

SENATE BILL NO. 108
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Senate Bill No. 108 (First Reprint) with my recommendations for reconsideration.

Senate Bill No. 108 (First Reprint) seeks to establish a new law that will address the speech rights of student journalists in public schools and public institutions of higher education. It provides that a student at a public school or a public institution of higher education who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media has the right to exercise freedom of speech and of the press and is responsible for determining the news, opinion, feature, and advertising content of the school-sponsored media.

The bill does not protect student expression that: (1) is libelous or slanderous; (2) constitutes an unwarranted invasion of privacy; (3) violates federal or State law; or (4) so incites students as to create a clear and present danger of the commission of an unlawful act, the violation of policies of the school district or institution, or the material and substantial disruption of the orderly operation of the school or institution. In the event that a school district seeks to restrain student expression based on any of the four categories above, school officials have the burden of showing justification without undue delay prior to the limitation of student expression.

I applaud and support the Legislature's efforts to empower and protect student speech. It is important to afford student journalists the opportunity to exercise their creativity, passion, and constitutionally-protected freedom of speech. However, we must ensure that students have the right to speak freely while

also preserving the ability of school administrators to maintain the safe and orderly operation of the school district.

I am therefore recommending revisions to Senate Bill No. 108 (First Reprint) to more clearly exclude profane and obscene speech from protection under the bill. This would more closely align our law with the laws in states that have enacted similar protections for student journalists. It would also address a discrepancy within the bill, which permits school districts to include limitations on profane, harassing, threatening, or intimidating language in their written policies concerning student expression, but does not explicitly exclude profanity or obscenity from protected speech.

Additionally, I am recommending revisions that will allow school district administrators to restrain student expression simultaneously with showing a justification for the restraint, rather than requiring that such a showing precede the restraint. This will enable school officials to act expeditiously to prevent harm and maintain a safe learning environment for all students, while also ensuring that justifications are provided whenever school district officials seek to restrain student speech.

Therefore, I herewith return Senate Bill No. 108 (First Reprint) and recommend that it be amended as follows:

<u>Page 3, Section 2, Line 2:</u>	After "privacy;" insert "(3) is profane or obscene;"
<u>Page 3, Section 2, Line 3:</u>	Delete "(3)" and insert "(4)"
<u>Page 3, Section 2, Line 4:</u>	Delete "(4)" and insert "(5)"
<u>Page 3, Section 2, Line 10:</u>	Delete "School officials shall" and insert "When a school official determines that the restraint of student expression is necessary, the school official shall simultaneously identify the provision within subsection c. of this section under which the limitation of student expression is appropriate."

<u>Page 3, Section 2, Lines 11-12:</u>	Delete in their entirety
<u>Page 4, Section 3, Line 6:</u>	After "privacy;" insert "(3) is profane or obscene;"
<u>Page 4, Section 3, Line 7:</u>	Delete "(3)" and insert "(4)"
<u>Page 4, Section 3, Line 8:</u>	Delete "(4)" and insert "(5)"
[seal]	Respectfully, /s/ Philip D. Murphy Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor