

student press law center

report

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**Congress, the courts and campus crime:
Students explore avenues for access**

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Student Press Law Center Report

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* Organizations for purposes of identification only

Campus crime booklet available from SPLC

The Student Press Law Center recently added another publication to its collection of resources.

Covering Campus Crime, a guide for journalists seeking access to campus crime information, is the only handbook of its kind.

For years, student journalists have reported that some college administrators and campus police are reluctant to quickly and completely release incident reports, crime statistics and records of disciplinary proceedings involving criminal behavior. The new handbook details legal avenues and tactics for getting access to this kind of information. Among other things, *Covering Campus Crime* contains a "road map" to best determine how to request records on a given campus, citations to state and federal freedom of information laws and citations to relevant court decisions.

The 44-page booklet was funded by the Sigma Delta Chi Foundation, the educational arm of the Society of Professional Journalists and was written by the Student Press Law Center staff.

Single copies of *Covering Campus Crime* are free with a check or purchase order for \$2 to cover postage. Requests should be sent to the SPLC. ■

The Report Staff

Mark Cohen is in his second year of graduate studies at the Cronkite School of Journalism at Arizona State University. He received his B.A. in political science and English from Washington University. He is a columnist for his school newspaper and writes free-lance pieces for Phoenix area papers. He says he would like to live a life of purpose and conviviality, if that is possible.

Dan Morris is a 1996 graduate of Drake University, where he majored in English and served on the editorial board of the literary magazine *Periphery*. He plans to attend graduate school in the fall of 1997 and hopes to pursue a career in journalism or media law. He has always thought that affecting change in a societal landscape such as ours is neither an impossible goal nor an unworthy one. ■

Mo. newspaper, Minn. editor receive press freedom award

A high school student newspaper and a former college newspaper editor have been named winners of the 1996 Scholastic Press Freedom Award.

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

This year's winners were Michele Ames, former editor of *The Minnesota Daily* at the University of Minnesota's Twin Cities campus, and the staff of the *Jaguar Journal* at Blue Springs South High School in Blue Springs, Mo.

Ames' story began in 1993 when a photographer for the *Minnesota Daily* shot photos of a fight that broke out at a neo-Nazi rally on campus. Police charged several individuals involved in the incident with crimes ranging from assault to weapons violations.

The prosecutor asked the *Daily* for its unpublished photos of the incident. The paper refused, saying it was not appropriate for it to serve as an investigative arm for the prosecutor's office. The prosecutor subpoenaed the editors of the paper to force them to turn over the photos. The editors contested that subpoena, eventually taking their case through the state court system twice.

On Jan. 29, 1996, the court case ended with a ruling that there was no reporter's privilege that protected the *Daily* from the subpoena. The court ordered Ames, the 1995-96 editor of the newspaper, to turn over the unpublished photos.

Despite the fact that she could have been sent to jail for her refusal and that she and her newspaper could have been subjected to crippling fines, she, in her words, "respectfully declined" to comply with the order.

"We can't turn our presses over to the county attorney," she said.

SPLC Executive Director Mark Goodman said that Ames received the

award because she was an exceptional role model.

"For her dedication to her readers, for her firm belief that the press should not take on the role of investigator for either side in a court case, and for her grace under pressure that few of us have ever faced, Michele Ames richly deserved this award," said Goodman.

The high school award winner's story began last spring when the staff of the *Jaguar Journal* decided to cover the issue of smoking. One topic they focused on was the ability of minors to obtain cigarettes illegally.

The *Jaguar Journal* staff decided to see how easy it was for underage students to buy cigarettes. With the permission of the local police department, they attempted to make purchases at several local stores and found that two prominent businesses in fact did sell cigarettes to them. When they prepared a story about their investigation, school officials refused to allow them to publish the names of the stores who broke the law.

The staff members called the SPLC to describe their situation and get advice. They let school officials know they objected to the censorship and would contest it. And over a weekend, they prepared and distributed a press release to the local media describing their story and the censorship they were fighting.

Under the weight of growing community pressure, the school backed down. When a local newspaper published the names of the two stores, the school allowed the students to do so as well.

Goodman described the students' success as an outstanding effort.

"They knew that good journalism requires hard work and preparation, that censorship is wrong and must be resisted and that violations of the law and the health and safety of students are more important than maintaining a good relationship with local businesses," said Goodman. "They enlisted the community in their fight for press freedom, and the community told the school the censorship must stop." ■

Student access to election totals denied

Virginia Supreme Ct. rejects plea to release high school vote returns

VIRGINIA—The state supreme court ruled in September against a former high school student journalist's request for student election vote totals under Virginia's Freedom of Information Act.

Lucas Wall, the former editor of the *Centreville Sentinel*, sued Centreville High School's student government adviser Mimi Totten and the school board in 1995 after they refused to release all of the election results. Only the winner's names were disclosed.

In the school-wide elections, students voted for class officers and members of the Student Advisory Committee. The latter group, made up of elected students from around the district, selects a delegate who serves as a student representative to the Fairfax County School Board.

In *Wall v. Fairfax County School Board*, 475 S.E. 2d 803 (Va. 1996), the high court unanimously rejected Wall's appeal. They affirmed a lower court's ruling that the vote totals constituted a student's "scholastic records" that are

exempted from Virginia's Freedom of Information Act. Under the court's ruling, public colleges and universities in the state could refuse to release student election vote totals as well.

William F. Wall, Lucas' father and his attorney, argued at the trial that the school was being hypocritical for teaching demo-

Totten first refused to release the vote totals for the elections because she claimed they might embarrass the losers and discourage future potential candidates. The principal, buoyed by the county's other 20 high schools which also do not disclose vote totals, went along with Totten's argument and prevented the release of the information.

William Wall's reaction to the loss was more fatherly than scholarly.

"I'm very proud of my son. I've tried to instill in him the belief that certain principles are worth fighting for...and in this case he has handled himself better than most of the adults involved," he said.

Lucas Wall, currently a journalism and politics sophomore at the University of Missouri in Columbia, said he will continue his fight in the next session of the state's legislature. He is currently lobbying representatives to support an amendment to Virginia's freedom of information law that would open student election vote totals. ■

"How many votes a student got is no different from how many points a student scored in a basketball game."

*Kent Willis
Virginia ACLU Director*

cratic ideals but showing by their behavior that they really do not believe in them.

The case against the board was also supported by the American Civil Liberties Union. State ACLU Director Kent Willis commented that "How many votes a student got is no different from how many points a student scored in a basketball game. Both are actions students voluntarily do. They are public activities...."

Open records win for Hawaii students

HAWAII—Student journalists won a big open records victory in November when the state supreme court ruled that the police department must provide access to the names of disciplined or suspended police officers.

The unanimous decision in *State of Hawaii Organization of Police Officers v. Society of Professional Journalists*, 1996 Westlaw 661692 (Haw. 1996), wrapped up years of court proceedings.

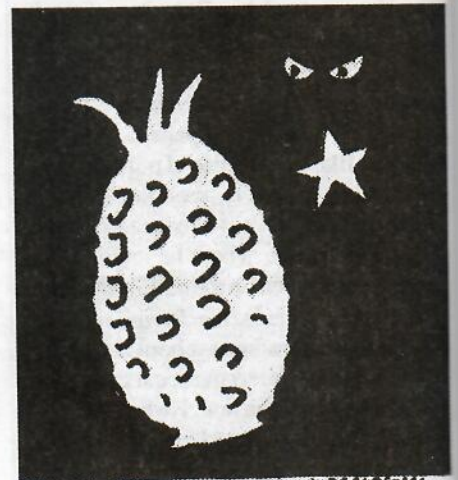
The police department must now hand over all the names of the officers in question from 1991-1995.

The University of Hawaii Society of Professional Journalists asked for the

information in 1993. In 1995, in the midst of the case, the state legislature amended the open records law to exempt police officers' disciplinary records. Now journalists say they want the legislature to remove the exemption so they will be able to access the information in future years as well.

The supreme court also broadly ruled that union agreements reached with the state cannot supersede state open records laws.

Lawyers for the police union say they will discuss with the union's board of directors the possibility of appealing to the U.S. Supreme Court. ■



Court orders release of evaluations

U. of Idaho senior wins fight to publish student opinions of faculty

IDAHO — The student newspaper at the University of Idaho in Moscow won a judgment against the school in October, securing complete access to classroom-based teacher evaluations.

Travis Quast, the student advertising manager, won a verdict from the bench forcing the school to release evaluation summaries.

In *Quast v. Simmons*, No. CV-9600589 (Idaho Dist. Ct., Sept. 18, 1996), Quast, a senior, sued George Simmons, an interim provost, and the University of Idaho State Board of Education. Simmons originally denied Quast's written requests for the documents last summer. The university claimed the information is part of a professor's confidential personnel file and thus exempt from Idaho's open records law.

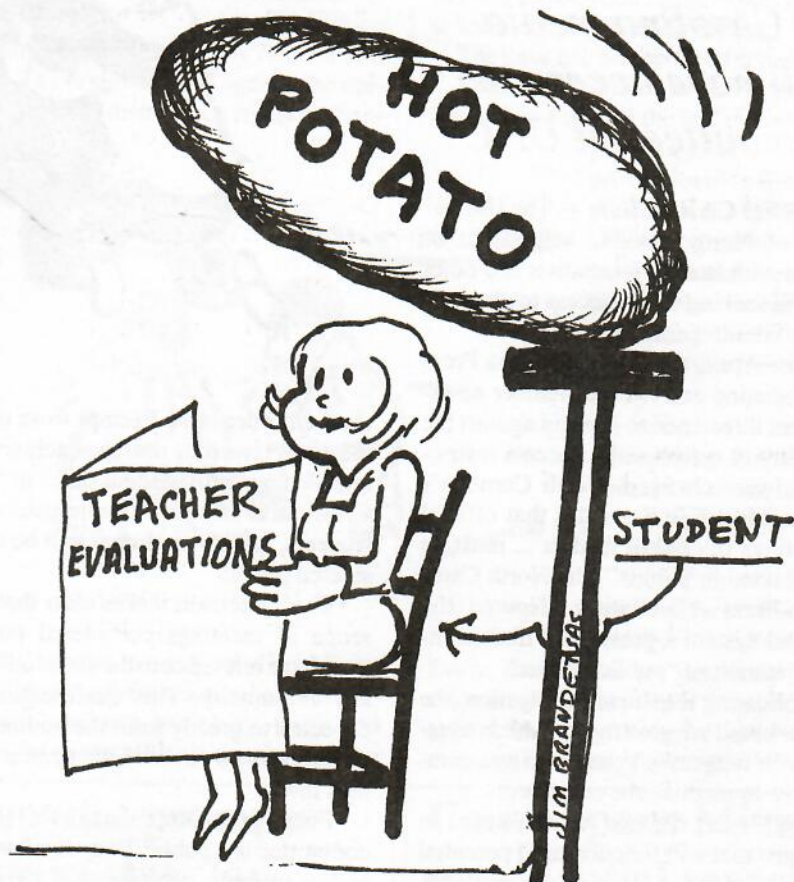
According to Quast, "Individual students have been allowed to view — but not copy — the evaluations in the Office of the Vice Provost for the past 20 years." In court, the university could not explain the contradiction of the information being open to individuals and closed to the press.

