Free expression behind bars

Inside: Arkansas tramples Hazelwood, page 18
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Champion of Student Press Awards presented to advocates by SPLC

John Seigenthaler, chairman of the Freedom Forum First Amendment Center, Nashville, Tenn., and Janet Richards McAulley, four-term Dade County, Fla., School Board member, were named the first recipients of the Student Press Law Center's Champion of the Student Press Award.

Lifelong dedication to speech and press rights for all Americans and specific work with high school and college age students were cited as reasons for Seigenthaler's and McAulley's selection.

Janet McAulley has been a staunch defender and supporter of student and human rights throughout her life. In her years as a Dade County School Board member, including a term as president, she has been a significant voice in the establishment and preservation of the Dade County policy on student press freedom, which has been a national model because of the independence it gives to the student press, SPLC Board of Directors President Nancy L. Green said.

John Seigenthaler has been a defender of free speech and press rights since he was a youth and has been steadfast in his defense of student press rights throughout his career as a reporter, editor and publisher at the Nashville Tennessean, an assistant to Attorney General Robert Kennedy during the civil rights movement of the 1960s and as chairman of the Freedom Forum First Amendment Center. He is the preeminent voice on free speech and press rights in America, Green said.

The Champion of the Student Press Award was created by the SPLC board to recognize persons and organizations that have aggressively protected First Amendment freedoms for students. The award was initiated as part of the Center's celebration of its 20th Anniversary as the only organization in the country dedicated to protecting the free press rights of students.

McAulley received her award at a March 16 presentation to the Columbia Scholastic Press Association Advisers Association during its annual meeting on the Columbia University campus in New York City. Seigenthaler received his award at a March 17 speech to the College Media Convention sponsored by College Media Advisers and the Columbia Scholastic Press Association during its annual meeting at the Marriott Marquis Hotel in New York City.]

The Report staff

Danny Hiestand, an avid follower of Mark Trail, will be a junior at Western Washington University majoring in journalism. Danny's singular goal in life are to meet Harold Reynolds, see the Seattle SuperSonics win an NBA championship, and master subject-verb agreement. As far as canned hams go, he likes 'em.

Sue Anne Reed, Queen of the Internet, served this internship during a period of crisis in her life. A former student of Northland College, where she served as editor of the Wedge and DRIFTS, a current student at the College of Marin and a member of the Echo Times staff, she perseverantly hopes to get her life, including her dislocating knees, straightened out before she moves on this fall to complete her bachelor's at an unknown location. She can be reached via e-mail at fluzy@crlcom.

Kendra L. Williams is, quite frankly, the best damn H.R. that ever lived. She is facing her B.A. in English from Mary Washington College this May after a torrid, all-night affair with Milan. This fall, she will pursue her M.S. in journalism at the University of Illinois at Urbana-Champaign, just a scant 90 minute drive from her future hubby. Coincidence? We think not.

Beth Sims will be a May 1995 graduate of the Communications Law Institute at the Catholic University of American in Washington, D.C., and was a 1992 graduate of the University of Alabama, where she received her B.A. in Telecommunications. She has accepted a position as an associate with the law firm of Irwin & Campbell, P.C., in Washington, D.C., where she will practice communications law.

Arkansas makes six

Their men's college basketball team fell one game short of winning the national championship in March, but Arkansas high school student journalists won big in April when Arkansas became the sixth state to pass a law that specifically protects student press freedom. Gov. Jim Guy Tucker signed the bill into law on April 10 after it won unanimous support of the Arkansas Senate and passed the state house of representatives 81 to 4.

In passing the Arkansas Student Publications Act, the state joins California, Colorado, Iowa, Kansas and Massachusetts in enacting a so-called "anti-Hazelwood law" that gives back to high school student journalists most of the same free expression protections that they enjoyed prior to the U.S. Supreme Court's 1988 Hazelwood School District v. Kuhlmeier decision. That decision, which permitted a high school principal to censor accurate and otherwise protected stories on divorce and teenage pregnancy from a Missouri high school student newspaper, significantly cut back on the First Amendment protection available to most high school student journalists. The Hazelwood decision has been widely criticized by journalism educators and civil rights groups as being both too restrictive and too confusing.

To date, 29 states have considered or are currently debating similar legislation. The Student Press Law Center congratulates those in Arkansas who worked to make this law a reality and to make their state a national leader. We hope other states will follow that Arkansas example and make clear that educating students about democratic values is one of the most important tasks of our schools.
Cover Story

Student journalists in jail?

Students across the country are beginning to fear more than just being censored when it comes to the articles they write and the papers they publish. Officials who have failed at quieting student journalists through traditional means—suspension or expulsion from school—are now using legal sanctions, including jail time, as a means for censorship.

Six articles in this issue of the Report highlight student journalists who have been arrested, charged or threatened with prosecution after problems with the school administration or local police.

WASHINGTON — Stacey Burns, high school senior in Mountlake Terrace, faces charges of contempt after refusing to turn over staff photos to local police. Two staff members took the photos during a large, racially motivated fight in the school’s parking lot. Snohomish County Judge Ronald L. Castelberry viewed the pictures and ruled that they should be turned over. Burns has said that she would go to jail before turning over the photos, and her attorney is currently appealing the judge’s decision to the Washington Supreme Court. (See HIGH, page 11.)

NEW YORK — Seventeen-year-old Josh Herzog of Monticello was arrested after he published and distributed an underground newspaper throughout his high school. Police charged Herzog with inciting a riot and searched his home. A few weeks later, all the criminal charges were dropped. (See STUDENT, page 6.)

COLORADO — Robert Betts pleaded guilty to a charge of threatening to injure a person or property in connection with flyers he posted around the University of Colorado at Colorado campus this past fall promoting his publication. The editor of an alternative paper, the Monkey Wrench, had posted flyers throughout Denver with the phrase “Kill a cop for Jesus” to get attention. He received a sentence of six months probation.

MICHIGAN — In one of the most celebrated Internet cases since the beginning of the Information Superhighway, University of Michigan student Jake Baker was arrested and charged with transporting threatening material across state lines. The charges stemmed from Baker’s Usenet postings that detailed the rape, torture and murder of a female Michigan student. Baker is awaiting trial on the charges. (See ADMINISTRATORS, page 21.)

NEW MEXICO — Grace Lego, editor of the Talking Stick at the Institute of American Indian Art, spent five days in the county jail, was charged with assault with a deadly weapon and was expelled from the college after printing articles that criticized the college administration. Lego pleaded guilty to a misdemeanor petty battery charge and was sentenced to three months probation. The other student involved in the fight, the college president’s cousin, took offense with Lego and the articles she had written and verbally assaulted Lego for several minutes before Lego initiated the physical contact. (See EDITOR, page 24.)

MASSACHUSETTS — Michael Strong, editor in chief of the Salem State Log, was arrested and criminally charged with assault after he told students who admitted to confiscating 1,500 of the Feb. 2 issue of The Log to “put the papers back or I’ll smack you.” Strong said that members of the African-American Student Association admitted they removed the papers, from distribution sites because they disagreed with a front-page story that described a fight that took place after an AASA-sponsored dance. Strong, who was engaged in a heated discussion with the students, was trying to explain that stealing the papers is a violation of The Log’s free press rights when a campus police officer overheard his comment and charged him with assault, although the charges were dropped. (See NEWS-PAPER, page 28.)

If this trend continues and school administrators begin to see criminal prosecution as a viable option when internal efforts to censor fail, student journalists at both the high school and college level may have to become familiar not only with the First Amendment but local police procedure as well.
H. S. Censorship

Nothing Left To Give

Against the odds and the law, many student journalists feel frustrated in their search for free press rights

Although the voices may differ, the message is the same. Throughout the country, many high school journalists say they are trapped in a destructive cycle that lulls them into a sleep of complacency and kills their drive. George Bernard Shaw "[a]ssassination is the extreme form of censorship." While Shaw may have been referring to physical assassination, extinguishing a journalist's will to fight censorship can be just as effective.

Most high school student journalists do not enjoy the same First Amendment protection as journalists outside school. The Supreme Court's 1988 Hazelwood ruling, which allows school officials to censor most school-sponsored student expression if they determine their censorship is "reasonably related to legitimate pedagogical concerns," has only separated the professional and student journalists even more.

Like their professional counterparts, however, student journalists want to write about the issues they deem important. When this inclination is not permitted or respected, many students harbor feelings of anger or confusion. In many cases, as the censorship becomes routine, such feelings are replaced by indifference.

"I felt like our basic rights had been snuffed out by the administration of our high school. [The newspaper staff] all more or less feel that way," said Alabama high school journalist Jason Peel. Peel, a senior at Charles Henderson High School in Troy and a writer for the Trojan Myths, was first censored after he wrote a feature on Lollapalooza, a nationally touring musical event.

The publications review board at Peel's school, which is appointed by school administrators, said the article contained references to alcohol consumption and nudity, and recommended that the principal remove it, which he did. Peel said the article, "was an observation of what went on at the concert, what I saw." Since that initial censoring, Peel said, "There's not a paper that goes through the censorship board without being censored. We have been railroaded," said Peel.

"It's like fighting in a cycle. Administration, principal, board of education. Administration, principle, board of education. There's no way to stop it unless we get into the court system," said Peel, adding that he cannot bring his paper's case to court because of the high lawyer fees.

"I feel that given a Utopian world, we could go to court and get an injunction against the school. I believe that in my situation there is nothing I can do."

Sometimes censorship involves more than removing just an article. Jennifer Flegle, a junior at South-Doyle High School in Knoxville, Tenn., and a contributing writer for the Phoenix, the school's student newspaper, was kicked off the newspaper in December after writing articles on marijuana legalization, gay rights and homelessness. "I was furious. [It was a] major injustice," said Flegle. Flegle attributes her removal to the "liberal" content of her articles.

(See FRUSTRATION, page 10)
NEW YORK — Josh Herzog is like many 17-year-old boys. He plays bass guitar in his band and hopes to someday be a musician. Herzog, an average student, hopes to pursue his musical ambitions in New York City after his high school graduation in Monticello.

Herzog could be considered a normal teen with one minor exception — he was arrested and charged with criminal nuisance and inciting a riot — crimes that can pack a penalty of up to a year in jail and a $1,000 fine. As part of their investigation, police entered his home without his parents' consent and confiscated what they believed to be evidence against Herzog.


Instead, Herzog was arrested by police in January for publishing an underground newspaper at his home and circulating it throughout his high school. Computer disks used for distribution of the newspaper were confiscated by police. They later dropped the charges.

Herzog's newspaper, entitled the Sub Station, caused school officials to become upset because of the graphic nature of the articles in it.

The controversy focused on two articles in the newspaper — one that made derogatory remarks about a female student and another that criticized school officials and asked students to throw trash on school grounds, urinate on the floor, and "wear your Pot, Acid, Alcohol, and Revolution T-shirts."

"Cloud the bathrooms with your glorious cigarette smoke. We can't bow down any more. We are almost 1,000 strong. Not even the police can handle a crowd of this size. This is OUR school. Let us show these power hungry, egotistical, non-caring bastards something," said the article.

Herzog said he feels there was a definite overreaction by the school and the police. "Instead of just telling me not to do it, they arrested me," said Herzog.

"This is the most amazing thing I've seen in many years," said Mark Goodman, executive director of the Student Press Law Center.

"There are no court cases where a high school student has been criminally prosecuted for something included in a student publication," said Goodman.

According to Jesse Conway, the author of the article, his writing was not intended to advocate violence, but to encourage change. "My ideas are kind of radical, but not violent," said the 17-year-old Monticello High School student. Both Conway and Herzog were suspended from school for 10 days because of the newspaper.

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OREGON — Sixteen-year-old Ezra Holmlund is frustrated. The junior class president at Centennial High School in Gresham was suspended from school for writing an article in an underground newspaper that ended up scooping the local media. In addition, he was temporarily dismissed from his office as junior class president.

The controversial article, written in his newspaper The Goons of Hazard, discussed an instructor of 15 years at the school who abruptly resigned from his position in March. Holmlund, upset over the secrecy of the resignation at Centennial High School, decided to take matters into his own hands. Holmlund discovered that the resignation coincided with allegations made by an 18-year-old student that she had sex with the teacher.

"I didn't think the school officials wanted a bad reputation," said Holmlund, "I think they wanted to keep (the resignation) under locked doors."

After Holmlund printed the paper on his parents' personal computer and distributed 60 copies on campus, he was called into the assistant vice principal's office. School officials said that he had violated a school policy that banned circulation of unauthorized material on campus.

After the paper was distributed, the student who had made the accusations came forth to verify the story. Despite this, school officials upheld the punishment.

Centennial principal Clark Brody said in the Portland Oregonian that the sexual misconduct article did not play a role in the suspension. Rather, it was the publication itself.

The U.S. Court of Appeals for the Ninth Circuit, which has jurisdiction over the state of Oregon, has ruled that underground newspapers may be distributed on campus without school approval or review — a decision that directly contradicts Centennial High School's policy.

