

Introduced by

Representatives Looyesen, Rick C. Becker, Haak, Mock

Senators Grabinger, Luick

1 A BILL for an Act to create and enact a new section to chapters 15-10, 15-18.1, and 15.1-06 of  
2 the North Dakota Century Code, relating to freedom of expression rights of students of public  
3 institutions of higher education and public schools.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Student journalists - Freedom of expression - Civil remedy.**

8 1. As used in this section:

9 a. "School-sponsored media" means any material that is prepared, substantially  
10 written, published, or broadcast by a student journalist at an institution under the  
11 supervision of the state board of higher education, distributed or generally made  
12 available to members of the student body, and prepared under the direction of a  
13 student media adviser. The term does not include any media intended for  
14 distribution or transmission solely in the classroom in which the media is  
15 produced.

16 b. "Student journalist" means a student of an institution under the supervision of the  
17 state board of higher education who gathers, compiles, writes, edits,  
18 photographs, records, or prepares information for dissemination in  
19 school-sponsored media.

20 c. "Student media adviser" means an individual employed, appointed, or designated  
21 by an institution under the supervision of the state board of higher education to  
22 supervise or provide instruction relating to school-sponsored media.

23 2. Except as provided in subsection 3, a student journalist has the right to exercise  
24 freedom of speech and of the press in school-sponsored media, regardless of whether

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

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

8           a. Is libelous or slanderous;

9           b. Constitutes an unwarranted invasion of privacy;

10          c. Violates federal or state law; or

11          d. So incites students as to create a clear and present danger of the commission of  
12          an unlawful act, the violation of institution or state board of higher education  
13          policies, or the material and substantial disruption of the orderly operation of the  
14          institution.

15          4. An institution may not authorize any prior restraint of any school-sponsored media  
16          except when the media:

17          a. Is libelous or slanderous;

18          b. Constitutes an unwarranted invasion of privacy;

19          c. Violates federal or state law; or

20          d. So incites students as to create a clear and present danger of the commission of  
21          an unlawful act, the violation of institution or state board of higher education  
22          policies, or the material and substantial disruption of the orderly operation of the  
23          institution.

24          5. An institution may not sanction a student operating as an independent journalist.

25          6. Each institution shall adopt a written student freedom of expression policy in  
26          accordance with this section. The policy must include reasonable provisions for the  
27          time, place, and manner of student expression.

28          **SECTION 2.** A new section to chapter 15-18.1 of the North Dakota Century Code is created  
29          and enacted as follows:

1        **Student journalists - Freedom of expression - Civil remedy.**

- 2        1. Notwithstanding the exemptions in section 15-18.1-02, an institution under the  
3        supervision of the state board of higher education may not make or enforce any rule  
4        subjecting any student to disciplinary sanctions solely on the basis of conduct that is  
5        speech or other communication which, when engaged in outside the campus or facility  
6        of the postsecondary institution, is protected from governmental restriction by the first  
7        amendment to the United States Constitution or section 4 of article I of the Constitution  
8        of North Dakota.
- 9        2. A student enrolled in an institution under the supervision of the state board of higher  
10       education may commence a civil action to obtain appropriate injunctive or declaratory  
11       relief as determined by a court for a violation of subsection 1.
- 12       3. This section does not authorize any prior restraint of student speech.
- 13       4. This section does not prohibit the imposition of discipline for harassment, threats, or  
14       intimidation, unless constitutionally protected.

15       **SECTION 3.** A new section to chapter 15.1-06 of the North Dakota Century Code is created  
16 and enacted as follows:

17       **Student journalists - Freedom of expression - Civil remedy.**

- 18       1. As used in this section:
- 19       a. "School-sponsored media" means any material that is prepared, substantially  
20       written, published, or broadcast by a student journalist at a public school,  
21       distributed or generally made available to members of the student body, and  
22       prepared under the direction of a student media adviser. The term does not  
23       include any media intended for distribution or transmission solely in the  
24       classroom in which the media is produced.
- 25       b. "Student journalist" means a public school student who gathers, compiles, writes,  
26       edits, photographs, records, or prepares information for dissemination in  
27       school-sponsored media.
- 28       c. "Student media adviser" means an individual employed, appointed, or designated  
29       by a school district to supervise or provide instruction relating to  
30       school-sponsored media.

- 1       2. Except as provided in subsection 3, a student journalist has the right to exercise  
2       freedom of speech and of the press in school-sponsored media, regardless of whether  
3       the media is supported financially by the school district, by use of facilities of the  
4       school district, or produced in conjunction with a class in which the student is enrolled.  
5       Subject to subsection 3, a student journalist is responsible for determining the news,  
6       opinion, feature, and advertising content of school-sponsored media. This subsection  
7       may not be construed to prevent a student media adviser from teaching professional  
8       standards of English and journalism to student journalists.
- 9       3. This section does not authorize or protect expression by a student that:
- 10       a. Is libelous or slanderous;  
11       b. Constitutes an unwarranted invasion of privacy;  
12       c. Violates federal or state law; or  
13       d. So incites students as to create a clear and present danger of the commission of  
14       an unlawful act, the violation of school district policy, or the material and  
15       substantial disruption of the orderly operation of the school.
- 16       4. A school may not authorize any prior restraint of any school-sponsored media except  
17       when the media:
- 18       a. Is libelous or slanderous;  
19       b. Constitutes an unwarranted invasion of privacy;  
20       c. Violates federal or state law; or  
21       d. So incites students as to create a clear and present danger of the commission of  
22       an unlawful act, the violation of institution or state board of higher education  
23       policies, or the material and substantial disruption of the orderly operation of the  
24       institution.
- 25       5. A school may not sanction a student operating as an independent journalist.
- 26       6. Each school district shall adopt a written student freedom of expression policy in  
27       accordance with this section. The policy must include reasonable provisions for the  
28       time, place, and manner of student expression. The policy may also include limitations  
29       to language that may be defined as profane, harassing, threatening, or intimidating.