About the Student Press Law Center

The Student Press Law Center is the only national organization collecting, analyzing and distributing information on the First Amendment as it affects student journalists and journalism teachers in high school and college. The SPLC also provides direct legal assistance and advice to students and journalism teachers experiencing censorship problems, and to attorneys defending student expression.

To assist the SPLC in collecting information, individuals with knowledge of censorship incidents are urged to inform the Center about specific situations so that the SPLC may share this information with all interested persons and organizations.

Students and teachers interested in learning more about First Amendment rights, or needing legal assistance, should contact the Student Press Law Center, Room 1112, 1750 Pennsylvania Ave. NW, Washington, DC 20006, or call (202) 872-1620.

Additional copies of this report may be obtained free upon request. Multiple copies at cost.

COPYRIGHT PROBLEMS PLAGUE STUDENT JOURNALISTS; INFORMATION AVAILABLE

Frequently, student journalists produce exceptionally valuable pieces of work. Examples are numerous, and include everything from hard news to interviews.

However, a problem may arise: who owns the piece? Most school newspapers are not copyrighted (nor do most need to be). Uncopyrighted articles may be used by anyone. Consequently, when a story becomes of interest to the established media, many hours of hard work and original effort can be lost if the piece is picked up and run without credit.

Here, then, is some basic information on copyright: how to get it and how to use it.

A copyright gives the holder exclusive rights over the publication, production, performance, or sale of the copyrighted work. It exists to prevent indiscriminate plagiarizing of published material.

To obtain a copyright, you must complete the following procedure:

1. Produce the material with notice of copyright. "Notice of Copyright" means the word "copyright:" (or the abbreviation copr. or the symbol @) the name of the copyright holder, and the year date of the publication. Example: Copr. THE NEWS, 1976.

2. Obtain a copyright form from Register of Copyrights. Library of Congress, Washington, D.C. 20559. Fill out the form and return it to the Register along with a $6.00 check and two copies of the published work.

If any part of this procedure is not completed, the copyright will not be legally valid.

Make sure you have the correct form for the copyrighted work. For periodicals (newspapers, magazines, bulletins, newsletters, etc.) request Form B for single articles Form BB; for works of art (including cartoons and drawings), Form G; for a book, Form A (a book can be of any length, including a single page).

Even if only a single piece is to be copyrighted, you must submit complete copies of the work. Example: an article must be accompanied by the entire newspaper.

The law requires that the copyright form be filed "promptly" after the work is issued. While "promptly" is not defined by the copyright statute, the Register of Copyrights recommends completing the forms within three months.

You are entitled to free mailing when you submit your forms and copies of the work. This can be useful in avoiding postage costs on bulky material. To obtain free mailing, you must present the two copies to be filed in Washington and forms at the Post Office with a request for them to be mailed. You must place your application forms on top of the deposit copies. Your check cannot be included in the package and must be mailed to Washington in a separate envelope.
ARIZONA SCHOOL DISTRICT BANS POLITICAL ISSUES FROM HIGH SCHOOL PAPERS

In early September 1976, Scott Landry, editorial editor of the Palo Verde (Arizona) High School Post, decided to endorse a slate of school board candidates. He began to research the article by interviewing the various candidates and comparing their positions.

Several weeks later, Superintendent of Schools Thomas Lee informed Post advisor Jan Watson that school publications were not to "publish or present a politically oriented editorial and print no advertisement for political candidates." This position was termed an official district-wide policy.

However, according to Landry, Mountain Shadows, the newspaper of nearby Sahuaro High School had several times taken a stand on political issues without any administrative interference.

Landry contacted the head of publications for his district, who was unaware of the directive.

On October 7, the Student Press Law Center advised Landry that the unwritten and selectively enforced policy amounted to prior restraint and was clearly unconstitutional.

On October 8, Landry met with the superintendent. Lee reiterated his position. He stated that school publications were under no circumstances to print political materials. Lee rejected Landry's offer to print a statement that the material represented a personal opinion and not official views. Nor would Lee allow flyers to be placed inside the papers. Any of these alternatives, Lee said, might convey the idea that the administration was adopting a partisan position.

Lee claimed that the district might be accused of misusing public money by supporting political candidates. Dealing with controversial issues, Lee felt, might also embroil the district with complaints from taxpayers and generally alienate parents.

On October 19, the SPLC provided Landry with an opinion letter contesting the legality of the district's practices. The letter stated that none of the reasons given by Lee could be used to justify prior restraint.

On November 1, an attorney for the superintendent's office expressed the opinion that: "Inasmuch as funding for these papers comes in part from public money, [it] may not be used for the dissemination of political materials."

The Tucson Arizona ACLU is currently investigating the possibility of legal action in the case.

CALIF. SUPREME COURT RULES PRIOR RESTRAINT INVALID IN BRIGHT CASE

The summer 1974 issue of The Red Tide, an unofficial student newspaper distributed in the Los Angeles County school system, contained an article about the principal of Locke High School. The article described a conversation between a student and the principal concerning a rule prohibiting students from wearing hats in class. The article called certain statements made by the principal "lies."

On May 31, 1974, Susannah Bright, a student at University High School, wanted to distribute the summer issue at her school. In accordance with school district regulations, Bright submitted the issue to the high school administration for review.

Principal John Welch, feeling that the article was potentially libelous, told Bright that he would have to check with the Locke High School principal before authorizing distribution.

After receiving assurances from the Locke High principal that the statements classified as lies were in fact true, Welch refused to allow Bright to distribute The Red Tide. No formal investigation was undertaken to determine the accuracy of the principal's statement.

Under California's Education Code (Section 10611), material which is "obscene, libelous, or . . . create[s] a clear and present danger. . . .[of] substantial disruption of the orderly operation of the school, shall be prohibited." Welch felt that this statute permitted him to restrain distribution of the article.

On June 5, 1974, Bright brought suit in Superior Court of Los Angeles County seeking a declaration that Welch had acted unconstitutionally in employing a system of prior restraint on publication. Claiming that the statute in question did not permit prior restraint of libelous material, Bright sought an injunction preventing school officials from interfering with distribution of The Red Tide. When both claims were denied, Bright appealed the decision.

