Congress Toys with Student Press
COVER STORY
Congress threatens to limit student press with laws..... 4

LEGISLATION
Bill would open campus police logs to public........... 5
Congress takes no action on Buckley................... 5
High school surveys under attack...................... 6
Newspapers bear brunt of Ind. survey law.............. 6
Four states battle against Hazelwood.................. 7

HIGH SCHOOL CENSORSHIP
Calif. school proposes strict policy.................... 8
Parental complaint causes ban of N.C. magazine..... 9
N.C. principal blocks out yearbook................... 10
Distribution rights given to N.J. underground...... 11
Wash. yearbook edited after publication............. 11
Charges dropped against five Conn. seniors........ 11

LEGAL ANALYSIS
Access to high school records........................ 12

ACCESS
Fight for animal rights info. access continues........ 16
Ala. newspaper will not see football records........ 17
Dept. of Ed. re-explains crime statistics act......... 17
Times-Picayune obtains scholarship forms.......... 18
Mich. court opens teacher evaluations.............. 19
Evaluations opened by Mich. Court of Appeals...... 19
Rueters seals salary and budget documents........ 20
Hawaii open records law faces blow.................. 20

COLLEGE CENSORSHIP
House shoots down threatening amendment........... 21
Denver college left without newspaper.............. 22
Calif. magazine allowed back on campus............. 22
Newspaper keeps control of funding in Ill.......... 23
Publications crack down on thieves................ 24
Neb. coach bans student paper from practice....... 26

ADVISERS
Fla. adviser resigns after refusing to censor....... 29
Prof. files suit after losing job at Wis. school.... 30
Judge denies intervention in advisers’ case......... 30
Colo. h.s. survey leads to adviser’s resignation.... 31
N.Y. union acts on behalf of former adviser....... 31

PRIVACY
Florida newspaper’s access sparks debate.......... 32
Student’s claim of privacy violation defeated...... 32

ADVERTISING
Calif. school board defeats censorship............... 33
Ohio student newspaper admits mistake............. 33

CONFIDENTIALITY
N.J. student demonstrates power of shield laws... 34
Minn. editor refuses to hand over negatives......... 34

POLITICAL CORRECTNESS
Calif. ruling raises questions about Leonard Law... 35
Supreme Court refuses to hear N.Y. case............ 36
Cartoon in Okla. offends minorities............... 36
Editors dismissal upheld in Mass. court........... 37
Case index now available

Thanks to the hard work of Student Press Law Center board member and long-time student press advocate Louis E. Ingelhart, an indexed case list of the 434 cases cited in the SPLC's new book, *Law of the Student Press, 2nd Edition*, is now available to purchasers of the book free of charge. Those wishing a copy should send their request, along with a business-sized, self-addressed, stamped envelope (55 cents postage) to the SPLC.

The Report staff

Jennifer Lynn Canster is a May 1995 graduate of Sam Houston State University in Huntsville, Texas, where she was editor of her college newspaper. She is currently seeking a permanent job in D.C. and firmly believes that Michelle Pfieffer is the coolest person on the earth, that there is no such thing as too much television and that the Truth is Out There.

Erik Diehn is slowly realizing the limitations of time. He is the editor in chief of *The Eagle* at the American University in Washington, D.C., where divine intervention will allow him to graduate by May 1997. Apart from a dire need for a new alarm clock, he's just dandy.

Rebecca Klingler is a junior at Bucknell University where she is majoring in English and has dedicated many (long) hours to her campus newspaper. She has no idea what she wants to do after she graduates, but she's hoping it will be fun and will give her lots of money.

Correction

A story about a Tulare Valley High School censorship case on page 30 of the Fall 1995 issue of the SPLC Report incorrectly indicated the affiliation of attorney Neil Shapiro. Shapiro is a partner with the San Francisco law firm of Landels, Ripley & Diamond, who was cooperating with the American Civil Liberties Union in representing the students in the case. The Report regrets the error.

Editor who fights subpoena receives free press award

The former editor of the Washington state high school student newspaper who has resisted police efforts to force her to turn over unpublished photos of a school brawl has been named the recipient of the 1995 Scholastic Press Freedom Award.

Stacey Burns, former editor in chief of the *Hawkeye*, at Mountlake Terrace High School in Mountlake Terrace, Wash., was presented the award at the National Scholastic Press Association/Journalism Education Association national convention in Kansas City, Mo., in November.

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 newspaper medium that has demonstrated outstanding support for the free press rights of students.

Burns' battle to protect her newspaper began in January 1995 after a fight broke out between Asian-American and white students in the school parking lot. Photographers for the *Hawkeye* were on the scene, as were approximately 150 student onlookers. The newspaper staff ultimately decided not to publish any of the photos it took, and when police asked to see them, editor Burns said no.

Burns repeatedly stated in interviews with local and national media and in the pages of her student newspaper that her reason for refusing to turn over the photos was not based on a lack of respect for the police and the important work they do. Rather, she said it was based on a concern for the integrity of the newspaper as an independent source of news and information, not an investigative arm of the police department. She noted that if the *Hawkeye* readers believed the newspaper's policy was to hand over unpublished information to the police, those readers would no longer trust the paper or allow themselves to be interviewed or photographed. In the words of Burns, it is important for both the police and the publication that their relationship continue as "being cooperative, but separate."

In March, Burns received a subpoena demanding that she turn over the photos, which she immediately contested in court as a violation of the First Amendment and the Washington Constitution. She argued that the police had not fully explored other sources for the information they sought, noting that they had failed to interview any of the many witnesses to the fight. On March 28, Snohomish County Superior Court Judge Ronald Castleberry refused to quash the subpoena. Burns, who graduated from high school last spring and is now a freshman at Washington State University, is appealing that decision. If she is ultimately found in contempt of court for refusing to comply with the subpoena, she could face legal penalties including the possibility of jail time.

In presenting the Scholastic Press Freedom Award to Stacey Burns, Student Press Law Center Executive Director Mark Goodman cited Burns' courage in standing up for the independence of the media when news organizations across the nation are facing a growing number of subpoenas.

"At a time when journalists at all levels are fighting efforts to force them to become investigators for police and private litigants, Stacey Burns provides a true profile in courage and commitment to journalistic principle," said Goodman. "The entire *Hawkeye* staff deserves commendation for its mature, principled dedication to maintaining their paper as an independent source of news. But as the editor, Stacey Burns was the person who had to bear the burden of that dedication and face the consequences that follow.

"Stacey has set an example of grace under pressure that any journalist can aspire to," said Goodman.

Nominees for the scholastic Press Freedom Award are accepted until August 1 of each year.
Dangling

Congress holds the strings that could control the student press

"The phrase 'Congress shall make no law' is composed of plain words easily understood."

Hugo Black, Supreme Court Justice

WASHINGTON D.C. — Justice Black was referring to the mandate in the First Amendment that prohibits Congress from making laws that would abridge the freedom of the press.

However, when it comes to legislation that affects the student media, Congress seems to be behaving in a harder time with the interpretation than Justice Black did.

Congress is currently considering several bills that have the potential to limit the freedom of the student press.

The House of Representatives passed a bill last April that could prevent student publications at high schools from surveying minors. (See FEDERAL BILL, page 6.)

In June, the Senate passed a bill that would make it a crime to publish "indecent" material on-line that is accessed by minors. College publications that produce an electronic version that contains profanity or sexual material could face jail time and fines.

And in April, the House considered a bill that would have allowed college students to refuse to fund student publications with political views. The bill never made it out of committee, but is expected to be proposed again. (See GAG, page 21.)

"In their attempt to protect society and children in particular, many members of Congress are ignoring the traditional freedoms enjoyed by the press as well as the public at large," said Robert Lystad, an attorney with the Washington, D.C., law firm of Baker & Hostetler, who serves as counsel to the Society of Professional Journalists. "The Internet indecency bill is a good example of the ignorance of some members of Congress about the First Amendment."

Sometimes Congress' lack of support for the student press is demonstrated not by proposed legislation, but instead by its lack of action on proposed legislation. Lawmakers have yet to act on the Department of Education's request to provide more access to campus crime information — a request that the department made in January 1995. (See CAMPUS CRIME, page 5.)

However, Congress is also considering a piece of legislation that is favorable to the student press. A bill introduced in the House in September and one expected to be introduced in the Senate would create a national requirement of open campus police logs. The bill would apply to both public and private colleges and universities and would require that campus police update their log daily and make it accessible to the public.

Lystad believes that members of Congress can learn to appreciate the concerns of the media if it can be persuaded that other groups, such as crime victims, share the press' perspective.

"The best way to point out flaws in this legislation is through communication," he said.
Legislation

Some legislators battle for the press

**Bills provide for national standard of open campus police logs**

WASHINGTON, D.C. — A bill that would require colleges to maintain daily campus police logs and open them to the public was introduced in the U.S. House of Representatives on Sept. 28, by Rep. John Duncan, R-Tenn.

Sen. Orrin Hatch, R-Utah, says he plans to introduce similar legislation into the Senate in coming weeks.

The House bill, H.R. 2416, would require logs of both public and private institutions to be updated daily with a summary of each criminal offense occurring on campus, plus the place and time it occurred. If an arrest was made, the names and addresses of all people arrested and the charges against them would also be included.

"Although federal law provides for the release of annual crime statistics and seven states have open campus police log laws on the books, there is no uniform national standard," said Daniel Carter, vice president of Security on Campus, the Pennsylvania-based group that played a key role in the development of the Campus Security Act, which requires schools to report crime statistics.

The bill would apply to any institution receiving federal funds, including private schools that have typically been left out of much access legislation.

Open police logs legislation already exists in several states, but this bill would provide a national standard of access.

After Duncan introduced the bill, it was referred to a subcommittee where members can make changes. If approved, the bill will go to the House Committee on Economic and Educational Opportunities chaired by Rep. Bill Goodling, R-Pa.

"No action will be taken by the end of this session and most likely action will be postponed until the 1997 reauthorization of the Higher Education Act," an aide in Congressman Duncan's office said.

According to Carter, the Senate version of this bill will be proposed as an amendment to a larger piece of legislation called the Victim Restitution Act when it is heard on the Senate floor.

The amendment, called the Campus Crime and Community Right to Know Act, is fundamentally the same as the House bill, but does include an exception saying that states that already have open campus police log laws do not have to comply with the federal law. The amendment would require the U.S. Attorney General to create model state legislation and send it to every state legislature.

Legislators delay action on campus crime hearings

WASHINGTON, D.C. — The Department of Education passed the buck last January, but it looks as if the educational leaders on Capitol Hill are not going to take it.

The majority and minority leaders of the education committees have not taken any action on a suggestion by the Department of Education that Congress consider opening more campus disciplinary records.

In January of 1995, the Department of Education released regulations with the intent of clearing up lingering confusion regarding the Buckley Amendment, formally known as the Family Educational Rights and Privacy Act (FERPA), and access to campus crime information.

The regulations determined that "disciplinary records" involving students accused of criminal activities on campus are "education records" and therefore may not be open to the public under the Buckley Amendment, but the Department of Education conceded that public access to these records may be warranted due to the rise of campus crime. They stated that their ruling on the issue of disciplinary records is not final and urged Congress to offer legislation that would put the issue to rest once and for all.


In the letter, Riley explained the reasoning behind the request for legislation and offered to work with Congress in writing an appropriate amendment to FERPA.

"Although we think it is clear that the definition of 'education records' includes student disciplinary records, it is also the case that crime on our Nation's college campuses and in elementary and secondary schools has escalated since 1974 when FERPA was enacted," Riley wrote. "In light of this development and the ongoing public and media attention to this issue, we believe that the various competing interests need to be identified and balanced in the legislative forum."

Mike Horak, press secretary for Sen. (See BUCKLEY, page 7)
Federal bill may limit survey possibilities

**Student papers could be forced to get parental consent to poll classmates**

WASHINGTON, D.C. — A bill that has the potential of limiting the high school student media’s ability to interview and survey other students could be on its way to becoming law.

The Family Privacy Protection Act passed the House last April and is now waiting Senate approval. It establishes a parental consent requirement for surveys or questionnaires funded in whole or part by the government.

The bill says that a person “in conducting a program or activity funded in whole or in part by the federal government may not without the prior written consent of at least one parent or guardian of a minor require or otherwise seek the response of the minor to a survey or questionnaire which is intended to elicit information concerning certain moral and political issues.”

Questions that would be forbidden under this law include those concerning parental political affiliation or beliefs, mental or psychological problems, sexual behavior or attitudes, illegal behavior and religious beliefs.

According to Mark Uncapher, a staff member of the House Committee on Government Reform and Oversight, which approved the bill, the bill is not intended to limit student media.

“The law is to be a limit on material covered by government surveys not a civil rights test,” he said. “The definition of survey when used in the bill has a narrow connotation.

“It is only referring to a program that is ordered by the government,” he said. “I don’t know of any newspapers that would run a survey because the federal government asked them to.”

