

A BILL

To protect the independence of campus media at public post-secondary educational institutions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the “College Free Press Act.”

SEC. 2. FINDINGS.

(1) All public educational institutions are required by the First Amendment to the United States Constitution to guarantee students freedom of speech and freedom of the press.

(2) Despite the obligation of public educational institutions to provide students with freedom of the press, many public educational institutions maintain policies that violate the First Amendment rights of student editors of campus media by requiring that the media must be reviewed by school administrators prior to publication.

(3) In *Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988), the Supreme Court of the United States determined that pre-publication administrative review of a high school student newspaper was justified where the school newspaper is “school-sponsored” speech (the administration acting, in effect, as the publisher) and when the pre-publication review was related to “reasonable pedagogical concerns.”

(4) In *Hosty v. Carter*, 412 F.3d 731 (7th Cir. 2005) (*en banc*), *cert. denied*, 126 S. Ct. 1330 (2006), the United States Court of Appeals for the Seventh Circuit extended the reasoning of *Hazelwood School District v. Kuhlmeier* to college campuses by permitting administrative prior review to campus student newspapers.

(5) Recognizing that *Hosty v. Carter* jeopardized the integrity and independence of campus media by applying the reasoning *Hazelwood School District v. Kuhlmeier* to college media, the State of Illinois passed the College Campus Press Act, 110 ILCS 13 (2007), to protect freedom of the press and student journalists at the state’s public campuses.

(6) Campus media plays a vitally important role in educating members of the campus community. Universities that restrict student journalists deprive the

campus community of the open debate and freedom of expression that universities exist to foster and are uniquely empowered to facilitate.

SEC. 3. DEFINITIONS.

In this Act:

(1) EDUCATIONAL INSTITUTION- The term 'educational institution' means an institution of higher education, as defined in [CITATION TO STATE STATUTE];

(2) CAMPUS MEDIA- The term 'campus media' means--

(A) any matter that is substantially prepared, written, published, or broadcast by students at educational institutions, that is distributed or generally made available, either freely or for a fee, to members of the student body or the public; whether or not such media is sponsored by the institution or supervised by an employee of the institution;

(B) Campus Media does not include media distributed solely in the classrooms in which it is prepared.

SEC. 4. FREEDOM OF THE CAMPUS MEDIA.

(1) No public educational institution accepting federal funds, except those designated in Section 7 herein, shall make any rule, enforce any rule, or take any action:

(A) subjecting a student to disciplinary sanction on the sole basis of expressive activity or other communication that, when engaged in outside of a campus of those institutions, is protected from governmental restriction by the First Amendment to the United States Constitution;

(B) retaliating (including, without limitation, attempts to dismiss, suspend, reassign, transfer, or otherwise discipline) against an employee of the educational institution who acts to protect a student engaged in expressive activity as described in subsection 4(1)(A), or for refusing to infringe upon expressive activity as described in subsection 4(1)(A);

(C) subjecting Campus Media to prior restraint or pre-publication approval, except when its content is not protected by the First Amendment to the United States Constitution, when such restraint is necessary to prevent imminent loss of life, or when the eligible institution is acting under judicial order.

SECTION 5. CAUSE OF ACTION.

(1) The following persons may bring an action in any State court of competent jurisdiction to enjoin violation of this Act. The court may award compensatory

damages, reasonable court costs, and attorneys' fees, including expert fees, or any other relief in equity or law as deemed appropriate:

(A) the attorney general;

(B) any aggrieved person whose expressive rights were infringed upon through violation of this Act;

(C) any person who is employed by, or provides labor to create, campus media.

(2) In an action brought under this Subsection, if the court finds a violation of this Act, the court shall award the aggrieved person not less than \$1000.

(3) A State or entity of a State shall not be immune under the Eleventh Amendment of the Constitution of the United States from suit in Federal court for a violation of this Act, provided that the State entity has accepted federal funding.

(4) In a suit against a the State for a violation of this statute referred to in section (5)(1), remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State.

SEC. 6. STATUTE OF LIMITATIONS.

(1) ONE-YEAR LIMITATIONS PERIOD.

(A) A person must bring suit for violation of this act not later than one year after the day the cause of action accrues;

(B) For purposes of calculating the one-year limitation period, each day that the violation of this act persists, and each day that a policy in violation of this act remains in effect, shall constitute a new violation of this act and, therefore, a new day that the cause of action has accrued.

SEC. 7. EXEMPTIONS.

(1) This Act shall not apply to:

(A) an educational institution that is privately operated; or

(B) an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine.