Don’t Stop Now!

A guide to freedom of information laws for reporters on the move.
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CONTENTS
HIGH SCHOOL CENSORSHIP
Publication policies are mixed blessings ........... 4
Spotty victory at Tigard High School ............. 4
New disruptive speech standard ................... 5
Religious publications ban "unreasonable" ........ 6
Colorado schools lack policies ................... 8
Free expression bills dying slowly ............... 8
Principal deletes yearbook caption ............... 9
Clark Jr. High editorial smoked out ............. 9
NEOLA policy criticized in Traverse City ....... 10
Montana adviser suggests policy ................. 11
Seneca Scout accepts guidelines ................. 11

ACCESS
Who gets to sneak a peek? ....................... 12
Citizen cannot see sex film ..................... 13
Privacy for college sexual harassers? .......... 13
Harvard students ditch HHS suit ................. 14
Red & Black still excluded from hearings ...... 14
Records a secret in Pennsylvania ............... 14

CAMPUS CRIME
Shh. No crime here ............................. 15
Open records law shines in California .......... 16
SPLC ends Buckley lawsuit ..................... 16
Pennsylvania kills open logs bill .............. 17

COVER STORY/LEGAL ANALYSIS
FOI laws: Building information bridges ........ 18

POLITICAL CORRECTNESS
Juggling rights and freedoms .................... 21
California speech codes banned ................. 21
New speech rules in districts ................. 22
Wisconsin discards code ....................... 22
Former staffers sue Daily Collegian .......... 23
Congress forgets bills ......................... 24

LIBEL
Nine years of Stony Brook suit end .......... 25
Cleveland magazine accused of libel .......... 25

COLLEGE CENSORSHIP
Students become model censors ................. 27
Off-campus paper okay to distribute .......... 28
Sheriff demands film at Bush rally .......... 28
Marshall paper assailed for naming victims .. 29
Delphian staff locked out in New York ....... 31
Triton college paper squashed ............... 32
Nude sketches too sexy for Wheaton .......... 32
Catalyst harassed by school officials ..... 34
 Coffeyville policy under fire ............... 35
SPLC presents three press freedom awards

Minnesota editor, Oregon and Georgia student papers recognized

Two student newspapers and one student journalist have been named recipients of the 1992 Scholastic Press Freedom Award.

The award, sponsored by the Student Press Law Center and the National Scholastic Press Association/Associated Collegiate Press, is given each year to the high school or college student journalist or student news medium that has demonstrated outstanding support for the free press rights of students.

Three awards were presented this year because of the strength of the nominees and the outstanding effort made by each of the award recipients, said SPLC Executive Director Mark Goodman.

One award went to the staff of the student newspaper Hi-Spots of Tigard High School in Tigard, Ore. In January 1992, Hi-Spots came to the defense of an underground student newspaper, Low-Spots, distributed at the school. After staff members of the alternative paper were suspended for their publication, the Hi-Spots staff wrote an editorial supporting the right of those students to express themselves but urging that they use that right responsibly.

"In their overreaction to this 'incident,' the administration has clouded the concept of free expression," the editorial read. "The Low-Spots could be taken as constructive criticism, but instead the administration has squelched what could be a positive tool in combatting ignorance."

Tigard school officials censored the editorial, and Hi-Spots staff members subsequently joined with the underground journalists in a lawsuit against the school of violation of their free press rights. (See A MIXED VICTORY, page 4.) The award to Hi-Spots was presented at the National Scholastic Press Association/Journalism Education Association National Convention in Columbus, Ohio, on Nov. 22.

The second award went to Jana Studelska, managing editor of the Northern Student at Bemidji State University in Bemidji, Minn., because of her ongoing battle for access to campus police reports. Studelska faced anonymous threats and intimidation after she began pressing her school to open up their police logs and incident reports. Yet she continued her effort, writing news stories and columns about the risk of keeping students, especially women, ignorant of the specifics about campus crime. Finally, she filed a lawsuit against her school for access to those reports.

"This lawsuit is about more than just freedom of the press," said Studelska. "Opening the books on campus crime means safety in numbers, allowing women to come together against administrations and attitudes that are designed to protect image, not human beings."

Studelska's suit is pending in federal court in Minnesota.

The final award winner pushed the fight for campus crime information into a new front — access to proceedings of campus judicial bodies. In 1991, The Red & Black at the University of Georgia asked to attend the hearings of a campus court that considered charges of hazing against fraternities. The university denied the request, saying it was entitled to conduct the secret hearings. The Red & Black described in editorials the importance of openness to the integrity of the proceedings and the judgments that were made based on them, and in the summer of 1991 the paper carried a series about the affair.

The Red & Black were awarded the award at the Associated Collegiate Press/College Media Advisers National Convention in Chicago Oct. 31.

Goodman said this year's award recipients deserved special recognition for their strong support for press freedom at a time when many have made media basing a pleasure sport.

"The effort to persuade the American public that 'the media' is an evil institution is a global embarrassment doing incalculable harm to the cause of press freedom around the world," said Goodman. "The valiant efforts made by these student journalists have done more to teach democratic values than most school administrators will be able to show for their entire careers."
H.S. CENSORSHIP

By Policy or Practice

Post-Hazelwood publication policies can be a double-edged sword

As many students have come to realize, a high school publication policy can be a blessing or a curse.

Ideally, such policies clearly spell out the roles of everyone involved with school publications. Students, advisers and administrators alike know their rights and limitations when a policy is enacted. Misunderstandings and disagreements over a publication's content can be more easily resolved by referring to such a policy. A publication policy can be especially helpful in a private school, where the First Amendment does not limit school officials' actions.

The Supreme Court's 1988 Hazelwood School District v. Kuhlmeier decision makes the institution of a publication policy even more necessary. The Court decided that the level of censorship permissible in public schools hinges on whether, "by policy or practice," a given school has opened up its hallways and publications to free expression by students. A written publications policy easily fills the "by policy or practice" criterion. By stating that the school's hallways and publications are an open forum for student expression, the school agrees that censorship is not allowed unless an item would substantially disrupt school activities.

However, this is not an ideal world. The problem for student journalists is that recently enacted policies in many school districts clearly state that the school's hallways or student publications are not open for student expression, even if the school district's prior practice had been to allow it. The policies are often written by lawyers or administrators who have no journalism background, with little or no input from students. While they follow the letter of the law, the spirit of the First Amendment is often lost.

A good way for students to protect their rights is to become active in the formulation of the policy. Students in Traverse City, Mich., spoke before their school board and gained the support of the local commercial press, the National Coalition Against Censorship and the National Council of Teachers of English. (See TRAVERSE CITY, page 10.) The board was persuaded to change the proposed policy.

Another option is to take the dispute to court. An Oregon judge recently ruled that the prior review provisions in the Tigard-Tualatin School District's policy were unconstitutional. (See A MIXED VICTORY, this page.)

The best protection is to be informed. Know what Hazelwood means and how it applies to you. Find out if your school has a policy and how it can be used if censorship becomes a problem. If your school is considering a policy, find out how you can be a part of the planning process. And if you need help, do not hesitate to contact outside resources such as the SPLC, and your local commercial newspaper. Knowing your rights and attracting community attention can go a long way toward making sure your voice is heard.

A mixed victory for Tigard papers

Prior restraint not allowed, but other restrictions stand

OREGON — A local news report said of the case, "they both won, and they both lost." A lawyer working on the case preferred to say, "we won the battle, but lost the war."

So it is not surprising that both sides plan to appeal the decision of Circuit Court Judge Donald C. Ashmanskas in the case of Barick v. Kubiaczyk, No. C920085CV (Or. Cir. Ct., Sept. 23, 1992).

'We won the battle, but lost the war.'

Michael G. Harling
Attorney

The case was filed by student journalists at Tigard High School after editors of an unofficial newspaper, Low-Spots, were suspended, and an editorial supporting underground newspapers was censored from the official student newspaper, Hi-Spots, in January 1992. Editors of another unofficial paper, The Spots on My Dog, were suspended but did not participate in the lawsuit.

The case claimed that the Tigard-Tualatin School District, the principal and several other administrators violated the students' rights under both the First Amendment and the Oregon Constitution's free speech and free press provisions.

The suit asked that the school administration be prohibited from interfering with the publication and distribution of both official and underground newspapers and from disciplining students for activities related to publication. In addition, the suspended students requested that the suspension be removed from their records.

(See TIGARD, page 5)
OREGON — In what could signal yet another assault on the free speech rights of high school students, a three-judge panel from the Ninth Circuit U.S. Court of Appeals ruled in October that student expression has even less protection than what most legal experts believed remained following the Supreme Court's 1988 decision in Hazelwood v. Kuhlmeier.

Two of the three judges in Chandler v. McMinnville School District, No. 91-35051 (9th Cir. Oct. 28, 1992), ruled that even non-school-sponsored student speech that was "vulgar, lewd, obscene or plainly offensive" could be censored by school officials even when not disruptive.

The Hazelwood Court created a distinction between school-sponsored and non-school-sponsored speech and created two different tests for determining whether or not administrative censorship was constitutionally permissible. In describing non-school-sponsored student expression, the Hazelwood Court affirmed its 1969 ruling in Tinker v. Des Moines Independent Community School District, which allowed school officials to censor student speech only when they could demonstrate that it would cause a "material and substantial disruption of school activities" or invade the rights of others. Additionally, student speech that took place in a school-sponsored public forum was also protected by the Tinker standard. School-sponsored speech in a non-public forum, on the other hand, could be censored where school officials could show that their decision was "reasonably related to a legitimate pedagogical concern," according to the Hazelwood court.

The Hazelwood decision has been strongly criticized by scholastic press organizations and legal experts across the country for severely restricting the

(See McMinnville, page 7)

Tigard

(Continued from page 4)

Judge Ashmanskas ordered the suspensions removed from the students' records, and also stated that the principal, Mark Kubiaczyk, had violated the students' First Amendment rights when he censored the Hi-Spois editorial and punished the Low-Spois editors. For the students, this was a victory.

He also held that a student publications policy enacted after the controversy arose outlining the "legitimate educational concerns" that would warrant censorship did not violate the First Amendment — a victory for the school district. The court rejected the provision of the policy that said the administration could review an underground newspaper before it is distributed.

The court did not rule on the claim that the school's actions violated article 1, section 8, of the Oregon Constitution, the state's free speech clause.

"It was certainly a mixed ruling," said Michael G. Harting, a Portland attorney representing the students.

While the students are glad that the prior review provisions were found unconstitutional, the remaining provisions of the publications policy leaves the school with some authority over newspapers, Harting said.

"It gives them a lot of latitude to punish," he said. For example, the policy states that material that "uses, advocates, or condones the use of profane language" may be grounds for punishment because it raises "legitimate educational concerns," language consistent with the Hazelwood ruling.

"It is our position that even if the judge is correct that Hazelwood applies, in Oregon the papers would have more protection" because of the state constitution, Harting said.

The state constitution has been interpreted by Oregon courts as providing broader protections than those of the federal First Amendment.

"Even obscenity is protected by the Oregon Constitution," Harting said. "We're disappointed that he offered no explanation as to why the Oregon Constitution claims were not addressed."

Harting said the students' appeal will "absolutely" raise the Oregon Constitution claims again.

Ironically, all but one of the students involved in the case have since graduated from Tigard High School.

"The students are more concerned about the future than what happened to them, although that was important also," Harting said. "We hope that [the school] will think twice before they do something like this in the future."

Both sides have said they plan to appeal the decision to the Oregon Court of Appeals, the second highest court in the state. A court date has not yet been set.
H.S. CENSORSHIP

Students allowed to distribute religious magazine in school

Judge reverses parts of his earlier decision, but junior high school still a ‘closed forum’

ILLINOIS — A federal judge ruled in September that Megan Hedges can hand out copies of a religious publication at school after all.

Reversing his own earlier decision, District Court Judge Paul E. Plunkett ruled in Hedges v. Wauconda Community Unit School District, No. 90-C-6604, slip op. (N.D. Ill. Sept. 30, 1992), that a junior high school’s policy barring distribution of religious materials because students might think they were sponsored by the school is “unreasonable.”

While changing his ruling on the publications policy itself, Judge Plunkett reiterated an earlier ruling that the Wauconda Junior High School is a “closed forum” and not intended for expressive activity by students. It was the closed forum ruling that originally prompted Hedges’ attorney to request a new trial.

This is the third time that Hedges’ case has been heard in court. In December 1990, Judge Plunkett ordered a preliminary injunction allowing the then 13-year-old Hedges to continue to distribute Issues and Answers, a national religious publication aimed at young adults, while the court determined the legality of the school district’s policy prohibiting the distribution of all religious materials.

At that time, Plunkett issued a preliminary ruling stating that the despite the school’s claim, its hallways were probably not a closed forum for student expression.

In response to the court’s ruling, the school district implemented a revised policy, which required students to give one day’s notice before handing out publications, and to distribute any publications only before or after school hours from a table designated by the school. That policy also prohibited the distribution of materials not prepared by students or concerning non-school activities.

In March 1991, Hedges filed an amended complaint claiming a violation of her First Amendment rights when the school prohibited her from advertising a church activity in support of U.S. troops stationed overseas during the Persian Gulf War. The flyer contained no religious content, aside from stating that the event would be held at Wauconda Evangelical Free Church, where Hedges was a member.

