
A BILL FOR AN ACT

RELATING TO STUDENT JOURNALISM.

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

1 SECTION 1. This Act shall be known and may be cited as the
2 Hawaii Student Journalism Protection Act.

3 SECTION 2. The legislature finds that states may enhance
4 the protections guaranteed by the First Amendment of the United
5 States Constitution through state laws, rules, and regulations.
6 The legislature further finds that student journalists attending
7 Hawaii public schools and the University of Hawaii need
8 additional protection against censorship, and that advisors need
9 additional protections against retaliation for refusing to
10 illegally censor student journalists.

11 Pursuant to the exclusive jurisdiction of the legislature
12 to identify laws of statewide concern granted under article X,
13 section 6, of the Hawaii State Constitution, the legislature
14 further finds that allowing student journalists at the
15 University of Hawaii to exercise freedom of speech and freedom
16 of the press in school-sponsored media and protecting their



1 advisors from retaliation for refusing to censor their students
2 is a matter of statewide concern.

3 The purpose of this Act is to establish the Hawaii Student
4 Journalism Protection Act to:

- 5 (1) Allow student journalists at public schools and the
6 University of Hawaii to exercise freedom of speech and
7 freedom of the press in school-sponsored media; and
- 8 (2) Protect advisors from retaliation for refusing to
9 infringe upon student press freedom.

10 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§302A- Student journalists; school-sponsored media.

14 (a) A student journalist shall be allowed to exercise freedom
15 of speech and freedom of the press in school-sponsored media and
16 shall not be disciplined for acting in accordance with this
17 section. A student journalist shall be responsible for
18 determining the news, opinion, feature, and advertising content
19 of school-sponsored media.

20 (b) Nothing in this section shall be construed to prevent
21 a student media advisor from teaching professional standards of



1 English language use and journalism to student journalists or
2 determining grades and credit for those purposes.

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

5 (1) Is libelous or slanderous;

6 (2) Constitutes a clearly unwarranted invasion of personal
7 privacy;

8 (3) Violates state or federal law;

9 (4) Is obscene; or

10 (5) So incites students as to create a clear and present
11 danger of the commission of an unlawful act, the
12 violation of lawful school or board policies, or the
13 material and substantial disruption of the orderly
14 operation of the school; provided that the
15 determination of a risk of material and substantial
16 disruption shall be based upon specific facts,
17 including past experience at the school and current
18 events influencing student behavior, and not on
19 undifferentiated fear or apprehension of disturbance.

20 (d) There shall be no prior constraint of material
21 prepared for school-sponsored media except as provided in



1 subsection (c). School officials shall have the burden of
2 showing justification without undue delay before a limitation of
3 student expression under this section and shall establish a
4 reasonable period of review for material prepared for school-
5 sponsored media. If the period of review elapses without a
6 decision, the material prepared for school-sponsored media shall
7 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 school, board, or
11 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 or the
16 First Amendment of the United States Constitution.

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



1 (1) Acting to protect a student journalist engaged in
2 conduct protected under this section or the First
3 Amendment to the United States Constitution; or

4 (2) Refusing to infringe on conduct that is protected by
5 this section or the First Amendment to the United
6 States Constitution.

7 (g) The board shall adopt a written policy for the
8 exercise of the right of student journalists to freedom of
9 speech and freedom of the press in school-sponsored media in
10 accordance with this section; provided that the policy shall
11 include:

12 (1) Reasonable provisions for the time, place, and manner
13 of distribution of student expression; and

14 (2) A procedure for the timely appeal of decisions made
15 pursuant to this section.

16 (h) For the purposes of this section:

17 "School-sponsored media" means any material:

18 (1) Prepared, written, published, or broadcast in any
19 media by a student journalist at a school;



1 (2) Distributed or generally made available, either free
2 of charge or for a fee, to members of the student
3 body; and

4 (3) Prepared under the direction of a student media
5 advisor, regardless of whether the material is
6 supported financially by the school or by use of
7 facilities of the school or produced in conjunction
8 with a class for which the student is enrolled.

9 "School-sponsored media" does not include material intended for
10 distribution or transmission for classroom purposes only.

