

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1471

Introduced by

Representatives Looyesen, Rick C. Becker, Haak, Mock

Senators Grabinger, Luick

1 | A BILL for an Act to create and enact a new section to chapters 15-10, ~~15-18.1~~, and 15.1-06 of
2 | the North Dakota Century Code, relating to freedom of expression rights of students of public
3 | institutions of higher education and public schools.

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

5 | **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created
6 | and enacted as follows:

7 | **Student journalists - Freedom of expression - Civil remedy.**

8 | 1. As used in this section:

- 9 | a. "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 of higher education, distributed or generally made
12 | available to members of the student body, and prepared under the direction of a
13 | student media adviser. The term does not include any media intended for
14 | distribution or transmission solely in the classroom in which the media is
15 | produced.
- 16 | b. "Student journalist" means a student of an institution under the supervision of the
17 | state board of higher education who gathers, compiles, writes, edits,
18 | photographs, records, or prepares information for dissemination in
19 | school-sponsored media.
- 20 | c. "Student media adviser" means an individual employed, appointed, or designated
21 | by an institution under the supervision of the state board of higher education to
22 | supervise or provide instruction relating to school-sponsored media.
- 23 | 2. Except as provided in subsection 3, a student journalist has the right to exercise
24 | freedom of speech and of the press in school-sponsored media, regardless of whether

1 the media is supported financially by the institution or by use of facilities of the
2 institution or produced in conjunction with a class in which the student is enrolled.
3 Subject to subsection 3, a student journalist is responsible for determining the news,
4 opinion, feature, and advertising content of school-sponsored media. This subsection
5 may not be construed to prevent a student media adviser from teaching professional
6 standards of English and journalism to student journalists.

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

8 a. Is libelous or slanderous;

9 b. Constitutes an unwarranted invasion of privacy;

10 c. Violates federal or state law; or

11 d. So incites students as to create a clear and present danger of the commission of
12 an unlawful act, the violation of institution or state board of higher education
13 policies, or the material and substantial disruption of the orderly operation of the
14 institution.

15 ~~4. An institution may not authorize any prior restraint of any school-sponsored media~~
16 ~~except when the media:~~

17 ~~a. Is libelous or slanderous;~~

18 ~~b. Constitutes an unwarranted invasion of privacy;~~

19 ~~c. Violates federal or state law; or~~

20 ~~d. So incites students as to create a clear and present danger of the commission of~~
21 ~~an unlawful act, the violation of institution or state board of higher education~~
22 ~~policies, or the material and substantial disruption of the orderly operation of the~~
23 ~~institution.~~

24 ~~5. An institution may not sanction a student operating as an independent journalist.~~

25 ~~6. Each institution shall adopt a written student freedom of expression policy in~~
26 ~~accordance with this section. The policy must include reasonable provisions for the~~
27 ~~time, place, and manner of student expression.~~

28 ~~**SECTION 2.** A new section to chapter 15-18.1 of the North Dakota Century Code is created~~
29 ~~and enacted as follows:~~

1 ~~**Student journalists – Freedom of expression – Civil remedy.**~~

2 ~~1. Notwithstanding the exemptions in section 15-18.1-02, an institution under the~~
3 ~~supervision of the state board of higher education may not make or enforce any rule~~
4 ~~subjecting any student to disciplinary sanctions solely on the basis of conduct that is~~
5 ~~speech or other communication which, when engaged in outside the campus or facility~~
6 ~~of the postsecondary institution, is protected from governmental restriction by the first~~
7 ~~amendment to the United States Constitution or section 4 of article I of the Constitution~~
8 ~~of North Dakota.~~

9 ~~2. A student enrolled in an institution under the supervision of the state board of higher~~
10 ~~education may commence a civil action to obtain appropriate injunctive or declaratory~~
11 ~~relief as determined by a court for a violation of subsection 1.~~

12 ~~3. This section does not authorize any prior restraint of student speech.~~

13 ~~4. This section does not prohibit the imposition of discipline for harassment, threats, or~~
14 ~~intimidation, unless constitutionally protected.~~

15 **SECTION 2.** A new section to chapter 15.1-06 of the North Dakota Century Code is created
16 and enacted as follows:

17 **Student journalists - Freedom of expression - Civil remedy.**

18 1. As used in this section:

19 a. "School-sponsored media" means any material that is prepared, substantially
20 written, published, or broadcast by a student journalist at a public school,
21 distributed or generally made available to members of the student body, and
22 prepared under the direction of a student media adviser. The term does not
23 include any media intended for distribution or transmission solely in the
24 classroom in which the media is produced.

25 b. "Student journalist" means a public school student who gathers, compiles, writes,
26 edits, photographs, records, or prepares information for dissemination in
27 school-sponsored media.

28 c. "Student media adviser" means an individual employed, appointed, or designated
29 by a school district to supervise or provide instruction relating to
30 school-sponsored 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 school district, by use of facilities of the
4 school district, 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.
- 9 3. This section does not authorize or protect expression by a student that:
- 10 a. Is libelous or slanderous;
11 b. Constitutes an unwarranted invasion of privacy;
12 c. Violates federal or state law; or
13 d. So incites students as to create a clear and present danger of the commission of
14 an unlawful act, the violation of school district policy, or the material and
15 substantial disruption of the orderly operation of the school.
- 16 4. A school district may not authorize any prior restraint of any school-sponsored media
17 except when the media:
- 18 a. Is libelous or slanderous;
19 b. Constitutes an unwarranted invasion of privacy;
20 c. Violates federal or state law; or
21 d. So incites students as to create a clear and present danger of the commission of
22 an unlawful act, the violation of ~~institution or state board of higher-~~
23 ~~education~~school district policies, or the material and substantial disruption of the
24 orderly operation of the ~~institutionschool~~.
- 25 5. A school district may not sanction a student operating as an independent journalist.
- 26 6. Each school district shall adopt a written student freedom of expression policy in
27 accordance with this section. The policy must include reasonable provisions for the
28 time, place, and manner of student expression. The policy may also include limitations
29 to language that may be defined as profane, harassing, threatening, or intimidating.