Uncapher says his interpretation is backed by the House Committee on Government Reform and Oversight’s report.

“The intent is to include ‘surveys or questionnaires’ which the federal government either performs, or else contracts for or provides funding through its programs or activities,” the report says.

But some Congress watchers are concerned that student publications could also be limited. Because most schools receive some funding from the federal government and many student papers receive funding from their schools, the bill has the potential of preventing students from surveying their peers.

According to Candace Perkins, president of the Journalism Education Association, the absence of an exception for student media surveys could be a real problem. “It will take only one parent bringing a lawsuit against a student publication for asking personal questions as part of a survey for school boards all over to stop students from doing it,” she said.

The language of the bill itself does include several examples of surveys excluded from the bill’s limitations, but none involve the student media.

(See PRIVACY, page 7)

Survey law causes panic among administrators

**INDIANA —** A new state law here, similar to one proposed in Congress, has sent ripples of panic through the ranks of school system administrators, causing some to clamp down on the ability of student newspapers to conduct surveys despite the fact that the legislation was never intended to regulate student publications.

Indiana House Act 1625, which became effective on July 1, states that “a student shall not be required to participate in a personal analysis, an evaluation, or a survey that is not directly related to academic instruction and that reveals or attempts to affect the student’s attitudes, habits, traits, opinions, beliefs or feelings,” without the prior consent of the student and, if the student is a minor, his or her parents. However, some school administrators have interpreted the code to mean that all surveys, including those conducted on a voluntary basis by student media, are subject to the law’s restrictions.

“This is just another example of administrative overreaction to language that was never intended to affect student publications,” said Dennis Cripe, director of the Indiana High School Press Association.

So far, Cripe said, most administrative reaction has been cautious — while student media have not been absolutely prevented from conducting surveys, they have told advisers to exercise restraint until the law’s implications are more thoroughly understood.

The law, which restricts mandatory surveying, does not prevent voluntary, student-initiated surveys that are conducted.

(See INDIANA, page 7)
Buckley

(continued from page 5)

Kassebaum, said that “[the lack of action] is not meant as a lack of sensitivity toward the reporting of campus crime — with the demands of the student loan legislation, she simply has not had time to focus on the issue.”

Other legislators who received the education department letters did not respond to repeated requests for comment from The Report.

Gordon “Mac” McKerral, chairman of the Campus Courts Task Force of the Society of Professional Journalists, said, “I think that the issue of campus crime is just not a high priority or a pressing issue [to members of Congress]. Congress spends its time on other educational issues with high profiles.

“I think it is shortsighted for Congress to say that it has more important things to worry about than campus crime,” McKerral said.

States combat Hazlewood

Four states are fighting to join the six that currently offer student publications protection from the Supreme Court’s 1988 Hazelwood decision that curtailed students’ First Amendment rights.

Once again, First Amendment activists in Michigan have introduced an anti-Hazlewood bill in the House this September, despite the reluctance of the education committee twice before to move the bill through. At this point, the bill, which has a new sponsor in Rep. Kirk Profit (D-Ypsilanti), is still in committee.

In Nebraska, the bill supporting student press rights that was introduced last year is still before the Judiciary Committee and will be taken up again in early 1996.

The Freedom of Expression Committee in Missouri is gearing up for the 1996 legislative year, with definite plans to reintroduce a bill that has failed at least three times before. According to member of the committee Bill Hankins, Rep. Joan Bray (D-University City), the previous sponsor of the student free press legislation in the House, has said that she will sponsor the bill again. There are no definite plans yet for a Senate sponsor.

Several groups in Florida are undertaking a statewide student-directed campaign to garner interest and support for planned legislation, said Gloria Pipken, executive director of the Florida Coalition Against Censorship (FCAC). Although introducing legislation is not in the near future, the young campaign is currently focusing its efforts on making teachers, students and others aware of the limited rights of student journalists.

Even though the FCAC is not directly involved in lobbying for the cause, Pipken showed her support by saying, “We need to establish in the minds of the public that there is a problem.”

Indiana

(continued from page 6)

Conducted by a student publication, and Cripe said it was never the legislators’ intention to do so.

“Any surveying our students would do is consensual,” Cripe said. “[Administrators] don’t understand the nature of the law.”

Ed Poe, the yearbook adviser at Lawrence Central High School in Indianapolis, said his principal asked him for input on the law’s effects and to exercise more care than usual until the law is clear.

“In the meantime, they’ve said that until we know what we’re doing, she’s exercising prior review [of surveys],” Poe said.

The Metropolitan School District of Lawrence Township, of which Lawrence High is part, issued a district-wide policy immediately after the law’s implementation that forces principals to make sure a parental consent form accompanies each survey.

Any student that does not receive parental consent may not participate in school-sponsored surveys.

“I was floored to see there was a district-wide policy on surveys,” Poe said. “It was a blanket effort from principals.

Cripe said his organization will attempt to interpret the law and advise secondary school advisers and administrators of its true intent. Until then, most principals are erring on the side of caution.

Privacy

(continued from page 6)

The bill has been referred to the Senate Committee on Government Affairs which held a hearing on it November 9.

“The bill is not intended to affect student media,” Suzanne Marshall, professional staff member of the committee, said. “But I guess if all of the requirements of the law are fulfilled, then parents will have to consent before the students do invasive surveys.” Marshall did not mention the student media at the hearing.

The committee has yet to schedule a vote on the bill, Marshall said.

Winter 1995-96
PREPARING FOR BATTLE

At a California high school, a publications policy has students and advisers up in arms against the administration

The battle lines are drawn. The combatants are in place. One side takes administrative power to the front lines; the other, constitutional theory and the backing of a state educational code.

The skirmish which is about to play out in the halls of Alameda High School is one which has been witnessed time and time again in schools across the country: administrators, worried about students who may violate libel laws or write articles too critical of the school system, are trying to place restrictions on a student newspaper that students, advisers and journalism experts believe go beyond the boundaries of common sense.

Last spring, administrators in Alameda proposed a communications policy that would require, among other things, that student journalists get the written consent of sources before publishing quotes or photographs of them. The code also gave school principals prior review privileges of student publications and sweeping powers of censorship.

"I think it was time to update school policy," Alameda High Principal Betty Ruark said of the proposal.

The administrators responsible for the efforts claim it is to protect the school from libel and defamation problems, but its reach extends far beyond that.

"The policy is not final," said Iesha James, co-editor of Alameda High School's student newspaper, The Oakleaf. "We're trying somehow to deal with it."

And, in fact, the proposal has grown less restrictive. The guideline, which requires consent forms for quotes has been stricken. But it remains for photographs, which could cause numerous headaches for photographers at mass gatherings such as pep rallies, James said.

Associate Superintendent John Sugiyama, who worked with the school system's lawyers to draft the proposal, said the new system benefits both the subjects of stories and journalists themselves.

What makes this particular battle unique is the state in which it takes place — California. Under California's Education Code, student journalists are given final editorial control over the content of their publication, while the school is simply responsible for maintaining "professional standards of English and Journalism."

The law also prohibits prior restraint except when publications violate libel and obscenity laws or create a "clear and present danger" to the school by inciting violent acts.

"There shall be no prior restraint of material prepared for official school publications except insofar as it..."
violates this section," section 48907 of the code reads. "School officials shall have the burden of showing justification without undue delay prior to any limitation of student expression."

However, Alameda's guidelines originally allowed, and still could allow, prior restraint by the principal for material that the law says is protected. Will the newspaper adhere to the proposed rules?

"I'm really willing to take this to the limit," Oakleaf adviser Mary Jane Jones said. Students have thoroughly criticized the new policy. They spoke out against it at school board meetings over the summer, and James has begun working with the ACLU to determine the best strategy for continuing to fight the policy.

"Our student expression is going to be severely limited," said Julia Deutsch, a sophomore who writes for the paper.

Deutsch insisted that the policy's libel considerations are not necessary. She said the entire staff is familiar with libel law, and that Jones ensured each article's legality prior to publication.

"Everyone in our class had learned about libel," she said. "We can change things on our own."

Ruark says that no policy of prior restraint is being exercised.

"There is no policy of prior review," she said. "My main area of concern is just proofreading for typos."

But Jones and her students say that Ruark has changed her mind about prior review. In the first issue of the semester, Deutsch said she wrote an article that Ruark felt misrepresented her. Deutsch said she has the notes to prove that Ruark's remarks were taken in context and portrayed correctly.

"The way the system's set up, we check everything on our own," Deutsch said. "The other way, the principal's just going to delete anything she doesn't like — maybe it portrays [her] in a negative light."

Jones said the article may have inspired Ruark to take action. Several weeks after the article's publication, she asked Jones to let her review the newspaper prior to publication. Jones, however, has other plans.

"The principal said she wanted to prior review the next issue," Jones said. "I'm going to ignore the request."

The policy has not been completed, but it may see its first test soon. If Jones and her students continue chipping away at the proposal, they may enjoy continued freedom as a newspaper. Otherwise, they may find themselves subject to requirements that seriously impede their ability to report the news.

H.S. lit magazine banned after parental concern over poem

NORTH CAROLINA — Students at Glenn High School in Kernersville got a harsh lesson on what their school system finds objectionable when the student-produced literary magazine Underworld was hastily banned after parental complaints that it contained objectionable material.

"We received a parental complaint about the publication after it was distributed," school board attorney Douglas Punger said. "The parent was quite disturbed."

Only one edition of the magazine, which is not affiliated with the school, was banned from distribution on campus. The Winston Salem/Forsythe County Board of Education's policy on the distribution of non-school-sponsored publications on campus prohibit material which is "lewd, vulgar or indecent."

The school system does not have a policy of prior review for any publications.

According to Punger, several parents brought the objectionable material, which included a poem about looking up cheerleader's skirts, to Principal Adolphus Coplin's attention. He then prohibited further distribution of the magazine.

While the school board has an appeal process, Punger said no student filed a formal complaint or appeal of the banning.
NORTH CAROLINA — Students who ordered yearbooks last spring at North­ern Nash High School in Rocky Mount found a few last-minute changes when the book was distributed — and a lot of black ink.

After several teachers, who received the yearbooks before students, pointed out numerous examples of what they believed was offensive material, principal Robert Hurley confiscated the remaining 1,000 copies of The Roundtable and made a last-minute attempt to cleanse them of the off­ending content. However, the changes he made infuriated students and parents who felt the school was negligent in its duty to ensure the yearbook’s suitability for publication.

“We already had the books, and we could either reprint them or try to alter them,” Hurley said. “After looking at the reprinting costs, I went to the local printer, who gave me some markers that are used to do [final corrections].”

Hurley and a committee of teachers went to work in an eleventh-hour editing session during which they blacked out offensive phrases and covered pictures and artwork with an adhesive type of paper.

According to one student’s mother, however, the mark-ups did not exactly clean up the yearbooks.

“The spine was broken, the markers had bled, and some of the statements weren’t even covered up,” said Nancy Balkcum, the mother of a Northern Nash student. “It was immaturity done.”

Hurley said the books were not dam­aged by the editing, and said offers of a full refund were not taken by students.

Balkcum said her son Tab and several other students were outraged by the book’s censoring, especially since they had already paid $35 a copy for it.

“He had ordered the book and paid for it,” she said. “It was his property at that point.”

After Tab and his friends heard about the censoring, they wanted to take ac­tion against the principal, and his mother suggested that they file a small claims suit.

Balkcum filed a claim for $300 in damages and an unedited copy of the yearbook against the school board on behalf of her son, claiming that Hurley had neglected to fulfill his duty of ensur­ing the yearbook’s acceptability prior to publication. She said the yearbook was ripe with offensive material that Hurley should have noticed earlier in the publi­cation process rather than correcting after the fact.

Hurley, however, said the problems “slipped by” despite the three separate reviews of the book before it goes to the press.

According to Balkcum, the material in question included pictures of vandal­ism in progress, racial slurs, depic­tions of genitalia, photographs of students rolling marijuana cigarettes and vulgar language. Furthermore, she said, previ­ous year’s editions of The Roundtable had similar content, a fact Hurley ac­knowledged.

“Mr. Hurley knew there was going to be a problem with [the yearbook],” Balkcum said. “He should’ve taken precautions.”

N.C. Magistrate J.R. Bass, Jr. dis­missed the case, citing it as frivolous.

“I feel Principal Robert Hurley was hired as the educational leader of North­ern Nash High School and part of his job is to ensure that certain principles of the school are upheld,” Bass said.

A subsequent appeal by Balkcum also fell on deaf ears, and she was eventual­ly ordered to pay legal fees to the school system.

“I wasn’t after Mr. Hurley,” she said. “I was trying to protect my son.”

Kay Phillips, the executive director of the North Carolina Schol­astic Media Association, said the incident may have demonstrated a loss of control by the adviser.

“This is the kind of thing that can get out of hand so quickly,” Phillips said.

