



THOMAS A. MICHALSKI

STATE REPRESENTATIVE • 13TH ASSEMBLY DISTRICT

(608) 267-9113

Toll-Free: (888) 534-0013

Rep.Michalski@legis.wisconsin.gov

P.O. Box 8953

Madison, WI 53708-8953

12/5/2023

Senator Hutton and members of the Committee on Universities and Revenue,

Thank you for allowing me to speak on SB 571. I applaud President Rothman for the hard work of producing a survey regarding University Students' Views on Freedom of Speech, which we received earlier this year. Unfortunately, the survey clearly showed that Conservative students are afraid to speak up for fear their instructors would retaliate by lowering their grades. The survey suggested that free speech is only for liberal points of view, and conservative thought is being stifled.

In response, the Committee on Colleges and Universities held four hearings (in Eau Claire, Oshkosh, and two in Madison) to allow everyone to present their perspective on Free Speech in Wisconsin's University system.

I was a student in the Wisconsin University System in the late 60s to early 70s. I can remember protesting an administration that was unduly controlling and oppressive with its conservative agenda. It seems the pendulum has swung, and the University System is now unduly controlling and domineering with its liberal agenda.

SB 571 guarantees freedom of speech in the university's student publications. Using the New Voices legislation as a template, this bill will return students' right to exercise freedom of speech and press in school media. This is regardless of whether the media is financed by the school, using facilities, or in conjunction with a course the student is enrolled in. The bill also prevents retaliation against student media advisers for refusing to

cancel student journalists. This bill also allows a student journalist or media adviser who believes their rights have been violated to bring forth their grievances in a circuit court. On top of this, a court may provide attorney fees for a successful case.

The bill provides advisers and administrators the ability to pull content if the material is libelous or slanderous, if it violates privacy, breaks state or federal law, or calls for the violation of federal or State law, or violates a lawful school policy.

The New Voices legislation has passed in 17 states, ranging in the diversity of political opinion from the highly Democrat California and Rhode Island to the almost entirely red North Dakota and Arkansas, along with everything in between.

The survey and hearings brought to light an active effort to constrain thought and prevent the free exchange and discussion of beliefs and ideas. This is counter to the original intent of the university system. Suppose an individual is precluded from hearing diverse opinions, beliefs, and values. In that case, that individual loses the understanding that there is a world outside, beyond the echo chamber the University has become. The student loses the opportunity to learn and debate respectfully and with decency. That is how our civil society is diminished.

Thank you for your time,

Thomas A. Michalski

State Assembly, District 13



DATE: December 5, 2023

TO: Members of the Senate Committee on Universities and Revenue

FROM: Jeff Buhrandt, Vice President of the Universities of Wisconsin Office of University Relations

RE: Testimony on Senate Bill 571

Thank you, Chair Hutton and committee members, for providing the Universities of Wisconsin an opportunity to testify on Senate Bill 571.

Freedom of the press and freedom of expression are not only individual rights enshrined in the U.S. Constitution, but are fundamental to the vitality of our institutions of higher learning. The Universities of Wisconsin Board of Regents (BOR) has a longstanding commitment to ensuring these rights are upheld for all students.

Student media outlets such as school newspapers, are already independent from university leadership and the BOR. Neither the BOR nor campus leadership can dictate editorial content to student publications. This is outlined in Regent Policy Document 30-2 (RPD 30-2), that requires student outlets to put a disclaimer on all communications stating that it is written and edited by UW students and that any content of the publication is solely the responsibility of the students. Under this policy, each UW Chancellor has a duty to inform students of their legal responsibility for the content of these publications. RPD 30-2 is attached to this testimony.

Additionally, the BOR's commitment to academic freedom and freedom of expression is outlined in Regent Policy Document 4-21 (RPD 4-21). RPD 4-21 outlines the BOR's commitment to academic freedom, provides procedures for violations to this policy, and requires UW campuses to annually provide notice of this policy to students and employees—in addition to providing this information to incoming freshman and transfer students. Specifically concerning written communications, RPD 4-21 states: "These freedoms include the right to speak and write as a member of the university community or as a private citizen without institutional discipline or restraint, on scholarly matters, or on matters of public concern." RPD 4-21 protects the free speech rights of the student body in both spoken and written communications.

Currently, student media are independent entities without administrative oversight to ensure freedom of the press. This is enshrined in RPD 30-2, outlined above. The bill would instead require a more prescribed policy that would have administrators more involved in the student free press organization. The original bill purports to completely take away editorial control if the editor or director of the media is a "media advisor". In that case, the bill restricts the "institution" from exercising prior restraint to tell a student journalist that they can't publish something unless it falls under First Amendment exceptions of libel, privacy invasion, obscenity, incitement, or violation of state or federal law. In that situation, a student

(Cont.)

could not be held accountable by a media advisor for writing something different than what was asked or what was consistent with the theme of the publication, for example. Assembly Amendment 1 (AA1) does address these concerns by ensuring a student editor or an all-student editorial board exercising editorial control is not a violation of free speech as outlined in this bill. However, under AA1, a faculty member is still prohibited from exercising editorial control. Also, this legislation continues to require more administrative oversight of independent student publications than is current practice.

The intent of SB 571 is to ensure the rights of student journalists are being respected. This legislation would lessen the editorial independence of student outlets at our universities by creating a BOR policy as outlined in the legislation. Putting an independent outlet under institutional administrative oversight could lessen student journalists' freedom of press rights.