Holmlund and his parents met with Centennial High School officials in late March, including Principal Clark Brody, and school officials reinstated Holmlund as junior class president.

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Sex scandal scoop causes stir

Principal George Will, who arrived in September 1994, reinforced several school rules that were previously ignored. Among other things, (See MONTICELLO, page 9)
Principal claims student underground caused near-riot

Student is removed from journalism class after 'disruptive' event

NORTH CAROLINA — High school student Michael Terenzi decided to let out a Scream, and his principal slapped him with a 10-day suspension and a boot out of journalism class in March.

Terenzi, a junior at Sun Valley High School in Matthews, was accused of inciting a riot by his high school principal, Sandra Niedzialek. The charge and suspension were brought against Terenzi after he distributed one edition of The Scream, an underground newsletter he wrote and published, on the Sun Valley campus.

According to Niedzialek, the suspension was not because of the paper itself, but because of the disruption it caused in the school, and the way Terenzi "talked disrespectful to me." Niedzialek also said that a school board policy requiring prior review by administrators of student publications distributed on school grounds led to the decision to suspend Terenzi. Terenzi claims that his dismissal from journalism class was based on The Scream, while Niedzialek said that poor class performance in his journalism class and "not being a good role model for other students" led to his dismissal. Terenzi said that he maintained above average grades while in journalism class.

An article in the underground newspaper bashed Niedzialek, saying that Sun Valley High School was "slapped in the face with a woman who nobody appreciates...." The article also respelled her last name as "Niedsaklel," complained about school functions that were supposedly and "probably" cancelled, and criticized Niedzialek for not reporting bomb threats made against the school.

Niedzialek said that Terenzi's facts were not straight concerning the report on the cancellation of the school's talent show and "Spring Fling" events.

Niedzialek said the paper's claim of the cancellations "made kids furious," causing classroom discussions to focus on the paper. Niedzialek also said that several students attempted to leave class prematurely and that teachers had to block the exits.

Niedzialek said that the bomb threats were not disclosed because the situation was under control by the police.

"[The newsletter] wasn't an appropriate way to express himself," said Niedzialek.

"He needs to get his facts straight."

According to Terenzi, 350 to 400 copies of the newspaper were given to students in school hallways before school started. After Terenzi arrived in his first period class, he said that Niedzialek first spoke on the public address system, complaining about the publication. Because the writer of the Scream was not known, identified only by the pen-name "Olac," Niedzialek could not blame anyone. Later in the day, after Niedzialek discovered that Terenzi was involved, she called him to the office.

Niedzialek informed Terenzi he was suspended from school for ten days, citing Sun Valley High School's policy that prohibits "behavior that incites to riot — that is, encourages other students to join in disruptive behavior." In addition, Terenzi was kicked out of his journalism class. According to Terenzi, Niedzialek told him students were requesting to go home early from school because of a "big riot" the article caused.

Niedzialek named one history teacher, Scott Jacumin, as a teacher who had a disruption problem, but could not remember any other faculty members.

Although Jacumin said that his class was in a "fervor" over the article, the class was always under complete control.

"I chose to take that opportunity to talk about free speech rights," said Jacumin. He said that he did not personally see any students attempting to riot or go home because of the article.

"She was just looking for a reason to kick me out of school," said Terenzi. After his parents met with Niedzialek to discuss the situation, Terenzi said that Niedzialek told him he was not allowed to distribute the letter off campus, and that if another copy of the letter appeared on-campus, he would be suspended for another ten days.

According to Niedzialek, she told Terenzi that he would be suspended if he distributed the newsletter on-campus, not off. Terenzi distributed approximately 200 Screams, his second edition, off-campus without any problems.

"You don't have to like what I write," wrote Terenzi in his first article, "but I would like it to be listened to."
court rules prior review policy unconstitutional

IDA — A federal district court in June 1994 that a Lakeland elementary school policy that required, as to submit non-school-sponsored materials to school officials prior approval prior to distribution on school grounds violated the First Amendment. 

Johnston-Loehner v. O'Brien, 575 F. Supp. 2d (M.D. Fla. 1994), arose when a Spanish-Speaking student against a Wisconsin district policy prohibiting the showing of any film having a rating of R, NC-17 or X. The court ruled for the school district. The school district denied Borger's request to view the movie, relying on a policy that prohibited the showing of any film having a rating of R, NC-17 or X.

In January, a federal district court ruled for the school district. "The School Board has established, through literature on the Motion Picture Association of America, that relying on the ratings is a reasonable way of determining which movies are more likely to contain harsh language, nudity, and inappropriate material for high school students. Borger has not presented any evidence to counter this evidence," the court wrote in Borger v. Bisciglia, Civ. No. 94-C-927 (E.D. Wisc. Jan. 4, 1995).

"A school board has a right to determine its curriculum," said Superintendent Anthony Bisciglia. "This was not a case of censorship. The students had other opportunities to see the movie."

Bisciglia believes that school-sponsored functions should not include the nudity, sex and violence contained in a movie like Schindler's List.

ACLU Attorney Christopher Ahmuty, who helped Borger file the class action suit, had different thoughts. "We thought we offered the judge a chance to distinguish this case from other cases, but the judge didn't take us up on the offer," said Ahmuty.
Monticello

(Continued from page 6)

Will tightened the dress code and supplied walkie-talkies for himself and other assistant principals — to which students objected. According to Herzog, the newspaper’s purpose was to let the administration know how some students felt about the administration’s actions. The eight-page paper also included articles on music and sports.

"In a way, yes, [the newspaper] did promote an unsafe atmosphere] and in a way no. I will admit to that. [But] I know the senior class better than the administration does. I knew that [the article] would get read. I didn’t think that anyone would actually do anything like that [what the newspaper said]."

The Penal Law of the state of New York says that inciting a riot is a crime in which: A person "urges ten or more persons to engage in tumultuous and violent conduct of a kind likely to create public alarm."

According to Principal Will, there was an increase in vandalism, smoking in the bathroom and disobedience after the article was written for about two to three weeks, but he did say there was no way he could attribute those actions directly to the article.

Herzog was first questioned by the assistant principal regarding the Sub Station. After the questioning, Herzog admitted to publishing the paper. A school attorney then advised school officials to notify the police. After the police were notified, a copy of the Sub Station was taken to District Attorney Stephen Lungen’s office and the police were given permission to proceed with the investigation.

Herzog was arrested and taken to his house where it was entered by police. The police then seized his parent’s computer disks holding the Sub Station information. Will said that Herzog "gave" Vice Principal Ivan Katz and police permission to enter his home after he signed a written consent. Will declined to comment further, citing legal concerns over a multi-million dollar civil law suit filed by the Herzog family against the school and the police department.

Monticello Police Chief Michael Brennan said that the Monticello Police Department did what they were told to do.

"I really don’t have anything to say," said Brennan. "We were directed by the few weeks, they decided to drop the charges.

According to Herzog, the school coerced the police into entering his home after he was questioned by school officials. "[The school had] no evidence or testimony that he did anything on school grounds," said Mark Schulman, Herzog’s lawyer.

Lungen denied that the school coerced police officials into intervening. "The school was validly concerned," said Lungen.

Schulman said the school and the authorities overreacted when they entered Herzog’s home with only the signed consent of the student.

Schulman cited a Monticello High School policy that requires school officials to make a concerted effort to contact parents if the student requires law enforcement intervention. If the parents are unavailable, the school becomes responsible for the student. At the time of the incident, Herzog’s parents were out of town.

"Mr. Katz had absolutely no right to allow police to talk to Mr. Herzog, or to be in their home," said Schulman. After the police entered the home, Herzog downloaded the Sub Station material onto a disk, and police officials seized it.

"They basically intimidated me [into signing the form] and if I didn’t, [they said] I could spend up to a night in jail," said Herzog. Herzog said he only signed the consent form because "they were going to get a search warrant."

For now, Herzog’s parents are hoping to clear the student suspension off his school record in an upcoming school hearing, while their civil law suit is pending. Jeff Herzog, Josh’s father, said that the civil suit is a response to irresponsible action on the part of the school and police department.

"Basically, they denied us constitutional rights. They didn’t have a search warrant and coerced Josh to give permission," said Jeff Herzog, who compared police action to Nazi storm troopers. Herzog’s father also faulted the school for not acting responsibly on Josh’s behalf.

"C’mon, we’re not talking about breaking down doors here," said District Attorney Lungen. "Let’s not make this a bigger issue than it is."
H. S. Censorship

Thursday

oriented from page 5)

frustration

ng her community and school are gen-
y conservative in their views. Flegle, who describes herself as a "very 
al conservative," reasoned that her- lees were written to present a more ctive publication. After three meet-
with South-Doyle's principal, Mike ith, and the threat of legal action nst the school, Flegle was reinstated
er paper.
squith declined to comment, saying it would be "detrimental" to the school uminue discussing the situation be- it had already been reconciled.
er her reinstatement to the paper, he was required to sign a contract with oenix and the school in order to in writing for the paper. The con- as read by Asquith, stated that Flegle i submit her proposed article to either pensor or the administration for edit-
and prior review. Asquith said that he in requiring all journalism students on it.
Looking back on it now, I wish I 't sign it, I just got so discouraged," Flegle. "I just didn't care anymore.
Flegle's feeling of dis- agreement is common a growing num-
student journalists.
SPLC has seen a ly increase in the ber of high school orship complaints ittedeach yearsince Dwood.
Manna Duby is the cessor of Education at People for the ican Way, a Wash-
in, D.C., based civil s group. Duby feels the power given to ol officials under Dwood is abused on ular basis.
Tell, they certainly have the legal [to censor]. I guess the more per- question is whether that right is [en- d] responsibly — the answer to that " Duby believes that administrators
have a right to be involved, but she does not agree with the power the law gives school officials.
"I think the problem is that Hazelwood gives too much power to administrators. The power the administrators have has to be exercised in a responsible way," said Duby.
Many school administrators around the country disagree with Duby's ar- gument that administrators have too much power, and justify their ability to censor on the basis of using common sense.
"I don't think you have to be a journal- ist to be a thoughtful and considerate individual — to guide and to teach stu- dents," said Dr. Alan Elko, the Superin- tendent of the North Brunswick school administration in New Jersey. Elko con- tinued, "I think having intellect and values can serve an administrator, a student, and a parent well. Formalized training to journalism is not a prerequisite (to decide on newspaper content)." Elko was in-
strumental in the formation of a prior review panel designed to review North Brunswick Township High School's stu- dent newspaper, the Banner. The panel was formed in January in response to a controversial student article that crit-
ized the Catholic church and caused a community uproar.
According to Elko, the board is set up to "guide and educate journalists," de- spite the fact that some of the board-
members have no journalism training.
"There are times, perhaps, when an- other set of eyes, and another experienced educator provides another viewpoint other than the adviser's," said Elko.
"I believe they should be able to censor, but what they are able to censor needs to be more clearly defined," said Banner ad-
viser Walter Stern.
Stern says that the paper attempted to run an editorial and a news story regarding the review panel, which were met with some resistance. According to Stern, the panel initially wanted to cut the entire editorial. He "negotiated" with the panel, and they ended up cutting some of the phrases dealing with religion because "they didn't want the religion thing to continue. They didn't want to chum it up again," said Stern. The panel, which consists of the assis-
tant superintendent, the principal and an English adviser, did not edit the news story.
Elko, who denied censoring to protect the school's image, said that school offi- cials can censor if the articles are deroga-
tory toward particular groups. "If it's harmful and poses a threat to safety ... if it's prejudicial and alienates certain groups, I think the school has that right," said Elko.

Attempting to help the students, Stern tried to help them win the particular case, and not actually change the school policy. "I coun-
selt the students," Stern said, and told them that "[protesting it on prin-
ciple is a losing proposition. Protestin- it on one point is winnable."
While high school stu- dent journalists around the country continue to be censored, the issue of free expression rights and the importance of the First Amendment are in con-
stant debate.
Nat Henoff, the author of First Freedom and a supporter of free expression once wrote, "If freedom of expression becomes merely an empty slogan in the minds of enough children, it will be dead by the time they are adults."
High school editor refuses to give subpoenaed photos; could face contempt charges for defying police

WASHINGTON — Stacey Burns, editor of the Mountlake Terrace High School student newspaper, faces contempt charges, including a possible jail sentence, for refusing to turn over photos subpoenaed by the local police department.

The controversy began in the last week of January when a fight broke out in the campus parking lot between several Asian and white students. Between 10 and 20 students were involved in the fight and according to various sources, the crowd ranged in size from 50 to 150.

Two photographers for the student newspaper were in the area and took 14 pictures. The film was developed and turned over to Vince Demiero, faculty adviser. The original discussion within the editorial board was whether or not they should publish the pictures. Demiero handed the negatives over to editor Burns, who had a contact sheet made. Demiero has never seen the contact sheet.

Burns received the subpoena and met with the editorial board. As a group, they decided that they would oppose the subpoena.

In deciding that the pictures should be turned over, Judge Ronald L. Castleberry called the fight a melee and suggested that everybody who had seen the fight would have a different version of what had happened.

