

JAN 17 2020

A BILL FOR AN ACT

RELATING TO STUDENT JOURNALISTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that states may enhance
2 the protections guaranteed by the First Amendment of the United
3 States Constitution through state laws and regulations. The
4 legislature further finds that the enactment of a Hawaii student
5 journalism protection act will provide student journalists
6 attending Hawaii public schools with additional protection
7 against censorship.

8 The purpose of this Act is to allow student journalists at
9 public schools and public post-secondary educational
10 institutions to exercise freedom of speech and freedom of the
11 press in school-sponsored media.

12 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
13 amended by adding a new subpart to part II to be appropriately
14 designated and to read as follows:

15 " . HAWAII STUDENT JOURNALISM PROTECTION ACT

16 **§302A- Title.** This subpart shall be known as the
17 "Hawaii Student Journalism Protection Act".



1 **§302A- Definitions.** As used in this subpart:

2 "School-sponsored media" means any material:

3 (1) Prepared, written, published in print or online, or
4 broadcast by a student journalist at a public school;

5 (2) Distributed or generally made available, either free
6 of charge or for a fee, to members of the student
7 body; or

8 (3) Prepared under the direction of a student media
9 adviser,

10 regardless of whether the material is supported financially by
11 the public school or by use of facilities of the public school
12 or produced in conjunction with a class in which the student
13 journalist is enrolled. "School-sponsored media" does not
14 include material intended for distribution or transmission
15 solely in the classroom in which the material is produced.

16 "Student journalist" means a public school student who
17 determines, gathers, compiles, writes, edits, photographs,
18 records, or prepares information and advertising for
19 dissemination in school-sponsored media.



1 "Student media adviser" means an individual employed,
2 appointed, or designated by a public school to supervise or
3 provide instruction relating to school-sponsored media.

4 **§302A- Hawaii student journalism protection; freedom of**
5 **speech; freedom of the press.** (a) A student journalist shall
6 be allowed to exercise freedom of speech and freedom of the
7 press in school-sponsored media and shall not be disciplined for
8 acting in accordance with this section.

9 (b) Nothing in this section shall be construed to prevent
10 a student media adviser from teaching professional standards of
11 English and journalism to student journalists or determining
12 grades and credit for these purposes.

13 (c) Nothing in this section shall be construed to
14 authorize or protect student expression that:

- 15 (1) Is libelous or slanderous;
- 16 (2) Constitutes an unwarranted invasion of privacy; or
- 17 (3) So incites students as to create a clear and present
18 danger of the commission of an unlawful act, the
19 violation of public school or board policies, or the
20 material and substantial disruption of the orderly
21 operation of the public school.



1 (d) There shall be no prior restraint of material prepared
2 for school-sponsored media except insofar as it violates this
3 section. School officials shall have the burden of showing
4 justification without undue delay prior to a limitation of
5 student expression under this section. If the prescribed time
6 for review elapses without a decision, the material prepared for
7 school-sponsored media shall be considered authorized.

8 (e) No publication or other expression of material by
9 student journalists in the exercise of rights under this section
10 shall be deemed to be an expression of the public school, board,
11 or department. No state agency, member of the board, officer of
12 the department, or employee of any agency or the board shall be
13 held responsible in any civil or criminal action for the
14 publication or other expression of material by student
15 journalists in the exercise of rights under this section.

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

19 (1) Acting to protect a student journalist engaged in
20 conduct protected under this section; or



1 (2) Refusing to infringe on conduct that is protected by
2 this section.

3 (g) Any student, individually or through a parent or
4 guardian, or student media adviser may institute proceedings for
5 injunctive or declaratory relief in any court of competent
6 jurisdiction to enforce the rights provided by this subpart.

7 (h) Each school shall adopt a written policy consistent
8 with this section."

9 SECTION 3. Chapter 304A, Hawaii Revised Statutes, is
10 amended by adding a new part to be appropriately designated and
11 to read as follows:

12 "PART . HAWAII POST-SECONDARY STUDENT JOURNALISM PROTECTION
13 ACT

14 §304A- Title. This subpart shall be known as the
15 "Hawaii Post-Secondary Student Journalism Protection Act".