The Argonaut had requested the student evaluations of faculty members to publish for the benefit of other students wishing to gauge teacher performance. According to Quast, many schools make this information widely available so stu-

dents can match their study style and expectations with appropriate professors.

The day after the court ruling the uni-

versity gave Quast a copy of the evaluations on computer disk and a check for his \$5,400 legal bill. ■



Student paper breaks scholarship scandal

LOUISIANA — Information sought by a student newspaper at Louisiana State University in Baton Rouge helped expose improperly awarded scholarships and led to the resignation of the school's chancellor and his top assistant.

According to an investigation by the *Daily Reveille*, David Devillier, the chancellor's assistant, gave minority and need-based scholarships to mostly white students from Devillier's former fraternity.

In early September, the *Daily Reveille* received an anonymous copy of a university auditor's report detailing the abuses. Apparently, the audit had been done at the request of an employee who suspected wrongdoing. The newspaper's editor, Jason Bullock, responded to the information by conducting a month-long investigation.

Bullock did extensive interviews and filed requests for documents under the state freedom of information act.

The newspaper's staff has been given

credit for breaking the story by several local and national news organizations. "As long as the story was out, that's what we were in it for," Bullock said.

Devillier resigned weeks after the story broke. Chancellor William E. Davis left his position in early November, but the tenured professor will continue to teach at the school. The scholarship program has now been moved from the chancellor's office to the financial aid office. ■

Meetings opened

N. Carolina media will have access to committees at UNC

NORTH CAROLINA — The University of North Carolina settled out of court with student journalists and other media seeking wider access to chancellor committee meetings.

Last April, the North Carolina Press Association and twelve member newspapers threatened to file suit against the university system unless access restrictions were changed. North Carolina's Open Meetings Act states that official meetings of "public bodies ... must be conducted in public." The North Carolina Press Association disputed the school system's previously limited interpretation of "public bodies."

Following the threat of litigation, the state board of governors, which oversees the university system, set up a committee to mediate the complaints.

Both sides reached an agreement in August that will function until potential legislative action clarifies existing laws. The compromise was enacted in the form of a memorandum sent to university attorneys by the president of the University of North Carolina, C.D. Spangler Jr.

The following represents the major changes in the university system's policy:

- The new compromise outlines how a public body covered by the open meetings law is established. Under revised guidelines, committees appropriated by the university's highest officials (the chancellor, vice-chancellor, etc.) are public bodies. Other committees, for example those established by deans, are not public and therefore not covered by the open meetings laws.

- The agreement also specifies the composition of what may be considered a public body. If a committee is established by high ranking university offi-



cial, in order to be exempt from open meetings laws they must be exclusively attended by "professional staff" or "administrative officers." Committees with students, faculty or alumni will be considered public.

- The agreement makes clear that the scope of meetings considered public must have relevance to the entire university community. This qualification is expected to greatly limit the number of committees covered by the open meetings law.

- Finally, the compromise states that a committee is a public body if it has the ability to make change, or if its non-binding work is mandated by an official body with the power to enact change.

Kevin Schwartz, general manager of

The Daily Tar Heel at the University of North Carolina at Chapel Hill, was happy with the agreement. "We got virtually everything we asked for," he said, "and in practice, the process has been working as planned...."

The chancellor's meetings issue united newspapers across the state in an effort to revise the university system's 2-year-old interpretation of the state's open meetings law. Though many university meetings will be affected, the chancellor's committee meetings were of particular concern to journalists. These meetings, made up of university employees, students and community representatives, advise the chancellor on a wide range of campus issues from athletics to campus facilities. ■

Tax law will open private school doors

WASHINGTON, D.C. — President Clinton signed into law significant tax code revisions late last summer that will make it easier for students at private schools to get access to their institution's tax returns.

A private non-profit organization must now provide form 990, its annual tax return, to any person who requests it. Returns must be available for the past three years. If requested in writing, a response must be given within 30 days. If the forms are asked for in person, they must be provided immediately.

The new law will provide greater

access, for example, to student journalists reporting on salaries and other costs at private universities. Previously, on-site inspection of form 990 was required by law, but organizations were not compelled to photocopy the material.

Penalties for willful non-compliance with the disclosure requirement increased from \$1,000 to \$5,000 under the new law.

The law also states that organizations may not charge for providing the information, other than nominal copying, postage and handling costs. ■

Professional paper wages war in Iowa

Business records of student paper sought in unprecedented lawsuit

IOWA — A first-of-its-kind lawsuit to determine whether open records laws apply to student newspapers was scheduled to begin hearings in December.

Partnership Press v. Iowa State Daily was filed by the publishers of the professional *Daily Tribune* against the publications board at Iowa State University in December 1995. The *Tribune* is demanding internal advertising and marketing information from the student newspaper.

Iowa State Daily claims it is a private not-for-profit organization exempt from open records laws. The university is backing the student newspaper. Last summer, the school and the student daily signed a memo of understanding. The agreement formalizes the paper's independence and states that the *Iowa State Daily* is not "subject to adherence

to the Iowa Meetings and Public Records laws...."

In September, the *Daily Tribune* also filed a lawsuit directly against the university over distribution rights on cam-

pose of distribution rights. The *Tribune* is seeking campus-wide access.

The case has not yet been scheduled.

The *Daily Tribune* has also threatened legal action against the student newspaper on a third front. The professional paper appealed to the university regents regarding what it believes is unfair competition by the student daily. According to the *Daily Tribune*, the *Iowa State Daily* has gone beyond the realm of a student newspaper, employing commercial managers and distributing papers off campus.

According to Jeanette Antisdell, the professional manager of the *Iowa State*

Daily, the regents are not likely to do respond favorably their competitor's appeal. She said, "The case isn't even on their docket at this time." ■



pus. In that case they dispute the university's differentiation between university and non-university, profit and not-for-profit publications for the pur-

Illinois tuition waivers scandal prompts challenge in court, change in state law

ILLINOIS — Universities, courts and the state legislature are locked in an access struggle involving political patronage and school scholarships.

A 92-year-old perk that gives state representatives state university tuition waivers to distribute at their will has come under fire after a newspaper revealed many were given to the children of politically connected parents.

Early in 1996, a southern Illinois newspaper, the *Champaign News-Gazette*, requested under the state freedom of information act the names and addresses of each of the scholarship recipients at each state school over the past six years. In the past, universities have not unilaterally released such information.

In February 1996 only two schools, Eastern Illinois University in Charleston and Western Illinois University in

Macomb, responded. It was the first time in the scholarship program's history that the secrecy surrounding recipients' names had been disturbed.

The *News-Gazette* then joined forces with the larger *Chicago Tribune* to bring a suit against the other schools that did not comply. Don Craven, an attorney for the Illinois Press Association said they filed suit in Chicago because appellate court decisions in that district were thought to be more hospitable to the case.

Last summer the newspapers' case against the other state universities, *Chicago Tribune v. University of Illinois Chicago*, prevailed in court. The case was heard by the state appellate court in September, but a decision has not yet been announced.

(See WAIVERS, page 13)

Court opens Mich. presidential search

MICHIGAN — A Michigan court has ordered a state university to conduct its presidential searches in open meetings.

The ruling was a win for student journalists seeking access to important university proceedings.

Based on a 1993 ruling by the state supreme court, in October a judge ordered the University of Michigan Board of Regents to discontinue the use of private interviews and meetings.

Local newspapers filed the case, *Detroit Free Press v. University of Michigan*, No. 96-7822-CZ (Mich. Cir. Ct., Oct. 17, 1996), charging that the closed meetings violated Michigan's open records laws.

The judge agreed saying "...this process, though well-intended, I'm sure and very well thought out...is in violation of the Open Meetings Act." ■

Education Department issues rules late, delays implementation of disclosure laws

Schools will not have to release graduation information until 2003

Waiting to see the graduation rates of your classmates? Well, you better not hold your breath. Unless, that is, you can hold it for six years. You might have heard about something called the Student

Right to Know and Campus Security Act of 1990, a federal law that requires most private and public colleges and universities to make available to current and prospective students certain information. Although the part of the law that requires schools to publish the on-campus rates of certain types of crimes has received a lot of publicity in recent years, many student journalists do not know that the law also requires schools to publish graduation rates.

Nor, it seems, does the U.S. Congress nor the Department of Education want you to know that. Although the law was passed by the 101st Congress in 1990, the first time a four-year college will have to publish graduation statistics will be on January 1, 2003, thanks to dickered by lawmakers and a two-year delay by the DOE.

According to an August 1991 letter sent from DOE to all colleges and universities, the schools should have been prepared to have the statistics available for students on July 1, 1998. The DOE had planned on publishing regulations to implement the statute by the spring of 1992, according to the letter.

The DOE did not actually publish regulations until July 1, 1996, more than four years after their target date. Because of this tardiness, most colleges and universities were not even required to start collecting statistics until the class entering July 1, 1996. Under the statute and the regulations, the graduation rate for that class will be available in 2003, thirteen years after Congress passed the statute.

When asked to comment on the delay between the passage of the statute and the implementation of the regulations, a DOE spokesperson said that Congress had passed two amendments to the statute, one in April of 1991 and another in

December of 1993, which delayed the implementation of the regulations. The amendments, called "technical amendments," made small changes to the statute.

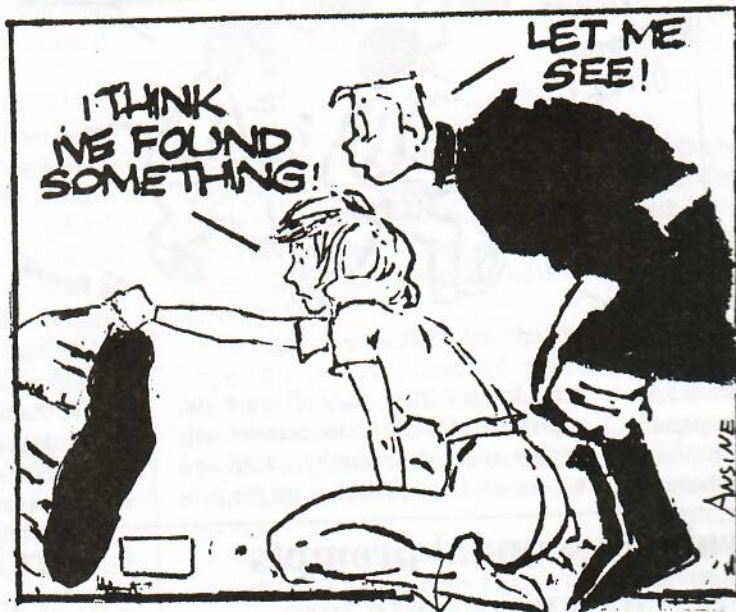
The April 1991 amendments, referred to in the August 1991 letter from the DOE to colleges and universities, changed

the requirement that schools report the graduation rates of all full-time students to just undergraduate full-time students. The amendments also allow the DOE to exempt certain schools who are already required to publish such statistics because they are a member of an athletic association.

The December 1993 amendments added the requirement that the school make the statistics available on the first July 1 that is more than 270 days after the DOE prescribed its regulations. Nothing in these

1993 amendments affected what the schools had to report, just when they had to report it.

