

§§1,2
C.18A:36-44 and
18A:36-45
§3
C.18A:62-67

P.L. 2021, CHAPTER 309, *approved December 21, 2021*
Senate, No. 108 (*Second Reprint*)

1 AN ACT concerning student speech and supplementing chapters 36
2 and 62 of Title 18A of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. a. Except as otherwise provided in section 2 of this act, a public
8 school student shall have the right to exercise freedom of speech and
9 of the press.

10 b. By the ¹**[2020-2021]** first full¹ school year next following
11 the date of enactment of this act¹, each school district shall adopt a
12 written policy concerning student freedom of expression in accordance
13 with the provisions of section 2 of this act. The policy shall include
14 reasonable provisions for the time, place, and manner of student
15 expression. The policy may also include limitations on language that
16 may be defined as profane, harassing, threatening, or intimidating.

17
18 2. a. As used in this section:
19 “School-sponsored media” means any material that is prepared,
20 substantially written, published, or broadcast by a student journalist
21 at a public school, distributed or generally made available to
22 members of the student body, and prepared under the direction of a
23 student media adviser. School-sponsored media does not include
24 media intended for distribution or transmission solely in the
25 classroom in which the media is produced.

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

29 “Student media adviser” means an individual employed,
30 appointed, or designated by a school district to supervise or provide
31 instruction relating to school-sponsored media.

32 b. Except as otherwise provided in subsection c. of this section,
33 a student journalist has the right to exercise freedom of speech and
34 of the press in school-sponsored media, regardless of whether the
35 media is supported financially by the school district or by use of
36 school district facilities, or produced in conjunction with a class in
37 which the student is enrolled. Subject to subsection c. of this

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AED committee amendments adopted March 17, 2021.

²Senate amendments adopted in accordance with Governor's recommendations December 2, 2021.

1 section, a student journalist is responsible for determining the news,
2 opinion, feature, and advertising content of school-sponsored
3 media. This subsection shall not be construed to prevent a student
4 media adviser from teaching professional standards of English and
5 journalism to student journalists.

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

- 8 (1) is libelous or slanderous;
9 (2) constitutes an unwarranted invasion of privacy;
10 ²(3) is profane or obscene;²
11 ²[(3)] (4)² violates federal or State law; or
12 ²[(4)] (5)² so incites students as to create a clear and present
13 danger of the commission of an unlawful act, the violation of school
14 district policies, or the material and substantial disruption of the
15 orderly operation of the school.

16 d. A school district shall not authorize any prior restraint of
17 any school-sponsored media except for the types of expression
18 described in subsection c. of this section. ²【School officials shall
19 have the burden of showing justification without undue delay prior
20 to a limitation of student expression under this section】 When a
21 school official determines that the restraint of student expression is
22 necessary, the school official shall simultaneously identify the
23 provision within subsection c. of this section under which the
24 limitation of student expression is appropriate².

25 e. A school district shall not sanction a student operating as an
26 independent journalist.

27 f. An employee of a school district shall not be dismissed,
28 suspended, disciplined, reassigned, transferred, or otherwise
29 retaliated against solely for acting to protect a student engaged in
30 the conduct authorized under this section, or refusing to infringe
31 upon conduct that is protected by this section, the First Amendment
32 to the United States Constitution, or paragraph 6 of Article I of the
33 New Jersey Constitution.

34
35 3. a. As used in this section:

36 “School-sponsored media” means any material that is prepared,
37 substantially written, published, or broadcast by a student journalist
38 at a public institution of higher education, distributed or generally
39 made available to members of the student body, and prepared under
40 the direction of a student media adviser. School-sponsored media
41 does not include media intended for distribution or transmission
42 solely in the classroom in which the media is produced.

43 “Student journalist” means a student at a public institution of
44 higher education who gathers, compiles, writes, edits, photographs,
45 records, or prepares information for dissemination in school-
46 sponsored media.

1 “Student media adviser” means an individual employed,
2 appointed, or designated by a public institution of higher education
3 to supervise or provide instruction relating to school-sponsored
4 media.

5 b. Except as otherwise provided in subsection c. of this section,
6 a student journalist has the right to exercise freedom of speech and
7 of the press in school-sponsored media, regardless of whether the
8 media is supported financially by the public institution of higher
9 education or by use of institution facilities, or produced in
10 conjunction with a course in which the student is enrolled. Subject
11 to subsection c. of this section, a student journalist is responsible
12 for determining the news, opinion, feature, and advertising content
13 of school-sponsored media. This subsection shall not be construed
14 to prevent a student media adviser from teaching professional
15 standards of English and journalism to student journalists.

16 c. This section does not authorize or protect expression by a
17 student that:

- 18 (1) is libelous or slanderous;
19 (2) constitutes an unwarranted invasion of privacy;
20 ²(3) is profane or obscene;²
21 ²[(3)] (4)² violates federal or State law; or
22 ²[(4)] (5)² so incites students as to create a clear and present
23 danger of the commission of an unlawful act, the violation of
24 policies of the public institution of higher education, or the material
25 and substantial disruption of the orderly operation of the institution.

26 d. An employee of a public institution of higher education shall
27 not be dismissed, suspended, disciplined, reassigned, transferred, or
28 otherwise retaliated against solely for acting to protect a student
29 engaged in the conduct authorized under this section, or refusing to
30 infringe upon conduct that is protected by this section, the First
31 Amendment to the United States Constitution, or paragraph 6 of
32 Article I of the New Jersey Constitution.

33
34 4. This act shall take effect immediately.
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40 Concerns speech rights of student journalists at public schools
and public institutions of higher education.