

BILL: Senate Bill 764
TITLE: Education – Student Journalists – Freedom of Speech and Freedom of the Press
POSITION: OPPOSE
DATE: March 2, 2016
COMMITTEE: Education, Health, and Environmental Affairs Committee
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The Maryland Association of Boards of Education (MABE) opposes Senate Bill 764, which would provide very broad discretion to student journalists with very limited restraints available to school administrators and educators.

Local boards of education recognize the importance of providing opportunities for student expression; yet also recognize the overarching responsibility to adopt policies governing school-sponsored publications. Such publications should provide a vehicle for student expression while at the same time being consistent with legal and regulatory requirements, school system policies and procedures, civil discourse, responsible journalism, and professional standards.

While it is true that students do possess First Amendment rights, it is also true that student expression rights in the school setting are not the same that adults possess in other settings (*Bethel School District No. 403 v. Fraser*, 478 U.S. 675 (1986)). The *Bethel* case upheld the suspension of a high school student who repeatedly used inappropriate sexual metaphors in a student assembly speech. For the first time in two decades, the Supreme Court considered the extent of student free speech rights and the authority of school administrators to discipline students for disruptive expression in the case of *Morse v. Frederick*, 551 U.S. 393 (2007), where a group of students displayed a banner that read “Bong Hits 4 Jesus” across the street from their high school during a school sponsored viewing of the passage of the Olympic Torch Relay. In finding for the school administrator’s right to control speech advocating or celebrating illegal drug use, the Court held:

School principals have a difficult job, and a vitally important one. When *Frederick* suddenly and unexpectedly unfurled his banner, *Morse* had to decide to act - or not act - on the spot. It was reasonable for her to conclude that the banner promoted illegal drug use - in violation of established school policy - and that failing to act would send a powerful message to the students in her charge, including *Frederick*, about how serious the school was about the dangers of illegal drug use. The First Amendment does not require schools to tolerate at school events student expression that contributes to those dangers.

Maryland’s boards of education request the continued discretion to adopt appropriate and legally sound policies which superintendents and principals must implement and enforce to monitor and control the contents of school-sponsored student publications.

For these reasons, MABE requests an unfavorable report on Senate Bill 764.