

STUDENT PRESS LAW CENTER

REPORT

WINTER 2009-10 VOL. XXXI, NO. 1

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suicide presents
challenges for high
school journalists.**



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limit student media's
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The Student Press Law Center Report (ISSN 0160-3825), published three times each year by the Student Press Law Center, summarizes current cases and controversies involving the rights of the student press. The *SPLC Report* is researched, written and produced by journalism interns and SPLC staff.

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Cover photos courtesy of the Daily Reveille and Adam Grimshaw.

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Swine flu death certificates were withheld from University of Southern California - Annenberg student journalists after counties cited HIPPA as reason for denying the public records request.

Student journalists at Stevenson High School in Lilcolnshire, Ill. were required to publish a newspaper with only administration-approved content. This followed the administration's removal of multiple articles following a prior review of the publication.

Harassment charges were filed against Fairfield University's *Fairfield Mirror* following the publication of a column that was an attempt to satirize the 'walk of shame,' and included phrases like 'hood rat' and 'victim' in reference to women.

The principal of Chattooga High School in Summerville, Ga. ordered four pages containing photos of shirtless males to be cut from all copies the school's yearbook.

Editors at University of Wisconsin - Milwaukee's *UWM Post* have filed a lawsuit challenging the school's claim that that any document that identifies a student is a confidential "educational record" that cannot be released under the state's public-records law.

University of Maryland's Board of Regents rejected a 'porn policy' that, if implemented, would have required films screened on campus for entertainment purposes to have an educational component.

Butler University in Indiana has dropped a libel lawsuit filed against an anonymous blogger who was critical of the school. The blogger, now identified, is facing disciplinary actions.

And be sure to catch the latest news from the SPLC online:
www.splc.org
[facebook.com/StudentPress](https://www.facebook.com/StudentPress)

Student journalists need shield law protection

When journalists revealed irregularities about an Indiana high school's asbestos abatement program – including one janitor's admission that he was told to spray water into the air in advance of a visit by state air-quality inspectors, a known method of deceiving pollutant tests – their disclosures sparked an immediate investigation.

Of the journalists.

The lead reporter on the story was ordered to turn over his unpublished photos and his e-mails, potentially jeopardizing the identity of anonymous sources. Had he worked for the *Indianapolis Star*, he'd have had the best media lawyers in the state fighting the order all the way up to the Indiana Supreme Court, invoking the privilege of the Indiana shield law.

But he didn't – he worked for the *Munsonian*, Muncie Central High School's student paper. And because of the force of intimidation that a school can bring to bear on frightened students, the reporter reluctantly complied, feeling he had no choice.

Students are America's most vulnerable journalists.

If you are a professional reporter facing punishment for refusing to disclose confidential information, you know that you will get a chance to call a lawyer, you know that you will get a court hearing, and you know that the First Amendment community will rally to your defense. As a student, you can be confident of none of these things.

To be sure, there have been some encouraging developments. A California court ruled last July that a college journalist – even without a paying journalism job or a freelance contract – was entitled to withhold his unpublished crime-scene photographs from police under a broad application of California's shield law. And it appears that the White House and Sen-

ate Democratic leadership are – finally – in accord on an expansive federal reporters' privilege that will protect the confidentiality of source materials even if the reporter is not a salaried professional.

Yet, even at a time when students are being relied on to fill the information gap left by downsized news outlets, student journalists continue having to fight for recognition of their legitimacy.

Northwestern University journalism professor David Protess is battling to fend off an extraordinarily broad subpoena seeking all of the background material compiled by he and his students at the Medill Innocence Project in their investigation into the questionable murder conviction of Anthony McKinney.

State prosecutors contend that the Medill students are not entitled to withhold confidential material under the Illinois reporter shield law because (among other reasons), they are not actual reporters. In a 25-page court filing seeking to enforce its subpoena, the State's Attorney's Office dismissively refers to an investigation by "the school," but never once refers to the student investigators as "journalists." Are the students at Medill "real" journalists? Gee, I don't know – do you consider getting 11 people wrongfully convicted of crimes released from prison over the last 10 years to be "real" enough journalism for you?

There are legitimate policy arguments for drafting and applying shield laws with reasonable limitations to guard against their abuse to frustrate justice. But we should be beyond the point where your authenticity as a journalist is defined by who signs your paycheck. Shield laws are about protecting the integrity of the newsgathering process, and unpaid students increasingly work at the heart of that process.

— Frank LoMonte, executive director

Thanks to the input of hundreds of you, the Student Press Law Center now has a five-year Strategic Plan that maps out how the SPLC will improve the climate for student journalism and keep its services relevant to the way young people read, gather and publish information today.

The 2010-2015 plan will make your vision of the SPLC – as a pro-ac-

tive problem-solver and not just an emergency responder – a reality.

With this new road map, the SPLC takes ownership of the mission of training and motivating students to produce their best journalistic work – and convincing the public why this work has value worthy of legal protection.

Review the plan now at: <https://www.splc.org/pdf/stratplan2009.pdf>

Profiles in courage

Students, advisers and administrators engage in confrontations every day about the limits of free speech for student journalists. Students and advisers often must act bravely, putting their reputations and even careers on the line in the name of press freedom. And yet, despite courageous efforts, those involved in conflicts over First Amendment issues rarely receive the attention deserved for their heroism in defending principles of free speech.

Each year, in an effort to recognize some of those efforts, the SPLC and the National Scholastic Press Association give out the **Courage in Student Journalism Award**, which is endowed by the Kent State University Center for Scholastic Journalism. This year's winners, Henry Rome and Seth Zweifler in the student category and Barb Thill in the educator category, were saluted as outstanding examples of bravery and dedication in standing up for freedom of the student press. By the *Report's* **Michael Edwards**.

Barb Thill — Adviser chilled

This year, the educator's Courage in Student Journalism Award was given to Barb Thill, former adviser to *The Statesman*, the student newspaper at Stevenson High School in Lincolnshire, Ill., for her efforts promoting journalism despite intimidation and chilling action from the school's administration.

The Statesman — and Thill specifically — came under fire in January 2009 after publishing a package of stories about students "hooking up." The stories dealt with the prevalence of casual relationships among teens and some of the consequences, as well as cautionary quotes from health professionals.

Thill said the publication immediately caused an "uproar" at the school as a result of a number of calls to school administrators from a local conservative organization.

After the community response, the paper was immediately put under prior review by a number of administrators, each with authority to exercise prior restraint.

Thill said she "was told the journalism program would be changed," as a response to the story and the feedback from the community. She said she was also told the journalism classes, which she had exclusively taught, would be split up among three separate teachers.

"After 23 years of experience, I was down to just one section of *The Statesman*," Thill said. "It seemed like I was expected to train my replacements."

When the prior review policy was implemented, and after pressure she felt from the principal and other administrators that chilled free speech at the school, Thill decided it was in her best interest to resign as adviser to *The Statesman* and instead teach English.

The paper and journalism classes were split into two sections and left under the control of two teachers without Thill's level of experience in the field.

Thill said the divided staff caused some of the students to feel discouraged and that there was nobody on their side fighting for them.

"When I stopped teaching the class, nine or 10 kids dropped the class," she said. "Some of them said they felt hopeless. [The students] were so worried and so cautious after this. Some of them dropped stories they were planning on covering — there was pressure not to pursue stories."

One of the challenges for many schools like Stevenson High



Thill

School, Thill said, is helping administrators understand the value of free speech.

"I don't know that many administrators really know what the student press is all about," she said.

Above all, Thill feels the student journalists who are still working and writing under a school administration that chills speech are the individuals deserving recognition.

"I think the kids are the ones who deserve this award," Thill said. "The students were traumatized to see their work disparaged on the front page of the [local paper]. But I give the credit to the kids who are trying to do real journalism."

Thill received her award to a standing ovation at the national high school journalism convention awards ceremony on Nov. 14 in Washington, D.C. She continues to teach at Stevenson High in the English Department.

Henry Rome and Seth Zweifler — Prior review no more

Henry Rome and Seth Zweifler fought as advocates for press freedom after administrators at Conestoga High School, near Philadelphia, attempted to implement a policy of mandatory prior review. Unhappy with the limitations of the policy, Rome and Zweifler spent months in meetings and gaining support for their cause to relax the restrictive elements of the new policy.

"It was upsetting and angering, what they were trying to do," Rome said.

The policy came in the wake of a number of hard-hitting stories published in *The Spoke*. In the year leading up to the attempted policy change, *The Spoke* published stories on student gambling, teen pregnancy, and life as an LGBT high school student.

Weeks before the district superintendent proposed tightening the school's policy on student publications, *The Spoke* published a story, "Obligation to Report," which was an investigation of the school district's policies regarding employees with criminal backgrounds. The story focused on a janitor with a criminal background whose record went undetected by the school district until he was arrested in connection with a string of bank robberies.

The story got attention and helped generate support for state legislation for more stringent criminal background checks for school employees. Despite what Rome and Zweifler considered a positive response, weeks after publication administrators attempted to implement the prior mandatory review policy for the paper.

Rome and Zweifler said they believed the change in the policy was related to the stories.

"The timing was very suspect to us," said Zweifler, now editor-in-chief of *The Spoke*.

Rome, who is now a student at Princeton University and was primary author of the "Obligation to Report" story, said the proposed policy "came out of the blue."

Zweifler and Rome were told by district officials that the policy was being looked at because it was up for a periodic review. The last time the policy had been reviewed by Tredyffrin/Easttown School District officials was 1994.



Rome



Zweifler

The school's existing policy was 86 words long, Zweifler said. The new proposed policy was seven pages long and would have allowed officials to censor anything that "represented the school or community in a bad light."

Rome and Zweifler both said at that point it was hard not to act immediately on emotions of outrage and anger.

"It would have been very easy to act on emotions," Zweifler said. "When we saw what they were trying to do, we had some pretty strong emotions. It helped to keep a cool, level head and remain respectful."

He said the students worked to ensure they were taking the right steps to begin productive dialogue about the situation. They contacted the Student Press Law Center and the Pennsylvania School Press Association to develop a strategy to fight the new policy.

"We took time to step back and decided on a three-pronged strategy," Zweifler said.

First, the students decided to reach out to the community and the readership of the paper. Second, they reached out to local media to enlist the help of others concerned with First Amendment freedoms. And finally, the students engaged school board members so they would make it a priority.

"We really saw that students can effect change with their school board and with their superiors," Zweifler said.

Rome said the students were lucky in some of the help they received.

"The stars really aligned for us, because one of the school board candidates made it part of their platform [to promote student press freedom]," he said.

As part of the process of bringing about change in the policy, the students said they had to attend a number of meetings with district officials.

"One of the board members asked; 'Do you think there are good student papers without prior review?' and I immediately thought of examples of great papers in California and Kansas (both states that have student free expression laws) without it," Rome said.

"They show that if you give students freedom they're entitled to, they're not going to just go out and break the law."

After numerous revisions and even more meetings, the school board and the students were able to agree on a policy in September 2009 that would protect the interests of the district and of the students.

"We're very comfortable with the new policy," Zweifler said. "It's in line with the law and in line with the *Tinker* standard."

Tinker is the Supreme Court's landmark 1969 ruling recognizing broad free-speech protections for students at public institutions.

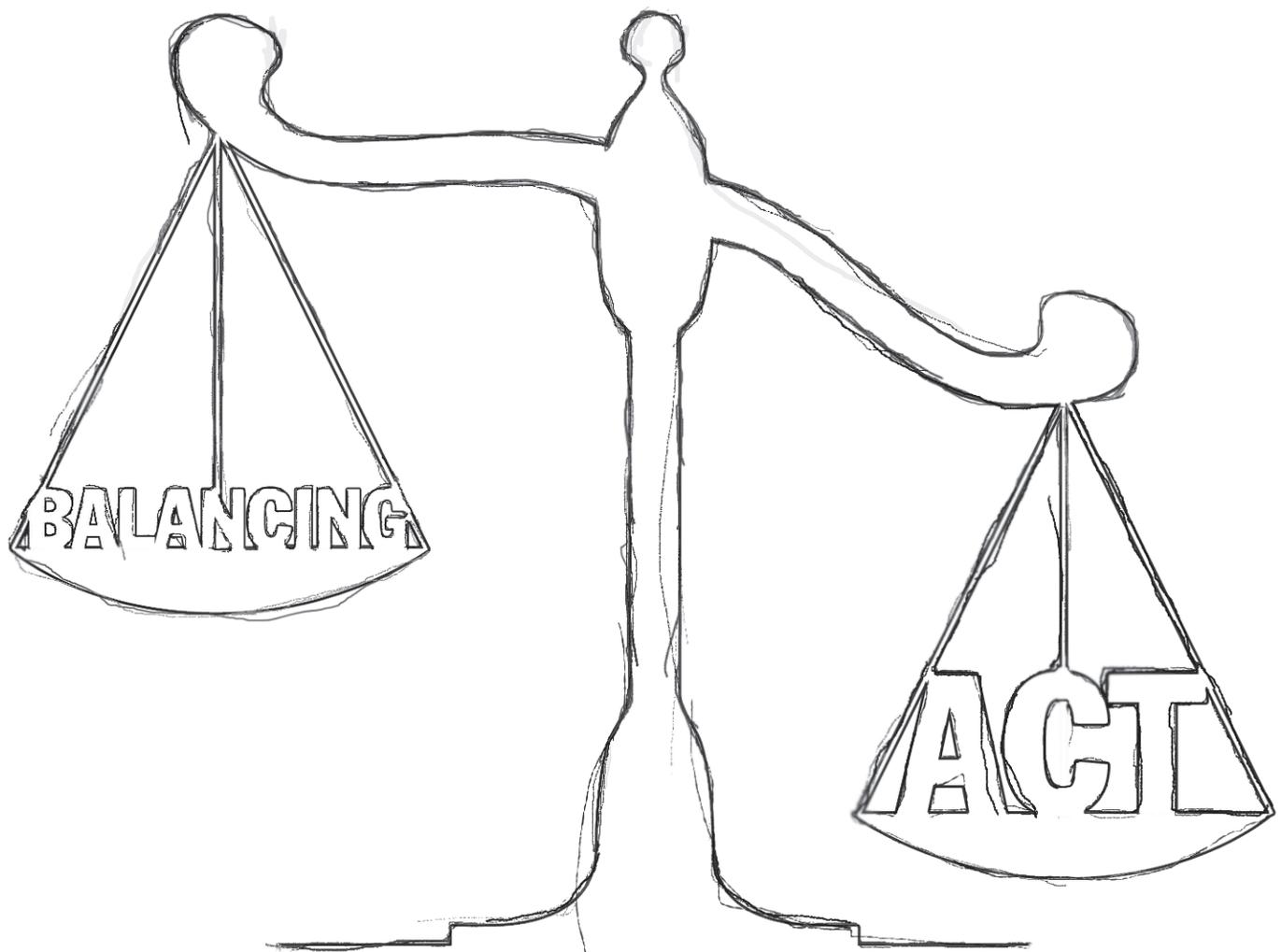
The policy, as it stands now, allows some oversight by the publication's advisers, but does not give the administration a hand in the editing process of the paper.

As part of their strategy to reach out to the community, Zweifler and Rome set up a Web site, friendsofthespoke.org.

Courage, page 14



The Report's Michael Edwards sat down with Thill, Rome and Zweifler to hear why — and how — they fought censorship at their high schools. To see a video of the interview visit www.splc.org.



Covering suicide raises tough questions for high school papers

BY JOANNA BRENNER

Suicides and suicide attempts within high schools can turn everyday educational and lifestyle routines upside down. Even with such a muddled fog of emotions overwhelming the hallways and the classrooms, student journalists have to start thinking about the event as news.

Whether and how to cover suicide cases in a high school publication presents a dilemma. The newsworthiness of such a topic is clear, but the effects of reporting on such an unfortunate event to an age group in the height of self-discovery can be brutal, unlike many other stories in the publication. There is no simple “right” or “wrong” answer to covering suicide.

The copycat effect known as suicide contagion is real, according to the American Foundation for Suicide Prevention (AFSP), and sensationalizing suicide in misleading and oversimplifying ways through media might only make it worse. But covering it can also promote prevention, and show support to families who may be in desperate need of it.

Finding a balance

Two students who knew each other committed suicide within two days of each other at Warren Central High School

in Indiana last year, according to Mark Haab, the school’s publications director. Several weeks later, a teacher at the high school died under circumstances suspected to be suicide. Haab and his staff had planned to run a suicide story in the next issue of *The Owl* after the students’ suicides, without focusing too heavily on the students, but the teacher’s death prompted them to re-evaluate the coverage, and move it to the front page of the paper.