In answer to that complaint, the court ruled that Wauconda Junior High School’s new publications policy was reasonable and enforceable. In doing so, the court reversed its earlier decision that Wauconda Junior High was a limited open forum, instead ruling that the school was a closed forum.

Forum status has become crucial to some First Amendment cases involving public schools because it determines the level of scrutiny the courts will use in deciding whether government regulation of speech is valid. School administrators have much more leeway to limit speech in a closed forum than they do in an open or limited open forum.

This forum analysis approach to high school free expression cases was used by the Supreme Court in its 1988 Hazelwood School District v. Kuhlmeier decision relating to school sponsored publications. Other courts have said that forum analysis is inappropriate as applied to the right of students to distribute non-school sponsored publications in school hallways and that students must be given free expression rights at school.

The judge’s new decision about the forum status of the school caught Hedges’ attorney by surprise, as he had believed the forum issue had already been conclusively decided and did not mention forum status in his arguments against the new publications policy.

Because forum status was so crucial to the case, the court granted Hedges’ motion for a re-hearing of the forum issue only.

In his new ruling, Judge Plunkett stated that while the junior high school was a closed forum, the school’s policy was unreasonable. Even in a closed or non-public forum, school officials must show that their censorship is reasonable and not intended to silence a particular viewpoint.

The court reasoned that requiring students to distribute publications only from a table provided by the school would have opposite the intended effect, making it look like the publication is school-sponsored.

Forbidding students from distributing materials not prepared by students is also unreasonable, the Court ruled.

“While in school, students read material prepared by such famous nonstudents as Homer, Shakespeare, and (if they are lucky) Lewis Carroll,” the decision reads. “They also prepare some materials themselves.... It is clear, therefore, that teaching (See HEDGES, page 7)
McMinnville
(Continued from page 5)

First Amendment rights of high school students.

The Chandler case arose after school officials at McMinnville High School made two students remove buttons and stickers from their clothing that supported striking teachers and criticized those who had replaced them. Both students' fathers were among the teachers on strike. The buttons and stickers displayed the slogans "I'm not listening scab," "Scab we will never forget," "Do scabs bleed?" and "Scabs" with a line drawn through it. The students sued, claiming that the school officials had violated their First Amendment rights.

The students argued that their speech should be protected according to the Tinker standard. In Tinker, junior high and high school students were suspended for wearing black armbands in protest of the Vietnam war. The Tinker Court held that the display of armbands was a "silent, passive expression of opinion, unaccompanied by any disorder or disturbance," and as such was protected by the First Amendment.

While admitting that the students' buttons were a common way for individuals to silently convey their personal opinions, ideas and political beliefs, the court refused to automatically apply Tinker and instead created a subcategory of "vulgar, lewd and plainly offensive speech" that they claimed fell outside of Tinker's protection. The court based its new standard on the 1986 Supreme Court case of Bethel School District No. 403 v. Frager, in which the Court held that school officials did not violate the First Amendment when they punished a student who had given a speech containing sexual innuendo and metaphor at a high school assembly.

In Chandler, a lower court found that the stickers and buttons were both "offensive" and "inherently disruptive," and granted the school district's motion to dismiss the students' suit. The Court of Appeals agreed with the lower court that "vulgar, lewd, obscene and plainly offensive" speech could be banned — even when the speech was not school-sponsored — but held that the school district had not yet shown that the buttons and stickers at issue fell into those categories. The court remanded the case so that more evidence could be presented on that issue.

Judge Alfred T. Goodwin, who concurred in the court's result but disagreed with its analysis, warned that the majority opinion "erodes important First Amendment protections." Goodwin criticized the court for abandoning the school-sponsored/non-school-sponsored distinction established by the Hazelwood decision and inventing a new and unnecessary test.

"[As non-school sponsored, political speech] the court should apply the Supreme Court's Tinker analysis, which provides that students cannot be punished for merely expressing their views on campus unless school au-

Hedges
(Continued from page 6)
thorities could reasonably forecast that such expression will cause 'substantial disruption of or material interference with school activities,'" Goodwin wrote.

"Certainly the majority does not suggest that student political discourse which some school administrator might consider 'plainly offensive' is entitled to only minimal First Amendment protection," Goodwin said.

Hedges' attorney, Charles Hervas, said there are both positive and negative aspects to the ruling. While he still feels the junior high school should be considered a limited open form, he said the court has taken a big step in recognizing student rights by repealing the distribution policy.

"It's positive in that even in a closed forum, the court recognizes some free speech rights," Hervas said. "Previously, it was generally assumed that a closed forum had no protection."

Hervas added that the lawsuit accomplished its main goal of allowing the distribution of Issues and Answers.

"We won, even though we don't necessarily agree with the reasoning," he said. "It's never disappointing to win."

The school district has made preliminary plans to appeal the decision. Meanwhile, although Megan Hedges has since left Waunica Junior High School, her two younger brothers are now students there. According to Hervas, they plan to continue to hand out copies of Issues and Answers to their classmates.
H.S. Censorship

Colorado survey reveals that many schools fail to comply with student free speech law

Law says all districts must adopt policies; at least 20 did not meet 1991-92 deadline

COLORADO — A recent survey has revealed that many school districts have not yet formulated policies as required by the state’s 1990 high school free expression law.

The survey, conducted by the Colorado High School Press Association (CHSPA) in 1991, showed that at least 20 schools do not have policies, and two schools are in the process of formulating them. According to the Colorado Department of Education, there are 176 school districts in the state.

The results of the survey, reported in the Sept.-Oct. 1992 issue of CHSPA’s newsletter, Newsline, also showed that 44 school districts have written or revised their publications policy in compliance with the law.

The survey results are based on the responses of 74 newspaper advisers and 64 yearbook advisers from all over the state, according to Don Ridgeway, executive director of the CHSPA.

Colorado is one of five states --- including California, Iowa, Kansas, and Massachusetts --- that has high school free expression laws. The laws afford students in those states more free speech protection than they have under the First Amendment.

The Colorado law, Colo. Rev. Stat. sec. 22-1-220 (1990), declares that public school students “have the right to exercise freedom of the speech and of the press,” and prohibits prior restraint. In addition, the law required all school districts to adopt policies consistent with the terms of the law by the beginning of the 1991-92 school year.

Ridgeway said he was not happy with the news.

“What it boils down to is there’s nothing we can do about it,” he said.

The wording of the law does not include provisions for enforcement. Ridgeway said the only way to enforce the law would be to bring a lawsuit against the offending schools.

He noted that despite the free expression law, high school newspapers in Colorado still experience censorship.

For example, the final issue of the Custer County High School Bobcat was destroyed last May by an interim principal. Because all copies of the paper were destroyed, it was not possible to determine if the student free expression law had been violated because the paper may have contained speech not protected by the law, he said.

In addition, some school districts enacted publications policies that were stricter than the law itself when the law first took effect.

Although those policies were later modified to comply with the provisions of the law, "incidents still occur," Ridgeway said.

Free expression bills start over in January

Pending student free expression bills in several states have fallen through the cracks this fall, failing to receive necessary hearings in committee.

Such bills, intended to counter the effects of the Supreme Court’s 1988 Hazelwood School District v. Kuhlmeier decision that restricted the First Amendment rights of student journalists, have been passed in five states.

A bill which would have made Wisconsin the sixth state to enact such legislation was unexpectedly vetoed by Gov. Tommy Thompson in April. Thompson said in a public statement that the veto was intended to be in keeping with "our philosophy of local control" and "should not be perceived as opposition to high school newspapers."

Supporters say they plan to reintroduce the bill in January.

Proposed legislation in Michigan will probably not receive a hearing in the House Judiciary Committee before the session ends in late December. Margo Smith, an aide to the bill’s sponsor, Rep. Lynn Jondahl (D-Okemos), said Rep. Jondahl plans to reintroduce the bill in January.

New Jersey’s student free expression bill remains in the Assembly Education Committee, but is not currently on the agenda. The bill has encountered opposition in the past from key state education groups and has had difficulty finding a Republican co-sponsor.

In 1991, the state’s governor promised to sign the bill if it passed the legislature.

A free expression bill in Arizona, which passed the state’s Senate in Feb. 1992, died in a House committee when the session ended in July.

The chief sponsor of the bill, Sen. Stan Furman (D-Glendale), said he “certainly plans” to reintroduce the bill next session.
Principal censors anti-smoking editorial

Two local newspapers print story of incident at Clark Junior High

ALASKA — Shana Price was fed up with teachers smoking in an unused room behind the music room at Clark Junior High School in Anchorage, making it difficult for the orchestra members to practice their instruments. So she decided to write an editorial in the student newspaper, the Falcon Flash.

The editorial never made it into the award-winning paper — the principal asked the adviser to remove it. Instead, the story of Price’s brush with censorship was printed in both local newspapers, the Anchorage Daily News and the Anchorage Times, to be read by 80,000 Alaskans.

“I don’t care if they smoke at home, or in their cars — that’s their business,” Price wrote in the editorial, which was supposed to be printed in the final issue of the Flash in last spring.

“They sit in that room, puffing away at their Marlboro or Camels, while we all get sick from the smoke coming into our room.”

Although Price said she was unaware of the rule at the time, the Daily News reported that smoking is prohibited in all Anchorage schools.

The orchestra teacher had complained to the vice principal to no avail, and student efforts to start a petition against the smoking were stopped by principal Louis Sears, Price said.

Adviser Dennis Stovall said he did not want to remove the story, but deferred to the principal’s wishes. “I begged him not to kill it,” he added.

Price said the principal told her the story would be an embarrassment and that he would take care of the smoking. Sears could not be reached for comment.

Both Price and Stovall said Sears was angered by Price’s move to tell her story to the commercial press.

“He got really furious,” she told the Daily News. “He threatened to censor every piece of work the Falcon Flash does next year and kind of made it like it was my fault.”

Price said she went to the Daily News and the Times anyway because “it was something that needed to be dealt with.”

Sears has not followed through on his censorship threat, Stovall said.

“I was panic stricken coming back, but he’s leaving us completely alone,” he said.

Administrator takes a marker to photo caption

CALIFORNIA — Students reading their yearbooks at Burney High School last May found a black mark where a caption should have been under a picture of their principal.

While the principal later apologized for his actions, students at the school circulated a petition calling for his removal, saying the principal had violated their First Amendment rights.

Burney Principal Cord Angier made what he later called a rash and emotional decision when he ordered the yearbook class to cut out part of the caption in all 285 yearbooks. The caption had read “Mr. Angier gives his negative view of student art,” but Angier objected to the use of the word “negative” and crossed that word out.

Angier later explained in a letter of apology to the student body that he objected to the caption because he had tried to promote the school’s art program all year. The 1991-92 school year was Angier’s first as principal at Burney High.

The picture showed Angier in front of a backdrop painted for a pie throwing contest. When students first designed the backdrop, Angier had requested that they draw more clothing on a woman pictured in a skimpy bathing suit.

“It was a rookie mistake,” Angier wrote in his apology. “I will certainly use this awful experience to research my future decisions more carefully.”

But eleventh graders Shellie Guiles and Jeremy Donahoo felt the apology was not enough. With the help of their parents, the two circulated a petition calling for Angier’s removal as principal, collecting 140 signatures.

“If I did what he did, I would have been expelled, and I would have had to pay for all of those yearbooks,” said Guiles, now a senior. “Sorry is not enough.”

Guiles said when she first brought her complaint to Angier, he told her he was within his rights to change the caption. However, California is one of five states with a student free expression law. In California, administrators can only censor if the item is obscene, libelous, or likely to create a substantial disruption.

Guiles said she was disappointed that the school board did not take the petition seriously.

“The board didn’t listen to us at all,” Guiles said. “One member asked me, ‘what do you want us to do, take him out back and shoot him?’”

Despite promises in May, the school board has not met with the students in closed session. According to Jeremy’s mother, Sherry Donahoo.

“We were taken off of the agenda,” she said. “They think if they ignore it, it will go away.”
Traverse City students combat ready-made publication policy

Policy changed, but Black & Gold editors still face censorship

MICHIGAN — School administrators in Traverse City found themselves in the national spotlight in September when proposed changes to the school district’s publications policy drew protests from all over the country. But while the policy debate has been resolved in the students’ favor, Black & Gold still faces administrative censorship.

Among other things, the proposed change would have prohibited student publications from endorsing political candidates and required them to serve as “a public relations media” for the school district. Due in part to the lobbying of students, the protests of several national organizations and the support of the local media, the school board’s policy committee voted to remove the political endorsement and public relations clauses from the proposed policy in October.

The controversy stems from the district’s attempts to revise all of its educational policies. In 1990, the district hired an outside consulting firm, NEOLA Inc., which recommended the new publications policy as part of its suggestions to ensure that the district’s policies are legal in the context of federal and state law.

Michigan law forbids school districts from using district money to endorse candidates. Because Black & Gold is supposed to endorse political candidates.

NEOLA, which stands for Northeastern Ohio Learning Association, is a private consulting firm based in Coshocton, Ohio. The firm helps school districts in Ohio, Indiana and Michigan refine their education policies, according to vice president and general manager Lyle Ehrenberg.