The Universities of Wisconsin shares the bill's authors commitment to freedom of the press on our campuses. However, we believe that our adherence to constitutional law is best suited for upholding this commitment. The Universities of Wisconsin and the BOR have a robust, longstanding commitment to freedom of the press and freedom of expression. Our current policy recognizes that each institution has a "solemn responsibility not only to promote lively and fearless exploration, deliberation, and debate of ideas, but also to protect those freedoms when others attempt to restrict them." We remain committed to ensuring that all members of our institutions can live, work, and learn in an environment that actively promotes civility, academic freedom, and rights to freedom of expression.

Thank you again for the opportunity to provide testimony on SB 571.

Regent Policy Document 30-2 (formerly 75-6)

Student Media Disclaimer

Scope

This policy applies to all UW System student press publications, including websites and other electronic publication mediums, subsidized by university resources, and that are not subject to editorial control by the UW System or any UW System institution.

Purpose

The purpose of this policy is to establish procedures related to the responsibility for the editorial content of student press publications.

Policy Statement

The following statement shall be carried in the masthead of all editions of those newspapers, or on the main page of any news websites or other similar electronic news distribution platforms (such as Facebook, Twitter, Instagram, etc.) (collectively "student press publications") prepared by and for the students of any University of Wisconsin institution and subsidized by funds or facilities under jurisdiction of the University of Wisconsin System or its institutions:

The (name of publication) is written and edited by students of the University of Wisconsin (name of campus) and they are solely responsible for its editorial policy and content.

Each UW Chancellor or his or her designee shall inform students who edit or write for a student press publication subsidized by university resources of the legal responsibility for the content of those publications.

Each UW Chancellor, or designee, shall also provide guidance to student press publications subsidized by university resources describing best practices for managing liability, including information regarding liability insurance for student publications.

Oversight, Roles, and Responsibilities

The UW Chancellor of each UW System institution is responsible for ensuring the institution complies with this policy.

History: Res. 1066 (adopted 8/15/1975) rescinded Wisconsin State Universities resolutions 3629, 3694 and 3710; Res. 11372 (adopted 02/07/2020) amended RPD 30-2.



Testimony of Nick Ramos

Executive Director, Wisconsin Democracy Campaign

Joint Public Hearing Before the State Senate Committee on Universities and Revenue

In support to AB 551/SB 571

Mister Chairmen and other distinguished members of the Committee,

My name is Nick Ramos and I am the proud executive director of the Wisconsin Democracy Campaign, which since 1995, has been tracking and exposing the money in Wisconsin politics and advocating for a full range of pro-democracy reforms.

Our freedom of speech is a sacred right that must be protected.

That is why we support AB 551/SB 571.

Since the beginning of my tenure at the Democracy Campaign, I have consistently used the phrase “everyone deserves a seat at the table” when analyzing the legislation that has been proposed by you and your colleagues in the legislature.

Because if we are serious about Wisconsin being the best state in the country when it comes equity and opportunity, that methodology ought to be the foundation of any bills created by our lawmakers.

With AB 551/SB 571, these bills provide our student journalists across Wisconsin an additional layer of protection to ensure our students are not punished for reporting the news.

Student journalists should be able to exercise their freedom of speech without fear of retaliation or repercussions.

These bills strengthen free speech rights for student journalists, within their respective schools, and these bills clearly illustrate what speech is unprotected speech.

Our journalists are a vital part of our society, and they must be protected.

I look at these bills and I’m happy to see that there is bipartisanship for this important issue.

Creating legislation that protects Wisconsinites’ 1st Amendment rights should not be controversial.

Back in August of this year, Senator Melissa Agard and Representative Jimmy Anderson introduced legislation very similar to the bills that we are discussing today.

However, their bill does not have the same level of bipartisanship.

Their anti-SLAPP bill would strengthen journalists' free speech rights by protecting them from frivolous lawsuits.

Wisconsin is one of 19 states that does not have an anti-SLAPP law in place.

If we are going to practice what we preach when it comes to protecting free speech rights for our journalists, this legislature should also work together to get that anti-SLAPP bill to Governor Evers so he can sign it into law.

If we truly value the 1st Amendment here in Wisconsin, we need to join the other states across the country that have enacted anti-SLAPP laws.

We appreciate this committee opening its doors to the people and our hope is that you all will listen deeply and continue to advance pro-democracy legislation.

Thank you for considering our view on this crucial issue.

**Simon Mehring Testimony
In Favor of SB 571 "New Voices Bill"**

An Act to amend 36.35 (1); and to create 36.42, 38.43 and 118.129 of the statutes; Relating to: freedom of speech and of the press in school-sponsored media.

Good Morning, Members of the Committee. I want to thank Chairman Hutton for holding this public hearing on SB 571 this morning and Sen. Cabral Guevera for sponsoring SB 571 and bringing this crucial issue to light. My name is Simon Mehring, a high school Junior here in Wisconsin. I serve as Associate Editor in Chief of my school's student-run newspaper, The Norse Star, and as a New Voices Student Leader. I'm here today asking for support for SB 571 to protect the fundamental rights of student journalists. SB 571, commonly called The New Voices Bill, is a critical step forward in safeguarding student journalists statewide. This bill was approved unanimously by the Assembly Committee on Colleges and Universities where it was sponsored by both chairman Murphy and Ranking Member Emmerson. The bill later passed the full Assembly chamber unanimously as well.

