

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 88

Introduced by Morfeld, 46.

Read first time January 07, 2021

Committee:

- 1 A BILL FOR AN ACT relating to journalism; to define terms; to provide
- 2 protection for freedom of speech and freedom of the press for
- 3 student journalists; to provide protection for student media
- 4 advisers; and to provide exceptions.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For purposes of this section:

2 (a) Postsecondary educational institution means the University of
3 Nebraska, a state college, or a community college;

4 (b) School-sponsored media means any material that is (i) prepared,
5 substantially written, published, or broadcast by a student journalist at
6 a postsecondary educational institution, (ii) distributed or generally
7 made available to members of the student body, and (iii) prepared under
8 the direction of a student media adviser. School-sponsored media does not
9 include any media intended for distribution or transmission solely for
10 the class in which the media is produced;

11 (c) Student journalist means a student at a postsecondary
12 educational institution who gathers, compiles, writes, edits,
13 photographs, records, or prepares information of a journalistic nature
14 for dissemination in school-sponsored media; and

15 (d) Student media adviser means an individual employed, appointed,
16 or designated by a postsecondary educational institution to supervise or
17 provide instruction relating to school-sponsored media.

18 (2)(a) All school-sponsored media are deemed to be public forums.
19 Subject to subsection (3) of this section, a student journalist has a
20 right to exercise freedom of speech and of the press in school-sponsored
21 media, regardless of whether the media is supported financially by the
22 postsecondary educational institution, supported by the use of the
23 facilities of such institution, or produced in conjunction with a class
24 in which the student journalist is enrolled.

25 (b) Subject to subsection (3) of this section, each student
26 journalist is responsible for determining the news, opinion, feature,
27 sports, and advertising content such student produces for school-
28 sponsored media. This subdivision shall not be construed to prevent a
29 student media adviser from teaching professional standards of English and
30 journalism to student journalists and ensuring that school-sponsored
31 media adhere to prevailing journalistic standards.

1 (3) This section does not authorize or protect expression by a
2 student journalist that:

3 (a) Is libelous or slanderous;

4 (b) Constitutes an unwarranted invasion of privacy;

5 (c) Violates federal or state law;

6 (d) Departs from prevailing journalistic ethical standards; or

7 (e) So incites students as to create a clear and present danger of

8 (i) the commission of an unlawful act, (ii) a violation of the policies
9 of a postsecondary educational institution, or (iii) the material and
10 substantial disruption of the orderly operation of such institution.

11 (4) A student journalist shall not be disciplined for acting in
12 accordance with subsection (2) of this section.

13 (5) A student media adviser shall not be dismissed, suspended,
14 disciplined, reassigned, transferred, or otherwise retaliated against
15 for:

16 (a) Acting to protect a student journalist engaged in conduct under
17 subsection (2) of this section; or

18 (b) Refusing to infringe upon conduct that is protected by
19 subsection (2) of this section or the First Amendment to the Constitution
20 of the United States.

21 (6) No publication or other expression of matter by a student
22 journalist in the exercise of rights under this section shall be deemed
23 to be an expression of a postsecondary educational institution's policy.

24 Sec. 2. (1) For purposes of this section:

25 (a) Public high school means any high school operated by a school
26 district;

27 (b) School-sponsored media means any material that is (i) prepared,
28 substantially written, published, or broadcast by a student journalist at
29 a public high school, (ii) distributed or generally made available to
30 members of the student body, and (iii) prepared under the direction of a
31 student media adviser. School-sponsored media does not include any media

1 intended for distribution or transmission solely for the class in which
2 the media is produced;

3 (c) Student journalist means a public high school student who
4 gathers, compiles, writes, edits, photographs, records, or prepares
5 information of a journalistic nature for dissemination in school-
6 sponsored media; and

7 (d) Student media adviser means an individual employed, appointed,
8 or designated by a public high school to supervise or provide instruction
9 relating to school-sponsored media.

10 (2)(a) All school-sponsored media are deemed to be public forums.
11 Subject to subsection (3) of this section, a student journalist has a
12 right to exercise freedom of speech and of the press in school-sponsored
13 media, regardless of whether the media is supported financially by the
14 public high school, supported by the use of the facilities of such
15 school, or produced in conjunction with a class in which the student
16 journalist is enrolled.

17 (b) Subject to subsection (3) of this section, each student
18 journalist is responsible for determining the news, opinion, feature,
19 sports, and advertising content such student produces for school-
20 sponsored media. This subdivision shall not be construed to prevent a
21 student media adviser from teaching professional standards of English and
22 journalism to student journalists and ensuring that school-sponsored
23 media adhere to prevailing journalistic ethical standards as set forth in
24 the Society of Professional Journalists Code of Ethics as such code
25 existed on January 1, 2021.

26 (3) This section does not authorize or protect expression by a
27 student journalist that:

28 (a) Is libelous or slanderous;

29 (b) Constitutes an unwarranted invasion of privacy;

30 (c) Violates federal or state law;

31 (d) Departs from prevailing journalistic ethical standards; or

1 (e) So incites students as to create a clear and present danger of
2 (i) the commission of an unlawful act or (ii) a violation of the policies
3 of a public high school that could cause the material and substantial
4 disruption of the orderly operation of such school.

5 (4) A student journalist shall not be disciplined for acting in
6 accordance with subsection (2) of this section.

7 (5) A student media adviser shall not be dismissed, suspended,
8 disciplined, reassigned, transferred, or otherwise retaliated against
9 for:

10 (a) Acting to protect a student journalist engaged in conduct under
11 subsection (2) of this section; or

12 (b) Refusing to infringe upon conduct that is protected by
13 subsection (2) of this section or the First Amendment to the Constitution
14 of the United States.

15 (6) No publication or other expression of matter by a student
16 journalist in the exercise of rights under this section shall be deemed
17 to be an expression of a public high school's policy.

18 (7) Public high schools and student media advisers shall make
19 efforts to utilize the resources and programs of state public and private
20 universities and colleges and of state professional journalism
21 organizations to obtain training and advice on mass media law and ethics
22 for student media advisers and student journalists.

23 (8) This section shall not be construed to interfere with a school
24 administrator's ability to provide appropriate professional feedback to a
25 student media adviser consistent with rules and regulations adopted and
26 promulgated by the State Department of Education regarding school
27 district personnel.