On September 30, 1975, the California Court of Appeals reversed the lower court and decided that the statute did not, in fact, authorize prior restraints. The court found that, although prior restraints might be acceptable when exercised to prevent conduct disruptive of the educational process, school officials had not claimed that such conduct was likely to result.

The court also determined that school officials had denied
Bright's rights to due process by failing to undertake a thorough investigation of the facts contained in the article.

The decision was appealed to the California Supreme Court.

On December 6, 1976, the Supreme Court found that "it is difficult to conceive that the Legislature in enacting section 10611 intended to resurrect a system of prior restraint." Noting that the wording of the statute did not specify at what time the material was to be "prohibited," the court decided that "school authorities would be authorized to stop distribution" once begun, but could not exercise prior restraint to ban publications in the first place.

Moreover, the court ruled unconstitutional a school ban on offering publications for sale on school grounds. It would be "at best a strained reading" of the law to say that the school's code prohibited the selling of newspapers, the court held.

CALIFORNIA JUDGE RULES PRINCIPAL
NOT JUSTIFIED IN CENSORING
UNDERGROUND PAPER

In September 1976, students from Lynwood (California) High School, including Daniel St. Ledger, were dissatisfied with the official school newspaper and decided instead to produce an alternative paper, The Forum. [St. Ledger is currently involved in a lawsuit with the Lynwood district, stemming from his dismissal as editorial editor of the official newspaper, Castle Courier.]

On September 13, St. Ledger submitted a copy of the September 14 issue of The Forum to principal Marvin McKown for approval. Without reading the issue, McKown refused to permit distribution. He said: "There's no way I'm going to "O.K." it because it's not printed here on campus. I won't endorse any underground paper."

St. Ledger appealed the decision to Superintendent of Schools Hyrum Loutensock the same day. Loutensock supported McKown.

The morning of September 4, after reviewing the content of the issue, McKown again refused to allow distribution. He declared that the paper contained vulgar, libelous, inflammatory, inaccurate and misleading material.

At 2:00 p.m., September 14, the Superior Court of Los Angeles County issued a temporary restraining order prohibiting McKown and Loutensock from interfering with distribution of the first page of The Forum.

At 4:00 p.m. St. Ledger and Forum co-publisher Kurt Peterson began to distribute the first page of The Forum. They had in their possession copies of the remaining pages.

Shortly thereafter, they were accosted by a security guard and brought to McKown’s office.

McKown stated that they were permitted to hand out only the first page of the issue. St. Ledger maintained that they were allowed to have the remaining pages on campus, even though they were not to be distributed. McKown then called St. Ledger and Peterson "stupid little jerks" and had them escorted from the campus.

On September 16, Peterson again approached McKown and requested permission to post the first page of The Forum on a bulletin board. McKown refused, saying the administration "can still dictate where you can distribute that stuff."

After a short conversation about freedom of expression, Peterson told McKown: "If you're afraid that this might hurt you, I can understand your reasons."

In a court statement, Peterson maintained that McKown responded by grabbing Peterson's arm, pinning him against the wall, feet off the floor, and yelling "You have no right to say that I am afraid of anything."

On September 17, Peterson received a memorandum from McKown, authorizing the posting of the first page.

On September 28, St. Ledger submitted a copy of the Sept. 30 issue of The Forum to McKown for review. The first page of the issue contained the headline "McKown Attacks Student."

McKown refused to allow distribution. He stated that, among other things, the headline was libelous. He also declared that he had not changed his original position that unofficial newspapers could not be passed out on campus, regardless of content.

That evening St. Ledger, represented by attorneys from the American Civil Liberties Union, appealed McKown's decisions to the Lynwood Board of Education. The Board declined to take any action.

At that meeting, Loutensock informed St. Ledger that he would not be able to review the Sept. 30 issue before Oct. 4 because he would be out of the office.

On September 30, ACLU attorneys for St. Ledger filed a complaint in Superior Court in reference to McKown's actions. The complaint sought a temporary restraining order to permit distribution of the Sept. 30 issue. The complaint also demanded a permanent injunction against McKown and a declaration that his actions were unconstitutional.

The court granted the temporary restraining order. A hearing was scheduled for October 14 to decide any further action.

The Forum was distributed on September 30.

On October 1, McKown presented St. Ledger with a statement that St. Ledger had been found handing out the newspaper in front of the main office of the high school "which tends to block traffic." St. Ledger refused to sign the statement.

In an opinion dated October 19, Superior Court Judge Norman Dowds granted a permanent injunction against McKown.

Quoting United States Supreme Court Justice Brennan. Dowds decided that "any exception to the ban on prior restraints is to be 'construed very, very narrowly: when disclosure will surely result in direct immediate and irreparable damage. . . .'

"Defendants [McKown and Loutensock] have not contended that they could prevent distribution of The Forum off of school grounds or that they could prevent oral repetition of the comments contained therein. Little, if any, additional risk seems to be involved in circulation of plaintiff's [St. Ledger's] views in written form."

McKown appealed the decision on October 26. The appeal asserted that McKown's actions were legal and appropriate, and that the injunction was overbroad and constitutive "an unjustified intrusion upon the orderly operation of the high school. . . ." Furthermore, McKown claimed that distribution of The Forum would hold him "up to ridicule and disrespect among the students, faculty, and staff of the high school. . . ."

The appeal was denied on October 29.
CALIF. HIGH SCHOOL PRINCIPAL DEMANDS PRIOR REVIEW

Silver Streak, the student newspaper of Baldwin Park (California) High School, published its first issue of the year on October 1, 1976.

The same day, newspaper adviser Janis Frankel received a call from Principal William Barnholdt, demanding to know why he had not been shown the copy before publication.

Frankel replied that there was "no agreement as to prior restraint," and that there had been no question about administrative review before that day.

In a letter to Frankel, Barnholdt maintained that since "the school newspaper is an integral part of the instructional program curriculum...I deem it absolutely essential that I be given the opportunity to preview any publications..."

On October 12, several editors of the Silver Street met with Barnholdt to discuss censorship. At that meeting, Barnholdt said: "I will exercise my right to be final editor-in-chief."

Copy for the October 22 issue, including an article on Barnholdt's action, was submitted and approved. According to Frankel, no articles have been deleted since then.

