

Student Press Rights
New Voices/SSB5064
is now the LAW!

...

So, what happens now?

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Washington Journalism Education Association

March 21, 2018 –
Gov. Inslee signs SSB5064



June 7, 2018 –
SSB5064 takes effect

Life before SSB5064

- *Note - this applies to public schools*
- *Uneven interpretation of the law*
- *Some honored Tinker v. Des Moines*
 - *(1969) “Students don’t shed their First Amendment rights at the schoolhouse gate...”*
 - *Great!*
 - *High hurdle for school admins*

Life before SSB5064

- *Uneven interpretation of the law*
- *Some honored Hazelwood v. Kuhlmeier*
 - *(1988) Administrators may censor student media if they have a “legitimate pedagogical reason” to do so*
 - *Huh?!? Oh, it gets worse...*

Who does SSB5064 impact?

**Student
Journalists**

**Teachers
& Advisers**

**School
Administrators**

School Boards

**Parents &
Community**

What SSB5064 says...

Preamble

“Sec. 1. The legislature finds that freedom of expression through school-sponsored media is a fundamental principle in our democratic society granted by the First Amendment to the United States Constitution and by Article I, section 5 of the state Constitution. It is the intent of the legislature to protect freedom of expression through school-sponsored media for both public school students and students at public institutions of higher education in this state in order to encourage students to become educated, informed, and responsible members of society.”

What SSB5064 says...

Student Journalists

Student editors of school-sponsored media are responsible for determining the content of the media, subject to the limitations as defined in the law.

What SSB5064 says...

Student Journalists

Student editors of school-sponsored media are responsible and liable for the content of what is published.

- **Note:** *In Washington, student editors of designated public forum publications always have been liable. There is a limitation to this liability.*

What SSB5064 says...

Teachers & Advisers

“A student media adviser may not be terminated, transferred, removed, or otherwise disciplined for complying” with this law.

- *Note: This is significant as we have lost several wonderful educators in the past without this protection.*

What SSB5064 says...

School Administrators

School administrators must adhere to the *Tinker* standard, and *may* only prohibit student expression that is consistent with *Tinker's* legal guidelines.

What SSB5064 says...

School Administrators

School officials *may* only prohibit student expression that:

- (a) Is libelous or slanderous;
- (b) Is an unwarranted invasion of privacy;
- (c) Violates federal or state laws, rules, or regulations;
- (d) Incites students to violate federal or state laws, rules, or regulations;
- (e) Violates school district policy or procedure related to harassment, intimidation, or bullying pursuant to RCW 28A.300.285 or the prohibition on discrimination pursuant to RCW 28A.642.010;

...continued

What SSB5064 says...

School Administrators

School officials *may* only prohibit student expression that:

(f) Inciting (sic) of students so as to create a clear and present danger of:

(i) The commission of unlawful acts on school premises;

(ii) The violation of lawful school district policy or procedure;

(iii) The material and substantial disruption of the orderly operation of the school. A school official must base a forecast of material and substantial disruption on specific facts, including past experience in the school and current events influencing student behavior, and not on undifferentiated fear or apprehension; or

(g) Is in violation of the federal communications act or applicable federal communication commission rules or regulations.

What SSB5064 says...

School Boards

“Each school district that includes a high school shall adopt a written student freedom of expression policy in accordance with SSB 5064. The policy may include reasonable provisions for the time, place, and manner of student expression.”

What SSB5064 says...

Parents & Community

Parents – “Any student, individually or through his or her parent or guardian, enrolled in a public high school may file an appeal of any alleged violation” of SSB5064.

What SSB5064 says...

Parents & Community

Community –
“Political expression by
students in
school-sponsored media
shall not be deemed the
use of public funds for
political purposes...”

What SSB5064 says...

Everybody

Should prevent frivolous lawsuits against school districts, thereby saving district taxpayers money and personnel resources.

Know your district policy

- *Know what you're dealing with*
- *Is your district in compliance?*
- *Watch for language that includes:*
 - *Administrators making content decisions or making final decisions*
 - *Anything with 3220/3220P as the policy number*
 - *Anything associated with NEOLA*

Know your district policy

- *Some policies are just fine already*
 - *Edmonds School District's policy hasn't changed since 1993 and is in compliance w/SSB5064*
- *Some policies must be revised*
 - *Puyallup School District's policy was changed a few years ago and is out of compliance w/SSB5064*
- *JEA & SPLC have sample policies*
 - *WJEA will be creating a suggested policy*

Challenging censorship

- *Build a stable, student-led program*
- *Adopt a publications policy consistent w/SSB5064 and act in accordance*
- *Adopt and adhere to a strong code of ethics*

Challenging censorship

- *Build, nurture and maintain professional relationships with staff, administrators, parents and community*
- *Establish and maintain an organization rooted in integrity that can be trusted*
- *THEN... if an attempt at censorship occurs, you come from a position of strength*

Develop proactive support groups

- *Parent/Alumni booster club*
- *Local press/media*
- *Community organizations*
- *Local lawmakers/politicians*
- *School and public librarians*
- *Frequently share successes with building and district officials*
- *Become active members of WJEA, JEA, NSPA, SPLC, SPJ, etc.*

What if censorship occurs?

