



THE SPFA, ANNOTATED

*an annotated and explained
copy of the SPFA*

This copy of the SPFA has been annotated with brief and concise explanations of each section of the bill, describing its legal purpose and function in simple terms.

Before reading this explained version, the SPFA BC Campaign stresses the supremacy of the *Canadian Charter of Rights and Freedoms* as the originating document of the fundamental freedoms. The *Charter* applies to public schools and protects freedom of expression and of the press in such institutions. The SPFA’s purpose is to secure the *Charter’s* supremacy and applicability in BC public schools in effort to strengthen our democracy.

STUDENT PRESS FREEDOM ACT - DRAFT

Preamble

WHEREAS it is paramount that a free and democratic society ensures that all its members are able to enjoy their fundamental freedoms as set out in the *Canadian Charter of Rights and Freedoms*;

AND WHEREAS the purpose of the British Columbia school system is to enable all learners to become literate, to develop their individual potential and to acquire the knowledge, skills and attitudes needed to contribute to a healthy, democratic and pluralistic society and a prosperous and sustainable economy;

AND WHEREAS it is essential that the student journalists of public schools in the British Columbia school system are free to exercise their rights to freedom of expression and of the press as enshrined in the *Canadian Charter of Rights and Freedoms*.

AND WHEREAS it is the purpose of this Act to ensure the rights of student journalists to freedom of expression and of the press, and further to encourage civics, journalism, and news media education;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

PREAMBLE:

A preamble in legislative context carries no actual legal weight, but is a helpful explanatory pretext to the main passages of a bill, and can aid readers in determining the purpose of the law and the perspective of those drafting it.

Definitions and interpretation

1 (1) In this Act:

“**board**” or “**board of education**” has the same meaning as in the *School Act*;

“**school**” has the same meaning as in the *School Act*;

“**school district**” has the same meaning as in the *School Act*

“**school official**” means a principal, vice principal, director of instruction, superintendent of schools, assistant superintendent of schools, or member of a board;

“**student**” has the same meaning as in the *School Act*;

“**student journalist**” means a student who prepares, compiles, writes, researches, edits, photographs, records, or gathers information for publication or broadcast in student media;

“**student media**” means any journalistic material that is prepared, compiled, written, edited, published, or broadcast by a student or students, with or without the assistance of other persons, for the purpose of dissemination to other students, including but not limited to print and digital newspapers, news websites, yearbooks, podcasts, broadcasts, and other media of communication;

“**teacher**” has the same meaning as in the *School Act*.

Student Journalists’ Freedom of Expression and of the Press

2 (1) Subject to subsection (3), student journalists have the right to freedom of expression and of the press in student media consistent with the *Canadian Charter of Rights and Freedoms*.

(2) Student journalists have the right referred to in section 2(1) regardless of whether they are supported financially, through use of facilities, or by any other means by a school or board of education.

(3) No person may prohibit or limit the creation or publication of student media except where the content of the student media:

- (a) promotes the commission of unlawful acts,
- (b) on the basis of a person’s race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex or sexual orientation, gender identity or expression, or age of that person or that group or class of persons,
 - (i) indicates discrimination or an intention to discriminate against a person or a group or class of persons, or

SECTION 2:

Section 2 subsection 1 is the core of the SPFA, ensuring the protection of student journalists’ free expression. It references that it is consistent with the *Canadian Charter of Rights and Freedom*, a component of the Constitution guaranteeing universal civil, human, and political rights to all Canadians, and a part of the supreme law of Canada.

Subsection 3, consistent with the *Charter’s* “reasonable limits clause”, strikes a balance with freedom of expression and the needs for a safe learning environment. A school official *can* limit or prohibit content of student media, but **only** if that content is as described in that subsection.

Section 2, subsection 2 sets out that student journalists have these rights regardless of the degree of support from their school, whether that support be money, or equipment.

- (ii) is likely to expose a person or a group or class of persons to hatred or contempt
- (c) poses a threat to the safety or security of the school,
- (d) harms the social, emotional, or physical health of students.

Rights of Student Journalists Upon Limitation

- 3** (1) Any teacher or school official who prohibits or limits the creation or publication of student media pursuant to section 2(3) must promptly inform any affected student journalists of the prohibition or limitation and the specific and articulable reasons for the prohibition or limitation.
- (2) Any student affected by a prohibition or limitation may appeal the prohibition or limitation to the board of education for the school district in which the student is enrolled.

SECTION 3:

Section 3 deals with the further rights student journalists have in the event their content is prohibited in line with section 2 subsection 3.

Subsection 1 states that if a school official does prohibit the publication of certain content, student journalists have the right to be informed of such prohibition without delay. They also must be specific about their concerns and be able to explain them.

Subsection 2 states that students (not just student journalists) may appeal to a school board to overturn the judgement of a school official. It is important to remember that despite its role in the SPFA, a school board hearing is not a replacement for court and a board does not have the authority to finally adjudicate *Charter* issues, in that the *Charter* is likely simultaneously engaged in protecting students' rights alongside the SPFA.

No Retribution

- 4** (1) No student journalist may be dismissed, suspended, disciplined, transferred, or otherwise retaliated against for creating or publishing student media, except where the student knowingly and intentionally creates or publishes content that is as described in section 2(3).

SECTION 4:

Section 4 ensures that student journalists exercising their right to freedom of expression and press freedom are not subject to any form of retribution from school officials,