This bill prohibits censorship unless the material is libelous or slanderous, contains an unwarranted invasion of privacy, violates state or federal law, or incites students to break the law or school policy or disrupt the orderly operation of a school.

By supporting this legislation, you are sending a signal that here in Wisconsin, civil discourse and dialogue are welcome and that you won't be censored or reprimanded for simply having a different perspective on a matter or discussing a topic that someone doesn't want to hear.

As an editor of my school's paper, I've had the privilege of interviewing, writing, and publishing some great articles; despite having interviewed members of Congress, judges, and the Governor, whenever I am asked about my favorite piece, I always turn back to one I wrote with a fellow student journalist of mine about our decisions to stand or not for the pledge of allegiance. Two journalists, with varying opinions on a topic, were able to produce a civil point-counterpoint article on the matter. This article was nothing revolutionary, but it represents what this bill protects. We could write and publish two controversial opinions on the topic without fear of censorship or retaliation by school administrators.

I'm lucky to be a student journalist in a district protected by a local policy regarding student media that nearly mirrors this legislation. Unfortunately, hundreds of student journalists across our state's high schools and universities aren't so lucky. Many students can't cover their communities' most essential and relevant topics due to restrictive prior review and censorship policies. Censored stories often address issues that persons of authority don't want to hear. Whether they are criticizing school officials in an opinion article or covering a controversial decision with an unbiased news article, censorship silences the most critical stories in high school communities. We must acknowledge that the most often censored stories aren't dangerous to the student body; student media has no goal or mission to "attack," or paint administrators in a poor light; instead, our goal is quite the opposite. Student journalism makes the school

environment more accountable and makes it easier to have conversations on critical issues. Student newspapers act as the sole public forum in many high schools here in Wisconsin.

Today, Student journalists have even fewer rights than the general student body. When the US Supreme Court ruled in *Hazelwood Vs. Kuhlmeier* they set a dangerous precedent. Because student media is "school-sponsored," they are fully open to censorship and prior review by the school administration. Where the First Amendment protects a free press, Hazelwood explicitly muzzles students solely because they are the press. This act runs contrary not only to the tenets of the First Amendment but to the core principles of a free and informed society.

The time to act and protect these fundamental rights of student journalists is now. Student journalists are capable, responsible, and vital to their communities. We want to tell the stories that impact their community on and off campus. As we lecture students in class on how to be civic-minded critical thinkers, thirty years of Hazelwood has bred curiosity and confidence out of our students.

Lets come together and protect student journalist by passiny SB 571. Today's new voices are tomorrow's media leaders and citizens; we cannot afford to stifle them.

-Simon Mehring

Associate Editor-In-Chief
The Norse Star

Simonmehring53589@gmail.com

Authority is a good thing. As a student you are trained to respect and obey those in a position above you, but what happens when those in authority overstep their bounds? What happens when power is abused? These were questions that, up until my junior year of high school, I had not ever needed to ask myself.

As the head editor of our student newspaper at Spooner High School, I went about the normal procedures for selecting topics to cover in the first issue of the paper. During the editing period, the teacher informed the class that our newspaper would now be subject to administrative review, in which the school principal and the district PR/Communications Specialist could mark up the issue with a red pen before printing would be allowed. This practice had not previously been done in the class. I voiced my concerns to my teacher and was told that, "this is my class and I will do what I want with it."

The suggestions we received back included requests to change content in articles, as well as headings to make them "more positive" and to either "take out or reword" a quote from a student. All of the changes to make the issue more positive were done, but the quote was left as is, per my and the writers refusal to cross that ethical line. For the following issue I wrote an article about students' First Amendment Rights under the United States Constitution. When my teacher saw this article, she refused to let it go to the administration for edits, claiming that the topic did not pertain to students.

She then proceeded to ask, "what rights do students under eighteen really even have?" Later in the year I was removed from my position, and the following year the newspaper was cut as a whole. In the pursuit for a voice, I was amazed to see that there were people around every turn to try and silence me. What I found even more shocking was that the people in greatest opposition to my plea for my rights to be respected were my principal, school administration, and teacher, the people who were supposed to be there for me the most as a student.

-Abigail Melton, former editor of the Rails Xpress, Spooner High School

During first period on Jan. 29, a school aide came to the door of my humanities class and told me that I was needed in the office.

At first I did not think anything of it as I was waiting for a letter of recommendation to be dropped off for a scholarship application. Much to my surprise, though, I found myself in the principal's office. I was told that I was not allowed to write about a particular topic for the school newspaper. Sadly, this was not the first time I was censored this year.

That is why I feel compelled to endorse new legislation proposed by a group called New Voices. Free speech and free press are protections granted to every U.S. citizen by the Constitution. Recently, the national New Voices campaign has ignited a call to state legislatures to extend and protect these freedoms to high school journalists.

A 1988 Supreme Court ruling granted censorship powers to public school officials over district-sponsored publications. However, states reserve the ability to protect students' free press rights if they choose under the ruling.

For example, a measure in North Dakota specifies that censorship of student journalism (district-sponsored or independent) can only be applied if pieces contain slander, invade privacy, violate state/federal law, violate school policy, or interfere with school operations.