They decided to focus on suicide prevention, and what the school was doing to help the students, staff and community members. But he was apprehensive of the effects running the story might cause.

“Any adviser has to be aware that it’s a slippery slope any time you do anything controversial,” Haab said. “The trick is to keep the lines of communication open so administrators are not blind-sided by what you’re doing. Advisers need to earn trust.”

Though the issue is sensitive, Haab argued that it can’t be escaped, and it should be treated in the most respectful and supportive way possible.

“The issue is there,” he said. “People know about it, they’re talking about it. One of our roles is to get rid of the rumors and get the facts out there; here’s what we can do as a community

and a school to get over this and heal and not let it happen again.”

Haab and his staff re-planned the entire page – a page that they not only had to scramble to finish, but also a page for which they had to map out an ethical compromise.

“While the deaths were certainly news and needed to be covered, they were suicides,” he said. The editors went back and forth about including photos of the two students and the teacher on the front page to accompany the story, and ultimately did not, learning that suicides should not be covered as other deaths, and especially how other regular news might be covered.

When Jason Scales, student newspaper adviser of *Lion* at Lyons Township High School in Illinois, found out that a student committed suicide during finals week after the final issue of *Lion* had been printed, he and his staff wanted to start the new year’s first issue with a front-page story about suicide. The article would include an interview with the parents of the victim, and information on what the school is currently doing to support victims and combat future suicide attempts.

But Scales was warned by a high-ranking administrator that running such coverage could encourage copycat attempts. The administrator did not want the story to run on the first page of the paper. Though he realized the copycat phenomenon was a

ship dealt with bullies regularly. “He’d come home almost daily and tell stories of his latest experience with the bullies,” the student’s father told *Lion*. The staff ran an editorial titled “Students: It’s up to you to prevent bullying” on the front page. What ultimately came of a story that administrators and staff members were hesitant about running was an important message that infiltrated the school and helped discourage, rather than promote, future suicide attempts.

Tipping the scales

The student journalists at Warren Central High School also held their coverage of the suicide in high regard – at the time. At the beginning of the school year following the distribution of the issue with the front-page, suicide-related story, Warren Central suffered another student suicide, but decided *not* to run a story in the paper about it. The scales were tipped the other way after several meetings Haab and his students had with the Indiana spokesperson from the Jason Foundation – a nonprofit organization that helps identify at-risk youth – who came to their school.

“The [spokesperson] said not to publicize the suicides at all because there are so many people on the borderline,” Haab said. “You don’t want to possibly give someone the excuse that this is all [he or she] has to do to get in the paper. For some people

“Unfortunately, people want to sweep this under the rug. But the thing with suicide is it knows no boundaries whatsoever.”

Joni Irwin
spokesperson, the Jason Foundation

solid argument, Scales still wanted to let his staff make the content decision. Ultimately, the students decided it was a story they thought was important, and they wanted to focus on what proactive measures the school was taking; but how to cover such a sensitive topic was much more of a painstaking decision.

“My staff and I really agonized over how to ‘play’ the suicide,” Scales said. “This layout differs greatly from the original one dreamed up by my editors. They [originally] wanted a picture of the kid who died by suicide as well as photos of the memorials set up for him.”

In the end, Scales and his students did not mention suicide in the headline, subheadline, photos or photo captions. The front-page headline read, “Looking for Answers,” and the subheadline referenced measures taken to prevent bullying in the school. The suicide is referenced in the lead of the main article and the editorial that ran on the first page. The parents of the student who died by suicide are also quoted in the story.

The staff followed the federal Centers for Disease Control and Prevention guidelines for media in reporting suicides, which warned against running certain types of images because of the fear that adding visual aids would further prompt suicide contagion. Since the issue was printed and distributed, Scales has not heard one negative comment.

“I would always stick up for my students’ rights to publish [if the principal tried to censor them],” Scales said. “I think it’s an important issue to be covered. We were covering what the school was doing regarding anti-bullying.”

One of the students who committed suicide at Lyons Town-

that’s why they commit suicide – to get attention. Sometimes it’s a chain reaction – one might lead to another.”

Administrators were also told by Jason Foundation spokespeople to take down pictures of students who committed suicide that were hung at the front of the school building.

“They were glorifying, not memorializing” said Joni Irwin, the spokesperson for the Jason Foundation, who advised Warren Central administrators.

There is an important distinction between memorializing and glorifying, and by hanging pictures at the front of the school building and running photographs in the paper, Warren Central was glorifying, Irwin said. She said Indiana averages 94 suicide attempts by teenagers each day, and that people need to take a proactive stance when addressing the issue.

“Unfortunately, people want to sweep this under the rug,” she said. “But the thing with suicide is it knows no boundaries whatsoever.”

Irwin stressed the importance of spreading the word that there is a need for a more active stance on suicide prevention through knowledge of statistics.

“We don’t need to know the names of suicide victims,” she said. “If people only understood what the statistics are, more people would be on the bandwagon, and see a need for suicide prevention. The thing we are trying to emphasize to them is that we need to get the message out.”

Haab said he and his students, in addition to not using photographs of the students, will no longer use the names of the victims in stories either. His and the students’ decision to run the

front-page article about the suicides last year came about as a way to promote a broader concept – prevention and support. He said they wouldn't report on an individual suicide.

"If it were something more conceptual ... like if there is a car crash, we would do a story about how kids can be more responsible," Haab said. "With the suicides it was ... dealing with the aftermath ... 'how do we get over such a tragic event?'"

The staff of *The Owl* decided turning the tragedy into an opportunity to help was the golden mean between the two conflicting sides of the dilemma.

But when administrators take charge, it can cause an imbalance in the decision-making process. The sensitivity of the subject can prompt pressure from principals and other outside supervisors to disturb a publication's original intent.

Lyndsey Sager, editor-in-chief of *The Stobion* at Stow-Munroe Falls High School in Ohio, was all set to run the second issue of the paper that was to include an obituary, photograph of a student suicide victim and a letter from the deceased student's parents. Including an obituary and photograph of the victim in the paper has been a tradition *The Stobion* has always followed.

The issue was supposed to run at the end of September 2009. Everything was ready to go. Then, right before the paper was to be sent to print, the Stow-Munroe Falls principal decided she was uncomfortable with running the obituary or the photograph, and censored the paper.

"The principal said, 'I know this is censorship, but I can do what I want,'" Sager said, "even though this has been our policy for years."

Sager said she and her staff members were not willing to go to print until all the original elements could be included in the paper.

"I did not know the student at all, but I still feel like if it's something we did for everyone else, it would be disrespectful to not do it for him," Sager said. "I don't understand what would make it OK to not do it for one child."

The principal said she felt an overwhelming need to protect her students, even if it meant censorship. The fear of instigating copycats was far too dangerous for her to even consider a compromise.

What the experts say

Legally, a high school principal in Ohio may be limited in her ability to overrule student editors. Ohio is covered by the Sixth Circuit Court of Appeals, and under the Sixth Circuit's *Kincaid v. Gibson* decision, a publication with a long practice of operating as a "forum" for student expression – meaning that students control the ultimate editorial decisions – can be censored only if the students' speech is substantially disruptive or illegal. If students have a well-founded basis for their decision – as in Stow-Munroe Falls, where they were following a long-established policy – then the school cannot simply substitute its judgment for the editors' judgment, said Frank LoMonte, executive director of the Student Press Law Center.

There is a widespread misconception that if publicizing a suicide or suicide attempt does influence imitators, the publication is legally responsible for the copycat, LoMonte said.

But while the publication cannot be held liable, it still is probably not something student editors and advisers would want on their shoulders.

Suicide, page 14

Responsible coverage

In November 1989, a team of mental health and news media professionals participated in a national workshop to discuss and produce a set of specific concerns and recommendations for the media to refer to when covering suicides.

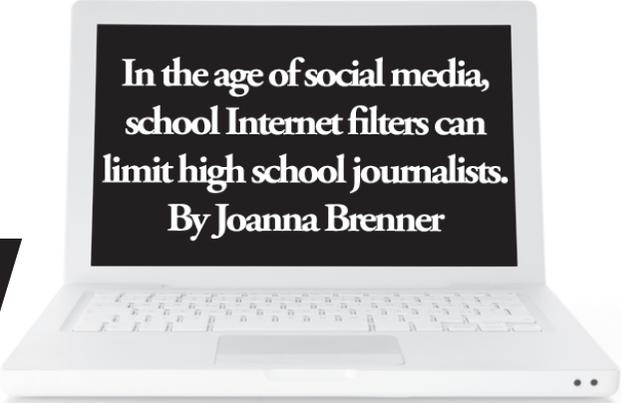
The goal was to prevent suicide contagion, a process by which exposure to the suicide or suicidal behavior of one or more persons influences others to commit or attempt suicide.

These recommendations, posted on the CDC's Web site, highlight strategies to effectively and safely report on suicide. The CDC urges media outlets to avoid:

- Presenting simplistic explanations for suicide.
- Engaging in repetitive, ongoing, or excessive reporting of suicide in the news.
- Providing sensational coverage of suicide.
- Reporting "how-to" descriptions of suicide.
- Presenting suicide as a tool for accomplishing certain ends.
- Glorifying suicide or persons who commit suicide.
- Focusing on the suicide completer's positive characteristics.

For the CDC's complete guidelines for media covering suicides, visit www.cdc.gov.

Social anxiety



In the age of social media,
school Internet filters can
limit high school journalists.
By Joanna Brenner

It seems like every time someone blinks, someone tweets. Social networking sites are now being used by major news organizations and publications such as *The Washington Post* and *Time Magazine*, and even the president has a Twitter account. But during the school day, high school journalists are often excluded from this trend.

When social media sites like Facebook and Twitter fall victim to high schools' internal filtering software, it can be particularly unfortunate for students who work on publications, especially in an age where social media is sometimes referred to as the future of journalism.

"I think we under-utilize technology in school," said William Wilcox, editor-in-chief of *The Falconer* at Virginia's Fauquier High School. "I think it would be a much more effective way to teach us how to use journalism."

After he utilized social media sites to quickly circulate messages to people on his own time, Wilcox realized how beneficial networking would be for *The Falconer*.

"We would be able to drastically promote the paper," Wilcox said. "We could post a bunch of articles on Facebook. We could probably more easily try to run an advice column too."

Mark Webber, student newspaper adviser at Vidal M. Trevino School of Communications and Fine Arts in Laredo, Texas, finds lack of access to social media sites very limiting. Since social media Web sites are blocked from students at his high school during the school day, Webber felt the need to establish a social online presence for his publication. He bought a pay-by-the-minute phone that he stashes in the journalism classroom so his students can post updates to Twitter whenever the school has breaking news.

"We text our messages to Twitter," Web-

ber said. "I'll pick students at random and ask them to send a tweet about what we're doing right now. For example, Friday the newspaper held a Halloween costume contest for the school, and we tweeted about it."

Webber said he recognizes the value of publications using social networking for promotion purposes and to get the word out. The newspaper's Web site address and its Twitter account name are included on the front page of each edition. Administrators have not mentioned anything about the newspaper's Twitter account, Webber said.

"I want to see if the school administration will contact me concerning Twitter," Webber said. "If they don't then I'll assume it's fine. If I see that the Twittering is going well, then my next thing would be to say 'let's see how we can take advantage of a Facebook or Myspace site for the paper.'"

If his school allowed social networking access, Webber would constantly be able to link his students' online articles to Twitter and Facebook – almost every publication out there is doing it, he said. It would also provide a hands-on way to educate his students about news media convergence – the fusion of several media outlets into one.

"I want to get them used to the idea of it's not something that's necessarily difficult to use, but it's just part of what's expected of journalists nowadays," he said. "A lot of what we do is ethical behavior and I'd like to do be able to show an appropriate way to conduct yourself on Facebook, and how not to."

Though sites like Twitter and Facebook are unavailable at Vidal M. Trevino, students are allowed access to blogging sites, as part of their class assignments.

"Everyone in the actual newspaper class has to blog a couple times a week," said Linda Rodriguez, one of Webber's students. She said Webber is teaching them to blog to highlight how journalism is going digital.

"I think in the future we're not even

going to have newspapers printed, it's all going to be online," she said.

Because blogging has helped her get used to the idea of social media, Rodriguez said she wishes she and her fellow newspaper staff members could have access to more sites during the day. The sites would not only help them promote the paper, but it would also be useful when writing articles.

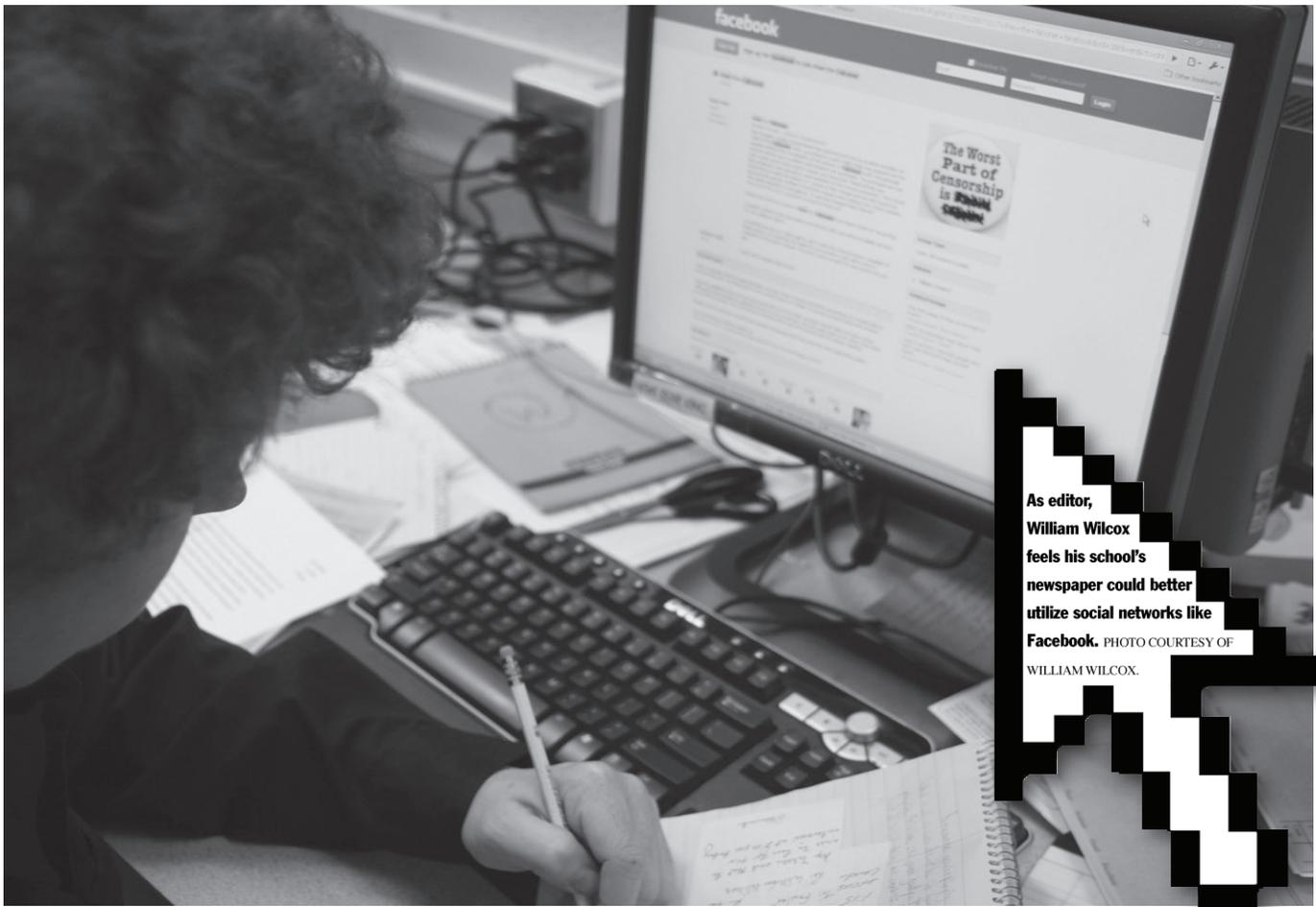
"There's an article in our paper about YouTube," Rodriguez said. "It's a student analyzing videos on YouTube, and criticizing them, but the YouTube Web site is blocked, so we can't actually look at the videos to see what he's talking about. [Administrators] might think they are protecting us, but they are deterring us from learning more."

Webber's high school district will soon be revising the state curriculum guidelines, called the Texas Essential Knowledge and Skills (TEKS), for English and language arts classes. A public hearing is scheduled in late January. Webber said he is hoping the revisions will include new converging media elements like Web journalism. Once the new TEKS is complete, he plans on petitioning administration to grant he and his students access to social media Web sites during his journalism class.

