

# SENATE BILL 764

F1, F2

6lr0867  
CF 6lr3239

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By: **Senators Raskin and Rosapepe**

Introduced and read first time: February 5, 2016

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of authorizing certain student journalists to exercise freedom of speech  
4 and freedom of the press in school–sponsored media; making certain student  
5 journalists responsible for determining certain content of school–sponsored media;  
6 providing for the construction of certain provisions of this Act; prohibiting a county  
7 board of education from exercising prior restraint, except under certain  
8 circumstances; specifying that the administration of a certain public school will have  
9 the burden of proving certain justification under certain circumstances; prohibiting  
10 the discipline of certain student journalists and certain media advisors under certain  
11 circumstances; requiring certain county boards and certain institutions of higher  
12 education to adopt certain policies; defining certain terms; and generally relating to  
13 the freedom of speech and the freedom of the press for student journalists in  
14 school–sponsored media.

15 BY adding to

16 Article – Education

17 Section 7–121 and 15–119

18 Annotated Code of Maryland

19 (2014 Replacement Volume and 2015 Supplement)

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

22 **Article – Education**

23 **7–121.**

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

7                   3. PREPARED UNDER THE DIRECTION OF A STUDENT  
8 MEDIA ADVISOR.

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

12                  (3) “STUDENT JOURNALIST” MEANS A PUBLIC SCHOOL STUDENT WHO  
13 GATHERS, COMPILES, WRITES, EDITS, PHOTOGRAPHS, RECORDS, OR PREPARES  
14 INFORMATION FOR DISSEMINATION IN SCHOOL-SPONSORED MEDIA.

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

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

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

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

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

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

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

4           **(D) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE OR PROTECT**  
5 **CONTENT OF SCHOOL-SPONSORED MEDIA BY A STUDENT JOURNALIST THAT:**

6           **(1) IS LIBELOUS OR SLANDEROUS;**

7           **(2) CONSTITUTES AN UNWARRANTED INVASION OF PRIVACY;**

8           **(3) VIOLATES FEDERAL OR STATE LAW; OR**

9           **(4) INCITES STUDENTS TO CREATE A CLEAR AND PRESENT DANGER**  
10 **OF THE COMMISSION OF AN UNLAWFUL ACT, THE VIOLATION OF COUNTY BOARD**  
11 **POLICIES, OR THE MATERIAL AND SUBSTANTIAL DISRUPTION OF THE ORDERLY**  
12 **OPERATION OF THE PUBLIC SCHOOL.**

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

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

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

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

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

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

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

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

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

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

8                           **(II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (B)**  
9 **AND (C) OF THIS SECTION, MAY INCLUDE LIMITATIONS ON LANGUAGE THAT MAY BE**  
10 **DEFINED AS PROFANE, HARASSING, THREATENING, OR INTIMIDATING.**

11 **15-119.**

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

14                   **(2) (I) "SCHOOL-SPONSORED MEDIA" MEANS ANY MATERIAL THAT**  
15 **IS:**

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

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

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

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

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

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

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

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

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

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

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

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23                   **(3) VIOLATES FEDERAL OR STATE LAW; OR**

24                   **(4) INCITES STUDENTS TO CREATE A CLEAR AND PRESENT DANGER**  
25 **OF THE COMMISSION OF AN UNLAWFUL ACT, THE VIOLATION OF POLICIES OF THE**  
26 **PUBLIC INSTITUTION OF HIGHER EDUCATION, OR THE MATERIAL AND SUBSTANTIAL**  
27 **DISRUPTION OF THE ORDERLY OPERATION OF THE INSTITUTION.**

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

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

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

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

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

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

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

17           **(II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (B)**  
18 **AND (C) OF THIS SECTION, MAY INCLUDE LIMITATIONS ON LANGUAGE THAT MAY BE**  
19 **DEFINED AS PROFANE, HARASSING, THREATENING, OR INTIMIDATING.**

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