NEOLA does not advocate a specific viewpoint towards the student press, Ehrenberg said. Instead, it presents districts with a variety of legal options from which to choose.

“We don’t tell any school board what their policy ought to be,” Ehrenberg said. “We just shortcut the writing time.” Ehrenberg defended the publications policies Nebraska recommends, including the clause forbidding political endorsements.

“We put that in there because the school is a public body,” he said. “It’s taxpayer money.”

School officials agreed with Ehrenberg’s reasoning.

“You’re not allowed to do indirectly what you can’t do directly,” Associate Superintendent Ronald Fie told the Traverse City Record-Eagle. “It’s just that a particular point of view, even if it’s a student view, can’t be paid for by tax dollars.”

Opponents to the proposed policy argued that a disclaimer stating that the opinions in the paper are solely the students’ would prevent any misunderstandings that the school is endorsing a particular view.

“It is absolutely not the case that a school is legally or otherwise responsible for insuring that student newspapers remain ‘apolitical,’” said Leanne Katz, executive director of the National Coalition Against Censorship, in a letter to Fie.

Dan Brown, editor of the Black & Gold, said he was glad the policy committee changed its mind, but added that he is “not sure what this will mean practically.”

“Their original intent was that they didn’t want to get sued,” Brown said of the school board. “We showed them that they were more likely to be sued by us [free press advocates] than by a candidate.”

But while the new policy was adopted Nov. 9, the paper was censored only two days later when Principal Ronald Cowden removed a letter to the editor from the second issue of Black & Gold.

The letter was written by an attorney for a former teacher at Traverse City who was suspended and later fired for insubordination stemming from alleged sexual harassment of students.

Brown said the letter was in response to an article in the paper’s first issue in which the principal described the school’s new sexual harassment policy, reportedly formed as a result of the alleged incidents. The article did not name the teacher, but did mention the suspension and harassment allegations.

The letter said that Cowden may have violated the district’s closed session policy in telling Black & Gold about the incident. The teacher’s family is considering a lawsuit against the principal, Brown said.

The letter was “ripped off at the very last minute,” forcing the editors to print the paper with a blank spot, Brown said. “The principal is trying to cover up his own fault.”

Brown added that the vice principal had agreed that the letter should be printed, but Cowden overruled that decision.
Adviser initiates review committee

MONTANA — In an effort to save the Bigfork High School Norse Code from being discontinued, adviser Vernon Pond in May asked the school board to implement a publications review board. The student paper, produced as part of a class in the high school, has been the subject of controversy in the community in recent years, Pond said. Community members have objected to what they considered racist comments and editorial cartoons have also been questioned, he said.

The "last straw," he said, was a story entitled "How to Kill a Cat," and another on self-mutilation. While intended as satire, Pond said they were "admittedly in poor taste." Some community members demanded that Pond be removed as adviser of the paper.

In an open letter to the Bigfork community, Pond recommended that the publications board be formed. "It was the advisory board or no paper," he said, explaining his decision to write the letter.

The district decided to implement the board, which consists of Pond, the school principal, two teachers, two community members and three students. At the time it was created, each member of the board was allowed full veto power over any story.

At the school attorney's suggestion, the decision to censor an article must now be made by a majority vote rather than an individual, Pond said.

"People have different tastes," he explained. "It's just fairer this way."

Pond said the purpose of the board is to be sure the articles in the Norse Code do not fall under the categories of unprofane speech as defined by the Supreme Court, such as obscenity and libel. The board also reads all articles to decide whether they are grammatical, poorly written or in bad taste, Pond said.

Pond said there have been no problems so far under the new system. "[It's] not very oppressive," he said.

The advisory board has actually improved the quality of the paper, according to Shirley Baer, a school board trustee and member of the advisory committee.

"The kids are becoming more thoughtful," Baer said. "They handle the paper more maturely."

She said that the board's main purpose is to make sure the students are considering the audience of the newspaper, which includes all students from kindergarten through twelfth grade, as well as the greater community. "I have no problem with humor," she said.

"Newspaper publishers are going to consider the community because they have to sell papers," she added. "We should too."

Seneca Valley staff gets compromised publication policy

Rules give students a 'workable situation'

PENNSYLVANIA — Student journalists at Seneca Valley High School have come to an uneasy truce with their administration over the content of their newspaper, the Seneca Scout.

After several meetings with their principal, upper-level administrators and the school board, the adviser and principal have agreed to compromised publication guidelines for the 1992-93 school year.

For several years, the staff has experienced "difficulties" from the administration, according to Deborah Kennedy, Seneca Scout adviser. The principal read every story and every page layout before it went to press, and often objected to some articles, she said.

"There were numerous occasions where it delayed publication," Kennedy said.

In May, Scout staff members spoke before the school board to request that their paper be named a public forum, and therefore not subject to review by the administration. If that was not possible, they requested the board to adopt a publication's policy for the entire school district, spelling out the student's and administration's rights.

"They presented a lot of great information [to the board]," Kennedy said, including a letter from SPLC Executive Director Mark Goodman and the SPLC's model publications policy.

The school board has not yet acted on the students' request, Kennedy said. In the meanwhile, Kennedy and the principal agreed on the compromised policy.

"We couldn't go through another year like that," Kennedy explained. "The principal could not be reached for comment."

The new policy still allows for prior review by the administration, she said. But it outlines what the principal is looking for in the paper, giving students a better idea of what is "printable" by his standards. The policy states, for example, that the paper cannot print anything that would reflect negatively on the school.

In addition, it gives a time frame for the principal to make his corrections, so that printing deadlines can be met.

"In the past, it just seemed so hit and miss," Kennedy said. "I had a real problem with a lot of these. ... [but the policy] makes it a workable situation."

Kennedy said the students are still hoping the school board will act on their proposal.

"The situation still isn't great, she said. "The students feel like someone's always looking over their shoulder."
**Sex, Files & Videotapes**

Two Cases Against Nassau Community College in New York Will Test the Limits of State Freedom of Information Laws

Do freedom of information laws allow students to see letters regarding allegations of sexual harassment against college employees and do they allow citizens to find out what materials are being used in college classes?

Questions about the intent of freedom of information (FOI) laws and the extent to which citizens can use these laws to access documents of public agencies are being debated in two cases pending against Nassau Community College on Long Island.

In Vignette v. Nassau Community College, the campus newspaper is seeking letters in files of professors who have had charges of sexual harassment filed against them. The paper argues that sexually harassing behavior is detrimental to the learning environment, so students need to know if a professor has had complaints filed against him/her. (See VIGNETTE SUES, page 13.)

Meanwhile, community member Frank Russo, desiring to know how his tax money is being spent, is seeking access to films and other visual materials used in the college’s “Family Life and Human Sexuality” class. Russo’s request was upheld by a lower court in 1990 but denied by the state appellate court in August. (See CITIZEN CAN-NOT VIEW, page 13.)

The reasons offered by the college for not fulfilling the requests made by Russo and the Vignette are similar. The college, relying on the state’s definition of government agency and agency records, maintains it is not a public agency and is therefore not required to comply with the FOI law. In Vignette, the school argues that releasing letters of reprimand or sanction would be a violation of the professors’ privacy. In Russo v. Nassau Community College, the college maintains that it would threaten academic freedom for the school to have to show course materials to a citizen. Both cases require the courts to determine limits of FOI laws.

The kinds of information desired differ, yet what is at stake in both cases is the possibility of a negative public reaction. If a school employee is found to have committed acts of sexual harassment, the employee’s career will most likely be shaped by the school’s official response to the charges. If a school fails to take as much action as some students think is adequate to rectify the situation, then the school’s reputation might also be harmed. Perhaps what administrators sense is that revealing information can result in a lose-lose situation for the school and the employee.

In addition, the school may feel that its academic mission could be threatened when course materials are questioned by local taxpayers. The interest of the school, in promoting academic inquiry and research, conflicts with the wishes of taxpayers to find out what information their money is being used to disseminate.

Courts will be forced to weigh the importance of preserving academic freedom with the validity of FOI requests. Locking doors to classrooms serves only to increase interest

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12 SPLC Report

Winter 1992-93
Citizen cannot view ‘Sexual Intercourse’

Court denies taxpayer’s request for access to Nassau Community College course materials

NEW YORK — Nassau Community College does not want Frank Russo to see “Sexual Intercourse,” so Russo is suing the college for access to that film and other materials used in the “Family Life and Human Sexuality” class.

In August, the state appellate court, in Russo v. Nassau Community College 587 N.Y.S.2d 419 (App.Div., 2d Dept, 1992), reversed a lower court ruling and declined to order the college to turn over to Russo materials used in the class. The court held that the college does not need to grant Russo access to the class materials because they are not records “within the meaning” of New York’s freedom of information law. The court opinion stated that “the films and visual aids, and indeed the college texts, are commercially produced and independently available.” The court did not rule on the First Amendment issues.

The state trial court had granted Russo access to the materials in 1990, ruling that the community college was a government agency and was covered by the state FOIL law.

The 1990 ruling troubled some organizations, which filed briefs in support of the college in the appeal.

The New York chapter of the American Civil Liberties Union filed a brief with the Long Island Coalition Against Censorship urging the court to recognize that the constitutional right of academic freedom would be violated if the appellate court were to grant Russo access. The American Association of University Professors agreed that applying FOIL “to any single item of classroom teaching material inherently chills an individual faculty member’s exercise of academic freedom.”

The purpose of academic freedom, according to the petition the college filed with the court, “is to preserve and promote learning and scholarship, free from political pressures and outside intervention.”

Russo said academic freedom would not be threatened because the school has the right to make the final decision on what materials to use.

Russo has filed a request with the appellate court that the case be reargued due to factual errors in the decision. If the court declines his request, he plans to file an appeal with the state’s highest court.

According to Russo, he never conceded to the court, as the decision states, that the films and visual aids are independently available.

Instead, the president of the commercial film distribution company that provided the school with the films told Russo he would not consider renting or selling him those materials.

Another reason the appellate court cited was that course materials are available to anyone who enrolls in the course.

The class, which is about gender roles and sexuality, is taught to 3,500-4,000 students each year and fulfills a health education requirement, according to Joseph Dundero, chair of the Health and Physical Education Department at the college.

It would be impossible to observe all of the 14 to 15 instructors who teach the class each semester, Russo said.

“I’m fifty years old. If I took the course every year, I’d still never see half the material before I die,” he said.

Russo, who has seven children, said he became concerned when he heard a textbook used in the class suggested that wife swapping and adultery were alternatives to marriage.

He wrote to the president of Nassau (See Russo, page 16)
Secret hearings continue as paper awaits ruling

Student court remains closed to Red & Black reporters

GEORGIA — Hearings about possible violation of university policy by a fraternity were held in private this fall at the University of Georgia, frustrating reporters who have asked the state supreme court for access to the proceedings of the Student Organization Court.

The paper filed the lawsuit, The Red & Black Publishing Co. v. The Board of Regents, in 1991 after reporters were denied access to hearings of the student court regarding hazing charges against a fraternity. The Student Organization Court determines whether university organizations, such as fraternities and sororities, have violated university policies and imposes penalties.

In February, a superior court granted the newspaper access to the records of the proceedings of the Student Organization Court but not the hearings themselves. Both sides have appealed the ruling.

The state supreme court heard arguments in the appeal this fall and has not yet handed down a decision.

The attorney for The Red & Black, Anthony DiResta of Morris, Manning & Martin in Atlanta, Ga., said he hoped the hearings held this fall about a fraternity distributing a pamphlet containing a racial epithet would speed up the decision. But because the case is still pending before the state supreme court, the Student Organization Court conducted the hearings in private.

A coalition of press organizations, including the Student Press Law Center, the Society of Professional Journalists and the Associated Press filed a brief with the Georgia Supreme Court in support of The Red & Black.

Pennsylvania Open Records Law Dies

PENNSYLVANIA — A bill that would have required most of the state’s private colleges and universities to comply with the existing open records law died in November.

The bill, HB 1075, was introduced by Rep. Ronald Cowell (D-Allegheny) in April 1991. It passed the House in June 1991 but had not moved out of the Senate Education Committee by late November, when the session ended.

The bill would have expanded the definition of agency to include all public colleges and universities and most private institutions and would have allowed increased access to the financial records of most of the state’s higher education institutions. The bill would have required state-owned universities, community colleges and “non-state-related” colleges that receive state money to comply with the state’s open records law.

An aide said Rep. Cowell plans to reintroduce the bill in January.

Crimson staff settles lawsuit

Health and Human Services fills students’ FOI request

MASSACH USETTS—Students from Harvard University are settling their lawsuit against the U.S. Department of Health and Human Services (HHS).

Reporters from the Crimson filed a freedom of information (FOI) suit in 1991 against HHS after the department refused to release information about Harvard’s indirect cost rate. Indirect costs are expenses such as administrative assistance, laboratory supplies, heat and electricity that are incurred by universities when conducting federally funded research.

The issue of how universities spend federal money arose in 1991, when a congressional subcommittee revealed that Stanford University had charged renovations of the university president’s house and refurbishing of the school’s yacht to the government. Investigations of other schools resulted in disclosures of similar misspending.