DOE took two and a half years after the December 1993 amendments to issue final regulations, about four years since the last real change to the statute. ■



Graduation Rate Requirement in the Student Right to Know Act

"The information required by this section shall be produced and be made readily available through appropriate publications and mailings to all current students, and to any prospective student upon request. The information required by this section shall accurately describe...the completion or graduation rate of certificate- or degree-seeking, full-time undergraduate students entering such institutions."

20 U.S. Code section 1092 (a)(1)

Making the Grade

All colleges that participate in federal student loan programs must make accreditation reports available to the public, which can be an important reporting tool for student journalists

Jane Newshound was at it again. As the star reporter of *The Mudslinger*, the student newspaper of Bliss College, an elite private university, she was investigating the university's library.

Not too long ago, friends told her that they noticed several periodicals the school once had were missing. After several short interviews, in which the collective response was "nothing has changed," Jane decided to obtain the library records.

The administration of Bliss College would have none of that. A private school, as Jane quickly learned, does not have to show such records to the public. Bliss College thought it had Jane pinned. Fortunately for Jane, and all student journalists put in the same position, the school was required to make one document available to her upon request: an "accreditation report."

Role of Accrediting Agencies in Higher Education

All colleges and universities that participate in any federal financial aid program, such as the Stafford Loan, the Pell Grant or the federal College Work-Study program, are usually required by federal law to be accredited by a "nationally recognized accrediting agency or association."

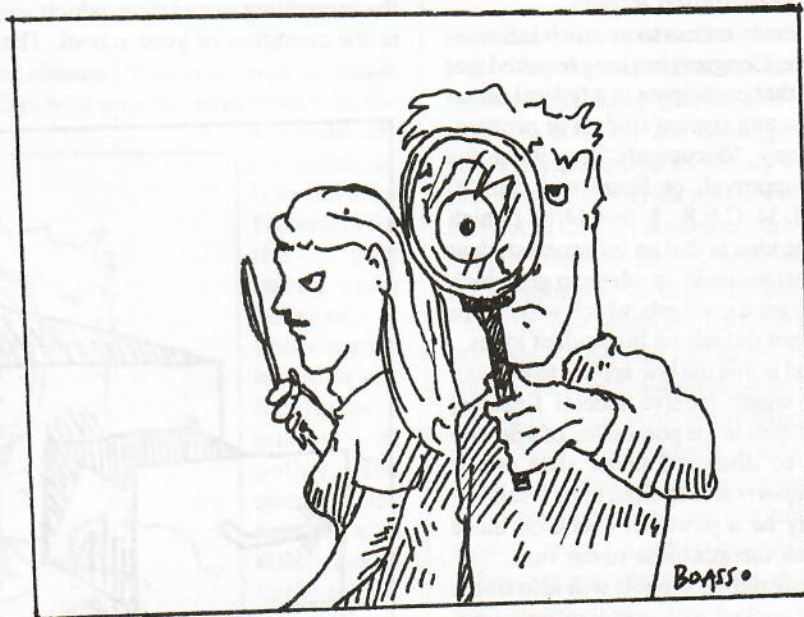
See 20 U.S.C. § 1141(a) (defining what an "institution of higher education" is for purposes of federal financial assistance programs).

There are several of these "national accrediting associations," each with a certain geographic or subject specialty. For example, the American Bar Association is the national accrediting association for all law schools in the United States. The major accrediting associations for colleges and universities are the six "regionals." All institutions, whether

they offer associate, bachelor's, master's or doctorate degrees, must be accredited by the agency covering its region.

The regional accrediting agencies are non-profit organizations that evaluate colleges and universities based on certain defined criteria. According to one agency brochure, regional accreditation "does not affirm that the school is perfect in all aspects, but does promise that there are resources, leadership, and determination that will be utilized for improvement." The six regional agencies are the New England Association of Schools and Colleges, the Middle States Association of Colleges and Schools, the North Cen-

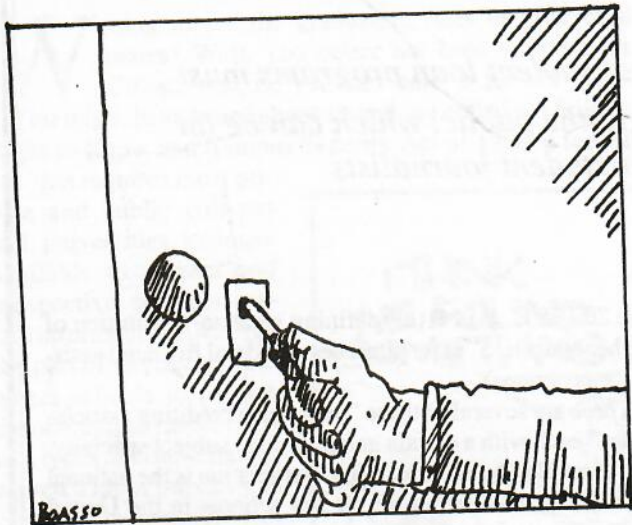
(See ACCREDITATION, page 10)



Accreditation

(Continued from page 9)

tral Association of Colleges and Schools, the Northwest Association of Schools and Colleges, the Western Association of Schools and Colleges, and the Southern Association of Colleges and Schools.



The Right to Obtain the Accreditation Report

In an effort to provide students access to as much information about a school as possible, Congress has long required that all colleges and universities that participate in a federal financial assistance program show any current student or prospective student, on demand, any "documents describing the institution's accreditation, approval, or licensing." See 20 U.S.C. § 1092(a)(1)(J) and 34 C.F.R. § 668.44(b) (which should be read together). The idea is that an informed student is more likely to make the best decision on where to go, which will make him more likely to get a good job, which will in turn make it more likely he will not default on his student loans.

The key thing to understand is that the law applies to *private*, as well as public, schools which receive federal financial assistance. So, while most records in the possession of a private school are not required to be disclosed under state public records laws, accreditation reports are required to be disclosed under *federal* law. This may be a powerful check on those private schools that keep their records close to the vest.

Student journalists attending public schools will also find a school's accreditation report packed with useful information. Even though most of the information that makes up an accreditation report would be available under a state open records law, an accreditation report puts all of the material in one source along with useful analysis and useful graphics or other aids. And obviously, it saves the time and effort required to gather all of the records in the first place.

Student reporters who desire to obtain a copy of their schools' reports should keep a few things in mind. Many

schools, especially smaller private schools, may be unaware of their obligations under this law. It may be up to you to educate administrators about their legal obligations.

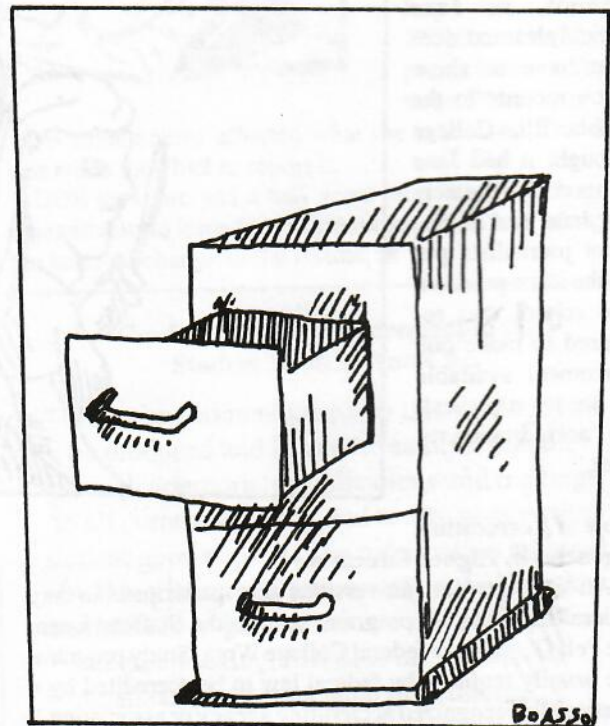
Be sure to obtain a copy of the statute, which can be found in the United States Code, available in most university libraries and all law school libraries, and take it with you when you ask for the report. Remind the schools that refusing to turn over the records is a violation of federal law, which could lead to the school losing all of its federal assistance.

A good place to start your search is at your school's library where some institutions routinely place a copy of accreditation reports. If that proves unsuccessful, your next step should be the university's registrar's office. Although the report may not be there, the registrar can usually point you in the right direction. Try to get the administration to do your leg work. If one office has a suggestion as to where the report is, get *them* to call the other office before you walk a quarter of a mile.

Once you locate the report, try to get the administration to give you a copy. Although the law only requires that they allow you to inspect their report, emphasize that it will save both of you several hours in the future if you have your own copy and do not have to keep begging them to see theirs.

Using Accreditation Reports

Before you begin to thumb through an accreditation report, be sure to note who actually wrote the document you have. There are two common types of reports that assess the quality of a school. The one you want is the evaluation conducted by the accrediting association, which will give you a candid look at the condition of your school. The other type of report is



called the "self-study" or the "periodic review." This is the report *written by the school*, sometime between evaluations, which discusses how the school has responded to the last evaluation. Although useful, the "self-study" is typically less objective than the evaluation.

The typical accreditation report will cover, in the minutest of detail, how a school is doing in certain areas. For example, the Southern Association of Colleges and Schools (SACS) evaluates colleges in six categories. The SACS looks at educational programs, faculty, educational support services (such as libraries and computer services), administration, financial resources, and physical resources (for example, buildings, safety on campus and planning). Although a typical accreditation report is about 100 pages, some schools have multi-volume reports of thousands of pages in length.

For the student reporter on the prowl for a new lead, the uses of the accreditation report are innumerable, and no attempt will be made here to discuss all of them. With that in mind, a review of four accreditation reports obtained from Washington, D.C.-area schools turned up many possible story ideas.

For example, one report obtained from a community college revealed that the school has been on permanent censure by the

American Association of University Professors for the past twenty years because it does not grant tenure to any faculty as a matter of policy. The question could be asked: what does this mean to the school, especially in regards to attracting quality faculty to the school?

Another report at a large public college categorized

the devastating effects that state budget cuts had on the school, and then offered some solutions. Since the report was five years old, an enterprising reporter could take those solutions and see how many have been implemented. A large private school was criticized in its report for creating a "wish-list" of future plans without discussing the costs of such plans. A student reporter may want to inquire about future tuition



increases or increased class-size at that institution.

Besides the voluminous text, many accreditation reports include interesting graphs. For example, some reports use charts to compare the holdings of the library. One private university compared its library holdings with a "market basket" of similar private universities. Some reports include the number of faculty, broken down by race, ethnicity, and gender. Others compare faculty salaries with other schools. Such information may be useful to denote trends at your school. For example, one report showed that a large public school suffering state budget cuts had an overall decrease in faculty, but a somewhat surprising increase in women faculty.

Finally, some reports even include a copy of the school's anticipated future budgets. A school may include its budget to show that it plans on increasing spending in those areas that the evaluators have previously criticized. Although the budget is a public record at public schools, the "self-study" may be the only place a student reporter at a private college can obtain such information.

After slogging through the 500-page accreditation report, Jane Newshound now had Bliss College pinned. The report severely criticized the school a year earlier for reducing its periodicals by one third, and cutting its new acquisitions in half. Further analysis by Jane revealed that the library budget had been cut in order to pay for a new fleet of automobiles for the board of trustees. Now, Jane had a story, and the administrators could not stop blaming each other. ■

Congress takes aim at campus crime

Legislative action may result in greater access for student journalists

WASHINGTON, D.C. — Congress jumped into action last fall, taking up various issues concerning campus crime.