11 "Student journalist" means a student who determines,
12 gathers, compiles, writes, edits, photographs, records, or
13 prepares information or advertising for inclusion in school-
14 sponsored media.

15 "Student media advisor" means an individual employed,
16 appointed, or designated by a school to supervise or provide
17 instruction relating to school-sponsored media."

18 SECTION 4. Chapter 304A, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



1 "§304A- Student journalists; university-sponsored media.

2 (a) A student journalist shall be allowed to exercise freedom
3 of speech and freedom of the press in university-sponsored media
4 and shall not be disciplined for acting in accordance with this
5 section. A student journalist shall be responsible for
6 determining the news, opinion, feature, and advertising content
7 of university-sponsored media.

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

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

14 (1) Is libelous or slanderous;

15 (2) Constitutes a clearly unwarranted invasion of personal
16 privacy;

17 (3) Violates state or federal law;

18 (4) Is obscene; or

19 (5) So incites students as to create a clear and present
20 danger of the commission of an unlawful act, the
21 violation of lawful university policies, or the



1 material and substantial disruption of the orderly
2 operation of the university; provided that the
3 determination of a risk of material and substantial
4 disruption shall be based upon specific facts,
5 including past experience at the university and
6 current events influencing student behavior, and not
7 on undifferentiated fear or apprehension of
8 disturbance.

9 (d) There shall be no prior constraint of material
10 prepared for university-sponsored media except as provided in
11 subsection (c). University officials shall have the burden of
12 showing justification without undue delay before a limitation of
13 student expression under this section and shall establish a
14 reasonable period of review for material prepared for
15 university-sponsored media. If the period of review elapses
16 without a decision, the material prepared for university-
17 sponsored media shall be considered authorized.

18 (e) No publication or other expression of material by
19 student journalists in the exercise of rights under this section
20 shall be deemed to be an expression of the university or the
21 board of regents. No state agency, member of the board of



1 regents, officer of the university, or employee of any agency or
2 the board of regents shall be held responsible in any civil or
3 criminal action for the publication or other expression of
4 material by student journalists in the exercise of rights under
5 this section or the First Amendment of the United States
6 Constitution.

7 (f) A student media advisor shall not be dismissed,
8 suspended, disciplined, reassigned, transferred, or otherwise
9 retaliated against for:

10 (1) Acting to protect a student journalist engaged in
11 conduct protected under this section or the First
12 Amendment to the United States Constitution; or

13 (2) Refusing to infringe on conduct that is protected by
14 this section or the First Amendment to the United
15 States Constitution.

16 (g) The board of regents shall adopt a written policy for
17 the exercise of the right of student journalists to freedom of
18 speech and freedom of the press in university-sponsored media in
19 accordance with this section; provided that the policy shall
20 include:



1 (1) Reasonable provisions for the time, place, and manner
2 of distribution of student expression; and

3 (2) A procedure for the timely appeal of decisions made
4 pursuant to this section.

5 (h) For the purposes of this section:

6 "Student journalist" means a student who determines,
7 gathers, compiles, writes, edits, photographs, records, or
8 prepares information or advertising for inclusion in university-
9 sponsored media.

10 "Student media advisor" means an individual employed,
11 appointed, or designated by the university to supervise or
12 provide instruction relating to university-sponsored media.

13 "University-sponsored media" means any material:

14 (1) Prepared, written, published, or broadcast in any
15 media by a student journalist in the university
16 system;

17 (2) Distributed or generally made available, either free
18 of charge or for a fee, to members of the student
19 body; and

20 (3) Prepared under the direction of a student media
21 advisor, regardless of whether the material is



1 supported financially by the university or by use of
2 facilities of the university or produced in
3 conjunction with a class for which the student is
4 enrolled.

5 "University-sponsored media" does not include material intended
6 for distribution or transmission for classroom purposes only."

7 SECTION 5. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Student Journalism; Protection; Department of Education;
University of Hawaii

Description:

Establishes freedom of speech and freedom of the press protections for student journalists producing school-sponsored media or university-sponsored media unless subject to certain exceptions. Provides legal immunity for state agencies, officers, and employees for students' exercise of these freedoms. (SD1)

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