- **OPTION 1: Do nothing**
 - *This tends to encourage recurrence*
 - *Sets a precedent that is difficult to overcome in the future*
 - *May be inconsistent with your mission, values, policies*

What if censorship occurs?

- **OPTION 2: Do something**
 - *Student leaders discuss and strategize*
 - *Student leaders confer with the adviser*
 - *Student leaders confer with outside resources, including*
 - *SPLC*
 - *WJEA*
 - *Local news media editors*
 - *Etc.*

What if censorship occurs?

- **OPTION 3: Fight it!**

- *It's best if the student editors take the lead – it is, after all, your publication*
- *Advisers may support student editors, so long as they're consistent w/the law*
- *Contact the SPLC (www.splc.org)*
- *Hit the Scholastic Press Rights Committee's PANIC BUTTON (www.jeasprc.org)*

What if censorship occurs?

- **ALWAYS: Act legally and ethically**
 - *Maintain an open, professional dialogue with school administrators*
 - *Reach out to WJEA, SPLC, JEASPRC, etc. for input and advice*
 - *Strongly consider taking legal action, but prepare for a long haul*
 - *Make sure your parents are in the loop*

Info for advisers

- *Guide students to adopt a student media policy that establishes a free, responsible and independent student press*
- *The ideal is a “designated public forum” model*
- *Establish a Code of Ethics, and make it a consistent part of the organization’s decision-making process*

Society of Professional Journalists

CODE *of* ETHICS

Members of the Society of Professional Journalists believe that public enlightenment is the forerunner of justice and the foundation of democracy. Ethical journalism strives to ensure the free exchange of information that is accurate, fair and thorough. An ethical journalist acts with integrity.

Some *very* good news

From “[Washington Principal](#)”
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Program, through August 1, 2020, to assist school districts with early adoption and implementation of mental health professional collaborative time.

E2SHB 27 reestablishes the the Children’s Mental Health Work Group through the year 2020 and reestablishes delivery of mental health services in high school pilot sites.

OT Several bills in this “other” category will impact the work of principals in the future.

SSB 5064 is the student press bill that essentially reverses the Hazelwood decision from 1988 and allows student editors of school-sponsored media to determine the news, opinion, feature, and advertising content of student media. This bill has been introduced several times over the past 10 years and this year we were able to add one amendment before it passed both houses.

The bill says that:

School officials may only prohibit student media that:

- is libelous or slanderous;
- is an unwarranted invasion of privacy;
- is obscene or indecent pursuant to the Federal Communications Act or any rule or regulation of the Federal Communications Commission,
- violates school district policy or procedure related to harassment, intimidation, bullying, or discrimination,
- incites students to commit an unlawful act on school premises or violate a lawful school regulation, or
- creates a material and substantial disruption of the orderly operation of the school.

A school official must base a forecast

of material and substantial disruption on specific facts, including past experience in the school and current events influencing student behavior. A school official may not base a forecast of a material and substantial disruption on an undifferentiated fear or apprehension.

“ In addition, a student media adviser may not be terminated, transferred, removed, or otherwise disciplined for failing to suppress protected student media.”

“School-sponsored media” means any matter that is prepared, substantially written, published, or broadcast by student journalists, that is distributed or generally made available, either free of charge or for a fee, to members of the student body, and that is prepared under the direction of a student media adviser.

The definition of “school-sponsored media” listed above is taken from **SB 5064** and would also extend to yearbooks since they are generally considered to be media that is made available “for a fee”

In addition, a student media adviser may not be terminated, transferred, removed, or otherwise disciplined for failing to suppress protected student media.

Clear communication regarding school newspapers and yearbooks is critical. Advisers and students need to have clear policies and a solid understanding of journalism standards so that sound, ethical decisions regarding content are made. Plan to have a conversation (or several) with your journalism and yearbook advisers before school starts again in the fall. Connect with

the students who are responsible for the content of these publications. We all want our students to be critical thinkers, readers, writers and speakers who use high quality sources for their information and can look at complex issues from many sides. Guiding and teaching our students how to do this properly is important.

Check out these websites for more information.

Principal’s Guide to Scholastic Journalism
principalsguide.org

SchoolJournalism.org
schooljournalism.org

Student Press Law Center
www.splc.org

Washington Journalism Education Association
wjea.org/

2SHB 1896 is the civics bill OSPI worked on for a few years. This bill establishes an expanded civics education teacher training program (program) at OSPI, including providing for the selection of a team of social studies teachers and civics educational specialists from across the state who will be tasked with developing teacher training materials and providing professional learning opportunities. It requires each school district operating a high school to provide a mandatory stand-alone course in civics by the 2020-2021 school year for each high school student, and establishes basic content requirements for the course. And, it directs OSPI to select two school districts diverse in size and in geographic and demographic makeup to serve as demonstration sites for enhanced civics education.

E2SSB 6162 is the dyslexia bill that passed. This bill requires school districts, beginning in the 2021-22 school year, to screen students in early grades for indications of, or areas of weakness associated with, dyslexia and provide interventions