Legislation of the same caliber is being called for in Wisconsin by the New Voices group. Nationally, support for such actions has spread across partisan lines. The freedoms of the press and speech have been nationally deemed as imperative rights to protect for all citizens, including student journalists. As a student journalist in West Bend, I have experienced first-hand the type of censorship this legislation would guard against.

First I was told that I could not cover student concerns when a West social studies teacher was controversially placed on administrative leave a week before semester exams in January. Although my intention was simply to present student viewpoints, I was told that due to personnel issues, I could not cover the story.

Most recently, I was denied the opportunity to write about a possible overhaul to the English curriculum because at this point it is "not a student-interest piece." When I asked the administrator how curriculum could be considered not a student issue, I was told that it is not at this point, and the committee making these decisions should be able to work through them without outside interference.

In other words, I was forbidden to report the facts related to issues that students, residents, and other local media were already extensively discussing.

A more grim interference, however, lies not within my rights as a journalist but within my desire and rights as a student to both learn and practice authentic journalism.

As a newspaper, the staff of *The Current* has decided to pursue serious acts of journalism rather than list bulletin board highlights. We are not here to cover the score of the basketball game or what is for lunch this week. As editor in chief, I have been told by administrators that maybe we should write about "good" stories. We do run "positive" stories, such as a recent article about the talent show and an

upcoming article about random acts of kindness. Sometimes, though, what needs to be reported on are not heartwarming topics, but more serious and possibly controversial topics.

We are here to investigate stories that students want to know about or what students should become informed about. As I wrote earlier this year, we are not a publicity arm for the district. We are a body of independent thinking student journalists who wish to simply represent and cater to our community audience. True journalism brings stories forward that must be brought to light. Serious journalists engage in investigation, not cheerleading.

Beginning last year and reaching new heights this year, the writers of *The Current* have faced new hurdles from the office. Personally I have been muted regarding two topics, and other writers have faced interference, too. For example, the office has required some articles be read and authorized by administrators prior to publication.

This is an entirely new circumstance for *The Current*, which historically has been allowed to exist as an independent, responsible body of student reporting and a vehicle for teaching authentic journalism. According to adviser Eric Beltmann, there has been more administrative interference this year than in the previous 12 years of his advising tenure combined.

This year the office has repeatedly asked me, "Are students really interested in this?" or "Do students really talk about this?" I am always surprised, because those questions make apparent how much district officials are out of touch with student concerns and our readiness to think critically about serious matters.

Almost every *Current* meeting is filled with students expressing awareness and curiosity towards topics such as administrator turnover or changes to curriculum, and there is a void of serious motivation to report on trivial events. As a student in the hallways, in the cafeterias, and in classrooms, I hear fellow students speculate and voice their concerns. As a student myself, I feel as though few of my questions or concerns are acknowledged.

I want to explore serious stories and apply the skills I have gained by being a student in this district. Unfortunately, my learning is too often hindered by the same officials who are, I believe, charged with nurturing my learning environment.

Based on my experiences this year, I feel as though protection must be extended to me and my fellow student journalists. I firmly believe that journalists have a responsibility to practice ethical journalism and present a story that can prompt independent interpretation and inform the public. These practices and the ability to carry them out is first gained at school, a place where all learning should be cultivated.

Unfortunately, true educational growth might require a legislative watch dog to protect student journalists from the kind of censorship I have faced this year.

I deem censorship a crucial learning barrier that must be torn down, and therefore urge all readers to support the New Voices proposal to protect student journalists in Wisconsin.

-Lauren Sorensen, former Editor in Chief of *The Current*, West Bend High School

I joined my school's newspaper at the beginning of my Sophomore year, a time in my life ruled by insecurity and a lack of identity. During this vulnerable time in my life, I was searching for a sense of community and belonging. It wasn't long until I started looking forward to that class, and over time, I began to feel more confident in myself, learned the importance of my words, and made valuable connections.

Over three years, I took on numerous leadership positions and eventually rose to the role of Editor-in-Chief. I consistently held myself and my staff to an incredibly high standard because it felt like a disservice to them not to. I saw their potential, and by the end of the year, it was gratifying to see those qualities in print. Having the opportunity to excel as a leader in high school is incredibly important. I mean a true leader: someone who can make decisions that have an impact, who is listened to and trusted with responsibility. It was empowering to be treated like a smart, complex individual in the classroom instead of just another kid.

Student journalists shouldn't have to fear losing funding or support just for expressing themselves or covering certain topics. Every member of my publication was well-versed in journalistic ethics and spent entire class sessions maturely discussing certain controversial topics. These journalists were receptive to critiques and fully aware of the impacts their articles may have. Students need spaces like this where they can think freely and critically instead of simply being told "no".

How can we expect students to make meaningful changes if they are stopped from following what speaks to them?

How can we expect students to be critical thinkers while asking them to follow policies blindly?

How can we expect students to become independent adults if we don't allow them to grow into that person now?

That's the beauty of the New Voices Bill: it promises to protect the First Amendment Rights of high school and college newspapers. This means that students can write even deeper, more impactful pieces and be trusted with their words and impact. Student publications all over Wisconsin are having their voices suppressed with prior review policies and blatant censorship. Even publications with independent policies are prone to suffer from self-censorship due to the fear that school administration could take those rights away at any moment. Students should be free to meaningfully and constructively critique institutions, conventions, and policies without fearing punishment.

