

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 806

Short Title: Protect School Journalists. (Public)

Sponsors: Representatives Longest, Staton-Williams, Buansi, and Prather (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 19, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE FREE SPEECH RIGHTS OF STUDENT JOURNALISTS IN
3 PUBLIC SCHOOLS, CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF
4 NORTH CAROLINA, AND COMMUNITY COLLEGES.

5 The General Assembly of North Carolina enacts:

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7 **PART I. FREE SPEECH FOR STUDENT JOURNALISTS IN PUBLIC SCHOOL UNITS**

8 **SECTION 1.(a)** Chapter 115C of the General Statutes is amended by adding a new
9 Article to read:

10 "Article 29F.

11 "Student Journalist Press Freedom Restoration Act.

12 **"§ 115C-407.70. Definitions.**

13 The following definitions apply in this Article:

- 14 (1) School-sponsored media. – Any material that is prepared, substantially
15 written, published, or broadcast, in any media, by a student journalist at a
16 school within a public school unit under the direction of a student media
17 adviser and distributed or generally made available to members of the student
18 body. School-sponsored media does not include media intended for
19 distribution or transmission for classroom purposes only.
20 (2) Student journalist. – A student enrolled in a school within a public school unit
21 who gathers, compiles, writes, edits, photographs, illustrates, or prepares
22 information for inclusion in school-sponsored media.
23 (3) Student media adviser. – An individual employed, appointed, or designated
24 by a public school unit to supervise or provide instruction relating to
25 school-sponsored media.

26 **"§ 115C-407.71. Student journalists' freedom of expression.**

27 (a) A student journalist has the right to exercise freedom of speech and of the press in
28 school-sponsored media regardless of whether the media is supported financially by the school,
29 uses the facilities of the school, or is produced in conjunction with a course or class in which the
30 student is enrolled. A student journalist is responsible for determining the news, opinion, feature,
31 and advertising content of school-sponsored media. Student media advisers may teach
32 professional standards of English and journalism to student journalists, consistent with this
33 subsection.



1 (b) Subsection (a) of this section does not authorize or protect expression by a student
2 journalist that is any of the following:

3 (1) Libelous or slanderous.

4 (2) Constitutes an unwarranted invasion of privacy.

5 (3) Obscene.

6 (4) In violation of federal or State law.

7 (5) Inciteful to students as to create a clear and present danger of the commission
8 of an unlawful act, the violation of a lawful school district policy, or the
9 material and substantial disruption of the orderly operation of the school.
10 Administrators shall base a forecast of material and substantial disruption on
11 specific facts, including past experience in the school and current events
12 influencing student behavior, and not on undifferentiated fear or
13 apprehension.

14 (c) There shall be no prior restraint of material prepared for official school publications
15 except insofar as the material violates the standards of subsection (b) of this section. School
16 officials shall have the burden of showing prior justification for their limitation of student
17 journalist expression under this section and affording students a timely opportunity for appeal.

18 (d) Nothing in this section shall be construed as authorizing the publication of an
19 advertisement in school-sponsored media that promotes the purchase of a product or service that
20 is unlawful for purchase or use by minors.

21 **"§ 115C-407.72. Individual protection.**

22 (a) A student journalist may not be disciplined for acting in accordance with subsection
23 (a) of G.S. 115C-407.71.

24 (b) A student media adviser may not be dismissed, suspended, disciplined, reassigned,
25 transferred, or otherwise retaliated against for:

26 (1) Refusing to infringe on conduct that is protected by G.S. 115C-407.71, the
27 First Amendment of the United States Constitution, or Section 14 of Article I
28 of the North Carolina Constitution.

29 (2) Acting to protect a student journalist engaged in permissible conduct under
30 subsection (a) of G.S. 115C-407.71, the First Amendment of the United States
31 Constitution, or Section 14 of Article I of the North Carolina Constitution.

32 **"§ 115C-407.73. Policy adoption and court action.**

33 (a) Governing bodies of public school units shall adopt a written policy for the exercise
34 of the right of student journalists to freedom of speech and the press in school-sponsored media
35 in accordance with this Article. At a minimum, the policy shall include:

36 (1) Reasonable provisions for the time, place, and manner of distribution of
37 student expression.

38 (2) A provision allowing for the timely appeal within the public school unit of a
39 decision made pursuant to this section.

40 (b) No expression made by students in the exercise of free speech or free press rights
41 shall be deemed to be an expression of school policy, and no school officials or public school
42 unit shall be held responsible in any civil or criminal action for any expression made or published
43 by students.

44 (c) Any student, individually or through a parent or guardian, or student media adviser
45 may institute proceedings for injunctive or declaratory relief in any court of competent
46 jurisdiction to enforce the rights provided in this section. Nothing in this section shall be
47 construed to create any private action on behalf of a student other than to seek injunctive relief
48 allowing the publication of the speech in question. A court may award reasonable attorneys' fees
49 to a plaintiff that substantially prevails."