Student journalists and campus security activists have recently lobbied Congress to support legislation that would increase pressure on reluctant universities to release crime information.

Cover Section: Campus Crime While Congress debates, and the Department of Education regulates, students in Ohio and North Carolina pursue their claims in court

In September, the House of Representatives passed a resolution calling on the Department of Education to make campus security compliance a priority. The unanimous vote approving H.Res. 470 issued a challenge to Secretary of Education Richard Riley's thus far limited effort to monitor safety on the nation's college campuses.

Under the 1990 Student Right to Know and Campus Security Act, every college and university receiving any federal funding must compile campus crime statistics. In remarks made earlier this year, however, the Education Department said monitoring schools' compliance with the law was not a "priority."

Lax supervision by the Department, including a missed deadline for a Congressionally mandated compliance report (due September 1995), has given universities free reign over issuing questionable statistics, critics say. Many schools have been accused of altering or under-reporting crime rates to make campuses look safer.

Before the vote on H.Res. 470, criticism of Riley's actions and university non-compliance with the law were heard at a Sept. 11 Capitol Hill press conference. Rep. Bill Goodling (R-Pa.), Chairman of the House Economic and Educational Opportunities Committee and co-

sponsor of H.Res. 470, chided the Education Department for its lack of aggressiveness in enforcing the law. He suggested that if the current resolution does not force the department into action, then stronger measures would be taken.

"I want the presidents of colleges and universities to make this their number one priority," Goodling commented.

Among those who spoke at the conference were Connie Clery, whose daughter Jeanne Anne was raped and murdered in 1986 by a fellow student who broke into her Lehigh University dorm room. After discover-

ing negligent and conflicting information relating to Lehigh's reporting of campus crime, the Clery family has pursued stricter state and local laws for reporting campus crime information.

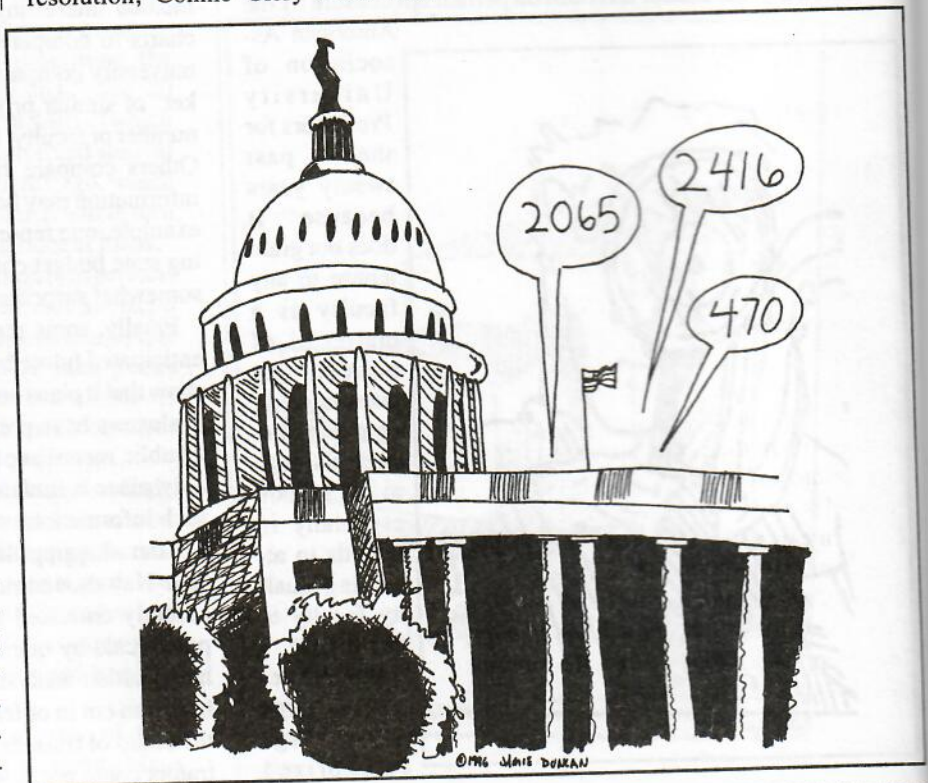
Other speakers included Rep. Buck McKeon (R-Calif.), co-sponsor of the resolution; Connie Clery's son Ben-

jamin; Addie Mix, the mother of a campus crime victim and founder of Reclaim a Youth; campus crime victim Christy Brzonkala; Society of Professional Journalists President Steve Geiman; Student Press Law Center Executive Director Mark Goodman and Jennifer Markiewicz, a former editor of the *Miami Student* who is currently involved in a public records lawsuit with Miami University of Ohio.

At the conference, the Clerys and others also pushed for adoption of the Open Campus Police Logs Act, H.R. 2416. Earlier in year, Rep. John Duncan (R-Tenn.) and 38 co-sponsors proposed the bill, which would provide a national standard of timely access to campus police records.

Supporters of this bill hoped it would go even further than the Campus Security Act in notifying students about the status of crime on campus. Hearings for H.R. 2416 were held before a subcommittee last summer. Since then, how-

(See CONGRESS, page 14)



School found in violation of federal law

First-of-its-kind investigation finds university in 'non-compliance'

MINNESOTA—In September the U.S. Department of Education found Moorhead State University in violation of the federal Campus Security Act, the first time any school has been investigated and found in “non-compliance” with the five-year-old law.

The Education Department handed down its much-anticipated decision to eager student journalists and campus crime activists. These groups have long-suspected many schools do not comply with the federal law.

The Student Right to Know and Campus Security Act, passed by Congress in 1990, requires universities receiving federal funding to compile and release campus crime statistics. The data covers

various incidents, including assaults, robberies and hate crimes. The law is meant to help students and staff make informed decisions concerning their work and study environments. Additionally, the information aids stu-

dent journalists in reporting on campus crime.

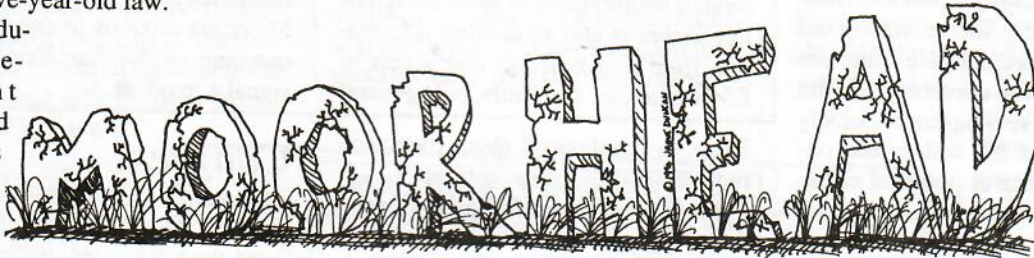
of the investigation, is reviewing whether Moorhead is now in compliance. The evaluation, released by the Education Department's Region V office in Chicago, took issue with many irregu-

larities in Moorhead's listing of key statistics in their annual security report. The review, for example, criticizes the college for estimating crime statistics instead

of compiling exact numbers. Estimates were based on information provided to the school by the town police department. These figures, defined by a grid system of the entire city, do not even cover all university-owned buildings.

There were other errors that the department considered serious. Reviewers

(See MOORHEAD, page 14)



of the investigation, is reviewing whether Moorhead is now in compliance.

The Department's review cited Moorhead's non-compliance with the security act, but did not impose sanctions. Further action was threatened, however, if changes were not made within a month. Ann B. Hageman, the Education Department official in charge

Ohio Supreme Court considers landmark Miami access case

OHIO — Jennifer Markiewitz, a 1996 graduate of Miami University of Ohio and the former editor in chief of the student newspaper, along with the current editor Emily Herbert are waging a much-watched battle in the journalism community.

In *Miami Student v. Miami University*, the students have taken to the state supreme court their demands for university crime information and access to judicial records. The case is expected to begin in early 1997.

Miami University has also been the target of a recent Department of Education investigation. The school is being looked at for possibly violating the federally mandated reporting of crime statistics under the 1990 Campus Security Act. ■

Waivers

(Continued from page 7)

The *News-Gazette* investigated the names given them by the two schools. The paper compared the list of winners against a computer database containing the names of top county and state officials, state employees and campaign contributors. They reported that at least 10 per cent of students awarded tuition waivers were the relatives of political supporters.

The paper also reported that many of the winners came from outside the legislator's district, a violation of state law.

Eastern and Western Illinois universities' release of information angered state legislators, many of whom said they felt tainted by the unseemly actions of a few. The state board of education agreed that the names of award winners were private and the two universities were wrong to release the information.

Both schools have since apologized for their actions. Western, however, said it was advised by attorneys to release the names.

In response to public outrage the state legislature passed a law that would make students consent to having their names released before accepting the waivers. Gov. Jim Edgar has vetoed the bill. He is pushing for a stricter version that would also disclose the amount of a student's waiver, the recipient's university, degree and the winner's home address.

Some lawmakers upset with the scandal have simply called for the program to be abolished. Craven, however, believes a final agreement will be reached soon.

Despite the negative press, many lawmakers say they give the waivers to deserving students. Some representatives create independent advisory councils to appropriately dispense the waivers based on merit and need.

The free rides cost the state's universities nearly \$4.4 million in 1994-95. ■

Moorhead

(Continued from page 13)

found that "the institution had apparently failed to consistently report carryover data." For example, in 1992, zero aggravated assaults are reported. In 1993, however, they reported the 1992 figure as being seven.

The school's security report contained other irregularities. The university did not compile and disclose hate crimes, as required by law. The university also did not have a cohesive program of "timely warning." This is the widespread on-campus notification of potential criminal danger to the community.

The group investigating Moorhead concluded, "The crime statistics included in the institution's annual security report do not reflect the number of actual crimes reported to campus officials." The review stated that contrary to the assurances of school officials, all crimes brought to the attention of university officials were not referred to the local police.

Moorhead also failed to inform students and faculty about the availability of security reports. The Education Department specifies that compiled crime statistics must be given to all students at the beginning of each school year. Previously, students at Moorhead had to provide written requests for the information.

The inspection of Moorhead was initiated by a complaint to the department by Margaret Jakobson, a former student, two years ago. After the complaint in November 1995, the university admitted to reporting problems and promised to correct any errors.

Early in 1996, however, Jakobson complained to the Education Department that the university had not made any corrections or distributed revised reports. An on-sight investigation of Moorhead by the department followed in April. Investigators then turned up more problems and confirmed that "contrary to the assurances provided in the University's letters, the corrections...had not been made."

In the past, the school has attributed

Tar Heel judicial hearing case argued in Dec.

NORTH CAROLINA — The University of North Carolina at Chapel Hill student newspaper's state open meetings law case against the school's closed disciplinary hearings was argued in December.

The Daily Tar Heel filed suit last April after being denied admittance to a case involving two students accused of stealing another campus publication. The newspaper is also requesting information from past hearings and access to future hearings. Currently, only general

statistics of university judicial proceedings are made public by the school.

A decision in *DTH Publishing Corporation v. University of North Carolina* had not been reached when the *Report* went to press.