"I would want to see if I could have one computer only that I could have access to, to go onto a social network site, and then from there we could do social networking," he said. "I'd want to see how that would go over. It would be under my supervision, and everything I'm doing I'm trying to tie into educational goals. I could teach [the students] appropriate behavior for online uses."

Having increased access to certain Web sites is particularly important to Webber because few students at Vidal M. Trevino have access to the Internet at home, he said.

"Getting the word out" is no longer



As editor, William Wilcox feels his school's newspaper could better utilize social networks like Facebook. PHOTO COURTESY OF WILLIAM WILCOX.

limited to flyers and word of mouth. Since the take-off of social networking between 1997 and 2006, promoting, marketing, journalism and education have taken on a whole different meaning, according to social media expert Meg Roberts, promotions associate for New Media Strategies, a company that describes itself as the market leader in social media marketing and measurements.

Around 2000, America was introduced to the first social networks and live journals, like “Xanga” and “LiveJournal,” Roberts said, then Facebook came out in 2004 and Twitter emerged in 2006. But social media Web sites expanded their footprint in the last two years when every company and publication started trying to get on board because that’s where their audiences are looking, according to Roberts.

“It’s become the place that people go to find breaking news because it’s instant,” Roberts said. “If you can put yourself out there as a publication that has instant access to publishing, then you’re going to be ahead of the competition, and that’s so important in this day and age as publications are competing with each other on and offline.”

For many journalists, careers start

at the high school level, when they start building their reporting resumes. Making use of social media sites can open up lines of communication between high school journalists and the adult media.

“Through social media, you get to network with not only people in your own area, but people across the country,” Roberts said. “Never before has a high school senior been able to jump on Twitter and engage with a prominent reporter from the *New York Times*.”

Roberts argues that if schools are concerned students will get on social media sites to goof around, then it’s on the school’s shoulders to educate them and show them how it can be used professionally.

Jen Tambellini, publications adviser at Old Mill High School in Millersville, Md., has a Facebook account for Old Mill’s yearbook, but can update and check it only from home.

“We have a Facebook page for our yearbook just to get the word out,” Tabellini said. “We put lots of info out there – and we have a Web site where people can upload pictures. It’s actually become really useful. But sometimes, because the editor doesn’t

get home until late at night, we’ll go weeks without checking it because we can’t check it at school. That is what bothers me.”

She said that not only would it be a great way to get the word out quickly about book and ad sales, it’s also a big school, and social networking is where the kids are. But it would not be easy to get around the filtering software used by her school.

Because of restrictions tied to federal technology funding, high school administrators are not in the position to grant students unlimited access to the Internet – and social media sites can fall victim to schools’ Web-policing.

Old Mill High School uses a filtering software to get E-rate funding, a program through the Federal Communications Commission. Greg Barlow, chief information officer for Maryland’s Anne Arundel County Public Schools, said filtering software is used in the district because of the Children’s Internet Protection Act (CIPA), signed into law in 2000, which requires high schools to use filtering software to receive E-rate funding. The school’s software filters out depictions of visual obscenity and child pornography.

CIPA states, “The protection measures must block or filter Internet access to pictures that are: (a) obscene, (b) child pornography, or (c) harmful to minors,” according to the FCC’s Web site.

“We get funding through E-rate that can give you discounts on telecommunications services, and if we don’t filter against inappropriate material on the Internet, then we are not able to get that funding,” Barlow said. “Funding is very important to us, as is protecting our students from inappropriate material.”

Aaron Caplan, law professor at Loyola Law School in Los Angeles, Calif., said CIPA requires any library that accepts subsidies for its Internet connection to use some kind of Internet filtering software. The question then becomes whether some filters are so overbroad that they cause free speech problems.

“The statute doesn’t specify which kind of filter, but it has to be something that blocks visual depictions of obscenity and child pornography,” Caplan said. “If [it] is a pretty good software that filters out obscenity, that would be constitutionally acceptable. If, on top of that, the school says there are certain other sites that they don’t like and they don’t let [students] look at them, then there would be an argument

[for teachers who want access].”

Caplan also compared Web sites accessed on school computers to books in a school’s library. The school has authority to build its own collection of library books, but its authority is limited. The school gets to decide what books can and cannot go into the library, and most likely choose the books that are most suited to educational purposes. But if the books are being removed from the collection for illegitimate reasons, it can be a First Amendment violation, which makes having access to particular Web sites during the school day an arguable aspiration.

“If we accept the analogy that the Internet is similar to the school library, when the school filters out specific Web sites, it is as if they are removing them from the collection ... they have to prove that they are doing so for legitimate reasons,” Caplan said. “The school needs to have a legitimate reason for the filtering.”

With the Internet comes a new kind of learned behaviors, and learned normative conceptions of privacy and regulation, said Will Creeley, director of legal and public advocacy at FIRE (Foundation for Individual Rights in Education). And until it becomes more commonplace, high schools

across the country will continue to have limited access to social media Web sites.

“A teacher could have said 10 years ago ‘no cell phones in a classroom’ ... but in 10 years they could say ‘turn your iPhones off and no Twittering in class,’ ” Creeley said. “The reassuring thing about all this is that in terms of the law, the First Amendment has proven to be tremendously adaptable to every communication revolution it’s been faced with. So too will it adapt to social media, and all the various wonders of the Internet.”

According to Creeley, the general trend is increased regulation of school speech, particularly when the speech is at the school during school hours and online. But freedom of speech must always be the guiding consideration, he said.

While Mark Webber is hoping to gain access to Twitter and Facebook, Tambellini is hoping for more Internet access in general.

“Every year our art teachers can’t even pull up images to show in their art classes,” Tambellini said. “Any place where the kids might upload their photos is blocked. Everything is blocked. It’s pretty crazy. Anything with the word blog near it is blocked. If we’re supposed to be teaching them literacy in the digital age ... why are we *not* teaching literacy in the digital age? ■

censored?

■ social networking sites can help garner support

In response to the Fauquier County Public Schools district’s decision to adopt, without notification of the adviser or editors, a new publications policy stripping student journalists of their editorship rights, student journalist William Wilcox formed a Facebook group called “Free The Falconer.” Fauquier County’s new policy named the principal editor-in-chief of all student publications, and gave him free reign to censor any items containing “material that may be considered controversial by some members of the school community.”

Before the new policy was adopted, Wilcox was the editor-in-chief of the *The Falconer*, at Fauquier High School in Warrenton, Va. Appalled by the revocation of his editorship, he created the Facebook group the night he found out, garnering immediate and positive responses.

“Having the Facebook group helped tremendously,” Wilcox said. “This happened after I had great success circulating a Facebook note. It gave me the ability to spread the word instantly, and I was able to continually update people when there was new news about the policy.”

The social media group had a huge effect on the next step Wilcox, his adviser and other supporters took to oppose some of the new policy’s limitations. The group became a vehicle to clue in the student body, as well as

reach out to former staff members and alumni. Fauquier High School Principal Roger Sites, Assistant Superintendent Frank Finn, Student Newspaper Adviser Marie Miller and four other advisers and principals from the two additional high schools in the district then met to discuss major adjustments to be made to the policy. In the end, while *The Falconer* remained a “limited forum,” the school board took steps to rename Wilcox as editor-in-chief, and change some of the restrictive language of the new policy.

The group on Facebook now has over 290 members, and remains active.

Unfortunately for Wilcox, sites like Facebook and Twitter are blocked from students at Fauquier High during the school day. Wilcox’s experience has taught him that not only can social media sites serve to promote a publication’s breaking news, but they can also help save the publication itself. Because of the group’s encouraging results, Wilcox has started to ponder what else he could do to promote *The Falconer* through social media.

“We could try running an advice column,” he said. “It would be a lot easier to do and promote online. And I think it would be a really effective way to teach us how to use the future of journalism.”

Papers maneuver around obstacles to posting online

Laura Negri, a newspaper adviser at Kerr High School in Houston, Texas, was so determined to have her students' work published online that she was willing to push back against her principal to keep the newspaper's Web site.

The *Kerronicle* has been publishing both in print and online since 2002, and Negri said she is surprised that more high school newspapers have not done the same. She said publishing online is both cheap and easy and gets the students' message to a broader audience.

"I wanted their writing shared on the Internet, with other readers, beyond who they could reach on campus," she said.

The *Kerronicle* has a policy of only printing the first name and last initial of students featured in articles or photos online, while student reporters are identified by their full names. While this may not be a journalistic ideal, Negri said she and her students have learned to live with it.

"If our point is to get our students' stories out, it's not so much important that their precise identity is publicized, it's more like what they have to say about their lives," she said.

A confusingly worded federal law has many schools worried about the amount of student information they can legally put on their Web sites. Part of the Children's Internet Protection Act, passed by Congress in 2000, says schools must create policies that address "unauthorized disclosure, use, and dissemination of personal identification information regarding minors" in order to receive discounted technology. The law does not specify what those policies should say.

Adam Goldstein, attorney advocate for the Student Press Law Center, said he thinks some schools have taken this to mean they cannot allow student information on their Web sites. That reading is incorrect.

"Minors need no special authorization to disclose their personal information," he said. "They have the ability to consent to those disclosures and that makes the disclosures inherently authorized."

Still, confusion about this law has resulted in many schools, including Kerr, creating policies that bar students or others from putting student information online without the permission of parents or guardians.

Negri said Kerr High School's principal wanted the newspaper's Web site taken down entirely a few years ago, out of concern that exposing students' identities to a larger audience might also expose them to danger.

Negri was called into the principal's office and asked to take the site down. Instead, she proposed a compromise – the current practice of publishing only the first names and last initials of students online.

Negri said she is satisfied with that practice and understands the need to protect the students.

"You definitely want to try for it to be as open as possible, but you have to keep in mind the safety of the kids," she said.

The school recently changed its Internet policy from one in which parents had to inform the school if they wanted their children's information kept private to requiring parents to give permission before the information can be put online, Negri said. She worried that this change would be extended to the *Kerronicle*'s site, meaning her reporters would have to be more careful about who they interviewed for stories.

"If they're doing a story that's for print and for the Web, they're going to avoid that kid who doesn't have a waiver," she said.

She worried this could prevent students from writing articles that represent the diverse population of Kerr High. As the school is in a heavily populated, immigrant area where English might not be the parents' first language, Negri said many of them might find the wording of the consent forms confusing.

"It would be difficult to explain to a parent why not giving consent would be a problem," she said.

Luckily, that policy has not been applied to the newspaper, and students are currently working toward providing more content on the Web than in the print edition. The online name policy has become a model for newspapers in the surrounding area, Negri said.

When Student Media Adviser Melissa Quiter, from Miramonte High School in Orinda, Calif., decided to move her school's paper online, she faced little opposition from Principal Adam Clark and was able to put both photographs and full names of students on the Web.

Quiter said Clark did ask her to look into whether student names and photos can legally be posted online, out of a concern for student safety. She said a parent also expressed concerns about college admission officials and prospective employers reading unflattering information about students.

"My students would never write anything libelous, anything untrue, so I'm not concerned at all about that," Quiter said, adding that her legal research would help her and her students respond to any other concerns.

"I want myself and my editors to have a response ready to explain what our rights are and what California law is, to be prepared when the flood of questions comes in," she said.

She said she thought it was important for her students to learn how to post stories online and to use video and sound because those skills will be necessary when they look for journalism jobs.

"It's the direction that I think any modern journalism program has to take," she said.

Quiter said she did not expect opposition from Clark, who she described as "very supportive" of the newspaper, but was not sure what district officials would think of the plan. She and her students launched the site in early December. ■

— By Anne Elliott

FYI:

Facts to know before you put your publication online

The Family Educational Rights and Privacy Act (FERPA) does not prevent disclosure of minors' information in an online publication.

There is no legal precedent for holding a school liable if a minor is harmed after being located on a school Web site.

Your publication does not have to be hosted on a school server. Move it to a third-party site like hsj.org.

Only two states — Maine and New Jersey — prohibit a school from disclosing minors' information online.

Online speech gets no less First Amendment protection than speech in print.

“We set up the Web site with two goals in mind,” Rome said. “First, we wanted to use it to keep a watch on what’s going on at *The Spoke*. And second, we wanted it to be a resource for people facing censorship.”

Zweifler said the Web site helped people get involved online to offer their support.

“I think this really shows students that it’s possible — that you can get what’s right,” he said.

If students find themselves facing censorship, Zweifler said it is important to always adopt a levelheaded approach to the situation.

“Make sure you talk with people, not over them,” he said. “Sometimes you have to educate [administrators about student rights]. Speak with them. Educate yourself and learn about legal standards and your rights.”

Even though parts of the process were challenging and upsetting, Rome said the students were motivated because they were fighting for a good cause.

“We were doing it for future students,” Rome said. “Another issue here was our role in the community — that’s what kept us going.”

Rome and Zweifler both said they were humbled to receive the award, and that they are grateful for the involvement of all of the organizations that helped them.

“We’ve had such tremendous support from the community,” Rome said. “We’ve been working with the SPLC since the gambling story. They helped us so we could jump right in — they’ve been a fantastic resource.”

Rome’s experiences at his newspaper taught him lessons not usually learned in the classroom.

“It’s all about the opportunities,” he said. “Looking back, it’s not about the AP stuff you learn, but the experiences you get. You learn things you can’t learn anywhere else.”

The award was presented to Rome and Zweifler on Nov. 14 at the Journalism Education Association/NSPA awards ceremony, attended by approximately 6,200 students, in Washington, D.C.

Along with the Courage in Student Journalism Award, Rome, Zweifler and *The Spoke* won a number of other awards. ■

The dichotomy of tragedy and responsibility in such a situation requires a systematic and meticulous approach by high school journalists and advisers.

If the popular high school cheerleader who was on the honor roll and president of the Student Government Association takes her own life and the headline on the front page of the student newspaper reads “Senior Jane Doe takes her own life,” vulnerable students are at a great risk of having their anxiety pushed to the breaking point, according to Wylie Tene, public relations manager of the American Foundation for Suicide Prevention.

“That kind of story can contribute to contagions because the person who might be vulnerable might look up to that person,” Tene said. “They might think, ‘if there’s not hope for that person, there’s no hope for me.’”

But Tene still strongly believes high schools should cover suicides, to prevent further stigmatization of the issue, an issue that needs to be reported in a very particular way.

Guidelines for reporting on suicides and suicide attempts based on more than 40 years of scientific research, Tene said, can be found on both the AFSP’s and the CDC’s Web sites.

“Report about suicide,” Tene said. “Raising awareness about the issue, about mental illnesses and where people can go to help can be very beneficial. I always look at it as reporting about any other health issue. If it was reporting about AIDS/HIV, you’d want to report information that can help people ... new research treatments, doctor’s names, [etcetera], it needs to be the same for suicide.”

CDC’s “Suicide Contagion and the Reporting of Suicide” recommendations were composed at a national workshop where suicidologists, public health officials, researchers, psychiatrists, psychologists and news media professionals addressed guidelines for reducing the possibility of media-related suicide contagion.

The recommendations and guidelines include aspects of media coverage that can promote suicide contagion, and they portray how to promote prevention through specific types of news coverage.

Assistant Surgeon General of the United States Patrick O’Carroll led the group of professionals who compiled

CDC’s guidelines for reporting on suicide. He said that while high school journalists should definitely report suicides, adolescents have a tendency to take a dramatic approach to life, making treatment of the coverage a topic that requires a detailed and responsible method.

“You can’t not report it because the students are all talking about it,” O’Carroll said.

“It’s not like they’re not aware of it. In a population of students, there is always going to be some sub-population that is going to be disturbed. Our guidance was about how to report responsibly ... despite how it may look, suicide is a permanent solution to a temporary problem. What you want to do is celebrate the person, not the act, and highlight what a tragic decision it was.”

The greater good

To “seek and report truth” is an important aspect to consider in journalism, according to Gene Foreman, former managing editor and vice president of *The Philadelphia Inquirer* and author of “The Ethical Journalist: Making Responsible Decisions in the Pursuit of News.”

The alternative to seeking and reporting the truth is minimizing harm — sometimes journalists voluntarily make the judgment call to publish less than the full story to reduce harm.

“You don’t minimize harm by simply failing to report something that is newsworthy,” Foreman said. “You do it by leaving out details that don’t need to be told. [Suicide] probably is a big story at schools. Students are talking about it and are interested in it; it would be a mistake to ignore it.”

But student newspapers are in a unique position to report on suicide, being so close to what is going on. High school journalists are part of the student community, and have the opportunity to report on what is a very personal issue in a personal, honest way.