16 §304A- Definitions. As used in this subpart:

17 "Post-secondary educational institution" means a public
18 post-secondary educational institution located in this State
19 that has been accredited by a nationally recognized accrediting
20 agency that is listed by the United States Secretary of
21 Education.



- 1 "School-sponsored media" means any material:
- 2 (1) Prepared, written, published in print or online, or
- 3 broadcast by a student journalist at a post-secondary
- 4 educational institution;
- 5 (2) Distributed or generally made available, either free
- 6 of charge or for a fee, to members of the student
- 7 body; or
- 8 (3) Prepared under the direction of a student media
- 9 adviser,

10 regardless of whether the material is supported financially by

11 the post-secondary educational institution or by use of

12 facilities of the post-secondary educational institution or

13 produced in conjunction with a class in which the student

14 journalist is enrolled. "School-sponsored media" does not

15 include material intended for distribution or transmission

16 solely in the classroom in which the material is produced.

17 "Student journalist" means a student who is enrolled at a

18 post-secondary educational institution and who determines,

19 gathers, compiles, writes, edits, photographs, records, or

20 prepares information and advertising for dissemination in

21 school-sponsored media.



1 "Student media adviser" means an individual employed,
2 appointed, or designated by a post-secondary educational
3 institution to supervise or provide instruction relating to
4 school-sponsored media.

5 **§304A- Hawaii post-secondary student journalism**
6 **protection; freedom of speech; freedom of the press.** (a) A
7 student journalist shall be allowed to exercise freedom of
8 speech and freedom of the press in school-sponsored media and
9 shall not be disciplined for acting in accordance with this
10 section.

11 (b) Nothing in this section shall be construed to prevent
12 a student media adviser from teaching professional standards of
13 English and journalism to student journalists or determining
14 grades and credit for those purposes.

15 (c) Nothing in this section shall be construed to
16 authorize or protect student expression that:

- 17 (1) Is libelous or slanderous;
- 18 (2) Constitutes an unwarranted invasion of privacy; or
- 19 (3) So incites students as to create a clear and present
20 danger of the commission of an unlawful act, the
21 violation of post-secondary educational institution or



1 board of regents policies, or the material and
2 substantial disruption of the orderly operation of the
3 post-secondary educational institution.

4 (d) There shall be no prior restraint of material prepared
5 for school-sponsored media except insofar as it violates this
6 section. Post-secondary educational institution officials shall
7 have the burden of showing justification without undue delay
8 prior to a limitation of student expression under this section.
9 If the prescribed time for review elapses without a decision,
10 the material prepared for school-sponsored media shall be
11 considered authorized.

12 (e) No publication or other expression of material by
13 student journalists in the exercise of rights under this section
14 shall be deemed to be an expression of the post-secondary
15 educational institution or board of regents. No university,
16 member of the board of regents, or officer or employee of the
17 university shall be held responsible in any civil or criminal
18 action for the publication or other expression of material by
19 student journalists in the exercise of rights under this
20 section.



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

4 (1) Acting to protect a student journalist engaged in
 5 conduct protected under this section; or

6 (2) Refusing to infringe on conduct that is protected by
 7 this section.

8 (g) Any student, individually or through a parent or
 9 guardian, or student media adviser, may institute proceedings
 10 for injunctive or declaratory relief in any court of competent
 11 jurisdiction to enforce the rights provided by this section.

12 (h) Each post-secondary educational institution or its
 13 governing body shall adopt a written policy consistent with this
 14 section."

15 SECTION 4. This Act shall take effect on July 1, 2020.

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INTRODUCED BY:

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S.B. NO. 260B

Report Title:

Hawaii Student Journalism Protection Act; Hawaii Post-Secondary Student Journalism Protection Act; Student Journalists; Freedom of Speech; Freedom of the Press

Description:

Allows student journalists at public schools and public post-secondary educational institutions to exercise freedom of speech and freedom of the press in school-sponsored media.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