A lawsuit for access to campus judicial proceedings has been won by only one other student newspaper, *The Red and Black* at the University of Georgia. Many are anxious to see whether the outcome of the *Tar Heel's* suit will signal a trend. ■

errors to "confusion" about the exact requirements of the security act.

There are a variety of punishments for colleges that are found in violation of the law, including the potential loss of federal funds. The severity may be lessened depending on whether the misreporting was intentional or not. So far, the Department of Education has indicated it will be satisfied with simply insuring that Moorhead's problems are corrected.

When the investigation results were released, Moorhead was given 30 days to respond. It was required to list its corrective actions and an exhaustive review of how it will successfully comply with the act in the future.

S. Daniel Carter, an official at Security on Campus, a non-profit group that monitors campus safety issues, said Moorhead should still be watched.

"We hope the department will fully investigate to ensure corrections have been made."

The Education Department's ruling is a trophy of sorts for campus crime advocates and student journalists. They have criticized the department's previously self-described lack of "priority" in aggressively checking schools' compliance with the Campus Security Act.

The Education Department cites a lack of resources that this large task would require. Since the Moorhead investigation began, the department has cited over a dozen schools for possible violations. Complaints have also been filed against Miami University of Ohio and the Virginia Polytechnic Institute. ■

Congress

(Continued from page 12)

ever, the bill has languished.

Sen. Dianne Feinstein (D-Calif.) introduced the Senate companion of the Open Campus Police Logs Act, S. 2065, in September. When introducing the bill, Feinstein commented that "students — and their parents — expect not only a quality education [at school], but also a campus on which they can study and live in safety."

Referring to the Campus Security Act, Feinstein also said her bill is needed because "under-reporting of crime statistics by school administrators and the utilization of internal campus disciplinary systems...have rendered the existing law ineffective."

Despite the attention campus crime received on the hill this year, the Open Campus Police Logs Act did not pass either house before Congress adjourned in October. The bill would have amended the Higher Education Act of 1965, which is up for reauthorization by Congress next year. Advocates hope to reintroduce the legislation at that time.

Connie Clery, who helped create Security on Campus, a not-for-profit organization that monitors campus crime issues, commented, "I'm very optimistic for next year. We want to keep the momentum going, but I'm confident that together, we'll win out."

For the text of the legislation described check out the SPLC's Internet home page at <http://www.splc.org/NEWSFLASHES/housres.html>. ■

Anti-harassment code struck down by federal court in Calif.

Teacher used Playboy, Hustler readings in pornography assignment

CALIFORNIA — A federal appeals court ruled in August that a community college's anti-harassment code violates the First Amendment rights of a professor disciplined for requiring students to read and analyze articles from magazines such as *Playboy* and *Hustler*.

The Ninth U.S. Circuit Court of Appeals ruling exonerated Professor Dean Cohen, who filed suit against San Bernardino Valley College after being reprimanded because of a student's complaint in 1993.

In the 3 to 0 decision in *Cohen v. San Bernardino Valley College*, 92 F.3d 968 (9th Cir. 1996), the court held that the school's policy violated Cohen's free speech rights because it was "unconstitutionally vague" and could "trap the innocent" by not specifying what material is inappropriate. A lower court had ruled against Cohen.

The ruling provides additional support to college publications that have been threatened with harassment charges based on material they publish.

Cohen's lawyer, Steven Rohde, said, "We are extremely pleased with the ruling....The decision totally vindicates Professor Cohen."

A tenured professor of English and film studies, Cohen has taught at the university since 1968. He was the first teacher ever charged under the anti-harassment rules.

The school's then newly enacted

policy forbids creating an "intimidating, hostile or offensive learning environment." It is based on a non-discrimination policy that is common among universities and businesses and resembles

as *Playboy* and *Hustler* and using profane language in class. The articles were for an essay assignment on pornography. Murillo stopped going to class and complained to the English department

chair when Cohen refused to give her a different essay topic.

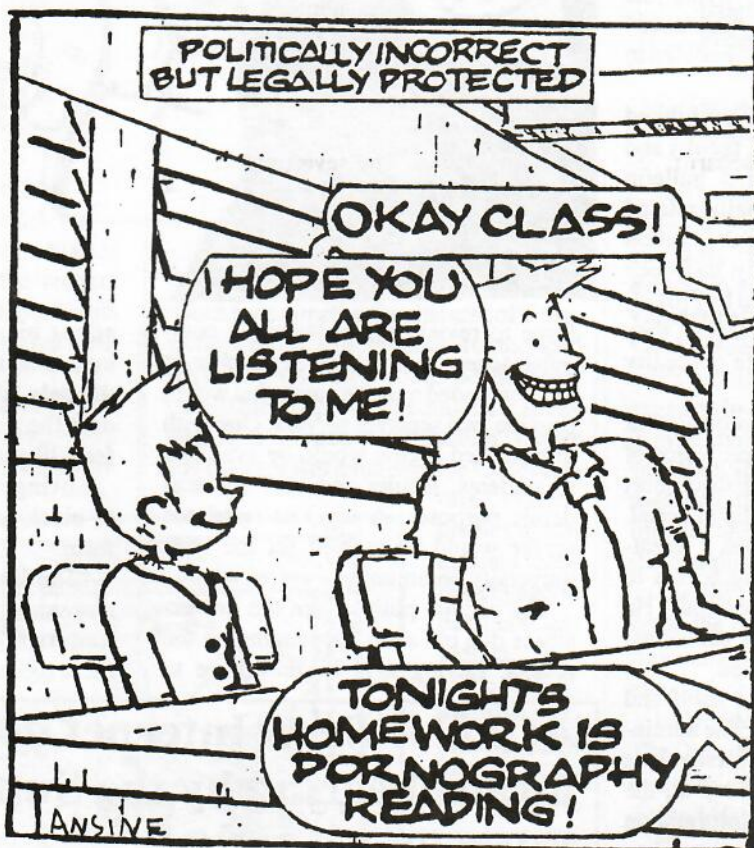
Murillo failed the class and filed a formal complaint with university officials over a year later. She claimed Cohen's behavior was directed at her and other female students. The school's grievance committee said charges of sexual harassment against Cohen were well-founded. That decision was appealed to the board of trustees who agreed Cohen's actions were inappropriate.

The board required Cohen to take sensitivity training and submit detailed class plans with appropriate content warnings to the department and to students. Finally, he was warned that another

complaint could result in his suspension or termination.

The court's favorable ruling, Rohde maintains, "demonstrates that even the laudable goal of eliminating sexual harassment cannot be achieved at the expense of First Amendment rights."

In October the court denied the school's request for a rehearing. Cohen and Rohde are now waiting to see if the college appeals to the U.S. Supreme Court. ■



the state Equal Employment Opportunity Commission guidelines against harassment. In its ruling, the court said the policy unjustly forces professors to censor themselves.

Professor Cohen was accused of harassment by Anita Murillo after she took his remedial English class in 1992. The professor was accused of discussing controversial sexual subjects, reading articles he wrote from magazines such

Okla. professor takes university to court for blocking access to sexual material online

OKLAHOMA—A University of Oklahoma professor has sued the school for violating his First Amendment rights after it implemented a new policy blocking campus access to sexually explicit material on the Internet.

University President David Boren, a former U.S. senator, agreed with the appropriateness of the suit, saying this was a matter that needed "guidance" from the courts. The case is scheduled to be heard in January.

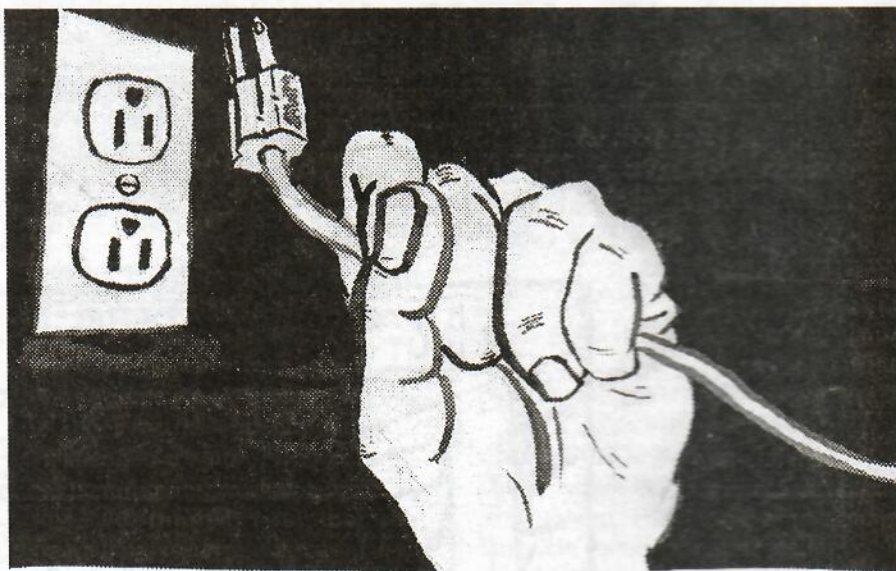
Last April, the university prohibited the transmission to students, faculty and staff of hundreds of Usenet bulletin boards that contained sexually related graphics or information. Administration officials explained that they had been warned by a state senator that by providing previously unrestricted access, they could be in violation of state obscenity laws.

Bill Loving, an assistant professor of journalism and an adjunct professor of law, filed the suit in federal district court in May to restore the blocked material. Loving claims the school took a "meat-cleaver" approach to cutting access to computer news groups on campus. He cites a discussion group for sexual assault victims that was blocked.

The school later reversed itself and opened a few blocked sites. The administration admits that the university does not have the ability to examine all the news groups, so they act on information that certain addresses contain pornographic material.

After the sites were blocked, the student government voted against the new policy. Students outraged with the university's actions say the content of what is being restricted is irrelevant. But Lori Brooks, the editor in chief of the student newspaper, the *Oklahoma Daily*, said that overall, "Students have a mixed reaction. Some say the university was within its rights, others believe it is clearly a case of censorship."

After the incident, Boren set up a task



force to review the university's computer access policies. In September, it recommended a compromise that would provide two separate servers. One with unrestricted access would be available to students, faculty and staff for academic purposes. A separate restricted server would be created for the non-university community.

The official policy from the university is due out soon. Depending on the results, Loving says he may have to

adjust his lawsuit. He believes, however, that improved measures would ultimately "do nothing to deny the president the right to censor again when he feels like it."

Loving claims that the school's effort to block material is unjustified in any form.

"The Internet is a public forum. The current policy would restrict that public forum and [it] thus violates First Amendment rights," Loving said. ■

ACLU v. Reno Internet decency case awaits hearing by the Supreme Court

WASHINGTON, D.C. — The Supreme Court is set to hear a case testing the legality of new limits on free speech in cyberspace.

The high court has not yet set a date for oral arguments in *American Civil Liberties Union v. Reno*, but briefs are due between January and March.

The case tests legislation passed by Congress and signed by the president in 1996. Portions of the Communications Decency Act would establish criminal penalties for the distribution of "indecent" or "patently offensive" material

to minors online.

Lawyers for the ACLU contend the law would limit First Amendment rights. Student journalists and their advisers, many of whom publish and do research on the Internet, have spoken out against the potential harm the law could cause.