“Look at the statistics,” Haab said. “They show that it’s a very serious problem, and it’s also a very tricky problem for high school students and papers to do because it has to be handled very carefully. It’s a community problem ... it goes back to home, or social problems or bullying. One of the things that a paper should do is bring these issues out and how do we solve them.” ■

California's

Student Free Expression Act

enters

unchartered territory

BY JOANNA BRENNER

When the principal of the charter school Orange County High School of the Arts (OCHSA) in Santa Ana, Calif., stopped the printing of the school's student newspaper in reaction to two articles – one about OCHSA's theme of the year and one that was about the school's contract with a Christian food vendor – Editor-in-Chief Taylor Erickson was in shock.

"I was alone in the principal's office with no one there to support me," Erickson said. "It was really intimidating and it really struck me as odd ... the administration never really gave a hoot about what we were writing until that very moment."

The paper was censored based on claims of racism in one article and irrelevance in the other. While Erickson said the reasons for censorship did not seem justifiable to the student journalists or the adviser, the students had not just outrage but the law in their corner, because of the state's student free expression law, which is supposed to drastically limit the amount of censorship student journalists have to deal with.

On February 22, 1977, California's student free expression law was established, granting student journalists in California added protection against administrative censorship that supplements their First Amendment rights.

The law, written into Section 48907 of California's education code, states "There shall be no prior restraint of material prepared for official school publications except insofar as it violates this section." Violations include anything obscene, libelous, or slanderous.

Dr. Ralph Opacic, president and executive director of OCHSA, released a public response Sept. 15 stating OCHSA's status as a charter school exempts it from Section 48907 of California's education code (the student free expression law). He said that state law exempts charter schools from the Education Code with

limited exceptions pursuant to Section 47610 of the education code, otherwise known as the charter school mega-waiver. Based on the mega-waiver, Opacic argued it is clear the student free expression law does not apply to charter schools.

Opacic's declaration raised a tricky legal issue: should charter schools, which are publicly funded, be free from California's strong legal protections against censorship and retaliation?

Susan Wolf, former senior media consultant with the California Charter Schools Association, explains that charter schools are independent public schools that have more freedom to be creative within their curriculums. She said they are held to the same standards as public schools, but can be more innovative in certain processes, such as the hiring and firing of staff members. Otherwise, they operate just like public schools.

"Charter schools are exempt from many laws that school districts follow under the education code with some specific exceptions, but, in addition to considering whether or not the education code might apply, charter schools take into consideration the general application of federal and constitutional laws when determining matters related to this topic," she said,

In addition to the fundamental differences between charter schools and public schools, Peri Lynn Turnbull, senior vice president of communications for the California Charter Schools Association, said parental choice, programmatic autonomy and accountability for results are the three more specific aspects that make charter schools different.

"In California, charter schools are exempt from a significant part of the education code," Turnbull said. "There are a number of things they don't have to do, so it gives them flexibility while still being held accountable for their

"Our students' rights are extremely important. The foundation of democracy is based on the ability to criticize even principals and school boards."

California Sen. Leland Yee
D-San Francisco/San Mateo

Charter schools, page 34



Healing the wound

Damaged student-adviser relationships require communication, patience

BY MARY KEISTER

Adviser-student relationships can hit rough spots, especially when it comes to issues like censorship and staffing. If you've had a bad breakup with your newspaper adviser lately, though, there are ways to mend your relationship. Resources and guidelines are available for help.

Strong relationships between advisers and students are important for guiding student journalists down the right path, said College Media Advisers Executive Director Ron Spielberger.

"A good relationship is one where the students see the adviser as a trusted person," Spielberger said. "They don't necessarily come to the adviser for 'what color pens should we buy for the office,' but they come to the adviser with situations that they may have trouble determining the answer to."

Some of these situations can include questions of ethics and steering students away from potential libel. Some can include simple administrative tasks, such as handling funds for the paper. But what happens when the adviser is perceived not as a trusted ally but as adversarial to the student staff?

McPherson's 'High Life'

Student journalists at *The High Life*, the student newspaper of McPherson High in McPherson, Kan., recently had a run-in with their adviser, but meetings with the principal have helped ease the conflict.

After *High Life* staff member Jeni Arbuckle wrote an article for publication in the paper's Sept. 11 center spread about two pregnant teens at McPherson High, adviser Todd Brittingham, hired last year by the school, pulled the article, claiming it was too controversial. Instead of filling the blank space on the page with last-minute content, Editor-in-Chief Nikki Wentling decided to leave the space blank. She explained her decision in the next issue of the paper, saying the newspaper staff would not "hesitate from reporting on important and controversial subjects" in the future.

Soon after the censorship incident, Brittingham assigned the students a series of handwritten essays on court cases about First Amendment rights for students. According to Wentling, the assignments were out of the ordinary class routine and came across to the staff as punitive.

"I think he was just angry so he had us do those assignments," Wentling said.

According to Wentling, disagreements over the newspaper's production cycle led to inefficiency in the newsroom. Brittingham wanted students to turn in their articles earlier than usual for publication, she said, which led to stories becoming outdated when press time rolled around.

Brittingham's behavior in the classroom has troubled the students. On Oct. 29, Brittingham placed a video camera in the room and filmed the students while they worked, student editors said. According to Arbuckle, who spends her first three hours of the day in the newspaper classroom, Brittingham came to the room 20 minutes before the first class of the day to set up a Flip camera. He put the camera on top of a stack of papers, pointed it toward the work computers, and walked away.

"We thought, that's creepy," Arbuckle said.

Brittingham refused to comment.

The students have spoken to their principal, Bret McClendon, in an attempt to find solutions to the conflicts. McClendon sat down with the students and Brittingham a couple weeks after the censorship issue, and he took notes while the students asked Brittingham questions and voiced their concerns about the article, the essays on the First Amendment cases and other questions they had.

"I think the critical element [to solving a conflict] is communication," McClendon said. "Communication between the adviser and the students, between the editor and the students and between the adviser and the editor. That's the most critical thing that needs to happen."

According to Wentling, the students reached a resolution with Brittingham after this meeting. The students' relationship

with Brittingham seemed to be healing, and "the tension went down for everyone," Wentling said.

The students spoke with McClendon again after the camera incident. After these meetings, McClendon and Wentling said, everything returned to normal and the paper is operating smoothly.

Clark College's 'Independent'

Over the summer of 2009, student journalists at *The Independent*, Clark College's student newspaper, ran into conflicts with new adviser Dee Anne Finken. Finken was brought on as adviser after the former adviser, Christina Kopinski, was denied tenure in March, a decision she is still contesting.

A staffing controversy led to the filing of disciplinary sanctions against Editor-in-Chief Audrey McDougal, Managing Editor Nick Jensen and former Lead Copy Editor Amanda Martin-Tully. McDougal could not attend an Aug. 19 job interview with Finken and a candidate for a business manager position, so she notified Finken that she was sending Jensen and Martin-Tully in her place to take notes on the meeting.

When Martin-Tully and Jensen arrived for the interview, they barely got in the newsroom before they were escorted out by security, who had been called to the room by Finken.

McDougal, Jensen and Martin-Tully were charged with violating section 1.c. of the Clark College Code of Student Conduct, which is a charge of "failure to follow instructions." All three editors were sentenced to disciplinary probation for a year.

McDougal and Martin-Tully were offered a deal in which they would write a letter to Finken and Ted Broussard, interim associate vice president of student affairs and dean of student success and retention, in exchange for having their charges dropped, said Martin-Tully and Jensen. The letter would detail how they planned to work with Finken as their adviser. Jensen was not extended this option, he said.

“It wasn’t even offered to me, but I probably wouldn’t have done it anyway, because I think it’s ridiculous,” Jensen said.

McDougal wrote the letter and had her charge dropped and purged from her record. Martin-Tully agreed to a compromise under which all charges were to be expunged at the end of the semester. Jensen appealed his charge.

Finken’s relationship with her staff is mixed, Jensen said. According to Jensen, the new staff members get along well with her, and older staff members are somewhat indifferent. Jensen described the newsroom as “sort of an icy, polite workplace.”

“There haven’t been big issues, but it hasn’t been all cuddles and rainbows either,” Jensen said.

Jensen said the paper got off to a slow start publishing this quarter. McDougal said that the paper has been operating fairly smoothly since then.

According to Finken, her relationship with the staff is going well with the exception of three students.

tant to the Student Press Law Center said, finding a solution is up to students, since the adviser is not available for help.

“I think it’s completely up to the students because in most of these cases the adviser isn’t going to do it,” Hiestand said. “She’s the problem or he’s the problem.”

Students can improve their relationship with their adviser through increased communication. According to John Bowen, chair of the Journalism Education Association Scholastic Press Rights Commission, if students try to understand their adviser’s point of view and remain open to discussion, they might be able to reach a compromise or solution.

“Honest communication can and has headed off conflict,” Bowen wrote in an e-mail. “Students need to try to understand problems an adviser might face: threat of job loss, lack of time or information about the issue at hand. Sometimes conflict can be resolved through discussion and understanding.”

Bowen said it is important for students

else wanted to teach newspaper, so they just got dumped in it as the new hire.”

Students may be able to help their adviser settle into the role by discussing with them the adviser codes of ethics of the College Media Advisers and Journalism Education Association. Sometimes, Hiestand said, advisers just don’t understand what they are doing, and becoming familiar with codes of ethics and expectations for advisers may help.

If the adviser is aware of what their actions entail, then students may be able to pursue legal action.

According to Hiestand, the law at the college level is generally more protective of student rights than is the law at the high school level. *Hazelwood v. Kuhlmeier*, a 1988 U.S. Supreme Court decision concerning administrative control over student publications, has placed some limitations on student journalists’ rights at public high schools, but it said nothing about public universities.

“The law at the college level is pretty

“*[Students] need to know their advisers trust them, and they need to trust their advisers. That trust develops when all parties communicate and share concerns.*

John Bowen
chair, JEA’s Scholastic Press Rights Commission

Accounts of the reconciliation process after the incident differ. Finken said she made attempts to sit down and talk to the students. Martin-Tully said that though she and Finken exchanged a few e-mails after the incident, Finken never responded to Martin-Tully’s letter of resignation from her editorial position.

Martin-Tully resigned her position and transferred to Portland State University because she was not taking enough credits at Clark to qualify her for her salaried position on the newspaper. McDougal and Jensen also plan to transfer. Jensen and McDougal said they are not returning to the *Independent* at the end of the quarter.

“I only have so much time left [at Clark], and I don’t want to spend it at that paper with that kind of environment,” Jensen said. “I told [Kopinski] I would stay at the paper as long as I am going to Clark, but that’s not the case anymore.”

On the mend

Conflicts with advisers can be difficult to resolve. As Mike Hiestand, legal consul-

and advisers to talk through issues and keep each other informed. He said conflicts can be avoided by developing trust between the adviser and the students.

“[Students] need to help advisers understand the importance of the stories they select and what help they need,” Bowen wrote. “They need to know their advisers trust them, and they need to trust their advisers. That trust develops when all parties communicate and share concerns.”

Sometimes the problem lies with the adviser’s background and training, Hiestand said. If the adviser does not have training in journalism or journalism education, they may not be able to successfully connect with their students. Sometimes, Hiestand said, schools do not check the journalism education that a teacher has before they place that person in the adviser position.

“Almost always when you’re in these situations, you find that they don’t have any [teacher with journalism background],” Hiestand said. “They were maybe the newly hired chemistry teacher, and nobody

crystal clear that student editors have the right to make their own editorial decisions and all school officials, including advisers, have to keep their hands off,” Hiestand said.

Bowen noted that staying informed about their legal rights can help student journalists if they run into trouble with their adviser or their administration.

“Students can ensure their own freedoms by knowing the law and how to apply it to various situations,” Bowen wrote.

Talking things through with advisers and giving them resources for assistance have proven to offer the greatest chance for reconciliation.

“If you can in any way work this thing out by sitting down and talking, that is by far the preferable solution,” Hiestand said. “I mean, advisers, students, there’s kind of a co-dependency there. They’re going to be in the newsroom and boy, it certainly is nicer to have a friend, a supportive person in the newsroom than it is somebody who you’re always looking at twice, kind of wondering what they’re up to.” ■

Sidelined



A press pass is the ticket to successfully covering sports news for any college media outlet. But restrictions attached to passes by athletic conferences have caused concern among journalists. The *Report's* **Michael Edwards** examines how these limitations can shape a student publication's coverage.



Daily Collegian Football Editor Matt Brown (left) works with football reporters Wayne Staats, Nate Mink and Matt Fortuna during Penn State's game against Indiana University. PHOTO COURTESY OF NATHAN A. SMITH.

Team rises off the shoulder pads of the collegiate athletes as they line up at the 7-yard line for the last play of the game. The lights blaze overhead, reflecting off helmets. Cleats dig in to the grass as receivers get ready to sprint into the end zone.

The play starts. Pads crash together and the quarterback releases the ball. Fans hold their breath in anticipation of the game-winning pass that could secure the team a shot at a championship game.

School history is about to be made. But fans looking to the Web site of a student newspaper or student television station for video and real-time narrative of the historic moment may come away disappointed, because so many conferences have banned game-action video from media Web sites and restricted how frequently reporters can blog about the events going on at the game.

This year, dozens of media organizations joined together to petition athletic conferences within the NCAA for relief, because journalists were unhappy with press credential requirements that limited use of game footage, photos or blog posts during athletic events.

After much discussion, many regulations remain intact, but the controversy has put restrictive press policies in the spotlight and opened up a number of questions about the limits of press credential requirements. Officials, administrators and journalists have joined in the discussion to find a balance between league financial interests and press freedom.

History

News organizations regularly get special access to sporting events to be able to report the events to their readers. Reporters get press passes from schools or sports conferences that allow them close proximity to the action for photos and access to locker-room interviews. These passes come with restrictions that allow those in charge of the events to protect copyright and trademarked material. The requirements also aim to ensure press passes go to legitimate newsgathering agencies.

The fairness of those restrictions was brought into the spotlight this year when the Southeastern Conference (SEC) reworked its press credential requirements for the start of the 2009 NCAA football season to adapt to the changing nature of news reporting.

The first draft of the re-worked policy, released July 20, immediately met resis-

tance from media outlets covering SEC games. Within the first week of the release of the new policy, the Associated Press and Gannett both refused to have any of their reporters sign until revisions were made.

Some of the disputed terms of the document restricted the use of video to only broadcast news programs and only within 72 hours of the game, completely eliminating the possibility for newspapers or other media to use game footage on their Web sites. The first draft of the SEC policy also granted only limited blogging ability, saying, "no bearer may produce or disseminate in any form a 'real-time' description or transmission of the event."

And, the most troubling portion of the policy for student journalists at SEC schools like Robert Stewart, sports editor at Louisiana State University's newspaper, *The Daily Reveille*, was a stipulation that only full-time salaried employees of media outlets were eligible for credentials, disqualifying virtually all student media from covering their own schools' games.

"I was not happy with that version of the policy, and I know a lot of other people were not happy with it," Stewart said. "There were a lot of unnecessary rules in place."

Media organizations teamed up to send a letter to the SEC, outlining some of their concerns with the policy.

"The new credentials go beyond adjustments; they are wholesale changes that restrain our members from covering your teams in ways that serve fans without harming league interests," reads the letter, which was signed by the American Society of News Editors, the AP Managing Editors and the AP Sports Editors. "Many of these changes may also violate existing law, which, in most instances, has not changed despite the advent of new media."

The SEC eventually changed the policy, and after two drafts adopted concessions that included easing limitations on photo use, expanding who can apply for credentials and clarifying exactly what routine blogging is permitted.

Despite the changes, though, not everybody involved is satisfied with the new regulations. Stewart, for example, said the paper is no longer allowed to have a videographer at the games, which has changed the way his paper covers and reports the events.

"It has changed things," said Casey Gisclair, deputy sports editor at *The Daily Reveille*. "[In the past] we posted game highlights on the days following games,

but we've had to stop doing that."

Continued fallout

After seeing the mixed success in dealing with the SEC, other media organizations challenged the press credential requirements in the Big Ten Conference.

Tom O'Hara, adviser to the Ohio State *Lantern* newspaper, said he, along with the local paper in Columbus, Ohio, felt it was time to take on Ohio State University and the Big Ten conference for their two-year old policy, which he said was too restrictive.

"The point is: somebody has got to draw the line here," O'Hara said. "Otherwise, the line is going to keep moving until all you're going to be able to do is publish one photo and a box score."

