

BILL: Senate Bill 764
TITLE: Education – Student Journalists – Freedom of Speech and Freedom of the Press
POSITION: OPPOSE
DATE: March 29, 2016
COMMITTEE: Appropriations 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. To be clear, MABE's opposition pertains to only half of the bill; MABE has no objection to the provisions of the bill which apply to higher education. MABE opposes removing local school system control over school-sponsored publications and adopting new employment protections for staff advising student journalists in the elementary, middle and high school settings.

Local boards of education appreciate the importance of providing opportunities for student expression through journalism; 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. The Supreme Court has affirmed the constitutionality of school system actions to exercise control over school newspapers and publications. Under the decision in *Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988), the Supreme Court upheld a school principal's action to remove two articles from the student newspaper. In *Hazelwood*, the principal believed that the stories could identify the students and thus pose privacy concerns, and that references to sexual activity and birth control were age inappropriate for a number of the younger students. The Supreme Court held that where a school sponsors an expressive activity that students and others may reasonably perceive to represent the school's views the school's ability to control student speech is much greater than in the *Tinker* case. Applying the "reasonable relation" test, the Court found that the principal acted reasonably, based on the facts possessed by the principal. The exclusion of the articles was reasonably related to the school objectives of defending privacy interests, protecting young students from age inappropriate materials, and teaching journalistic evenhandedness.

Maryland's boards of education request the legislature's support for the continued discretion to adopt appropriate and legally sound policies to monitor and oversee the contents of school-sponsored student publications.

For these reasons, MABE requests an unfavorable report on Senate Bill 764; in the alternative, MABE requests amendments to strike beginning with line 1 on page 2 through line 19 on page 4, in order that the bill would apply only to institutions of higher education.