Following the incident, North­ern Nash changed its review process for the yearbook and transferred the The Roundtable’s adviser to another school. Hurley said the new process will give responsibility for the book’s review to multiple teachers and ad­ministrators rather than heaping all the work on the adviser and principal.

“We do the best we can, but we’re talking about a 600-page book,” he said.

Balkcum, however, still maintains that Hurley neglected his responsibili­ties, and said she does not think the changes will do much.

“The proofs were sent from the printer but weren’t edited then,” she said. “Why did he wait until these kids were in their final exams?”

Phillips said advisers can prevent last­minute censorship by making sure their students understand what appropriate material is while they are still in the process of producing yearbooks.

“The whole key is in advising at the right time, not censorship,” she said.
H.S. Censorship

Underground wins right to distribute

NEW JERSEY — Student journalists take note: just because a publication is not officially recognized does not mean it cannot be distributed, as students of Tenafly High School discovered.

The Tenafly High School newspaper, The Weekly Reviewer, lost its faculty adviser last spring and in turn its recognition as an official publication. So, the staff decided to do it alone and publish the newspaper without faculty supervision. The administration rejected the plan, and banned the newspaper from campus.

Frustrated, the staff of the paper sought help from the local chapter of the American Civil Liberties Union.

The organization wrote to the school’s administrators, warning them that all student organizations must be treated equally under constitutional prohibitions against content-based discrimination, regardless of whether or not the administration approves of their speech.

Because the paper wasn’t sanctioned, the administration was limited in its ability to censor it, said ACLU legal counsel Marsha Wenk.

In order to prevent the paper’s distribution, the administration had to demonstrate that it would cause a substantial disruption of school activities.

“Without evidence of disruption, no censorship can take place,” Wenk said.

The ACLU and school administrators eventually reached a settlement that allowed the newspaper staff to distribute copies to students at three specified locations on school property during the school day as long as students did not disrupt class to do so.

WASHINGTON — North Carolina high school students were not the only ones to experience last minute, “black marker” editing to their yearbook (see PRINCIPAL, page 16)— at Central Kitsap Junior High in Kitsap, two words were responsible for a hasty edit by school administrators.

The words “flip power” were surreptitiously added to the end of a football photo caption by a student after the yearbooks were approved by the yearbook teacher for publication.

The words are a shortened form of the slogan “Filipino power.”

When a parent called and informed Assistant Principal Barbara Gilchrist of the “error,” the school promptly gathered up as many of the yearbook’s 850 copies as they could when they were brought to class and blacked out the phrase.

“We didn’t think we had the same oportunity to have that phrase in the yearbook,” Gilchrist said. She declined to give any more details about the decision.

Gilchrist usually checks the yearbook after the teacher, but said that because the phrase was in a special sports supplement that she did not have time to review, it was overlooked.

Gilchrist said the culprit was identified and disciplined. She said he was in violation of a policy that forbids placing any items in the yearbook that are not approved by the teacher of the yearbook class.

“The student knew it was against the rules,” Gilchrist said.

No charges in hate speech

CONNECTICUT — Five Greenwich High School seniors accused of planting a subtle racist message under their yearbook photos last spring will not be charged with violating state hate laws.

According to the State’s Attorney office, there was not enough evidence to prosecute the five, who attracted national attention when each placed portions of a message under their photos in cryptic captions: kill — all — ni — gg — ers. The five denied planting the message, but did not dispute their suspensions from school and agreed to take part in a program during which they worked with civil rights groups and read literature about members of other races.

Coalition for Justice, a local group that has been critical of the town’s handling of the incident, voiced opposition to the decision not to prosecute.

However, civil liberties groups said early in the controversy that the students’ First Amendment rights would have prevented any criminal prosecution for using offensive language.
ALL I EVER NEEDED TO KNOW I LEARNED FROM FREEDOM OF INFORMATION LAW

How to gain access to public records that can reveal valuable information your readers need to know — and that your high school may not want you to have

As your high school newspaper’s top investigative reporter, you are always keeping your eye out for a good scoop. During the week, you notice a few peculiar things:

On Monday morning, your friend tells you that Sparky, an iguana and the school mascot, has mysteriously disappeared. Later that day, you become suspicious when the cafeteria serves meatloaf surprise for lunch.

Tuesday morning you waited more than an hour in the pouring rain for the school bus to pick you up for school. Belching black smoke, the bus came clanging and squeaking, waking up the neighborhood. What ensues is a gut-jarring bus ride you won’t soon forget. Curving and swerving, bouncing and backfiring, your bus at long last reaches your school. A bit shaken but unscathed, you get off the bus; however, you decide to walk home that afternoon.

Wednesday, on the way to trigonometry, you get stuck in the elevator — again — between the second and third floor. Although it has become routine — you set aside an extra five minutes to get to math class every day, today it took them 15 minutes to get you out of there, and your unsympathetic math teacher gave you extra math problems because you were late to class.

Thursday, after history class, you return to school and find that somebody has broken into your locker. They took your lucky Ken Griffey Jr. baseball card and your Slinky. After talking to some friends, you learn that you are the fifth victim of theft this week. Does Richard M. Nixon High School really have a crime problem? You wonder.

By Friday you’re hot on the trail of all these school happenings. After all, the public has a right to know about these things, and personally, you really miss that Slinky. So you go to your principal’s office to talk to him about your various experiences during the week. But to your surprise, you find out that Mr. Fielding is in Bermuda this whole month — something about an educators’ conference. Now what do you do?

While the above examples are meant to be humorous, you may be faced with similar real-life situations that are anything but funny and require serious investigation. Fortunately, many of the questions raised by our examples could be answered by locating and reviewing various records and reports that most public school districts or state health or education departments maintain. The hypothetical situation above involves at least seven different categories of information that the high school student journalist may find useful: (1) cafeteria and food inspection records; (2) bus inspection records; (3) building inspection records; (4) the school budget information; (5) accreditation reports; (6) academic performance; (7) crime statistics.

Yours for the asking...

Seven public records high school journalists may want to get their hands on:

- Cafeteria health reviews
- School bus safety reports
- Building inspections
- School budget information
- Accreditation reports
- Academic performance
- Crime statistics
budget report; (5) the school accreditation report; (6) school academic performance reports; and (7) school crime and violence reports.

These records are generally open to the public and should be released voluntarily by school and/or government officials, assuming such records do exist. Note, however, that the records and information available will vary from state to state and even from school to school.

For example, some states may have more detailed crime information or a more in-depth building maintenance plan than others. Likewise, some state and school officials may be more cooperative and accommodating than others. Consequently, although most of these records should be readily available to the public, you should be prepared to assert your right to review these records under your state’s open records law in case you are denied access to them.

Every state has its own open records law. This law essentially says that it is the public’s right to know what state lawmakers and other government officials — including public school officials — are up to. An open records law recognizes that one of the most effective ways citizens can do this is by being permitted access to most of the records and documents generated by public bodies or agencies, such as public high schools.

Some states have taken this commitment to openness seriously. These states have allowed few exceptions to their law and have adopted enforcement measures that encourage compliance. Other states have been notoriously lax in following through on their promises to open up the governmental process to public scrutiny. These states have allowed for broad, seemingly catch-all exemptions, that have allowed government officials to skirt the law with very little threat of penalty. Most states, however, fall somewhere in the middle.

Making a Request

An informal request for the relevant records should be enough to get the information you want. Just asking the appropriate school or government official politely should be all that it takes. However, if your informal request is not successful, you may be forced to invoke the power of your state’s open records law by making a formal request in writing.

In this letter, you will want to describe the records you are looking for in as much detail as possible, cite your state’s open records law and ask that you be provided with a written explanation should your request be denied. The Student Press Law Center can provide you with a sample letter tailored for each state. You can contact the SPLC at the address or telephone number listed at the end of this article.

Once your letter is complete, submit it to the office that you believe is responsible for maintaining the records you seek (for example, for your school’s budget report, try your school’s central administration office). Many of the state laws require agencies to respond to your request within a specified time (generally 3 to 10 working days); others only require a response within a “reasonable” time.

A Disclaimer

Since the information available may vary from school to school, this article cannot provide an in-depth survey about the various public school records that are open to the public. Instead, this article provides only a general guide about what types of records and information may be available to high school journalists.

Student journalists at private high schools should be aware that their schools may not be required to release the same information that public schools do. However, if the information you seek is held by a government agency (for example, cafeteria inspection records held by your county’s health department) and not just your school (such as school budget information), the information is available regardless of whether you attend a public or private school.

Because of these limitations, you — as a high school journalist — will be required to do your own leg work to figure out where you can find the information in your particular state and at your particular school. Hopefully, this article will point you in the right direction.

1. Cafeteria and food inspection records

Your concern over the meatloaf surprise has sparked your interest in doing an investigation into the school cafeteria. The two major concerns in this area are whether the cafeteria is meeting sanitation requirements and whether its food is meeting nutritional requirements. Fortunately, records are maintained about both of these matters.

Cafeteria inspection records detailing health violations and problem areas should be available to the public upon request at your local food inspection office, which is a government agency. Try looking up “Inspections” under your county in the government pages of your telephone directory. Or call your state health department in your state capital and ask them where you can find the records you want. They should be able to direct you to the appropriate place.

2. Safety inspection records for school buses

Too afraid to take the bus to school anymore but too lazy to walk, you are eager to get to the bottom of this bus from hell story.

According to Donald LaFond, chief of Pupil Transportation at the Maryland Department of Education, bus inspections must be done at least once a year as
Legal Analysis

mandated by federal law. Some states will do two inspections a year; Maryland and a few others do three inspections a year, he said.

School bus inspection records are maintained at the county level and should be available at the county transportation office, he said.

Student journalists interested in obtaining these records should contact their county transportation office. If you can't find the number, ask your state's Department of Education Transportation Division.

Building inspection records

Wednesday night, while you were doing those extra math problems instead of watching Donna, Brandon and crew 90210 because that broken elevator made you late for class, you begin to wonder why every time you take the elevator it breaks down. It turns out that you are not alone in your experiences with the elevator as friends recount their stories with the mechanical beast.

Finding out information about your school's elevators and about other maintenance issues at your school may be easier than you think. Each school stem does its own building inspections in order to know how it needs to locate its resources. These reports, sometimes called maintenance plans, could be open to the public at public schools. You should find them at your school's central administration office or there may be a separate office for "facility operations," which maintains these records.

A copy of your school's building inspection report may provide you with information you're looking for. These reports will detail the problems with building maintenance, including electrical, mechanical and plumbing concerns as well as problems with the elevators. The reports might also include information on handicap accessibility.

In addition to schools' inspections, the state mandates other types of inspections including a sanitation inspection, a fire safety inspection and an asbestos survey, according to Yale Stenzler of the Maryland Department of Education, School Construction Division. These records may be available at your school's central office or you may have to contact your state's Education Department in order to find out where these records are kept.

4. School budget reports

A school's budget report contains a wealth of information that no student journalist should be without. With the budget report, you can find out what your school's priorities are, how your school spends its money and how much money it generates in revenue. The report should list the salaries of many school employees and would show you if your principal's trip to Bermuda was paid for by the school. It would also, for example, let you compare how much was spent last year in new books for the library and for new equipment for the football team. The report should also include information concerning enrollment, pupil-teacher ratios and per pupil cost. Although reports may vary from state to state and even from school district to school district, most budgets should contain similar information.

Public school budget reports are issued annually and should be open to the public at public schools. Copies of your school budget should be available at your school system's central administration office, or you may even find them at your public library.

And as long as you are on a roll, it is worth pointing out that school budgets are generally approved by your school board, which holds regular meetings throughout the year. These meetings are usually open to the public and might be worth covering.

Private school students may have a tougher time getting information on the financial inner-workings of their school. Hopefully, since you (thanks Mom and Dad) pay the school's bills with your tuition, school officials will be happy to voluntarily provide you with information on how school money is being spent, including official budget statements. They are probably not, however, legally required to do so. If they put up a stink, you can ask to see a copy of the school's IRS Form 990, the federal tax return required of all nonprofit organizations. This form will contain, among other things, useful information on school income and expenses, salary information and information about school investments. Also, under federal law, the Form 990, unlike the school budget, must be made available to anyone who asks to see it during the school's normal business hours. More information about the IRS Form 990 is available in the Student Press Law Center's packet, "IRS Form 990: A Public Record for the Private School Journalist."

5. School accreditation records

Given your hypothetical week, you probably wonder how your school ever received its stamp of approval and how your school plans to address these situations. This information may be found in your school's accreditation report, which may prove to be a valuable tool.

Copies of your school's accreditation report should be available at your school's central administration office; some districts may even keep a copy of
it in the public library.

Most American public schools are accredited by one of six regional accrediting associations in the country. Although the regional accrediting agencies are all private, nonprofit, independent associations with varying standards, most accreditation reports should contain similar information.

Once these reports are sent to your school, they should be public information. Among the general areas examined during a school’s accreditation include the curriculum, the school’s mission, the library facilities, the guidance program and building maintenance.

