

## Chapter 229

**(Senate Bill 764)**

AN ACT concerning

**Education – Student Journalists – Freedom of Speech and Freedom of the Press**

FOR the purpose of authorizing certain student journalists to exercise freedom of speech and freedom of the press in school–sponsored media; making certain student journalists responsible for determining certain content of school–sponsored media; providing for the construction of certain provisions of this Act; prohibiting certain student media advisors from using their position to influence a student journalist to promote certain positions; prohibiting a county board of education from exercising prior restraint, except under certain circumstances; specifying that the administration of a certain public school will have the burden of proving certain justification under certain circumstances; prohibiting the discipline of certain student journalists and certain media advisors under certain circumstances; requiring certain county boards and certain institutions of higher education to adopt certain policies; defining certain terms; and generally relating to the freedom of speech and the freedom of the press for student journalists in school–sponsored media.

BY adding to

Article – Education

Section 7–121 and 15–119

Annotated Code of Maryland

(2014 Replacement Volume and 2015 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

**Article – Education****7–121.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “SCHOOL–SPONSORED MEDIA” MEANS ANY MATERIAL THAT IS:

1. PREPARED, WRITTEN, PUBLISHED, OR BROADCAST BY A STUDENT JOURNALIST AT A PUBLIC SCHOOL;

**2. DISTRIBUTED OR GENERALLY MADE AVAILABLE TO MEMBERS OF THE STUDENT BODY; AND**

**3. PREPARED UNDER THE DIRECTION OF A STUDENT MEDIA ADVISOR.**

**(II) "SCHOOL-SPONSORED MEDIA" DOES NOT INCLUDE MATERIAL THAT IS INTENDED FOR DISTRIBUTION OR TRANSMISSION SOLELY IN THE CLASSROOM IN WHICH THE MATERIAL IS PRODUCED.**

**(3) "STUDENT JOURNALIST" MEANS A PUBLIC SCHOOL STUDENT WHO GATHERS, COMPILES, WRITES, EDITS, PHOTOGRAPHS, RECORDS, OR PREPARES INFORMATION FOR DISSEMINATION IN SCHOOL-SPONSORED MEDIA.**

**(4) "STUDENT MEDIA ADVISOR" MEANS AN INDIVIDUAL EMPLOYED, APPOINTED, OR DESIGNATED BY A COUNTY BOARD OR A PUBLIC SCHOOL TO SUPERVISE OR PROVIDE INSTRUCTION RELATING TO SCHOOL-SPONSORED MEDIA.**

**(B) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A STUDENT JOURNALIST MAY EXERCISE FREEDOM OF SPEECH AND FREEDOM OF THE PRESS IN SCHOOL-SPONSORED MEDIA.**

**(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO BE LIMITED BY THE FACT THAT THE SCHOOL-SPONSORED MEDIA IS:**

**(I) SUPPORTED FINANCIALLY BY THE LOCAL SCHOOL SYSTEM, OR BY THE PUBLIC SCHOOL, OR BY USE OF FACILITIES OWNED BY THE COUNTY BOARD; OR**

**(II) PRODUCED IN CONJUNCTION WITH A CLASS IN WHICH THE STUDENT JOURNALIST IS ENROLLED.**

**(C) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A STUDENT JOURNALIST IS RESPONSIBLE FOR DETERMINING THE NEWS, OPINION, FEATURE, AND ADVERTISING CONTENT OF SCHOOL-SPONSORED MEDIA.**

**(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO PREVENT A STUDENT MEDIA ADVISOR FROM TEACHING PROFESSIONAL STANDARDS OF ENGLISH AND JOURNALISM TO STUDENT JOURNALISTS.**

**(D) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE OR PROTECT CONTENT OF SCHOOL-SPONSORED MEDIA 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) INCITES STUDENTS TO CREATE A CLEAR AND PRESENT DANGER OF THE COMMISSION OF AN UNLAWFUL ACT, THE VIOLATION OF COUNTY BOARD POLICIES, OR THE MATERIAL AND SUBSTANTIAL DISRUPTION OF THE ORDERLY OPERATION OF THE PUBLIC SCHOOL.