A federal district court in Pennsylvania derided the Communication Decency Act's "content-based regulation" last summer. The three-judge panel unanimously held in June that the law is unconstitutional. ■

Princeton backs off Internet restriction

School removes ban on online political use under ACLU pressure

NEW JERSEY — Princeton University reversed in September a newly issued policy that would have prohibited use of its Internet access and e-mail systems for "political purposes" after widespread criticism and a threatened ACLU lawsuit.

After several months of policy clarifications and contentious heat from Princeton students and staff, the university backed away from a policy that would have potentially disciplined individuals for campaigning or even downloading information from candidates' web pages.

The issue took on immediate importance for all sides, considering the recent presidential race. Massie Ritsch, a senior writer at the student newspaper, *The Daily Princetonian*, said, "It's the case of a new medium that's not quite understood."

Last July, Princeton reiterated its previously unenforced ban on individual use of the school's computers for politi-

cal purposes. In a letter to the university community, Princeton quoted its regulations as specifying that "The computing and network resources of the University may not be used by members of the University community for...political purposes."

"It's the case of a new medium that's not quite understood."

*Massie Ritsch
student journalist*

The school's strengthened resolve to reign in policy violations was brought about by a concern for the school's tax-exempt status. School administrators said they believed they could be held accountable for partisan communications sent over its computer system. Under the Internal Revenue Service Code, cer-

tain non-profit organizations cannot engage in partisan activities.

The ACLU, which received complaints about the school's policy through its New Jersey office, disputed the university's claims. They countered that while the tax code says the university itself cannot support political positions,

students, faculty and staff are explicitly exempted. ACLU lawyers also accused the university's restrictions of violating the New Jersey Constitution.

In August, Princeton admitted the previous memo was over-broad and clarified its stance. The new memo stated that while campus members were "generally free" to communicate political views, electronic campaign activities were still not allowed.

In a written reply, the ACLU criticized the school for not rescinding the ban on political activity completely. Likening online political work to the right of distributing campaign literature on campus, the ACLU emphasized Princeton's obstructive policies were still violating students' rights.

Ann Beeson, the ACLU national office staff attorney in charge of computer censorship issues, has said that while it is important for the university to not be specifically associated with partisan material, that could be done without limiting the First Amendment rights of the campus community.

The ACLU further urged the school to settle the matter quickly as not to interrupt campus involvement in the general election.

In a mid-September submission to *The Daily Princetonian*, Princeton's general counsel Howard S. Ende completely rescinded the school's earlier statements.

"It is not Princeton's goal to prohibit individual members of the university community from using Princeton's computer network for personal political discourse," he wrote. "Our goal as an educational institution is to foster the free exchange of ideas to the greatest extent possible."

The ACLU congratulated Princeton on its change in policy. The organization has also said it is working on guidelines to help other universities ensure free expression on the Internet. ■



Know the score

Photographers can protect themselves by keeping a few things in mind

Photojournalists are often faced with tough choices when covering news stories. They must make on-the-spot decisions that affect the way important issues are covered. Knowing that student journalists have rights when it comes to pictures and film can help protect photographers against unwarranted searches and seizures and ensure that the press acts as an independent and objective reporter.

In two cases last fall, student photographers were faced with the uncomfortable prospect of turning over their unpublished pictures to others because of what the pictures could have contained. In a third case, a former student journalist sued the city of Los Angeles over pictures police confiscated from him over 20 years ago and won.

In the first case, a student photographer in California was subpoenaed for pictures he took of a crime scene. The subpoena was later dropped by authorities who said the pictures they wanted were not likely to help the prosecution's case. (See *Student*, this page.)

In the second case, a student photographer in Oregon was confronted by two men who demanded that he give them his camera and film after the student took pictures of a candidate for the U.S. Senate. When the student complied and turned over the equipment, the individuals immediately exposed the film. Neither the newspaper nor the university was able to discover the identity of the two men. (See *Portland*, page 19.)

In the third case, a man who took pictures of Robert Kennedy's assassination for his student newspaper was ordered to give them to Los Angeles police. 28 years later, he won his lawsuit. (See *Former*, page 19.)

Every court to rule on the subject of reporter's privilege has said that student photographers have the same rights as professional journalists. Many courts have recognized a "qualified privilege" under the First Amendment that protects journalists from disclosing their work product.

In addition to constitutional protection, journalists in some states are protected by a "shield law" against disclosing sources, materials or information. However, neither a shield law nor a qualified privilege will always provide absolute protection. Generally, they can be overcome and reporters forced to testify if those seeking the information can demonstrate to a court that the information sought is (1) highly material and relevant, (2) necessary or critical to the maintenance of the claim and (3) not obtainable from other available sources.

(See *RIGHTS*, page 19)

Student photographer beats subpoena, keeps unpublished pictures

CALIFORNIA — The free press rights of student journalists have benefited from a short-lived legal battle over the unpublished photographs of a crime scene.

Soren Hemilla, photo editor for the *Contra Costa College Advocate*, was named in an October subpoena that would have forced him to give certain pictures to the San Pablo police for use in a criminal investigation.

The bid for the photographer's pictures has since been withdrawn, thanks largely to Hemilla's willingness to stand up for his own First Amendment rights, according to the newspaper's adviser.

The pictures were taken by Hemilla soon after another student, Christopher Robinson, was fatally shot on campus in September. Hemilla arrived at the scene within minutes and took pictures for about an hour. Three male suspects were charged with what the local media called a gang-related, execution-style murder.

According to court documents, the prosecutor in the case, Deputy District Attorney William Clark, first asked California Superior Court Judge John Minney to issue a subpoena for the pictures because Hemilla refused to turn them over to the police. The subpoena stated that when a police detective asked Hemilla if he had taken pictures of the scene, Hemilla answered that he had taken photographs, that the pictures were his "personal property," and that they were not taken on behalf of *The Advocate*.

Hemilla told the *Report* he did not say those things. Hemilla said he never told the police the pictures he took were his own, nor did he deny taking the pictures for publication in the student newspaper.

Nevertheless, Judge Minney issued the subpoena on October 9 and a hearing was set for Oct. 30. The adviser to the *Advocate*, Paul De Bolt, said that when he first heard of the subpoena, he was afraid of what the police might do.

"We weren't sure if the cops were going to [get a subpoena to] come search the newsroom" he said. De Bolt said when the subpoena did arrive, he and Hemilla contacted an attorney to discuss their legal options. Attorney James Wagstaffe agreed to represent Hemilla and filed a motion to quash the subpoena on his behalf.

In the subpoena, Wagstaffe argued that both the state and federal constitutions shield newsmen such as Hemilla from becoming involved as witnesses or in producing unpublished notes or photographs.

In a surprising move, Deputy District Attorney Clark withdrew the bid for Hemilla's photographs on the day of the court hearing. Clark later told reporters the DA's office decided not to pursue the subpoena because he "was under the impression, basically mistaken, that [Hemilla] took [the pictures] before the police

(See *SUBPOENA*, page 19)

Portland student loses camera

OREGON — Unidentified “security men” confiscated a University of Portland photographer’s camera and film in September as he took pictures of U.S. Senate candidate Tom Bruggere.

Eddie Schweizer, a freshman photographer for *The Beacon*, was covering an AIDS Walk benefit in downtown Portland. Schweizer turned his attention to Bruggere when he noticed the Democratic candidate mixing with a group of people nearby.

According to *Beacon* Editor in Chief Todd Iverson, three or four men claiming to be security personnel then approached the photographer and demanded he turn over his camera and film. Schweizer complied but convinced them to return the camera. The men, however, exposed the film on the spot.

After Schweizer reported the incident to the student newspaper, Iverson said they made a concerted effort to determine for whom the security team was working. Both AIDS Walk organizers and Bruggere’s staff said they did not know about the security men or the incident.

Bruggere lost the election by about 35,000 votes to Republican Gordon Smith. ■

Subpoena

(Continued from page 18)

arrived” at the scene of the crime. Clark also told a local newspaper that not having Hemilla’s photographs would not hurt the prosecution’s case.

De Bolt said he felt that as a student journalist who is protected under California’s shield law, Hemilla had a strong case and would have won had it gone before the judge. De Bolt emphasized that the paper fought the subpoena to maintain the distinction between law enforcement and a free press.

Both De Bolt and Hemilla agreed that although it was a strong case, if Hemilla had not stood up for himself, he could have had his legal protections subverted. “Every time you forfeit your rights,” said De Bolt, “you lose them.”

Wagstaffe said he was happy the subpoena was withdrawn. He said the judge “understood and appreciated the fact that press rights apply to [Hemmila].” But Wagstaffe said Hemmilla’s case shows how important it is for students to

stand up for their rights. He commented that, although some may view students as “just kids, the First Amendment doesn’t have an age barrier.”

Ingrid Perez, the newspaper’s editor, said she and the staff of the *Advocate* supported Hemmilla from the beginning. Perez said the subpoena was “definitely” an infringement on the First Amendment rights of the student press. “We’re

not by law required to give our sources out,” Perez said, “it’s kind of like reading a writer’s notes.”

“We have to learn our rights and responsibilities as journalists,” said Hemilla, “because we’re still held to the same standards as [professionals]. The professionals started the same way we are, and this dealt with their rights just like mine” Hemilla said.

Despite Clark’s statement that not having Hemilla’s photographs would not hurt the prosecution’s case, Clark later said the district attorney’s office would retain the option of pressing for the pictures.

“If I learned that [Hemmila] did have photographs taken before the police arrived, I’d get another subpoena” said Clark. ■

SUBPOENA	
IN THE COURT OF THIS COUNTY, THIS STATE	
PLAINTIFF	ET AL
VS.	CASE NUMBER 00-000
DEFENDANT	ET AL
TO: UNFORTUNATE REPORTER	
YOU ARE HEREBY COMMANDED TO APPEAR IN THE CIRCUIT COURT OF THIS COUNTY AT THE PLACE, DATE AND TIME SPECIFIED BELOW TO TESTIFY IN THE ABOVE CASE	
PLACE: Courtroom 2 This County Courthouse This City, TS	DATE AND TIME: September 12, 1994 1:00 P.M.
SOME PERSON, CLERK OF THE CIRCUIT COURT (BY) DEPUTY CLERK:	
QUESTIONS MAY BE ADDRESSED TO:	
Attorney: A. Nother Person Box X That Road This Town, TS 00000	
THIS SUBPOENA SHALL REMAIN IN EFFECT UNTIL YOU ARE GRANTED LEAVE TO DEPART BY THE COURT OR BY AN OFFICER ACTING ON BEHALF OF THE COURT	

Former student wins suit over RFK photos

CALIFORNIA — A former high school student photographer was awarded over \$400,000 in August by a Los Angeles jury that found the city negligent in not giving back photographs confiscated by police after Robert F. Kennedy’s assassination.

According to the *Los Angeles Times*, Jamie Scott Enyart said that on June 5, 1968, when he was 15 years old and a photographer for the Fairfax High School student newspaper, he took pictures of the scene where Kennedy was shot.

Now, 28 years after the police took his film “at gunpoint,” Enyart has received an award of \$450,600 and a verdict against the city.

Enyart told the *Times* he took the pictures during Kennedy’s acceptance speech after winning the California Democratic presidential primary.

