



General Assembly

Substitute Bill No. 1056

January Session, 2009

* SB01056JUD__040209__*

AN ACT CONCERNING STUDENTS' RIGHT TO FREE SPEECH.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2009*) (a) For the purposes of this
2 section, "school" means any public elementary or secondary school or
3 public institution of higher education in this state, and "speech" means
4 any expression, whether written, oral or nonverbal, that is protected
5 under the first amendment to the United States Constitution or section
6 4 or 5 of article first of the Constitution of the state.

7 (b) No school may censor or punish speech of a school student,
8 whether or not the speech is school-sponsored, unless the speech:

9 (1) Is demonstrably likely to cause material and substantial
10 disruption to the educational process, provided mere inconvenience to
11 school officials or employees shall not be deemed to constitute
12 disruption;

13 (2) (A) Is lewd, vulgar or indecent, and (B) occurs on school grounds
14 during school hours or occurs during a school-sponsored activity;

15 (3) Is directed against another student with the intent to ridicule,
16 harass, humiliate or intimidate the other student and has a direct and
17 negative impact on the other student's academic performance or safety
18 in school, whether or not the speech occurs on school grounds or

19 during school hours;

20 (4) Is directed against another person with the intent to ridicule,
21 harass, humiliate or intimidate the other person and has a direct and
22 negative impact on the other person's academic or behavioral
23 performance or safety in school, whether or not the speech occurs on
24 school grounds or during school hours; or

25 (5) Materially and substantially invades privacy.

26 (c) Nothing in this section shall prevent faculty advisors or persons
27 performing the functions of advisors from taking appropriate steps to
28 ensure that school-sponsored student speech, within their jurisdiction,
29 meets accepted professional standards.

30 (d) No school employee who acts in good faith shall be discharged,
31 disciplined, transferred or removed from his or her position for (1)
32 advising students of their rights under this section, (2) refusing to
33 violate the provisions of this section, or (3) reporting violations of the
34 provisions of this section to a superior or other competent authority,
35 an affected student or such student's parent or guardian or the public.

36 (e) No school district or school shall be held liable for student
37 speech that is protected under this section. No school district official or
38 school administrator, teacher or other employee shall be held
39 personally liable for student speech that is protected under this section
40 unless such person has, in bad faith, instigated or encouraged such
41 speech.

42 (f) Any person aggrieved by a violation of the provisions of this
43 section may bring an action for injunctive or declaratory relief,
44 damages and a reasonable attorney's fee in any court of competent
45 jurisdiction.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2009	New section

JUD *Joint Favorable Subst.*