

June 18, 2026

Peter O. Moran, Chief of Schools
Montgomery County Public Schools
15 W. Gude, Suite 400
Rockville, Maryland 20850

Sent via U.S. Mail and Electronic Mail (peter_moran@mcpsmd.org)

Dear Dr. Moran,

The Student Press Freedom Initiative at the Foundation for Individual Rights and Expression¹ is concerned by the policy stated in your March 19 memorandum that threatens Montgomery County Public Schools student journalists' expressive rights. We join students representing dozens of student publications in the District in calling on you to rescind the memo, rededicate the District to upholding First Amendment principles, and support free speech for student journalists and publications.

On March 19, all MCS principals received a memorandum requiring a school administrator "to review the final draft of any printed items (publications, clothing etc.) prior to printing or publication."² Among other categories, the memo instructs administrators to prohibit publication of content that discusses "embarrassing or private moments," "ridicule[s] individuals or groups," or engages in "sarcasm or teasing that could be interpreted as bullying." Not only is this language inconsistent with the District's own policies on student free expression and publications,³ but it ignores Maryland state law, is unconstitutionally vague and overbroad, discriminates based on viewpoint, and effects the heckler's veto by allowing those discussed in the publications to suppress reporting they find objectionable.

Maryland law provides strong protections for high school student journalists through its New Voices Act.⁴ The law safeguards the press freedoms of Maryland's public school student

¹ The Foundation for Individual Rights and Expression (FIRE) is a nonpartisan nonprofit that defends freedom of expression. FIRE's Student Press Freedom Initiative (SPFI) advocates for the rights of student journalists across the country.

² Memorandum from Peter Moran, Chief of Schools, Montgomery County Public Schools (Mar. 19, 2026) (on file with author). This narrative reflects our understanding of the pertinent information. We appreciate that you may have additional information to offer and invite you to share it with us.

³ See *Student Rights and Responsibilities*, MONTGOMERY CNTY. PUB. SCHS., <https://ww2.montgomeryschoolsmd.org/departments/policy/pdf/jfa-ra.pdf>.

⁴ MD. CODE ANN., EDUC. § 7-121.

journalists and allows censorship only in narrow circumstances, such as speech that causes material and substantial disruption to the educational environment.⁵ Under Maryland law, editorial decision-making authority rests in the hands of student journalists.⁶ The Act thus significantly limits the content administrators may prohibit⁷ and explicitly enshrines student journalists' rights to "exercise freedom of speech and freedom of the press."⁸

The General Assembly enacted the law to provide school-sponsored student publications with protections stronger than those that may otherwise apply under the Supreme Court's decision in *Hazelwood School District v. Kuhlmeier*.⁹ It adopted in their place a framework that closely tracks general student speech protections the Supreme Court adopted in *Tinker v. Des Moines Independent Community School District*,¹⁰ which allow suppressing only that student speech that administrators show would "materially and substantially interfere with the requirements of appropriate discipline in the operation of schools."¹¹ Under Maryland's New Voices Act, that standard, coupled with other limited exceptions, is the one MCPS must apply to student publications, not the less protective *Hazelwood* standard¹²

To that end, the District implemented MCPS Policy JFA-RA, which outlines students' rights and responsibilities by largely following the New Voices Act's language affirming their right to "produce school-sponsored publications" and "decide on the[ir] content."¹³ A principal may limit or restrict student content only if "it is obscene, libelous, slanderous, lewd, or contains language that has the intent to harass, threaten, or intimidate," "constitutes an unwarranted invasion of privacy," "incites students to create a clear and present danger of the commission of an unlawful act ... or the material and substantial disruption of the orderly operation of the public school," or "violates state and federal law."¹⁴ In doing so the policy incorporates the

⁵ Maryland's New Voices law allows a school to legally restrain content that is libelous or slanderous, constitutes an unwarranted invasion of privacy, violates federal or state law, or incites students to create a clear and present danger of an unlawful act, the violation of county board policies, or material and substantial disruption of the school. *Id.* § 7-121(d).

