

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40395-NH-140

Short Title: Protect School Journalists. (Public)

Sponsors: Representative Longest.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE FREE SPEECH RIGHTS OF STUDENT JOURNALISTS IN
3 PUBLIC SCHOOLS, CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF
4 NORTH CAROLINA, AND COMMUNITY COLLEGES.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. FREE SPEECH FOR STUDENT JOURNALISTS IN PUBLIC SCHOOL UNITS**

8 **SECTION 1.(a)** Chapter 115C of the General Statutes is amended by adding a new
9 Article to read:

10 "Article 29F.

11 "Student Journalist Press Freedom Restoration Act.

12 **"§ 115C-407.70. Definitions.**

13 The following definitions apply in this Article:

- 14 (1) School-sponsored media. – Any material that is prepared, substantially
15 written, published, or broadcast, in any media, by a student journalist at a
16 school within a public school unit under the direction of a student media
17 adviser and distributed or generally made available to members of the student
18 body. School-sponsored media does not include media intended for
19 distribution or transmission for classroom purposes only.
20 (2) Student journalist. – A student enrolled in a school within a public school unit
21 who gathers, compiles, writes, edits, photographs, illustrates, or prepares
22 information for inclusion in school-sponsored media.
23 (3) Student media adviser. – An individual employed, appointed, or designated
24 by a public school unit to supervise or provide instruction relating to
25 school-sponsored media.

26 **"§ 115C-407.71. Student journalists' freedom of expression.**

27 (a) A student journalist has the right to exercise freedom of speech and of the press in
28 school-sponsored media regardless of whether the media is supported financially by the school,
29 uses the facilities of the school, or is produced in conjunction with a course or class in which the
30 student is enrolled. A student journalist is responsible for determining the news, opinion, feature,
31 and advertising content of school-sponsored media. Student media advisers may teach
32 professional standards of English and journalism to student journalists, consistent with this
33 subsection.

34 (b) Subsection (a) of this section does not authorize or protect expression by a student
35 journalist that is any of the following:

- 36 (1) Libelous or slanderous.



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- 1 (2) Constitutes an unwarranted invasion of privacy.
2 (3) Obscene.
3 (4) In violation of federal or State law.
4 (5) Inciteful to students as to create a clear and present danger of the commission
5 of an unlawful act, the violation of a lawful school district policy, or the
6 material and substantial disruption of the orderly operation of the school.
7 Administrators shall base a forecast of material and substantial disruption on
8 specific facts, including past experience in the school and current events
9 influencing student behavior, and not on undifferentiated fear or
10 apprehension.

11 (c) There shall be no prior restraint of material prepared for official school publications
12 except insofar as the material violates the standards of subsection (b) of this section. School
13 officials shall have the burden of showing prior justification for their limitation of student
14 journalist expression under this section and affording students a timely opportunity for appeal.

15 (d) Nothing in this section shall be construed as authorizing the publication of an
16 advertisement in school-sponsored media that promotes the purchase of a product or service that
17 is unlawful for purchase or use by minors.

18 **"§ 115C-407.72. Individual protection.**

19 (a) A student journalist may not be disciplined for acting in accordance with subsection
20 (a) of G.S. 115C-407.71.

21 (b) A student media adviser may not be dismissed, suspended, disciplined, reassigned,
22 transferred, or otherwise retaliated against for:

- 23 (1) Refusing to infringe on conduct that is protected by G.S. 115C-407.71, the
24 First Amendment of the United States Constitution, or Section 14 of Article I
25 of the North Carolina Constitution.
26 (2) Acting to protect a student journalist engaged in permissible conduct under
27 subsection (a) of G.S. 115C-407.71, the First Amendment of the United States
28 Constitution, or Section 14 of Article I of the North Carolina Constitution.

29 **"§ 115C-407.73. Policy adoption and court action.**

30 (a) Governing bodies of public school units shall adopt a written policy for the exercise
31 of the right of student journalists to freedom of speech and the press in school-sponsored media
32 in accordance with this Article. At a minimum, the policy shall include:

- 33 (1) Reasonable provisions for the time, place, and manner of distribution of
34 student expression.
35 (2) A provision allowing for the timely appeal within the public school unit of a
36 decision made pursuant to this section.

37 (b) No expression made by students in the exercise of free speech or free press rights
38 shall be deemed to be an expression of school policy, and no school officials or public school
39 unit shall be held responsible in any civil or criminal action for any expression made or published
40 by students.

41 (c) Any student, individually or through a parent or guardian, or student media adviser
42 may institute proceedings for injunctive or declaratory relief in any court of competent
43 jurisdiction to enforce the rights provided in this section. Nothing in this section shall be
44 construed to create any private action on behalf of a student other than to seek injunctive relief
45 allowing the publication of the speech in question. A court may award reasonable attorneys' fees
46 to a plaintiff that substantially prevails."

