# WEST VIRGINIA CODE: §18B-21-4

**§18B-21-4. Student journalists' freedom of expression.**

(a) Except as provided in subsection (b) of this section, a student journalist has the right to freedom of speech and of the press in school-sponsored media regardless of whether the media is supported financially by the school, uses the facilities of the school, or is produced in conjunction with a course or class in which the student is enrolled. Subject to subsection (b) of this section, a student journalist is responsible for determining the news, opinion, feature, and other news reporting content of school-sponsored media. A student journalist is entitled to the protections set forth in §57-3-10 of this code.

(b) This section does not authorize or protect expression by a student that:

(1) Is libelous or slanderous;

(2) Constitutes an actionable invasion of privacy;

(3) Is obscene, vulgar, pornographic, or of sensual or illicit sexual content;

(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 operation of the school. 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 undifferentiated fear or apprehension.

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

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

(e) A student journalist is not subject to discipline for acting in accordance with this section.

(f) A student media adviser may not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against for acting in conformity with this article.

(g)(1) Each county board of education, public college, and public university shall adopt a written policy for the exercise of the right of student journalists to freedom of speech and

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the press in school-sponsored media in accordance with this section.

(2) The policy shall include a provision allowing for the timely appeal of school administration decisions made regarding behavior protected by this section. A student journalist or student media advisor who believes a violation of this section has occurred must exhaust school administrative review procedures prior to availing himself or herself of the relief authorized by subsection (i) of this section.

(h) A statement or position made or taken by students in the exercise of free speech or free press rights shall not be considered to be an expression of school policy, and school officials shall not be held responsible in any civil or criminal action for any expression made or published by students in conformity with this section.

(i) Any student or student media adviser may institute proceedings for injunctive or declaratory relief in any court of competent jurisdiction to enforce the rights provided in this section. Nothing in this section shall be construed to create any private cause of action on behalf of a student other than for injunctive relief allowing the publication of the speech in question. A court may award reasonable attorneys' fees to a plaintiff who substantially prevails.

(j) This article does not apply to students attending private high schools, colleges or universities.

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