

SENATE BILL REPORT

SB 5370

AS REPORTED BY COMMITTEE ON EDUCATION, FEBRUARY 28, 1991

**Brief Description:** Providing for responsible student expression.

**SPONSORS:** Senators Rinehart, Talmadge, Murray and Pelz.

**SENATE COMMITTEE ON EDUCATION**

**Majority Report:** That Substitute Senate Bill No. 5370 be substituted therefor, and the substitute bill do pass.

Signed by Senators Bailey, Chairman; Erwin, Vice Chairman; Murray, Pelz, Rinehart, A. Smith, and Talmadge.

**Minority Report:** Do not pass.

Signed by Senators Metcalf and Oke.

**Staff:** Leslie Goldstein (786-7424)

**Hearing Dates:** February 12, 1991; February 28, 1991

**BACKGROUND:**

Under a recent 1988 United States Supreme Court decision, Hazelwood School District v. Kuhlmeier, school administrators have more authority to impose restrictions on the content of student publications and productions. In Hazelwood, the court stated that a school principal could control the contents of a student newspaper that was produced as part of a journalism course given for academic credit during regular school hours under extensive classroom teacher supervision. Before the Hazelwood decision, a number of constitutional scholars thought that students enjoyed the same constitutional protection against prior restraint of expression as did citizens outside of school. At least one other state, Colorado, has adopted a law prohibiting school administrators from censoring student publications.

**SUMMARY:**

Students in public schools are given the right to exercise freedom of speech and of the press. Certain types of expressions are prohibited. Prohibited expression includes: expression that is obscene as to minors; expression that is libelous, slanderous, false or violates a right to privacy; and expression that would incite students to violate school rules, commit unlawful acts or cause a substantial disruption of the orderly operation of the school.

School district boards of directors are required to adopt policies governing the responsible exercise by students of

freedom of expression. The policies must be distributed to students and teachers at the beginning of the school year.

Student editors and student directors are not required to get approval of school administrators before publishing a publication or producing a production. Teachers are responsible for teaching and encouraging the use of responsible expression and professional standards.

Expressions by students are not deemed to be expressions of school policy. School districts, school employees and parents or legal guardians are not liable for expressions made or published by students.

**EFFECT OF PROPOSED SUBSTITUTE:**

Expression inconsistent with professional standards is added to the list of prohibited student expression. School board policies may provide for disciplinary action for students who disregard the school district policy. Student editors and directors are responsible for making sure the publications or productions are consistent with the school district policy. The teacher is responsible for enforcing compliance with school district policy.

Students are liable in any civil or criminal action challenging their expression. School districts and school employees are not liable. However, if the staff person advising the students acts in wanton disregard for school district policy, that staff person would have committed an act of unprofessional conduct.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

Students would be taught the skills helpful in the workplace to use expression in a responsible manner. This helps prevent censorship and improve the quality of scholastic journalism. Granting freedom of the press to students helps students learn and grow by making decisions that they will need to make as adult citizens. Advisers expect to enforce the policy. Students take responsibility for their own misconduct.

**TESTIMONY AGAINST:**

The local community holds the principal responsible for school-sponsored publications. This legislation takes us well beyond the present interpretation of the constitutional rights of high school students.

**TESTIFIED:** PRO: Fern Valentine, Auburn High School adviser; Archie McCallum, Auburn High School principal; Brian Ellison, Puyallup High School editor; Shamba Donovan, Puyallup High

School; Irene Hicks, Washington Journalism Education Association (WJEA) president; Scott Carnes, WJEA representative; Dwayne Slate, Washington State School Directors' Association; CON: Suzanne McDaniel, Selah High School principal; Brian Barker, Association of Washington School Principals