The photos in question were viewed privately by Castleberry. He ruled that the photos were material enough that they should be turned over to the prosecuting attorney. Burns refused to turn them over and said that she was doing it for two reasons. First to “protect the integrity of the paper” and because we feel at this time the police department hasn’t done all they need to do to obtain the necessary information.”

Burns is not interested in having the Hawkeye become an “arm of the government.”

“In the future, if the Hawkeye has a reputation of handing over photos and notes of things that haven’t been published ... sources would not want to come and talk with us,” Burns said.

“It comes down to the fact that there were 150 witnesses out there. Statements haven’t been followed up on and people haven’t been interviewed by the police. At this time we feel that [the police] haven’t done all they need to do,” Burns said.

Judge Castleberry ruled that he would not hold a contempt hearing until after the subpoena case had been decided by an appellate court.

Burns’s attorney is working on filing papers with the Washington Supreme Court and is hoping for arguments to be held in mid to late May.

Burns has not decided yet how far she is willing to go to protest the subpoena. “My thought process is one day at a time. I haven’t really decided how far I want to take this. In the midst of all this I have to be a student, get through my classes, running a paper ... those are my two big responsibilities.”

Mountlake Terrace High School

Hawkeye

Tennessee appellate court rules in favor of paper

The Mountain Press publisher given permission to print student disciplinary photo

TENNESSEE — The Mountain Press newspaper in Sevierville recently won the right in court to print a picture taken of a high school’s effort to discipline students (Sevier County Board of Education v. Worrell Enterprises, Inc. d/b/a the Mountain Press, No. CA-03A01-94-6-CV-00190 (Tenn. Ct. App., Nov. 30, 1994); 1994 W.L. 66926).

On February 25, 1994, a staff photographer for The Mountain Press took a picture of an alternative class activity being held at the local civic center. The 23 students in the class were being punished for drinking alcohol on a school trip to Mexico.

On hearing of the picture’s existence, the school board filed for a temporary injunction to prevent Bob Childress, publisher, from printing the picture. The picture had yet to be developed.

A Tennessee district court granted the temporary injunction to protect the identity of the juveniles in the class.

A district court judge in March of 1994 made the injunction permanent.

“It’s a matter of principle,” Childress said after finding out that students in the picture were not recognizable. All the picture showed was the arm of one of the students in the class.

Judge William R. Holt Jr., who issued the injunction, decided that “reasonable regulation” justified prior restraint because student disciplinary records were protected by Tennessee law.

In November of 1994, the Court of Appeals of Tennessee ruled that Childress and The Mountain Press did have the right to take the picture. The ruling stated that the picture was not protected under Tennessee law as privileged information.
Court battle rages on for *Minnesota Daily*

The supreme court refuses to hear reporter subpoena case

ESOTA — Two students at the University of Minnesota, still involved in a legal battle stemming from a 1993 neo-Nazi rally. Jesse Rosen, who was covering the Minnesota Daily, was subpoenaed to testify, and Pam Louwagie was subpoenaed to turn over pictures of the disturbance that broke out at the event.

Controversy started after Rosen was interviewed by police and school administrators. His photo, negatives of the stabbing victim, were taken by police, but there is no source at risk. The events were personally witnessed by the reporter.

Rosen was denied a hearing at the Minnesota Supreme Court. As of late April, he had not yet been called to testify in the case.

In the related case regarding pictures that were taken at the rally, prosecutors subpoenaed the Daily editor. Hennepin County Judge John Stanoch originally said that the Daily did not have to turn over the photos. The prosecutor convinced the judge to change his mind about the photos and signed another subpoena telling the Daily to give him the photos so that he could decide which ones were needed for evidence.

Tanick and Rosen appealed to the Minnesota Court of Appeals and were granted a reversal on procedural grounds. The prosecutor has started over in his efforts to get a new court order and according to Louwagie, the judge at the district court is expected to rule any day on whether the pictures will have to be turned over.

Ident’s photos, negatives of stabbing victim confiscated by police and school administrator

AS — A high school student at East High in Wichita, Kansas, is struggling for months to retrieve a roll of photos he took of a stabbing victim in early November. The attorney has said he told the detectives on the case to the negatives that Eric Martin took outside the school.

In a brief statement, Tanick claimed that the Minnesota shield law gave Rosen the privilege not to testify. The appellate level, Tanick appealed to the Minnesota Court of Appeals and was granted a reversal on procedural grounds. The prosecutor has started over in his efforts to get a new court order and according to Louwagie, the judge at the district court is expected to rule any day on whether the pictures will have to be turned over.

‘I am mystified at why they have not released Eric’s property.’

David Martin
Father of photographer
Stanford speech code struck down

CALIFORNIA — In what could be a precedent-setting decision for private colleges and universities, a Stanford University speech code that sought to protect students from bigotry and "fighting words" was knocked down for the count by a California Superior Court.

A preliminary injunction was ordered against the speech code, known as the "Grey Interpretation of the Fundamental Standard," after nine Stanford students and alumni led by former law student Robert Corry filed a suit against the university in May 1994, claiming the speech code was a violation of California's Leonard Law.

The Leonard Law, enacted in 1992, is the only law of its kind in the U.S. It extends First Amendment protections to students at private institutions, and the decision was the first test regarding the law's constitutionality.

Stanford University defended the code, arguing that it did not aim to prohibit "expression of any view, however racist, sexist, homophobic, or blasphemous in content.... Rather, [the school said] that the speech code was only intended to prohibit "fighting words."

"Fighting words," are generally considered words or non-verbal symbols that incite an immediate breach of the peace.

The students argued that the code went beyond prohibiting "fighting words" and that it prohibited the free expression of ideas.

The university also maintained that the code was justifiable because Stanford is a private institution, and only public schools can be forced to abide by the free speech requirements of the U.S. Constitution. Stanford argued California's Leonard Law would be unconstitutional if applied to them because the law would "violate Stanford's First Amendment right to be free of State regulation with respect to its speech," the court wrote.

The court based the decision, Corry v. Stanford University, No. 740309 (Cal. Super. Ct. Santa Clara Cty. Feb. 27, 1995), on its conclusion that the "Grey Interpretation" is "unconstitutional not only due to its over-breadth but also due to its content-based restrictions (on free speech)."

"By proscribing certain words, without even considering their context... whether under a given situation there will be a breach of peace, [the] speech code fails to meet the 'fighting words' standard," wrote Judge Peter Stone.

"We think this is an important decision for students all over the country," said Robert Corry, now an attorney in Sacramento.

Corry believes that Stone's decision will be influential in other college free speech cases that may arise. The decision shows "students that stand up for their rights [against a university] can often prevail," said Corry.

Stanford officials were less than optimistic. Law school Professor Thomas Grey, who helped write the speech code five years ago, believes the court was mistaken in its judgment.

"We were trying to make it [the code] as constitutional as possible," said Grey. The Stanford speech code was created after a 1988 incident involving two white students that defaced a poster at an African-American theme house.

Grey believes the code gave students' guidelines for what was acceptable, and what was crossing the line in free speech. Grey also said the Stanford code was thoughtfully created, prohibiting only "fighting words" directed at individuals, a limited restriction that would avoid any "chilling" effect on student debate.

Stanford officials said they will not appeal the decision because of high legal costs involved.

Texas bill would subject student media to quotas

Proposed law would require publication staffs to reflect state racial, ethnic demographics

TEXAS — A bill proposed in Texas that would require diversity for college student publication "editorial governing board[s] and staff" has raised issues surrounding the role of student publications as an instrument for political correctness. The bill, proposed by state Rep. Ron Wilson (D-Houston, Dist. 131), who is African-American, would essentially call for student publication staffs to "reflect the racial and ethnic diversity of this state."

"It appeared to me that a number of universities in the state are not ethnically diversified," said Wilson.

Because student publications are the only school organizations that would be affected by the bill, some student journalists are crying foul.

"[This bill] unfairly forces us to do something that other student organizations don't have to do," said Tanya Eiserner, editor of the University of Houston's student newspaper, Daily Cougar, which has been following legislative developments in Texas that might affect student journalists.

Wilson labeled the belief that the law is unfair because it only targets student publications as "wishful thinking."

Eiserner also said the bill has "no specifications" in regard to particular colleges, of which some are predominately one race. If passed, the bill would force college student publications to reflect the state race ratio, even if that ratio is dramatically different from the campus ratio.

An example of Eiserner's concern: according to an official at Texas Southern (See TEXAS, page 14)
Controversy teaches First Amendment lesson

Cartoon's artist advises students to confront issue of racism

Pennsylvania — The first time Pulitzer Prize-winning Signe Wilkinson's cartoon was published, about 200,000 Philadelphia Daily News subscribers might have noticed it. Out of those thousands, only one person mailed in a letter of complaint regarding the cartoon.

After the same cartoon ran in a suburban Philadelphia high school student newspaper, a media spectacle surrounding the cartoon's controversy resulted, and some community members were outraged. "Beauty, it isn't the only thing in the eye of the beholder," reported a Philadelphia Daily News article.

The cartoon, which originally ran in November 1994, coincided with the arrest of Susan Smith, the South Carolina mother accused of drowning her two children. Smith originally stated to police that a black man beisted her car along with the children.

In the cartoon, students present a teacher with different excuses for not turning in their homework, including "My dog ate my homework." All of the excuses are ejected until the last frame of the cartoon, when the student tells the teacher, "A big black man stuck a gun in our car and kidnapped my homework."

"Poor child! Are you OK?" the teacher asks, accepting of the child's excuse.

"I did not expect to have the negative reaction that came from Bristol High School," said Wilkinson. After the cartoon ran in the Tiger's Tale, Bristol Township High school's student newspaper, Wilkinson said controversy started because people did not understand the cartoon's aim. The purpose of the cartoon, Wilkinson said, was "to show how easily whites blame things on black men."

"I thought it was so obvious. I'll tell you, I never expected this," said Jerry Kearney, chairman of Bristol Township's English department and the Tiger's Tale adviser. Kearney said he thought the cartoon was bigoted, not an advocate for racism.

According to Kearney, immediately after the Tiger's Tale distribution to students at Bristol Township, Principal Joseph Boles pulled the paper out of circulation and apologized to students over the school's public address system. Boles, quoted in a Philadelphia Daily News article, said that printing the cartoon was "a mistake. If there had been a cartoon on racism along with that cartoon, it could have used as a teaching tool."

"I thought it was a good cartoon, that it clearly made the point about how people readily believe even the most ridiculous accusation as long as you implicate a black man," said African-American Philadelphia Daily News columnist Elmer Smith in a Daily News article.

Leechburg Area High School near Pittsburgh also ran the cartoon, and had a similar reaction with one important difference, said Wilkinson — school officials used the school newspaper controversy to present the argument.

"It was very instructive to me to see how two different high schools dealt with the problem," said Wilkinson. "One [Leechburg] should be emulated and one should be taught as to how things should not be done."

Leechburg's student newspaper ran an extensive article on the cartoon controversy, which included numerous interviews with people on both sides of the argument, an effort Wilkinson applauded. "They looked at the problem square in the face and dealt with it," she said.

School officials, including Principal Boles, declined to comment to the Report, saying only, "the cartoon is over."

In addition to the two Pennsylvania school controversies, several other high school newspapers across the country have had problems after republishing the cartoon.

Wilkinson said she hopes the controversies teach people a lesson on the importance of free expression rights. "Even if my cartoon was racist, the answer to objectionable speech is more speech — not trying to put a lid on it."

Texas

(Continued from page 13)

University, located in Houston, 84 percent of the 10,163 students enrolled at TSU are of African-American descent. The state percentage for African-Americans is 11.9 percent. In order to comply with Wilson's proposed law, a publication staff at Texas Southern would have to adhere to the state's race percentages.

"I can give you tons of Universities that are mostly Anglo-Saxon. Those are the ones that need to be fixed," said Wilson.

"When you are using taxpayer dollars, like they [student journalists] do, you have got to be more responsible," said Wilson. House bill 63 was assigned to the House Committee on Higher Education in January and has seen no action since.
EXAMINING EVALUATIONS

Evaluations of faculty members and other school employees can be the basis for interesting stories — if you can get access to them.

When Maggie was appointed editor of the student newspaper at her state university, one of her main goals was to investigate the effectiveness of the school’s administrators and faculty, and expose any abuses she might find in the administrative process. In recent years, tuition at her school had far outpaced the rate of inflation, yet the perceived quality of education that students received remained unchanged. She wanted to know why. Her first move was to request various information from school officials, including faculty evaluations by students and other faculty members or school administrators, to determine if the school’s faculty and other personnel were giving students their money’s worth through effective teaching and administration.

When Maggie’s information requests were largely denied by school officials who claimed a right to privacy and academic freedom she realized that one of the biggest problems with the school’s administration was that information that was clearly in the public interest was essentially for top-level administrators’ eyes only.

