

The case for Illinois HB 5902 – The Speech Rights for Student Journalists Act

OVERVIEW

HB5902, The Speech Rights for Student Journalists Act was filed on February 11, 2016 by Rep. Will Guzzardi (D-39) of Chicago. The bill seeks to ensure that scholastic journalists in Illinois have the ability to produce journalistically sound and independent material for their school's student media within reasonable limits tailored to the educational environment. As noted in the bill's summary, the legislation:

Creates the Speech Rights of Student Journalists Act.

- ❖ *Defines "student journalist" as a public high school student.*
- ❖ *Provides that a student journalist has the right to exercise freedom of speech and of the press in school-sponsored media, regardless of whether the media is supported financially by the school district or by use of school facilities or produced in conjunction with a class in which the student is enrolled.*
- ❖ *Provides that a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media.*
- ❖ *Provides that the Act does not authorize or protect expression by a student journalist that (1) is libelous or slanderous; (2) constitutes an unwarranted invasion of privacy; (3) violates federal or State law; or (4) so incites students as to create a clear and present danger of the commission of an unlawful act, the violation of policies of the school district, or the material and substantial disruption of the orderly operation of the school.*
- ❖ *Provides that an employee of a school district shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a student journalist engaged in conduct authorized under the Act.*

The legislation is not unique to Illinois. Eight states currently have similar statutes in place (and two others have state Board of Education regulations accomplishing the same objective) while another five, including Illinois, have bills with similar language currently in legislature committees.

This is not the first time a bill calling for the speech rights of scholastic journalists been before the Illinois legislature. In 1997, the Illinois General Assembly passed a bill very similar to HR 5902. The vote was 109-4 in the House and 57-0 in the Senate. Despite the overwhelming outcome, then Governor Jim Edgar vetoed the action.

While the original intent remains intact, there have been dramatic changes in not just scholastic journalism, but journalism as a whole, since 1998

WHY NOW?

In the past several years, Illinois lawmakers have passed, and the sitting governor at the time has signed, two significant measures that reflect the need for a free and responsible student press. The first, the College Campus Press Act, gave collegiate journalists at public institutions the right to produce independent and nonbiased information in campus media. A second bill, HB4025, which mandates a civics education class for all high school students beginning with the incoming freshman class in the 2016-2017 school year, may not be a press rights freedom bill, but the Illinois State Board of Education's Task Force on Civic Education clearly noted in its May 2014 report the need for News Literacy skill to be addressed in civics education courses. Why? Because if educators, and other stewards and proponents of civic education want high school students to become engaged in the civic process, they need to be able to make decisions about civic issues by using critical thinking skills when reading, listening or viewing news media reports. It's essential that these reports be, as previously noted, independent and free of bias, it seems logical that scholastic journalists have the opportunity to practice journalism that helps inform scholastic news consumers.

It has been 27 years since the U.S. Supreme Court stripped student journalists of their First Amendment protections in *Hazelwood School District v. Kuhlmeier*. Independent research documents, and every leading journalism education organization agrees, that these 27 years represent a failed experiment on America's youth. Having had an entire generation to take stock of the impact of *Hazelwood*, it is timely to assess whether the state of civic and journalistic education is really better off than it was a generation ago when students were free to discuss issues of social and political concern without fear. The answer is resoundingly "no," and it makes no sense to continue the failed experiment when a proven safe and effective alternative exists. *Hazelwood* is a relic of a time when it was possible to insulate students from "mature" topics by tearing articles out of newspapers, but that is no longer the world we live in, and the governance of journalism needs a 21st-century makeover to keep pace with the way young people learn and communicate today.

Independent student media is needed more urgently today than it was a generation ago, because the professional news media no longer reliably provides day-to-day coverage of school events, having lost an average of 3,800 full-time jobs each year since the recession began. Studies document that less than 2 percent of mainstream professional media coverage is devoted to education news, leaving students as the public's only source of information about school effectiveness – a source that must be independent and free from untoward image-motivated interference.

WHY DO STUDENT JOURNALISTS NEED SPEECH RIGHTS?

When it comes to providing news and information to news consumers, students who work on school-sponsored media need to be able to practice free and responsible journalism as any journalists would. News reports in scholastic media needs to be:

- ❖ Independent -- Student produced newspapers, media websites, yearbooks and broadcast outlets need to be designated forums of student expression.
- ❖ Free of bias – Student media needs to have solid and fundamental reporting so its audience can use critical thinking skills in order to make well thought-out civic decisions.
- ❖ Verifiable – Information that is transparent in its origin and content.

How can the public receive complete news to make informed decisions if student media is censored or where students are afraid to report because of possible reprisals?

WHO IS BEHIND HB5902?

The bill is a major initiative of the Illinois Journalism Education Association. Founded in 1988, the IJEA provides resources and programming for student journalists and journalism educators throughout the state. The IJEA offers a fall workshop at the University of Illinois that draws nearly 500 participants. It honors accomplishments of student journalists and journalism educators through a series of awards and media competition.

WHAT IS “NEW VOICES ILLINOIS”?

It’s a student-powered grassroots movement to give young people the legally protected right to gather information and share ideas about issues of public concern. It works with advocates in law, education, journalism and civics to make schools more welcoming places for student voices

New Voices is a nationwide movement inspired by the 2015 enactment of the New Voices Act, which passed the North Dakota legislature unanimously with bipartisan sponsorship and with the support of the state’s colleges and K-12 schools.

WHY CHANGE THE CURRENT LAW AND WHAT WILL CHANGE WITH HB5902?

The outdated *Hazelwood* standard that prevails in Illinois schools invites schools to engage in image-motivated censorship that serves no legitimate educational purpose and in fact affirmatively teaches poor journalism – journalism that is slanted to portray a deceptively positive image of the government. Under HB5902:

Student media would be produced without indiscriminate censorship, but with safeguards remaining as they do today for speech that is dangerous or legally actionable. Schools could continue, as they do today, to review student publications for material that is libelous, will incite a disturbance or otherwise create harm. The censorship that would become illegal is the image-motivated censorship that serves no valid legal or educational purpose.

Scholastic journalism educators would not be disciplined or terminated because of student-produced content in student media.