Media groups had issues with the Big Ten credentials similar to those with the SEC, even though the Big Ten policy had been in place for two years without any confrontation, said Scott Chipman, assistant commissioner of communications for the Big Ten.

A number of organizations got involved by sending a letter of complaint, saying the Big Ten policy was too restrictive because it did not allow secondary use of photos, drawings, or audio depictions of the event in anything other than direct reporting on the sporting event. If followed literally, it would restrict use of game content in season previews or commemorative issues of newspapers.

The Big Ten, despite pressure from the media organizations, decided against changing its policy.

While both of the debates were sparked at the onset of the NCAA football season, the implications of the decisions apply to college journalists for all sports. The balance between financial gain for those in charge of events and press freedom for those covering the events is an ongoing struggle not limited to any particular sport.

Ownership of rights

Both confrontations raised questions about fairness and legality in developing press credential requirements at schools, especially those that are publicly funded.

The credentialing issue is further complicated because there is no single organization in charge of setting credential requirements. They are set by the schools themselves, conferences, and, in the case of certain tournaments and large events, they are set by organizations like the NCAA and Bowl Championship Series (BCS).



“The point is: somebody has got to draw the line here. Otherwise, the line is going to keep moving until all you’re going to be able to do is publish one photo and a box score.”

Tom O’Hara
adviser, Ohio State Lantern

Staff of Penn State’s *The Daily Collegian*
work in the press box of Beaver Stadium.
PHOTO COURTESY OF NATHAN A. SMITH.



Student journalists document a Brigham Young University football game. PHOTO COURTESY OF ADAM GRIMSHAW.

Jim Brady, a member of the board of directors for the Online News Association, which fought for media rights during the Big Ten debate, said it has been an interesting process because schools and conferences are trying to adapt their policies to handle situations arising with new technology.

"You're not battling over the same issues you would have been five years ago," Brady said. "Now you're moving into the issue of each of the conferences and the leagues and the teams are your competitors online. They have rights to content — like video — which they see as valuable. So it's about where you find that line between what should be available for public dissemination versus what should be controlled by one entity."

Brady, who is also associated with the National Press Foundation and the Associated Press Managing Editors, also said there are issues with the restriction on dissemination of information in general.

"You're not talking about a closed Cabinet meeting in the White House, you're

talking about games that are often being televised to millions of people," he said. "At the same time, people at the games are being told they can't disseminate information about it."

With the changing nature of news dissemination, student journalists are concerned if they do not have sufficient rights to content, they will not have the opportunities they need to be able to develop skills to be marketable in when job searching.

"I think it's a big deal right now with how journalism is evolving," said Matt Brown, football editor for Penn State's *Daily Collegian*. "It's important for students to get that kind of training. If we're restricted in that, we're restricted in what we can learn."

Brown also said he questions the legitimacy of coverage if it is done primarily by the conference.

"I think it's troubling anytime you have a conference itself controlling most of its media productions," he said. "That's not good for anybody. It's not good for the fans

and not good for us as media outlets."

Andy Reid, the managing sports editor for the University of Michigan's *Michigan Daily*, said it is important for students to have as much access as possible because hands-on experience is the only way they will learn the tools of the journalism trade.

"It's important to get access, because if this is really what we want to do, this is the only way we have to learn," Reid said. "It's trial by fire. As a student that wants to be a journalist, I don't know how we would be able to do that without getting access."

Like Reid's school, a number of colleges either have limited journalism programs or no journalism programs at all, which means working for a student media outlet is the primary chance students have to get journalism training.

The other side

While most conference administrators and other officials want their sports to get as much news coverage as possible,

they also have an interest in shaping press credential requirements that allow them to maintain control of anything that holds financial value.

Charles Bloom, associate commissioner for the SEC in charge of media relations, said the issue has been tough, and has required new thinking from the commissioners.

In the case of the SEC, the changes were made because of a new 15-year contract it signed with ESPN and CBS, Bloom said. After the broadcast, the SEC will have rights to conference games and, consequently, had to craft language protecting its video inventory on the Internet. Other conferences have similar concerns when coming up with their requirements.

"Initially, I was very uncomfortable with the thought of curtailing exposure for our programs," Bloom said. "There's a part of me asking why [restrict media coverage], when we should want everybody to see it."

He said it has been tough to switch to a mindset where conference administrators are working to limit public exposure to games. Bloom said he, like others, is "an old-school guy trying to get into the new school."

Ultimately, he said, the issue in any conference comes down to money.

"There's a financial aspect to it," Bloom said. "My feeling is that's what's driving it ... it's about directing sponsor dollars."

As a journalist, Stewart said he could appreciate the reasons why a sports conference would want to have a policy to control what happens with content from games.

"It's my opinion that they're doing this to protect contracts with ESPN and CBS," he said. "I can certainly understand that. But at the same time, they are excluding media outlets from the coverage they've had in the past, which I don't understand."

Bill Hancock, executive director of the BCS, which issues credentials for football championship games, said sporting event administrators have a number of interests to protect in their credentialing policies.

"You want to credential the agencies that will reach the most fans," said Hancock, who worked as a sports editor for his college newspaper and also as the director for the NCAA Final Four basketball tournament. "However, I personally feel that it's important for student media to be a part of these events whenever possible."

He said there are a number of issues papers often don't think about, from lim-

ited availability of space for press representatives to the frequency of distribution for the publication in question.

"The organizers' task is to balance the need to reach as many people as possible with the need to include as many students as possible," Hancock said.

What it means for students

Having as much access as possible is important for students because it allows them to build their portfolios with things like highlight videos, special commemorative editions, blogs and digital slideshows.

"I think for us, the policy does limit [the student journalists]," Stewart said. "We don't have videographers going to football games learning how to shoot footage and edit on top of that. We don't have as much of the action footage as we would want ... to make their videos better."

Ben Jones, sports editor for the *Kentucky Kernel* newspaper at the University of Kentucky, also in the SEC, said the new policy has forced students to look to other sources to find chances to develop multimedia skills they would have been developing at games.

He said reporters at his paper had to decide ahead of time they would work with video footage of press conferences, which generally gets less traffic and feedback than actual game footage.

Tough fight for the underdog

While student journalists face challenges in having limited use of sports content, it is no simple task for students to get conferences and schools to change policies to be more friendly to student journalists or more in line with First Amendment free speech principles.

"I feel like it's violating the First Amendment and freedom of the press — they're trying to control us," Jones said. "I don't know how much we can do as a student paper to control that."

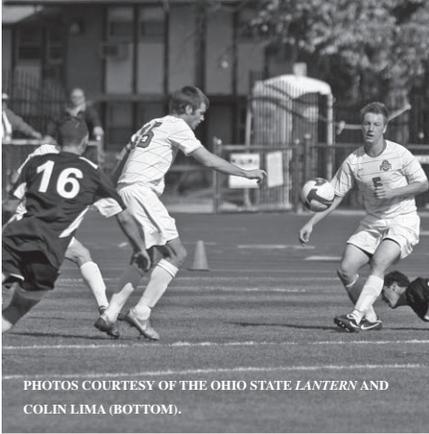
If the media were to write its own policy, he said, it would be very different from what the SEC and Big Ten conferences have written. When it comes down to it, though, he said his school's paper would accept the credentialing process because there is no other choice.

"I think it's a violation of the First Amendment," said Gisclair, the LSU student editor.

"I think it has taken away a right to get the information out there. At the same time, I think the feeling among journalists

PHOTOS COURTESY OF LSU'S DAILY REVELLE





PHOTOS COURTESY OF THE OHIO STATE LANTERN AND COLIN LIMA (BOTTOM).



is you don't have any other real alternative."

Like Jones, Gisclair said his paper will have to comply with the new requirements, even though he considers the regulations less than ideal.

"Ultimately, we don't necessarily agree with everything in it, but we have to go along because we don't have any other choice," Gisclair said. "The alternative is not covering the game, and that's not a choice."

Whether the credential requirements are in violation of the First Amendment hinges on a number of criteria.

First, a person first has to figure out whether the organization issuing the credentials is a government entity, said Frank LoMonte, executive director of the Student Press Law Center.

"There have been cases that have held the NCAA is not a government arm," LoMonte said. "However, it is not established exactly what the legal status of a conference is."

Any government body, LoMonte said, can make access to events on public property conditional on reasonable requirements, so the body issuing the credentials would have to figure out exactly what are "reasonable" requirements.

"Outright prohibition on all video is pushing the bounds of reasonableness in the 21st century where that's how news is disseminated," LoMonte said. "However, there's not a general First Amendment right just to be where news is happening, which is tricky in the case of a sporting event."

Throughout the discussion in the SEC and Big Ten, some of the schools and organizations involved have made attempts to incorporate the interests of student media. Ohio State changed its policy to give media more freedom with content. And the SEC went to great lengths to ensure the conference was not stepping on First Amendment rights when they changed the policy, Bloom said, especially in the case of student media.

"In the initial document, there was some language that would have hampered student media," he said. "It was taken care of in the first revision. It was never the intent of the conference to inhibit any student media rights, but that's how the language was when we first released it."

He said as part of the development process the conference tried to incorporate suggestions from student media, and that

conferences and other credentialing entities do not try to hamper the rights and abilities of students.

Looking forward

Despite fears of the consequences of press credential policies, student online, video and print publications are finding ways to exist and thrive with what they are given.

Gisclair said he liked the encouraging advice given by one of his editors about what student journalists could still accomplish, regardless of credential policies.

"The editor explained that the restrictions are only on game days, so that means you have six other days to go out there and do good work and get good clips," he said. "But it does hurt that you're not getting the highlight footage on football games and you're being restricted on how often you can blog."

He said he has hope for how journalists will cope with the situation.

"Journalists are pretty creative people," Gisclair said. "We discovered initially it would be cool to put videos on a Web site. The SEC came back and said you can't do that, so I don't know what it's going to be next, but in the next 10 years journalists are going to find another thing people like to see and they're going to try it out."

O'Hara said it is important at the end of the day for people who draft credential requirements to remember that students are journalists, and should both be treated and act as such.

"The students who work for [the paper] and the editors who work for [the paper] need to have as much of a real-world experience as possible," he said. "Putting out special sections, like a football or basketball special edition, are all things normal publications do. It's important that students who work for student newspapers are able to use the material they gather to do the same."

While there are still challenges ahead, and both student journalists and credentialing organizations will have to work together to come up with fair practices, O'Hara said he thinks there is a bright potential future for relations between the two.

"My hope for the future is colleges will view college newspapers as a part of the same institution that the athletic department is part of, and view coverage from the student paper as not only something to the athletic department, but to the student newspaper," he said. ■

MONEY

SHOTS

Lucrative nature of high school sports leads to limitations on news media

College level sports organizations are not the only ones getting involved in re-working press credential requirements. In recent years, high school sports associations across the country have seen an increase in dialogue, and even court cases, dealing with regulations tied to press credentials.

In Illinois, Indiana and Wisconsin, the issue has been debated recently due to credential requirements put in place by high school athletic associations often seeking to protect potential income.

In Indiana, Stephen Key, the general counsel for the Hoosier State Press Association, a trade organization of in-state newspapers, fought restrictive press policies when a high school athletic director wanted to include in the press credential agreement a clause that would prohibit sales of any of the photos taken at sporting events.

"They don't want to lessen the value ... of what they will make with their contract with their vendor," Key said. "So they've added into their credentials the requirement that the person who gets [the press pass] won't sell photos taken."

Key said students should be concerned about credentialing issues because it can impact their coverage and revenue.

"I think, looking down the road, that student publications should be in the habit of looking at what restrictions are on these credentials," Key said. "As the digital age continues to change how we cover things ... it will be important."

He also said it is important for high school students to be involved and informed so they can gain necessary experience.

"Where an athletic association wants to limit what photos can go on the Web site or how much video can be used, it can be difficult, from a news position, for students to do innovative and new things like slideshows or game clips or highlights, etc.," he said.

Josh Sharp, assistant director of government relations for the Illinois Press Association, said restrictive press policies at the high school level are different from those at the NCAA because high school athletic associations are usually considered by courts to be state actors.

As state actors — persons or organizations acting on behalf of a government body — high school athletic organizations are held to First Amendment standards, where the NCAA and collegiate conferences may not be.

"We've had prior case precedent stating that [the Illinois High School Association] is a state actor," Sharp said. "With the multi-state situation of organizations like the NCAA or its conferences, they are not similarly situated. From cases we've seen, they're not considered state actors."

The fact that high school sports associations are regularly considered state actors, Sharp said, is a game changer.

"These are for the most part taxpayer funded events," Sharp said.

"The uniforms are public, the fields are public. These are public events, paid for in large part by tax dollars."

Sharp was involved in the issue working for the Illinois Press Association in 2008 when the Illinois High School Association (IHSA), which credentials media for high school tournament events, instituted requirements that would essentially give them ownership of photographs produced at games.

After photographers were kicked out of games, legislation was drafted on the state level to bar any members of the IHSA from controlling content at games or from giving preferential treatment to any of their in-house photographers, Sharp said.

The legislation was eventually dropped because the IHSA decided to change the policy without being compelled by the legislature. Sharp said the change represented a victory for members of the press, including students.

"Say your school had a game-winning touchdown. If students wanted to make T-shirts with a photo of that on them — even if you didn't want to sell them — the rules said you couldn't," Sharp said. "What the IHSA was trying to do was ridiculous."

Sharp said in his view, it is important for students to have rights to freely cover sporting events.

"The students have every right to cover what's happening at their school and report to the student body what's going on," he said.

"High school sports are a big part of high school student culture and student life."

With journalists' methods of disseminating information changing, credentialing bodies have been caused to take a new look at what they consider fair use of content.

"One of the issues that we are dealing with right now we have not had to face before — that is where schools will have Facebook or MySpace pages," said Tim Stried, the director of information services for the Ohio High School Athletic Association.

"If I credential a student to take pictures, can they upload them to a Facebook or MySpace page? Our rules say they can use them on school Web site. We haven't determined an answer yet, but it's something we're talking about."

Stried also said space issues are a concern, because with an increasing number of people and organizations generating content, it is not always easy to allot a limited number of press spaces at sporting events. ■



The student journalist's dilemma

As ambitious college reporters and editors aim to build resumes and do it all on campus, student newspapers must fight to keep conflicts of interest out of their newsrooms. The *Report's* **Mary Keister** examines how — and why — news organizations construct these policies.

Speech team captain, campaign volunteer, student government president, newspaper editor ... can ambitious college student journalists handle it all? And with concerns over impartiality and conflicts of interest filling newsrooms, should they be allowed to?

Conflicts of interest can pop up frequently in the staff offices of student newspapers, where journalism might be considered a club activity more than a profession. Some colleges and universities have developed their own conflict of interest policies and codes of ethics to help student journalists adjust to professional guidelines and avoid conflicts of interest within their publications.

When student journalists don't adhere to these policies and engage in conflicts of interest between their reporting and outside interests and activities, their college journalism careers can be endangered.

The Society of Professional Journalists Code of Ethics says journalists should "avoid conflicts of interest, real or perceived" and "remain free of associations and activities that may compromise integrity or damage credibility." According to SPJ Ethics Committee Chairman Andy Schotz, this guideline means different things to different news organizations.

"There are different degrees of how you see that conflict," Schotz said. "Two people can come up with a different answer. It doesn't mean that one person is right and one person is wrong."

Frank LoMonte, executive director of the Student Press Law Center, said the nature of the news organization makes a difference when determining how serious conflicts of interest are. If



Marissa Blaszko, the former opinions editor for Central Connecticut State University's student newspaper *The Recorder*, was fired after she signed a political petition as a staff member of the paper. From top to bottom: Blaszko addresses the National Assembly to End The Iraq and Afghanistan Wars and Occupations; Blaszko speaks at Hartford College in Conn.; Blaszko participates in Operation First Casualty with the Iraq Veterans Against the War. PHOTOS COURTESY OF MARISSA BLASZKO.

Reporters and editors work in the newsroom of *The Daily Tar Heel* at University of North Carolina - Chapel Hill. *The Tar Heel* staff operates under a continuously evolving conflict of interest policy that limits involvement in campus politics and relationships with sources on social networking sites.

PHOTOS COURTESY OF ANDREW DUNN.



the publication openly espouses a political agenda, conflicts of interest might not be an issue.

“If it has an ideological agenda made clear from the start, it may be less of a concern,” LoMonte said.

Policies on avoiding conflicts of interest may differ between news organizations, but no matter how lax these policies may be, the issue of conflicts of interest is important for journalists to consider when reporting, Schotz said.

“It’s certainly a question to ask when you are reporting and you have some type of other involvement,” Schotz said. “[The guidelines are] to at least get you to ask the question, ‘What are the possible conflicts here and how can I avoid them or minimize them?’”