According to the *Times*, the city has not decided whether to appeal the decision. ■

Rights

(Continued from page 18)

In this regard, working for the student media is no different from working for the commercial media. The legal standards are the same. The pace can be as, if not more, hectic and the pressure to turn over news materials to law enforcement officials is all the more intense, since compared to full-time journalists, students may not have had the same range of experiences when confronted with difficult choices. Knowing one’s rights as a member of the student press can help guarantee that those choices, while sometimes inevitable, are made from an informed position.

For more information about the reporter’s privilege, see the SPLC’s book, *Law of the Student Press*. ■

Law student banned from reporting

Student sanctioned for possessing confidential admissions information

FLORIDA — A University of Miami honor court has disciplined a student newspaper editor for possessing confidential school records and attempting to write a story on affirmative action.

Last March, David Scott, then a second-year law student, was found guilty by the honor court of having "received, perused and disseminated confidential ... files and information about minority and majority students."

Scott's claim that he was acting as a journalist for the student paper *Res Ipsa Loquitur* was dismissed by the school official reviewing his case.

In September 1995, Scott found 40 pages of confidential student records from the admissions office in his school mailbox. The anonymous package appeared after he wrote an article in the student newspaper criticizing minority-exclusive summer prep programs.

The documents purportedly show lenient admission standards for African-American students at the school. Scott investigated the matter with fellow students and faculty and then went to the vice dean of the law school, Lonnie Rose, seeking a comment.

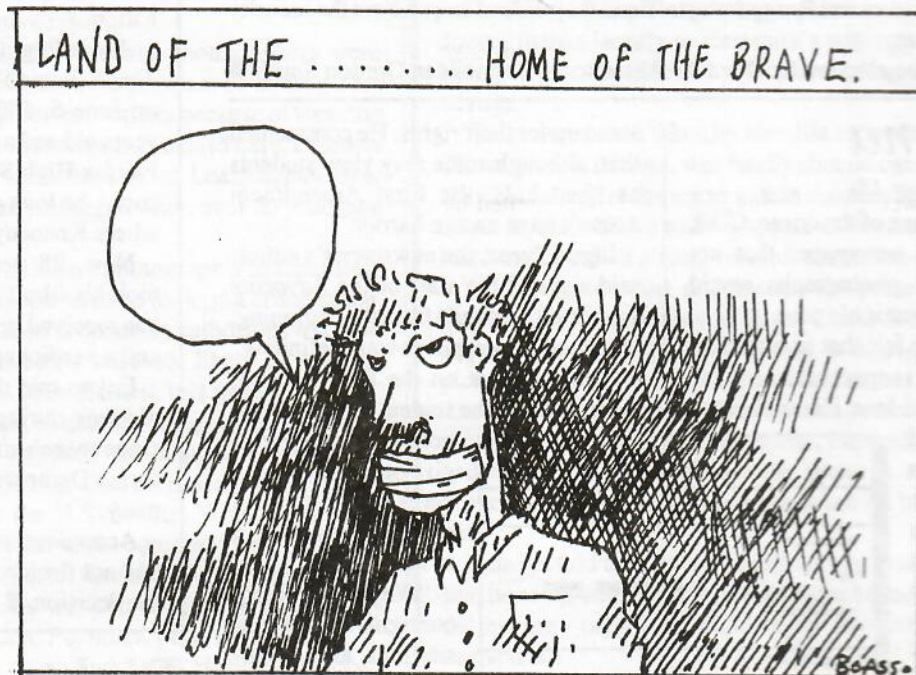
Scott declared his intention to write an article about the information in the context of the school's uneven admissions standards. According to Scott, Dean Rose said he would not be allowed to write the story.

Days after his meeting with the school administrator, Scott received an official

request from the school's legal counsel to return or destroy the documents. Scott sought legal consultation and returned the material 3 days later.

According to Scott, while negotiations for the documents was occurring, Dean Rose escalated the emotions of the minority community by claiming Scott

to work with the school investigator as an aggravating factor in their ruling (a criticism Scott denies). After the decision, Scott and his student advocate officially appealed. In August, Professor Mary Doyle acting in lieu of the dean who has "final review and sanction," rejected his appeal.



was "going to release the names and LSAT scores of all black students." Concerned students then held a unity rally. Scott claims minority leaders, with the school's encouragement, tried to shift the issue away from affirmative action by focusing on the incident as an invasion of privacy.

At the rally, incensed classmates and professors called Scott a "right-wing bigot" intent on disparaging minority students. Scott denies being a racist and claims confidentiality was always a concern.

"The newspaper had no intention of printing any of the names listed on the documents," he said.

In announcing its guilty findings, the honor court cited Scott's unwillingness

Scott cannot hold any club office or participate in student activities or contests. Besides writing for the student newspaper, he was president of the school's Federalist Society and a founding member of the Second Amendment Society. According to Scott, the editor of the student newspaper cannot run any of his submissions. Letters to the editor are only allowed if they pertain to previously published stories.

Dean Rose would not comment on Scott's case specifically. When asked if, in general, it was fair for the school to restrict student speech and press liberties as a punishment, Rose said that while "students have the right of free speech, they also have to be in compli-

(See SANCTION, page 24)

The official sanction Scott received provides that he "not be allowed to be in a position to create the kind of harm he caused...." The punishment "banishes Mr. Scott from participation in Law School Community life and is intended to convey the judgment that he is not a proper representative of the student body of the law school."

New student speech protections proposed

WASHINGTON, D.C. — A bill introduced in the U.S. House of Representatives would have offered new protection for students' free speech rights.

H.R. 2407, also known as the Freedom of Speech and Association on Campus Act of 1996, sought to withhold funds from public and private universities that punish students for engaging in expression that would be protected by the First and 14th amendments. Rep. Robert Livingston (R-La.) introduced the legislation in September.

Quin Hillyer, Livingston's press secretary, said the representative introduced the legislation because he was "concerned that students' free speech and association rights were being abridged."

The bill was sent to the House Economic and Educational Opportunities Committee. It was not acted on and died when Congress adjourned a month later. Hillyer said "the bill was put out there so its supporters would have something to work with over the [Congressional] break."

Hillyer expects the bill will be reintroduced sometime early in the new Congress. ■

Rosenberger costly decision for U.Va.

VIRGINIA — Over a year after the Supreme Court struck down the University of Virginia's attempt to limit funds to a religious student newspaper, the school has recently disclosed the real price of their loss.

In seeking to withhold \$5,862 in funds to publish the Christian student newspaper *Wide Awake*, the university now must pay the plaintiff's \$309,516 court costs in addition to their own.

In *Rosenberger v. University of Virginia*, the school argued that funding the paper would violate the First Amendment's establishment clause. The school won in trial and appellate courts, but lost before the Supreme Court. The Supreme Court's decision reaffirmed strong First Amendment protections for the college media. ■

Conservative paper wins against censoring senate

ILLINOIS — After a long struggle, a conservative student newspaper at Northwestern University has won the right to distribute freely on campus.

Many observers believe conservative student newspapers across the country have faced difficulties finding funding, writing in a politically correct era and distributing in the midst of wide-spread antagonism towards their ideas.

The culminating battle of the *Northwestern Chronicle* last May tells a lot about the problems these papers face. The *Chronicle*, an independently funded publication published since 1992, had been prohibited by the student government from distributing newspapers in front of individual dormitory rooms.

Unlike the official student paper the *Northwestern Daily*, which stacks its papers around campus, the *Chronicle's* staff worried that its papers were more

susceptible to theft because of their ideological stands, according to Editor in Chief Luke Preczewski. The *Chronicle* is known for running stories that some on campus find controversial and insensitive.

The direct distribution of over 6,000 newspapers, according to Preczewski, helps attract advertisers, too. The widespread distribution also means embarrassed sympathizers do not have to go out of their way to pick up the

Chronicle.

But last April, the student government required certain publications that come out at least three times a year to limit distribution to rooms that requested it. All unclaimed copies also had to be picked up after 24 hours. Though neutrally worded, the law only affected the *Chronicle*.

These regulations were supposedly prompted by excess newspapers cluttering the hallways. The student government claimed janitors had complained about the mess.

The *Chronicle* violated the new rules and incurred further sanctions by the student government. The newspaper appealed to a university hearings board.

At the hearing, no specific student or janitorial complaints were substantiated and the sanctions imposed on the

(See CONSERVATIVE, page 22)



Quick Facts: *Knowing your free press rights*

By way of the First and 14th Amendments, state-supported universities cannot censor the student press. These schools are considered state actors and are required to support free speech.

But what about everyone else? The First Amendment to the Constitution states that "Congress shall make no law...abridging the freedom of speech, or of the press...." Private colleges and university students constitute a respectable proportion of the total student population, yet press rights at those schools are not as protected because administration officials are not state actors.

There are other ways, however, for private school journalists to redress censorship concerns. Sometimes logical arguments concerning the benefit of a free press or pressure from outside alumni, parents or media can influence would-be censors.



Often, a private university's own bylaws or regulations indicate a legally enforceable contract that protects student free speech rights. If private schools pledge to protect free expression, they must adhere to it, despite the lack of constitutional directive.

Finally, every state constitution has some sort of free expression guarantee on the books. Many of these offer broader, more affirmative protection than does the U.S. Constitution. In some cases these laws could be used to protect students at private universities.

For more information on private schools and press freedom, see the SPLC's book *Law of the Student Press* or check out our web site at <http://www.splc.org/RESOURCES/Private.School/>. ■

Paper publishes blank copy *Editors protest adviser's censorship policies*

WASHINGTON—A student newspaper at Washington State University in Pullman published a virtually blank issue protesting the censorship policies of their adviser last October.

The staff at the *Daily Evergreen* distributed a newspaper that contained only advertisements and one front-page editorial criticizing their new adviser, Bob Hilliard.

The editorial said Hilliard "went back on two of the most important promises made before he was hired: That he would not censor this newspaper, and that he would not attempt to take the student out of Student Publications."

The protest was specifically aimed at an Oct. 31 news article about the university's search for a new provost. According to Tracy Cutchlow, managing editor of the *Daily Evergreen*, though Hilliard pronounced the copy clean, he requested students not run the story because information it contained might jeopardize the search. Student editors confirmed their sources and ran the story anyway.

One of the candidates for the provost position is Hilliard's boss, Geoff Gamble. Hilliard claims Gamble, who had called him with concerns about the story, did

not ask him to prevent its release.

According to Cutchlow, Hilliard was "livid" when he saw the article. He suspended the newspaper's editorial adviser, Jeff Hand, for three days for not preventing the article's publication. Hand is a university staff member who works most closely with the students throughout the writing and editing process.

Students, upset over Hand's treatment, went on strike.

"He was being punished for our actions," Cutchlow said.

Hand's suspension was almost immediately lifted.

The next day, the blank issue condemning Hilliard's censorship appeared. It cost the newspaper over \$5,000 in revenue that the advertising department refunded to clients.

In early November, the newspaper editorial staff met with the university publications board which oversees Hilliard and the newspaper. Cutchlow said the board declined to react to the situation. She said the newspaper staff will now concentrate on conforming Hilliard's job description to the College Media Adviser's code of ethics, which would prohibit censorship. ■

Conservative

(Continued from page 21)

Chronicle were dismissed.