If you want young people to do incredible things, you need to trust them. Cultivate their curiosity instead of suppressing it. It's a gift. This inhibition of free speech has harmed too many students. Please support AB 551 and protect First Amendment Rights for all in Wisconsin.

-Ava Parr, Former Editor in Chief of The Norse Star, Stoughton High School

Pewaukee High School's magazine, The Hook, became one of my greatest passions during sophomore year. Finally having the opportunity to talk about real issues that impacted the student body, I decided to write an opinion article regarding the sexual education curriculum in our health class. With the full support of my adviser, I attempted to conduct interviews and draft a story that showcased the current class and suggestions for improvement, always abiding by journalistic ethics and keeping the story as balanced as possible.

However, as our administration caught wind of my article, they began to place road blocks all along the journey to publishing. Meetings were held with my adviser, telling her that we were given too much freedom and that controversy shouldn't be discussed in our magazine. Interviews were compromised, the health teacher editing notes I took during the conversation and requiring questions to be sent to them prior. The final draft was sent to the administration, where they picked apart my words and made my story someone else's. Gone was my voice as a reporter- instead, a stripped account was returned to me, unable to be changed in fear of retaliation. I didn't even want to put my name on the piece, as I didn't write it.

The laws of Hazelwood allowed my administration to take the pen out of my hands and write the story in the way they saw fit. The students never saw the truth of my reporting and action was never taken to better our education. My abilities as a journalist were similarly compromised, as I never got the opportunity to truly write my own story for the students, or to learn- yet, isn't that the point of an education?

- Kiley Clarquist Student Journalist for The Hook, Peawaukee High School



RACHAEL A. CABRAL-GUEVARA

STATE SENATOR • 19TH SENATE DISTRICT

Senate Bill 571

Testimony before the Senate Committee on Universities and Revenue

Senator Rachael Cabral-Guevara

December 5, 2023

Thank you Chairman Hutton and committee members for allowing me to testify on Senate Bill 571 today, a bill to protect freedom of the press in school-sponsored media.

Freedom of the press is the foundation of our republic. As young journalists gain their first real experience in reporting and editorializing, it's critical that the strong arm of the government does not stifle their speech even before they find their voice. SB 571 ensures that publicly funded media at our K-12 schools and higher education campuses lays a foundation for upholding First Amendment rights.

Under the bill, student journalists would be responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. School officials would be prohibited from censoring these items. Neither student-journalists nor media advisers may be disciplined for acting in accordance with the bill. Finally, the bill requires schools (including charter schools) to adopt a policy related to student-journalists exercising their freedom of speech and of the press in school-sponsored media. Specifically, that the policy must include an appeal process for students. A student-journalist or a media adviser may also bring an action in court to enforce the rights established under the bill.

Assembly Amendment 1 to the bill, which we will be introducing in the Senate, makes minor changes that were agreed to by both Democrats and Republicans serving on the Assembly Colleges and Universities Committee. The amendment clarifies that student editors or all-student editorial board (and not simply any one student journalist) will now have final say about what may be published in school sponsored media. Additionally, to address concerns raised by UW System, if a UW institution, technical college, or school district/charter school demonstrates that only students are involved in decisions about publication of material, then administrators do not need to establish additional policies about time, place and manner, or creating an appeals process. Yearbooks are specifically listed as an example of school-sponsored media addressed by the bill. Finally, the amendment clarifies that content not covered by the protections in the bill include: plagiarized copyrighted material and violations of s. 948.11 (regarding exposing a child to harmful material or harmful descriptions or narrations).

This simple bill enshrines and protects constitutional rights that already exist for students. The bill simply ensures that these rights do not fall by the wayside when a school or college feels that they can get away with stifling speech without consequences.

Dear Sen. Hutton,

I have been an educator for 21 years and a journalism educator for the last 11 of those years. Thousands of students have come through my classroom in that time and the one thing they all have in common is that they have a voice and they want to be heard. Thankfully, the US Supreme Court's Tinker decision protects my students' voices.

However, my journalism students do not have the same rights due to the 1988 Supreme Court Hazelwood v. Kuhlmeier decision that allows school administrators the right to censor school-sponsored media when "reasonably related to legitimate pedagogical concerns." This standard is vague and has allowed administrators to censor students subjectively and arbitrarily without an articulated "pedagogical concern." Senate Bill 571 clearly states that the work of student journalists does not reflect the views of the school.

Similar laws are in place in Arkansas, California, Colorado, Hawaii, Illinois, Iowa, Kansas, Maryland, Massachusetts, Nevada, New Jersey, North Dakota, Oregon, Rhode Island, Vermont and Washington. The law is also supported nationally by the American Bar Association, the Journalism Education Association, the Society of Professional Journalists, the Association for Education in Journalism and Mass Communication, the National Council of Teachers of English, the American Society of News Editors and more.

I have listened over the years as my students discuss story ideas and worry over being censored. They have written stories about mental health, school safety, the dangers of vaping and civil unrest and violence in their own city of Kenosha to name a few. They covered each story because it was important to their community and their peers. They want their voices to be heard. They need to know they have your support and the support of the adults educating them and the community to fully function as student journalists.

I am happy to discuss any questions or concerns you may have. Thank you for your time and consideration, and for your support of the students of our state.

