

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 886

Introduced by Morfeld, 46.

Read first time January 08, 2018

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to journalism; to define terms; to provide
- 2 protection for student journalists' rights of freedom of speech and
- 3 freedom of the press; to provide protection for student media
- 4 advisers; to provide immunity for schools; and to provide
- 5 exceptions.
- 6 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, a private college or university with or
4 without religious affiliation, or a community college;

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

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

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

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

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

31 (3) This section does not authorize or protect expression by a

1 student journalist that:

2 (a) Is libelous or slanderous;

3 (b) Constitutes an unwarranted invasion of privacy;

4 (c) Violates federal or state law; or

5 (d) So incites students as to create a clear and present danger of

6 (i) the commission of an unlawful act, (ii) a violation of the policies

7 of a postsecondary educational institution, or (iii) the material and

8 substantial disruption of the orderly operation of such institution.

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

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

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

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

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

22 No postsecondary educational institution, its employees or agents, or its
23 governing authority or the members of its governing authority shall be
24 held responsible in any civil or criminal action for any publication or
25 other expression of matter by a student journalist in the exercise of
26 rights under subsection (2) of this section.

27 Sec. 2. For purposes of this section:

28 (a) Public high school means any public high school organized and
29 operating under the laws of the State of Nebraska;

30 (b) School-sponsored media means any material that is (i) prepared,
31 substantially written, published, or broadcast by a student journalist at

1 a public high school, (ii) distributed or generally made available to
2 members of the student body, and (iii) prepared under the direction of a
3 student media adviser. School-sponsored media does not include any media
4 intended for distribution or transmission solely in the classroom in
5 which the media is produced;

6 (c) Student journalist means a public high school student who
7 gathers, compiles, writes, edits, photographs, records, or prepares
8 information for dissemination in school-sponsored media; and

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

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

19 (b) Subject to subsection (3) of this section, a student journalist
20 is responsible for determining the news, opinion, feature, sports, and
21 advertising content of school-sponsored media. This subdivision shall not
22 be construed to prevent a student media adviser from teaching
23 professional standards of English and journalism to student journalists.

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

26 (a) Is libelous or slanderous;

27 (b) Constitutes an unwarranted invasion of privacy;

28 (c) Violates federal or state law; or

29 (d) So incites students as to create a clear and present danger of
30 (i) the commission of an unlawful act or (ii) a violation of the policies
31 of a public high school that could cause the material and substantial

1 disruption of the orderly operation of such school.

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

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

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

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

12 (6) No publication or other expression of matter by a student
13 journalist in the exercise of rights under this section shall be deemed
14 to be an expression of a public high school's policy. No public high
15 school, member of such school's board of education, or employee of such
16 school or board shall be held responsible in any civil or criminal action
17 for any publication or other expression of matter by a student journalist
18 in the exercise of rights under subsection (2) of this section.

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