FEDERAL JUDGE ORDERS NEW YORK CITY SCHOOLS TO ALLOW TAKING OF SEX POLL BY SCHOOL PAPER

In November, 1975, the staff of New York City's Stuyvesant High School Voice wanted to investigate student sexual attitudes and habits by conducting interviews. They prepared a list of suggested questions, which included the topics of homosexuality, abortion and masturbation.

However, when Principal Gaspar Fabbricante heard about the survey, he told the Voice staffers that they would be violating certain school regulations if they did not ask permission from school district officials first.

In December 1975, the survey was changed from oral form to written questionnaire to insure confidentiality, and a cover letter was enclosed describing the nature and purpose of the survey.

The letter suggested that students not complete the questionnaire if they found it disturbing. Following this change, the Voice submitted the questionnaire to Administrator of Student Affairs Sanford Galenter. Galenter refused to allow distribution of the survey.

Assuming that Galenter was speaking for Superintendent of Schools Samuel Polotnik, the Voice attempted to appeal the decision to Chancellor of the Board of Education Irving Anker. Although contacted by mail several times, Anker failed to respond to the Voice's inquiries.

Finally, in March, 1976, the Board of Education decided that it would not permit the survey to be taken. An attorney for the Board stated that "We are not talking about freedom of speech, but about whether students can be subjected to a questionnaire which professional educators think might have a potentially damaging effect..."

In July 1976, Jeff Trachtman, a Voice editor, represented by attorneys from the New York Civil Liberties Union, filed suit in United States District Court, charging that the Board's refusal was indeed a violation of the First Amendment. A trial was scheduled for October, 1976.

After the trial was delayed several times, both sides agreed to submit expert testimony to Judge Constance Motley, in order to permit a timely ruling. The testimony was submitted on December 1.

On December 15, Judge Motley ruled that the Voice could conduct the survey on juniors and seniors, although not on freshmen and sophomores. "The psychological benefits of the survey far outweigh any harm...This type of independent investigation should be encouraged and applauded, for an integral goal of our educational system is to stimulate inquiry as well as to impart knowledge."

NY CITY HIGH SCHOOL PAPERS ENDANGERED

The student newspapers of nearly 91 New York City high schools have been affected by New York's current fiscal crisis. According to the New York Times, many newspapers have had to cut back on publication schedules. Some have ceased publication altogether.
Many of the papers have had to resort to charging for copies and soliciting outside advertisements in order to continue publication.

**FEDERAL COURT OVERTURNS OHIO BOOK BAN**

In the spring of 1972, the English Department of the Strongsville City (Ohio) School District submitted a list of recommended textbooks to the Board of Education for approval.

Disregarding faculty recommendations, the Board found Catch 22 an unsuitable selection for modern literature classes. On June 17, the Board rejected Kurt Vonnegut’s God Bless You, Mr. Rosewater, and refused to consider Cat’s Cradle, another Vonnegut novel. The Board also recommended that these works be removed from the high school libraries.

Five public high school students instituted a class action in United States District Court against the Strongsville City School District, the school district superintendent and members of the Board of Education. The students claimed violation of First and Fourteenth Amendment rights, alleging that the Board’s actions constituted censorship and interference with academic freedom.

On August 9, 1974, the District Court dismissed the case, holding that the Board’s action did not violate the students’ First or Fourteenth Amendment rights. (Minarcini v. Strongsville City School District, 384 F. Supp. 698 (1974)). Since the Board’s action did not interfere with the teaching of any theory or doctrine, the court found no deprivation of academic freedom. The Court held that the Ohio State Statutes gave the Board of Education ultimate authority to choose textbooks.

The students appealed the ruling to the U.S. Court of Appeals for the Sixth Circuit. The appellate court reversed the district court’s decision, finding the removal of the texts from the school library a violation of the students’ First Amendment rights (541 F.2d 577 (1976)). Although the state is under no constitutional compulsion to establish a library, the court held that the Ohio State Statutes gave the Board of Education ultimate authority to choose textbooks.

The students suggested they be permitted to write a letter to the editor detailing their complaints.

Specifically, the students expressed concern that the Senate was accorded certain privileges, such as being able to call assemblies and allowing members to skip classes for meetings, which were not accorded to other campus organizations.

Because the students wished to remain anonymous, Kwiatek suggested that the letter be signed “Representatives of the Classes of ’77, ’78, and ’79.”

On November 11, Kwiatek circulated the letter among the editorial board. It was approved by five of the six members. Vice Principal Graham, however, marked the letter “Please hold.” Among Graham’s complaints were factual inaccuracies and the general tone of the letter.

Kwiatek returned the letter to the students. They agreed to revise the letter in response to the criticism.

On November 15, the letter was again submitted to the board. Again, it was passed by five members and marked “hold” by Graham.

Kwiatek approached Graham to ask about specific criticisms on November 16. Again, “factual inaccuracy” was cited. In addition, Graham complained about the way the letter was signed. Kwiatek suggested that, for expediency, the signature could be changed to “Concerned Students.” Graham stated that, until he was able to meet with the students, the letter was not to be printed.

Since Kwiatek did not wish to disclose the names of the students, an editorial board meeting was called for November 18. Graham did not attend. The board voted unanimously to print the letter. No changes were recommended.

The following day, Graham approached Kwiatek and said that he would be able to attend an editorial board meeting that afternoon. At that meeting, Graham declared that the administration held an editorial veto over any material. If the letter were printed, he said, he would order The Lantern to cease publication immediately. Because of this fact, Graham announced, no vote was needed, nor was the editorial board necessary.

Acting on advice from the Student Press Law Center, Kwiatek recommended to the students that they retain an attorney.

On November 23, Kwiatek informed Principal Walter Marshall that the students were upset over Graham’s decision and were considering some sort of action. Marshall responded that he did not view the action as censorship, but that he was willing to discuss the matter with the journalists.

After meeting with Marshall, The Lantern staff decided to compromise by having the student senate president write a reply to the letter. Both letters were subsequently printed.

**CRITICAL LETTER STIRS CONTROVERSY IN OHIO HIGH SCHOOL**

At Wapakoneta (Ohio) High School’s The Lantern, an informal editorial board, consisting of three students, two teachers and Vice Principal Doug Graham, routinely approved all controversial articles. Since schedules were hard to coordinate, the board did not have formal meetings. Instead, articles were passed around among members.