After the Harvard students filed requests, the agency released information about rates prior to 1987 but did not respond to the students’ requests for information after 1987.

The department had refused the request on the grounds that they were currently negotiating a new indirect cost rate with the university in 1991. The students then filed a lawsuit to obtain the information.

In July, students received some of the information they requested from the department and decided not to pursue the case.

“They got what they wanted,” said Theresa Amato, the attorney for the students. Amato, who works for Public Citizen, a consumer advocate group founded by Ralph Nader, said she is currently trying to get reimbursement from the government for attorney fees. Federal FOI law requires that attorney fees be provided for the prevailing party.
A Tangled Web

Colleges continue to find reasons to deny access to crime records

Gone is the Buckley Amendment, the Achilles heel of student journalists who seek access to campus crime records. In its place, a web of secrecy is being quietly woven by school administrators and campus security personnel.

Even though Congress revised the portion of the Family Educational and Privacy Act (commonly called the Buckley Amendment) in July, students are discovering that the death of the Buckley Amendment did not end all their troubles. The July revision clarifies that law enforcement records are not education records. Previously, Buckley had been used by schools to justify keeping crime logs closed.

Yet student journalists are still frustrated by the reluctance of school officials and public safety officers to provide them with information, even though many schools that cited Buckley to deny access have since changed their policies.

Students attending schools that are not opening arrest logs, incident reports or the police blotter are not fans of the creative approaches schools are using to dodge revealing information about crimes on campus.

Some schools try to "protect" students by not revealing important but potentially shocking or frightening information, such as the criminal record of a man found trespassing on campus at Clarion University in Pennsylvania this fall. Michelle Sporer, editor of Clarion Call, said that the public safety officers referred them to the school's public relations office, where they received general information about the crime but the intruder's criminal background was not mentioned.

At nearby Drexel University, in Philadelphia, Pa., officials kept quiet about several alleged sexual assaults that had taken place on the campus this fall, said Sean Zheng, editor of The Triangle. Zheng said the paper could not get confirmation about the incidents from the school.

Selectivity took different forms when reporters had access to crime reports. Police deleted names of victims and some remarks before giving monthly summaries of crimes to the Guilford Technical Community College Gazette, said Brian Smith, student adviser to the paper in Jamestown, N.C. At the University of Dayton in Ohio, campus police white out names from records shown to the Flyer News.

One reason schools offer for deleting names is the concern for privacy. Temple University in Philadelphia, Pa., says the school wants to conceal the identity of sexual assault victims. "We comply with what we understand the law [to be], which does not require that we give them incident reports," said Brenda Fraser, associate counsel for the university. Consequently, students receive two line incident summary reports that the newspaper editor, Amy Lynn Dixon, thinks result in inconsistency.

Some students, such as Jana Studelska, who filed suit in May against Bemidji State University in Minnesota, have tired of trying to compromise with their school and have turned to the courts. However, lawsuits are not always the most viable option because they require time and considerable financial resources. Allowing students access without going to court can spare schools much criticism from commercial press and can enable schools to use valuable resources — particularly in a recession — for better purposes.

Schools are starting to realize that lawsuits are expensive and students are simply trying to report the facts. The Echo at the University of Central Arkansas in Conway, Ark., decided not to file a lawsuit after the board of trustees passed a resolution in October that gave students campus police reports.

If students are successful in their attempts to investigate campus crime, the stories might not be pleasant — but they will be important. Stay tuned.
WASHINGTON, D.C. — The Student Press Law Center has dropped its lawsuit against the Department of Education as a result of Congress enacting the Higher Education Amendments of 1992.

The SPLC and student editors Lyn D. Schroeterger of Colorado State University and Clint Brewer and Sam Cristy of the University of Tennessee filed suit in 1991 after the department, citing the Family Educational Rights and Privacy Act, commonly referred to as the Buckley Amendment, threatened to withdraw federal funding from schools that release campus crime reports.

The 1992 amendments, signed by President Bush in July, clarify that records maintained by campus law enforcement units are not education records.

"The need for our lawsuit has passed," said Mark Goodman, executive director of the SPLC.

Russo
(continued from page 13)

Community College, Sean Fanelli, in 1988 requesting to see the film, "Sexual Intercourse," shown by some instructors. A subsequent request was also denied.

Russo then filed a lawsuit against the school. He finally saw the film when "A Current Affair" arranged for him to see it.

"There was one good minute of educational material and 15 minutes of scenes [similar to ones] in standard hard-core pornography," Russo said.

Russo said he just wants to know what materials are being used in the class. However, in a Dec. 2, 1991, article in The National Law Journal, Dundero said he eliminated two optional assignments, interviewing a prostitute and going to a gay bar, due to pressure from Citizens for a More Informed America, a group Russo is active in.

"FOI is to shed light on what is being done with tax money," Russo said.

Gov. Pete Wilson Signs
Open Crime Logs Law

Schools can be fined up to $1,000 for non-compliance

CALIFORNIA — A new open records law, signed in September by Gov. Pete Wilson, requires campus security personnel to turn over campus crime reports requested by any student, employee of the school, applicant or representative of the media — or be fined up to $1,000 if they fail to provide the information in two business days.

The new law, California Education Code section 6738, applies to the state's public universities and private schools that have over 1,000 full-time students and receive public funds for student financial aid.

Campus police, security personnel and safety authorities are now required to release requested reports of occurrences and arrests for "crimes that are committed on campus that involve violence, hate violence, theft or destruction of property, illegal drugs, or alcohol intoxication" within two business days. They are also required to release information that is requested about noncriminal acts of hate violence that are reported to campus authorities.

"Students deserve to know what dangers they face and the details of crimes that have been committed on campus," said the bill's sponsor, Assemblyman Pat Nolan, (R-Glendale).

Nolan's bill makes it more difficult for schools to deny requests for information. If a court finds that a school refused to release information, the school can be fined up to $1,000.

"We wanted colleges to take this seriously," David Stephanides, former aide to Assemblyman Nolan, said.

The driving force behind a school's decision not to release information is concern about reactions to publicity, according to Steven Ward, executive director for security services at the University of Southern California, even though knowing about reported crimes on campus "is necessary for students, faculty, and staff to make decisions."

"Most colleges brag about the SAT averages of their students and what they don't want to say is we have eight students on campus still living on our campus who have been charged with rape," said Howard Clery Jr., president of Security On Campus. Clery founded Se-
Bill to open police logs fails in Pennsylvania

Senator plans to reintroduce legislation in January

PENNSYLVANIA — A law requiring campus police officers to maintain daily logs of the names and addresses of people charged with and arrested for crimes on campuses died in the state legislature in late November.

The bill, PA 1378, introduced by Sen. Richard Tilghman (R-Bryn Mawr) in October 1991, would have made logs of crimes reported on campus available to the public during business hours and would have required campus police to record complaints they investigated. If the bill had passed, Pennsylvania would have followed California and Massachusetts in enacting open campus police logs bills.

Although the bill received wide support in the Senate, there was not a consensus in the House. Rep. Tom Tigue (D-Hughestown) said he opposed the bill because it would require campus police to keep logs and he did not think names listed on the logs should be available to the public. "I don't think people should have the right to look and see who's arrested," he said.

Reporters in Pennsylvania cannot generally see the logs of state or local police, said Tom Gibbons, a reporter for The Philadelphia Inquirer. He said reporters find out information at the district commander's discretion.

Sen. Tilghman plans to reintroduce the measure in January, a Senate staff member said.

curity on Campus to advocate awareness of crime on campus after his daughter was raped and murdered in her dormitory room at Lehigh University in Bethlehem, Pa.

"There is a right to know after somebody is being charged what that person's name is," Clery said.

Nolan proposed the bill after being contacted by Jack and Genelle Reilley, whose daughter Robbin was found stabbed to death in a parking lot at Saddleback Community College in Mission Viejo, Ca. in 1986.

Not all of California's 310 colleges and universities are required by the new law to release crime reports.

The state's 107 community colleges are not required to comply with the law until the state legislature allocates funds to them specifically for the purpose of maintaining records of campus crimes. Until then, the schools' shrinking budgets limit the ability of school officials to compile information about crime, said Ann Reed, vice chair for public affairs in the chancellor's office for the California Community Colleges. Reed said campus security is one of the areas that is hit most often by budget cuts.

Private colleges with fewer than 1,000 full-time students are also exempt from the law, since complying would be costly.

"It's harder to place continuing burdens on smaller schools," said Donna Garton, vice president of public affairs for the Association of Independent California Colleges and Universities. Garton said the cost involved with having a person on staff keep records that are not being kept now is a burden for small colleges. She pointed out that private colleges were exempt from a college crime statistics reporting law that was passed in 1990.

Institutions that do keep records — private schools that have campus police officers and state universities — do not have to reveal the identity of victims of hate crimes and sexual crimes and can limit information released about on-going investigations.

The exception for on-going investigations "is the weakest link in the chain," Stephanides said, citing the difficulty a student might have proving that revealing the information would not jeopardize an investigation.

"Many colleges and universities leave a student charged with rape or aggravated sexual assault on campus awaiting a [court] hearing or a student judicial hearing and nobody knows that a student has been charged with a felony," Clery said.

The law reflects the growing desire of students, student media and the campus community to be informed about what is going on around them and leaves little room for denial or secrecy. It also calls for the California Postsecondary Education Commission to release a report in 1993 to the governor and the legislature on the types and numbers of hate violence incidents on college campuses.

"Any university or college that goes against the trend towards greater disclosure of campus crime will see the spotlight on it," Ward said.
Using the Tools of the Trade

A Freedom of Information Law Primer

In America, the government belongs to the people. Freedom of information (FOI) law is one means by which citizens have given themselves the ability to keep tabs on what it is their government and governmental officials are doing. FOI law is, in part, based on the belief that the people do not and should not give their public servants the right to decide what the people should know. While most recognize the need for some secrecy in government (for example, battle plans), FOI laws, or “sunshine laws” as they are often called, recognize that most of what the government does should be subject to public review, carried out in the “sunshine.”

In general, FOI law consists of: (1) the federal Freedom of Information Act, (2) state open records laws, (3) the federal open meetings law, (4) state open meeting laws and (5) miscellaneous FOI provisions.

What do FOI laws say?

Generally, FOI laws say that all records or meetings generated or conducted by a public body are open to the public unless they are specifically exempted by law. Even when a specific exemption does exist, most laws still leave disclosure up to the individual government official. In other words, an official usually can disclose exempt records or grant access to exempt meetings, but she is not required to. While private bodies (such as private schools) are generally not covered by FOI laws, some laws ensure compliance by private entities by threatening to withhold government funding if certain information is not disclosed.

Under most FOI laws, a public record or meeting is presumed to be open. This is important because it means that when a public official decides to deny access, it is up to the official to legally justify his decision. Further, if a requester feels she was incorrectly denied access by a public official, most FOI laws allow the decision to be appealed. No matter what type of information or meeting to which you are trying to gain access, every newsroom should have a copy of their state’s open meetings and records law and the federal Freedom of Information Act available for consultation should questions arise. If your newsroom does not, the Student Press Law Center can assist you in obtaining copies.

How to use FOI laws

Fortunately, access to government meetings and records is often granted on an informal basis by public officials who recognize the importance of open government. Therefore, before waving your copy of the law in front of a government official and demanding compliance, you will often find officials more receptive to your request by simply asking for their assistance. When the informal approach is unsuccessful, however, an FOI law may need to be invoked.

Using FOI law is simple. For meetings of governmental bodies, just show up. If the meeting is small or if your presence is questioned, you should identify yourself as a reporter and politely explain your interest in attending the meeting. Remember you are not looking for a confrontation, you are looking to gather news for your readers. If you are told that the meeting is closed, ask why. This is also a good time to professionally explain to the meeting’s chair why you think you should be entitled to attend, being sure to cite the relevant open meetings law. If the officials still tell you the meeting is closed, ask that your objection and their response be read into the minutes and then leave.

If, after leaving, you still feel that you were wrongly denied access, you should follow the course of appeals prescribed by your specific open meetings law. If you need help at this stage, you may wish to contact an attorney experienced in FOI law or call the Student Press Law Center.
To request records, most state laws say that all you have to do is go to the person responsible for keeping the documents you are looking for and ask for them. To formally request records from a federal agency or to request records from a state agency when you think they might not act on an oral request, a written request is required. Again, the process is fairly straightforward. A sample FOI records request letter, containing the basic information you should include in your request is on page 20.

In writing your letter, be sure to cite the relevant FOI law. Note the specifics relating to how much time the law gives an agency to respond to your request and any penalties associated with non-compliance. Also, make sure that you “reasonably describe” the material that you want. If you want police incident reports relating to an assault committed in front of Memorial Library on Aug. 15, 1992 — say so. A letter requesting access to “all crime information” will probably only delay your request. You do not need to know an exact document number or title, but your request should be specific enough so that a public employee familiar with the subject area can locate the records with a reasonable amount of effort. And again, you will find that courtesy and professionalism are rewarded.

As with meetings, if you feel your request for access to records has been wrongly denied, you should consult your open records law to determine the procedure for appealing the decision. Usually, you will be required to write a formal letter of appeal to a higher authority. Some states, however, do allow for immediate review by a judge. And again, if you have questions, this might be where you should consider seeking professional guidance.