50 **SECTION 1.(b)** G.S. 115C-47 is amended by adding a new subdivision to read:

1 "(68) Freedom of Student Press. – Local boards of education shall develop policies
2 to support student-developed, school-sponsored media in accordance with
3 Article 29F of this Chapter."

4 **SECTION 1.(c)** G.S. 115C-218.75 is amended by adding a new subsection to read:

5 "(k) Freedom of Student Press. – A charter school shall develop policies to support
6 student-developed, school-sponsored media in accordance with Article 29F of this Chapter."

7 **SECTION 1.(d)** G.S. 115C-238.66 is amended by adding a new subdivision to read:

8 "(19) Freedom of student press. – A regional school shall develop policies to support
9 student-developed, school-sponsored media in accordance with Article 29F of
10 this Chapter."

11 **SECTION 1.(e)** G.S. 116-11 is amended by adding a new subdivision to read:

12 "(15) Freedom of student press. – The Board of Governors shall develop policies
13 for all public secondary schools under the Board's jurisdiction to support
14 student-developed, school-sponsored media in accordance with Article 29F of
15 Chapter 115C of the General Statutes."

17 **PART II. FREE SPEECH FOR STUDENT JOURNALISTS AT INSTITUTIONS OF** 18 **HIGHER EDUCATION**

19 **SECTION 2.(a)** Article 36 of Chapter 116 is amended by adding a new section to

20 read:

21 **"§ 116-305. Student Journalist Press Freedom Restoration Act.**

22 (a) Definitions. – The following definitions apply in this section:

23 (1) Student journalist. – A student enrolled at a constituent institution of The
24 University of North Carolina who gathers, compiles, writes, edits,
25 photographs, records, or prepares information for inclusion in
26 university-sponsored media.

27 (2) Student media adviser. – An individual employed, appointed, or designated
28 by a constituent institution of The University of North Carolina to supervise
29 or provide instruction relating to university-sponsored media.

30 (3) University-sponsored media. – Any material that is prepared, substantially
31 written, published, or broadcast, in any media, by a student journalist at a
32 constituent institution of The University of North Carolina under the direction
33 of a student media adviser and distributed or generally made available to
34 members of the student body. University-sponsored media does not include
35 media intended for distribution or transmission for classroom purposes only.

36 (b) Freedom of Expression. – A student journalist has a right to exercise freedom of
37 speech and of the press in university-sponsored media as follows:

38 (1) This right exists regardless of whether the media is supported financially by
39 the institution, uses the facilities of the institution, or is produced in
40 conjunction with a course or class in which the student is enrolled. A student
41 journalist is responsible for determining the news, opinion, feature, and
42 advertising content of university-sponsored media. Student media advisers
43 may teach professional standards of English and journalism to student
44 journalists, consistent with this subsection.

45 (2) Subdivision (1) of this subsection does not authorize or protect expression by
46 a student journalist that is any of the following:

47 a. Libelous or slanderous.

48 b. Constitutes an unwarranted invasion of privacy.

49 c. Obscene.

50 d. In violation of federal or State law.

- 1 e. Inciteful to students as to create a clear and present danger of the
2 commission of an unlawful act or the violation of a lawful university
3 policy.
- 4 (3) There shall be no prior restraint of material prepared for official university
5 publications except insofar as the material violates the standards of
6 subdivision (2) of this subsection. University officials shall have the burden
7 of showing prior justification for their limitation of student journalist
8 expression under this section and affording students a timely opportunity for
9 appeal.
- 10 (4) Nothing in this subsection shall be construed as authorizing the publication of
11 an advertisement in university-sponsored media that promotes the purchase of
12 a product or service that is unlawful for purchase or use by minors.
- 13 (c) Individual Protection. – A student journalist may not be disciplined for acting in
14 accordance with subdivision (1) of subsection (b) of this section. A student media adviser may
15 not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against
16 for any of the following:
- 17 (1) Refusing to infringe on conduct that is protected by subsection (b) of this
18 section, the First Amendment of the United States Constitution, or Section 14
19 of Article I of the North Carolina Constitution.
- 20 (2) Acting to protect a student journalist engaged in permissible conduct under
21 subdivision (1) of subsection (b) of this section, the First Amendment of the
22 United States Constitution, or Section 14 of Article I of the North Carolina
23 Constitution.
- 24 (d) Policy. – Each constituent institution of The University of North Carolina shall adopt
25 a written policy for the exercise of the right of student journalists to freedom of speech and the
26 press in university-sponsored media in accordance with this section that shall include at least the
27 following:
- 28 (1) Reasonable provisions for the time, place, and manner of distribution of
29 student expression.
- 30 (2) A provision allowing for the timely appeal within the constituent institution
31 of decisions made pursuant to this section.
- 32 (e) Court Action. – No expression made by students in the exercise of free speech or free
33 press rights shall be deemed to be an expression of university policy, and no administrative
34 officials of a constituent institution or constituent institution shall be held responsible in any civil
35 or criminal action for any expression made or published by students. Any student, individually
36 or through a parent or guardian, or student media adviser may institute proceedings for injunctive
37 or declaratory relief in any court of competent jurisdiction to enforce the rights provided in this
38 section. Nothing in this section shall be construed to create any private action on behalf of a
39 student other than to seek injunctive relief allowing the publication of the speech in question. A
40 court may award reasonable attorney fees to a plaintiff that substantially prevails."