While many schools, public and private, publish the general results of faculty evaluations completed by students in the school’s student newspaper or other publication, many will not disclose the results of individual faculty member evaluations at all. In fact, it is often only one or two top-level school administrators who have access to the actual results of the student evaluations, in addition to the faculty member who can usually review his or her own evaluations.

In this way, holders of faculty and other state employee evaluative information, at the high school level and beyond, have the power in many states to conceal serious problems in the performance records of public employees, including teachers and professors of public high schools and colleges. Realistically, without such information, a high school student...

(See EVALUATION, page 16)
dent risks obtaining substandard preparation for college, and a college student can end up paying thousands of dollars for an education from underqualified professors. Additionally, discriminatory practices based on a faculty member’s gender or race have often resulted from such strict protection of evaluative information.

The following information provides some guidance for sifting through a state’s freedom of information laws, as well as the state case law, so that the information about faculty evaluations can be obtained as efficiently as possible, and file drawers that hold information that is inherently in the public interest can be finally unlocked.

When considering whether and how to make a request for information for faculty evaluations or their reported results, a state’s public records law (also known as the state’s open records law or freedom of information act) is usually the best place to start to determine your chances of getting the information. That statute will explain how accessible (or inaccessible) certain documents may be in your particular state. As detailed below, some laws expressly allow or exempt disclosure of faculty or other employee evaluations. Most, however, do not specifically address the issue and you will have to carefully analyze the statute’s wording and any relevant case law or attorney general opinions for guidance.

Private schools
It is important to note that most open records laws apply only to “public agencies” or “public bodies,” and therefore, do not apply to private schools. Private schools are just that — private — and thus, for the most part, may adopt whatever policy the school administrators choose in order to conceal or allow disclosure of faculty or other employee evaluations. Therefore, if you are seeking such information from a private high school or college, you should look to that individual school’s policy regarding disclosure.

What the courts and state legislatures say about access
While some courts and state legislatures that have specifically dealt with the issue of access to faculty and other employee evaluations have ruled that the state open records law allows disclosure of such information, other states have taken the opposite position that such records should be forever closed to the public. Still other states have avoided settling the issue one way or the other, and rely instead on a balancing of the public interest and the rights of privacy for the individual whose records will be released to determine whether to allow the disclosure. It depends on the state you are in as to whether you will be allowed to obtain the desired information.

For instance, in Colorado, New York, North Dakota, and Ohio, the state open records law, or a state court’s interpretation of that statute, expressly allows disclosure of faculty evaluation information.1

However, Connecticut, Kansas, Louisiana, Massachusetts, Missouri, and Rhode Island allow government officials to keep some of this information secret either through the state statutes or case law.2 In certain of these states, though, the holder of the information has the discretion to grant the information request, but is also allowed to keep it in closed files. The wording of the particular state open records law indicates whether this discretion can be used or whether the holder must not allow disclosure in any case.

The other states that have specifically addressed the issue thus far have for the most part created special rules for themselves outlining limitations to access, and granting disclosure in only certain situations. For example, in Arkansas, a balancing of the public interest in disclosure of personnel information against the privacy interests of the person whose records would be disclosed must be performed to determine whether disclosure is appropriate in a particular case.3 Unfortunately, the balance in Arkansas seems to tip more often in favor of nondisclosure as the records are presumed to be exempt from disclosure under the state open records law. Other states, including Iowa, Montana, West Virginia and Wisconsin, use the same type of balancing test to determine whether the disclosure is warranted.4

Probably because students are not often likely to have the resources to bring an action for improper withholding of information by school or other officials, many cases in this area concern faculty members and other employees who have brought discrimination suits against a school, usually in a college or university setting. In a typical discrimination case, a university professor who has been denied tenure will sue the university if he or she believes that racial or gender discrimination motivated the tenure denial. The professor typically needs the files of evaluation information of other tenure candidates during the same review period, as well as his or her own personal tenure review file, to prove the alleged discrimination actually occurred by showing different and biased treatment of particular candidates. In such cases, courts usually order the school to disclose the desired information under trial discovery rules.

For example, in State ex rel. James v. Ohio State University5, where an assistant professor’s request for access to his and other faculty members’ tenure and promotion records was granted by the university only with all pertinent information omitted, the court held that promotion and tenure records maintained by a state-supported university are “public records” under the state Public Records

When considering whether and how to make a request for faculty evaluations, a state’s public records law is usually the best place to start to determine your chances of getting the information.
Act, and therefore, are subject to disclosure. Further, in Anonymous v. Board of Education for Mexico Central the court ruled that a settlement agreement that resulted from a disciplinary charge and private hearing for a teacher's misconduct was subject to disclosure under New York's open records law, because such

If you are denied access, tell your readers.

information was "clearly of significant interest to the public."

In Univ. of Pennsylvania v. E.E.O.C., we here the University of Pennsylvania correctly argued that its First Amendment right of academic freedom would be infringed if forced to disclose peer review (evaluation) documents to the Equal Employment Opportunity Commission, and that the EEOC needed to show a "particularized need" for the desired information prior to disclosure. The Court found that the requested information did not relate to the right of the university to make tenure decisions on academic grounds, and thus, did not infringe on the school's "academic freedom."

While the above cases are promising, they do not guarantee success in your particular case and it remains essential that you look to an individual state's laws to acquire the necessary details regarding a particular information request.

Requesting faculty evaluation information

If a state statute allows disclosure of these records, unconditionally or even under limited circumstances, or does not make clear your legal right of access, make a written request for the information to the administrator who holds and maintains it. In most cases, a couple paragraphs specifying what information is desired and citing the appropriate freedom of information law should be enough. The Student Press Law Center can provide you with a sample request letter if you need help.

It is often easier to make an oral request, rather than a more formal written one, but a written one may become necessary when an oral one fails to produce the desired information. Therefore, it may save time in the end if you submit a written request from the start. A written request also may be taken more seriously by school administrators as it is clear evidence of your request and cannot easily be tampered with in the future if a dispute ever arose about what exactly was requested and when. Additionally, a written request for information will more likely evoke a written response listing reasons why that information is or is not available to the requester, which may lead the requester to revise the request to fit the requirements of the administrator in order to compel disclosure. Such a written dialogue between the requester and administrators also creates a "paper trail" to follow should the dispute ever go to court.

If a state statute expressly disallows disclosure of the information, any oral or written request that is made will most likely be denied by administrators because they have no legal authority to grant such disclosure. Many state statutes, however, state that the holder of the information has the discretion to release it upon request. In that case, one desiring information should go ahead and make a written request, acknowledging the information holder's discretionary authority to release the information under the state statute, and giving a good reason why such information should be released. While the administrator still has the option of refusing the information request outright, he or she may be more likely to grant it if there is a valid reason for doing so.

Conclusion

As the above information indicates, you may not have to accept "no" for answer when seeking information about faculty or administrative job performance at your school. In other cases, and particularly at a private school, the law may not be on your side. Even so, all is not lost. Though a school may not be legally bound to release faculty evaluations, there remain strong arguments why it should voluntarily do so. You should not hesitate to plead your case to the relevant school officials. Even if they will not release specific evaluations, it would seem only fair that students, their parents and, in the case of a public high school or college, taxpayers, be provided some indication that their hard-earned tuition payments or tax dollars are being wisely spent. If you are denied access, tell your readers. Particularly today, with tuition rates soaring and student indebtedness rising, they should have the right to be informed consumers.

5 637 N.E.2d 911 (Ohio 1994).
6 R.C. 149.43(A)(1).
7 616 N.Y.S.2d 867, 871 (Sup.Ct., Oswego Co. 1994).

Note: More information about access to faculty and other state employee evaluations—including a state-by-state analysis of relevant laws and court decisions—is available in the SPLC Access Series packet, "Access to Faculty Evaluations," available for $2.00 from the Student Press Law Center.
Arkansas governor

ixth state student expression law as near-unanimous legislative support

Kansas Governor signed the "Arkansas Student Publications Act" into law.

The bill was sponsored in the Senate by Lu Hardin (D-Russelville).

The bill requires each school board in Arkansas to "adopt rules and regulations in the form of a written student publications policy developed in conjunction with the student publication adviser(s) and the appropriate school administrator(s), ... which shall include reasonable provisions for the time, place, and manner of distributing student publications." It states that "student publication policies shall recognize that students may exercise their right of expression ... . This right includes expression in school-sponsored publications, whether such publications are supported financially by the school or by use of the school facilities, or are produced in conjunction with a class."

William D. Downs Jr., executive secretary of the Arkansas High School Press Association, which initiated the action that led to passage of the bill, said he was "ecstatic" that the measure had passed.

"I believe that this bill accomplished exactly what we wanted it to do. It brings administrators and advisers together, in many cases for the first time, to talk about the role of student publications and to develop written guidelines that emphasize truth, accuracy, fairness and responsibility, and that meet the needs of particular school districts," Downs said.

"Our state's scholastic journalism programs attract many of the best and brightest students in our high schools and the national records show that students who have received journalism training in high school are more likely to excel in their college careers because among other things, they have been trained to seek the truth. Ultimately, that is the purpose of
this proposal, for as we are told in the book of John, 'You shall know the truth and the truth shall make you free.' Downs continued.

He stated that the work of Bruce Plopper, professor of journalism at the University of Arkansas at Little Rock, was integral to the bills passage.

Downs began working on the bill back in May after hearing about several incidents of censorship at Little Rock Central High School. After talking with Marck Beggs, the newspaper adviser, he offered the assistance of the AHSPA.

One of the Little Rock Central High School students who was censored last May and who made significant contributions to the effort to support the Arkansas Student Publications Act was pleased that the law had been passed.

"I applaud the Arkansas legislature for taking the first step toward a free high school press. This is a major victory for the State of Arkansas, for the act proves some Americans still have faith in the abilities of the young people," Ronald Hanks said.

Beth Shull, president of the Arkansas Journalism Advisers Association and the publications adviser at Warren High School, said, "This victory gives scholastic journalism in Arkansas the validity that it deserves. How wonderful that students are now recognized as serious journalists."

Arkansas now joins the elite group of California, Colorado, Iowa, Kansas and Massachusetts as states with student free expression bills. The California bill is the oldest and has been around since the 1970s. The Kansas bill, the most recent, was signed into law on February 21, 1992. All of the laws except for California's were a response to the Supreme Court's 1988 Hazelwood decision that cut back on student free press protections.

Legislators in three other states — Missouri, Nebraska and Oregon — introduced similar bills into their legislatures this year. The Nebraska and Oregon bills have yet to be heard in committee and the Missouri bill passed the House Judiciary Committee with two amendments, but has not made it to the House floor for a debate and vote. One of the amendments was written by the committee chair and although bill sponsor Rep. Joan Bray (D-University) believes that the bill will not pass this year, she hopes that including the chair's amendment in next year's bill will ensure its success.

Supporters in three states — Oklahoma, Michigan and Illinois — have written bills that they would like to see introduced but have not been able to find anyone to sponsor their legislation.
College editors go on-line to offer more services, but find that cyberspace is often restrictive.

 increases readership but also creates new problems with administrative censorship.

There are currently over 50 college student newspapers available on-line. Anyone with a Web browser can reach most of them through a service maintained by Eric Meyer. The homepage addresses are http://198.137.186.91:80/newslink/index.html or http://www.newslink.org/newslink.

Students at Northwestern Michigan Community College were getting ready to place their newspaper and literary magazine on line when the President's Council decided at its March meeting that the student publications would not be given the access they needed. According to the advisers and editors of the publications, the council, which at the same time was in charge of a campaign to raise money for the school’s programs, felt that a partially nude photograph in the literary magazine would cause too much controversy.

Al Shumsky, literary magazine adviser is encouraged by the fact that the council decided to set up a task
force to look into the matter. The council admitted in a memo to the newspaper editor, Jill Heath, that they had made a "quick decision" and that no one present at the meeting had any real idea of the process of getting the publications onto the Internet.

The task force is going to be headed by Diane Emling, Academic Dean of Liberal Studies, and will discuss what the criteria will be for putting publications onto the college Web page. Heath questions whether this will be a one-time evaluation or an issue by issue approval, which might constitute prior review and be a violation of the school's publication policy. Faculty advisors and student editors of all interested publications, a representative from the computer services department and the school's librarian will be part of the task force.

Jeremy Hylton, chairman of the MIT's student newspaper, described The Tech as one of the first newspapers to go on-line and one of the first Web sites in the world. Even though there are several programs now on-line, Hylton and MIT researchers had to write their own program in 1993.

The Tech has only a few graphics, but the staff does maintain an archive of every issue from February 1991. "It's a great feature for new reporters!" Hylton said.

"One of the more exciting things we've noticed with our readership is that many alumni in far-off places read the Web edition," said Hylton.

Hylton and school administrators have gridlocked over the question of including advertising on-line. "In part, we just haven't had the time to do it. In part, the MIT administration isn't too excited about selling advertising space on the campus network."

Many campuses east of the Mississippi are connected to the Internet through either the National Science Foundation or the New England Area Research Net, both of which have acceptable use policies forbidding the use of unsolicited advertising on their connections. Breaking the policy by placing advertising on The Tech might allow either organization to disconnect the MIT server.

