

Freedom of Speech and the Press in School-Sponsored Media

Purpose: The Barbour County Board of Education believes that freedom of expression and press freedom are fundamental principles in a democratic society that provide all citizens with the right to engage in a vigorous discussion of ideas, and that a robust and free student press is critical to the development of informed and civic-minded adults. Freedom of expression through school-sponsored media is protected by the First Amendment to the United States Constitution, Article III, section 7 of the West Virginia State Constitution, and the Student Journalist Press Freedom Protection Act.

It is the policy of this Board of Education to ensure all students enjoy free speech and free press protections related to school-sponsored media, and to encourage students to become educated, informed and responsible members of society.

No expression made by students in the exercise of free speech or free press rights shall be deemed to be an expression of school or Board of Education policy.

Definitions:

“Libel” is the willful or negligent publication of provably false and unprivileged statements of fact that do demonstrable harm to a living person’s reputation.

1. Criticism of public officials, public figures, school policy, or the work performance of teachers, administrators, school officials and/or other school employees is generally protected unless it meets the definition of libel, above.

“Orderly operation of the school” is educational student activity sponsored by the school, including classroom work, school assemblies and similar gatherings, school-sponsored athletic contests, band concerts, school plays and scheduled in-school lunch periods.

“Prior restraint” is any action taken to prohibit, prevent, or stop the creation, research, production, or distribution of school-sponsored media. This includes, but is not limited to, verbal statements that a story may not be distributed or should not be researched or written; deletion of material including sentences, photographs, or portions of a broadcast; interfering with printing or distribution decisions; and destruction of already-distributed school-sponsored media.

“Prior review” is the review by a school administrator before publication or distribution of school-sponsored media. This does not include review by a student media adviser or administrative review done at the behest of the student journalist.

“Slander” is the speaking of false statements of fact that seriously harm a living person’s reputation.

1. Criticism of public officials, public figures, school policy, or the work performance of teachers, administrators, school officials and/or other school employees is generally protected unless it meets the definition of slander, above.

“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.

“Student journalist” means a public high school student who writes, edits, photographs, records, or prepares information for inclusion in school-sponsored media.

“School-sponsored student media” means any material that is prepared, substantially written, published or broadcast, in any media, by a student journalist under the direction of a student media adviser and distributed or generally made available to members of the student body. School-sponsored media includes, but is not limited to, newspapers, magazines, web sites and other Internet-based media, yearbooks, TV,

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radio, podcasts and video productions. School-sponsored media does not include media intended for distribution or transmission for classroom purposes only, or non-school-sponsored student media.

Student freedom of expression in school-sponsored student media

Student journalists are responsible for determining the news, opinion, feature, and advertising content of school-sponsored student media. Student journalists may create an editorial hierarchy (e.g, student editorial board, editor in chief, section editors, etc.) for determining content.

No student journalist shall be disciplined, penalized, restrained, or otherwise censored, punished, or subject to any form of retaliation when acting in accordance with this policy.

There shall be no prior restraint by any person of material prepared for school-sponsored media unless it falls within one of the exceptions, listed below. School officials have the burden of showing prior justification for their limitation of student journalist expression and shall afford students a timely opportunity for appeal.

Administrative prior review shall be rare, if it occurs at all. Sound pedagogical, ethical and legal rationale exist opposing all forms of prior review. Any reason for prior review shall be clearly communicated to the student journalist in writing, and at no time will school-sponsored student media be held for prior review longer than 72 hours or more than 24 hours beyond the publication deadline time as established by the student journalist, whichever comes first.

Student Media Advisers

Student media advisers may provide feedback to students including teaching professional standards of English and journalism. Student media advisers do not determine, assign, or approve the content of student media, except if the adviser believes the student media has met the criteria for exclusion listed in “Exceptions” below. Such decisions are subject to the appeal process, outlined below.

A student media adviser may not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against for acting to protect a student journalist engaged in protected speech or refusing to infringe on conduct that is protected by the First Amendment to the United States Constitution, Article III, section 7 of the West Virginia State Constitution, §18B-21-1, §18B-21-2, §18B-21-3, and §18B-21-4 or this policy. No financial decisions relating to the student media program will be based, in whole or in part, on the past, present, or potential content of school-sponsored student media.

Exceptions

This policy does not authorize or protect school-sponsored media that:

1. Is libelous or slanderous;
2. Constitutes an actionable invasion of privacy;
3. Is obscene;
4. Violates federal or state law; or
5. Expressly incites students to engage in the commission of an unlawful act or acts, or violate a lawful school policy, or is likely to cause the material and substantial disruption of the orderly operation of the school.

If, in the opinion of a student editor, student editorial staff or faculty adviser, material proposed for a publication may fall within the list of exceptions, above, students may seek the advice of an attorney or the Student Press Law Center. The final decision of whether the material is to be published or distributed will

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be left to the student editor or student editorial staff.

Administrators must base a forecast of material and substantial disruption on specific facts, including past experience in the school and current events influencing student behavior, and not on speculation, undifferentiated fear or apprehension. In determining whether student media is disruptive, consideration must be given to the context of the distribution as well as the content of the material. Consideration should be given to past experience in the school with similar material, past experience in the school in dealing with and supervising the students in the school, current events influencing student attitudes and behavior, and whether there have been any instances of actual or threatened disruption prior to or contemporaneously with the dissemination of the student publication in question. Actual or potential heated discussion or debate alone is not sufficient evidence of a material and substantial disruption.

School officials shall have the burden of providing to the student journalist prior written justification for their limitation of school-sponsored media.

While some other speech may be unprotected under state law, unprotected speech is not speech that is required to be censored. Censorship of other speech may be a violation of the First Amendment, even if not a violation of West Virginia state law.

Appeals

The student journalist shall have the right, within five business days of receiving the written reason for limitation of school-sponsored student media, to appeal the decision to the Superintendent. Appeals must be filed in writing. The Superintendent shall convene a hearing within five business days. The student journalist shall have the right to have the student's parent or legal guardian and the student media adviser present. The burden of proof shall be on the principal or his or her appointed representative to demonstrate that the media in question has met the criteria for exclusion. The Superintendent shall render a written decision within 48 hours of the hearing.

The student journalist shall have the right, within five business days of receiving the Superintendent's written decision, to appeal to the school board. The school board shall hear the appeal at the next regularly scheduled board meeting. The school board shall render a written decision within 48 hours of the hearing.

Adopted: 06/26/23