(E) A STUDENT MEDIA ADVISOR MAY NOT USE THE ADVISOR'S POSITION TO INFLUENCE A STUDENT JOURNALIST TO PROMOTE AN OFFICIAL POSITION OF A COUNTY BOARD OR A PUBLIC SCHOOL.

~~(E)~~ (F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY BOARD MAY NOT EXERCISE PRIOR RESTRAINT OF ANY SCHOOL-SPONSORED MEDIA.

(2) A COUNTY BOARD MAY EXERCISE PRIOR RESTRAINT OF SCHOOL-SPONSORED MEDIA DESCRIBED UNDER SUBSECTION (D) OF THIS SECTION.

~~(F)~~ (G) THE ADMINISTRATION OF A PUBLIC SCHOOL SHALL HAVE THE BURDEN OF PROVING JUSTIFICATION WITHOUT UNDUE DELAY BEFORE AN ACTION IS TAKEN UNDER SUBSECTION ~~(E)(2)~~ (F)(2) OF THIS SECTION.

~~(G)~~ (H) (1) A STUDENT JOURNALIST MAY NOT BE DISCIPLINED FOR ACTING IN ACCORDANCE WITH SUBSECTIONS (B) OR (C) OF THIS SECTION.

(2) A STUDENT MEDIA ADVISOR MAY NOT BE DISMISSED, SUSPENDED, DISCIPLINED, REASSIGNED, TRANSFERRED, OR OTHERWISE RETALIATED AGAINST FOR:

(I) ACTING TO PROTECT A STUDENT JOURNALIST ENGAGED IN CONDUCT UNDER SUBSECTIONS (B) OR (C) OF THIS SECTION; OR

(II) REFUSING TO INFRINGE ON CONDUCT THAT IS PROTECTED BY SUBSECTIONS (B) OR (C) OF THIS SECTION, THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION, OR ARTICLE 40 OF THE MARYLAND DECLARATION OF RIGHTS.

~~(H)~~ (I) (1) EACH COUNTY BOARD SHALL ADOPT A WRITTEN POLICY CONCERNING THE PROVISIONS OF THIS SECTION.

**(2) THE POLICY ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION:**

**(I) SHALL INCLUDE REASONABLE PROVISIONS FOR THE TIME, PLACE, AND MANNER OF EXPRESSION BY A STUDENT JOURNALIST IN SCHOOL-SPONSORED MEDIA; AND**

**(II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (B) AND (C) OF THIS SECTION, MAY INCLUDE LIMITATIONS ON LANGUAGE THAT MAY BE DEFINED AS PROFANE, ~~HARASSING, THREATENING, OR INTIMIDATING~~ VULGAR, LEWD, OR OBSCENE, OR LANGUAGE THAT HAS THE INTENT TO HARASS, THREATEN, OR INTIMIDATE.**

**15-119.**

**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(2) (I) “SCHOOL-SPONSORED MEDIA” MEANS ANY MATERIAL THAT IS:**

**1. PREPARED, WRITTEN, PUBLISHED, OR BROADCAST BY A STUDENT JOURNALIST AT A PUBLIC INSTITUTION OF HIGHER EDUCATION;**

**2. DISTRIBUTED OR GENERALLY MADE AVAILABLE TO MEMBERS OF THE STUDENT BODY; AND**

**3. PREPARED UNDER THE DIRECTION OF A STUDENT MEDIA ADVISOR.**

**(II) “SCHOOL-SPONSORED MEDIA” DOES NOT INCLUDE MATERIAL THAT IS INTENDED FOR DISTRIBUTION OR TRANSMISSION SOLELY IN THE CLASSROOM IN WHICH THE MATERIAL IS PRODUCED.**

**(3) “STUDENT JOURNALIST” MEANS A STUDENT AT A PUBLIC INSTITUTION OF HIGHER EDUCATION WHO GATHERS, COMPILES, WRITES, EDITS, PHOTOGRAPHS, RECORDS, OR PREPARES INFORMATION FOR DISSEMINATION IN SCHOOL-SPONSORED MEDIA.**