Officials at the Electronic Frontier Foundation have asked for a clarification of acceptable use policies to distinguish between what is illegal and what is offensive.

Some clarification may result from legislation now pending in Congress. Senate bill 314, the Decency in Communications Act of 1995, has moved quickly in the U.S. Senate. The bill was sponsored by Sen. J. James Exon (D-Nebraska) and Sen. Slade Gorton (R-Washington). After being attached to a large telecommunications reform act, it was passed on March 23 by the Senate Commerce Committee.

Exon introduced the bill to prevent obscene material from ever entering cyberspace. People who post or solicit "obscene, lewd, lascivious, filthy, or indecent" material in the form of e-mail, text files, images or any other form of communication on-line could face a $100,000 fine or up to two years in jail.

Jerry Berman, chairman of the nonprofit Center for Democracy and Technology, said the bill "is unconstitutional and a direct threat to free speech on the information superhighway."

The bill should be debated later this year.\n\nAdministrators revoke students' Internet access

In three separate incidents, students have found out that their e-mail may not be as private as they think and that posts to public newsgroups may come back to haunt them.

The most notorious of cases occurred at the University of Michigan where student Jake Baker posted a piece of "erotic fiction" at alt.sex.stories, which contained depictions of a female student being raped, tortured and murdered.

After being alerted by an unidentified alumni about the post in late January, Baker's Internet access was revoked and he was suspended from school. A week later, he was arrested by the Federal Bureau of Investigation on charges of transporting threatening material across state lines. He is currently awaiting trial and his lawyer has filed a motion to dismiss.

The Baker incident raises the question, does the First Amendment extend into cyberspace? "Our expectation that the Freedom of the Press extends into cyberspace was a given until this case," attorney Douglas Mulkoff said.

The American Association of University Professors agreed in their "Statement on Computers and Academic (See E-MAIL, page 22)
Student publications coordinator sues Kentucky State University

KENTUCKY — Laura Cullen, coordinator of student publications at Kentucky State University, filed a complaint in federal court in March stating that the university violated her First Amendment rights.

Reginald Thomas, attorney for the school, says "this is not a First Amendment case. Ms. Cullen has bootstrapped the issue to the First Amendment. This is essentially a personnel matter and [relates to] her ability to get the job done."

Cullen oversees the yearbook and the student newspaper at the school, both of which were heavily criticized this past year by the administration for lack of positive news, confusing layouts and errors in grammar and syntax.

"My responsibility is to teach [the students] to put out the highest quality product they can," Cullen said. She said she thinks that students learn more from their mistakes than if she corrected the error before publication.

In December, Cullen was removed from her coordinator position and transferred to a secretarial position in another office. During her time away from student publications, the administration changed the locks to her old office and removed all but one box of the school's most recent yearbook which had just been received from the printer. The yearbooks were confiscated by Betty Gibson, vice president for student affairs, due to confusing layouts and problems with some of the articles in the book. Thomas says that no students have complained and that the student government president supports their decision, but Cullen knows of at least three students who have officially complained and several who have called up her office to inquire about the yearbooks.

Capri Coffer, editor of the 128-page book, has called the president's office several times and has spoken with no one. She says the book was not perfect, but also not derogatory.

The administration adopted a policy in January, which Cullen has refused to follow, that states that each copy of the newspaper must be reviewed by the student publications board.

"If Ms. Cullen doesn't make sure that the newspaper is posted in a good journalism format, then she's not doing her job," Thomas said.

Thomas and the university have yet to respond to Cullen's complaint but say they will so it in a timely fashion. Cullen is asking for an injunction for the administration to "cease and desist" any attempt to exercise prior restraint over the yearbook and newspaper, the distribution of the confiscated yearbooks, receipt of merit raises for Cullen, compensatory and punitive damages, and attorney's fees.

Cullen claims in her lawsuit that she has been denied merit increases in her pay because of the conflicts with the administration. She also claims her attempt to form a union for non-academic employees has been a factor in the situation.

Michelle Coleman, student government president, said that she "had no comment at this time."

Neither Gibson nor Kentucky State University President Mary Smith returned numerous phone calls.

E-mail
(continued from page 21)

"[A]n article or note posted by a student to a newsgroup is a student publication."

Statement on Computers and Academic Freedom

Freedom" that "the principles of academic freedom applicable to student and faculty publication in traditional media, apply to student and faculty publication in computer media" and that "an article or note posted by a student to a newsgroup is a student publication."

In February, college student newspaper editor Michael Moffa was removed from his position after posting articles to several Usenet groups while doing research for an article on homosexual men who use the Internet to find sex.

Moffa said he had never seen a use policy regarding the school's Internet connection and said that he had used the Internet for research before, but that "what the postings said angered the vice-president the most." (See COURT, page 33.)

In a similar case at the University of Memphis, two students had their e-mail and Internet accounts revoked in early March after posting "offensive" messages to the university's computer network. Both students admitted posting to the newsgroups, but said it was their way of expressing themselves.

Kathryn Story, dean of students/judicial affairs, charged the students with violations of the school's code of student conduct, including infractions of local, state and federal laws and using computer equipment to send or receive obscene messages. Story claimed that each time a new student logged into the system that they had to agree to the school's use policy, which included its conduct code. Both students, Raffi Handjian and David Hooper, said they never received any policy.

Both students were issued warnings and given back their computer accounts.
College Censorship

Christian magazine funding case heard by the U.S. Supreme Court

VIRGINIA — Should a state university be able to deny funding to a campus publication strictly because of religious content? This question was debated before the Supreme Court in March.

The case, Rosenberger v. Rectors and Visitors of the University of Virginia, is expected to be decided sometime this summer.

In 1990, University of Virginia student Ronald Rosenberger requested $5,862 from the school’s Appropriations Committee to help pay for printing costs of Wide Awake magazine, which was organized to promote a Christian perspective on current issues. The funding was denied because the committee considered the purpose of Wide Awake to be “primarily religious.” Although the group was an official student organization and could use school facilities, the school’s policy dictated the publication could not receive money from the student activities fee because of its content.

During the 1990-1991 school year, 118 student organizations received funding, including the Jewish Law Students Association, the Muslim Students Association and the C.S. Lewis Society. The committee defined these groups as “primarily cultural” rather than religious.

Three students in charge of Wide Awake Productions and Wide Awake magazine received legal counsel from the Center for Individual Rights in Washington D.C., and filed suit in federal district court. They claimed that the university violated their rights to “freedom of the speech and press, to free exercise of religion, and to equal protection of the law.”

The university maintained that it is legally allowed, under the Establishment Clause, to deny funding to religious activities.

The district court upheld the university’s actions.

Wide Awake filed an appeal in the U.S. Court of Appeals for the Fourth Circuit. The appellate court also supported the university’s action. It said that denying a publication funding on the basis of content and viewpoint was generally unconstitutional. However, the court ruled that the university has a “compelling state interest in avoiding a violation of the Establishment Clause” which justified its denial of funding in this case.

Rosenberger then took his case to the Supreme Court and received a hearing on March 1.

Rosenberger, publisher of Wide Awake magazine, and his attorneys argued that the case “involves the discriminatory exclusion of an otherwise qualified student publication from eligibility for student activity funding.”

In their brief they stated, “if [the students] produced a magazine addressing such issues as homosexuality, racism, and international events — all subjects of major articles in the first three issues of Wide Awake — from a gay rights, racial or antiwar point of view instead of their actual Christian perspective, the University unquestionably would be required to extend them neutral treatment. [Their] religious viewpoint is entitled to the same protection.”

“Wide Awake magazine is excluded because it ‘promotes’ Christianity at the University of Virginia, but the Muslim Students Association receives SAF money to ‘promote a better understanding of Islam to the University community’ through its magazine Al-Salam,” the brief stated.

Michael W. McConnell, a professor of law at the University of Chicago and lawyer for Rosenberger, argued to the Court that the case was about discrimination against religion. Several of the justices, including Justice David Souter, objected to his arguments saying that there was a distinction between most student organizations and a religious organization. “It’s one thing to recruit members to an organization, and it’s a different thing to recruit adherents to God,” said Souter.

Souter suggested that it would be difficult for universities to differentiate between groups that were expressing religious viewpoints and those that were seeking converts. He appeared to resist the idea that public funds should pay for a religious magazine.

Justice Ruth Bader Ginsburg provided the strongest resistance to McConnell’s argument. She argued that there were no cases in which the Court had authorized direct state support to extend to religious activities.

Justice Antonin Scalia seemed to agree with Rosenberger’s argument and focused his questions on the university’s attorney John C. Jeffries Jr. He focused on what he considered inconsistencies in the university’s policy.

Justice Anthony M. Kennedy also questioned Jeffries on what exactly was being quashed: a religious viewpoint or a religious activity.

The University of Virginia argued that “the First Amendment does not forbid reasonable content distinctions in the distribution of funds; ... exclusion of religious activities from public funding is not unconstitutional viewpoint discrimination; [and] ... the Constitutionality of the student activity fees guidelines is confirmed by the public forum doctrine.”

In its brief it stated, “... this case is not about religion. It is, rather, about the ability of public education at all levels to set priorities for the use of public funds. The University of Virginia’s decision to fund only those activities closely related to the educational purpose of the University is both right and necessary ... It does not represent any sort of ideologically driven attempt to suppress a particular point of view.”

The Student Press Law Center filed a brief in the case arguing that no matter how the Court ultimately ruled on the religion issue, it should endorse strong limitations on the ability of schools to deny funding to student publications based on their content. [1]
Editor arrested after fight with President's supporter

Former Institute of American Indian Art student editor pleads guilty to misdemeanor battery charges after spending five days in a Sante Fe jail

NEW MEXICO — After spending five days in jail and having charges of assault with a deadly weapon dropped against her in November 1994, student journalist Grace Lego was forced back into court in April to face charges again. According to Lego, the judge ruled that there was insufficient evidence to charge her with assault, but she would have to face trial on misdemeanor petty battery. Lego pleaded guilty to the charge and was given a sentence of three months probation and allowed to return to California.

The charges stem from a fight between Lego and another student who disagreed with her views of the administration at the Institute of American Indian Art in Sante Fe. Lego was expelled from the institution back in November because of missed classes and violation of the school conduct code as a result of the fight.

An honor student and former student government president, Lego had worked hard during her time at the Bureau of Indian Affairs school to explore problems in the administration. She had started with coverage of a former president, who was eventually fired, and the campus security department. She was harassed by the campus police after the article ran, she claims.

Lego began covering questions raised about the operation of the search committee that hired Perry Horse, the school’s new president, construction of the campus and the firing of the school’s development director.

Lego’s reporting prompted a conflict with student Virginia Heragarra, who is the president’s cousin. An argument and scuffle in the school’s cafeteria over the paper led Heragarra to file assault with a deadly weapon charges against Lego alleging she was threatened with the fork that Lego had been using to eat her dinner.

Lego was arrested on a Sunday night and taken to jail. Her bail was set for $10,000. Peter Eichstadt, adviser for the student newspaper The Talking Stick, did not learn of Lego’s incarceration until Thursday. On Friday he was able to get the district attorney to drop the charges without prejudice and got Lego out of jail.

When Lego arrived back on campus, she was presented expulsion papers by school officials and told that she had to leave campus.

Lego moved to California, but had to travel back to New Mexico in early April to face the charge, that had been refiled by the district attorney, after a judge issued a bench warrant for her. Lego pled guilty to the battery charge and received 90 days probation.

No disciplinary action was ever taken against Heragarra, who was making a documentary about Horse’s life at the time of the incident.

No school officials, including Horse, returned numerous phone calls, from the Report.

Lego is currently living and working in San Jose, Calif., and is hoping to sue the college, she says.

Georgia court protects names of victims of sexual assault

GEORGIA — A University of Georgia employee took the state to court in order to prevent it from releasing her name to the Red and Black, the student newspaper. The Georgia Court of Appeals, in a 5-4 ruling, decided that the women’s earlier rape made her eligible for protection of a shield law.

Rebecca Mick, assistant to the Georgia Attorney General, made clear that she thinks that the ruling on this case only applies to this specific incident and will not affect other applications of the state open record laws.

Harry Montevideo, publisher of the Red and Black, agreed saying that the ruling would most likely affect Georgia commercial dailies rather than Georgia student newspapers.

The case began after an unidentified woman filed a false police report claiming that she had been raped and then came back later and told the police that she had falsified the claim. She did allege that she had been raped earlier that day by another man off campus and that the event had traumatized her. The student newspaper asked for the complete documents about the incident.

The campus police informed the woman that the records had been requested. She filed a request for and received an injunction in court using a Georgia rape shield statute which allows rape victims to withhold their names on documents being released to the press.

Montevideo said the case presented an interesting issue because the state wanted to release the records.

Mick does not think it was fair that the woman was able to commit a crime in filing a false crime report but then get rewarded for it by not having her name released.