In early November 1976, Lantern adviser Kathy Kwiatek was approached by several students concerned about the increased power of the Student Senate. Among those students were Senate members and class representatives. Kwiatek received a letter from a faculty adviser that was critical of the school’s “open-space” teaching methods. However, when the editorial came to the attention of Principal Ralph Mastandrea, he decided that the subject was too controversial and informed...
newspaper adviser Amy Faith that it was not to be printed. Through the local teachers' union, Faith complained that Mastandrea's decision violated her contract. She also sought to have all questions concerning the newspaper brought to the adviser before administrative action was taken.

Later, when Mastandrea revoked his decision, Faith dropped her complaint. The editorial appeared in a January 30, 1976, issue of The Crusader.

In April 1976, the finished copy of a Bicentennial issue prepared by the students was printed and returned to Faith with some material deleted and other material included which was not written by the staff.

In May 1976, The Crusader printed an interview with Mastandrea in which he was questioned about a "parking lot patrol" designed to curb vandalism. Three letters written by students in response to the article were confiscated by Mastandrea.

When student editors met with Mastandrea to discuss his actions, they were told that the letters were libelous and detrimental to the school's image. The letters were subsequently mimeographed by the editors and distributed to the student body.

On May 28, 1976, Mastandrea recommended that Faith be transferred to the junior high school because "her work with the journalism class...has left much to be desired..." On June 1, Faith was transferred and dismissed as newspaper adviser.

The following day, Faith filed a formal grievance with the teachers' union, contesting her transfer and dismissal.

On September 10, 1976, Faith met with Mastandrea to discuss her grievance. She was offered a tenth grade English position, with full reinstatement to her original position, not including the newspaper advisership, the following year. She refused the offer.

A hearing date has been sent for late January 1977. After the contractual issues are resolved, Faith and the students, represented by the American Civil Liberties Union, intend to bring a joint action to contest Mastandrea's censorship. According to Faith, the ACLU does not want to step in before "the union has its day."

FAIRFAX, VA. SCHOOL BOARD BANS ARTICLE ON CONTRACEPTION;
STUDENT EDITORS SUE

In 1974, The Farm News, the student newspaper at Hayfield Secondary School in Fairfax County, Virginia, published an article entitled "Anybody Can Get Venereal Disease." The article contained information on the availability and effectiveness of contraceptive devices. For that article, The Farm News was awarded a Certificate of Excellence from the Fairfax County School Board. The Certificate was signed by Superintendent of Schools John Davis.

During late November 1976, Lauren Boyd, a Hayfield student and editor-in-chief of The Farm News prepared an article on student sexual practices which was entitled "Sexually Active Students Fail To Use Contraception." Boyd submitted the article to Assistant Editor Gina Gambino and to the paper's faculty adviser, Stewart Hill.

After reviewing the article, Hill told Boyd that the article would have to be submitted to Hayfield Principal Doris Torrice. According to Hill, an informal agreement existed that any "controversial" articles would be submitted to the principal prior to publication.

On November 22, 1976, Boyd submitted the article to Torrice for review and approval. Torrice decided on November 29 that the article should not be carried in The Farm News, and told Hill and Boyd not to print it. Torrice claimed that certain parts of the article, dealing with the availability of contraceptives, were contrary to a school policy forbidding the dissemination of birth control information in sex education classes. Torrice also told Boyd that she did not want to spend time responding to parents who might complain about the content of the article.

Boyd immediately appealed the decision to Superintendent Davis. Davis referred the article to Hayfield's Advisory Board on Student Expression, consisting of two students, two administrators and one classroom teacher.

On December 1, the Advisory Board upheld Torrice's decision to prohibit the article. Citing school regulations that the student newspaper was a part of the "instructional" offering of the school and that "student activities shall relate generally to the school program and not interfere with school operation," the Board ruled that the proposed article violated the school's policy against teaching contraception.

Superintendent Davis affirmed the Board's ruling on December 2.

The December 1 issue of The Farm News, which had been delayed because of the dispute over the article, was distributed on December 6. The title of Boyd's article appeared on the front page of the issue, but a blank space was inserted in place of the article's text.

Boyd and Gambino contacted the Student Press Law Center for assistance. Christopher Fager, the Center's Director, prepared a written appeal from the superintendent's decision to the Fairfax County School Board. At a scheduled meeting of the Board on December 6, Fager, Boyd and Gambino presented the written appeal to the Board. Boyd and Gambino argued that the Superintendent's decision was unconstitutional. They requested permission from the Board to print and distribute the proposed article. By a vote of 5 to 4, the Board denied the appeal and upheld the superintendent's decision.

Boyd and Gambino decided to take legal action against Fairfax County school officials. With assistance from the SPLC and Virginia lawyers Ken McFarlane Smith and James Korman, Boyd and Gambino filed a lawsuit in United States District Court on December 21.

Boyd and Gambino asked the court to declare the censorship unconstitutional and to enjoin school officials from interfering with publication and distribution of the article. The suit also asked the court to hold unconstitutional the school rules cited to justify censorship of Boyd's article.

The suit pointed out that the school's library contained substantial and detailed material on contraception freely available to students at Hayfield Secondary School.

VIRGINIA COUNTY BANS DISCUSSION FILM

In September 1976, following the classroom showing of a film based on the short story "The Lottery," by Shirley Jackson, the Fairfax County school system received parental complaints. The complaints centered on the alleged "anti-tradition" and violent aspects of the film.

The film depicts the ritual stoning of a woman by the
inhabitants of an unnamed village. During a separate discussion film which accompanies the film itself, a narrator refers back to a scene portraying the woman screaming. While blood streams down her face, the narrator asks "Do we still worship a stern and vengeful God who demands outrageous sacrifices and bloody rites, and, if we do, should we continue our service?"

Reacting to the complaints, the school board submitted the films to a 12 member review and evaluation committee. The committee included parents, teachers, students and English specialists.

After reviewing the films, the committee recommended banning the discussion film, and limiting classroom use of the film proper to 11th and 12th graders. The committee cited "visual violence, and unrealistic picture of our civilization," and a "biased view of life" as the basis for its decision.

The school board adopted the committee's findings.