**(4) “STUDENT MEDIA ADVISOR” MEANS AN INDIVIDUAL EMPLOYED, APPOINTED, OR DESIGNATED BY A PUBLIC INSTITUTION OF HIGHER EDUCATION TO SUPERVISE OR PROVIDE INSTRUCTION RELATING TO SCHOOL-SPONSORED MEDIA.**

**(B) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A STUDENT JOURNALIST MAY EXERCISE FREEDOM OF SPEECH AND FREEDOM OF THE PRESS IN SCHOOL-SPONSORED MEDIA.**

**(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO BE LIMITED BY THE FACT THAT THE SCHOOL-SPONSORED MEDIA IS:**

**(I) SUPPORTED FINANCIALLY BY THE PUBLIC INSTITUTION OF HIGHER EDUCATION OR BY USE OF FACILITIES OWNED BY THE INSTITUTION; OR**

**(II) PRODUCED IN CONJUNCTION WITH A CLASS IN WHICH THE STUDENT JOURNALIST IS ENROLLED.**

**(C) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A STUDENT JOURNALIST IS RESPONSIBLE FOR DETERMINING THE NEWS, OPINION, FEATURE, AND ADVERTISING CONTENT OF SCHOOL-SPONSORED MEDIA.**

**(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO PREVENT A STUDENT MEDIA ADVISOR FROM TEACHING PROFESSIONAL STANDARDS OF ENGLISH AND JOURNALISM TO STUDENT JOURNALISTS.**

**(D) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE OR PROTECT CONTENT OF SCHOOL-SPONSORED MEDIA 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) INCITES STUDENTS TO CREATE A CLEAR AND PRESENT DANGER OF THE COMMISSION OF AN UNLAWFUL ACT, THE VIOLATION OF POLICIES OF THE PUBLIC INSTITUTION OF HIGHER EDUCATION, OR THE MATERIAL AND SUBSTANTIAL DISRUPTION OF THE ORDERLY OPERATION OF THE INSTITUTION.**

**(E) A STUDENT MEDIA ADVISOR MAY NOT USE THE ADVISOR'S POSITION TO INFLUENCE A STUDENT JOURNALIST TO PROMOTE AN OFFICIAL POSITION OF A PUBLIC INSTITUTION OF HIGHER EDUCATION.**

**~~(E)~~ (F) (1) A STUDENT JOURNALIST MAY NOT BE DISCIPLINED FOR ACTING IN ACCORDANCE WITH SUBSECTIONS (B) OR (C) OF THIS SECTION.**

**(2) A STUDENT MEDIA ADVISOR MAY NOT BE DISMISSED, SUSPENDED, DISCIPLINED, REASSIGNED, TRANSFERRED, OR OTHERWISE RETALIATED AGAINST FOR:**

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**(II) REFUSING TO INFRINGE ON CONDUCT THAT IS PROTECTED BY SUBSECTIONS (B) OR (C) OF THIS SECTION, THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION, OR ARTICLE 40 OF THE MARYLAND DECLARATION OF RIGHTS.**

~~(F)~~ **(G) (1) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL ADOPT A WRITTEN POLICY CONCERNING THE PROVISIONS OF THIS SECTION.**

**(2) THE POLICY ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION:**

**(I) SHALL INCLUDE REASONABLE PROVISIONS FOR THE TIME, PLACE, AND MANNER OF EXPRESSION BY A STUDENT JOURNALIST IN SCHOOL-SPONSORED MEDIA; AND**

**(II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (B) AND (C) OF THIS SECTION, MAY INCLUDE LIMITATIONS ON LANGUAGE THAT ~~MAY BE DEFINED AS PROFANE, HARASSING, THREATENING, OR INTIMIDATING VULGAR, LEWD, OR OBSCENE, OR LANGUAGE THAT HAS THE INTENT TO HARASS, THREATEN, OR INTIMIDATE AN INDIVIDUAL.~~**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

**Approved by the Governor, April 26, 2016.**