“It’s really a matter of judgment and professionalism,” LoMonte said. “The publication just has to come up with really clear standards.”

Political conflicts within opinions pages

In March 2009, the importance of having a clear conflict of interest policy became evident for members of the *Recorder*, Central Connecticut State University’s student newspaper.

The *Recorder* ran into a problem with political conflicts of interests of a newspaper editor. Then-Opinions Editor Marissa Blaszkowski was fired for what she claims were her socialist political views. But Editor-in-Chief Melissa Traynor said it was not Blaszkowski’s political views but the actions she took on her views that made her uncomfortable with Blaszkowski’s position as opinions editor.

“Their argument was that it was the activity, my argument was that it was the politics,” Blaszkowski said.

Blaszkowski had been the opinions editor for more than a semester at the time of her termination. As the semester had progressed,

she became increasingly politically active, especially with the campus-based organization Youth for Socialist Action, and attended demonstrations and political rallies for this organization.

A major concern for Traynor came when Blaszkowski signed her name as the opinions editor for the *Recorder* on political petitions.

“No one on the *Recorder* [is] allowed to sign petitions or anything in a political nature or volunteer their time or effort or give their opinion as a representative of the *Recorder*,” Traynor said.

Blaszkowski said she didn’t think her political beliefs conflicted with her abilities as opinions editor.

“I don’t think there was a conflict of interest at all because everybody has biases, whether they’re open about them or not,” Blaszkowski said. “So just from a theoretical perspective, my biases are maybe more apparent than others, but the writing would have been the same.”

The *Recorder*’s code of ethics states: “The newspaper does not have an official political stance, so political bias should be kept within the appropriate pages dedicated to commentary.” It also says “editors of the *Recorder* shall not participate in any form of student, local or national government and should be free of any ties to any political organization, campus-based or otherwise.” So what can the opinions editor do?

“Within our opinion pages, if you’re a staff writer, you’re allowed to express your political opinions within the *Recorder* and if you’re an editor you’re also allowed to do that,” Traynor said. She explained that the *Recorder* editorial staff looks for local content relevant to campus life, so they tend to not run articles about issues not related to the campus.

Blaszkowski said she thinks having a political opinion can improve and strengthen articles.

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Finding the key to press rights

Student journalists attempt to unlock free speech at their private schools

BY MICHAEL EDWARDS

If Andrew Seaman gets his way, he will be one of the last editors to run the Wilkes University student newspaper, *The Beacon*, without guaranteed freedom of the press. What makes this noteworthy is the fact Wilkes is a private university, and the school's president, Tim Gilmour, is not required by law to give such freedom to the student media.

The First Amendment protects the freedom of the student press at public colleges across the country, but private institutions operate under a different set of rules — they are not under the same constitutional obligation to allow any type of speech or any freedom of the press on campus. With thousands of such private schools around the country, hundreds of thousands of students graduate each year from institutions that are not required to allow them rights to free speech on campus.

The creation of the policy at Wilkes, a Pennsylvania school, will mark a personal victory for Andrew Seaman, former editor-in-chief of *The Beacon*. The policy also demonstrates that free speech is possible on private campuses if students are willing to work and administrators are willing to listen.

Importance of free speech

It is a widely accepted fact that free speech is crucial on college campuses in order for students to get the most out of their educational experience.

The Supreme Court, in its 1972 *Healy v. James* ruling, said, "... the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools."

Kevin Smith, president of the Society for Professional Journalists, said free speech rights are crucial on any campus, private or public, because campuses should be a breeding ground for ideas.

"If you go to a campus where free speech is limited or even tamped out altogether, you're being deprived of an important element of your education," Smith said. "That element is the ability to interact with different viewpoints and the exposure to different ideas."

He said not having an exposure to a wide range of ideas and points of view makes the college experience less desirable.

Wilkes University

Seaman said he said he hopes the success he has seen will motivate others to fight for similar rights at other private schools.

"The student media at Wilkes University will operate as designated public forums, and free from censorship and advance approval of content," the proposed policy at Wilkes says.

The policy also says the university is responsible for protecting the freedom of expression of students, so they may be best prepared to live as citizens in a democratic society.

"This isn't so much about Wilkes," Seaman said. "It's more about helping private school students around the country by showing that it's possible to get something like this passed at your school."

Seaman said students at Wilkes have been fortunate in the past

because they have not had administrators recently try to censor student publications, but he realizes not all private schools are equal.

"Even if you don't have problems at your school now and you have an open, cooperative administration, it's important to get something like this passed to basically guarantee that support and cooperation for the staff and students to come," Seaman said.

How it is done

Free press rights require a few key ingredients in order to become a policy at a private institution. And, as Seaman found out, it is not always a quick or easy process.

First, he said it is important to be well connected with faculty members. He said in order for a person to make a change, they will have to work with staff members and administrators, all the way up to the president.

"I think it's important to make it like a sales pitch," Seaman said. "A lot of the people you'll deal with are in administration. They're in the business side of education, so they're going to be concerned about getting students to come to the school. They want it to be good for the administration."

Next, he said one of the most effective things students or advisers can do is make the idea appeal directly to the administrators by letting them know their signature will cause them to be remembered as advocates of the First Amendment.

Additionally, Seaman said administrators should be happy about granting free press rights because it places the burden of monitoring content and producing a quality paper on the students. "A selling point is that it actually takes some of the weight off of the administration if something [upsetting] were to be printed," Seaman said.

Tel Bailliet, director of student media and publications at Tulane University — a private school with a free speech code — said from an administrator's perspective it is important for students to focus on the educational opportunity and responsibility that comes with free speech on a private campus.

"Sell the responsibilities that come with those rights," Bailliet said. "The administration is also giving the students a list of what they expect — the responsibilities they will fulfill."

She said it is imperative to have some kind of free speech practice in place at the school in order to prepare the students for what they will encounter once they enter the workforce.

"We always talk about the real world — well, that is the real world. You have freedom of speech," Bailliet said. "And that's the world in which they're going to work and live. Don't shortchange [the students]."

If First Amendment rights are going to exist on any campus, private or public, the SPJ's Smith said it takes the active involvement of faculty and students who are passionate about the marketplace of ideas that should exist on campus.

Obstacles to freedom

Even when a school does guarantee free press rights for students, defending them can still be a battle for those who want

to exercise those rights. A free press policy, while beneficial, does not mean a school's media outlets are in the clear.

Private schools that do sign press freedom agreements often give varying levels of responsibility and freedom to the students. While many of them are close to guaranteeing complete First Amendment rights for student publications, they frequently include clauses that give administrators some restraint.

Tulane University, for example, has outlined extensively in its policy for student publications exactly what freedoms are granted to student media, and what rights are reserved for the administration.

"Tulane students and journalists may enjoy all the rights afforded by the First Amendment of the United States constitution with regard to the freedom of speech," Tulane's policy says. "However, these rights must not directly conflict with the educational mission of Tulane University."

Tulane's policy also states the school's administrators are the controlling authority of student publications.

Notre Dame, a private school in Indiana, guarantees student journalists are "protected from arbitrary suspension and removal because of student, faculty, administrative or public disapproval of editorial policy or content."

The school's policy, however, contains guidelines on what types of advertising can go in the paper, and requires student media to carry a prominent statement informing readers the opinions expressed are not necessarily those of the university or student body.

From the administrator's perspective

In order to get the support of the administration behind a student free press policy, it is helpful to understand their perspective on the issue and potential hang-ups they may have. Private school administrators oftentimes have conflicting interests at play when it comes to granting rights to student publications.

Reynold Verret, provost at Wilkes University, has been involved in the discussions on adopting the new policy at Wilkes. He said while the school is fully in support of the policy, there are a number of considerations private schools must make before simply signing away freedoms to the student media.

"We strongly support freedom of speech rights for the student paper, but we also see we have to be careful because we are in the position of a publisher," Verret said. "If there were any case that were brought before a court, [Wilkes] could be held liable as the publisher of the paper."

Most private school administrators can appreciate the value of freedom of the student press, he said, but hesitate to grant complete freedom because they also have to protect the long-term interests of the university.

"We have certain liability exposure a state school does not," Verret said. "For example, if a person were libeled, the university would be exposed. I and some of my colleagues are skeptical whether [a policy] would provide any strong legal protection."



Andrew Seaman, former editor-in-chief of the Wilkes University Beacon, at the National Press Club. PHOTO COURTESY OF ANDREW SEAMAN.

But Frank LoMonte, executive director of the Student Press Law Center, said it is a common misunderstanding that colleges are legally liable for what students write in the student media.

"At the college level, it's pretty clear that a student newspaper is a platform for student views, like a podium or a bandstand that the school pays to construct. No one would seriously think the school is legally responsible for what a student says from a podium on the quad, even though the college paid for it," LoMonte said.

In fact, LoMonte said, the few liability suits against colleges over the content of student media come out exactly to the contrary — the greater the school's intervention in the newsroom, the less likely it can disclaim responsibility for what is written.

Kathy Olson, associate professor of journalism at Lehigh University, another private university that does not restrict student speech, said she can see why it may not be easy for administrators.

"I understand the other side of the coin as well, that you want to be able to protect students," she said. "But these are university students. They need to be able to engage with people whose views they don't share and take that on in a responsible way."

While Lehigh University has no written code guaranteeing free speech to the students, Olson said the administrators know it is important for the students to be able to have, and what the students say on campus is not synonymous with the views of the school.

"I would tell administrators to really think twice about having your first move to squelch speech," Olson said. "It's always a better idea to open up the debate and ask 'what's the purpose of this?' It can be something that is really valuable for the campus, instead of becoming an 'us versus them' situation that you can't win in the end."

Bailliet said there are a number of reasons why private schools should consider free-speech codes important. She said, foremost, a code demonstrates the quality of education the school offers.

"I think that a school that is secure enough in its reputation, its education, and its students, is going to have freedom of speech for its students," Bailliet said. "I think a school that has a repressive policy or no policy protecting speech ... looks shaky. It doesn't look like a solid, well-founded, well rounded school."

She said schools that are very restrictive of the speech of their students are more concerned about their images than about the quality of education they are offering.

Pressing forward

Having a free press policy at a private institution is a great goal, but getting one signed is not the end of the road for those fighting for press freedom. A code will give students freedom in what they can do with publications, but maintaining that takes diligence and work.

As much as free speech agreements can help, Bailliet said, they

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Whether to run a controversial ad not an easy question for college papers

BY ANNE ELLIOTT

Advertisements are an economic necessity for many student newspapers, but when their content is controversial, student editors may wonder whether the revenue is worth the headache.

From Harvard University to The University of Wisconsin, college newspapers throughout the country have faced harsh criticism for both printing and refusing to print controversial advertisements. Running offensive advertisements can cause a newspaper to come under attack for what some allege is a show of support for the ideas advocated by the ads. Rejecting such ads can also create negative publicity for newspapers as they face complaints from the advertisers.

For student journalists, once a controversial ad is submitted, it often seems there is no right answer.

After it declined to distribute a 12-page anti-abortion insert with its paper, University of Wisconsin - Oshkosh's *The Advance-Titan* faced public criticism from

Pro-Life Wisconsin, the organization that submitted the ad. The full-color insert, a product of Human Life Alliance, includes stories of people who regretted obtaining abortions and information about fetal development and potential health risks.

Editor-in-Chief Andrew Munger decided not to include the insert after discussing it with both the advertising manager and the paper's adviser.

While *The Advance-Titan* does run political advertisements, Munger said this insert, which did not offer any service and was intended only to persuade, seemed too likely to lead to an argument through advertisements.

"I didn't want to have two competing sides arguing through advertisements," he said. "It's not the correct venue (for debate)." Munger said he had put a stop to an abortion debate on the *Advance-Titan*'s opinion page last year.

Pro-Life Wisconsin spokeswoman Virginia Zignego accused the newspaper of censorship, and said the rejection showed the students' bias.

"Part of the American tradition is getting both sides of the argument, and then supposedly you have the intelligence to make your own decision," she said, explaining while she thinks student newspapers do have a right to reject advertising, they should not do it to censor ideas.

Munger said his decision to reject the ad did not reflect the ideology of the newspaper, but added he would have preferred to ignore the controversy altogether. He said he thought Pro-Life Wisconsin had hoped to create controversy with the ad, pointing to the press coverage of his refusal to run it.

"We know what they want, and we're not going to give it to them," Munger said, explaining a reluctance to engage with Pro-Life Wisconsin and further the controversy.

Across the state, at another campus in the University of Wisconsin system, *The Student Voice* at University of Wisconsin - River Falls took a different approach to the same advertisement.

Editor-in-Chief Eric Pringle said he



not to print

met with the advertising manager, business manager and assistant editor about the insert.

“We used a sort of roundtable discussion to determine the pros and cons of running the insert,” he said.

“Throughout this process, we made sure that the discussion of the amount of money we would receive from running the insert was not a factor.”

The staff chose to run the ad, and decided to take a preemptive strike against any potential criticism. Prior to running the advertisements in question, they printed an editorial explaining their advertising policy and the reasoning behind their decision.

“Although we didn’t necessarily need to warn (students) that some controversial ads may be appearing in future issues of the *Voice*, we felt it was a good idea to keep them informed of this decision and let them know that their campus newspaper doesn’t discriminate against certain advertisers because they may have different beliefs,” Pringle said.

In their discussions, Pringle and the other editors relied on the *Student Voice’s* advertising policy as part of the rationale for the decision and said it would guide ad decisions in the future.

The ad policy that was so influential in the *Student Voice’s* decision, though, was not created until after the paper was faced with deciding whether to run the anti-abortion insert and an ad for a cigar shop.

“Before this semester, the *Student Voice* did not have an advertising policy – it was just kind of a pick-and-choose basis,” Pringle said. “This was a little shocking to me.”

The *Student Voice’s* newly crafted ad

policy gives editors “the right to refuse any advertisement in the case of possible liability or offensive content.” It mentions ads that are discriminatory or that violate the law as ones that will be rejected.

“Our goal was to keep it broad in terms of saying what kind of advertising we will and will not accept, because exceptions always occur,” Pringle said.

He said he does not know if the decision would have been easier if the paper had already had an ad policy, adding that he would expect any controversial advertisement would require discussion.

“With a policy, it makes it much easier to make decisions, as we now have some established guidelines to aid us in – and help back up – our decisions,” he said.

Bitsy Faulk, president of the executive board of College Newspaper Business and Advertising Managers, called advertising policies “critical” for student newspapers.

She said that these policies not only guide students when making their decisions, they can also protect them from claims of bias.

When you have an advertising policy, “you’re basing your decisions on policy, not on emotion,” Faulk said.

Advertising policies tend to consist of a statement that makes clear the paper’s right to refuse and descriptions of types of advertisements that would be rejected under the policy. These often include ads that are libelous, offensive or discriminatory.

“(A policy) should be straightforward enough to let advertisers know what’s okay but never so restrictive that it limits the students’ ability to reject any ad,” said Adam Goldstein, attorney advocate for the Student Press Law Center.

He said policies should give student

newspapers the right to reject ads for any reason. Using words like “offensive” or “controversial” leaves room for advertisers to argue that their ads do not meet those qualifications.

At Bucknell University, a policy’s wording caused the Foundation for Individual Rights in Education (FIRE) to question why student newspaper *The Bucknellian* rejected its ad.

The paper’s policy states: “The Editorial Board of *The Bucknellian* reserves the right to deny advertisements if offensive, illegal, or in bad taste.”

“We didn’t see anything offensive, illegal or in bad taste about the ad,” said Adam Kissel, director of FIRE’s Individual Rights Defense Program. The advertisement announced that Bucknell had made FIRE’s list of schools that allow the least amount of freedom on campus, naming Dean of Students Gerald Commerford as among the administrators who had stifled student speech by shutting down events put on by the Bucknell University Conservatives Club. The ad included a picture of a “stimulus dollar” with President Barack Obama’s face, originally handed out by that club.

Kissel said he didn’t understand why independent student newspapers would choose to put restrictions on advertising.

“An independent newspaper has the right to make decisions about commercial versus noncommercial speech in a way that a government entity doesn’t,” he said, adding, “I think it’s an interesting question why a student newspaper would want to be more restrictive than the First Amendment allows.”

Lenore Flower, editor-in-chief of *The Bucknellian*, said she declined to run

Administrative access: Denied

Reporters at Ohio University's student newspaper *The Post* have been fighting for more than a year to gain access to meetings of Ohio University's Budget Planning Council, arguing the meetings should be opened in compliance with Ohio law.