VIRGINIA SCHOOL PERMITS REVISED SEX SURVEY AFTER SHREDDING ORIGINAL

One of the editorial policies of the Manchester (Virginia) High School Communique was to include in each issue of the newspaper the results of a poll on a controversial topic. In October 1976, staff members prepared a questionnaire to survey student opinion on sex-related issues, including premarital sex, abortion, and contraception.

On the afternoon of October 18, the questionnaires were placed in teachers' mailboxes for distribution to students during homeroom the following morning. Since there had been no problems with student surveys in the past, Principal Edward Jones was not consulted before issuing the poll to teachers.

On the morning of October 19, after several faculty members refused to distribute the poll because of its content, Jones announced over the public address system that no more questionnaires were to be distributed or collected.

Staff members appealed Jones' decision to Superintendent of Schools Howard Sullins on October 20. Sullins upheld Jones' ruling, and demanded that all future questionnaires be submitted to Jones before distribution.

On October 21, Sullins had all distributed copies of the sex questionnaire seized and shredded.

Following Sullins' action, Dale Robert Hill, a Communique staff member, contacted Michael Shelton, a Virginia attorney.

Shelton met with Sullins on November 12. At that meeting, Shelton presented a revised copy of the sex poll for approval. The poll was still not satisfactory. Sullins cited several state regulations pertaining to sex education and stated that since the Communique was part of the school curriculum, any material dealing with sex education must first be approved by the state Board of Education.

On November 30, Shelton filed suit in United States District Court on behalf of Hill and other students, charging school officials with illegal and unconstitutional actions.

Shelton sought an injunction against school officials which would allow students to proceed with distribution of the questionnaire and publication of the results in the Communique.

A hearing was scheduled for December 7.

On the night of December 6, at a special meeting, the school board decided to permit distribution of the poll the following morning. The board also stated that it would no longer attempt to enforce prior restraints against the Communique.

WASHINGTON SEX POLL
LEGAL UNDER STATE CODE

The staff of the Lumberjack Log, of R.A. Long High School in Longview, Washington, decided to poll student attitudes on sex for a November 1976 issue. The poll was distributed to students during homeroom and collected by staff members. To preserve the anonymity of student responses, the completed questionnaires were shuffled to eliminate any chance of identification by homeroom. Teachers were specifically instructed not to handle the poll.

After the results were tabulated, Principal H. Max Murray discovered a provision of the state educational code which he believed prohibited the taking of such a poll.

The regulation read: "No written or oral test, questionnaire, survey, or examination shall be used to elicit the personal beliefs of a student or his parents as to sex or religion. . . ."

Murray sent a letter to Log adviser Dorothy McPhillips asking that the poll results not be printed. Since the very taking of the poll was illegal, he said, publishing the results would merely compound the problem.

When the Log staff objected to Murray's request, Murray and Superintendent of Schools Grant Hendrickson contacted a Seattle attorney for a legal interpretation of the code. They were advised that the poll did not violate the code because it had been taken by students.

The results of the poll appeared in the November 19 issue of the Lumberjack Log.

JUDGE MOOTS YEARBOOK CASE;
CITES USE OF OTHER MEANS
TO CRITICIZE SCHOOL

In past years, the staff of the yearbook Polar is, at Horlick High School in Racine, Wisconsin, had been allowed to include photographs of streakers and of students drinking liquor at off-campus parties. This indicated to school officials that faculty advisor Gilbert Pokora maintained too little control over the staff. Pokora was removed from his post as yearbook advisor.

In May, 1975, Tom Prevetti, then a senior at Horlick High, and editor of the Polar is, wanted to include a short paragraph in the yearbook criticizing Pokora's removal as advisor. The paragraph stated that Pokora had been removed for "not advising correctly."

Principal Walter Stenavich did not want the paragraph included, and told Prevetti not to print it. Prevetti refused.

Several days after the copy had been sent to the printer, Stenavich telephoned the printer and had the paragraph taken out. The yearbook was subsequently published without the paragraph.

As a result of Stenavich's action, Prevetti contacted Terry W. Rose, a Kenosha (Wisconsin) attorney. On Prevetti's behalf, Rose commenced suit against Stenavich in August 1975. two months after Prevetti had graduated.
High School

On September 22, 1976, Federal Judge John W. Reynolds declared that the case was moot, since Prevetti was no longer a student at Horlick High. Reynolds also held that Prevetti would not have been entitled to damages since other means, including flyers and the school newspaper, were available to communicate Prevetti’s criticism.

College

U. OF ALABAMA EDITOR EXPELLED FROM FRATERNITY FOR REPORT ON TICKET DEAL

On Monday night, September 23, Howard Josey, president of the University of Alabama chapter of the Theta Chi fraternity, had in his possession and attempted to sell to fellow fraternity members a block of 150 student tickets to an upcoming rock concert. The tickets were not due to go on sale to the general public until 11:00 a.m. the following morning.

Josey allegedly obtained the tickets from Tim Courington, a fraternity member and coordinator of the Ferguson Center where the concert was to be held.

On Thursday, Sept. 23, Bill Smith, entertainment editor of the university newspaper and a Theta Chi fraternity member, reported the fact in the Crimson White.

The same day, the Central Programming Board of the university announced it would form an ad hoc committee to investigate the early sale of tickets.

A television program sponsored by the University Television Services scheduled to include a discussion of the issue by Josey, Courington and Smith, was cancelled on Monday, September 27, when Josey informed UTV that “the misunderstanding” had been clarified to Josey’s “satisfaction.”

At a special meeting on Wednesday, September 28, the Theta Chi brothers voted to expel Smith from the Chapter.

Smith later confirmed that he was forced to sign an affidavit swearing he would not reveal events of the meeting.

On October 8, the University of Alabama chapter of Sigma Delta Chi, the society of professional journalists, passed a resolution supporting Smith, and protesting his expulsion from the fraternity.

Smith has contacted national officials of the Theta Chi fraternity, asking them to investigate his expulsion.

U. OF PACIFIC EDITOR CONVICTED OF IRRESPONSIBLE USE OF NEWSPAPER

In April, 1976, the student senate of the University of the Pacific, a private institution of 3,000 students in Stockton, California, selected Ned Tolbert as editor of the Pacifican, the university’s student-run weekly newspaper.