In some states, the reports may specifically be made open; other states may require a formal freedom of information request to obtain a copy of the report. However, most schools should release the report voluntarily.

6. Academic performance reports

With all the distractions involved in your hypothetical week, you probably wonder whether your school’s academic performance is below the state and national averages. But how can you find out if this is so?

That information and other academic data may be available in your school’s academic performance report and other school reports. Every school should compile an academic performance report or similar report detailing how well its students have performed on standardized tests as compared to the state and national averages. This report may be available at your school’s central administration office or possibly at your school’s guidance counselor office.

Statistics concerning a school’s academic performance may also be available at your state education department. Since states use different standardized tests, national comparisons are difficult although SAT comparisons may be available. However, state school comparisons may be done by your state’s education department.

7. Reports on crime statistics on school grounds

Your investigation into whether your school has a crime problem may be your most challenging. Many schools are reluctant to release their crime statistics and few states require schools to issue detailed crime reports.

Some states, like Virginia, issue an annual report on crime and violence. Other states may have different types of reports. Maryland compiles a suspension offenses report, which lists the total number of incidents receiving school suspensions. This list, however, does not distinguish between crimes and other conduct receiving suspensions. To find out what type of report your state compiles, contact your state education department.

Conclusion

High school journalists — like all journalists — should not be content to print only what falls into their laps. There is a great wealth of information about your high school that is ripe for discovery. Go find it. Explore the different records and information for yourself and do not be intimidated or discouraged if you are initially denied access to the information you want.

Sometimes school and government officials will not take student journalists’ requests for information seriously. Challenge this conduct. Force school and government officials to fulfill their responsibilities to operate openly. And, when necessary, assert your rights under the law.

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**Legal Analysis**

Explore the different records and information for yourself and do not be intimidated or discouraged if you are initially denied access to the information you want. Sometimes school and government officials will not take student journalists’ requests for information seriously. Challenge this conduct.

This report, compiled by the state education department, includes a breakdown of 28 categories of crimes and the number of incidents reported by different schools in the state.

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Conclusion

High school journalists — like all journalists — should not be content to print only what falls into their laps. There is a great wealth of information about your high school that is ripe for discovery. Go find it. Explore the different records and information for yourself and do not be intimidated or discouraged if you are initially denied access to the information you want.

Sometimes school and government officials will not take student journalists’ requests for information seriously. Challenge this conduct. Force school and government officials to fulfill their responsibilities to operate openly. And, when necessary, assert your rights under the law.

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**Note:** An extended version of this article, suitable for use as a hands-on classroom exercise, which includes additional information about the contents of some of the public records described, addressees and a sample open records request letter, is available in the SPLC Access Series packet, “Access to High School Records,” available by sending $2 to the Student Press Law Center, 1101 Wilson Boulevard, Suite 1910, Arlington, VA 22209-2248.
Unlocking the Doors

People seeking information regarding animal research groups have fared well recently — getting access in two cases out of three

In the battles for access to animal research information, the public’s right to know came out ahead in two cases in the last year and a half, but lost in one.

In July, a Hennepin County judge ordered the University of Minnesota’s animal care committee to release minutes and agendas from its meetings, along with copies of animal usage forms to an animal rights coalition.

Animal usage forms justify the use of animals in a research study, and they describe how the animals will be used.

The university claimed that the forms should not be open to the public because they contained trade secrets and were therefore protected by exemptions in the state freedom of information laws.

The coalition claimed that the forms contained no protected information.

The court agreed with the university’s claim of an exemption in the case of a trade secret, but would not allow this exemption to act as a blanket reason to close all of the forms.

"Whether a form contains trade secret information depends on the particular circumstances and must be decided on a case by case basis," the court’s ruling in Animal Rights Coalition, Inc. v. University of Minnesota, No. MC 94-17917 (Minn. Dist. Ct. July 27, 1995) said. “[The animal rights group] is entitled to all animal usage forms subject to the removal of any trade secrets.”

The judge also ordered the university to pay all legal fees of the coalition for the case.

In Dorson v. Louisiana State University, 657 So.2d 755 (La. App. 1995), freedom of information did not fare as well.

A Louisiana Court of Appeals ruled in June that records concerning animals used for medical experiments and meetings of the Institutional Care and Use Committee of Louisiana State University Medical Center are not open to the public under state law.

In December of 1993, Jeff Dorson, director of Legislation in Support of Animals, Inc., submitted a state freedom of information request to gain access to several documents including the ones mentioned above. The chancellor of the medical center (See ANIMALS, page 18)
News will not see records
Alabama Supreme Court denies newspaper’s request to see information about Auburn’s football program

ALABAMA — After years of litigation and two rounds of appeals, the Alabama Supreme Court declined once again to give the Birmingham News access to Auburn University’s football records.

In May 1993, The Birmingham News filed suit seeking documents concerning the National Collegiate Athletic Association’s allegations that Auburn’s football program violated regulations concerning financial aid and gifts to players. The trial court denied access, and the News appealed to the Supreme Court of Alabama.

Alabama’s Supreme Court also denied access to the records, and the News appealed again to the state supreme court.

“We appealed the case again because we felt we had to give the court a chance to do some good,” Barnard said. Alabama’s Supreme Court, in September 1995, denied access to the records and agreed with the trial court decision that said that the “majority of statements [the News wanted access to] were received under express promises of confidentiality.

“If the promises are to be honored, it would be difficult, if not impossible, to edit out the [confidential] material and release a response that made sense,” Barnard said.

“We have had terrific decisions out of Alabama’s Supreme Court until now. This case may establish a ‘promise of confidentiality’ exception to our state’s open records law. We can only hope that the next case will prove otherwise.”

Holly Barnard
Counsel, Birmingham News

“This case may establish a ‘promise of confidentiality’ exception to our state’s open records law. We can only hope that the next case will prove otherwise.”

Ed. Department clarifies crime statistics act
WASHINGTON, D.C. — A new directive from the U.S. Department of Education clarifies the responsibilities of colleges and universities when publishing their annual crime statistic reports.

In April 1994, the U.S. Department of Education issued regulations for the Campus Security Act, a law that required federally funded colleges and universities to publish and distribute an annual security report. According to this law, the report had to contain information regarding security on campus, procedures for students to follow when reporting crime, and other campus crime information including statistics of the occurrence of certain crimes on campus.

In June 1995, the Department of Education released clarifications for their regulations. According to the Education Department, these clarifications do not change the overall intent of the first version of the regulations. Instead they eliminate some of the ambiguity found in them.

The initial regulations read that all criminal offenses involving murder, sex offenses (forcible or non-forcible), robbery, aggravated assault, burglary, motor-vehicle theft and hate crimes that were reported to “local police agencies and to any official of the institution who has significant responsibility for student and campus activities must be included in the crime report.”

Technically this says that in order for one of these crimes to be required to be included in the report, it must be reported both to the local police and to campus officials.

The corrections change the “and” to an “or” meaning that when the crime is reported to either campus officials or to the local police, it must be included in the annual crime statistic report.

The technical corrections also change another important detail. In the 1994 regulations any arrests on campus for the following charges had to be included (See STATISTICS, page 18)
Washington’s unfunded grant proposals were subject to the state’s open records law and therefore must be handed over to the Progressive Animal Welfare Society. PAWS started the litigation in 1993 when it requested access to a grant proposal that had not been funded by the school. The grant proposed a project involving the study of brain development in rhesus monkeys.

The university refused to release the application, and PAWS filed suit claiming that the state public records law required the document to be released. PAWS conceded that it did not have a right to see any information in the proposal that might reveal valuable formulas, designs, drawings, research data, trade secrets or other confidential information, but that information that did not fall into one of these categories must be disclosed.

The trial court found for PAWS and ordered that all unconfidential information be released. The University of Washington appealed the case and the Washington Supreme Court affirmed the trial court’s decision. The court also stated in PAWS v. University of Washington, 125 Wash.2d 243 (King Cty., 1995) that it suspected that “portions of the grant proposal were not submitted to the trial court for its initial review.” Only 23 pages of the grant proposal were submitted, but the original proposal consisted of at least 55 pages, the opinion read.

The court remanded the case back to a trial court to ensure that all appropriate records were turned over and instructed them to determine if the University of Washington should be fined for refusing to comply with the request in the first place.

New Orleans newspaper awarded access to Tulane scholarship nomination forms

OUISSIANA — The long effort of The Times-Picayune to obtain scholarship nomination forms completed by local government officials came to an end in October, when a Louisiana district judge ruled that the forms were public records.

"Tulane University, the holder of the forms, handed them over without incident," Mark Holton, counsel for the New Orleans newspaper, said. "The university felt that the forms were protected by the Buckley Amendment, which says certain education records cannot be released without a court order. Once the court said it was OK, the university complied."

The nomination forms were significant because of a practice that dates back over 150 years. In 1817, Tulane University entered into a tax agreement with the state of Louisiana. In exchange for tax-exempt status, the university agreed to give each state legislator the ability to pick one student to receive a Tulane scholarship that covered tuition.

The Times-Picayune requested access to the nomination forms when they found out that the mayor of New Orleans was given the same privilege and that both the legislators and the mayor were choosing their own children and the children of their colleagues as recipients.

Statistics (Continued from page 17)

in the annual statistic report: liquor-law violations, drug-abuse violations, weapons possessions and any liquor-law violations with evidence of prejudice based on race, religion, sexual orientation or ethnicity.

The revised version deletes the final section that states that prejudicial liquor-law violations must be included.
Michigan court will open h.s. teacher’s records

Ann Arbor News wants information illustrating problems found when teachers are tenured

MICHIGAN — A Washtenaw Circuit Court judge ruled in May that the Ann Arbor News was entitled to evaluations and other personnel records of a teacher in the Ann Arbor Public School District.

Ernest Gillum, who taught physical education at Huron High School, was arrested and charged with solicitation and carrying a concealed weapon. He later pleaded guilty to the gun charge and the solicitation charge was dropped. Gillum has since resigned.

The News requested access to the records for a story they were working on which centered around tenure.

“Our intent was not to single this teacher out, but to illustrate some of the problems caused by tenure,” David Bishop, associate editor of the Ann Arbor News said. “Gillum had been with the school department for 20 or more years.”

“After the concealed weapon charge, we started getting calls from parents who claimed they had to appeal their students’ grades,” he said. “Other members of the community called with similar stories and said he had a history of problems. We just wanted to show how a school board has to deal with someone who is tenured.”

The News submitted a freedom of information request to the school for the teacher’s evaluations and other related records. The school refused. The News filed suit saying that “the public needs to know why steps were not taken years ago to effect the resignation of [Gillum] and that reviewing the disciplinary records is the only means of doing so.” The trial court agreed and granted access.

“The public has a right to know how long the school has known there were problems and how long they did not do anything,” Jonathan Rowe, counsel for Ann Arbor News, said.

Gillum and the school district are appealing the trial court’s decision. The documents remain closed pending the appellate decision.

“The basic problem with freedom of information laws is that the time it takes for appeals is not consistent from case to case. FOI laws should be amended to guarantee immediate appeals,” Rowe said. “By the time we get a final ruling on this case probably six or seven years could have passed. By then who is going to care what this teacher did or did not do?”

Board appeals for access to evaluations

MICHIGAN — The U.S. Court of Appeals heard oral arguments in October as to whether or not performance evaluations of school employees are exempt from disclosure under the Michigan Freedom of Information Act.

Dawn Phillips, counsel for the Lansing Board of Education, has good feeling about the decision.

“The Court of Appeals will probably take a year to release an opinion, but I have a suspicion that the decision will be a good one,” she said. “The panel seemed to be very sensitive to our case.”

The situation started in 1993 when the Parents Support Network requested access to the performance evaluations of eight principals and one vice principal in the Lansing School District.

The Support Network, whose mission is to monitor the education process on behalf of African-American students and their families, was refused access when the Lansing Association of School Administrators union filed suit.

The board of education took no stance on the issue and looked to the court for direction.

The circuit court found the evaluations subject to disclosure, and the administrators’ union appealed.

Phillips said principals have to be held accountable to more than just school boards.

“We want to see who the principals were [that received the evaluations], and see that the kids are getting the best education,” she said.

The Lansing school administrators argued that the evaluations should not be disclosed because of a state freedom of information act exemption for a “clearly unwarranted invasion of privacy.”

Phillips said that although the exemption does exist, it cannot be used as a blanket to cover all aspects of an evaluation. She said personal information,

(See EVALUATIONS, page 20)
Rutgers refuses newspaper’s request for access to salary and budget records

NEW JERSEY — The East Brunswick Home News filed suit against Rutgers University in August to try and force the school to release salary and budget information.

“The whole thing started when the News found out that the University was providing mortgage subsidies and housing allowances to professors as part of their compensation,” said Arlene M. Turinchack, an attorney for the Home News.

“While the News was looking into the mortgage question, other points of interest came up, and these inspired other points and so on and so on — resulting in an extensive list of FOI requests,” Turinchack said.