The Attorney General opted not to appeal the decision.
Student editor charged with assault after threatening to ‘smack’ newspaper thieves

MASSACHUSETTS — What started as an article describing the arrest of four students at Salem State College ended with the editor in chief of the student newspaper facing criminal charges of assault.

Members of the African-American Student Association confiscated approximately 1,500 copies of The Log’s 4,000-copy press run and accused the editor of bias when he ran the names of four students arrested for disorderly conduct.

The AASA sponsored a dance Jan. 20 that resulted in fights breaking out among the crowd of approximately 200 students, according to Michael Strong, editor in chief of The Log. The Salem police department arrested four students at the scene.

Three local newspapers, three Boston television stations and CNN covered the disturbance. According to Strong, the local papers have a combined circulation of about 71,800 and reach communities from Boston to New Hampshire. So editors at The Log never anticipated that their write-up of the event — which did not run until two weeks after the local media reports — would draw much attention.

But after the biweekly paper hit the stands Feb. 2, African-American students removed approximately 1,500 copies from distribution sites and demanded that the editors reprint the story without the names of the arrested students.

According to Strong, a “vehement” argument followed, with members of the AASA, The Log staff and college officials trying to settle the dispute. Strong said that the African-American students were yelling at him, and Strong responded by saying, “If you don’t put the newspapers back, I’m going to smack you.”

The campus police — who, to this point, had been observers of the confrontation — stepped forward, read Strong his rights and criminally charged him with assault, calling his argument a threat. The charges against Strong were later dropped because the student pressing charges did not appear in court. Strong said he is now pressing charges against that student through the campus judicial system.

Strong maintains that the paper ran a balanced story and included quotes from one of the students arrested. “It had nothing to do with racism. We have printed the students’ names in the past who have been arrested and are white. I’m in the right. I did nothing wrong. I did not libel anyone,” Strong said.

Strong said that the student government formed an ad hoc committee to look into freezing the paper’s funds. Others wanted to investigate Strong as a racist, even though the same issue that ran the controversial story also ran eight other stories covering either African-American speakers visiting campus or events sponsored by the AASA.

Vice President for Student Affairs Stanley Cahill — the administrator in charge of mediation between the newspaper staff and the members of AASA — did not return calls for comment. According to Strong, the students who admitted to removing the newspapers did not receive any punishment from school officials.

Black students shut down DePaul newspaper

College president announces that protestors will not be punished, agrees to most of group demands without consulting DePaulia editor

ILLINOIS — A group of mostly black students at DePaul University in Chicago shut down its student newspaper for ten days in April by taking over the office.

The student protesters claim that the newspaper was being “insensitive in the coverage of minority affairs” and have cited the lack of minorities on the newspaper staff. There are 35 staff members on the DePaulia, and six of whom are minorities — two blacks, two Asians and two Hispanics.

No issues of the DePaulia were published on April 7 or 14.

According to the Zach Martin, editor of the paper, the administration told him that the weekly student publication could not publish again until “some of the issues surrounding this situation could be resolved.”

Andrea Manning, one of the leaders of the sit-in, met with DePaul president Rev. John P. Minogue to try and resolve the dispute, and 17 of the 20 demands made by the group were met. Some of the demands included that someone be appointed by the college to oversee the newspaper’s treatment of minority issues; that the newspaper print one issue per year dedicated to minority issues’ and the newspaper solicit more columns from minority students.

The college would not remove the students from the office during the sit-in and students involved were not charged with any school violations and will be tutored at the college's expense due to missed classes.

Martin says that he would like to have more representation of all racial groups on the staff, but the newspaper is a volunteer organization. “It doesn’t matter what ethnic group they’re from. I want as many people down here so that they can represent their views and opinions.”
College round-up

Student magazine at U. of Penn denied funding, recognition due to ‘political’ content

Pennsylvania — After running a controversial article regarding Haiti in late February, The Red and Blue magazine was denied funding for the year and had its recognition status restricted.

The Red and Blue is the oldest publication on the University of Pennsylvania campus and is the oldest Ivy League magazine.

Robert Christopher Robbins claims that he has been harassed by student members of the student activities council as well as the college employees who are hired to run the council. He also claims that this harassment started with former editors and has spread to his staff.

The weekend before the student activities council meeting, editors were informed that over 100 years worth of publication archives had been accidentally thrown away by the group that shared one of the Red and Blue offices.

Robbins has met with administrators to try and come to some sort of agreement about the funding as well as the archive destruction, but he has not ruled out taking the university to court.

Although the two issues happened so closely together, Robbins does not think there is a “conspiracy.”

“The connection lies in the same people [the administration of the student life office] who sanctioned the destruction of the archives are the same been who have targeting the Red and Blue for several years.... This is a systematic problem at the University of Pennsylvania,” Robbins said.

Beloit newspaper not allowed to distribute in local public mall

Wisconsin — Kevin Griffis, editor of the Round Table at Beloit College, was told in February that he could not longer distribute copies of the newspaper at the local shopping mall because “numerous patrons” had complained about the material in the publication.

Mall representatives claim that the newspaper was too sexually explicit in some of its columns. Griffis considers the mall a public place and is considering on taking legal action to be able to distribute papers there.

College changes work application after complaints by paper’s editors

New Hampshire — After staff members on The Dartmouth Review printed an article about how one of the alumni offices would not allow them to work there due to confidentially concerns, the office changed its application to remove the question, “Are you affiliated with the Dartmouth Review?”

Administrators in the alumni gift office felt that there might be a confidentiality breach if staff of the Review, which is known to print controversial articles, were allowed to have access to the alumni information. No questions were asked about work on other student publications.

Our Story denied school funding for the second time in two years

Wisconsin — For the second time, the student activities board at Madison Area Technical College denied funding in April to Our Story, a black student newspaper. The newspaper has also suffered other discrimination from the board including not being given office space, not having an adviser and not having a voting member appointed to the board, according to the staff.

Last year Our Story approached the board for $3,000 and was denied. They received a smaller amount from the executive committee. The publisher, Vance Gathig, is considering legal action.

‘Obscene’ photos censored by long-time Pitt News printer

Pennsylvania — The University of Pittsburgh student newspaper, Pitt News, is currently renegotiating their contract with their printer, Typcraft Press Inc., after it refused to print two photos that employees considered to be “offensive.” The photos were to be printed along with a review of the film, “Sex, Drugs and Democracy,” in the Jan. 23 issue of the newspaper.

Matt Serlin, managing editor, says that this is the first time in 20 years that they have had any problems with Typcraft and wants to make sure that the editors keep “final editorial say” over what goes in each issue.

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Another Oklahoma adviser removed; SPJ works with regents to create policy

Redlands Community College develops policy regarding press relationship

OKLAHOMA — After years of battling with school administrators, the problems of censorship continue at colleges throughout Oklahoma. The worst cases appear in the "regional" university system, but have spread into a community college and to one of Oklahoma's largest schools, the University of Oklahoma.

Tales of funds being cut, stolen newspapers, prior review and advisers and professors losing their jobs are continuing to reach the ears of the people at the Oklahoma Professional Chapter of the Society of Professional Journalists, who are working with the school administrators to help correct the problems.

At the University of Oklahoma in Norman, 3000 copies of the Oklahoma Daily disappeared in February after racial tensions heated up over a column and letters to the editor. Members of the African-American community on campus admitted to stealing the papers in protest of the letters. (See NEWSPAPER, page 28).

At East Central University in Ada, a journalism professor has not received a contract renewal after challenging the administration on First Amendment issues. Mary Bishop was denied tenure four times before being told in early March that her contract would not be renewed for the next semester. Bishop has worked at East Central University for nine years, where she was recently elected to the faculty council, chosen as faculty member of the month and received a nomination for teaching excellence.

Bishop was told the reasons for her dismissal included a lack of a doctorate and a decrease in mass communications majors.

Bishop raised controversy in the past when she sided with students who did not want to work for a newspaper run by the administration. They formed an alternative publication called Shades of Grey and printed controversial investigative articles about the administration. The school administration told Bishop the publication was against policy and then denied her tenure.

After claims of administrative control of the student newspaper, East Central University has developed a policy that creates a publications board to run the student newspaper. The board would separate the school's public information office from the newspaper. A new adviser, who cannot be a university employee, will be hired.

The publications board would consist of nine members from both college sources and the local area and will be responsible for appointing an adviser.

There are a couple of items in the policy that worry Mick Hinton, local Society of Professional Journalists First Amendment Committee chairman. He thinks that an "independent board" will allow the school to decrease the amount of funding the paper receives. Another concern is that the board will be evaluated on a yearly basis. It has also not been established who will name members of the board or what role the journalism program will have.

The board should be in place by this fall. Northeastern State University in Tahlequah forced a change of the student newspaper's editorial structure after a board of regents visit and a controversial article on homosexuality.

This semester's four section editors were chosen late last semester. Each would have shared responsibility for editorial decisions.

A controversial article, written by the opinions editor, appeared the week after the November editor selections. After a board of regents visit, the editors were told they had to change the editorial structure in order to make someone responsible for the article's content. All the editors had to reapply and two were chosen as managing editor. Everyone received their positions back.

The paper's budget, as well as other campus programs, was also cut in half at the same time.

Two of the Oklahoma schools that had troubles this past year, East Central University and Northeastern State University, are governed by the state's "regional" board of regents.

Paul Barhy, chairman of the board of regent's policies and procedures committee, and Sheridan McCaffery, legal counsel. (See OKLAHOMA, page 30)
Newspaper thefts driven by issues of race

Minority students and others confiscate copies to protest coverage

Between Sept. 1, 1994, and the end of March, 23 college newspaper thefts had been reported to the Student Press Law Center. By the end of the 1994-95 academic year that number may approach the 38 reported during the previous school year. And as in the past, editors across the country are finding that theft incidents often revolve around issues of race.

Editors at the University of Oklahoma in Norman had to consider those issues after their paper was stolen in February. The campus became sharply divided when a white student wrote an anonymous letter for his role. “The United States is a social construct built to frame, set up and destroy the black male,” wrote that.

A week later, the paper printed a responding letter to the editor from a white male student. “Whites owe nothing to the black race. We can’t change anything a particular race has previously done, whether it be black or white. I’m sorry, but 350 years ago is not relevant to today,” the student wrote.

The next day, more than 3,000 copies of the paper’s 14,500 press run were found missing. According to The Daily’s advertising marketing manager, Twila Smith, members of the African-American community on campus admitted to stealing the copies in protest of the white student’s letter. One student wrote an anonymous letter to the newspaper staff apologizing for his role in the theft and sent the editors $25, which he said should cover the cost of printing the amount of papers he stole.

In an attempt to come to a mutual understanding, editor in chief Tiffany Pape established a multicultural advisory board for the student editors. While Pape maintains that the editors would have final say over content, she said that he should serve on the committee will help editors by giving alternative perspectives. “It’s more of a sounding board or us. We’ll be able to call them up and ask them, ‘Hey, what do you think about this?'”

Paul McMasters, executive director of the Freedom Forum irst Amendment Center in Nashville, Tenn., said that minority students steal newspapers because they believe it is the only way their complaints will be heard. “It’s being developed as a tactic. I think it is unfortunate that minority student groups are flouting the very mechanism that is there to protect them — the First Amendment,” McMasters said.

McMasters added that at the same time, he believes thatudent journalists could do a better job of recruiting minority af members and covering minority issues.

Editors of the conservative Stanford Review also experienced a theft due to allegations of bias, according to editor in chief Amman Vergi. In November 1994, members of a Native American organization stole 100 copies of the Stanford University weekly newspaper in protest over a caricature of an Indian chief. According to Vergi, the students stole 100 copies of the paper, tore them into pieces and left them in front of the president’s office after he told the group that he could not interfere in the matter.

Even though Vergi filed official complaints with several campus offices, the administration has not made a statement in support of the newspaper. “In my opinion, they’ve dragged their feet on these issues,” Vergi said.

At Salem State College in Salem, Mass., several students took 1,500 papers from their distribution sites on campus and returned them to the newspaper’s office in protest of an article that described an African-American Student Association-sponsored dance that ended with the arrest of four students. Campus police later arrested the editor when he told the alleged thieves to replace the removed issues or he would “smack them.” (See STUDENT, page 25.)

Editors at Palomar College in San Marcos, Calif., faced a theft after members of a Mexican-American student organization allegedly stole 3,500 copies of The Telescope’s 5,000-copy press run on Nov. 4, 1994. Editor in chief Kate Nelson said that the students stole the papers because they believed an article covering a rally against California’s Proposition 187 was biased.

The story reported that the rally turned violent: one student was hit by a car, another burned a flag, another tried to save the flag from burning and was attacked by a group of students — facts that were, according to Nelson, the most important in the overall story.

Nelson said that she did not report the theft to campus police and that the administration has not issued a statement regarding the theft.

Chuck Green, adviser to The Beacon at Florida International University, said that a newspaper theft occurred there March 13 after a student running for student government president was disqualified from the election for a forged signature on his application to run for office. The student, who is black, accused the administration and student government of racism.