Shortly after he took office, Tolbert’s proposed budget for 1976-77 was vetoed by the senate’s finance committee. When Tolbert refused to submit a revised budget, the finance committee prepared its own projected allocation to the paper.

At that time, according to student body officials, a movement was begun to dismiss Tolbert for mismanagement and lack of cooperation.

On May 5, 1976, the Pacifican ran a front-page story reporting the presence of a prostitution ring on campus, based in a particular dormitory and operated by freshman women. The story was carried after it had been approved by the Pacifican’s editorial board and faculty adviser.

The following week, Tolbert was dismissed as editor by the student senate. Student officials said the article had no bearing on their decision. But, the timing of the move led to charges among those close to the newspaper that it was motivated by adverse reaction to the controversial story.

In late May, Tolbert was charged by the Joint University Council's media relations committee with violating the university’s student-run publications' policy.

CALIFORNIA TRUSTEES RULE PAPERS CANNOT REFUSE GALLO ADS BECAUSE OF LABOR POLICIES

Recent controversies involving several newspapers in the California State University and College (CSUC) system led that organization’s Board of Trustees, on September 2, 1976, to issue a policy statement clarifying the legal rights and duties associated with student newspapers.

At stake was the editorial right to refuse advertising. The statement also dealt with the legality of unsigned editorials endorsing political candidates.

The decision affects conflicts at several schools over the publication of Gallo wine advertisements. According to the statement, student newspapers “may not prohibit or limit a particular advertiser in response to the advertiser’s exercise of constitutional privileges, including, but not limited to, speech, press and association.”

This means that the newspapers may not refuse advertising because of an advertiser’s political or social views. If any wine advertisements are published, a student editor may not deny Gallo space because of Gallo’s non-union labor policies.

The opinion also maintained that the newspapers must refrain from “supporting or opposing any candidate for office or any issue before the voters. The support or opposition prohibited is that which can be viewed as an express, or reasonably implied, position of the paper itself, the auxiliary organization which sponsors the paper or the campus.”

This ruling, however, “does not prohibit individuals from exercising their First Amendment right to express their personal opinion on a candidate or issue... a student editor, with proper disclaimer which clearly states the opinion is his own, may express a personal opinion on a candidate or issue in a signed editorial format.”
Judiciary with "irresponsible use of the student newspaper," representing the student body and university "negatively and unfairly" in the paper, and acting in a manner "contrary to the best interests of the school." The judiciary, which is composed of three students, three faculty members and three administrators, scheduled a hearing on the charges.

Tolbert, who obtained legal counsel through the Center for the Rights of Campus Journalists from the National Lawyers Guild, was able to postpone the hearing until the following semester.

The hearing was held in late November 1976. Although Tolbert and his attorney, Richard Oliver, were willing to waive the confidentiality of the proceedings, the judiciary insisted on having a secret hearing. Neither Oliver nor Tolbert's parents were allowed to be present. Tolbert was represented by an "adviser" from the school community.

The hearing lasted for approximately two weeks. In early December, the judiciary convicted Tolbert of "irresponsible use of the student newspaper," dropping the remaining charges. Tolbert was placed on "disciplinary probation" for the remainder of his time at the university. The conviction means that Tolbert can be expelled immediately should he violate any school regulations.

Also, as a result of the conviction, Tolbert became ineligible to spend a semester in Vienna, Austria, under a university program for which he had already been accepted. A record of the conviction will appear on Tolbert's university transcript.

Hours after the judiciary ruled, The Stockton Record, a local newspaper, obtained a copy of the written decision, even though the hearing had been confidential.

According to one source, "it wouldn't have mattered if [Tolbert] had been able to prove the [prostitution] story beyond the shadow of a doubt." because Tolbert had been selected as "the scapegoat."

**STUDENT SENATE SUSPENDS NY CITY COLLEGE CAMPUS WEEKLY NEWSPAPER**

In November 1975, The Campus, one of City College of New York's five weekly newspapers, was suspended by the student senate because of a $10,000 debt. After missing two issues, The Campus managed to "scrape through the rest of the year...on four page issues," according to one source.

In May 1976, an editorial in The Campus attacked the newly elected senate for allegedly threatening a Campus reporter. Members of the senate denied making such threats.

In October 1976, The Campus carried a story charging that student ombudsman Thorne Brown had hired a lawyer for the senate-funded legal aid center at a salary three times that of the previous attorney.

On November 17, 1976, the Student Senate held a meeting at which it suspended The Campus for distorting the truth, misrepresenting facts, maligning "the character of certain individuals," and fiscal irresponsibility. The Campus had not been informed of the meeting beforehand, and was not present. The Senate also established a subcommittee on student publications, consisting of five senate members and two students "at-large," to investigate the possibility of revoking The Campus' charter completely.

The following day, Ann Rees, vice provost for student affairs, and Robert Carroll, vice president for communications and public affairs, wrote a letter to the senate urging that the suspension be overturned. Declaring that the move was a "violation of due process," the letter asked the Senate to provide a "fair hearing...prior to any action taken."

On Friday, November 19, The Campus published the issue it had been printing when suspended.

After hearing testimony from several individuals, not including Campus representatives, the senate subcommittee recommended to the senate on December 1, that The Campus be found guilty of all the charged except maligning character. The senate adopted the recommendation, and voted to suspend The Campus for the remainder of the school year in order to pay off an alleged $3,500 debt.

After having its books examined by a university bookkeeper The Campus maintained that there was, in fact, a slight fiscal surplus.

CCNY president Robert Marshak overturned the senate suspension. Although he made no mention of the specific charged against The Campus, in a letter to the senate Marshak ruled that there had indeed been a violation of due process. Marshak informed the Senate that if it wished to proceed with the action, it should schedule formal hearings and alert The Campus well in advance.

On December 3, The Campus received notice from the senate that it planned to have hearings on the suspension. The notice detailed the charges against the newspaper, concentrating on the financial aspect and dropping all editorial charges, such as "distorting the truth."

The first hearing was held on December 17, with both sides represented by attorneys. According to one source, it is "unusual" to have the same committee hear the evidence twice.

**TULSA COLLEGE EDITORIAL SPARKS ADVISER JOB THREAT**

The administration and faculty association of Tulsa (Oklahoma) Junior College opposed a city school board proposal to convert a nearby vacant high school building into a Community Treatment Center. The Center would have housed 75 to 100 convicted criminals.