⁶ *Id.* § 7-121(c)(1). "A student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media."

⁷ *Id.* § 7-121(d).

⁸ *Id.* § 7-121(b)(1).

⁹ 484 U.S. 260, 273 (1988) ("It is only when the decision to censor a school-sponsored publication ... has no valid educational purpose that the First Amendment is 'directly and sharply implicate[d]' as to require judicial intervention to protect students' constitutional rights.").

¹⁰ *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969) (recognizing neither "students [n]or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate").

¹¹ *Id.* at 509–11 ("[The school] must be able to show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint ... [T]he prohibition of expression of one particular opinion, at least without evidence that it is necessary to avoid material and substantial interference with schoolwork or discipline, is not constitutionally permissible.").

¹² These laws are referred to most frequently as "New Voices" laws or "anti-Hazelwood" laws. Mike Hiestand, *New Voices Laws: How States Are Raising the Floor Beyond Hazelwood*, STUDENT PRESS LAW CENTER (July 10, 2025), <https://splc.org/2025/07/new-voices-laws-how-states-are-raising-the-floor-beyond-hazelwood/>.

¹³ See *Student Rights and Responsibilities*, *supra* note 3, at 7.

¹⁴ *Id.* at 9–10.

principles of the New Voices Act and *Tinker* by limiting the power to restrict speech to narrow, objectively defined categories, rather than the subjective reactions of offended readers.

In stark contrast, the March 19 memo chills and proscribes expression protected by Maryland law and the First Amendment. The memo directly contravenes both the District’s policy,¹⁵ adopted in accordance with Maryland law, and the *Tinker* standard, which the New Voices Act effectively incorporates for review of student publications. Rather than limiting intervention to legally recognized exceptions, the memo grants administrators broad power to shut down protected speech based not on concern about disruption but instead based on vague, subjective categories and with no set time limits for review.

The memo’s prior-review mandate also presents a constitutional problem independent of its impermissible content restrictions. To the extent administrators withhold materials from publication under this memo, they effect a prior restraint, “the most serious and the least tolerable infringement on” expressive freedoms.¹⁶ In requiring administrators to review all student content while setting no deadline for completing review, the memo leaves students wondering how soon they must submit their speech for preclearance—or whether approval will occur before their intended date of publication.

The prohibitions outlined in the memo present further constitutional concerns due to their vagueness. A policy is unconstitutionally vague under the First Amendment if it fails to “give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.”¹⁷ Policies with vague language are unconstitutional because they “may trap the innocent by not providing fair warning” of proscribed conduct, and often give way to “arbitrary and discriminatory” enforcement by allowing government actors to resolve disputes “on an ad hoc and subjective basis.”¹⁸ As a result, vague policies chill speech by pushing individuals to “steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked,”¹⁹ and invite viewpoint discrimination, an “egregious” form of content discrimination.²⁰

Here, the memo uses undefined terms and phrases like “ridicule of individuals and groups,” “may exclude or embarrass others,” “hand gestures or body language that could be offensive,” and “sarcasm or teasing that could be interpreted as bullying.” These and similar provisions invite subjective and inconsistent interpretation, leaving students and administrators to guess where the line is between permissible and prohibited speech. Where the New Voices Act and *Tinker* permit restricting student speech in clear, narrowly defined circumstances—allowing

¹⁵ *Id.*

¹⁶ *Neb. Press Ass’n v. Stuart*, 427 U.S. 539, 559 (1976).

¹⁷ *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972); see also *Connally v. Gen. Constr. Co.*, 269 U.S. 385, 391 (1926) (“The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue.”).

¹⁸ *Grayned*, 408 U.S. at 108–09.

¹⁹ *Id.*

²⁰ *Rosenberger v. Rector and Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995).

student speech to flourish—the memo creates a regime facilitating suppression of protected speech based on the whims of administrators.