Green said that between 400 and 600 copies of the issue reporting the incident were removed from distribution sites. Green said he reported the incident to campus police and said that no suspects have been named in the case.

Of course, thefts continue to occur that have nothing to do with race. Clemson University’s Terrell Johnson, editor in chief of the weekly student newspaper, The Tiger, was stunned when she discovered that 10,000 copies of the 12,000-copy press run had been stolen Oct. 27. The Tiger suffered heavier losses than most newspaper theft victims: the staff spent more than $17,000 to reprint.

According to Johnson, campus police are continuing their investigation of the theft.
College Censorship

Other thefts reported to the SPLC include:

• University of California at Santa Barbara. Kim Epler, editor in chief of the Daily Nexus, said that someone stole more than 200 copies of the paper. Epler published a story about a nearby apartment complex's foreclosure. Epler's story, which ran Nov. 1, 1994, included several pictures of the apartment and explained that the residents were being evicted before the winter holidays.

Epler reported the theft to campus police and said that the administration has been supportive.

• University of Evansville, Evansville, Ind. Editors of The University Crescent noticed a disturbing trend last fall after several issues of their newspaper disappeared from the admissions building on campus tour days. Ed Morgans, former managing editor, said that he believes someone from the college staff once removed about 50 newspapers but Morgans did not report the theft to campus police because he has not noticed any further problems.

• Mississippi University for Women, Columbia. Editors also suspected their administrators of stealing copies of the weekly newspaper. Several bundles of The Spectator were found missing in January before the staff could distribute them. The editors, relying on what later appeared to be an unreliable source, accused university administrators of the theft, and added that they believed that their adviser, Bill Wright, was fired because the paper ran stories about sexually transmitted diseases and interracial dating, charges that President Clyda Rent dismissed as absurd.

• University of Cincinnati in Ohio. A disgruntled member of the News Record staff saw another student allegedly stealing approximately 100 copies of a 13,000 press run that included an anti-abortion insert. The staff member later decided not to reveal the thief's name and left the university.

Media adviser Roz Florez did not report the crime to campus police.

• Shawnee State University, Portsmouth, Ohio. In a virtually unprecedented case, a member of the University Chronicle staff admitted to stealing 1,500 copies of 3,000-copy press run to protect the identity of a friend whose sexual assault and ensuing suicide attempt was reported in the paper.

The staff member was charged through the campus judicial system, but editors at Shawnee State were unavailable for comment on the outcome of the case.

• Rhode Island College in Providence. John Valerio, executive editor of The Anchor, found approximately 100 newspapers burned in a dumpster and said that a total of about 2,000 copies of their 3,500 press run had been stolen between March 6 and 8.

The campus police have found one suspect.

• Miami University of Ohio. Editors are scrambling for new ways to distribute the paper after almost every edition of The Miami Student has had at least part of the press run stolen from various distribution sites, according to adviser Dennis Walsh.

The first theft occurred in the end of January, when the paper ran two particularly controversial stories. Since that theft, editor in chief Jennifer Markiewicz has received calls on a near-weekly basis from students saying the papers are missing. Markiewicz also found between 700 and 1,000 papers in a dumpster at her apartment complex during the end of March.

Markiewicz has reported the theft to campus police but the thieves have not been found. She added that the administration has not issued a statement regarding the chronic thefts.

• Northwest Nazarene College in Nampa, Idaho. Molly Yanity, opinion editor at Point Loma Nazarene College in San Diego, reported a newspaper theft that occurred at Northwest Nazarene College. Approximately 500 copies of The Crusader were stolen after the paper reproduced a cover of a Playboy magazine underneath The Crusader masthead. The man who alleged the papers are an alumni of the college and told a source close to Yanity that he believes the Playboy picture should not have been printed in the paper.

Editors at The Crusader did not return calls for comment.

• Mansfield University in Mansfield, Pa. Members of the Phi Kappa Theta fraternity chapter at Mansfield University admitted to stealing approximately 1,200 copies of the March 3 edition of The Flashlight after the paper ran an article regarding a rape that allegedly occurred in the fraternity's off-campus house.

(See THEFT, page 30)
Theft
(Continued from page 29)

According to adviser Peter Gade, the fraternity president and another student confessed to the theft and were charged in a local court with disorderly conduct. They were found guilty, sentenced to $25 plus court fees and the judge ordered each student to perform 18 hours of community service by distributing the newspapers.

• North Carolina Central University in Durham. Adviser Tom Evans reported that a newspaper theft occurred on that campus March 29 when approximately 2,800 copies of a 3,000-copy press run of The Campus Echo had been stolen. Evans said he does not know who stole the papers. The police are conducting an investigation and the administration had not issued an official statement regarding the theft.

"We're pretty sure that it's not someone who wanted to read a lot of newspapers," Evans said.

Oklahoma
(Continued from page 27)

self for the regents, are working with Mick Hinton, Society of Professional Journalists First Amendment Committee Chairman to help develop a policy for student publications at the six schools.

McCafferey says that no grievance has ever been filed and that Hinton and the SPJ were the first ones to make the regents aware of the problems.

No timeline has been established by Barby and McCafferey in their efforts to develop a policy because they are trying to create "an informative and helpful policy for the universities to administer," get as much input as possible and make the policy as non-restrictive, simple and non-burdensome as they can. Defining responsibility is one of the hardest tasks, they say.

Hinton is keeping in contact with the policies and procedures committee and is helping them with any questions they have in developing a policy.

For the second time in two years, the Panhandle University administration, located in Goodwell, has not renewed the contract of the newspaper adviser. Last year, Shawn Murphy was removed from his position due to claims of financial mismanagement. According to A. D. Stone, Interim Executive Vice President, Michael Kennedy has become the unfortunate victim of state budget cuts. Kennedy says restructuring of the newspaper includes moving it under the auspices of the public relations department.

Stone says that they plan on using current staff or adjuncts to cover Kennedy's course load and that a final decision has not been made as to who will take over as adviser. He did acknowledge that they are considering appointing Imelda Hudson, who also works in the public relations office. Hudson recently graduated with a bachelor's degree in communication.

This year, under Kennedy's guidance, the newspaper has moved from publishing four or five times a semester to publishing on a weekly basis. They have also only spent 60 percent of their budget and used spot color for the first time in 15 years.

Redlands Community College's Public Information Department has developed a new policy aimed at restricting who could release information about the school. Donna Spain, public information director, maintains that the policy had nothing to do with the student newspaper. She said the policy originally came up after a student wrote his own press release on Redlands letterhead.

According to Spain, the public information office will now serve as the information clearinghouse for the school and will handle any information requests directed at any campus official from any type of media, including the student newspaper. No "official" newspaper is published at Redlands this year.

Mark Hanebut, president of the Oklahoma Society of Professional Journalists, was not sure whether or not the new policy is legal.

"I could have a chilling effect on people who may not be familiar with the Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the First Amendment of the United States Constitution," Hanebut said. He also did not think it was fair that people would not be able to talk about their own departments.
Warwashington D.C. — The U.S. Department of Education released amended regulations regarding the Family Educational Rights and Privacy Act, commonly referred to as the Buckley Amendment, in January. Although the new regulations clear up many issues regarding media and public access to campus crime information, a major question still lingers: should school disciplinary records be released to the public?

Although these regulations suggest that schools should not release student disciplinary records, the Department says that its ruling is not final and the issue requires Congressional consideration. In addition, the regulations define the term "law enforcement unit" to include those individuals responsible for maintaining the safety and security of school surroundings, which, the DOE says, includes campus security departments that do not have official law enforcement authority. The regulations also say that documents that originate in a "law enforcement unit" do not become "education records" when they are mutually maintained with another department of the university.

Congress amended FERPA in 1992 to explicitly remove campus "law enforcement unit records" from the definition of "education records," the release of which could result in penalties for the school. The intent of the amendment was to give colleges and universities the opportunity to release law enforcement unit records, a requirement under many state open records laws or voluntary campus policies.

The current debate regarding access to student disciplinary records began after many student media organizations and others claimed that some campus officials intentionally directed criminal misconduct into a campus disciplinary process, a process usually not open to the media or the public. Many journalists believed it was a method used by schools to escape public scrutiny, while many school officials said access to such records should not be open in accordance with the unique "in-house" and educational nature of campus courts.

A 1993 state supreme court decision in Georgi, said that reporters should be granted access to campus disciplinary hearings. The court said that records relating to "individual student academic performance, financial aid, or scholastic probation" — not disciplinary records — were the type of education records that Congress intended to protect with FERPA.

Looking for a middle ground, the DOE issued the January regulations...
FERPA
(Continued from page 31)

regarding the enforcement of FERPA. The new regulations sought to clarify some of the 1992 changes in the law and address the disciplinary records dilemma.

The new FERPA regulations specify that the Department does consider school "disciplinary records" as "education records." The regulations state, "all disciplinary records, including those related to non-academic or criminal misconduct by students, are 'educational records' subject to FERPA." The regulations do concede, however, that "[t]he Congress may find that public access to disciplinary records concerning criminal and other non-academic misconduct is an appropriate response to the problem of maintaining safe college campuses, and the Secretary [of Education] has offered to work with Congress in writing an appropriate amendment to FERPA."

In a letter written by DOE Secretary Richard W. Riley to Sen. Nancy Kassebaum (R-Kansas), the chairperson for the Committee on Labor and Human Resources, Riley tried to explain the reasoning behind the new regulations. "The Department sought additional public comment on the issue ... because important and sensitive concerns were raised about both campus crime and students' need for privacy and access to records in the educational process."

The letter continued, "A majority of the comments ... were from officials of postsecondary institutions. Most of these officials expressed the belief that to allow the release of students' disciplinary records to the public without consent would compromise what they believe to be the fundamental educational mission of the campus judicial process ...."

"A substantial minority, however, disagreed and argued that postsecondary institutions have used FERPA to evade efforts by the public to gain access to information about crime on campuses," Riley wrote. "Although we think it is clear that the definition of 'education records' includes student disciplinary records, it is also the case that crime on our Nation's college campuses and in our elementary and secondary schools has escalated since 1974 when FERPA was enacted. In light of this development and the ongoing public and media attention to the issue, we believe that the various competing interests need to be identified and balanced in the legislative forum."

The new regulations make clear however, that FERPA only applies to disciplinary records — not the disciplinary proceedings themselves. "FERPA does not prevent an institution from opening disciplinary proceedings to the public," the regulations state. "Rather, FERPA prevents the non-consensual disclosure of 'education records' or personally identifiable information unless the disclosure meets one or more of the statutory conditions for non-consensial disclosure."

Under FERPA, "education records" cannot be released to any "individual, agency, or organization," without student or parental consent except for eight exemptions, or statutory conditions. The regulations noted that "several commenters" showed interest in not listing the disciplinary records as "education records," because they felt, "as parents," they would like to be aware of number of sexual assaults on college campuses.

FERPA also touched on definitions and policies of campus police officials. The new regulations revisited previous FERPA issues regarding the separation of "education" and "law enforcement unit" records. The regulations explained that whenever a "law enforcement unit" produces a record specifically for its own purpose, and then gives a copy of it to a school official, the copy is considered an "education record" only if it is "maintained" solely by the school official, and not the law enforcement unit. Simply passing on a copy of the law enforcement record to school officials does not make it subject to FERPA's restrictions.

"The original document created and maintained by the law enforcement unit is not an 'education record' and does not become an 'education record' because it was shared with another component of the institution." Therefore, campus police or security officials cannot deny access to crime reports simply because they funnel the reports to school officials with plans for disciplinary action.

The Department also offered a definition of "law enforcement unit." Most importantly the regulations state that, "'law enforcement unit' under FERPA includes a unit of commissioned police officers or non-commissioned security guards." Under this terminology, even institutions that have security officers without official police authority are considered "law enforcement units" and therefore cannot use FERPA as an excuse for denying access to campus crime information. The revision also considers "law enforcement unit(s)" to be "those individuals or parts of the institution responsible for maintaining the safety and security of school surroundings and for enforcing laws against individuals and organizations within the school community and not those responsible for the institution's own compliance with various laws." Further, under the new regulations, records "created and maintained
(See FERPA, page 33)
Court case continues; editor suspended for Internet use

Ruling could open community college security records to public scrutiny

PENNSYLVANIA — For the last four years, the Community College of Philadelphia (CCP) has been embattled in a long and tumultuous lawsuit involving access to campus security records. Now, as if to add to the drama, the current editor of the college's student newspaper was suspended and reinstated all in a month's time.

Michael Moffa, the editor in chief of the Student Vanguard, was suspended for approximately 18 days in February. He was accused of unauthorized use of college property for personal and social ends by R. Wayne Branch, the vice president of student affairs at CCP, after he surfed the Internet looking for contacts for a story about closeted homosexuals who find sex partners over the Internet.

Moffa maintained that the Vanguard advisers supported his Internet use, and he was reinstated February 27 by Branch.