41 **SECTION 2.(b)** Article 7 of Chapter 115D of the General Statutes is amended by
42 adding a new section to read:

43 **"§ 115D-82. Student Journalist Press Freedom Restoration Act.**

44 (a) Definitions. – The following definitions apply in this section:

- 45 (1) College-sponsored media. – Any material that is prepared, substantially
46 written, published, or broadcast, in any media, by a student journalist at a
47 community college under the direction of a student media adviser and
48 distributed or generally made available to members of the student body.
49 College-sponsored media does not include media intended for distribution or
50 transmission for classroom purposes only.

- 1 (2) Student journalist. – A student enrolled at a community college who gathers,
2 compiles, writes, edits, photographs, records, or prepares information for
3 inclusion in college-sponsored media.
- 4 (3) Student media adviser. – An individual employed, appointed, or designated
5 by a community college to supervise or provide instruction relating to
6 college-sponsored media.
- 7 (b) Freedom of Expression. – A student journalist has a right to exercise freedom of
8 speech and of the press in college-sponsored media as follows:
- 9 (1) This right exists regardless of whether the media is supported financially by
10 the community college, uses the facilities of the community college, or is
11 produced in conjunction with a course or class in which the student is enrolled.
12 A student journalist is responsible for determining the news, opinion, feature,
13 and advertising content of college-sponsored media. Student media advisers
14 may teach professional standards of English and journalism to student
15 journalists, consistent with this subsection.
- 16 (2) Subdivision (1) of this subsection does not authorize or protect expression by
17 a student journalist that is any of the following:
- 18 a. Libelous or slanderous.
- 19 b. Constitutes an unwarranted invasion of privacy.
- 20 c. Obscene.
- 21 d. In violation of federal or State law.
- 22 e. Inciteful to students as to create a clear and present danger of the
23 commission of an unlawful act or the violation of a lawful community
24 college policy.
- 25 (3) There shall be no prior restraint of material prepared for official community
26 college publications except insofar as the material violates the standards of
27 subdivision (2) of this subsection. Community college officials shall have the
28 burden of showing prior justification for their limitation of student journalist
29 expression under this section and affording students a timely opportunity for
30 appeal.
- 31 (4) Nothing in this subsection shall be construed as authorizing the publication of
32 an advertisement in college-sponsored media that promotes the purchase of a
33 product or service that is unlawful for purchase or use by minors.
- 34 (c) Individual Protection. – A student journalist may not be disciplined for acting in
35 accordance with subdivision (1) of subsection (b) of this section. A student media adviser may
36 not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against
37 for any of the following:
- 38 (1) Refusing to infringe on conduct that is protected by subsection (b) of this
39 section, the First Amendment of the United States Constitution, or Section 14
40 of Article I of the North Carolina Constitution.
- 41 (2) Acting to protect a student journalist engaged in permissible conduct under
42 subdivision (1) of subsection (b) of this section, the First Amendment of the
43 United States Constitution, or Section 14 of Article I of the North Carolina
44 Constitution.
- 45 (d) Policy. – Each community college shall adopt a written policy for the exercise of the
46 right of student journalists to freedom of speech and the press in college-sponsored media in
47 accordance with this section that shall include at least the following:
- 48 (1) Reasonable provisions for the time, place, and manner of distribution of
49 student expression.
- 50 (2) A provision allowing for the timely appeal within the constituent institution
51 of decisions made pursuant to this section.

1 (e) Court Action. – No expression made by students in the exercise of free speech or free
2 press rights shall be deemed to be an expression of community college policy, and no
3 administrative officials of a community college or community college shall be held responsible
4 in any civil or criminal action for any expression made or published by students. Any student,
5 individually or through a parent or guardian, or student media adviser may institute proceedings
6 for injunctive or declaratory relief in any court of competent jurisdiction to enforce the rights
7 provided in this section. Nothing in this section shall be construed to create any private action on
8 behalf of a student other than to seek injunctive relief allowing the publication of the speech in
9 question. A court may award reasonable attorney fees to a plaintiff that substantially prevails."

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11 **PART III. EFFECTIVE DATE**

12 **SECTION 3.** This act is effective when it becomes law.