47 **SECTION 1.(b)** G.S. 115C-47 is amended by adding a new subdivision to read:

48 "(68) Freedom of Student Press. – Local boards of education shall develop policies
49 to support student-developed, school-sponsored media in accordance with
50 Article 29F of this Chapter."

51 **SECTION 1.(c)** G.S. 115C-218.75 is amended by adding a new subsection to read:

1 "(k) Freedom of Student Press. – A charter school shall develop policies to support
2 student-developed, school-sponsored media in accordance with Article 29F of this Chapter."

3 **SECTION 1.(d)** G.S. 115C-238.66 is amended by adding a new subdivision to read:

4 "(19) Freedom of student press. – A regional school shall develop policies to support
5 student-developed, school-sponsored media in accordance with Article 29F of
6 this Chapter."

7 **SECTION 1.(e)** G.S. 116-11 is amended by adding a new subdivision to read:

8 "(15) Freedom of student press. – The Board of Governors shall develop policies
9 for all public secondary schools under the Board's jurisdiction to support
10 student-developed, school-sponsored media in accordance with Article 29F of
11 Chapter 115C of the General Statutes."

13 **PART II. FREE SPEECH FOR STUDENT JOURNALISTS AT INSTITUTIONS OF** 14 **HIGHER EDUCATION**

15 **SECTION 2.(a)** Article 36 of Chapter 116 is amended by adding a new section to
16 read:

17 **"§ 116-305. Student Journalist Press Freedom Restoration Act.**

18 (a) Definitions. – The following definitions apply in this section:

19 (1) Student journalist. – A student enrolled at a constituent institution of The
20 University of North Carolina who gathers, compiles, writes, edits,
21 photographs, records, or prepares information for inclusion in
22 university-sponsored media.

23 (2) Student media adviser. – An individual employed, appointed, or designated
24 by a constituent institution of The University of North Carolina to supervise
25 or provide instruction relating to university-sponsored media.

26 (3) University-sponsored media. – Any material that is prepared, substantially
27 written, published, or broadcast, in any media, by a student journalist at a
28 constituent institution of The University of North Carolina under the direction
29 of a student media adviser and distributed or generally made available to
30 members of the student body. University-sponsored media does not include
31 media intended for distribution or transmission for classroom purposes only.

32 (b) Freedom of Expression. – A student journalist has a right to exercise freedom of
33 speech and of the press in university-sponsored media as follows:

34 (1) This right exists regardless of whether the media is supported financially by
35 the institution, uses the facilities of the institution, or is produced in
36 conjunction with a course or class in which the student is enrolled. A student
37 journalist is responsible for determining the news, opinion, feature, and
38 advertising content of university-sponsored media. Student media advisers
39 may teach professional standards of English and journalism to student
40 journalists, consistent with this subsection.

41 (2) Subdivision (1) of this subsection does not authorize or protect expression by
42 a student journalist that is any of the following:

43 a. Libelous or slanderous.

44 b. Constitutes an unwarranted invasion of privacy.

45 c. Obscene.

46 d. In violation of federal or State law.

47 e. Inciteful to students as to create a clear and present danger of the
48 commission of an unlawful act or the violation of a lawful university
49 policy.

50 (3) There shall be no prior restraint of material prepared for official university
51 publications except insofar as the material violates the standards of

1 subdivision (2) of this subsection. University officials shall have the burden
2 of showing prior justification for their limitation of student journalist
3 expression under this section and affording students a timely opportunity for
4 appeal.

5 (4) Nothing in this subsection shall be construed as authorizing the publication of
6 an advertisement in university-sponsored media that promotes the purchase of
7 a product or service that is unlawful for purchase or use by minors.

8 (c) Individual Protection. – A student journalist may not be disciplined for acting in
9 accordance with subdivision (1) of subsection (b) of this section. A student media adviser may
10 not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against
11 for any of the following:

12 (1) Refusing to infringe on conduct that is protected by subsection (b) of this
13 section, the First Amendment of the United States Constitution, or Section 14
14 of Article I of the North Carolina Constitution.

15 (2) Acting to protect a student journalist engaged in permissible conduct under
16 subdivision (1) of subsection (b) of this section, the First Amendment of the
17 United States Constitution, or Section 14 of Article I of the North Carolina
18 Constitution.

19 (d) Policy. – Each constituent institution of The University of North Carolina shall adopt
20 a written policy for the exercise of the right of student journalists to freedom of speech and the
21 press in university-sponsored media in accordance with this section that shall include at least the
22 following:

23 (1) Reasonable provisions for the time, place, and manner of distribution of
24 student expression.

25 (2) A provision allowing for the timely appeal within the constituent institution
26 of decisions made pursuant to this section.