The memo’s vague language also allows a heckler’s veto that shuts down speech not because it is unprotected, but based on potential hostility or objections from its audience.²¹ The Supreme Court has repeatedly rejected attempts to suppress protected expression based merely on actual or anticipated audience reaction, warning against laws that “confer broad powers of censorship, in the form of a ‘heckler’s veto,’ upon any opponent of indecent speech.”²² Student journalists’ right to report on matters of public concern is not trumped by the possibility that some readers “could” find it “offensive,” “embarrassing,” or a form of “bullying.”

The memo is also unconstitutionally overbroad insofar as it proscribes far more speech than the New Voices Act or the First Amendment allow. A policy is overbroad where it “prohibits a substantial amount of protected speech ... not only in an absolute sense, but also relative to the statute’s plainly legitimate sweep.”²³ The doctrine “is predicated on the danger that an overly broad statute, if left in place, may cause persons whose expression is constitutionally protected to refrain from exercising their rights for fear” of violating the law.²⁴

Speech falling within the circulated memo goes beyond that proscribable under the New Voices Act and the First Amendment. In proscribing content that “ridicules individuals or groups” or discusses “embarrassing or humiliating situations,” administrators can bar student journalists from reporting on subjects relevant to their audience. Further, in requiring administrator signatures for all student posters, the school is placing its literal imprimatur on protected student speech regardless of its potential for disruption, the exact action the First Amendment exists to prevent.²⁵

While Maryland’s New Voices Act permits the school board to “include limitations on language that ... has the intent to harass, threaten, or intimidate,”²⁶ the District’s memo is far broader in prohibiting any language that “contains or promotes” harassment.²⁷ To comply with the Act, the District must limit this restriction to speech *intended* to harass, regardless of how an observer interprets it. The same problem exists with respect to the “bullying” provision. While

²¹ *Feiner v. New York*, 340 U.S. 315, 331 (1951) (“If they do not receive [police protection] and instead the police throw their weight on the side of those who would break up the meetings, the police become the new censors of speech.”).

²² *Reno v. ACLU*, 521 U.S. 844, 847 (1997); *see also Bible Believers v. Wayne Cnty.*, 805 F.3d 228, 248 (6th Cir. 2015) (“An especially ‘egregious’ form of content-based discrimination is that which is designed to exclude a particular point of view from the marketplace of ideas. The heckler’s veto is precisely that type of odious viewpoint discrimination.”).

²³ *United States v. Williams*, 553 U.S. 285, 292 (2008).

²⁴ *Massachusetts v. Oakes*, 491 U.S. 576, 581 (1989).

²⁵ *Lovell v. City of Griffin*, 303 U.S. 444, 451–52 (1938).

²⁶ MD. CODE ANN., EDUC. § 7-121(i)(2)(ii).

²⁷ *See* Memorandum from Peter Moran, *supra* note 2.

Maryland law allows schools to regulate speech that unlawfully creates a hostile environment,²⁸ the memo goes further, vaguely banning that which “contains” or “promotes” bullying. Both provisions potentially sweep in a great deal of germane and protected speech, such as articles that merely report on harassment or bullying, or an editorial weighing the pros and cons of certain kinds of “bullying.”²⁹

All protocols and county school board policies must align with the First Amendment and state law. The March 19 memo does not and therefore must be withdrawn. We request a substantive response to this letter no later than the close of business on June 25, 2026, confirming the District’s rescission of the memo and committing to ending its censorship practices.

Sincerely,



Dominic Coletti
Program Officer, Campus Rights Advocacy

DC/kjr

²⁸ MD. CODE ANN., EDUC. § 7-424–424.3.

²⁹ Callie Holtermann, *‘Bring Back Bullying’? Online Provocateurs Say They’re Done With Sensitivity.*, N.Y. TIMES (Oct. 8, 2025), <https://www.nytimes.com/2025/10/06/style/bullying-tiktok-social-media.html>.