

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. "Protected activity" means an expression of free speech or freedom of the press.

9 b. "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~~ a public institution of higher education, distributed
12 or generally made available to members of the student body, and prepared under
13 the direction of a student media adviser. The term does not include any media
14 intended for distribution or transmission solely in the classroom in which the
15 media is produced.

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

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

12 3. This section does not authorize or protect expression by a student that:
13 a. Is libelous ~~or~~, slanderous, or obscene;
14 b. Constitutes an unwarranted invasion of privacy;
15 c. Violates federal or state law; or
16 d. So incites students as to create a clear and present danger of the commission of
17 an unlawful act, the violation of institution or state board of higher education
18 policies, or the material and substantial disruption of the orderly operation of the
19 institution.

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

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

28 **15.1-19-25. Student journalists - Freedom of expression - Civil remedy.**

29 1. As used in this section:
30 a. "Protected activity" means an expression of free speech or freedom of the press.

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

7 | ~~b.c.~~ "Student journalist" means a public school student who gathers, compiles, writes,
8 | edits, photographs, records, or prepares information for dissemination in
9 | school-sponsored media.

10 | ~~e.d.~~ "Student media adviser" means an individual employed, appointed, or designated
11 | by a school district to supervise or provide instruction relating to
12 | school-sponsored media.

13 | 2. Except as provided in subsection 3, a student journalist has the right to exercise
14 | freedom of speech and of the press in school-sponsored media, regardless of whether
15 | the media is supported financially by the school district, by use of facilities of the
16 | school district, or produced in conjunction with a class in which the student is enrolled.
17 | Subject to subsection 3, a student journalist is responsible for determining the news,
18 | opinion, feature, and advertising content of school-sponsored media. This subsection
19 | may not be construed to prevent a student media adviser from teaching professional
20 | standards of English and journalism to student journalists. A student media adviser
21 | may not be dismissed, suspended, or disciplined for acting to protect a student
22 | journalist engaged in a protected activity or for refusing to infringe on a protected
23 | activity.

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

25 | a. Is libelous ~~or~~, slanderous, or obscene;

26 | b. Constitutes an unwarranted invasion of privacy;

27 | c. Violates federal or state law; or

28 | d. So incites students as to create a clear and present danger of the commission of
29 | an unlawful act, the violation of school district policy, or the material and
30 | substantial disruption of the orderly operation of the school.

- 1 4. A school district may not authorize any prior restraint of any school-sponsored media
2 except when the media:
- 3 a. Is libelous ~~or~~, slanderous, or obscene;
- 4 b. Constitutes an unwarranted invasion of privacy;
- 5 c. Violates federal or state law; or
- 6 d. So incites students as to create a clear and present danger of the commission of
7 an unlawful act, the violation of school district policies, or the material and
8 substantial disruption of the orderly operation of the school.
- 9 5. A school district may not sanction a student operating as an independent journalist.
- 10 6. Each school district shall adopt a written student freedom of expression policy in
11 accordance with this section. The policy must include reasonable provisions for the
12 time, place, and manner of student expression. The policy may also include limitations
13 to language that may be defined as profane, harassing, threatening, or intimidating. An
14 expression of free speech or freedom of the press made by a student journalist under
15 this section may not be construed as an expression of school policy. A school, school
16 official, employee, or parent or legal guardian of a student journalist may not be liable
17 in any civil or criminal action for an expression of free speech or freedom of the press
18 made by a student journalist, except in the case of willful or wanton misconduct ~~by the~~
19 individual.