"The council is not technically a decision-making body, but they make recommendations to the Board of Trustees," Editor-in-Chief Ashley Lutz said, adding the board frequently adopts the council's recommendations without further investigation.

"Students are seeing tuition increases. We're seeing our services cut while tuition goes up, and I think it's something that people need to know the thought process going on behind these big decisions," she said.

OU's Executive Director of Communications and Marketing Renea Morris said keeping the press out of the meetings let council members speak more freely. "During those meetings we really think it's important for the input that we get from folks is probably as candid and creative as possible," she said. The paper has also criticized the council's failure to make minutes readily available.

"Really students and faculty at OU have no access to the information on what's going on in these meetings," Lutz said.

Frank Deaner, president of the Ohio Coalition for Open Government, said, while the meetings of any public body are open in Ohio, courts disagree about whether groups without final decision-making power constitute public bodies.

Lutz described her paper's relationship to Ohio University as "adversarial." She said she thinks this stems from the paper's role as an advocate for students.

"We're always looking at them critically, and we're always saying 'Are you doing the best thing for students? Did you do something that was out of line?'"

The Post often has trouble getting university officials to go on the record or agree to talk to reporters in a timely manner, according to Lutz. While working on a story about athletics in November, reporters were told they would have to wait weeks for interviews.

Morris attributed delayed interviews to scheduling conflicts and reporters asking for the wrong source.

"I think, more than anything, the important thing is for us to make sure that the reporters are getting to the right person and someone who has expertise and can answer their question," Morris said. *Post* staffers usually have to go through the communications office to speak with the administration, Lutz said.

Morris said, despite frequent criticism by the paper, "administrators make themselves quite accessible to students." She said some are even willing to meet with reporters on a weekly basis.

Lutz said access to administrators is important because information teaches students to be better reporters. "The more information they give us, the stronger articles we're going to write and the better the reputation of the paper is going to be," she said, adding that this would reflect well on the university.

Access to the administration is key for college journalists, but it doesn't always come easily. The Report's Anne Elliott examines how schools can limit coverage by tightly controlling access to school decision-makers.

For Sarah Friedman and Sarah Queller, editors-in-chief of *The Kenyon Collegian*, a new policy restricting access to trustees was an abnormality in a generally open relationship with college officials.

Friedman said administrators usually make themselves available to reporters – President Georgia Nugent meets with a reporter once a week – but she and Queller were surprised when Nugent sent an e-mail to trustees in April to remind them all interview requests were to be directed to her office. They wrote an editorial protesting the practice.

As students at a private school, Queller and Friedman have never been able to attend Board meetings, which are not subject to Ohio open meetings law.

Robert M. O'Neil, director of the Thomas Jefferson Center for the Protection of Free Expression, cautioned presidents of private colleges against restricting access simply because they have no legal obligations to be open.

"As a matter of policy, I think a private university or private college president would be unwise to insulate him- or herself from the student media," he said.

Friedman also said she feels it is important for students to be able to talk to their administrators. "At a small school like Kenyon especially, students should be connected to administrators," she said. "The student newspaper is an important part of student communication with the college administration."

While the editorial labeled the move as potential censorship, Shawn Presley, director of public affairs, said the practice would allow the administration to make sure reporters received information from the right people.

Queller has successfully used the system to get information.

No luck getting to administrators? The SPLC suggests:

- **Figure out who else knows:** Colleges deal with all kinds of local, state and federal agencies, and with stakeholders on campus like the faculty union or Faculty Senate. Officials outside of the administration may be more motivated to talk – and may give you a straighter story.

- **Don't be silent about the silence:** When a school repeatedly refuses comment, or won't make the key decisionmaker available, write (in the news and editorial pages) about the refusal. Don't be bashful about using your "power of the press" to agitate for better access.

- **If people won't talk, documents will:** When officials stonewall, hit them with open-records requests for their e-mails, meeting notes and any other documentation that might answer your questions.

Charter schools, from page 15

results. It's really programmatic flexibility with the expectation for results."

To California State Senator Leland Yee, Opacic's claim of exemption seemed contrary to the purpose of charter schools. The controversy promoted Yee to suggest a bill that makes charter schools' responsibility to obey the student free-speech law clear as day.

Student free expression laws are slowly spreading across the country. They clearly define the difference in rights between public and private schools, but can be slightly ambiguous when it comes to magnet and charter schools.

Other than California's, the first student free expression law was established in Massachusetts after the 1988 decision in *Hazelwood School District v. Kuhlmeier* significantly limited the First Amendment rights of high school student journalists working on school-sponsored publications. States that followed suit include Kansas, Arkansas, Colorado, Oregon and Iowa. California's law, however, was established in 1977 before the *Hazelwood* decision. States with anti-*Hazelwood* laws, or student free expression laws, have essentially returned to students the same free expression rights that existed prior to *Hazelwood* – at least they thought so.

A major detraction from school administrators' desire to obey student free expression laws is the confusion that stems from state laws seemingly "trumping" federal laws, since the *Hazelwood* decision was written by Supreme Court justices, according to Mike Hiestand, legal consultant at the Student Press Law Center.

But Hiestand said it is legitimate for states to require more than the minimum set by the *Hazelwood* decision. The one thing states *cannot* do is require less than what was set by federal law – including charter schools.

"We've been working with the California Newspaper Publishers Association to draft legislation that will clear up any ambiguity in the law," said Adam Keigwin, chief of staff for Senator Yee. "We don't believe there is any; we believe that the law covers charter schools. We don't want anyone to misinterpret it, so we will make it crystal clear in the law."

Yee started the process of drafting legislation in September. He said his original intent in proposing the student free expression law was to cover all students – it was never supposed to exempt charter schools from any First Amendment protection. Yee's new bill can do one of two things: It will either amend the charter school mega-waiver that explains from what sections of the code charter schools are exempt, or it will add an additional section to the code that clarifies charter schools' responsibility to obey the

student free expression law.

"Either way, what is interesting to me is that you've got a charter school principal that somehow thinks we should not respect students' First Amendment rights," Yee said. "I'm hoping that this principle will adopt within schools an understanding and respect for students' First Amendment rights. Our students' rights are extremely important. The foundation of democracy is based on the ability to criticize even principals and school boards."

The proposal is set to be considered when the legislature convenes in January 2010.

For purposes of law, charter schools are public schools "with a twist," according to "Law of the Student Press," a publication of the Student Press Law Center. The text also states that a growing number of court decisions have found charter school employees are subject to the same constitutional limitations on other public schools, compliant with state laws. As a result, student journalists should have the same First Amendment rights as in public schools, as guaranteed by federal and state laws.

Because of the creativity level of the curriculum, students of OCHSA and other charter schools are required to apply or audition to get in, Erickson said – which is why she thinks a charter school refusing to be subject to a student free expression law is contradictory.

"I was so disillusioned with the principal and the assistant principal back in September because OCHSA has a mantra that says we want to facilitate and nurture an education in the arts ... it just seemed like their actions was so hypocritical to what OCHSA stands for," Erickson said.

Turnbull said in California, families apply to have their children attend a charter school. Parents make a choice to send their child to that particular school.

"There is a fairly significant component to the family decision making, so I think that's probably pretty powerful," she said.

Jim Ewert, legal counsel for the California Newspaper Publishers Association, explained that the student free expression law in California's education code was not meant to govern how school districts operate; it was meant to provide students enrolled in campuses throughout the state with particular rights. While the charter school mega-waiver does exempt charter schools from some aspects of the education code, it is geared more toward flexibility in creating curriculum and meeting state standards, Ewert said.

"For charter schools – which are sort of quasi-private/public – to claim that they are not subject to recognizing student rights is a pretty tortured interpretation," he said. "Nevertheless, to make absolutely crystal clear that they are, I think it's Yee's intent to add charter schools to the list." ■

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are not perfect in guaranteeing student's rights to free expression on private campuses. "A policy is short of the absolutism and certainty that can be found in a law," she said. "No matter how good it is, it's still not law."

She said any policy is also a constant learning experience for administrators and students, because administrators often have a hard time seeing content they do not agree with being published. She said students will need to be prepared to work continuously for the policy to be effective.

"[A policy] is as good as the spirit of the people who put it in

place," Bailliet said. "It's almost more of an education for administrators at the university than it is for the students. The students know the value of free speech. The administrators sometimes need some reminding."

Seaman said part of the problem is overcoming fear administrators often have about problems associated with free press.

"I think the thing people will come up against the most is that a lot of times the university president doesn't want anything to do with the newspaper," he said. "I think the toughest thing for students to overcome will be to find a way to convince [the administration] that a free press or a free media isn't something to be afraid of." ■

“If you look at a lot of news anchors, they clearly have an understanding of current events, because that’s their job, they need to know these things,” Blaszkowski said. “Whereas you get somebody who doesn’t know their politics or doesn’t disclose their politics, you’re going to get articles that aren’t very sophisticated or don’t have a lot of analysis or historical perspective.”

Code of conduct for campaigns: Just say no

Student journalists at the *Jambar*, Youngstown State University’s student newspaper, have a policy that directs them to avoid conflicts of interest both on and off campus.

Staff reporters are not allowed to write about clubs and activities with which they are involved, and editors who are involved with a club do not make editorial decisions about articles concerning the club. They instead pass the articles on to an editor without ties to the club.

Off-campus conflicts of interest, specifically political conflicts of interest, became an issue during the Obama campaign last fall, *Jambar* adviser Mary Beth Earnhardt said.

“Because the campaign really tapped into young college students, we had issues with staff members being volunteers and really campaigning,” Earnhardt said.

According to Earnhardt, when an arts and entertainment editor, Liz Boon, appeared in a campaign poster on campus, the editor-in-chief of the *Jambar* asked the editor to refrain from campaigning for a candidate. The arts and entertainment editor instead gave up her position with the paper in favor of her work with the campaign.

“As far as I’m concerned, that’s the right outcome,” Earnhardt said. “If you want to be a member of the working press—which all student journalists are—then you abide by the professional codes and behaviors.” Earnhardt said she, too, follows the *Jambar* conflict of interest policy.

She does not publish her political affiliation or join political groups on social networking sites like Facebook, and she asks her students to do the same. Earnhardt said she also encourages her students to look at the SPJ code of ethics for guidelines on behavior and conflicts of interest.

“[The student journalists] don’t look at it as being a member of a club,” Earnhardt wrote. “They see it as their profession and they take it seriously.”

Politics and social media: To tweet or not to tweet

The conflict of interest policy for the *Daily Tar Heel*, the University of North Carolina’s student newspaper, covers political involvement of staff and editors and is especially strict regarding involvement with student government, said Editor-in-Chief Andrew Dunn.

“The one thing that we’re hard and fast on and there’s no flexibility with is the rule that you can’t be in student government and on the *Daily Tar Heel* staff,” Dunn said. This rule has been enforced since 1993, when the *Daily Tar Heel* became independent from the University of North Carolina after the paper stopped taking student fees for funding.

Dunn said one of the most common infractions of the conflict of interest policy comes when *Daily Tar Heel* staff members sign petitions to put candidates on the student government elections ballot.

“Inevitably, no matter how many times we tell people they

can’t [sign one of these petitions], we have a few people who sign it,” Dunn said. Staff members who sign these petitions are suspended from their work on the *Daily Tar Heel* for the remainder of the semester. They are permitted to return to work on the paper the following semester.

The *Daily Tar Heel*’s conflict of interest policy is a work in progress. The editor-in-chief of the paper updates its code of ethics and conflicts of interest policy every summer to make sure the guidelines outlined in the codes are current and relevant. This summer, Dunn added a social media policy to deal with the explosion in popularity of sites like Twitter.

“We discovered over the summer that people were tweeting a lot about the *Daily Tar Heel*, and so we wanted to come up with some sort of policy,” Dunn said.

Dunn said he tried to base the *Daily Tar Heel*’s social media policy on guidelines he had seen for large, mainstream newspapers like the *Wall Street Journal* and the *New York Times*, but ultimately, he said, they had to make their own policy to suit the needs of student reporters.

“We wanted to come up with some sort of policy and we didn’t like the ones that other newspapers had. ... We wanted to draft our own version for a college newspaper,” Dunn said. “But I haven’t seen the social media policy at any other campus newspaper yet.”

The *Daily Tar Heel*’s social media policy deals with issues like online representation as a *Daily Tar Heel* reporter and “friending” sources on Web sites like Facebook. It bans reporters from revealing political affiliations or preferences on profiles or in status updates.

Opinion editors, however, are allowed to express their political viewpoints since, according to Dunn, they have already stated their biases in their columns in the paper.

Student journalism: Why so serious

Sometimes students must decide how seriously they want to represent the role of a journalist.

“There’s kind of this idea on campus where people go to school and they join clubs and student activities because they kind of just want to hang out and do whatever they want to do, and they don’t really treat it as though they are preparing to leave college,” the *Recorder*’s Traynor said.

“A lot of people have been making the argument that the newspaper is almost too realistic or real-world oriented. There’s a lot of people who think that if you’re a student you don’t have to be professional about certain things, whereas we take this very seriously.”

The *Daily Tar Heel*’s Dunn said his staff and editors act like a professional newspaper, and their sources treat them like a professional newspaper.

“We still have challenges because we’re a student newspaper and people have class, so it’s not a full-time job for a lot of people, but we take ourselves seriously and I think it’s really helped us in the long run,” Dunn said.

Earnhardt said conflicts of interest and codes of ethics should be taken just as seriously for journalism students as working journalists.

“We take our profession seriously,” Earnhardt said.

“I don’t think that anyone would question law students or med students who abide by professional codes of ethics and I don’t see why it’s okay to question journalism students.” ■

Responding to takedown demands:

A guide to the legal theories most frequently cited when a request is made to remove content from a student publication's Web site

BY WAYNE POLLOCK

Student journalists would like to believe their efforts in creating news articles or columns end when the article or column is published in their publication or on its Web site. Once their items are published, writers and editors need not worry about any fact-checking, rewrites or new layouts - or should they? More and more student journalists are learning publication of an article or column begins a new phase of the publishing process - responding to takedown demands.

Publications with an online presence are regularly facing demands to pull down articles or columns from the publication's Web site.

Just as the Internet has made it easier to distribute information, it also has made what was once unthinkable - cutting articles out of back issues - a relatively simple process, technologically. But just because you can easily remove an electronically archived article, should you?

Takedown demands come in all shapes and sizes. Some may come from subjects of recent or archived news articles or columns. Others may come from former staff members who no longer wish to see their entire body of work listed when an Internet search of their name is conducted. Some takedown demands may come from people who claim they are being libeled by comments on bulletin boards or in comment sections of articles or columns. Copyright owners may also send takedown demands if they believe their copyright is being infringed by the publication.

Responding to these demands can be confusing, but - with a well-thought-out policy that is enforced fairly and consistently - student publications can reduce their risk of a takedown breakdown.

Takedown demands from subjects of recent or archived content

Takedown demands from subjects of recent or archived content typically fall into two categories. First, the subject may demand removal of an entire article or column. In such cases, the subject may claim the entire piece constitutes an invasion of privacy, is defamatory or is simply embarrassing. On the other hand, a subject may only have a problem with one or two sentences. In these instances, the subject may demand only a partial takedown, retraction, correction or update. If the story is being revised and not entirely withdrawn, there can be risk of legal liability based on republication of libelous material.

At the outset, it's important to remember that material that was lawful to publish when it was first posted does not somehow become improper just because the passage of time - perhaps campus beer-guzzling champ Theresa is now Sister Theresa - has made it embarrassing. So the first question to ask will always be: Was there something wrong with the material from the start?

Note also that the online venue does not change the basic legal ground rules of publishing.

Content that is lawful when printed on paper does not become unlawful just because it is potentially accessible to more readers by being posted online.

Let's say you receive a letter from Joe Reader, claiming he can't get a job because of an archived news story that quotes a police report stating he was cited for possession of whiskey at a party in his dorm when he was a student. Joe claims the story invades his privacy because his drinking in his own dorm room is his personal business. He also claims that the story is libelous because it suggests he's an alcoholic, because it is factually wrong - he was drinking beer, not whiskey - and because there was no mention that the charges were later dropped.

Again, remember that a story that was lawful when originally published does not become unlawful just because the person mentioned in the story later decides it is problematic. And the fact that a person believes a story is preventing him from obtaining a job - a questionable assumption, since employers rarely tell applicants why they weren't hired - does not make for the basis of a lawsuit. So your first legal question should be: was there anything defective about the story from the start?

