



MDCSPA

The Maryland–D.C. Scholastic Press Association

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Education – Student Journalists – Freedom of Speech and Freedom of the Press, SB 764

Committee on Education, Health and Environmental Affairs

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Chairperson Conway, Vice-Chairman Pinsky, and members of the Committee, thank you for the opportunity to testify on the New Voices Maryland Act entitled “Education – Student Journalists – Freedom of Speech and Freedom of the Press” as president of the Maryland–D.C. Scholastic Press Association (MDCSPA).

The MDCSPA works in support of journalism education and journalism programs in the state of Maryland and the nation’s capital. I have been a journalism teacher at Northern High School in Calvert County for 28 years and have served as president of the MDCSPA for nearly 18 years.

I come before you to speak in support of the New Voices Maryland Act, SB 764. In 1988, the Supreme Court ruled in *Hazelwood v. Kuhlmeier* that school administrators have broad authority to censor the student press. Unfortunately, that ruling was written very vaguely. The only guidance it gave was that administrators needed a “legitimate pedagogical reason” to censor the student press. While this was clearly intended to limit administrative censorship, in practice, it has allowed administrators to censor anything so long as they could come up with an arguable reason.

While the stories dealt with in *Hazelwood* brought up issues of invasion of privacy and potential libel, in practice, since the decision, administrators have been much more interested in blocking stories for public relations reasons. This school year in Owings Mills, a high school journalist wrote a story for their online newspaper in which he complained about the atrocious conditions in their school bathrooms – and exhorted students to take better care of the facilities. A vice principal ordered the editorial removed because, “it made the school look bad.” Put simply, the administrator in this case used *Hazelwood* to hide the real conditions in his school from parents and the school community.

Even when material isn’t censored out of the student press, administrators can still retaliate against students and their faculty advisers when they are unhappy with the coverage their school receives in the student press. In the fall of 2013, one enterprising student journalist at Rockville High School used a FOIA request to accurately report on thefts at the school. He was named the Maryland-Delaware-D.C. Press Association Student of the Year.

The following year, another reporter at Rockville suspected that the school’s discolored water might not be safe. He had samples of the water tested and found unsafe lead levels in their drinking water.

Maryland State Senator Karen Montgomery demanded that the county board of education do something about the issue, and a water flushing protocol was put into place to make the water safe for Rockville students. The student reporter won the national Story of the Year Award from the Columbia Scholastic Press Association.

The school administration was not, however, happy about the light in which the stories placed the school. The principal retaliated by placing a gag order on the school staff in the spring of 2015 – ordering that they not talk to the student press at Rockville High – making it nearly impossible for student reporters to do their jobs. The following fall, the principal – who has complete power over teachers' schedules – collapsed all the adviser's journalism classes into one period, limiting the number of students who could participate and making their faculty adviser's job exceedingly difficult. Faced with a situation in which she felt her students couldn't succeed, the teacher left her job with the Montgomery County Schools to take a position at a private school where, ironically, her students have full freedom of the press.

One of the most difficult cases I have dealt with in the state happened back in 1997 at Thomas Johnson High School in Frederick. The school held a contest with a prize which was won by the school's ethics class. Student journalists at the school discovered that the ethics class had cheated to win the contest, and they wrote an accurate story on this ironic situation. The principal censored the publication. The MDCSPA helped the students get legal representation, the professional press wrote articles in support of the students, and the school community including the school's PTA rose up in support of the student reporters. The principal was forced to allow publication of the article – though not till much later – and in the end, the school administration was much more embarrassed than they would have been had they allowed the publication of the article. The students' adviser, however, found her relationship with the school administration so damaged by the situation that she unhappily chose to leave teaching completely and pursue a different career.

These stories, and the many others that have happened in the state of Maryland, illustrate the problems the Hazelwood decision has created in schools. The vagueness of the ruling has left student journalists, journalism teachers, and school administrators with no guidance as to when and under what circumstances a school can exercise censorship over the student press. It has led to overreach on the part of censors, the end of teachers' careers, students who find the First Amendment hard to believe in, and public embarrassment to school administrators.

The New Voices Maryland Act is designed to end this confusion. It protects the rights of student journalists to responsibly report on their schools and communities, it protects students from punishment for doing their work, and protects their advisers from the kind of unfair retaliation that has ended teacher's careers.

The act also protects the right of school administrations to appropriately control material that should not be distributed in their schools. The act allows administrators to stop the distribution of material that is:

- Libelous or slanderous
- Constitutes an invasion of privacy
- Violates federal or state law
- Incites students to commit an unlawful act
- Violates school board policies
- Disrupts the orderly operation of the school

It is unlikely that anyone in scholastic journalism will have a problem with these reasonable exceptions to students' exercise of freedom of the press, and for the first time, they offer school administrators clear guidance regarding under what circumstances they can control the student press without fear of being challenged.

Finally, the protections offered by the New Voices Maryland Act will make it much easier for teachers across the curriculum to model the First Amendment for their students. The Newseum Institute's 2015 State of the First Amendment Survey showed that only ten percent of Americans are aware that freedom of the press is protected under the First Amendment to the Constitution. Since the Hazelwood decision, we have graduated generations of students who find the protections they enjoy under the First Amendment hard to believe when they have seen them violated on a day-to-day basis in their public schools. Perhaps the most important protection the New Voices Maryland Act offers is that it will better allow Civics education to high school students that will make them see the U.S. Constitution as a real and living document that defends their rights as citizens of our nation and our state.