The News requested access to numerous documents including information regarding mortgages, records concerning faculty and staff who are contractually promised assistants and secretaries, employees who under contract receive money from a third party, monthly budget reports, annual audits and other special compensation information.

“The school is a public school funded by the state of New Jersey; therefore, the compensation packages should be open and accessible to the public,” Turinchack said.

Rutgers, when denying the Home News’s FOI request for the records, claimed that the records were “confidential personal information,” and they were not subject to the FOI law.

Turinchack said.

The New Jersey FOI law states that “all records which are required by law to be made, maintained or kept on file by any board, body, agency, department or official of the State ... shall for the purposes of this act be deemed to be public records.”

Judge favors contract over open records law

WAII — A Hawaii state judge ruled October, that the terms of a contract between a union and an employer can outline the state open records law. This has thrown another hurdle before student journalists at the University of Hawaii at Manoa who are trying to get access to the names of disciplined campus police officers.

The students maintain that the names of the disciplined police officers are public record under the state law. The ice union argued that their contract exceeded the law. The court agreed with the union and held that if a contract contains a clause that says that the names of non-terminated disciplined employees cannot be released, then the names are closed.

The issue as to whether or not the University of Hawaii’s contract contains such a clause has yet to be decided and is scheduled to be presented before a trial court in late December.

According to Jeff Portnoy, counsel for the students, this decision could cause problems.

If the trial court finds that a confidentiality clause does exist in the university’s contract, Portnoy says he will appeal.

Such physical illnesses or family business was not included in the FOI request.

“The judge on the panel told me that they would not be able to give me a ‘bright line decision’ on this case,” she said.

“They meant that the decision will not hold a checklist as to what is an unwarranted invasion and what is not. Instead, it will probably give a soft description of what may be private and what may be public.

“The result would still require a case by case evaluation, but there would be more support on the side of access than before,” she said.
Don't Gag Me with a Law

Attacking organizations and publications that take political stances, a Congressman attempts to give students a way to silence them

WASHINGTON, D.C. — Republican Rep. Gerald Solomon of New York battled this year for legislation that could have severely limited the ability of student publications that publish political opinions to be active on college campuses.

What its opponents call the “Gag Rule,” Solomon's Student Protection Amendment would have allowed individual college students the choice not to provide student activities funding to politically-oriented organizations and publications with which they disagree. This amendment, which was shut down in committee, would have punished those universities that did not allow students to opt out of paying fees that fund political organizations by denying them any school money.

This legislation explicitly said that direct support for “the recognized student government, official student newspaper, officials and full-time faculty, or trade associations of an institution of higher education” and “indirect support of any voluntary student organization” would not be affected. The amendment did not define “official student newspaper.”

With specific attacks on Ralph Nader's Public Interest Research Groups, or PIRGs, Solomon's press aide Bill Teator said that the amendment focused on any organization that has a specific political agenda, such as lobbying for or against a candidate in an election. A wide variety of groups would be affected from the far right of the political spectrum to the far left, such as the College Republicans and College Democrats, along with any publications that published political endorsements or urged support for legislation. However, Teator emphasized that these groups would still be allowed to operate on campuses.

“We're not talking about stopping them from speaking on campus,” Teator said, adding that schools could still provide those groups with facilities and meeting places. “We are just talking about monetary funds.”

But, Marsha Adler, director of government relations for the American Association of University Professors (AAUP), said, “Without funding, these organizations wouldn't be able to be active,” adding that this amendment would subdue the vitality of the First Amendment on college campuses, a place where “academic freedom and freedom of expression are basic tenets.”

Teator claimed that the main priority of the Student Protection Amendment is “protecting people's money.”

“You should contribute to the ideas that you believe in,” Teator said, not those ideas with which you disagree. And through mandatory non-refundable student activities fees, which is the method the majority of colleges use, Teator maintained that students and their parents are forced to sponsor every on-campus organization.

Under the proposed legislation, the fees for organizations that engage in political activities would have been gathered by positive checkoffs, where a student would actively indicate which organizations he or she wanted to fund. Negative checkoffs, where a student only checks those groups he or she does not want to fund, and a mandatory waivable fee, where the student must pay the full fee and then later get a refund for those groups with which he or she disagrees, were seen as being too easy for political groups to receive money inadvertently.

Many opponents of the bill claim that it is an attempt at indirect censorship. Without the certainty of receiving funds, they say many groups and publications could not survive, even if space and facilities were still provided.

Indirect censorship of student publications through a denial of funds has long been a problem for the college press. But when such cases appeared before courts, it became clear that denial of funding based on

(See GAG, page 23)
Say it ain't so: officials halt school newspaper because of grammatical errors and mistakes

COLORADO — The student reporters of the Community College of Denver's Community News began their fall semester faced with limited funding from the student government and hindered by administrators and faculty who prevented them from going to press.

Claiming it was uncertain about the newspaper's ability to publish with a small staff, the student government only gave the newspaper enough money for two issues and the chance to apply for more funding if everything went well.

But after the first issue came out and the second one was on its way, school officials stopped the newspaper from going to press.

Steve Lipsher, a new adviser appointed to guide the newspaper through the semester, claimed that administrators stopped the paper because "they were worried" that if the paper continued making errors, the student government would deny it funding for the rest of the semester.

According to Dan Mahoney, president of the student body, the student government does not make funding decisions based on the quality of the newspaper. Instead, he said that the decision focuses on management issues, such as the size of the staff.

However, Mahoney did mention that students objected to the Community News because so much of it was syndicated. He estimated the amount of syndicated news to be 85 percent.

"A lot of students complained that it wasn't homegrown," Mahoney said.

Even though the student government received these complaints, he said that it never attempted to control the content of the newspaper by threatening to pull funding.

Avie Chayil, the newspaper's editorial adviser before Lipsher, played a big part in stopping the second issue. She said that the Community News was filled with grammatical errors and unclear sentences. It was because of all these mistakes and the "lack of professionalism" that she suggested the newspaper should not go to print.

"I wanted it to have (See GRAMMAR, page 28)

University of LaVerne attempts a Low blow

CALIFORNIA — Officials at the University of LaVerne did not think too highly of Low, an independent publication based in southern California, leading them to ban the magazine from campus last spring.

But Mark Cromer, editor of the student-oriented magazine, was determined that the cover of Low would be seen on the campus in the fall.

"We were ready to go to war, in court if possible and otherwise if necessary," Cromer said. However, he appealed to Steve Morgan, president of the university, saying that he would "rather just reach an amicable solution."

After Cromer's appeal to Morgan, the president agreed to allow Low back on campus.

"I tried to make it clear that we weren't going to go away," Cromer said. "I take my hat off to the president for coming to his senses."

After running advertisements in the student newspaper, The Campus Times, Cromer reported that initially, the distribution of the first issue on Saturday, Oct. 28, went well. The advertisements, which "poked fun" at the censorship and administrators at LaVerne, were placed to help boost interest in the magazine.

The advertisements included statements like "The magazine they didn't want you to read" and "The magazine administrators keep hidden under their beds."

When the first issue appeared on the campus, Melissa Zaun, the coordinator of student programs and the student center and Low's campus contact, said the magazines were a hot item.

(See LOW, page 25)
Fighting over the purse strings

Student senate attempts to control finances of newspaper

ILLINOIS — Most journalism degree plans do not include a class on what to do when a student government attempts to take editorial control of your paper. Maybe they should.

Or so it would seem to Heidi Keibler, editor in chief at The Daily Eastern News, the campus paper at Eastern Illinois University in Charleston.

The student senate at Eastern Illinois threatened to pass a resolution in November that would have cut the paper’s funding under the control of the senate’s Apportionment Board, which allocates student service fees, instead of under the independent publications board.

The senate withdrew its proposal in early December on the two following conditions: the administrator on the Student Publications board be changed from the vice president for academic affairs to the vice president for student affairs and the fee that supports the paper be moved out from the umbrella of student service fees, Keibler said.

“We don’t care at all about the vice president thing and we are all for making the fee an independent one as long we can make the student body understand that their fees will not be increased. Instead the names of the fees will just be switched around,” she said.

Currently student publications receive $3.65 of the mandatory $19 student service fee each student pays. The News receives about 1.9 cents per student per issue.

“The obvious concern was that the senate might have been able to pull funds if they were dissatisfied with stories that were run,” Keibler said.

Student Sen. Rick Tucker said, “It was absolutely not our intent to take editorial control over the paper. We were just trying to make the situation more fiscally sound.”

Tucker explained that of all the groups to receive a portion of the student service fee money, the student publications board is the only one that does not have to submit their budget to the apportionment board for approval.

“Their money is taken right off the top. Also under our plan any excess they make would have gone into the student account to fund special events,” he said. “As it is now, it just goes back to them.”

This is not the first time the newspaper has had to deal with this issue. According to Tucker, in 1990 the student senate voted to remove the publications from under the control of the apportionment board because they said that

(See FUNDING, page 28)

Gag

(continued from page 21)

past or anticipated expression or content would not be tolerated. When the president of North Carolina Central University pulled funding from the student newspaper after it encouraged students to resist the integration of their historically black school, the newspaper took the school to court. The federal Fourth Circuit Court of Appeals ruled in Joyner v. Whiting in 1972 that “censorship of constitutionally-protected expression cannot be imposed at a college or university by ... withdrawing financial support, or asserting any other form of censorship oversight based on an institution’s power of the purse.”

In addition to the “power of the purse” issue, the courts have also dealt with cases directly involving student activities fees.

At the University of Minnesota, officials became upset over a “humor issue” of the student newspaper published during finals week and attempted to allow students to request back the portion of their activities fee that supported the paper. When the case was decided in 1983 by the federal Eighth Circuit Court of Appeals in Stanley v. McGrath, the court said that this act was an abridgment of First Amendment rights.

Marshall Tanick, a lawyer from the Mansfield and Tanick law firm in Minneapolis, argued this case for the newspaper. He claimed that the whole issue of students being able to pick what to fund is “troublesome for both pragmatic and legal reasons.”

“I think one problem with it is that it tends to undermine the whole structure,” said Tanick, comparing the positive checkoff to Americans being able to choose whether to pay their taxes or where their tax dollars go. “It undermines an institution’s stability.”

Individual college students have attempted to challenge their schools by demanding back a portion of their student activities fee that funded the student newspaper because they did not agree with the views the paper expressed. In all of these cases, the court denied the students a refund.

If students were allowed to get back their fees for not agreeing with the group that money supported, there would be a “chilling affect on the student press,” Tanick claimed. Because the student press would have to appeal to a broader audience to keep its funding, he said, this potential situation has

(See RULE, page 25)
College Censorship

Newspaper staffs to thieves:

‘Don’t do the crime,
if you can’t do the time’

There seems to be a changing tide in free newspaper theft. In each of the three newspaper thefts reported to the SPLC this fall, the perpetrator has been caught and has admitted to the theft, and in one instance, the thief is facing criminal prosecution for his actions.

After over 5,800 copies of their newspaper were stolen in September, the Daily Texan staff is fighting back. The students at the University of Texas at Austin's newspaper staffs to thieves:

The morning. Their description matched Giovanela's. When the police confronted Giovanela the day after the theft, he confessed to stealing the papers.

The Daily Texan has pushed for criminal prosecution and Giovanela has been charged with theft, a misdemeanor in Texas, punishable by a maximum of $4,000 fine, a year in jail or both.

“We asked the district attorney to go for the $1,450 that the papers were worth and for community service,” Rogers said. “I think that his lawyer is going to fight it by saying that the papers were free.”

No date for a trial has been set.

After confessing to the theft of 4,000 copies of the student paper, a food service official at the University of Virginia in Charlottesville donated $2,000 to the scholarship fund of the Cavalier Daily staff's choice.

John Dannstadt, a resident district manager for ARAMARK, the campus food service, confessed to taking the papers during a meeting between himself and the Cavalier Daily's staff, according to Michael Sampson, editor in chief of the Daily.

The newspaper ran an opinion column that criticized the university's food service. “Not only does the cafeteria serve food to students, it also provides nourishment to the indigent, such as spores, molds and fungi,” the column stated. “Although you usually will not view those happy-go-lucky life forms, they will pop up on your hamburger bun or sandwich from time to time.”

Sampson said the theft was a “classic form of censorship.”

“It was clearly a violation of our First Amendment,” he said. “We are sup-

(See THEFT, page 27)
Magazine

(continued from page 22)

"They went the first day," she said, adding that the stand emptied out.

But the magazines weren't the only thing to go. According to Cromer, Low's stand was no longer in its place in front of the student union when his staff checked on it the following Thursday.

Guessing that it was stolen by either students or faculty, Cromer ran a full page advertisement in The Campus Times, calling for the administration to condemn the act. He did not expect the administration to respond.

Jua noticed she had no idea what happened to the stand.

Cromer filed an incident report with the campus police and a report with the town's police department about the missing stand. But even though he said things did not look optimistic about getting the stand back, he said the magazine will still be distributed at the university.