While open meeting and open record laws are the meat and potatoes of most journalists when trying to obtain information from and about their government, they are not the only source available. The details of other FOI laws are provided below.

It is truly unfortunate how many student journalists either do not know about or do not know how to use freedom of information law. FOI law can be an invaluable ally in fulfilling one’s duty as a journalist to inform readers about the performance of their government and in obtaining other interesting and useful information. For student journalists and all those interested in the nuts and bolts of government, a working knowledge of FOI law is essential. In addition to this basic introduction, the Student Press Law Center can recommend other sources that will provide additional information on how to get the most out of FOI law. Remember, FOI law can be a potent tool in a journalist’s arsenal — but first you have to use it.

A Sampling of FOI laws

Federal Freedom of Information Act
5 U.S.C. § 552

This law makes available all records of all federal agencies, unless those records fall within one of nine categories of exempt information that agencies are permitted (but not required) to withhold. The FOIA does not apply to Congress, the federal courts, private corporations or federally funded state agencies. However, documents generated by these bodies and filed with a federal government agency become subject to the Act unless they fall within one of the exemptions. To obtain records, you generally must submit a formal written request letter to the FOIA officer at the federal agency you believe has custody of the records you want. If your request is wholly or partially denied, the FOIA gives you the right to an administrative appeal. If your appeal is denied you may file a FOIA lawsuit in the nearest U.S. District Court. Individuals who improperly deny information may be subjected to written reprimands, fines and removal.

State open records laws

The type of information available varies from state to state. The general idea, however, is that all "public records" are available unless they fall under a specific exemption listed by the state law. Many state laws — unlike the federal Act — allow requesters to make a simple oral request to the person that holds the records. In these cases, the state official must provide reasonable and prompt access to the requester during normal business hours. If your oral request is denied, it is important that you note the name, title and response of any official you deal with. In those states where oral requests are not recognized — and any time such a request has been denied — a formal written request should be submitted. As with a federal FOI request, your letter should reasonably describe the material you are seeking and be sent to the person or agency responsible for holding that information. Procedures for appeal and penalties for noncompliance vary by state.

Federal Government in the Sunshine Act
(Federal open meetings law)
5 U.S.C.A. § 552b

This FOI tool acts as a standing invitation for journalists and other members of the public to attend the business meetings of most federal government boards, commissions and agencies. It also requires that agencies covered by the law give at least

(See FOI PRIMER, page 20)
one week’s public notice of a meeting’s topic, time and place. All meetings — including budget deliberations — must be open unless the agency demonstrates that the discussion would fall under one of ten exemptions. The statute lists about 50 federal boards, commissions and agencies that must comply with the federal open meetings law. Like FOIA, the Sunshine Act does not apply to Congress, the federal courts, private corporations or federally funded state agencies.

State open meetings laws

Generally, a state’s open meetings law guarantees the right of the public to attend meetings of a public body in which a quorum is present and during which official business will be discussed. The laws usually require agencies to give advance notice of the time, place and agenda of all meetings. The laws also usually require agencies to keep minutes of all meetings, even those that can be legally closed to the public. Every state allows agencies to discuss some matters in closed session. The kinds of meetings that can be closed vary from state to state, but most laws permit the following discussions to be in secret: personnel matters, litigation matters, negotiations and collective bargaining sessions, discussions regarding the acquisition of real estate.

In some states, action taken at an improperly closed meeting can be declared null and void, requiring the agency to take the action again in an open meeting. In other states, government officials may be liable for criminal or civil fines. Also, attorney fees are often available to those who successfully contest a closed meeting.

Crime Awareness and Campus Security Act of 1990
20 USCS §1092(f)

Beginning Sept. 1, 1992, all institutions receiving federal financial assistance are required to publish and distribute an annual security report containing: (1) campus security policies and procedures, (2) the law enforcement authority status of security personnel, including their working relationship with state and local police agencies, (3) a description of crime prevention and drug and alcohol abuse programs available to the campus community, (4) a listing of any policies which encourage accurate and prompt reporting of crime to the appropriate police agencies, (5) campus policies regarding law enforcement relating to drug and alcohol use and (6) actual campus crime statistics. Statistics must be released for the following crimes and violations: murder, rape, robbery, aggravated assault, burglary and motor vehicle theft. Where an arrest is made, a school must also report statistics concerning: liquor law violations, drug abuse violations and weapons possessions.

In addition to the annual statistical report, this law requires that schools make “timely reports to the campus community on crimes [from the list above] considered to be a threat to other students and employees.” "Timely reports" is undefined. The provision does state, however, that its purpose is to enable the campus community to protect itself from potential harm.
Balancing Act

*R.A.V. v. St. Paul*
forces schools
to rethink codes

There is a new catch phrase among educators and legislators on both sides of the debate over political correctness in our nation’s schools: “In light of R.A.V.”

The Supreme Court’s summer ruling in *R.A.V. v. St. Paul* 112 S. Ct. 2538 (1992) continues to send shock waves through the educational community. The ruling unanimously struck down a St. Paul, Minn., “hate crimes” law that made it a misdemeanor to place a symbol that would “arouse anger, alarm or resentment in others on the basis of race, color, creed, religion or gender.” The Court ruled the law was unconstitutional because it “prohibit[ed] otherwise protected speech on the basis of the subjects the speech addressed.”

Just as the St. Paul law was intended to protect citizens from bigoted comments and actions, many schools have enacted codes to protect their students from hurtful words. When the Supreme Court struck down the St. Paul law, the validity of so-called politically correct codes on campus became questionable.

The decision left many educators with a dilemma: how do they balance students’ free speech rights with the desire to provide an educational environment free from hate and harsh words? And how should they formulate their policies in light of R.A.V.?

Several schools have decided education is the answer. Howard County, Md., schools recently enacted a code after changing its focus towards education rather than punishment. (See SPEECH CODES, page 22.) The University of Wisconsin Board of Regents voted to repeal the system’s hate speech code, instead opting to explore other ways of eliminating hateful speech. (See UNIVERSITY OF WISCONSIN, page 22.)

Other schools have decided that their codes do not violate the R.A.V. decision.

Speech code opponents are still deciding how to react to R.A.V. as well. While California Gov. Pete Wilson recently signed a new free expression law, in effect banning such codes in high schools and colleges throughout the state (see NEW LAW, this page), federal legislators are currently reconsidering proposed bills because of the decision. (See FEDERAL LEGISLATION, page 24.)

Unfortunately, there is no easy solution to this dilemma. The only sure way to determine if a policy conforms with the decision is to test it in the courts.

New law protects all students’ speech

*Freedom of speech extended to California private schools*

CALIFORNIA — Proponents of free speech scored a back-to-school victory in California.

On Sept. 30, Gov. Pete Wilson signed SB 1115, an amendment to California’s Education Code intended to provide high school and college students with a means to combat speech restrictions in state courts. The law is the first in the country to provide private school students the same free speech rights as public school students.

The new law, Cal. Educ. Code sec. 66301, 48950 and 94367, applies to all public and private high schools and colleges except those controlled by a religious organization. While the law does not prohibit schools from enacting policies “designed to prevent hate violence,” it prohibits schools from disciplining students “solely on the basis of conduct that is speech or other communication that, when engaged in outside of the campus, is protected from governmental restriction” by the First Amendment.

“[Freedom of speech] is at risk in many of our schools and colleges since the instituted speech codes are often ambiguous and open to abuse,” said the bill’s sponsor, state Sen. William Leonard (R-San Bernardino), in a press release.

While the law is intended specifically to combat hate speech codes, it will also prevent private high schools from censoring student journalists based on content. California’s existing student free press law (Cal. Educ. Code sec. 48907) applied only to public schools.

“It will have its main impact in private schools,” said Elaine Elinson, public affairs director of the Northern California American Civil Liberties Union (ACLU).

Meanwhile, the Michigan Collegiate Speech Protection Act (HB 5059), sponsored by Rep. Stephen P. Dresch (R-Hancock), did not make it out of committee before the state legislature ended its session in November, according to Jodi Sanford, an aide to Rep. Dresch. Dresch was not re-elected, so the bill must find a new sponsor.
Speech codes enacted in two school districts

**Howard policy emphasizes education:**
Fairfax removes 'sexual preference' clause following community complaints

**MARYLAND, VIRGINIA**
— Two school districts, among the first in the nation to consider hate speech rules on the secondary level, recently amended their proposed codes.

The Howard County, Md., School Board in October passed an amended Educational and Personal Rights Policy by a unanimous vote. The amended version changed the language of the rule to make it less punitive after concerns were raised that the policy might violate students' rights.

The policy prohibits “harassment, defamation, intimidation, threat, use of profanity, assault or act(s) of violence” based on “race, color, creed, religion, physical or mental disability, national origin, [sex] or sexual orientation.”

The policy has provisions for punishment of violators, but “the main aim is education,” according to Patty Kaplan, the district’s public information officer.

The policy was drafted in June in response to charges that the school had failed to respond to incidents of intolerance. At the suggestion of the district’s human relations coordinator, the policy was re-written with an educational slant to protect students rights.

Stuart Comstock-Gay, Maryland director of the American Civil Liberties Union, told The Washington Post that the policy may still violate the First Amendment.

The policy "gives a lot of leeway for principals to say if they want to punish something or not," he said. "If I think what they’ve done here is in a few places too much."

In nearby Fairfax County, Va., the school board voted to amend its guide to conduct in the student handbook after the school received complaints that the policy would condone homosexuality.

The board replaced the words "sexual preference" with a clause prohibiting abuse on "matters pertaining to sexuality," the Post reported. The "sexual preference" clause had been added to the guide in July.

The new policy will ban "cursing, gesturing or verbally abusing any person including, but not limited to, abuse or harassment based on that person’s race, religion, gender, creed, national origin, personal characteristics, handicapping condition, matters pertaining to sexuality or intellectual ability."

While board members voted unanimously to make the change, some expressed doubt that the change was necessary.

Others felt the new language would better include all types of sexual harassment.

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University of Wisconsin Repeals Code

**R.A.V. prompts regents’ vote to eliminate hate speech rule**

**WISCONSIN** — The University of Wisconsin Board of Regents in September voted to repeal its campus “hate speech” code, which prohibited the use of epithets that insults, create a hostile educational environment or provoke an immediate violent response.

The 10-6 vote to repeal section UWS 17.06(2) of the Wisconsin Administrative Code came voluntarily soon after both the U.S. Supreme Court and the Wisconsin Supreme Court ruled two city “hate crimes” laws unconstitutional.

This is the second time a University of Wisconsin speech code has been repealed. The university’s original code was declared unconstitutional by U.S. District Judge Robert Warren in October 1991. In his decision, Warren called the first code "unduly vague." He ruled that the policy “fail[ed] to make clear whether the speaker must actually create a hostile educational environment or if he must merely intend to do so.”

Instead of appealing that ruling, the university decided to draft a more specific code, which was approved by the Board in March 1992. The narrower code was approved by the state legislature in July, under the condition that the Board re-evaluate the decision in light of the Supreme Court’s July R.A.V. v. St. Paul decision declaring a St. Paul, Minn. hate crimes law unconstitutional. At that time, Wisconsin administrators thought their code might be an exception to R.A.V.

While the board did not rule on the legality of the university’s code, “enough concern [was] raised” by the R.A.V. and Wisconsin Supreme Court decisions to prompt the vote for repeal, according to Patricia Hodulik, University of Wisconsin legal counsel.

(See WISCONSIN, page 23)
Former staff members sue Collecion, editor in chief

Graduate students allege ethnicity led to their dismissal

MASSACHUSETTS — Racial strife and the debate over fair representation continues to haunt The Daily Collegian, after three former staff members filed a lawsuit against the paper and its editor in chief.

The suit alleges that the University of Massachusetts at Amherst newspaper violated three students' civil rights when newly elected Editor in Chief Dan Wetzel dismissed them from the staff in September.

The case, filed in the Superior Court of Hampshire County in October, claims that the three graduate students were dismissed from the paper because of their ethnicity.

The debate stems from the latest incidents of racial disharmony at a newspaper with a 20-year history of conflict. Last spring, in the wake of the Rodney King beating trial, which led to riots in Los Angeles, students contending that the paper was racist overran the Collegian and forced its editors to print from an undisclosed location.

Protesters alleged that the Collegian's coverage of minority affairs was incomplete, as was minority representation on the staff.

After summer-long negotiations, refereed by the Harvard Negotiations Project, the staff agreed to independent elections of specialty-page editors by the staff members of each page. The Collegian currently has nine specialty pages, each with its own editor and staff, including black affairs, women's issues, multicultural affairs, gay and lesbian, gay issues and Third World affairs. The editorships were previously voted on by the entire staff of the paper.

A former editor of the Third World affairs page, Madanmohanan Rao, and two former staff members, Rabi Dutta and Hussein Ibish, filed the lawsuit. While Rao contends that he was fired from the paper because of his Asian origin, Wetzel maintains that the students were fired to comply with university regulations regarding student organizations.

Wetzel said he fired the three when he was informed that the Student Activities Office's requirements for Registered Student Organizations (RSO) state that graduate students cannot hold leadership positions in RSOs.

