

New Voices of Wisconsin Act

(Draft of sample language based on successful laws in other states)

Summary:

This bill provides that pupils enrolled in institutions of higher education and public schools, including charter schools, have the right to freedom of expression in school - sponsored media (any material that is prepared, substantially written, published, or broadcast by student journalists, distributed or generally made available to members of the student body, and prepared under the direction of a student media adviser). The bill prohibits pupils from publishing material that is libelous or slanderous, constitutes an unwarranted invasion of privacy, violates federal or state law or causes the significant disruption of the orderly operation of the school. The bill also grants immunity from both civil and criminal liability to school boards and to all school officials, employees and agents for any expression made by a pupil in the exercise of his or her right to freedom of expression and protects teachers and other school personnel against retaliation for students' lawful exercise of their free-speech rights.

Proposed Language:

(1) DEFINITIONS. In this section:

- (a) "School - sponsored media" means any material that is prepared, substantially written, published, or broadcast by a student journalist at a public school, including charter schools, and any institution of higher education, distributed or generally made available to members of the student body, and prepared under the direction of a student media adviser. The term does not include any media intended for distribution or transmission solely in the classroom in which the media is produced.
- (b) "Student journalist" means a pupil at a public school, including charter schools, or institution of higher learning who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school - sponsored media.
- (c) "Student media adviser" means an individual employed, appointed, or designated by a school district, charter school or institution of higher learning to supervise or provide instruction relating to school - sponsored media.

(2) RIGHT OF EXPRESSION. Subject to sub. (3), 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, by use of facilities of the school district, or produced in conjunction with a class in which the student is enrolled.

(3) LIMITATIONS. This section does not authorize or protect expression by a student that:

- (a) Is libelous or slanderous;
- (b) Constitutes an unwarranted invasion of privacy;
- (c) Violates federal or state law; or
- (d) So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of school district policy, or the material and substantial disruption of the orderly operation of the school.

- (4) **DECISION-MAKING.** Subject to sub. (3), a student journalist is responsible for determining the news, opinion, feature, and advertising content of school - sponsored media. This subsection may not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists. No such adviser or employee shall be terminated from employment, transferred, or relieved of duties imposed under this subsection for refusal to abridge or infringe upon the right of expression conferred by this act.
- (5) **IMMUNITY FROM LIABILITY.** Any expression made by a pupil in the exercise of his or her right under sub. (2) is not an expression of school or school board policy, and the school board and all school officials, employees and agents are immune from civil and criminal liability for such expression.
- (6) **DAMAGES.** A student enrolled in a public school or the student's parent or guardian may commence a civil action to obtain damages under this section and appropriate injunctive or declaratory relief as determined by a court for a violation of subsection 2, the first amendment to the United States Constitution, or Section 4 of Article 1 of the Wisconsin Constitution.
- (7) **RULES.**
- (a) Each school district and institution of higher education shall adopt a written student freedom of expression policy in accordance with this section. The policy must include reasonable provisions for the time, place, and manner of student expression.
 - (b) Nothing in this section prohibits a school board from adopting rules relating to oral communications by pupils on school premises or at school-sponsored activities or prohibits school officials, employees or agents from exercising proper control or discipline on school premises or at school-sponsored activities.