On November 17, 1976, a signed editorial in the college newspaper, Horizon, declared that a more "positive approach" toward the proposal should be taken. The editorial was written by Associate Editor Jacquie Harbour.

According to official descriptions, Horizon is a "laboratory exercise" for journalism students, although it is distributed to the entire school community.

Shortly after the editorial was published, Horizon faculty adviser James Tidwell was summoned to meet with college officials. At that meeting, Tidwell was told that he had disobeyed school policy by not submitting the editorial to the chairman of the communications department for review before publication.

According to Tidwell, he was also told that as a result of the editorial his contract might not be renewed.

In a November 18 article on the incident in the Tulsa Tribune administrators denied that they threatened Tidwell's job.

Because of Tidwell's allegation, the college Student Affairs Committee, on November 18, decided to investigate the situation.

On November 22, the Faculty Association voted to support Tidwell. Stating that a policy of administrative review "is
The Board voted to direct the also charged with evaluating the for sale. the Board of Directors determined the ads were the publication of advertisements offering research papers

The same day, the chairman of the Honor Committee submitted a formal complaint to the Daily's Board of Directors. The complaint alleged that, in publishing the transcript, the paper "did not afford the Honor Committee the same status of credibility... as Clark," that the coverage had been one sided, and that the Daily had left out certain information in order to infer that the Honor Committee had ignored pertinent evidence.

The Board decided on April 29 to draft "acceptable" guidelines for future Honor Committee publicity in the paper.

The Board of Directors was composed of the vice presidents of U.Va.'s ten schools, all of whom were also members of the Honor Committee. Created in 1958, the Board of Directors functioned primarily as the newspaper's formal overseer.

On September 20, 1975, the Board of Directors received a complaint from members of the Young Americans for Freedom. The YAF contended that the Cavalier Daily had neglected its duty to cover events of interest to the students by ignoring a "major attraction" on campus, a speech sponsored by the YAF.

The Board scheduled a hearing to investigate the complaint. However, new-editor-in-chief Dusty Melton declined to appear at the meeting, claiming that the Board's constitution did not permit review of the newspaper's content.

Following the hearing, the Board voted on October 15, 1975, to censure Melton for failing "to report the news and provide an outlet for campus opinion and creative effort."

Acting in accordance with a request by university president Frank Hereford, Vice President for Student Affairs Ernest Ern, on October 28, established a committee to investigate a possible conflict of interest raised by the Board of Director's membership on the Honor Committee. The committee, headed by English professor William Elwood, was also charged with evaluating the Cavalier Daily's internal organization, and determining the feasibility of a media board to oversee all campus media.

On November 24, 1975, in response to complaints regarding the publication of advertisements offering research papers for sale, the Board of Directors determined the ads were "inconsistent with the aims and character of the University." The Board voted to direct the Daily to delete the ads.

When the Daily's Managing Board objected to the wording of the Board of Director's resolution, the document was altered to recommend removal of the ads.

Anne DeCamps, chairperson of the Board of Directors, reiterated the Board's position in a letter to Melton dated March 3, 1976. The ads had reappeared several times following the recommendation that they be removed. Melton replied to the letter on March 15 by stating his reasons for not discontinuing the ads.

On March 20, the "Concerned Engineering Students for a Fair Election" officially protested a story in the Cavalier Daily which alleged that a candidate for school office might be charged with honor code violations. The complaint referred to the university's honor code which states that any investigation of possible violations should be conducted confidentially.

On March 22, 1976, the report by the Elwood committee was released. It proposed, among other things, the creation of a media board to oversee all campus media. The committee recommended that the media board have the power to remove student media staffers, be able to censure staff members publicly and privately, and supervise the Cavalier Daily's budget. The report also predicted that the Daily "will tend to be paranoid about this report."

The University Board of Visitors abolished the Board of Directors on March 26, 1976. At the same time, a Media Board was established and charged with insuring "that the student media... carry out their functions in a manner consistent with the aims and objectives of the University."

The Board of Visitors also decided that Media Board members be appointed by the outgoing school presidents, also members of the Honor Committee.

In May 1976, the Cavalier Daily won a first place award in the student publication category of the Robert F. Kennedy Memorial journalism awards competition. Shortly thereafter, the new editor-in-chief Marjorie Leedy, asked the Student Press Law Center for an opinion about the validity of the Media Board.

A letter by the SPLC, dated August 31, 1976, stated that "the mechanism by which the Board exercises supervision over the paper raises serious questions as to whether its procedures offend constitutional notions of due process as well as the First Amendment guarantee of freedom of expression."

The Media Board drafted a constitution in October 1976. Abstracted to a large degree from the Board of Visitor's charge, the constitution empowered the Media Board to remove student editors and to solicit complaints against student media organizations.

In a statement to the Media Board on November 16, Leedy charged that certain provisions in the constitution amounted to prior restraint, and that removal of student editors without appeal was a violation of the Fourteenth Amendment.

The Cavalier Daily has asked the Charlottesville (Virginia) ACLU to petition the Board of Visitors to dissolve the Media Board.

RESTAURANT SUES W. VIRGINIA UNIV. PAPER

In the fall of 1973, The Daily Athenaeum, West Virginia University's student newspaper, published a supplement to acquaint new students with the city of Morgantown. The supplement included reviews of local eating spots.

One restaurant, characterized as "bad," filed a libel suit against Ben Thompson, a full time staff member and general manager of the Athenaeum, and several students who had graduated.
The case was scheduled for trial during the summer of 1976. At the request of the restaurant owners, the trial was postponed indefinitely.

Thompson described the review as definitely "not libelous." According to Thompson, there is proof that the Health Department had threatened to close down the restaurant three days before the article appeared.

WEST VIRGINIA UNIV.
PHOTOGRAPHER JAILED FOR CONTEMPT OF COURT

On October 13, 1976, Wayne Scarberry, a photographer for West Virginia University's Daily Athenaeum, was instructed by editors to get a picture of Eugene Clawson, accused of murdering two university coeds. Clawson was in the county jail, pending a hearing before Monongalia County Circuit Court Judge Marvin Kiger.

At the jail, Scarberry was told that Clawson would not leave the building at any time, since the courtroom and jail were connected by a catwalk.

