

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2201

Introduced by

Senators Rust, Luick, Oban

Representatives Devlin, Schreiber-Beck, Mock

1 A BILL for an Act to amend and reenact sections 15-10-55 and 15.1-19-25 of the North Dakota
2 Century Code, relating to the freedom of expression of student journalists.

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

4 **SECTION 1. AMENDMENT.** Section 15-10-55 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **15-10-55. Student journalists - Freedom of expression - Civil remedy.**

7 1. As used in this section:

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

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

19 c. "Student media adviser" means an individual employed, appointed, or designated
20 by ~~an institution under the supervision of the state board a public institution~~ of
21 higher education to supervise or provide instruction relating to school-sponsored
22 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. A student media adviser
7 may not be dismissed, suspended, or disciplined for acting to protect a student
8 journalist engaged in a protected activity or for refusing to infringe on a protected
9 activity.

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

- 11 a. Is libelous or slanderous;
- 12 b. Constitutes an unwarranted invasion of privacy;
- 13 c. Violates federal or state law; or
- 14 d. So incites students as to create a clear and present danger of the commission of
15 an unlawful act, the violation of institution or state board of higher education
16 policies, or the material and substantial disruption of the orderly operation of the
17 institution.

18 4. An expression of free speech or freedom of the press made by a student journalist
19 under this section may not be construed as an expression of school policy. A school
20 official, employee, or parent or legal guardian of a student journalist may not be liable
21 in any civil or criminal action for an expression of free speech or freedom of the press
22 made by a student journalist, except in the case of willful or wanton misconduct by the
23 individual.

24 **SECTION 2. AMENDMENT.** Section 15.1-19-25 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **15.1-19-25. Student journalists - Freedom of expression - Civil remedy.**

27 1. As used in this section:

- 28 a. "School-sponsored media" means any material that is prepared, substantially
29 written, published, or broadcast by a student journalist at a public school,
30 distributed or generally made available to members of the student body, and
31 prepared under the direction of a student media adviser. The term does not

- 1 include any media intended for distribution or transmission solely in the
2 classroom in which the media is produced.
- 3 b. "Student journalist" means a public school student who gathers, compiles, writes,
4 edits, photographs, records, or prepares information for dissemination in
5 school-sponsored media.
- 6 c. "Student media adviser" means an individual employed, appointed, or designated
7 by a school district to supervise or provide instruction relating to
8 school-sponsored media.
- 9 2. Except as provided in subsection 3, a student journalist has the right to exercise
10 freedom of speech and of the press in school-sponsored media, regardless of whether
11 the media is supported financially by the school district, by use of facilities of the
12 school district, or produced in conjunction with a class in which the student is enrolled.
13 Subject to subsection 3, a student journalist is responsible for determining the news,
14 opinion, feature, and advertising content of school-sponsored media. This subsection
15 may not be construed to prevent a student media adviser from teaching professional
16 standards of English and journalism to student journalists. A student media adviser
17 may not be dismissed, suspended, or disciplined for acting to protect a student
18 journalist engaged in a protected activity or for refusing to infringe on a protected
19 activity.
- 20 3. This section does not authorize or protect expression by a student that:
21 a. Is libelous or slanderous;
22 b. Constitutes an unwarranted invasion of privacy;
23 c. Violates federal or state law; or
24 d. So incites students as to create a clear and present danger of the commission of
25 an unlawful act, the violation of school district policy, or the material and
26 substantial disruption of the orderly operation of the school.
- 27 4. A school district may not authorize any prior restraint of any school-sponsored media
28 except when the media:
29 a. Is libelous or slanderous;
30 b. Constitutes an unwarranted invasion of privacy;
31 c. Violates federal or state law; or

- 1 d. So incites students as to create a clear and present danger of the commission of
2 an unlawful act, the violation of school district policies, or the material and
3 substantial disruption of the orderly operation of the school.
- 4 5. A school district may not sanction a student operating as an independent journalist.
- 5 6. Each school district shall adopt a written student freedom of expression policy in
6 accordance with this section. The policy must include reasonable provisions for the
7 time, place, and manner of student expression. The policy may also include limitations
8 to language that may be defined as profane, harassing, threatening, or intimidating. An
9 expression of free speech or freedom of the press made by a student journalist under
10 this section may not be construed as an expression of school policy. A school official,
11 employee, or parent or legal guardian of a student journalist may not be liable in any
12 civil or criminal action for an expression of free speech or freedom of the press made
13 by a student journalist, except in the case of willful or wanton misconduct by the
14 individual.