

**Sixty-fifth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2017**

SENATE BILL NO. 2201  
(Senators Rust, Luick, Oban)  
(Representatives Devlin, Schreiber-Beck, Mock)

AN ACT to amend and reenact sections 15-10-55 and 15.1-19-25 of the North Dakota Century Code, relating to the freedom of expression of student journalists.

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

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

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

1. As used in this section:
  - a. "Protected activity" means an expression of free speech or freedom of the press.
  - b. "School-sponsored media" means any material that is prepared, substantially written, published, or broadcast by a student journalist at ~~an institution under the supervision of the state board~~ 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. The term does not include any media intended for distribution or transmission solely in the classroom in which the media is produced.
  - ~~b.c.~~ "Student journalist" means a student of ~~an institution under the supervision of the state board~~ a public institution of higher education who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.
  - ~~e.d.~~ "Student media adviser" means an individual employed, appointed, or designated by ~~an institution under the supervision of the state board~~ a public institution of higher education to supervise or provide instruction relating to school-sponsored media.
2. Except as provided in subsection 3, 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 institution or by use of facilities of the institution or produced in conjunction with a class in which the student is enrolled. Subject to subsection 3, a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. This subsection may not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists. A student media adviser may not be dismissed, suspended, or disciplined for acting to protect a student journalist engaged in a protected activity or for refusing to infringe on a protected activity.
3. This section does not authorize or protect expression by a student that:
  - a. Is libelous ~~or~~, slanderous, or obscene;
  - b. Constitutes an unwarranted invasion of privacy;
  - c. Violates federal or state law; or

- d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of institution or state board of higher education policies, or the material and substantial disruption of the orderly operation of the institution.
4. An expression of free speech or freedom of the press made by a student journalist under this section may not be construed as an expression of school policy. A school, school official, employee, or parent or legal guardian of a student journalist may not be liable in any civil or criminal action for an expression of free speech or freedom of the press made by a student journalist, except in the case of willful or wanton misconduct.

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

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

1. As used in this section:
  - a. "Protected activity" means an expression of free speech or freedom of the press.
  - b. "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. The term does not include any media intended for distribution or transmission solely in the classroom in which the media is produced.
  - b.c. "Student journalist" means a public school student who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.
  - e.d. "Student media adviser" means an individual employed, appointed, or designated by a school district to supervise or provide instruction relating to school-sponsored media.
2. Except as provided in subsection 3, 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, by use of facilities of the school district, or produced in conjunction with a class in which the student is enrolled. Subject to subsection 3, a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. This subsection may not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists. A student media adviser may not be dismissed, suspended, or disciplined for acting to protect a student journalist engaged in a protected activity or for refusing to infringe on a protected activity.
3. This section does not authorize or protect expression by a student that:
  - a. Is libelous or slanderous, or obscene;
  - b. Constitutes an unwarranted invasion of privacy;
  - c. Violates federal or state law; or
  - d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of school district policy, or the material and substantial disruption of the orderly operation of the school.
4. A school district may not authorize any prior restraint of any school-sponsored media except when the media:
  - a. Is libelous or slanderous, or obscene;

- b. Constitutes an unwarranted invasion of privacy;
  - c. Violates federal or state law; or
  - d. 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.
5. A school district may not sanction a student operating as an independent journalist.
6. Each school district shall adopt a written student freedom of expression policy in accordance with this section. The policy must include reasonable provisions for the time, place, and manner of student expression. The policy may also include limitations to language that may be defined as profane, harassing, threatening, or intimidating. An expression of free speech or freedom of the press made by a student journalist under this section may not be construed as an expression of school policy. A school, school official, employee, or parent or legal guardian of a student journalist may not be liable in any civil or criminal action for an expression of free speech or freedom of the press made by a student journalist, except in the case of willful or wanton misconduct.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2201.

Senate Vote:    Yeas 46            Nays 0            Absent 1

House Vote:    Yeas 89            Nays 3            Absent 2

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2017,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State