"This has only strengthened our resolve," Cromer claimed.

Although a legal war proved unnecessary to get Low on La Verne's campus, the battle took five months. According to Cromer, it took three months for university officials to decide not to allow the publication to distribute on campus.

One ad placed to promote Low.

(See LOW, page 28)

Rule

(continued from page 23)

"ominous legal overtones because it has the effect of curtailing the coverage of controversial topics."

He also said that students would take advantage of the checkoff system because they would "opt out of paying the fee but still get the benefits" that the targeted groups provide, including free student publications.

Although Solomon's proposed amendment will not affect colleges and universities nationally because it was voted down in committee, some campuses have already implemented similar tactics.

After the Supreme Court ruled in June that the University of Virginia had to provide student activities money to a student Christian magazine in Rosenberger v. Rector and Visitors of the University of Virginia, school officials began drawing up a new funding policy. The school will now allow students to request a refund of part of their student activities fee that supports political or religious groups promoting views with which they disagree.

William W. Harmon, vice president for student affairs, told the Washington Post that students will have 14 days to specify which groups they do not want to fund. He claimed that this will minimize lawsuits brought against the university.

School officials have determined that 25 percent of the campus groups are speech and publications-related, so students will only be able to request a maximum refund of that amount. The remaining money will be distributed to all the organizations, including the religious and political groups, according to student government standards. Not many colleges are following the University of Virginia's lead. Instead, they are watching to see how successful its new policies are. But before they get the chance to choose for themselves, these colleges could be forced to adopt a similar policy as a result of a federal law like the "Gag Rule." Even though Solomon's amendment failed to pass this year, Teator claimed that it will definitely be presented again. "People expressed legitimate concerns that he [Solomon] didn't have time to calm down," he said. "It's not the end. It won't be the last time it will be offered by us or anybody else."
Student reporters kicked into left field; coach bans paper from football practice

NEBRASKA — After two editorial cartoons satirizing the University of Nebraska football team ran in the Daily Nebraskan this fall, the newspaper staff claimed that the coach immediately began discriminating against the newspaper’s sports reporters.

According to J. Christopher Hain, the editor in chief of the newspaper, the cartoons, which were printed separately in the opinion section of the newspaper on Thursday Aug. 31, and Friday Sept. 1, sparked a reaction from Coach Tom Osborne that Sunday, when he banned Daily Nebraskan reporters from practices.

Osborne denied that he ever banned the reporters from the team’s practices.

Because practices were off limits, Hain said that Osborne restricted the newspaper’s coverage of the team to weekly and postgame news conferences, even though other newspapers were still permitted to attend practices.

The situation quickly improved. Hain said that although reporters did not attend practices on Monday, Osborne lifted the ban the next day.

“My guess is that he found out it was illegal to ban us where other media are invited,” Hain said.

Even after the restriction was lifted, the Daily Nebraskan still had trouble covering the team. According to Hain, Osborne instituted a new format at press conferences where he talked to reporters individually, whereas before he addressed the reporters as a group. Daily Nebraskan reporters were “excluded” from these interviews, Hain claimed.

“For several weeks he wouldn’t give us interviews,” he said of Osborne, adding that other coaches and some players followed his lead.

Although Osborne said that sometimes Daily Nebraskan interviews were turned down by him and his team, he claimed that did not mean that they were not accessible to the Daily Nebraskan as to any other newspaper.

Now, Hain said, the situation is “kind of back to normal.” Osborne once again addresses reporters as a group and will answer questions from the Daily Nebraskan.

The cartoons in the middle of the controversy were drawn by staff member James Mehlings. The first cartoon depicted a player practicing in a jail suit, referring to first-team receiver Riley Washington, who was charged with attempted second degree murder for allegedly holding up a convenience store on Aug. 2.

The second cartoon had a car with the name Philips on the front license plate and with money being blown out the back. Lawrence Philips, one of the team’s best players, was under investigation by the National Collegiate Athletic Association for accepting a new car from a home he lived in as a teenager.

Despite the fact that the cartoons were printed in the opinion section, Hain said that Osborne reacted to the paper as a whole.

“Coach Osborne chose to take it out on the sports reporters, who have nothing to do with the opinions page,” he said.

Hain said that the Daily Nebraskan survived the ordeal, even though reporters were excluded for several weeks.

“It hurt our coverage somewhat,” Hain said, “but it wasn’t devastating.”

The football team and the newspaper have been at odds before. One instance arose three years ago after the newspaper printed a front page photograph of a football player being arrested. This photograph enraged Osborne, as well as the football team.

“He’s just really interested in protecting his players,” Hain said.

Osborne denied that relations between the newspaper and the football team have been strained, even though he said that the newspaper should show more sensitivity when dealing with fellow students. But he added, “I’m not upset with anything they’ve done.”

Accusing other newspapers of asking “softball” questions, Hain claimed that the Daily Nebraskan has never been afraid to take a tough stance on the football team. He said that is the reason why there have been strained relations between the newspaper and the team.

“A lot of media in the area other than us don’t cover the football team as aggressively,” Hain said. “A lot of people in the state adore the coach, and no one wants to come down hard on him. They are not as quick to criticize, whereas we are.”
Theft
(continued from page 24)
posed to be an enlightened university
community.”

Darmstadt returned the newspapers
after being questioned by the
newspaper staff. He apologized
to the paper and agreed to pay
for any advertising losses.

Sampson intends to turn this
bad situation into a good one.

“There are more appropriate
ways to express an opinion than
stealing 4,000 copies of our pa-
er,” he said. “We publish com-
ments to the editor.

“My staff is upset, but we are
determined to turn this around
and use it to expand awareness
of the importance of freedom of
the press.”

The Northwest Missourian
expanded to off-campus distri-
bution this year, and had 200
copies of their paper thrown in
the trash for their troubles.

In October, a student at North-
west Missouri State Univer-
sity in Maryville, who also worked for
the local commercial newspaper, went
into a convenience store, took about 200
copies of the student paper and threw
them in a dumpster outside. The inci-
dent was captured on the store’s surveil-
ance video.

According to Laura Widmer, the
paper’s adviser, the incident was in re-
sponse to the Missourian’s decision to
distribute off-campus. The student said
he felt frustrated about the university
paper’s expansion.

Widmer said the student’s bosses did
not order or support the student’s deci-
sion to steal the papers.

“We had already set up a meeting
with the commercial paper’s manage-
ment] to discuss our expansion, but the
incident led us to meet sooner,” she said.

“The management at the daily paper
said they did not condone their
employee’s action but also that as long
as we distributed off-campus we [the
student] could not have a working
relationship.”

The student apologized for the theft.
The Northwest Missourian is not press-
ing charges, but Widmer told the student
that they would if it happened again.

Two thefts from the last Report have
been resolved. In both cases the thieves
were caught and disciplined on campus.

In February 1995, the editor of the
Anchor, the campus newspaper at Rhode
Island College in Providence, discov-
ered that 2,000 copies of their 3,500
press run were missing and found what
appeared to be remnants of burned pa-
ers in a dumpster. A student admitted
to stealing 600 of the papers because he
did not want his friends to see what was
written about him in one of the personal
ads. The student also said he took the
stolen papers off campus, and he main-
tained that he had no knowledge of the
burned papers or of the other 1,400 cop-
ies that were reported missing.

The university fined the student $190,
the value of the papers he admitted to
taking. The question of what happened
to the rest of the papers remains unan-
of an article that described an African-
American Student Association-sponsored
dance that ended with the arrest of
four students. There was a meeting be-
tween the administration of the school,
the disgruntled students and Michael
Strong, the editor of the Log.

“Nothing much was solved,” Strong
said. “We just agreed to disagree.”

Strong said he called a meeting with
the president of the university, who said
the students would be reprimanded, but
she was not at liberty to discuss what
that reprimand would be. He also said
she also promised to write a letter con-
demning the actions of the students and
conveying to others that might try to
steal papers that their actions would not
go unpunished.

According to Strong, the letter has
been written and was scheduled to be
published in the December 9 issue of the
Log. He says the letter is complimentary
of the paper but it makes no mention of
newspaper theft.

As of the end of November, 22 news-
paper thefts had been reported to the
Student Press Law Center in 1995.
Funding

(continued from page 23)

It is clear to me that this was an unconstitutional attempt to control a newspaper through its purse strings.

John David Reed, director of student publications

"Not only was it unconstitutional, it was also anti-educational."

The resolution came on the tails of a controversial article published in the Oct. 24 edition of the News.

The article written by Keibler dealt with a long-standing campus rumor that black fraternities required pledges to assault white women as part of the initiation process.

The story's intent was to report the rumor as untrue and put it to rest, but several black student organizations on campus said that by printing the rumor, the newspaper was giving credence to it.

More than 200 students and staff held a meeting the night that the article was printed where they expressed their concerns regarding the story.

The students also felt the placement of the story on the front page was inappropriate. It was run above a photo of the homecoming king and queen; the queen was white and the king was black.

There was also no story about the fact that this was the first time for the homecoming court to include an African-American king. After the meeting, a group of students gathered and burned "as many copies of the paper as they could get their hands on," Keibler said. Several days after the article ran, the Black Student Union and Black Greek Council announced the start of a boycott against the paper as protest for the way it handled the rumor story and minority coverage in general.

The University Board, which is in charge of scheduling entertainment on campus, joined in the boycott in protest of the paper's coverage of its activities.

The groups are refusing to buy ads, to talk to reporters and to issue press passes to their events to newspaper staff members. The University Board also threatened to boycott any medium that provides the News with stories or photos about its events.

"The University Board is just jumping on the bandwagon," Keibler said. "They are big advertisers, and they saw that the mood was anti-paper so they figured it as a perfect time to jump in and protest the coverage we give them."

Tucker said that the senate had already talked about the resolution but that the anti-paper sentiment resulting from the article showed them the need for action.

Low (continued from page 25)

claimed the mainstream press ignores because they are considered too controversial.

"We write about issues that are dealt with by students every day, whether it's sex, drugs, religion," Cromer said.

Perhaps as a result, Low magazine is no stranger to censorship. In the fall of 1993, administrators of Mt. San Antonio College suppressed Cromer's first and second attempts to distribute on their campus. Only after a lengthy battle between lawyers and the student government's intervention was the magazine allowed back on that campus.
Adviser Woes

A principal attempts to make censorship the rule; an adviser loses her positions after she refuses to follow in his path

FLORIDA — Two publications of Lake Howell High School in Seminole County lost their adviser when that teacher and the principal clashed over a couple of controversial events.

At the end of the 1994-95 school year, Jane Speidel, who led the newspaper for 10 years and oversaw nine yearbooks, was fired as adviser of Wings, the yearbook, and inflight, the newspaper. According to Speidel, principal Don Smith told her he removed her from the positions because "you don't censor nor do you make professional decisions."

Smith refused to comment on what he called a "confidential matter."

The yearbook, which was distributed at the end of May, featured an article on body piercing in which a student mentioned that his penis was pierced. Speidel said that Smith was enraged, calling it an "obscene article that is not suitable for a student publication" because of the use of the word "penis."

"What else do you call it?" Speidel asked.

In a second incident, a reporter from the newspaper staff unsuccessfully attempted to attend a faculty meeting that Smith had announced over the PA system. Ten days later, Speidel said, Smith accused her of using the "worst judgment" in informing the student of the meeting.

The meeting dealt with allegations of a teacher having an affair with a student.

Speidel denied telling the reporter about or encouraging the reporter to attend the meeting. Rather, she said, the reporter volunteered to investigate the matter when the newspaper staff was having trouble deciding whether or not to cover the allegations.

Both of these events are why Speidel says she was removed as adviser of the publications. But she said this is not the first time she and Smith struggled over their difference of opinions regarding the student press.

"I had problems with him from the first," Speidel said. "He refused to follow student press guidelines. What he wanted me to do was censor the paper."

Although Speidel wrote an article in 1993 that supported the Supreme Court's 1988 Hazelwood decision for a newspaper published by the National Education Association, she does not believe that high school publications should be censored. She calls her stance on Hazelwood, a ruling which gave school administrators greater authority to control and limit the rights of the student press, conservative.

"My article supported Hazelwood in that it was the law of the land," Speidel said, adding that she is also "very supportive" of state legislation that would overrule the decision. But, until that legislation is passed, Speidel said, "You don't sit around and cry about it; you continue to put out a quality publication."

Following her own advice, Speidel led both the newspaper and the yearbook to award-winning status. Both publications have received honors given by the Southern Interscholastic Press Association. Speidel herself was also presented in 1995 with the Gold Key award by Columbia Scholastic Press Association, in addition to being named in 1991 the Florida journalism teacher of the year for her district.

Because it is a right given to school administrators through Hazelwood, Speidel said she wanted Smith to review the newspaper before publication. She claimed that because he refused, she never knew what his reaction was going to be. "He could turn on me for anything," Speidel said.

