LEGISLATIVE BILL 206

Introduced by Morfeld, 46.
Read first time January 11, 2019
Committee: Judiciary

A BILL FOR AN ACT relating to journalism; to define terms; to provide protection for freedom of speech and freedom of the press for student journalists; to provide protection for student media advisers; to provide immunity for schools; and to provide exceptions.

Be it enacted by the people of the State of Nebraska,
Section 1. (1) For purposes of this section:

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

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

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

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

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

(b) Subject to subsection (3) of this section, each student
journalist is responsible for determining the news, opinion, feature,
sports, and advertising content such student produces for school-
sponsored media. This subdivision shall not be construed to prevent a
student media adviser from teaching professional standards of English and
journalism to student journalists.
(3) This section does not authorize or protect expression by a student journalist that:

(a) Is libelous or slanderous;
(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:
   (i) the commission of an unlawful act, (ii) a violation of the policies of a postsecondary educational institution, or (iii) the material and substantial disruption of the orderly operation of such institution.

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

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

(a) Acting to protect a student journalist engaged in conduct under subsection (2) of this section; or
(b) Refusing to infringe upon conduct that is protected by subsection (2) of this section or the First Amendment to the Constitution of the United States.

(6) No publication or other expression of matter by a student journalist in the exercise of rights under this section shall be deemed to be an expression of a postsecondary educational institution's policy. No postsecondary educational institution, its employees or agents, or its governing authority or the members of its governing authority shall be held responsible in any civil or criminal action for any publication or other expression of matter by a student journalist in the exercise of rights under subsection (2) of this section.

Sec. 2. For purposes of this section:

(a) Public high school means any high school operated by a school district;
(b) School-sponsored media means any material that is (i) prepared,
substantially written, published, or broadcast by a student journalist at
a public high school, (ii) distributed or generally made available to
members of the student body, and (iii) prepared under the direction of a
student media adviser. School-sponsored media does not include any media
intended for distribution or transmission solely for the class in which
the media is produced;

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

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

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

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

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

(a) Is libelous or slanderous;

(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
(i) the commission of an unlawful act or (ii) a violation of the policies
of a public high school that could cause the material and substantial
disruption of the orderly operation of such school.

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

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

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

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

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

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