Sincerely,
Michelle Corbett, CJE

--

Michelle Corbett, CJE

Journalism Educator/Blaze Yearbook & Hawk Talk Productions Podcast Adviser

| <https://theblazeithsa.com/>

Vice President | KEMPA Board of Directors | <https://kempajournalism.org/>

E: mcorbett@kUSD.edu

P: 262.359.8700

Indian Trail High School & Academy

6800 60th St., Kenosha, WI 53144

www.kUSD.edu





**TESTIMONY IN SUPPORT OF SB 571 AND AB 551 - FREEDOM OF THE PRESS IN
SCHOOL-SPONSORED STUDENT MEDIA
12/5/23**

The Student Press Law Center (SPLC) is an independent, non-partisan organization that supports, promotes and defends the press freedom and First Amendment rights of student journalists and their advisers. Our free legal hotline provides services to students and teachers across the country. As such, we see daily the significant need for such legislation, a version of which is now law in seventeen states,¹ and strongly support its passage. We do request small clarifying amendments be made to avoid inadvertently incentivizing some censorship of student media, and have detailed those concerns and included suggested language below.

In *Hazelwood School District v. Kuhlmeier* (1988), the U.S. Supreme Court ruled that K-12 student media censorship must be “reasonably related to legitimate pedagogical concerns.” Unfortunately, what constitutes “legitimate pedagogical concerns” has never been clarified or widely understood.

In contrast, all other student speech is held to the so-called “*Tinker* Standard,” a precedent stemming from the Court’s *Tinker v. Des Moines* (1969) ruling that student speech cannot be censored unless it violates state and federal laws (including those against libel and slander, as well as privacy and copyright laws) or materially or substantially disrupts the school environment. That is the standard this legislation seeks to restore for student media.

While a student journalist adhering to proper journalistic procedures is unlikely to stumble over the *Tinker* Standard, students are censored under *Hazelwood* for writing stories that administrators at another school would never contend violates any legitimate pedagogical standard. *Hazelwood* remains, three decades after the Court’s ruling, an arbitrary and capricious standard that causes confusion among student journalists and school administrators alike. This legislation would resolve that confusion.

Nationwide, SPLC has seen yearbooks censored because students wore MAGA shirts or the swim team wore bathing suits, newspapers censored for reporting on graffiti visible to all students, and administrators restricting pieces providing oversight into the administrators’ own activities. Award-winning advisers have been reassigned or fired for refusing to infringe upon students from reporting on, among other things, the high cost of feminine hygiene products, a vigil for a current student, the improper withholding of documents relating to an administrator’s resignation, and curriculum changes.

¹ Arkansas, California, Colorado, Hawaii, Illinois, Iowa, Kansas, Maryland, Massachusetts, Nevada, New Jersey, North Dakota, Oregon, Rhode Island, Vermont, Washington and West Virginia.



In 2014, for instance, Fond du Lac high school imposed a prior review policy following the school paper's reporting on the impact of callous jokes about sexual assault survivors. The policy was then used to censor an illustration about the prior review policy, as well as multiple parts of the final issue that year. (The policy was changed after SPLC intervention.) This legislation will resolve the confusion and unwarranted censorship stemming from *Hazelwood* by providing appropriate and consistent guardrails for student media content, will protect school districts, and will ensure that Wisconsin's students can be the independent, civic-minded leaders Wisconsin schools encourage them to be.

As to our concerns: in three places, AB 551 now states that speech is not protected if it is "rejected by a student-editor or an all-student editorial board." This is a new exemption added by the Assembly that does not appear in any other state with this law.

To be clear: the legislation in its original form does not allow for students to sue solely because their editor rejected or edited a draft work. The bill requires that student journalists determine the content of student media, and that protects the decision of the student editor or editors. At no point in the 100-plus combined years of New Voices legal history has such legislation ever been construed to allow students to sue solely because of the editorial decisions made by other students. We do not believe this amendment was necessary for that reason.

We are concerned that making speech unprotected solely by virtue of it being rejected or edited by the student editor opens the door for bad actors to intimidate student editors into rejecting or editing draft works. Similar pressure is often placed on student media advisers, and is why this legislation protects them from retaliation.

Because of AB 551's current wording, censored students will have no recourse under the law because their speech - otherwise protected by law - was suppressed by a student editor at the coercion of an administrator rather than directly by the administrator.

In order to fix this loophole, we propose that the amendment language be stricken, and that instead, either:

- all lines stating "a student journalist is responsible for determining the news" et cetera be changed to "a student editor is responsible for determining the news" et cetera (similar language appears in several state laws similar to AB 551), or;
- A line be added to each section stating "This section shall not be construed to limit the ability of student editors to reject or edit any student-created material."

Further, we are concerned by inclusion of language exempting from the policy requirement any institution or school board that "demonstrates to the department that only pupils are involved in

Good Morning,

Thank you for hearing public comments on Bill 571 today and for receiving numerous communications about this Bill from far and wide.

My name is Laura Streyle. I had the pleasure of being Simon's journalism adviser in Stoughton, and I've got to tell you – it's pretty surreal to be here today. I mean, I did get used to how teenagers repeatedly blew me away with their drive to tell people's stories. With their tenacity to speak with superintendents, police, community organizers, and students alike.