After Speidel was removed from her adviser positions, she still had a teaching position at Lake Howell. She chose to resign because of the problems she had experienced, along with personal reasons.

According to Speidel, Smith replaced her with two uncertified teachers.

Now, Speidel says she is happily teaching in Alabama at what she called "a little tiny high school" where the atmosphere is much better than at Lake Howell. She is continuing her tradition of working on journalistic publications by beginning a news magazine there this January.

"This is like dying and going to teacher's heaven," Speidel said.
Advisees

Former adviser files suit, claims he lost job for helping newspaper access faculty records

WISCONSIN — A former University of Wisconsin-River Falls professor filed a federal civil lawsuit in September against the school, claiming that his First Amendment rights have been violated.

Dave Demers lost his adviser position at the Student Voice, the university’s official student newspaper, after he refused to get his teaching contract renewed last spring.

According to Demers, he lost both his adviser and his teaching positions because he helped reporters on the Student Voice get and print information about faculty salaries and evaluations under the state open records law.

The lawsuit, which states that Demers is seeking to “maintain his job” and receive the promotion, claims that he was exercising his rights of freedom of expression and association under the First Amendment.

“The university does not know what the First Amendment is all about,” Demers said.

Michael Normon, chair of the department of journalism at the university, denied that the decision of the journalism department committee not to retain and promote Demers had anything to do with his activities with the Student Voice.

In addition to his First Amendment rights being violated, Demers also said that the university defied its own internal rules. After he was denied promotion, Demers asked two committee members why he was not promoted and taped-recorded their response.

In the conversations, Demers claimed both members admitted that he was being punished for hiring an attorney to bring the open records claim against the school and for breaking collegiality with other faculty members.

Despite the lawsuit, Demers said he still hopes to resolve this situation out of court. But there is one thing he said the university must do in order for a settlement to be possible.

“The University must acknowledge that it violated the First Amendment,” Demers stated. All other matters, monetary and otherwise, are “secondary,” he said.

Judge rules it’s not better late than never

Two students unsuccessfully attempt to intervene in censorship case after court said adviser’s First Amendment rights were not violated

KENTUCKY — After a judge refused to hear further arguments from a former yearbook and newspaper adviser for Kentucky State University, two students unsuccessfully attempted to intervene in the lawsuit.

The judge decided that Laura Cullen’s First Amendment rights were not violated when she was removed last December as coordinator of student publications and transferred to a secretarial position. Cullen claimed that she was removed after she refused to submit The Thoroughbred News, the university’s newspaper, for review before publication as mandated by a new policy adapted by the administration.

After Cullen’s removal, the yearbook was then confiscated after it was received from the printer, and the locks to her old offices were changed.

Cullen maintained that these incidents violated her rights of free association and free expression under the First Amendment. The court disagreed, saying that the students’ rights might have been violated, but not hers.

But when Capri Coffer, editor of the yearbook, and Charles Kincaid, a staff member, tried to intervene in the case in August, claiming that their First Amendment rights were also violated, their motion was denied in Cullen v. Gibson, No. 95-21 (E.D. Ky. Oct. 20, 1995). The court stated that the students “should have known of their interest in this case...shortly after this action was filed.”

Coffer and Kincaid did not get involved with the case until five months after it began.

However, Kentucky State University has not seen the last of this case. Cullen’s attorney, Bruce Orwin, has filed separate lawsuits on behalf of Coffer and Kincaid. The two students are claiming that their First Amendment rights were violated because the university suppressed distribution of the yearbook.

30 SPLC Report

Winter 1995-96
Drug survey sparks controversy, student newspaper adviser resigns

COLORADO — A student drug and alcohol usage survey that was printed in the winter of 1994 in the Denver South High School student newspaper created a chain of events that forced the adviser to resign by the end of the school year.

Conducted in comparison to a national survey on the same topic, the questionnaire put out by the South Confederate concluded that students at the high school drank and used marijuana extensively.

After the newspaper was distributed within the school, principal Shawn Batterberry initially refused to allow the paper to be mailed home to parents.

"The reason the paper was held up was because we had statistics in there that were untrue," Batterberry said.

Vickie Salazar, the former adviser of the newspaper, claimed that the survey was "a random sampling" of classes that had students with diverse backgrounds.

"Obviously kids may exaggerate a little," Salazar admitted, but said that what was printed in the newspaper was an accurate representation of the results of the survey.

"I believe that it was a reflection that there is a problem there," she said.

According to Salazar, Superintendent Irv Moskoswitz then intervened, allowing the paper to be sent to parents because of Colorado's student free expression law.

However, Batterberry claimed that Moskoswitz did not get involved. Batterberry said that he was the one who finally permitted the paper to be sent home, but only after it was made clear to student reporters that they had to be accountable and to make sure that their information was accurate.

After the paper was distributed, Salazar thought the matter was settled. However, she said that in January Batterberry called her into a meeting and said that he was authorized to edit the paper before it went to print.

Once again citing Colorado's freedom of expression law, Salazar told Batterberry that he did not have that authority. According to her accounts, he then called the paper trash.

"I told him that I'll stand behind what the kids write," Salazar said.

Batterberry denied ever attempting to exercise prior review or calling the paper names.

The situation did not get better, Salazar said. "They [school officials] started intimidating the kids like they did me," she claimed.

Because she said the situation became so negative, Salazar resigned. "It was a condition where I couldn't work anymore," she said.

Since Salazar resigned, two new names have come to the newspaper staff. One is Todd Madison, the new adviser, who said that he has not had any problems and that the newspaper has been given free reign. Another is the name of the paper itself. The staff decided to rename the newspaper The Gargoyle, after the old name was deemed offensive.

Salazar now teaches English at Denver East High School. Although she said the atmosphere there is much better, it is not the same as teaching journalism.

"I really miss it," she said.

Taking the bull by the Horns

Former adviser finally sees action

NEW YORK — Chris Golde, former adviser to the Clarkstown North High School newspaper, The Ram's Horn, is finally seeing action taken against the school after he was dismissed from his position as adviser two years ago.

The teacher's union of Clarkstown has filed a request for arbitration on the matter, which was scheduled to take place at the end of November. In addition, the New York State United Teachers Union approved the filing of a lawsuit against the district if the issue is not settled during arbitration.

"In the best case scenario, I would be reinstated as adviser," Golde said, claiming that the chances of this happening were "50-50."

Before the arbitration date, Golde said that he and the union "tried to resolve this with the superintendent and the school lawyer," but nothing was accomplished.

According to Golde, who was adviser to the newspaper for 14 years before his dismissal, the school board decided not to re-hire him as adviser because of a controversial affirmative action article that the newspaper printed during the previous school year.

The article created a stir among students and parents, who complained to the board.

The school board denied at the time of Golde's dismissal that the article was the reason and stated that there were other reasons. The board did not disclose any of these reasons to Golde.

Golde claimed he is still searching for the reasons why he was fired.

"I had high praise for what I was doing with the paper," he said, "but because of one controversial article, it set this whole thing in motion."
Investigative reporting leads to censorship
Newspaper's acquisition of student records draws privacy complaints

FLORIDA — David Scott came to the University of Miami to get a law degree, but he did not expect to get a real-life education on the First Amendment. Of course, that is exactly what happened when Scott, a second-year student, began investigating a story on the law school's affirmative action policies in September, only to have the university prevent his story from reaching publication.

"(The administration) rained down on us like a ton of bricks," Scott said.

Scott, who has earned a reputation on campus as being conservative, had already attracted attention for writing an article that criticized the school's summer program that gives advance orientation to minority students. Early in the fall semester, Scott said, someone left a copy of admissions documents for him in the office of the law school newspaper, Res Ipsa Loquitur. The documents contained internal memoranda and student admission records, which the school and its employees are prohibited from releasing under federal privacy law.

"Documents relating to admissions were made their way into the hands of two members of the student newspaper," said Associate Dean Lawrence Rose. "Those documents are protected by both privacy rights to confidentiality and federal law."

Scott said the documents gave him a chance to understand the school's admissions process, which he said favors minority students with below-average test scores and grades. Upon receiving the documents, he went to the administration to verify their content and even gave them photocopies of the originals.

He was assured that the administration would not ask for their return, but three weeks later, they did so, and the newspaper returned the originals. Furthermore, Scott said, the administration immediately told Res Ipsa not to publish any articles about the documents.

"It's unfortunate, because affirmative action is one of the hottest topics in discussion today," he said.

In addition, the university contacted minority leaders and disclosed the details of the newspaper's discussions with administrators. They responded by holding public demonstrations and contacting national media.

Several students threatened to sue the newspaper for invasion of privacy, despite the fact that the newspaper never printed their names and only intended to use general statistics in the article.

"The theme that emerged from this was invasion of privacy," Scott said. "They were able to change the focus of the controversy."

Currently, the school is investigating the thefts of the documents. Scott said he does not know who leaked the documents in the first place, and would not disclose the information even if he did.

"I would rather be expelled than reveal that kind of source," he said.

"That person went out on a limb."

However, the source of the leak is not the only one who faces disciplinary action. Minority students have brought Scott and the newspaper up on honor code charges.

Under the school's code, confidential records cannot be obtained or disseminated by those who are not entitled to them—a code which goes one step past the federal law, which only prohibits the records' distribution by the university.

"They're trying to get me on a technicality," Scott said. "The problem is, I never disseminated the information."

Scott underwent honor code hearings at the end of the semester. He said he has little hope of fighting the school's decision to stop the article's publication because the university is private and not subject to the same First Amendment limitations as public schools.

However, he said the Florida constitution provides broader speech rights, and he may be able to use them to overturn the charges.

Newspaper defeats student's privacy claim, but not for reasons hoped

VERMONT — Journalists here won a Pyrrhic victory in a privacy suit against them when a judge dismissed the case, but not for the reasons they wanted.

Judge Alan Cheever of Windsor County Superior Court dismissed a lawsuit against the Herald of Randolph by a student who claimed the newspaper had violated his privacy by publishing a story that claimed a play had been canceled because the student's academic record had fallen below school requirements. The grounds for the dismissal were that the paper had simply reported a fact already made public by the school, not that the student's academic ineligibility was newsworthy.

"It was a happy ending, but not the one we were hoping for," said Robert Hemley, the newspaper's attorney.

The lawsuit began after the Herald published an article entitled "Audience Asks: Romeo, Where Art Thou, Anyhow?" in which they told of a school play's cancellation at the start of a performance due to the lead actor's academic ineligibility to perform. The student, John Huntley, sued both the school for announcing to the audience his academic failures and the newspaper for writing about it. While the school system settled the case out of court, the newspaper insisted on a trial.

Both sides filed for summary judgment, with Huntley claiming invasion of privacy and the newspaper arguing that the information was public, not offensive and of legitimate interest to the public. The second summary judgment motion resulted in the newspaper's victory, but only because the information about Huntley's academic standing was publicly available — not because the judge believed it was newsworthy.

"Had the name of the student whose academic ineligibility caused cancellation of the school play not been released by a school official, the student was a minor, its later publication would not be in the legitimate public interest," Cheever wrote in the decision. "However, the student's name had been released by the school officials prior to publication."
Editor wins right to run gay/lesbian ad

ACLU helps San Jose newspaper overcome principal's strict ruling

CALIFORNIA — For Leigh High School Principal Jim Russell, the idea of running an advertisement for a gay and lesbian support group was too controversial, but it was not the ad that stirred up the controversy — it was his decision to ban it.

When Heather Rath, the editor of Leigh's student newspaper, decided to run the ad last February, she was told by Russell that it was too controversial and that the paper could not publish it. After a battle that lasted all semester, Rath finally came out victorious, and the ad was allowed to run.

"He told me this was too controversial a subject for the community, and that students couldn't deal with the issue," Rath said.

The ad was from the Billy DeFrank Lesbian and Gay Community Agency, a youth center in Santa Clara County that provides support and counseling to homosexual teens. Russell andCambell Union High School District Superintendent Bruce Hauger said the decision to ban the ad had nothing to do with the fact that the center serves homosexuals, but that they did not have enough information about it.

However, the center claims it hand-delivered material to Russell well in advance, while Russell insisted the representative arrived too late and presented the information poorly.

"[Russell] told papers he wanted more information about the center," Rath said. "If he had, I would've said, 'Fine, I'll get it for you.'"

Instead, Rath got the American Civil Liberties Union, who began petitioning the school district to intervene and reverse the principal's decision.

The public outcry over the banning prompted the school board to review the decision. In May, they decided to overrule Russell and allow the ad's publication.

"What the board is saying is that I don't have the authority to say yes or no," Russell said.

The center was "thrilled" with Rath's efforts, she said, and she was awarded by local gay and lesbian activists for her victory.

The advertisement was already being run in 25 of 44 Santa Clara County high schools before the controversy started, and Rath said Leigh's newspaper had previously carried advertisements from Planned Parenthood without incident.

