



# THE CITIZEN ADVOCACY CENTER'S

## Guide to the Speech Rights of Student Journalists Act

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### What is the Speech Rights of Student Journalists Act?

The Speech Rights of Student Journalists Act, passed by the Illinois General Assembly in February of 2016 and effective July 2016, expands student journalists' speech and press rights in school-sponsored media. The Act protects the students' right to determine the content of their school newspaper. The Act proclaims that students have the right to exercise both freedom of the press and freedom of speech with limited exceptions. The law maintains the ability of journalism advisers to teach acceptable publication standards, but restricts school officials from exercising prior restraint. In other words, a school administration should not review or censor publication outside normal journalistic standards administered by a journalism adviser.

## How does the Speech Rights of Student Journalists Act affect school curricula or school staff?

The Act does not interfere with student media advisers' curricula to teach the student journalists about journalism. Part of journalist training includes journalistic ethics to educate student journalists on how to exercise their free speech rights ethically. Another important aspect of the Act is that it explicitly states that student expression at the school is not an expression of school policy. It also provides that school employees, parents or legal guardians, or other school officials will not be held liable in civil or criminal actions for any expression by students, except where there is "willful or wanton misconduct."<sup>1</sup>

## Why did Illinois pass the Speech Rights of Student Journalists Act?

The Act restores a standard that students enjoyed before the 1988 Supreme Court ruling in *Hazelwood School District v. Kuhlmeier*. In *Hazelwood*, the Court said that high school administrators had the authority to censor school-sponsored newspapers, as long as they had a reasonable educational purpose for doing so. Under the Speech Rights of Students Journalists Act, however, students would be protected from this kind of administrative review in the wake of *Hazelwood*.

Illinois passed this piece of legislation because journalism advocates and lawmakers wanted to ensure that the rights of student journalists were respected while they were in a school environment. The passage of the Speech Rights of Student Journalists Act is part of a national movement called New Voices where advocates seek to protect student press freedom. The New Voices movement seeks restoration of the standard for student speech before *Hazelwood*, set forth in *Tinker v. School District of Des Moines*. The *Tinker* standard protects high school student speech unless its content is libelous or an invasion of privacy, or it creates a "clear and present danger" or a "material or substantial disruption" of the school.

As of mid-2019, 14 states adopted legislation to protect student journalist rights: Arkansas, California, Colorado, Illinois, Iowa, Kansas, Maryland, Massachusetts, Nevada, North Dakota, Oregon, Rhode Island, Vermont, and Washington. Efforts to protect their rights are underway in other states.

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<sup>1</sup> "Willful or wanton misconduct" is not defined in the Act. Therefore, courts will be left to define the phrase in light of standards elsewhere in Illinois law. Depending how courts interpret the phrase, it could run the gamut from intentional harm to reckless disregard of the veracity of published statements.

## Key Terms:

**School Official:** A school's principal or his or her superior.

**School-Sponsored Media:** Any material that is prepared, written, published, or broadcast by a student journalist at a public school, that is distributed to the members of the student body, and is prepared under the direction of the student media adviser. School-sponsored media doesn't include media that is distributed in the classroom that it was produced in.

**Student Journalist:** A public high school student that gathers, compiles, writes, edits, photographs, records, or prepares information for publication of the school-sponsored media.

**Student Media Adviser:** An individual who is employed, appointed or designated by a school district to supervise or provide instruction relating to school-sponsored media.

## Exceptions in the Legislation:

This Act does not protect the expression of a student journalist that:

- is libelous, slanderous, or obscene
- invades privacy
- violates state and federal law
- incites students to commit an unlawful act,
- violates the school district policy,
- and/or substantially disrupts the operation of the school.

### **For More Information:**

If you have any questions regarding your protection under the Speech Rights of Student Journalists Act or the First Amendment, contact the Citizen Advocacy Center at (630) 833-4080.

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This brochure is meant to provide a general guide to the Speech Rights of Student Journalists Act and should not be taken as legal advice.

The Citizen Advocacy Center (CAC) is an award winning, non-partisan, 501(c)(3) non-profit, free community legal organization. Founded in 1994, dedicated to building democracy for the 21<sup>st</sup> century by strengthening the public's capacities, resources, and institutions for self-governance.