Legally, there is no invasion of privacy here. A student publication could be liable to a subject of an article if the publication publicizes private facts in a way "that would be highly offensive to a reasonable person and is not of legitimate concern to the public."¹ In *Cox Broadcasting Co. v. Cohn*,² the U.S. Supreme Court held that a party cannot be liable for invasion of privacy for disclosing facts that are a matter of public record, no matter how intimate those facts may be.³ Therefore, a citizen who was mentioned in a police report but ultimately cleared of any wrongdoing has no legal recourse against a student publication that published his name in conjunction with accurately reporting on the incident.

Even if a news article disclosed a private fact about someone that was highly offensive, the publication would not be liable for invasion of privacy if the disclosure was newsworthy. Courts will often defer to the editorial judgments of news outlets to determine what is "news" and what is of legitimate concern to the public.⁴ News articles about crimes and violations of student conduct codes (as likely occurred here) are newsworthy to the campus and local community and will almost certainly not be the basis for an invasion of privacy claim.

Now, consider the claim of libel. Your publication would not likely be liable for libel with respect to Joe's belief that he has been falsely labeled an alcoholic.

A statement is legally defamatory only if it is reasonably understood by the recipient to be defamatory.⁵ In reviewing allegedly defamatory statements, courts will construe words according to their common meaning and in the way the recipients of the statement would normally interpret them.⁶ A reasonable reader

would not interpret an article about a student receiving a citation for alcohol possession in the dorms as a suggestion that the student is a problem drinker. The article is about a one-time citation and does not provide any further details about Joe's drinking habits. There is no reasonable inference from this article about a citation for alcohol possession that would lead a reader to jump to the conclusion that Joe is an alcoholic.

Your publication would not likely be liable for libel with respect to the beer/whiskey factual mistake (assuming that it is a mistake, which you'll of course want to verify) for two reasons. First, many (but not all) states recognize a "fair report privilege." This privilege states that a publication cannot be held liable if it fairly and accurately restates the information in a government record, proceeding or meeting that is open to the public and that deals with a matter of public concern, even if some of the information turns out to be hurtfully false.⁷

The idea behind this privilege is that a publication should be able to inform its readers about government activity without having to independently verify every factual statement. Police reports are considered reports of an official action subject to the fair report privilege.⁸ Therefore, as long as your publication accurately quoted the police report, it could not be liable for libel if the law of your state recognizes a "fair report" privilege.

Note that the online venue does not change the basic legal ground rules of publishing. Content that is lawful when printed on paper doesn't become unlawful just because it is potentially accessible to more readers by being posted online.

Even if no police report was involved, your publication would probably be in the clear because publications will not typically be held liable for libel for minor factual inaccuracies in their articles if these errors do not significantly alter the essence or gist of the larger message.

This is known as the "substantial truth" doctrine.⁹ Courts have held allegedly libelous articles as substantially true despite such factual inaccuracies as mistaking marijuana for cocaine.¹⁰ The gist of the story about Joe is that he was cited for unlawful possession of alcohol. It is unlikely that a court would hold a publication liable for libel based on mistaking beer for whiskey.

Your publication would not be liable for libel with respect to not reporting the charges being dropped. A publication cannot be held legally liable for its failure to update a past news article when the facts surrounding the subject of that article change. Of course, basic journalism ethics require you to correct factual inaccuracies when you become aware of them.

If, however, your publication decides to update the body of the article, proceed carefully. Changing and then re-posting the article's text could constitute republication of the material and reset the statute of limitations (a law that requires an injured party to bring any legal claim within a specified period of time) to sue for libel.

Most states follow the "single publication" rule,¹¹ which states the statute of limitations for libel begins when the defamatory content is first published no matter how often the exact same content is subsequently published in the same medium.¹²

Many courts have ruled a modification to a Web site that does

not change the defamatory content does not constitute a republication of that content.¹³ But, if changes are made to the work containing the problematic content, there is a chance a court would treat the changes as a new publication of the material, causing the statute of limitations to begin anew.

To avoid the threat of liability for republication of libel, when updating past news articles, student media should post clarifications or corrections at the top or bottom of the web page where the defamatory material appears, and steer clear of tweaking the language of the original news article. Also, consider asking for a signed release from the agitated reader making clear that, if the publication publishes a specified correction, that correction will fully satisfy all complaints. And of course, make sure that Joe provides verifiable documentation to support the changes he is demanding.

Former staff members or contributors who withdraw consent to have their material posted

While student journalists graduate and move on to the next phases of their lives after completing high school or college, the work they have created in their student publications is frozen in time.

For many former student journalists, these works provide a

sense of nostalgia and a glimpse into their thoughts and attitudes while they were students. Some student journalists may get a different sensation from reviewing these works: stress. Student journalists who made provocative or controversial statements in their journalistic work – or just wrote a piece or drew a cartoon that doesn't meet their current quality standards – sometimes ask the publications to take down these pieces so they are not found when prospective employers conduct Internet searches. The determination of who can control the posting of the article or column – the publication or the former student – depends on copyright law.

Suppose you get a letter from a former columnist at your newspaper demanding the paper take down a series of columns she wrote that can be found in the newspaper's online archive. Her columns contained her bluntly stated views on same-sex marriage, which could come back to haunt her as she pursues a political career. You have also received a letter from a former student whose letter-to-the-editor was published two years ago and is among the first five results when his name is typed into an Internet search engine. He asks it be taken down because he fears his comments advocating legalization of marijuana could affect his graduate school applications.

Understanding who has the right to control the use of a piece of creative work – a story, a photo, a cartoon – requires a little knowledge of copyright law.

In the United States, copyright ownership "vests initially in the author or authors of the work."¹⁴ An "author" is the person who creates the work by "translat[ing] an idea into a fixed,



A model copyright agreement drafted by the Student Press Law Center is available online at <https://www.splc.org/copyright-agreement>.

tangible expression entitled to copyright protection.”¹⁵ Therefore, as a starting point, authors own the copyright interest in their works and have the right to dictate how their work is used, including how it may *not be used*.

An exception to copyright rule — known as the “work made for hire” doctrine — says that when an employee prepares a copyrightable work in the scope of employment, the *employer* is the copyright holder.¹⁶

To determine if this doctrine applied to the columnist (it obviously would not apply to a one-time letter-to-the-editor author), your publication would have to take a close look at the relationship between the columnist and the publication. Did the columnist receive compensation for her work? Did she receive any benefits in exchange for her work? If the columnist appeared to be a “real” employee, your publication would most likely have full copyright control of her columns and would not have to comply with her takedown request — the right to initially publish the work implies the right to archive the work. But the “work made for hire” doctrine almost never will apply in the unpaid high-school setting, and relatively rarely in the college setting, unless the writers are salaried.

To avoid copyright conflicts with columnists, letter-writers and other contributors, your publication could require all contributors to sign an agreement stating that upon submission of their work, the publication assumes ownership of the contributor’s copyright interest and the contributor relinquishes control of that interest.

This agreement will provide your publication with control over how the contributed work is used and remove any concern about a contributor’s attempts to restrict the availability of his or her work after it was published.

Claims arising out of reader-posted comments or discussion threads

More and more student publications are permitting their readers to post online comments to articles and columns. Though it is debatable whether these comments contribute to the exchange of ideas and intellectual debate, there is no debating the fact that readers’ comments are often lacking in proper grammar and spelling, and may sometimes border on defamation. In addition, online comments — and online media as a whole — have created new opportunities for copyright infringement.

Again, remember that online publishing does not alter the fundamental legal rules — libel is libel no matter where it appears, and all of the same legal defenses apply. And also remember that your publication’s liability for online content will depend on whether the content is internally generated, or is deposited on your website by an outside third party.

Let’s say your publication recently wrote a news story about an off-campus party where a fight broke out that involved popular student athletes. You included a photo taken at the party that was posted by the photographer to her Facebook account, without asking the photographer for permission. In the online comments section, a commenter named a prominent athlete and alleged

that he raped a woman at the party. Another commenter posted a photo that shows a crowd of people congregating on the lawn outside of the party at the time the police arrived. You receive three takedown notices: (1) from the photographer of the Facebook photo, (2) from the student athlete who was accused of rape but can document that he was out of town that weekend, and (3) from the photographer of the crowd photo, who claims his photo was posted without his permission.

Start with the copyright status of the first photo. Copyright laws apply equally online and in print. If your publication wants to use a copyrighted work, it must obtain permission from the copyright owner.

Explicit permission (preferably in writing) is necessary to avoid potential liability for copyright infringement. The need to obtain permission from a copyright holder applies to almost any creative work published online that would be attractive to a student publication, including art, photos, music, written work, videos and similar items.¹⁷

While it is always best to attempt to obtain consent, whether you must pull down the “borrowed” photo will depend on how the copyright-law doctrine of “fair use” applies to your use of the image.¹⁸

The SPLC has an extensive copyright-law guide (available online at <https://www.splc.org/legalresearch.asp?id=32>) that can help you evaluate whether your use falls within an exception to copyright protection as a fair use (though consulting that guide does not substitute for consultation with licensed counsel in your state).

But to simplify, a nonprofit student media outlet’s use of the image in connection with news coverage — especially if the image is itself newsworthy — may well qualify as a fair use. For instance, if the Facebook photo is a key piece of evidence in the college’s investigation of the fight, then the photo is part of the story and has independent news value, which increases the likelihood that its use is “fair.”

Your publication should not be liable for libel if it removes the online comment about the alleged rape, leaves it untouched, or removes only the defamatory statement and leaves the rest of the comment alone.

In 1996, Congress passed the Communications Decency Act.¹⁹ Section 230 of the Act states that no Web site “shall be treated as the publisher or speaker of any information provided by another information content provider.”²⁰ In addition, the law states no Web site will be held accountable for good faith actions taken to restrict access to material the Web site operator “considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected. . . .”²¹

No published court opinions have applied Section 230 to student media Web sites, but they would likely be covered because the law has been interpreted to apply to a wide range of Web sites.²²

Under Section 230, Web site operators qualify for immunity if they are not the “publisher or speaker” of any information provided by “another information content provider,” meaning the person who actually writes the posting. As a result, any libelous comment should be attributable only to its writer. (The publication may, however, face a demand to turn over any identifying information that would help trace down an anonymous third-party commenter.) The editors should adopt, maintain

and enforce a policy for responding to such demands that is consistent with the terms and conditions of use of the Web site's comment features.

Student publications are likely to receive Section 230 immunity as long as they are not deemed to be a "co-creator" of a comment written by an outsider. When a student publication encounters a potentially problematic online comment it has three options: remove the comment from the Web site entirely, remove the offensive or illegal portion, or allow the comment to remain in its original form. If a publication's staff members rewrite a comment in a way that can be perceived as adding content or substance to it, the student publication risks losing its Section 230 immunity.

Your publication should not be liable for copyright infringement of the second photo as long as it follows the "notice and takedown" process created by the federal Digital Millennium Copyright Act (DMCA).

Similar to the Section 230 provisions of the Communications Decency Act, discussed above, the DMCA creates a "safe harbor" that will prevent Web sites from being held liable for copyright infringement by a third party.²³

Under the DMCA, a website can obtain immunity from copyright infringement only if does not have knowledge of the infringement or responds quickly to take the infringing material down or block access to it as soon as it knows or becomes aware of the infringement.²⁴ To be eligible to obtain immunity, a Web site must register with the United States Copyright Office in advance and clearly post information on the site about how a copyright owner can give notice of possible infringement.²⁵ The person claiming copyright infringement must notify the Web site and provide detailed information about the alleged infringement.²⁶

The SPLC's Mike Hiestand has provided a detailed analysis of the workings of the DMCA's "notice and takedown" process as it might apply to a student media outlet, available online at <http://www.studentpress.org/nsipa/trends/-law0505hs.html>.

Conclusion: Takedown demands involve more than legal considerations

Legal considerations are, logically, the most obvious factor influencing the decisions student media make regarding takedown demands. If a publication will be civilly liable for online content, it may feel compelled to comply with the takedown demand. But what about instances where the law is on the publication's side?

In anticipation of these situations, a student publication should consider the mission of its online presence and develop a consistent takedown policy that suits the mission. If a publication's purpose is to serve as an electronic historical record, the staff will want to avoid discretionarily pulling down content for which there is no legal liability.

If the purpose is to serve as an outlet for news and comments that is constantly changing with content often being rotated out, the staff may be more willing to take down material when requested to do so, because of the publication's desire to be fluid with its online content.

Ethically, the publication will want to establish and consistently enforce a takedown policy to avoid a perception of favoritism (for instance, that recently graduated writers with friends on the newspaper staff can get embarrassing old columns pulled

down from the site, while those without "inside connections" cannot).

Student publications should have a basic familiarity with the areas of law that will be the basis for most takedown requests. A takedown policy – created to guide these decisions when the law does not provide a definitive answer – can be helpful in maintaining a consistent approach to takedowns that is in accord with the publication's editorial mission. ■

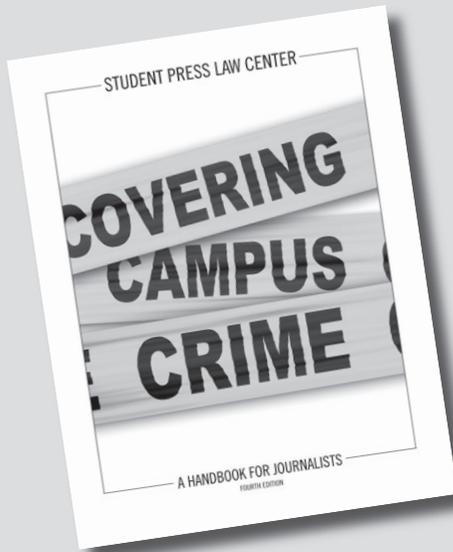
— Wayne Pollock is a graduate of Georgetown University Law Center and is the SPLC's Legal Fellow.

Endnotes

- 1 RESTATEMENT (SECOND) OF TORTS § 652D (1977).
- 2 420 U.S. 469 (1975).
- 3 *Id.* at 495–96.
- 4 RESTATEMENT (SECOND) OF TORTS § 652D cmt. d.
- 5 *See id.* § 563.
- 6 *See Southard v. Forbes, Inc.*, 588 F.2d 140, 144–45 (5th Cir. 1979).
- 7 RESTATEMENT (SECOND) OF TORTS § 611.
- 8 *See, e.g., Kenney v. Scripps Howard Broad. Co.*, 259 F.3d 922, 923–24 (8th Cir. 2001); *Cobin v. Hearst-Argyle TV, Inc.*, 561 F. Supp. 2d 546, 550–51 (D.S.C. 2008); *Whiteside v. Russellville Newspapers, Inc.*, 2009 Ark. 135, 142–143 (2009).
- 9 *Masson v. New Yorker Magazine*, 501 U.S. 496, 516–17 (1991).
- 10 *Cobb v. Time Inc.*, 24 Media L. Rep. 1585, 1591 (M.D. Tenn. 1995).
- 11 RESTATEMENT (SECOND) OF TORTS § 577A (1977).
- 12 *Id.*
- 13 *See, e.g., Atkinson v. McLaughlin*, 462 F. Supp. 2d 1038, 1051–52 (D.N.D. 2006); *Churchill v. State*, 876 A.2d 311, 316–19 (N.J. Super. Ct. App. Div. 2005) (citing seven courts that apply the single publication rule to Internet publications); *Firth v. State*, 775 N.E.2d 463, 464–67 (N.Y. 2002).
- 14 Copyright Act of 1976, 17 U.S.C. § 201(a) (2006).
- 15 *Cmty. for Creative Non-Violence v. Reid*, 490 U.S. 730, 737 (1989).
- 16 *See* 17 U.S.C. § 101, 201(b).
- 17 *See* 17 U.S.C. § 102 (2006) (listing the types of creative works protected by copyright).
- 18 *See id.* § 107.
- 19 Pub. L. No 104-104, §§ 501–561, 110 Stat. 56, 133 (1996) (codified as amended in scattered sections of 18 and 47 U.S.C.).
- 20 *See* 47 U.S.C. § 230(c)(1) (2006).
- 21 *Id.* § 230(c)(2).
- 22 *See, e.g., Nemet Chevrolet, Ltd. v. ConsumerAffairs.com, Inc.*, 564 F. Supp. 2d 544, 547–48, 551 (E.D. Va. 2008) (holding a Web site that hosts consumer reviews is entitled to immunity under § 230); *Langdon v. Google, Inc.*, 474 F. Supp. 2d 622, 631 (D. Del. 2007) (holding Google, Yahoo, and Microsoft are entitled to immunity under § 230).
- 23 *See* Online Copyright Infringement Liability Limitation Act (OCILLA), 17 U.S.C. § 512(c) (2006).
- 24 *Id.* § 512(c)(1).
- 25 *Id.* § 512(c)(2).
- 26 *Id.* § 512(c)(3).

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