Scarberry was instructed by a deputy sheriff, a probation officer and the judge's secretary that no pictures were to be taken in the courtroom without the judge's permission. Consequently, Scarberry, standing at the spectator's entrance to the courtroom, took a picture of Clawson before Kiger entered the courtroom.

On October 15, Clawson's photograph appeared in the Daily Athenaeum.

On October 19, 1976, Scarberry was served with a "show cause" order, charging him with contempt of court. The hearing was postponed until after Clawson's trial. Clawson was found guilty of murder on November 5.

On November 9, Scarberry was found "in contemptuous violation of the regulations superimposed on the court." He was sentenced to three days in jail, and began to serve his sentence the same day. Kiger ignored repeated objections by Scarberry's attorneys that there had been no "lawful order prohibiting the taking of pictures in the interior of the courtroom."

Scarberry has not ruled out the possibility of an appeal if he can obtain the necessary funds.

SPLC SURVEY REVEALS A DOZEN STUDENT RIGHTS ORGANIZATIONS

According to an October 1976 survey by the Student Press Law Center, there are a dozen organizations nationwide devoted exclusively to student rights. This activity includes publishing and distributing information on student rights as well as providing direct legal advice.

However, there are only three agencies—the Children's Defense Fund, the Center for Law and Education and the SPLC—functioning on a national basis. The remaining organizations are limited to local activities.

The survey revealed that most of the agencies focus their attention on the area of discrimination. Disciplinary problems and so-called exceptional children are also prime areas of concern.

While most of the organizations provide lay advocate assistance—representation by community members trained in the law—less than half include attorneys as full-time staff.

The following is a list of the names and addresses of the student rights organizations.

Advocates for Children of New York
29-28 41st Ave., Long Island City, NY. 11101 (212) 786-9100
Advocates for Children of New York, formerly Queens Lay Advocates, deals with "major problems of getting through the system." This includes work with "exceptional" children, suspensions, drop and pushouts. Provides advocates for case representation (hearings). New York City only.

Chicago Public Education Program
407 S. Dearborn St., Chicago, IL. 60605 (312) 427-2533
The Chicago Public Education Program, connected with the American Friends Service Committee, "tries to guarantee that rights are enforced in Chicago schools." This includes constitutional issues, as well as work in suspensions, Title I, and special education. Conducts workshops. Chicago only.

Citizens in Support of Student Rights
915 Salem Ave., Dayton, OH. 45406 (513) 278-4225
Citizens in Support, affiliated with the AFSC, works in the whole area of students problems/rights. They work with parents, conduct workshops, and seek "individual solutions" to specific problems by meeting with students and officials. Advocates are available for case (hearing) representation. Mostly Dayton, some county-wide.

Education Law Center
2100 Lewis Tower Bldg., 225 S. 15th St., Philadelphia, PA. 19102 (215) 732-6655, Suite 800, 605 Broad St., Newark, NJ. 07102 (201) 624-1815
The two Education Law Centers, working respectively in Pennsylvania and New Jersey, are professional organizations providing "free legal assistance to education consumers . . . in an effort to reformulate . . . the quality, delivery and responsiveness of public educational systems." There are attorneys at each center, knowledgeable in all educational issues. They provide direct legal assistance in litigation, as well as information, and attorney referral services. Pennsylvania and New Jersey only.

Massachusetts Advocacy Center
2 Park Square, Boston, MA. 02116 (617) 357-8431
The Massachusetts Advocacy Center "is a countervailing advocate in the private sector designed to monitor and encourage regulatory and administrative agencies to perform their tasks in the public interest." In the area of student rights, they work most heavily on issues relating to the
Massachusetts special education law, although they also work on discipline problems, suspensions, and the Buckley Amendment.

The Student Advocacy Committee
1706 S. University, Ann Arbor, MI. 48104 (313) 995-0477
The Student Advocacy Committee "deals with any and all questions on school related issues, problems, etc." Operating since March 1976, they provide representation at hearings, advice on alternatives, and general information. They are primarily a volunteer organization, but have plans for limited expansion in the future. Greater Ann Arbor only.

Tennessee Student Rights and Responsibilities Center
P.O. Box 8006, Univ. of Tenn. Station, Knoxville, TN. 37916 Contact Tenn. ACLU.
The Tennessee Center serves to "educate students, parents, and others about the legal rights and responsibilities of students in Tennessee." Staffed mainly by law school students, the Center publishes a Rights and Responsibilities Handbook. They conduct workshops, and provide help "concerning any issue relevant to student rights . . ." They are affiliated with the Tennessee ACLU. Tennessee only.

Youth Advocacy Project
774 West Main St., Rochester, NY. 14611 (716) 436-1600
The Youth Advocacy Project does most of its work in suspensions and due process situations. Buckley Amendment problems, drop and pushouts. They also handle disciplinary problems and have youth workers on the staff who represent students at hearings. They also train community advocates to work as referral/resource/information centers. Rochester only.

Youth Law Center
693 Mission St., San Francisco, CA. 94105 (415) 495-6420
The Youth Law Center is a Legal Services Corporation funded organization, which means they take only low-income clients. They work mainly in situations which will have an impact on large numbers of students, including First Amendment, due-process and suspensions. They are active in a number of special education cases. California and back up in other Southwest states.

AUXILIARY ORGANIZATIONS

Harvard Center for Law and Education
Gutman Library, 6 Appian Way, Cambridge, MA. 92138 (617) 495-4666.
Funded by the Legal Services Corporation, the Harvard Center serves as "a back-up agency on education issues for local Legal Services Program offices throughout the country. The Center participates in litigation and engages in other activities to provide assistance to eligible (low-income) clients." This is only a back-up center, and will not represent individuals.

Program for Educational Opportunity
1048 School of Education, Univ. of Michigan, Ann Arbor, MI. 48109 (313) 763-9913.
The P.E.O. provides information to school districts needing advice on discipline/student rights programs. The request must come from the school district itself, i.e., the school board. Michigan only.

Children's Defense Fund
In the area of student rights, the C.D.F. publishes reports and pamphlets in such areas as suspensions, school records, and special education. They also have a litigation staff, and are active in many special education cases. School exclusion is the main area of concern. Nationwide.

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