What re-inspires me, and I think it inspires the room here today, is that Simon, and all the student reporters he represents here, have a drive to not only tell people's stories, but to protect all students' right to do so across the state. Students have heard about how this Bill has been effective in 17 other states, and they want Wisconsin to be the 18th. I do, too. I was honored that Simon alerted me to today's meeting and encouraged me to speak - to me, it's a testament to the brilliant things that can happen when students feel empowered to learn and act.

So often, adults find it easier to say "no" to our youth. "That idea is too risky, that question is too scary, that solution is too grandiose." What I witnessed in my time as a journalism adviser is what happens when you say "yes, and" to curious kids. Yes, I hear you, and how do you plan to cover the multiple sides of that issue? Yes, I hear you, and how do you plan to make that digestible for your student audience?

Lucky for Stoughton students and for the community, Stoughton operates with a policy that was developed in the nineties by the adviser, school leaders, and a professional reporter. This policy mirrors much of the language of Bill 571, and the community has continued to support this policy for decades. Because of this, I have seen what "yes, and" can do.

Though I stepped out of the classroom last spring after eight years of advising *The Norse Star*, when I was there, I saw what happens when you coach a group of kids to ask "yes, and." You often stand back and watch them coach themselves - you watch them use critical thinking, stumble, support each other, debate, engage, and learn during a story-pitching session. Students learned the gravity of the responsibility to choose stories, they understood their legal and ethical barriers, and they took both their mistakes and their successes to heart.

Not that awards are everything, but when kids can choose to cover the mental health issues that plague their peers, when they can ask questions about their curriculum, when they can lead interviews to better understand initiatives in their communities, they write stories that win local, national, and international awards. They write stories that many of our local newsrooms are too short-staffed to dive into. They write stories that keep a community safer by dispelling rumors and misinformation, often by way of giving a space for administrators to share their side of the story. Frankly, these reporters succeed because they are practicing good journalism, with all the ethics, law, rigorous writing, and social skills that good journalism entails.

As an adviser, I found so much support in the advising community, and I was encouraged by my school to continue growing my journalism knowledge. I was confident in the journalism education kids were receiving - I knew they weren't being impaired by an infantilizing system that makes decisions for them.

I believe that Senate Bill 571 can strengthen the democracy and the civic engagement of our country.

I thank you for your time and consideration, and I strongly encourage you to vote in favor of this bill so that more kids can seek the truth and report it – so that more schools can breathe in uncensored air.

Laura Streyle, Former Stoughton Area School District English teacher and *The Norse Star* Adviser of eight years.
1129 Chandler St. Madison, WI 53715 608-397-9375



making editorial or publication decisions." We believe that this section as written raises more questions than answers and will leave schools and districts inadvertently in violation of the law.

Censorship is often not policy; even schools whose internal policy is to promote the independence of their student media have grappled with cases of censorship. Yet a policy can be crucial to setting expectations and informing all students and administrators, particularly during periods of transition, as to the rights and responsibilities of all parties.

This amendment goes into no detail about how a district or institution is to certify to itself that their student media is free from interference, how that freedom is to be verified, how often that certification is to occur, or give student journalists crucial appeals processes when administrators violate the policies and the law. As such, we believe it will simply be used to circumvent the policy requirement at a detriment to all parties.

We understand that some in the University of Wisconsin System (U-W) are concerned that the law will conflict with their existing policy. We have looked at U-W's existing policy and are concerned that, while it holds for the freedom of the student press, it also requires the Chancellor or a designee to discuss with the student media "their legal responsibilities" and financial liabilities. Setting aside the fact that student journalists take classes in media law and ethics and are well-versed in their legal rights and responsibilities, this is a situation ripe for censorship pressure under the wrong administrator and misinterpretation by student journalists. If a school says that their student media are independent but a student disagrees, are they immediately in violation of the policy requirement of this law? Without a clear policy and procedure for students to appeal the rare censorship that does occur, students are left with no recourse but to go to court - a costly and time-consuming procedure for all involved.

We recommend that the amendment be replaced with:

"It is sufficient for a policy to state that decisions regarding the content of student media are made solely by students, and that at no point may any school official attempt to influence the content of school-sponsored student media."

With these small amendments, we urge swift passage of this legislation. Wisconsin will join the seventeen states that have already enacted similar student press freedom laws. The outcomes are abundantly clear: these laws do not impact the safety of the school or keep administrators from intervening when necessary. In no state has there been an outbreak of unethical journalism. No school has witnessed a successful libel lawsuit. (In fact, libel lawsuits initiated against high school



student journalism programs are exceedingly rare; to date, we are aware of no published libel lawsuit in the country holding a school district liable for work published by its student media.)

Thank you for your support of SB 571 and AB 551, and Wisconsin's student journalists.

SUBMITTED BY: Jonathan Gaston-Falk, staff attorney
jfalk@splc.org

Wisconsin Lawmakers Move to Protect the Rights of Student Journalists; Will Madison Schools Follow Suit?

By Sandy Flores Ruiz and Leila Fletcher

Bipartisan efforts to protect the rights of student journalists are moving forward at the Wisconsin Capitol. Meanwhile, school officials in Madison could move in the opposite direction. District administrators and school board members are updating their policies in collaboration with an Ohio-based company called NEOLA.

NEOLA's standard media policies are known for restricting the press freedoms of student journalists.