In the complaint, Rao and the others allege that the paper violated a contract by terminating the three students, and fired them to deprive them of their rights of free speech. They also said that the Collegian misrepresented its search for a new Third World affairs editor, by

(See DAILY COLLEGIAN, page 24)

Wisconsin

(Continued from page 22)

In their decision, the Regents said that they are still committed to "maintaining an environment conducive to teaching and learning that is free from intimidation for all students," the principle that prompted them to adopt the code originally. But because a challenge to the code "could be resolved conclusively only by costly litigation," the Regents chose to look for other means to maintain a free learning environment, making provisions for a committee to recommend other ways to address "discriminatory conduct."

"We're trying to look at what else can be done short of having a 'speech code,'" said Maureen E. Quinn, assistant vice president for university relations.

The committee has not yet been formed, but will most likely consist of student affairs officers representing the administrations of several campuses in the University of Wisconsin system, Quinn said.

"Students will have significant input" in the process, she added.

The American Civil Liberties Union, which had helped bring the University to court to contest the first speech code, is "supportive" of the decision to repeal the code, according to Christopher Ahmuty, director of the Wisconsin ACLU.

"We hope that they can now turn their attention to eliminating hate speech on campus in other ways," Ahmuty said.

The Wisconsin Legislature has not yet approved the Board's action, a process that may take several months, Hodulik said. Until that time, the code will not be enforced, and the University will address any incidents that may arise with other sections of the administrative code, she added.

"We hope that they can now turn their attention to eliminating hate speech on campus in other ways."

Christopher Ahmuty
Wisconsin ACLU
Federal legislation falters again
Committee holds hearing about campus speech codes, but Congress adjourns without voting on two bills

WASHINGTON, D.C. — Two proposed bills intended to prevent speech codes on college campuses were put on hold until January as Congress ended the 102nd session without voting on them.

Sen. Larry Craig’s (R-Idaho) Freedom of Speech on Campus Act did receive a hearing in the Senate Committee on Labor and Human Resources in September. However, the measure did not go to a vote within the committee or in the full Senate.

Rep. Henry Hyde’s (R-Ill.) Collegiate Speech Protection Act did not receive a hearing this session.

The two bills take different approaches to preventing speech codes. Sen. Craig’s bill is an amendment to the Higher Education Act and would withdraw federal funds from colleges with such speech codes. Rep. Hyde’s bill amends the Civil Rights Act, allowing students to take legal action against schools with codes. Both bills would apply to all colleges receiving federal funding except for religious institutions.

During the Sept. 10 hearing in the Senate Labor and Human Resources Committee, students and administrators spoke both for and against Craig’s proposed legislation.

“I am not here to defend harassment,” Sen. Craig testified. “Speech restrictions don’t just blunt a weapon that could be used to do harm — they also destroy the best weapon any of us has to fight against harassment.”

‘Speech restrictions don’t just blunt a weapon that could be used to do harm — they also destroy the best weapon any of us has to fight against harassment.’

Sen. Larry Craig
Bill’s sponsor

While the charges were eventually dropped, Carl warned of “a chilling effect that is felt on every college campus with a speech-restricting code.”

Other students argued that speech codes are necessary to maintain a healthy learning environment.

Sen. Craig testified that she had been subject to various forms of harassment because she is black.

“There is no logic in a person being denied the quality education he/she deserves simply due to someone else’s ignorance,” Welch said. “There is even less logic behind your support of a bill that would foster such ignorance, in opposition to a healthy learning environment for all.”

Spokespersons for both Sen. Craig and Rep. Hyde said the legislators are still considering whether to reintroduce their respective bills next session.

“We have to re-evaluate,” said Brooke Roberts, Sen. Craig’s legislative aide. “If other schools follow [the University of] Wisconsin’s lead and repeal their speech codes, there may not be a need for this bill.”

Daily Collegian
(Continued from page 23)
changing the date applications were due and denying them the right to vote. “They change their story every day,” Rao said.

Wetzel counters that the due date was not changed, and Rao had received misinformation about the due date and voting procedures from someone else. He added that the paper’s constitution allows the editor in chief to choose a replacement editor if a mid-semester vacancy occurs, so there was no vote.

Rao said that because the majority of Third World students on campus are graduate students, not allowing graduate students on the Collegian staff effectively silences the voice of Third World students.

“Our staff has always faced opposition at the paper,” Rao said of the Third World affairs page. “This is just the latest trick to get us out.”

Rao added that the graduate senate recently passed a resolution condemning the exclusion of graduate students on the Collegian.

Wetzel said the firing was not an attempt to silence the voice of Third World students on campus, adding that minority recruitment on the staff has increased 15 percent.

“We have overcome most of our problems,” Wetzel said, referring to last spring’s events. “We are at peace with 19,000 undergraduates. There’s just three graduate students giving us problems.”

Wetzel said his attorney is still in the process of preparing a response to the suit, which requests an unspecified amount of damages. He added that he is not considering settling the case at this time, saying “when you’re not guilty, there’s no need to settle.” A court date has not yet been set.
Nine years later, Stony Brook suit settled

No damages paid as former students end court battle 'with honor'

NEW YORK — A nine-year-old, $900,000 libel suit finally ended in October, with both sides agreeing to withdraw "with honor" and no money changing hands.

A former student leader, Ira Levy, filed the case against the State University of New York at Stony Brook student newspaper, Statesman; the independent Stony Brook Press; the student government, Polity; and several individuals affiliated with Statesman and Polity at the time.

Levy, now a successful concert promoter, had been in charge of booking concerts for the Student Activities Board (SAB) division of Polity when he was a student at Stony Brook. In August 1983, Polity dismissed Levy from the SAB while it investigated charges that he had embezzled ticket money and considered pressing criminal charges. Both Statesman and Stony Brook Press wrote stories about Levy's dismissal and Polity's investigation.

Levy was later cleared of the charges and reinstated to his position on the SAB. In 1984, he filed suit against the reporters, newspapers and Polity, claiming they had "conspired together and maliciously and willfully entered into a scheme to defame and injure [him]," according to court documents. The suit also said the newspaper reports were "false and malicious" and that Levy had been "caused to suffer severe embarrassment and disgrace" as a result.

After seven days of testimony at a court hearing in October, both sides agreed to settle the case. The agreement, read aloud in court, stated "Ira Levy did not commit embezzlement or other improprieties," and "the media defendants' news articles were fair reports of the student council meetings and the media defendants reported these meetings neutrally and responsibly."

The "statement of mutual respect" allowed "an honorable end for all parties involved and did not demean anyone."

(See STONY BROOK, page 26)

Campus police officer sues alternative student paper

Retired officer requests $300,000 for damages caused by editorial

OHIO — A news magazine aimed at minority students is being accused of libel by a campus police officer after an editorial alleged he had a reputation of "excessive use of force, brutality and discrimination," according to court documents.

The editorial entitled "Does Bigotry win over student safety?" appeared in the Oct. 10, 1991, issue of The Vindicator, the black student publication at Cleveland State University.

The lawsuit, filed by campus police officer Bill Waterson last March in the Ohio Court of Claims, asks for $300,000 in compensatory damages. Claims for $600,000 in punitive damages and $100,000 in attorneys fees were thrown out during the court's pre-screening process.

Because only a state agency can be sued in the Court of Claims, the court also dismissed claims against The Vindicator, Editor in Chief Zina L. Quarles, the newspaper adviser and a police officer who allegedly gave Quarles the information Waterson claims is false. Only Cleveland State University is being sued in the Court of Claims.

A second case filed in the Ohio Court of Common Pleas against those individuals is currently being reviewed by the Court of Appeals to decide if they acted on their own or as an agent of the state when they committed the alleged acts of libel, according to Christopher Kuebler, Waterson's attorney. If the court finds they were acting on their own, then the individuals may be liable and that case can proceed, he said.

The editorial quotes unnamed campus police officers as saying that the accused officer is "an extremist," with whom many of the officers on the campus police force feel "uncomfortable."

The editorial also states that Wateron "held a gun to someone he assumed to be gay and made him walk across a frozen pond while working for the police department," according to court records. The suit says such statements are (See CSU, page 26)
 According to David S. Korzenik, the attorney representing the newspapers and reporters.

Both sides say they were satisfied with the decision. "I am very happy," Korzenik said. "Our people didn't have to pay any money to them."

"We are elated with the result," said John Ray, Ira Levy's attorney. "All that mattered was to clear his good name."

Levy could not be reached for comment.

Why the case took nine years to be settled is unclear. It's just the way it worked out," said Ray. "We're ready to go to court from the beginning."

He noted that the newspapers and reporters hanged lawyers several times, which added to the delay.

Korzenik, who became involved with the case in Feb. 1992, had asked the judge to dismiss the case, saying Levy and Ray had not taken any steps to meet with witnesses or move the case forward, but the judge denied that request.

While glad that the suit is over, the current and former student reporters involved with the case now face attorney fees in excess of $30,000.

"This entire thing is putting us out of pocket," said Mitchell Wagner, the former reporter who wrote one of the Statesman articles. Wagner said he and his fellow reporter, Geoffrey Eis, are paying the majority of the expenses themselves. Wagner, who now lives in Massachusetts, is currently a senior at a computer publication, Open Systems Today, and

Reiss is a general manager of Spy Magazine in Manhattan. "It's too bad our system is set up so that even if you're in the right, you can lose," said David Joachim, current editor in chief of Statesman, referring to the court costs.

"We've all had to put out lives on hold," he said. Statesman has asked other newspapers to donate money to help cover court costs, Joachim added.

Wagner said the case will affect local journalists nationwide. "Small newspapers are not like '60 Minutes,'" he said. "They can't just accept the cost of litigation as the cost of doing business."

Waterson, who was scheduled to retire in December, refused to comment on the case. But his attorney added that Waterson's decision to retire was directly affected by the situation. "He had been in line for a promotion," Kuebler said. "He would not have retired if it weren't for this."

A court-ordered settlement conference was scheduled to be held in December, according to Catherine Cola, assistant attorney general. If that conference was unsuccessful, a trial date in the Court of Claims was set for March, she said.

Cola said she believes the university cannot be held responsible for the actions of the student newspaper. Kuebler said he hoped to settle the case out of court.
Yanking Puppet Strings

College newspaper editors sometimes find fellow students, not administrators, are the ones who try to manipulate them

Members of student governments appear to be supportive of student publications — until student journalists investigate them.

Student journalists are discovering that more student government members are becoming active in attempts to influence the content of college publications.

At Russell Sage College in Troy, N.Y., the student government dissolved the editorial board of the Quill, the student paper, last spring after the Quill ran an article about the financial difficulties of the student government. This fall, the student body approved new provisions for impeachment proceedings against the editor and the school hired an outside adviser for the staff. Now a former editor says students are being discouraged from writing articles that are substantive for fear of having their publication discontinued again.

The student government at the University of North Carolina at Chapel Hill toyed with the possibility of acting as a censor last spring by attaching a rider to the budget of a campus organization. The rider stated that student funding for publications distributed by the group Bisexuals, Gay Men, Lesbians and Allies for Diversity (B-GLAD) might be discontinued if they printed articles that were political, including anything that supported or opposed any government legislation or policy. According to Doug Ferguson, co-chair of B-GLAD, the student code states that student groups cannot be partisan.

The potential for censorship kept the organization from publishing a newsletter in the spring because the rider required the organization to submit all printed material — including posters and flyers — to the student government prior to distribution, Ferguson said. The rider had been approved by the Student Congress in the spring but was removed in the fall.

For B-GLAD members, the student government had become a censor by using financial means for enforcing its views.

Students are discovering that there are inherent challenges in being journalists. Just as fear of libel motivates reporters to check their facts meticulously, fear of censorship can shape the outcome of a story. If students think controversial articles might not be printed, the content of what they write might become less insightful: the impetus to question will be replaced by the anticipated rejection of a story by an adviser, administrator or student government member.

Similarly, the tone of publications as a whole might be reshaped by the threat of discontinuation by administrators or student government members.

The message of these incidents and others is that students who experience censorship might become more cautious about what they print, write and think. Student journalists may face a difficult choice between censoring themselves or taking a stand for freedom of the press.
Court allows distribution of off-campus publication

TEXAS — A U.S. Court of Appeals ruled in August that Southwest Texas State University school officials violated the First Amendment when they prohibited the on-campus distribution of an off-campus publication. The decision suggests that schools that cannot deny independent publications the distribution rights that they give to official student newspapers.

The case, *Hays County Guardian v. Supple*, 969 F. 2d 111 (5th Cir. 1992), began when university officials revised a regulation that prohibited "solicitation" on campus to include a ban on the distribution of free newspapers with advertising. Under the new policy, publications with advertising could only be distributed by a member of a registered student group that had agreed to "sponsor" the publication. The ban did not apply to the *University Star*, the official student newspaper or to publications without advertising.

In October 1989, a university official contacted the *Hays County Guardian*, a small local newspaper that concentrated on "environmental, peace and social justice issues," and warned it that it had violated the school's new distribution policy. The *Guardian*, which relied on advertising to cover its operating expenses, was distributed free of charge throughout Hays County and copies were delivered to various locations on the Southwest Texas State campus.