27 (e) Court Action. – No expression made by students in the exercise of free speech or free
28 press rights shall be deemed to be an expression of university policy, and no administrative
29 officials of a constituent institution or constituent institution shall be held responsible in any civil
30 or criminal action for any expression made or published by students. Any student, individually
31 or through a parent or guardian, or student media adviser may institute proceedings for injunctive
32 or declaratory relief in any court of competent jurisdiction to enforce the rights provided in this
33 section. Nothing in this section shall be construed to create any private action on behalf of a
34 student other than to seek injunctive relief allowing the publication of the speech in question. A
35 court may award reasonable attorney fees to a plaintiff that substantially prevails."

36 **SECTION 2.(b)** Article 7 of Chapter 115D of the General Statutes is amended by
37 adding a new section to read:

38 **"§ 115D-82. Student Journalist Press Freedom Restoration Act.**

39 (a) Definitions. – The following definitions apply in this section:

40 (1) College-sponsored media. – Any material that is prepared, substantially
41 written, published, or broadcast, in any media, by a student journalist at a
42 community college under the direction of a student media adviser and
43 distributed or generally made available to members of the student body.
44 College-sponsored media does not include media intended for distribution or
45 transmission for classroom purposes only.

46 (2) Student journalist. – A student enrolled at a community college who gathers,
47 compiles, writes, edits, photographs, records, or prepares information for
48 inclusion in college-sponsored media.

49 (3) Student media adviser. – An individual employed, appointed, or designated
50 by a community college to supervise or provide instruction relating to
51 college-sponsored media.

- 1 (b) Freedom of Expression. – A student journalist has a right to exercise freedom of
2 speech and of the press in college-sponsored media as follows:
- 3 (1) This right exists regardless of whether the media is supported financially by
4 the community college, uses the facilities of the community college, or is
5 produced in conjunction with a course or class in which the student is enrolled.
6 A student journalist is responsible for determining the news, opinion, feature,
7 and advertising content of college-sponsored media. Student media advisers
8 may teach professional standards of English and journalism to student
9 journalists, consistent with this subsection.
- 10 (2) Subdivision (1) of this subsection does not authorize or protect expression by
11 a student journalist that is any of the following:
- 12 a. Libelous or slanderous.
13 b. Constitutes an unwarranted invasion of privacy.
14 c. Obscene.
15 d. In violation of federal or State law.
16 e. Inciteful to students as to create a clear and present danger of the
17 commission of an unlawful act or the violation of a lawful community
18 college policy.
- 19 (3) There shall be no prior restraint of material prepared for official community
20 college publications except insofar as the material violates the standards of
21 subdivision (2) of this subsection. Community college officials shall have the
22 burden of showing prior justification for their limitation of student journalist
23 expression under this section and affording students a timely opportunity for
24 appeal.
- 25 (4) Nothing in this subsection shall be construed as authorizing the publication of
26 an advertisement in college-sponsored media that promotes the purchase of a
27 product or service that is unlawful for purchase or use by minors.
- 28 (c) Individual Protection. – A student journalist may not be disciplined for acting in
29 accordance with subdivision (1) of subsection (b) of this section. A student media adviser may
30 not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against
31 for any of the following:
- 32 (1) Refusing to infringe on conduct that is protected by subsection (b) of this
33 section, the First Amendment of the United States Constitution, or Section 14
34 of Article I of the North Carolina Constitution.
- 35 (2) Acting to protect a student journalist engaged in permissible conduct under
36 subdivision (1) of subsection (b) of this section, the First Amendment of the
37 United States Constitution, or Section 14 of Article I of the North Carolina
38 Constitution.
- 39 (d) Policy. – Each community college shall adopt a written policy for the exercise of the
40 right of student journalists to freedom of speech and the press in college-sponsored media in
41 accordance with this section that shall include at least the following:
- 42 (1) Reasonable provisions for the time, place, and manner of distribution of
43 student expression.
- 44 (2) A provision allowing for the timely appeal within the constituent institution
45 of decisions made pursuant to this section.
- 46 (e) Court Action. – No expression made by students in the exercise of free speech or free
47 press rights shall be deemed to be an expression of community college policy, and no
48 administrative officials of a community college or community college shall be held responsible
49 in any civil or criminal action for any expression made or published by students. Any student,
50 individually or through a parent or guardian, or student media adviser may institute proceedings
51 for injunctive or declaratory relief in any court of competent jurisdiction to enforce the rights

1 provided in this section. Nothing in this section shall be construed to create any private action on
2 behalf of a student other than to seek injunctive relief allowing the publication of the speech in
3 question. A court may award reasonable attorney fees to a plaintiff that substantially prevails."
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5 **PART III. EFFECTIVE DATE**

6 **SECTION 3.** This act is effective when it becomes law.