According to the non-partisan Legislative Reference Bureau, Senate bill 571 would "afford certain rights and protections to student journalists who are public school pupils or students enrolled in a University of Wisconsin System institution or technical college."

Simpson Street Free Press student editors support this bill. We believe in freedom of the press and do not support unnecessary or preemptive restrictions on student writers.

Senate bill 571 addresses the concept of "prior restraint," which happens when students submit work to school officials for review prior to publishing. The bill would "prohibit school officials from exercising prior restraint of materials prepared for school-sponsored media," according to Reference Bureau analysis.

NEOLA policies have made news in Wisconsin before, specifically in 2019-20 after the Oshkosh School District used NEOLA policies and prior restraint to limit what student reporters could cover. A story about locked bathrooms and the whereabouts of an assistant principal was pulled from the school's online newspaper an hour after posting. According to the *Milwaukee Journal Sentinel*, that case developed into controversy including "lawsuit threats, contradicting school rules and the best way to teach young journalists."

A 2020 story from *The Capital Times* reported on efforts to bring NEOLA policies to Madison. Education reporter, Scott Girard, wrote that "NEOLA has faced criticism in some districts where it operates for its model policies on student publications."

The Cap Times quoted Mike Hiestand of the Student Press Law Center who called NEOLA a policy mill. "Their student media policy, in particular, has been something we have been battling here at the Student Press Law Center for years," Hiestand said. "They're horrible student media policies, if you really believe that you should be teaching young journalists how to actually function as journalists."

In a 2020 story published by Simpson Street Free Press, Bill Leuders of the Wisconsin Freedom of Information Council questioned whether NEOLA's more restrictive policies are necessary in Madison.

“The Madison Metropolitan School District should be affording student journalists broad freedom to publish without imposing onerous constraints,” Lueders said. “If the district is indeed moving in this direction, it needs to explain why it is doing so. What problems is it experiencing that it needs to be constricting the freedoms of student journalists?”

Student journalists from across the state recently urged Wisconsin lawmakers to pass the proposed legislation.

Simon Mehring from Stoughton High School told legislators that passing the bill would communicate that in Wisconsin, “civil discourse and dialogue is welcome and that you won't be censored or reprimanded for simply having a different perspective on a matter or discussing a topic that someone doesn't want to hear.”

Lauren Sorensen, former Editor in Chief of the newspaper at West Bend High School, said she viewed censorship as a barrier to learning. “Unfortunately, true educational growth might require a legislative watchdog to protect student journalists from the kind of censorship I have faced this year,” Sorensen said.

NEOLA sells customizable policy templates for school districts. In an email to Simpson Street, Interim Superintendent Lisa Kvistad said MMSD is not adopting NEOLA policies, they “are only working with them to write specific policies that are required for compliance at this time.”

Board President Nichelle Nichols said in an email that NEOLA will “provide a template for [MMSD] to use which will provide suggested language” that will be reviewed and edited before approval. Nichols said the board has not discussed policies related to student media yet.

An earlier version passed unanimously in the Assembly, so we urge our senators to vote for Senate bill 571. We encourage local school officials to avoid language that violates the spirit of this new law. We should embrace policies that protect the rights of student journalists.

Sandy Flores Ruiz and Leila Fletcher are student editors at Simpson Street Free Press.



Wisconsin Journalism Education Association

Statement in Support of SB 571 and the Freedom of the Press in Student Media

December 4, 2023

The Wisconsin Journalism Education Association, representing journalism teachers, advisers and programs from across the state, wholeheartedly supports the passage of this “New Voices” legislation. Wisconsin state law has been silent for too long on the rights of students to control their own voices in school-sponsored media. While completing school-related work, students should be focused on seeking truth, thinking critically and building knowledge. They should not be restricted to the interests and viewpoints of school officials. They should be learning how to explore their world and use their voice to communicate with others. They should not be learning that those in power get to control their voice or that curiosity about relevant and timely issues may be forbidden at a moment’s notice. Our First Amendment rights are too fundamental to our future as a country to leave them open to unwitting censure in our schools, the exact places that should be training young citizens to speak for themselves.

The bill under consideration, like many other New Voices bills across the country that have become law, keeps the focus of schools on education while still providing protection against unlawful speech. By codifying in state law that student journalists decide the content of student media and outlining the specific speech that is not allowed, this legislation empowers students to push themselves and their communities to be the best versions of themselves. It forces critical thinking about how to explore and express ideas that will best meet the needs of their audience and prepares them to be leaders in the workplace and beyond. In a world where it is easier than ever to publish speech and to be bombarded by the speech of others, it is essential our students receive equal opportunities to experience the full benefits and responsibilities of the free flow of information in a democracy. If our schools won’t teach students the importance of working together to refine and make final decisions about what is worth publishing, then who will?

It is beyond time for Wisconsin to join the ranks of “New Voices” states. The Wisconsin Journalism Education Association thanks you for your support of SB 571.

Wisconsin Journalism Education Association Board of Directors:

Matthew Smith - Fond du Lac High School
Julie Tiedens - Black River Falls High School
Shannon Kuehmichel - Berlin High School
Danielle Olejniczak - Cedar Grove-Belgium High School

Jeff Carter - Hartford Union High School
April van Buren - Madison East High School
Renee Potter - Lodi High School
Kate Edenberg - University of Wisconsin-Stout
Beth Plankey - Neenah High School