When the *Guardian* continued to deliver its paper on campus, the school official threatened to "refer further violations ... to the University Attorney for appropriate action." The *Guardian* then joined with a group of university students and sued the university and university officials alleging, among other things, that the school's antisolicitation regulation violated the First Amendment.

The Court of Appeals found that the SWTSU campus was a limited public forum. As a limited public forum, the court said, it was up to the school to demonstrate that any restrictions it placed on speech were narrowly tailored to serve a significant government interest. That interest must then be weighed against the burden the restrictions created on free speech, the court said.

The school claimed that its regulation would prevent litter, congestion and invasions of privacy. Further, the school claimed, the regulations were necessary to maintain the "academic environment," because "unlimited distribution of newspapers, coupons, flyers, and the like throughout campus would create a circus atmosphere, destroying the unique quality of the University campus."

The court found that the school's distribution policy did not generally further these goals. For example, the court said, (See *GUARDIAN*, page 30)

Sheriff demands film

ACLU to investigate charges of harassment of demonstrators at Bush campaign speech

MISSOURI — The American Civil Liberties Union is investigating possible violations of a journalist's and demonstrators' First Amendment rights at a rally for President Bush this fall.

Dick Kurtenbach, executive director of the Kansas and Western Missouri branch of the ACLU, said that he is not ready to make a formal announcement yet but acknowledged that his office is looking into three incidents that occurred when Bush spoke in Joplin, Mo., in September.

Student journalist Cyprian Antonio Sanchez, who attends Pittsburg State University in Pittsburg, Kan., was escorted out of the area in police custody after he refused to hand over the film from his 35mm camera to a sheriff's deputy. Sanchez had been taking pictures of police moving demonstrators to a roped-off site about one-quarter of a mile from the podium where Bush was speaking.

Sanchez was permitted to return to the rally after the police finished moving the demonstrators, according to Ron Pruitt, a professor at Pittsburg State University who witnessed the incident.

According to an article in the *Pittsburg Morning Sun*, about 20 people inside the roped-off area protested the deputy trying to obtain Sanchez's film.

Kurtenbach said the ACLU is also looking into the movement of protesters into a confined and guarded area and the destruction of a student's Clinton/Gore sign by a Bush aide.
President attacks *The Parthenon* for printing rape victim’s name

Staff, students at Marshall U. criticize effort to revise media board

WEST VIRGINIA — Few could have predicted the outcry that *The Parthenon* caused when the paper printed the name and address of a rape victim and the individual she accused.

Given the current debate over the privacy of victims of sexual assault, the editors of the student newspaper at Marshall University in Huntington, W.Va., anticipated that their decision might not be well-received.

“When the editors made the decision, we did it with full knowledge that we would be called upon to answer for our actions,” the editorial board wrote, explaining the paper’s victim naming policy. The editorial was published the same day the paper printed information obtained from a city police report in an article about an alleged assault.

After the controversy began in late September, students held a candlelight vigil to protest the new policy and faculty members rejected an attempt by the university president to create a new student publications board to oversee *The Parthenon* and other campus media.

“This institution’s really rumbling,” Marshall University President J. Wade Gilley told the Associated Press.

The paper printed the controversial information after its editorial board voted 4-3 to institute the new policy.

“I wasn’t intending to be a groundbreaker,” said Editor in Chief Kevin Melrose.

In the editorial, the authors explained that they wanted to remove the “perceived societal stigma toward victims of sexual assault” and strive to remove the stereotype that women ask to be raped.

“Little can change if no one is willing to act,” they wrote, “We are reminded of our duty to the community: to report the news in a fair and responsible way.”

Gilley announced the formation of a new board of student publications in October soon after the controversy began. He said *The Parthenon* exhibited a “smut magazine mentality” and reflected poorly on the journalism department, *The Parthenon* reported.

The previous board was composed of five faculty members from the school of journalism and five students who were involved with the school paper, yearbook and student journalism organizations.

The policy proposing a new board stated that “it is important that oversight of student media operations be representative of the total campus community, rather than a single department.” According to the proposal, the board would be composed of five students and four faculty and staff members, but only one faculty representative would be from the school of journalism. Gilley, who did not make any appointments to the old board, would have selected two student representatives.

Gilley initially said he expected that the board he proposed would not allow the newspaper to publish names of sexual assault victims, according to *The Charleston Gazette*. The next day, the editors of *The Parthenon* printed an editorial accusing Gilley of taking "the student media out of the hands of students.”

Later press reports quoted Gilley saying that the new board would not determine the content of student media or engage in editorial interference. He told the AP that the restructuring of the board was a way of expanding the variety of input on publications policies.

In early November, a state circuit judge ruled that it was within Gilley’s authority to reorganize the board that oversees the school’s publications. The judge refused to grant a request for an injunction that Dwight Jensen, a journalism professor at the university, had filed to block Gilley’s move.

Gilley’s decision to restructure the board was considered censorship by some of the school’s journalism professors and the paper staff.

“I see it as retaliatory,” Harold Shaver, head of Marshall’s journalism department, told the AP.

Clauses in the policy proposed in October indicate that Gilley’s control over publications might be expanded. The policy stated that the new board would appoint editors, station managers and news directors, would evaluate the performance of its appointees and would approve and monitor the media’s budgets.

But in November, the faculty senate refused to adhere to Gilley’s changes when it decided not to appoint members to the proposed board.

“They [faculty senate members] simply would not go along with President Gilley’s plan,” said Deryl R. Learning, dean of the College of Liberal Arts. The faculty senate voted unanimously to have (See MARSHALL, page 30)
Guardian
(Continued from page 28)

they found no evidence that publications with advertising create more litter and congestion than publications without. They also said they saw neither a significant disruption of the school nor invasion of privacy resulting from individuals being offered a free newspaper as they walked across campus.

The court also found that the antisolicitation policy created a significant burden on the First Amendment rights of those who wished to hand out unsponsored political commentary to the public.

The court said they saw no legitimate reason to distinguish between the school sponsored newspaper, the Star, and the Guardian. SWTSU officials had argued that the university had a valid educational interest in protecting the Star from competition from other newspapers. The court disagreed.

"The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment," the court wrote. "The restriction of newspapers other than the Star cannot be justified by the University's desire to curtail the restricted newspaper's popularity."

In addition to contesting the validity of SWTSU's antisolicitation policy, the Guardian and the other plaintiffs also claimed that the university's use of mandatory student fees to finance the Star violated their First Amendment right not to subsidize speech with which they disagreed.

In dismissing the claim, the court said that the university's sponsorship of the Star was a narrowly tailored means of advancing an important interest of the university. The purpose of sponsoring a student newspaper, the court said, was to provide students with first-hand journalism experience and to create a forum for public discussion of University-related issues. The court found that there was no attempt by the University to control the editorial content of the newspaper.

The University submitted a petition to appeal the court's decision in mid-November, according to Chris Johnson, an attorney in the Texas Attorney General's office.

In addition, the Student Conduct and Welfare Committee of the faculty senate had considered a resolution that would prohibit the student newspaper from publishing names and addresses of sexual assault victims. The senate later withdrew the resolution.

"The resolution was passed in anger and frustration," said Robert Sawrey, president of the faculty senate. Sawrey said the senate recognized the resolution was "untenable constitutionally."

The paper has no immediate plans to reverse the policy on publishing victims names and addresses, Melrose said, though he added that he cannot speak for the entire editorial board.

"If the accused [attacker's] name is going to be printed, so should the name of the accuser," Melrose said. "We are dedicated to presenting the facts and being fair."

Marshall
(Continued from page 29)

Gillew work with the school of journalism to restructure the old board to retain representatives from the school of journalism.

The school reached a compromise about the formation of a new board with Gilley the next week. In the latest revision, proposed Nov. 16, the board would be composed of seven faculty members — four from the school of journalism — and eight students. Gilley would not appoint any students.

In a move to suggest their position on the issue, the student senate voted in October to propose the elimination of student funding of the paper. The Parthenon receives $120,000 annually from a $12 fee per student.
NEW YORK — Her key did not work.

Amy Demner, editor of the weekly Delphian at Adelphi University in Garden City, discovered the locks had been changed when she returned to the paper’s office this fall.

Administrators had changed the locks over the summer and told the staff that they could not publish on campus until the paper agreed to print a disclaimer, Demner said. The disclaimer was intended to free the school from potential liability if libel claims were brought against the paper.

Demner negotiated with administrators until Oct. 5, when she picked up the keys to the paper’s office after signing an agreement with the university. In exchange for the paper printing the disclaimer, the university attached a rider to its insurance policy to cover claims made against the paper if there is a libel suit, said Richard J. Schure, attorney for the school. The Delphian ran the disclaimer on the editorial page of their Oct. 16 issue, the first issue produced since May.

The disclaimer states that “The Delphian is a publication which is written, edited, published, and distributed by students of Adelphi University. Its views are not those of the administration, faculty, employees, alumni, or student body of the university. The university hereby disclaims any liability for the contents herein.”

The students waited until they had assurance that the university would protect them in case of a libel suit. “We didn’t agree [to print the disclaimer] until we had the guarantee of being covered by the university’s insurance,” Demner said.

The conflict over liability began in March, when Schure was reviewing the school’s liability possibilities. Schure said that the private school had “a degree of responsibility to make certain there’s no libel” printed in the paper, so he suggested that the paper become its own corporation to separate itself from the university. Then, if the paper were sued for libel, the university’s assets would be protected.

Demner said the editorial board decided not to incorporate. “Incorporating put us in a precarious position,” she said. She said she contacted an attorney in April.

If the paper were to incorporate, it would not be eligible to receive money from the student government because a non-Adelphian organization cannot be funded by student government funds, Demner said. She said the paper usually receives $33,000 from the student government and uses the money to cover printing costs. The paper is distributed free on campus. The rest of the costs are covered through ad revenues, which average $10,000 each year. But since the school shut the paper down at the end of August, “we lost six issues so our ad revenues are down,” she said.

Demner said she was worried about the paper’s funds being discontinued. “What would happen to us in the long run? They [the administrators] weren’t providing protection for the paper.”

When the students declined to incorporate, Schure asked that a disclaimer be printed on the front page of the Delphian. “The students refused to incorporate out of ignorance. They should be responsible for what they say in the paper,” Schure said.

Demner was hesitant to run a disclaimer that would make her and the other editors solely liable for what was printed in the paper, she said. “We were concerned that if we had a disclaimer, I’d go to the university to get money if we were suing, and they’d say that the university is not responsible and ‘we don’t have to cover you.’”

(See ADELPHI, page 33)
Triton paper not allowed to publish

Summer edition squashed

ILLINOIS—Why was the staff of The Fifth Avenue Journal at Triton College in River Grove told they could not print during the summer?

It depends on whom you ask.

Administrators, students and the president of the board of trustees all offer conflicting stories.

The only documented fact is the printed policy regarding publication of the community college paper. According to the policy, the paper is published in the fall and spring.

"The glitch was the policy never stated if we could or couldn't publish a summer issue," said Carrie Eierman, advertising manager for the Journal.

The paper has printed summer editions in the past, said Victor Ryckaert, editor in chief this summer.

"There's nothing in the policy that says we can't publish in the summer," according to Terri Winkates, former arts editor.

Winkates believes the Board of Trustees kept the paper from being published because the president of the board did not want the paper to run a story about the possible use of student money by the board to finance the school's deficit.

"When asked about the possibility of using the student service fee to cover the college's current million dollar deficit, [Jenni] Golembeski (then chairman of the Board of Trustees) became quite defensive. During the next half hour, we received not one, not two, but three phone calls from Golembeski questioning us about our authority to print in the summer," according to an open letter to the community the paper staff wrote in June.

Ryckaert said he was writing a neutral story about the board trying to find ways to fire the college president. Ryckaert said other issues that arose included the possibility of the school's accreditation (See TRITON, page 33).

Nude sketches too sexy for literary magazine

Editor pulls artwork to ensure publication

ILLINOIS — The student editor of a college literary magazine pulled two nude sketches after being told they would have to be approved by the school's two publications committees — with only one week left before graduation.

Kate Faber, editor of the Kodon, the literary magazine at Wheaton College, was told last May that she could either obtain approval from the college publications committee or run the sketches, according to faculty adviser Kent Gramm. Faber could not be reached for comment.

If Faber were to first ask the student publications committee, then the faculty college publications committee for approval, the magazine would have come out after graduation, faculty adviser Kent Gramm said.

In the interest of time, Faber chose to pull the sketches.

"Rather than sacrifice the entire issue, we sacrificed those two sketches," Faber said in the Newsletter On Intellectual Freedom.

Gramm said he had approved the drawings but said some administrators thought the matter should be brought before the college committee on publications.

The school maintains that there was no censorship because Faber was never told she could not print the drawings, said Sam Shellhammer, vice president for student development.

"Neither committee made a decision to censor. A question was raised about the appropriateness of the drawings in the publication," Shellhammer said.

Gramm said that the sketches were brought to the attention of the administration when the director of alumni relations spotted the copy as it was going to press.

"Thinking as an alumni director, she got concerned about things that people on campus might not get concerned about," Gramm said. The alumni director was unavailable for comment.

"I don't think anyone thought they were obscene," Gramm said. "The drawings were highly stylized drawings of males and females. They were not very realistic."

