed or generally
- 32 made available to members of the student body, and prepared under
- 33 the direction of a student media adviser. School-sponsored media
- 34 does not include media intended for distribution or transmission
- 35 solely in the classroom in which the media is produced.
- 36 “Student journalist” means a student at a public institution of
- 37 higher education who gathers, compiles, writes, edits, photographs,
- 38 records, or prepares information for dissemination in school-
- 39 sponsored media.
- 40 “Student media adviser” means an individual employed,
- 41 appointed, or designated by a public institution of higher education
- 42 to supervise or provide instruction relating to school-sponsored
- 43 media.
- 44 b. Except as otherwise provided in subsection c. of this section,
- 45 a student journalist has the right to exercise freedom of speech and
- 46 of the press in school-sponsored media, regardless of whether the
- 47 media is supported financially by the public institution of higher

1 education or by use of institution facilities, or produced in  
2 conjunction with a course in which the student is enrolled. Subject  
3 to subsection c. of this section, a student journalist is responsible  
4 for determining the news, opinion, feature, and advertising content  
5 of school-sponsored media. This subsection shall not be construed  
6 to prevent a student media adviser from teaching professional  
7 standards of English and journalism to student journalists.

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

- 10 (1) is libelous or slanderous;  
11 (2) constitutes an unwarranted invasion of privacy;  
12 <sup>2</sup>(3) is profane or obscene;<sup>2</sup>  
13 <sup>2</sup>[(3)] (4)<sup>2</sup> violates federal or State law; or  
14 <sup>2</sup>[(4)] (5)<sup>2</sup> so incites students as to create a clear and present  
15 danger of the commission of an unlawful act, the violation of  
16 policies of the public institution of higher education, or the material  
17 and substantial disruption of the orderly operation of the institution.

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

25

26 4. This act shall take effect immediately.