Ohio State paper pays $30,000 in libel settlement

OHIO — The Ohio State Lantern paid $30,000 in an out-of-court settlement of a libel case to a woman who was described in an advertisement in the paper as HIV-positive.

According to court records, the story began in September 1994 when a woman claiming to be Chaundra Tyson called The Lantern and spoke with members of the advertising staff at length. The woman eventually placed an advertisement in the paper stating she was HIV-positive and warning anyone who had sexual contact with her in the past to call the health department. Tyson filed a libel suit against the newspaper, claiming the ad to be false and submitted by someone other than herself.

According to Lantern Business Manager Ray Catalino, The Lantern's attorneys advised the newspaper that it would probably lose the case on grounds of negligence.

"The freedom of the press is extremely important," Tyson's attorney Mark Reynolds said. "Along with that freedom comes responsibility."

Reynolds said the newspaper had an obligation to check the validity of the advertisement. He said the newspaper now has a policy of requiring a photo I.D. to submit advertising.

Tyson's suit against the newspaper focused on the mental anguish the advertisement caused; she even claimed that the ad had caused the onset of multiple personality disorder. While Catalino said they had witnesses prepared to argue that Tyson's disorder could not have stemmed from the ad, he said they still should have been more careful in the first place.

"Personally, I feel we were negligent," he said. "We took it for granted that this person was legitimate."
NEW JERSEY — A reporter for The Gleaner at Rutgers University demonstrated the power of New Jersey’s shield law to a pair of university employees who insisted on subpoenaing her in two discrimination lawsuits.

Lisa Zerbo wrote an article in February on a Rutgers Professor Joseph Walker whose outspoken views on topics such as gender equality and religious beliefs had earned him a somewhat radical reputation. The next month, two former university employees issued Zerbo a subpoena for her notes to use as evidence in their discrimination cases against the professor.

Through the efforts of Zerbo and her lawyers, the subpoena was quashed on Aug. 3.

“Our position essentially was that there’s a reporter’s privilege that was protected by New Jersey’s shield law,” said Joseph Sullivan, Zerbo’s attorney.

The plaintiffs in the lawsuits subpoenaed Zerbo because they claimed her notes would provide substantial evidence of Walker’s history of discrimination. However, Sullivan said, New Jersey state law and federal common law dictate that those who subpoena reporters’ notes must prove that the information those notes contain cannot be found anywhere else. In the case of the lawsuits against Walker, they did not do so.

The two plaintiffs initially agreed to postpone Zerbo’s deposition indefinitely at the request of Sullivan while they tried to find other evidence. He argued that other evidence could be found in numerous additional sources such as papers, students’ testimony and Walker’s relationships with other faculty. In May, they decided that they had not found substantial evidence, and once again tried to acquire Zerbo’s testimony.

“To overcome the privilege, you have to show that a reporter has notes that would affect the outcome of a case and that the information couldn’t be obtained any other way,” Sullivan said. “They weren’t looking for information they couldn’t obtain from anywhere else. They were looking for great sound bytes.”

New Jersey magistrate Robert Kugler agreed with Sullivan’s arguments, and granted the motion to quash Zerbo’s subpoenas.

“The historically strong blanket of protection afforded to journalists under the First Amendment which encourages the free flow of information to the public cannot be removed merely because the plaintiffs seek to verify statements made to a reporter that are not crucial to the plaintiffs’ case and that may have been obtained elsewhere,” Kugler said in his decision.

MINNESOTA Daily loses confidentiality case appeal
Editor refuses to turn over film despite ruling, may face fines and jail term

MINNESOTA — The editor of The Minnesota Daily has said she will not comply with an appeal court’s decision that she turn over unpublished negatives, despite the potential jail term and extensive fines that could result from her refusal.

The Daily has been fighting efforts by the Hennepin County district attorney’s office to obtain the negatives as possible evidence in an assault case. After a district court ordered the negatives be produced for inspection by the judge, the newspaper appealed the case, only to have the appeal denied as well.

The incident began in October 1993, when a photographer shooting pictures of a campus neo-Nazi rally caught a disturbance on film. One of the people involved in the fight subpoenaed the photographer, claiming that the pictures would provide evidence necessary to his claim that he acted in self-defense. The newspaper tried to have the subpoena quashed. The motion to quash was denied at both the district and appellate level.

After the Minnesota Supreme Court refused to hear the case, the newspaper was granted a second appeal on procedural grounds. However, the court once again ruled that Minnesota’s shield law does not preclude the review of negatives by a judge in a criminal case. The newspaper was once again ordered to turn over the negatives, and once again, the staff of the paper refused.

“There’s a principle here,” current Daily Editor in Chief Michele Ames said. “I think we, the journalism community, have been too lax in standing up (See REFUSAL, page 37)
Out in the Cold

California's Leonard Law was to be a blanket of protection, but a recent court decision suggests some students may not be covered.

CALIFORNIA—When the Leonard Law was signed into effect on Sept. 30, 1992, high school students' rights to free expression and speech enjoyed a clear, bright day.

Here was a remarkable new state law that would protect both private and public high school students from the 1988 Hazelwood decision, a Supreme Court ruling that gave high school administrators greater control over school-sponsored press. Not only would the Leonard Law allow for more freedom within student publications, it made provisions to ensure that students could exercise their freedom of speech during school hours.

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"Femi-naaz" during a speech in his student government vice president campaign. After an Orange County Superior Court judge refused to reinstate him back into the high school, Carter sued the school under the Leonard Law, saying that he had the right to freedom of speech without disciplinary consequences.

According to the Leonard Law, a school district cannot "make or enforce a rule subjecting any high school pupil to disciplinary sanctions solely on the basis of conduct that is speech or other communication" that would be protected by the First Amendment outside of school.

Servite High School fought back. The president of the school, Father Gerald Horan, and teachers claimed that Carter's speech was only the final drop in an already full bucket that lead to their request that he attend counseling.

In its July decision, Carter v. Servite High School, No. 72-08-19 (Cal. Super.Ct., July 26, 1995), the Orange County Superior Court agreed with the high school. Judge Frederick P. Horn rejected Carter's claim that his speech was the sole reason why he was required to face sanctions.

In addition, Horn not only disagreed that counseling would be a sanction, despite it being listed as one in school literature, but he also denied that First Amendment rights were an issue, writing plainly in his statement that "this case is not about free speech."

Servite High School fought back. The president of the school, Father Gerald Horan, and teachers claimed that Carter's speech was only the final drop in an already full bucket that lead to their request that he attend counseling.

Horn also rejected that counseling would be a sanction, despite it being listed as one in school literature, but he also denied that First Amendment rights were an issue, writing plainly in his statement that "this case is not about free speech."

However, Horn went on to write that even if this was a First Amendment case, if counseling was found to be a disciplinary sanction, and if Carter's speech was the sole reason for such a sanction, the final decision of the court would have remained the same.

Because several witnesses said that Carter referred to teachers (See LEONARD, page 37)
Cartoon angers minorities

Publications board to draft new policy; some fear control

OKLAHOMA — After creating outrage on the University of Oklahoma’s Norman campus this fall, an editorial cartoon printed in the student newspaper threatened the editor’s job and launched talks of a more formal policy that some fear could lead to control of the newspaper.

Drawn by Josh Miller, the cartoon intended to make fun of white culture, said Joy Mathis, the editor in chief. Despite its intentions, the cartoon only succeeded in offending and upsetting Native Americans and other minority students.

The cartoon portrayed a white man dressed in stereotypical American Indian garb, surrounded by such phrases as “White Folk’s War Party” and “Turn your .00001% native heritage into genuine ethnicity!”

Those who were angry called for Mathis to resign, blaming her for allowing the cartoon to be printed and for failing to contact the newspaper’s multicultural board before publication. The multicultural advisory board was created last spring by the newspaper to advise them on sensitive cultural issues.

“The board is something we started to help ourselves, because our staff is not as diverse as we’d like,” Mathis said. “Even though she admits that she should have contacted the board, she said she has no intention of stepping down from her position.

When a motion was made to fire Mathis at a publications board meeting on Oct. 20, the board voted eight to one against it. Despite its support for Mathis’ position, the publications board agreed that more formal policies governing the role of the multicultural board were needed.

According to Jack Willis, the editorial adviser to the Oklahoma Daily, new policies could include requiring the editor to consult before publication with the multicultural board, the editorial adviser, or the publications board. He is concerned about how much control the newspaper will lose if these stipulations are included in the new guidelines.

But Jim Kendendine, chair of the publications board, said that the policies will only attempt to make things more clear, such as who is to be on the multicultural board and when it should be consulted.

“Most members of the board would accept that the role of the board is advisory,” Kendendine claimed, adding that he believes the final policy will only attempt to guide the editor.

Craig Hayes, head of the subcommittee drafting the new proposal, agreed with Kendendine, saying that “the multicultural advisory board is simply that—advisory.”

“Some professors heard about it and are calling it a ‘multicultural censorship board,'” Hayes said. “No one should confuse it with that. Not at all, because that would be an infringement on First Amendment rights.”

The subcommittee drafting the proposal consists of community members and students, including two representatives from the Oklahoma Daily.

Mathis said that even though some people would like it otherwise, she is confident that the publications board will not draft anything that violates the First Amendment.

“I think there are a lot of people who would like to require me to consult the board,” she claimed, but added that since the newspaper will have a lawyer there, she said, “It just can’t happen.”
Mass. court upholds dismissals of editors

MASSACHUSETTS — A Hampshire County Superior Court upheld last May the three-year-old dismissals of an editor and two other staff members from the University of Massachusetts student newspaper, The Massachusetts Daily Collegian.

When Madanmohan Rao, the former editor of the newspaper’s third-world page, and former staff members Rabi Dutta and Hussein Ibish were fired from The Daily Collegian in 1992, they said it was because of their ethnicity. Dan Wetzel, then the editor in chief, said it was because they were graduate students.

Wetzel said he was acting upon the student activities office’s guidelines that said graduate students could not hold leadership positions in registered organizations on campus.

The third-world editor position was created after students protested that the newspaper did not dedicate enough space to minority issues.

In the complaint filed by Rao’s attorney, Christobal Bonifaz, Bonifaz said that Wetzel discriminated against the three dismissed students by denying them their right to free speech.

He also stated that Rao, Dutta, and Ibish had a “valid contract” with the Daily Collegian, which was violated by Wetzel and the newspaper.

Leonard
(continued from page 35)
and no their tactics as “femi-nazis” and to the cafeteria workers as “greasy old ladies” in his speech, the court ruled that this was “defamatory or slanderous” and was “abusive and insulting rather than a communica­tion of ideas — and hence not protected.”

In addition to categorizing Carer’s speech as derogatory, Horn also said that because it was given during a mandatory assembly, the situation was equal to a classroom, where students cannot leave if they do not like what is being said. He went on to say that “there are limits to a high school student’s freedom of speech in the classroom” because that would limit the school’s authority to discipline students. “This,” Horn wrote, “was not the Legislature’s intent in passing the Leonard Law.”

Horn concluded that he would have upheld the school’s decision because of Leonard Law’s provisions for religious schools. “This section does not apply to any private secondary school that is controlled by a religious organization, to the extent that the application of this section would not be consistent with the religious tenets of the organization.”

Even though this ruling is not binding on courts in other parts of the state, it may weaken the Leonard Law, allowing high school officials to fight more effectively against disapproved speech. The ruling indicates that if schools can manufacture other reasons than speech for punishing students whose expression they do not like, the Leonard Law will not protect the students. Jon Harr, Carer’s lawyer, said that there may be an appeal, but a definite decision had not been reached.

Refusal
(continued from page 34)
for that principle.”

By refusing the order, the paper, and therefore Ames, could be held in contempt of court. Ames could face a jail sentence, and the paper could be ordered to pay thousands of dollars in fines every day until they turn over the negatives.

“The fines deter me much more than the jail sentence,” Ames said. “We’re a student newspaper — we don’t have the money to keep paying fines.”

Ames said the judge will probably hold an informal hearing in December to determine when the negatives should be turned over. However, she said the district attorney’s office is considering appealing the appellate court’s decision, probably because they are unhappy that the appellate court judge ruled only that the negatives should be turned over to the judge for inspection — not to the district attorney.

The paper’s attorneys understand Ames’ decision, she said. She also said the University of Minnesota, which the paper depends on for some funding, has not intervened in the case at all.

However, in his decision, Dutta v. Wetzel, Civ. No. 92-342 (Mass. Super. Ct., Hampshire County May 31, 1995), Justice William H. Welch wrote, that there was no contract between the school and the students, so the students could be denied participation.

Bonifaz said that there has been no decision as to whether any further action will be taken.

Denial
(continued from page 36)
or her speech.”

Fleming also said in his petition that “the net result [of speech restriction] often is the undercutting of the democratic process.

This is particularly the case when viewpoints seeking to enter the ‘market place of ideas’ are turned away at the gate.”

The Supreme Court denied the petition on Oct. 2. According to Fleming, no more action is being taken by Jeffries.
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