Meanwhile, the Commonwealth Court of Pennsylvania overturned a previous decision made in the Common Pleas Court of Philadelphia and ruled in favor of the Student Vanguard in December. The Commonwealth Court said that community colleges are "agencies" subject to the state open records law, a decision that could open up the community college security records to public inspection.

CCP asked the Commonwealth Court to reconsider its decision in the case, and the court denied the request. Recently, the school asked the state supreme court for permission to appeal the decision of the Commonwealth Court. Joseph Sullivan, an attorney representing the students, said the college's request to appeal raised the same issues addressed in the Commonwealth Court, and that the former editors of the Vanguard will respond accordingly.

FERPA

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by a law enforcement unit are considered law enforcement unit records, even where those records were created for dual purposes (e.g., for both law enforcement and disciplinary purposes)."

Gordon McKerral, chairman of the Society of Professional Journalists National Task Force on Campus Courts said that the regulations leave something to be desired.

"I suppose I'm a little disappointed," said McKerral, who is also an assistant professor of journalism and a student publications adviser at Troy State University. "It took them a long time to say 'there is a problem and we will let Congress deal with it.'"

The fact that the regulations do not prohibit schools from opening disciplinary hearings to the public pleases McKerral.

"To me, that is a pretty significant point for the Department to make," said McKerral. McKerral said that opening judiciary hearings will be "emphasized" by the SPLC, especially to campus officials. McKerral believes that opening the campus court hearings would benefit everyone involved, and prevent undeserved "railroading" of student offenders by school officials.

"Why should [students] be treated different and not have that process subjected to public opinion, whether the students are guilty or unjustly accused," questioned McKerral.

As of late April, no action had been taken by Congress to revise the regulations. As long as it takes, McKerral hopes that the Congressional revisions allow more public access.

"There is an inconsistency in the way crime is being dealt with on campus and off, and that shouldn't be. Crime is crime."
Dismantling a hierarchy

A Dallas Morning News reporter exposes Texas A&M officials' illegal activity through open records requests

TEXAS — What started in 1991 as a two-year investigation into state agencies' compliance with the Texas Open Records Act ended in 1994 with a restructuring of the administration of the Texas A&M University system.

Calling Texas A&M "one of the major abusers of public records laws in Texas," The Dallas Morning News Assistant Managing Editor Howard Swindle said that reporter Olive Talley, who covered A&M between December 1993 and January 1995, uncovered flagrant abuses of state spending codes and the state open records act.

By filing public records requests, Talley found that A&M officials had tampered with public records, used state money to purchase alcohol and violated university policy regarding competitive contract awarding.

After Talley began publishing her reports, Texas Rangers and the FBI conducted a 14-month investigation that resulted in at least 14 top officials in the A&M university system — including the chairman of the board of regents — facing charges of tampering with public records, official misconduct and illegally soliciting trips from an A&M-contracted company.

All officials charged either pleaded no contest or were found guilty of misdemeanors by the Brazos County District Court. Sentences ranged from fines equaling $2,750 to one year's probation.

In addition, the university system chancellor and the West Texas A&M president resigned their posts to escape the controversy engulfing the school.

Swindle said that The Dallas Morning News filed a lawsuit against the university in April 1993 in which the paper accused the university of consistently refusing to comply with the open records act. As part of a settlement in June 1993, the A&M system agreed to implement new internal guidelines to ensure compliance with the open records law.

Swindle also said that journalists are able to use open records laws in an attempt to help the public. "We were able to rearrange the administration of Texas A&M," Swindle said.

Talley's assignment to A&M came as a result of an investigation conducted in 1991 by Swindle and Dallas Morning News reporter Thomas G. Watts. Swindle and Watts sent every Texas state agency a request for information covered by the Texas Open Records Act and found that 20 percent of the state's police agencies and almost 15 percent of the state's school districts failed to release the requested public records.

The open records act covers all legislative and executive departments of state and local agencies and allows access to police reports, government budgets and expenditures and official reports of investigations by state agencies, among other things. The law prohibits the release of police reports detailing ongoing investigations, pending lawsuits and student records.
Animal rights groups win access to records

OHIO, WASHINGTON — Two state supreme courts ruled in late 1994 that public universities in Ohio and Washington must release information covered by state open records laws pertaining to state-paid animal research scientists. The decisions, *Thomas v. Ohio State University*, 643 N. E. 2d 126 (Ohio 1994) and *Progressive Animal Welfare Society v. University of Washington*, 884 P. 2d 592 (Wash. 1994) — which were rendered independent of each other — gave animal rights groups in Ohio access to names and addresses of the animal research scientists at OSU and gave PAWS access to public grant proposals approved for animal research at UW.

After months of accommodating Ohio State University’s sporadic awarding of public documents, slow response times and blatant refusal to release public information pertaining to animal research scientists, animal rights attorney Shawn Thomas took OSU to court, challenging the institution to release the names and business addresses of state-paid OSU scientific animal researchers.

In late December, the Ohio Supreme Court ruled in Thomas’s favor in spite of the university’s arguments that it feared for the personal safety of the animal research scientists. “While there is a concern that criminal conduct might result from the release of names and work addresses of animal research scientists...the answer is that ‘criminal conduct should be punished by criminal sanctions,’” the court said.

In 1991, members of Washington’s Progressive Animal Welfare Society (PAWS) became concerned when they heard that a University of Washington Animal Care committee approved an experiment that would separate newborn rhesus monkeys from their mothers at birth and keep them in isolation for up to one year, watching to see if the monkey’s deprivation of care would lead to self-mutilation. The project’s stated aim was to help humans who exhibit self-injurious behavior.

Using the state’s open records law, PAWS requested a copy of the unfunded grant proposal. The state supreme court affirmed the trial court decision allowing access. ■

Hawaii police up the fight to keep records closed

HAWAII — After battling both local and campus police departments for more than a year, students at the University of Hawaii at Manoa might have to take up arms again when the Hawaii state legislature opens for business this fall. Last October, the Hawaii Supreme Court refused to rule on the release of police disciplinary records sought by the school’s chapter of the Society of Professional Journalists, allowing the police time to lobby the state legislature to revise the open records law.

And lobby they have. According to Jeff Portnoy, attorney for the students, the police have launched a high-scale, highly-funded campaign on the state legislature in an attempt to explain to legislators why police disciplinary records should not be a part of the public record.

"The police have launched a massive effort with money and people. They even have a video [which predicts] what would happen if police disciplinary records were released. They have [scenes depicting] the policemen’s children being abused at school," Portnoy said.

According to Portnoy, the police and their supporters have won the support of several state senate and state house committees, and Portnoy says that the success of the bill in committee is not a good sign for the students.

"If it passes, it will exempt the police from public disclosure [of disciplinary records], unless they are terminated," Portnoy said. ■
Michigan may close presidential searches

MICHIGAN — In response to a Michigan State University presidential search last year with one candidate losing his job and several others dropping out of the race, state senator John Schwartz introduced a bill Feb. 1 that would exempt university presidential searches from certain portions of the state open meetings act.

The bill calls for confidential searches until selection committees have chosen three finalists, whose names would then become public.

Schwartz’s bill came on the heels of a presidential search gone awry last year when administrators at Michigan State University invited Dale Lick, then-president of Florida State University, to interview for MSU president. Brett Breen, Schwartz’s executive assistant, said that Lick was eliminated as a candidate when the press uncovered some racially insensitive comments that he had made while serving as president of the University of Maine.

Breen said that Lick was subsequently dismissed from his job at FSU but that Lick would not have lost his job had the debate “not gone out on the wires.” He added that Michigan would be able to attract quality applicants from other institutions if the state could assure confidentiality to presidential candidates.

But Dawn Phillips, general counsel for the Michigan Press Association, said that the open selection process protects the state from hiring candidates like Lick. “The open process caught him in a lie,” she said.

Oregon revises public records law

OREGON — After watching school officials randomly interpret it, the Oregon legislature passed an amendment to the controversial student education records law in mid-March. The new law allows the release — with parental consent — of the addresses, telephone numbers and photographs of students under age 18.

State Superintendent of Public Instruction Norma Paulus proposed the amendment that deleted a provision that allowed district school boards to decide whether to allow the disclosure of the address, telephone number or photograph of students.

The law now indicates that this information can be considered directory information and can be released with parental consent.

Gail Ryder, director of government relations for the Oregon Newspaper Publishers Association, said that the revisions of the law were drafted to make the law clearer to school officials who were responding in an unreasonable way. “You still have to have permission. But what was happening here was that they wanted permission from every person for every sport, for every game, every practice, every time,” Ryder said.

Videotape declared student record

FLORIDA — A state court of appeals upheld a trial court’s ruling that a school bus videotape of a gun-toting junior high schooler is considered an educational record, eliminating public access to the tape.

The case, originally brought to the Florida courts in April 1994 by a Tampa television station in Tampa Television, Inc. v. School Board of Hillsborough County, No. CIV - 94 - 01777 (Fla. Dist. Ct. App., 2nd Dist., Feb. 17, 1995); 1995 WL 62900, was decided Feb. 17. The appellate judges said that “these recordings could be utilized to produce ‘verified reports of serious or recurrent behavior patterns,’ which (Florida statutes) includes in its list of materials which may be considered as part of a student’s record,” exempt from disclosure under Florida’s open records law. Student education records can only be released with parental consent.

WFLL-TV Channel 8, represented by attorney Gregg Thomas, had argued that a student’s right to privacy does not include records revealing criminal conduct and that the videotape is not an educational record. The student in question was riding home from school on the bus when he got into a fight with other students and pointed a gun at them.

Judge J. Parker wrote a separate opinion that said school officials would have to maintain the tape as a record and provide it to parents when requested.
Judge rules in favor of school district, yearbook company in ‘slut’ case

TEXAS — A libel case that started in 1990 and has been characterized by lawyers as the Energizer rabbit of lawsuits was finally decided last December.

A Texas district court ruled that McAllen High School’s yearbook did not libel a former high school student. The high school and the yearbook publishing company, Newsfoto Yearbooks, had been sued after a yearbook staff member had inserted the word “slut” under the girl’s picture in the yearbook.

After the printing of the book but before it was distributed, the publisher produced an extra page to cover the page with Jennifer Duran’s picture on it. No one, other than the yearbook staff, saw the original page and students who tried to tear off the affixed page would have destroyed the page underneath.

Despite the effort to correct the matter, Duran and her parents sued claiming that the characterization was libelous and sought $600,000 in damages for “shame, embarrassment, humiliation, ridicule, mental pain and anguish.”

The school district and publishing company denied that Duran had suffered an injury because they had taken corrective measures with the adhesive labels.

The court granted the school’s and yearbook company’s motion of summary judgment, and Duran did not appeal the decision.

California April Fool’s case settled with out-of-court payment

CALIFORNIA — Nearly four years after an article appeared in his high school newspaper and three years after he filed suit in Riverside County Superior Court, Christopher Zerchot and the Lake Elsinore High School District in California have reached a settlement.

The article, which appeared in the 1991 April Fool’s issue of the Tiger Times, was titled “Danny and Chris Chosen Couple of the Month” and Zerchot claimed it implied that the two wrestling teammates were homosexuals.

Zerchot filed the libel claim alleging “loss of his reputation, shame, mortification and hurt feelings.” He said that he received harassing phone calls and community comments after the article was published.

Neither party would release details of the settlement, which was announced in January, although a staff member at the office for Zerchot’s attorney said that there was no admission of guilt and there was a financial payment, although not from the school district.

Scot Olpin lost his job as newspaper advisor after the controversy around this issue. He was reassigned to the district office but has since left that position. The April Fool’s issue also prompted a district policy that each issue be reviewed by the adviser and an administrator before publication.

NNA offers reduced membership rates to college newspapers

College newspapers can now become members of the National Newspaper Association at a reduction in dues rates while receiving libel coverage at special member rates.

Daily newspapers will pay $300 a year for membership, while weeklies and other non-dailies are eligible for a $200 per year rate.

For libel insurance, daily newspapers that are NNA members will be charged a premium of $1,500 a year and will receive extra benefits, including access to a libel hotline for $150 a year. Newspapers who sign up for the hotline receive a 10 percent credit towards their libel premiums.

Student publications interested in NNA membership should contact Tom Base, membership director, at (800)829-4662.
The Student Press Law Center gratefully acknowledges the generous support of the following institutions and individuals without whose support defending the free press rights of student journalists would be a far more difficult task. As a not-for-profit organization, the SPLC is entirely dependent on donations from those who are committed to its work. All contributions are tax-deductible.

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A 19-page booklet that discusses the legal issues confronting yearbook journalists, including the basics of libel and copyright law and advertising concerns. $2 per copy.

Access to Campus Crime Reports second edition
A 22-page booklet that describes how you can use state and federal laws to get information about crime on a college campus. Includes a sample open records request letter and a listing of citations to state open records laws. $2 per copy.


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Three times a year (Winter, Spring and Fall), the Center publishes this magazine, the Report, summarizing current cases, legislation and controversies involving student press rights. In addition, the Report explains and analyzes the legal issues that most often confront student journalists.

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