

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**Enrolled - Revised**

Senate Bill 764

(Senators Raskin and Rosapepe)

Education, Health, and Environmental Affairs

Appropriations

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

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This bill allows a student journalist in a public elementary or secondary school or a public institution of higher education to exercise freedom of speech and freedom of the press in school-sponsored media, subject to restrictions in the bill. The bill establishes that a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media, also subject to specified restrictions. Each county board of education and public institution of higher education must develop a written policy regarding the bill's requirements, which may include limits on (1) language that has the intent to harass, threaten, or intimidate an individual and (2) in the case of a policy adopted by a county board, language that may be defined as profane, vulgar, lewd, or obscene.

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**Fiscal Summary**

**State Effect:** Public institutions of higher education can develop the policies required by the bill with existing budgeted resources. No effect on revenues.

**Local Effect:** Local school boards and community colleges can develop the policies required by the bill with existing resources. No effect on local revenues.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** "Student journalist" is a student in a public elementary or secondary school or a public institution of higher education who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

“School-sponsored media” means any material that is (1) prepared, written, published, or broadcast by a student journalist; (2) distributed or generally made available to members of the student body; and (3) prepared under the direction of a student media advisor.

“Student media advisor” is an individual employed, appointed, or designated by a county board of education, a public school, or a public institution of higher education to supervise or provide instruction related to school-sponsored media.

A student’s right to exercise freedom of speech or freedom of the press cannot be constrained by the fact that the school-sponsored media is (1) supported financially by the public school or public institution of higher education or (2) produced in conjunction with a class in which the student journalist is enrolled.

The bill cannot be construed to prevent a student media advisor from teaching professional standards of English and journalism to student journalists. However, a student media advisor may not influence a student journalist to promote an official position of a county board of education, a public school, or a public institution of higher education. The bill also cannot be construed to authorize or protect content that (1) is libelous or slanderous; (2) constitutes an unwarranted invasion of privacy; (3) violates federal or State law; or (4) incites students to engage in specified types of dangerous, unlawful, or disruptive behavior.

Except as specified by the bill, a county board of education or a public institution of higher education cannot exercise prior restraint of any school-sponsored media. The bill includes additional protections for student journalists and student media advisors who exercise the rights allowed by the bill.

**Current Law:** There is no relevant current State law on this topic.

**Background:** In the 1988 landmark case of *Hazelwood v. Kuhlmeier*, the U.S. Supreme Court upheld the right of school administrators to exercise editorial control over school newspapers as long as their actions are reasonably related to legitimate pedagogical concerns. In the majority decision, Justice White wrote, “A school need not tolerate student speech that is inconsistent with its basic educational mission...even though the government could not censor similar speech outside the school.”

At least 11 states have enacted statutory free speech protections for student journalists in public high schools, public colleges and universities, or both. North Dakota was the most recent state to enact such legislation, in 2015.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Department of Education, Student Press Law Center, Department of Legislative Services

**Fiscal Note History:** First Reader - March 1, 2016  
kb/rhh Revised - Senate Third Reader - March 28, 2016  
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