In place of the sketches, Gramm said that Faber inserted a statement that the sketches had not been included and were available in the magazine's office for those who wanted to see them.
being questioned and the implication that a local law firm had political ties to a board member.

Nothing made it into print.

The day after Winkates spoke to Golembeski, the Dean of Arts and Sciences, David Boulanger, phoned the paper and told the staff that printing the paper would be against the board's policy. Boulanger said he had been at a meeting when the then vice president for academic affairs mentioned to him that he was out of compliance with the board's policy for the newspaper.

"I had to agree that some things were out of compliance," Boulanger said. Boulanger said the paper did not have an adviser that had been approved for the summer and the students involved with the summer edition were not enrolled part-time or full-time at the college, as specified in the policy. Winkates and Ryckaert graduated from the school in June.

"I had no choice but to ask the students to stop publication," Boulanger said.

"They didn't want us to print the paper," Ryckaert said. He said the students spoke to the dean for hours. "He was visibly nervous and really concerned."

The students, according to their letter, had "several fruitless meetings with the dean [Boulanger] and Vice President [for Academic Affairs] Jorndt" and "were told that there was nothing we could do."

The students thought the board was concerned about content, not the policy. Ryckaert said their adviser had quit over the summer because she was pregnant and the dean had said that having an acting adviser was fine.

Golembeski denied that the board was involved with the administration telling the students they could not print the paper.

"There is no involvement of the board. There is a policy [governing the publication of the paper] and we follow the policy," Golembeski said. "In the policy, it says that the paper must have a faculty adviser and they must have money," she said.

The students disagreed that lack of funding was a justifiable reason for the paper being shut down. Winkates said the student senate had offered to fund the paper and the paper had money in its budget for a summer edition.

At the board meeting following Boulanger telling the students they could not print the paper, the students said they presented the board an amendment to the policy that would include summer publications.

Golembeski's recollections of the proceedings differed. She said students addressed the board and said that no board members had seen such an amendment.

The board denied their request. According to Golembeski, the students did not use the proper procedures. She said she told the students they would have to draft an amendment to the policy and submit it to the Dean of Arts and Sciences, who would then pass it on to the Vice President of Academic Affairs, the President and the Board of Trustees.

Consequently, the board never took any action that would permit the students to publish over the summer.

"We ended up giving up on it," Eierman said. "It seemed like nobody helped us."

"I lost my faith in the system that's supposed to be helping the students," said Julia Tritz, current editor in chief. "We work really hard to let students know what's going on and they said we couldn't do it."

It was difficult to resolve the issue after school ended in May since their adviser was traveling and the editorial board members had dispersed over the summer, Demner said.

So when they found their offices locked on Aug. 31, they considered taking legal action against the university and "had a bunch of meetings," Demner said. "We wanted to use up all other options first because while we were in court, the paper wouldn't be published," she said.

Demner is still having discussions with the administration — the new issue is proceedings for selecting a faculty adviser. Although the same adviser has been working with the paper since late 1988, "the administration would not officially recognize an adviser," Demner said. Then "they agreed to recognize an adviser but said they'd have to appoint him."

"In a school where there's a lot of tension between the administration and the paper, it violates freedom of the press to have the school appoint an adviser," Demner said.

The administration maintains that university procedures require approval of faculty advisers for registered student organizations, according to Carl J. Rheins, vice president and dean of student life. Rheins pointed out that the agreement the Delphian reached with the school in October says the editorial board of the paper will continue discussions with Rheins' office to decide how an adviser to the paper will be selected.

Demner said that the staff gained a lot from the experience and learned about the importance of making compromises, even though the paper lost opportunities to recruit freshman for the staff.

"As a newspaper, it's made us stronger. "We're still waiting to see proof of the insurance policy but I feel, at this point, that we have to give a little trust," Demner said.

"I'm glad it's over."
Catalyst thrown out

Officials call paper a ‘mess of errors,’ destroy about 10,000 copies; student editor says article on local ballot measure was the problem

FLORIDA — Often accused of being too subjective, reporters are rarely questioned — or reprimanded — for being objective.

At the Kendall Campus of Miami-Dade Community College in Miami, however, students discovered that administrators did not want objective points of view in the student newspaper’s eight page special edition on an upcoming local ballot measure. And the day after the issue had been printed, 10,000 copies of the paper vanished.

Administrators were not pleased with an opinion piece that opposed an upcoming referendum even though the rest of the articles in the issue supported the measure, said J.C. Cubas, editor of the Catalyst.

“They [administrators] thought the article would backfire,” said Waldo Toyos, author of the opinion piece. Toyos thought administrators were afraid people would be convinced to vote against the referendum if they read the article opposing it.

The referendum, which passed in November, allows revenue collected from property taxes to be given to the college.

The newspaper used the money given by the school for a special edition about the ballot measure in lieu of their usual orientation issue, which is also funded by a grant from the school, Cubas said.

The day after the paper had been sent to the printer, Cubas said she was summoned by a dean to discuss publishing a second version of the paper since there were mistakes in first printing.

When she went into the dean’s office, she caught a glimpse of the back page of the paper. She said the con article had been crossed out — indicating the dean did not want it to be printed in the revised edition of the special issue. She said the dean had hoped he could avoid discussing the article with her by crossing it out and told her that there was no possibility of compromising because he did not want the article in the paper.

Two days later, The Miami Herald published an article in which Cubas said she was planning to call the local office of the American Civil Liberties Union to discuss the incident. A few hours later, Cubas was asked to attend a meeting with the acting president, the vice president, the academic dean and the adviser to discuss her allegation in the Herald that they had censored the paper.

During the meeting, in which the administrators talked about numerous grammatical errors in the paper, Cubas said they reached a compromise: the errors would be corrected and the opinion piece would remain in the second printing.

Then she found out that the school had thrown the papers in the trash.

“I thought they were put away,” Cubas said. “I didn’t know the papers were trashed until the end of the meeting. That was kind of weird to me.”

“I was upset,” Toyos said. “They told us they were going to hold the papers. I thought we would get them back. I worked pretty hard on that article throughout the semester.”

Lin Welch, director of campus communications, said she was not at the meeting and did not know what happened to the first edition of the special issue. “It was never distributed,” she said.

“The original copies were destroyed because there was no reason to keep them around if there would be a new edition,” the paper’s adviser, Merwin Sigale, said. Sigale became the faculty adviser in September.

Welch said a mix-up with the computer files resulted in typographical and grammatical errors in the first edition.

“Page one was just a mess of errors but it wasn’t the right page — it was an earlier draft [that was accidentally sent to the printer].”

“I never thought the article would make such an impact on the administration,” Toyos said.

Cubas said she hoped to avoid similar incidents in the future.

“I hope it won’t happen again because I won’t let it.”

“Every college paper should be independent,” she said.
Attorney General gives opinion on Coffeyville publication policy

College paper's policy based on high school free speech law, but Kansas Attorney General says law not for college students

KANSAS — Even the state attorney general has an opinion on Coffeyville Community College's publications policy.

In October, the attorney general responded to a letter from Joe Levy, the college's legal counsel regarding the applicability of legislation the state enacted in March to protect high school publications. Levy contacted the attorney general after the college's Board of Trustees approved a publications policy this fall. The policy was modeled after the state's student press law — legislation many believe was intended to be applied only to high school publications.

According to the letter from the attorney general, provisions of the law are not applicable to community colleges because community colleges were not included in the law's definition of public school districts. Court decisions have indicated that college student journalists are entitled to stronger First Amendment protections than high school journalists.

The attorney general's opinion on the policy was good news to David Johnson, editor-in-chief of The CCC Collegian, Coffeyville's student newspaper. Rudy Taylor, faculty adviser to the paper, said they will meet with the president of the college, Dan Kinney, to discuss revising the policy. Taylor said he will advise Kinney to make the publications policy broad because "the more specific you try to get, the deeper you dig yourself in the hole."

The policy the board had approved in the fall gave the adviser the right to make the final decision on content, even though the state law gave students more control over content by leaving the final decision up to them, Johnson said. "The attorney for the school said the final decision for content is with the adviser — which is wrong," Johnson said.

Kinney had shut the paper down in the spring, telling students they could not publish until the staff submitted a publications policy to him, staff members said.

Kinney rejected the policy the students submitted to him in the spring and proposed his own to the Board of Trustees this fall, Johnson said. The trustees unanimously approved the measure.

Kinney did not return numerous calls from the SPLC Report.

Johnson did not think Kinney will use the policy the board approved in the fall to exercise control over content of the publication.

"I don't think he [Kinney] wants to spend the time censoring us," Johnson said. "He doesn't want to worry about the journalism program."

Johnson said the policy is specifically for high schools.

The policy "violates the spirit and intent of the [state] legislation," according to Ron Johnson, director of Student Publications Inc. at Kansas State University. The Supreme Court explicitly stated in a footnote to the 1988 Hazelwood ruling that the decision only applied to high schools.

David Johnson said he has not had any problems with the administration yet, but added that "we haven't done anything to make them [the administration] mad — no stinging editorials."

He said he is tired of the situation. "I've been dealing with this since April and I'm sick of it," he said.
State Open Campus Crime Log Legislation

The type of information under these laws varies by state. In general, however, these laws explicitly require that campus police forces maintain and provide public access to their daily incident logs. While most state open record laws would provide much of the same information as public schools, these laws head off any attempt by school officials to argue that they are exempt. Currently, only California, Massachusetts and West Virginia have such laws on the books. Other states are considering similar legislation. Oklahoma passed a law that, while not explicitly requiring schools to open their crime logs, does classify both public and private school police forces as "public agencies," which means they must comply with Oklahoma's Open Records Law. One of the key features of the laws passed so far is that they generally apply to both public and private schools.

Student Right-to-Know Act
20 USC §1092(a)-(b)

This law was enacted, in part, to combat the growing default rate on government insured financial aid. Beginning July 1, 1993, it requires that schools receiving federal financial assistance submit a report to the Secretary of Education that includes: criteria regarding the school's accreditation standards, the school's academic standards and student graduation or completion rates. A second part of the law requires that schools provide enrolled or prospective students with statistics and information regarding the type and amount of financial aid taken out by students, including the average monthly payment amounts after graduation.

Once the reports are compiled most schools will probably release the information voluntarily. If your public school does not, invoke the power of your state's open records law, discussed above. If you attend a private school — or if you simply want to see the national reports compiled by the Department of Education, contact the D.O.E. directly. Schools that do not comply risk losing their eligibility for federal aid.

Federal IRS Form 990

Private school student journalists, in particular, should know how to use this powerful FOI tool. The IRS Form 990 and the supporting schedules that go with it disclose a wealth of information about the inner-workings of tax exempt bodies — information you probably will be unable to obtain elsewhere. A detailed description of the information that can be obtained is beyond the scope of this article. However, the following examples should pique your interest: (1) the amount of money the organization has taken in each year (including grants), with a break-down indicating general sources and
What do FOI laws cover?

Open records and meetings laws are used to gain public access to the business conducted by "public officials" and "public bodies."

Examples could include:
- Public college or university campus police or security force (a private campus police force may also be a public body where they, for example, are licensed by the state, carry guns or have the authority to make an arrest)
- Federal, state or local law enforcement agency
- Public school administrators
- School board or board of trustees
- Student government
- Department of motor vehicles
- Public health board
- Environmental regulatory agency
- Vital statistics office (birth, death records, etc.)
- Board of elections

to remedy the perceived abuse surrounding athletic scholarships. It requires that, effective July 1, 1993, schools submit a report to the Secretary of Education that compares the graduation rates of student athletes to that of other students. Figures must be broken down by race and sex.

Once this information is submitted to the Department of Education, the DOE must compile various reports showing how schools rank nationally. Unlike the Campus Security Act, above, there is no requirement under the Student Right-to-Know Act for mandatory distribution to all students. Once the reports are compiled most schools will probably release the information voluntarily. If a public school refuses to release the information, you should invoke the power of your state’s open records law, discussed above. If you attend a private school — or if you simply want to see the national reports compiled by the Department of Education, contact the D.O.E. directly. Schools that do not comply risk losing their eligibility for federal aid.

Athletic budget reporting requirements

This law, which went into effect Oct. 1, 1992, requires schools that offer athletically related student aid to compile annual reports detailing revenues and expenditures that can be attributed to their athletic sports programs. Though not inclusive, revenues specifically include gate receipts, broadcast revenues, concessions and advertising. Reportable expenses include, for example: grants-in-aid, salaries, travel, equipment and supplies. Schools have six months after the close of their fiscal year to prepare and make the reports available for public inspection.

Student Right-to-Know Act

20 USCS §1092 (e)

This section of the Student Right-to-Know Act was enacted to require schools to provide information on student enrollment, graduation, sports, and drug and alcohol use. It also requires schools to provide information on student aid, scholarships, and grants.

LEGAL ANALYSIS
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A summary of the Supreme Court decision that dramatically changed the face of high school journalism with current court interpretations of it. Includes SPLC Model Publications Guidelines. Single copy free with stamped, self-addressed envelope. Additional copies $2 each.

Hazelwood and the College Press
A description of the legal impact of the Hazelwood decision on the college media. $2 per copy.

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