"The board went even further than we expected," said Laina Wolman, the newspaper's production manager. In light of similarly rejected complaints about the *Chronicle's* distribution policy in the past, new disagreements must now go through the hearings board first. This protection against future student government wrath was welcomed by the newspaper's staff.

Despite this seemingly absolute win for student press rights, Northwestern differs from many other private institutions in its ultimate sanctioning of an unofficial student newspaper. Northwestern dormitories are, by contract,

considered public spaces and as a result, the school has limited ability to regulate distribution of student publications. The same is not true for every private school.

Like many conservative student newspapers, the *Chronicle* has worked hard to establish a legitimate forum for its ideas. The newspaper is a member of the Collegiate Network, an organization of 52 libertarian and conservative student papers around the country.

Many of these newspapers challenge students by offering ideas that some believe are not socially acceptable.

"We take on the role of verbalizing views others think, but are afraid to say," Preczewski said. He added that the very nature of a free and tolerant society should be to accept ideas that most often "set you apart." ■

Politics squeeze newspapers' funding

Across the country editors face government pressure, harassment

The Old Dominion University student senate cut the campus newspaper's funding over 96 percent last April amid allegations the action was politically motivated.

The university refused to interfere with the senate's decisions, but the *Virginian-Pilot*, a Norfolk professional newspaper, stepped in with a one-time grant to supplement the *Mace and Crown's* budget. The gift allowed the student paper to put out its first paper of the school year.

Alleged harassment by student governments attempting to intimidate the student press through reduced funding may be increasing. Recently, similar problems in Pennsylvania and Minnesota have occurred.

The Old Dominion student senate, which has authority over all student activity allocations, defended its decision to cut the newspaper's funding. Senate President Jeff Rowley has said many programs, including the scholarships of student leaders such as himself, were cut in an effort to create more diverse options for student involvement.

The *Mace and Crown*, though, was by far the hardest hit. Its funding fell from \$2,500 in 1995-96 to \$100 this year. "I

was shocked," said *Mace and Crown* editor Valerie Carino. "I couldn't believe an organization like the student senate would use their purse strings to silence us."

Last year, the newspaper had supported an impeachment effort against then-senate president Chris Pearson. When Pearson was elected, students voted to raise the minimum grade point average of student government officers from 2.0 to 2.5. Pearson's GPA was 2.06.

The senate voted to exempt him.

At that time, *Mace and Crown* also covered supposed election violations concerning then-vice president Rowley. Rowley contends no actual complaints were filed with the election commission.

Both Pearson and Rowley were involved in drafting this year's budget at the time of the allegations.

In this year's budget, 26 new groups were funded and two-thirds of existing activities received budget increases. The budget supports previously unfunded organizations like the National Organization for the Reform of Marijuana Laws.

The money from the city paper was a one-time gift. As for next year's budget,

Carino said "We are trying now to negotiate on friendly terms."

In Minnesota, Tammy Oseid, the editor of the student newspaper at St. John's College has accused the student senate of similar budget-led intimidation. The senate there slashed the paper's funding by about one third last year.

Last spring, the newspaper ran a story about a university investigation into \$46,000 of senate spending. The senate was accused of misappropriating funds.

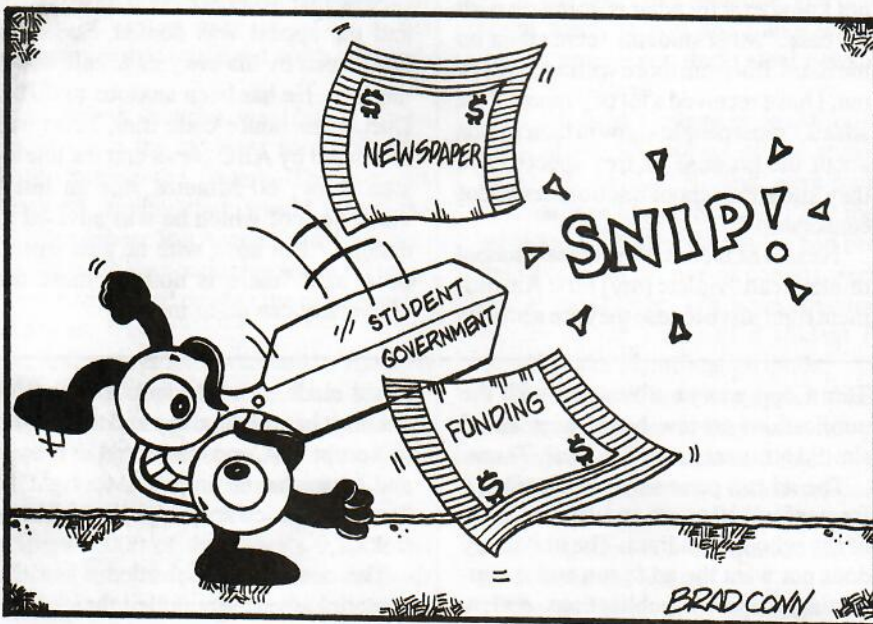
Also at issue, according to Oseid, is the fact that she is the first female editor of the paper. Oseid is a student at a nearby all-girls school, St. Benedict's, which shares activity membership with St. John's.

Robb Bass, who sits on the senate board that allocates activity funds, has said the cuts were not in retaliation. He claims the newspaper's wasteful spending habits played a part in the senate's decision to cut funding.

According to Oseid, in response to the controversy administrators have considered separating newspaper funding from the other club appropriations disbursed by the student government. But she said since the funding controversy has subsided, the initiative has lost momentum.

In another case, last spring the newspaper staff at Pennsylvania State University in Harrisburg experienced similar censorship problems. According to Jody Jacobs, the editor of the *Capital Times*, the student government association seemed irked over coverage of their meetings, so they cut the newspaper's budget. "They didn't like being directly quoted," Jacobs said.

According to Jacobs, although it has not been easy, the paper has made do with less money. But this year, there is a new government and things look brighter. "They are not treating us as just a club anymore," Jacobs said. In the future, the newspaper's budget will be funded directly from the student activity fee. Jacobs said she expects this will eliminate any content controversies with the student government. ■



Oversight policy moves through U. of Texas system

TEXAS — A publications policy that could require prior review by school officials over the student newspaper at the University of Texas at Pan American is still working its way through the university system.

David Waltz, the editor of the student newspaper *Pan American*, has tried to work with the school to shape a policy that would discourage censorship. But the policy recommended by the school last fall still includes a provision that would allow the university-appointed newspaper adviser to "withhold copy for 48 hours pending the appeals process...." Even with this provision, Waltz believes the policy will not be approved by university administrators because it does not offer enough "control" for school officials.

While Waltz has not been censored, he fears an ill-conceived policy would have dire effects on future editors.

Waltz has discussed with the American Civil Liberties Union and other student editors across the state the possibility of filing a class action suit against the university system if a final prior review policy at his school is approved. Other university system schools that have had questions raised over prior review policies are at Austin, El Paso and Arlington.

In anticipation of a potential lawsuit, Waltz says he has been banned from using university telephones. Unless he pays for it himself, he cannot contact other student editors, the American Civil Liberties Union or the Student Press Law Center.

Robert Rollins, the newspaper's adviser, admitted "[Waltz's] calls will be looked at." While Rollins says the student cannot call the ACLU (because of the potential lawsuit), he did say Waltz could contact the Student Press Law Center for "separate" issues.

Ironically, at another Texas university, a content control issue may benefit the power of the student editor in chief. At the University of Texas at Austin,

Sanction

(Continued from page 20)

ance with standards independent [of that right]."

"There is nothing I can do to speak out or defend myself short of getting on a soapbox in the middle of campus," Scott said.

The dean also placed a letter explaining Scott's honor code violation and a copy of his sanctions in his permanent file. This information will be sent to any bar to which Scott seeks admission.

In announcing the school's agreement with the honor court's findings, Doyle said, "...[Scott's] actions were not motivated...by malice, but rather by a misguided belief that in possessing the documents he was acting in furtherance of journalistic objectives...."

In September Scott wrote a letter to fellow students explaining his side of the story. In it, he claims that in their sanction, the school is adding insult to injury by "...denying me the right to free speech."

Scott says he thinks most students do not know exactly what is going on with his case. "Most students seem silent on the issue. But from those willing to speak out, I have received a lot of support." He added, "most people know in their minds about the promise of free speech, and they know the school's actions smack of censorship."

He said he is convinced the law school thinks it can "violate [my] First Amendment right just because they are a private

institution." According to Scott, even the undergraduate newspaper, the *Hurricane*, has been given free press protection through a university policy.

To silence him, Scott says the school even offered a transfer to the University of California at Berkeley for a final year of law school in exile. Scott explained that "that would look great on my record." But the determined student is convinced his place is in Miami.

"It's a matter of principle now. The school's actions are totally unacceptable."

Now in his final year of classes, Scott is considering options to try the matter in



public courts. He says he has a group of lawyers who would like to sue the school. Scott also said he has spoken with the American Civil Liberties Union and they may be interested in using his grievance with the school as a test case.

Now that his honor court case is over and the appeal was denied, Scott has been freed by his lawyers to talk about the case. He has been anxious to do so. During the honor code trial, Scott was contacted by ABC News and the television show "60 Minutes" for an interview, both of which he was advised to decline. "But now, with the case over," Scott said "there is nothing more the University can do to me." ■

Tara Copp was in arbitration with the publications review board over an ad she did not want run in *The Daily Texan*.

The ad is a personal attack against a former football coach and the namesake of the school's stadium. The university does not want the ad to run and is supporting Copp. A publications review

board made up of students and faculty claims it has the final say and they voted to accept it. Copp contacted a lawyer and says she is prepared to fight to "protect the newspaper's editorial control."

The controversy subsided when the potential advertisers pulled their ad. ■

After Them!

Student newspapers across the country continue to fall victim to theft

Signs of a new school year: the leaves have turned, footballs fill the air and newspaper thieves at America's college campuses are back in action.

In the first reported newspaper theft of the 1996-97 academic school year, over 2,000 copies of the **Northern Essex Community College Observer** were stolen Sept. 20.

The incident occurred just after 8 a.m., according to the paper's adviser, Joseph Le Blanc. While walking across the Haverhill school's campus, the adviser said he saw two female students in the process of removing the papers from a distribution point and placing them in white plastic bags.

According to Le Blanc, when he asked the students about their actions, they ignored him and continued to remove the papers. They told Le Blanc that taking the newspapers was their form of protest over an article in the *Observer* that criticized welfare recipients.

Campus security was called to the scene and the students were asked to stop taking the papers. The students agreed, saying they would return the stolen papers. But according to Le Blanc, only two bags containing about 500 copies were placed outside the newspaper's offices.

A few days later, students at **Eastern Illinois University** in Charleston received an unexpected surprise when they went to pick up their copies of the *Daily Eastern News* student newspaper.

According to editor Travis Spencer, about 8,000 of the paper's 9,100 total press run disappeared from drop-off points around campus on Sept. 24 be-

tween 8 and 8:50 a.m. *The News* reprinted 4,000 copies and distributed them across campus later in the day.

The reason for the theft, as well as possible suspects, remains unclear for students and faculty. Spencer, who spoke to the university judicial board about the thefts, said he wanted the paper to get back the money it had lost. The paper's publisher, John David Reed, said those responsible should be caught.



"If you don't like someone, you don't shoot them, if you don't like what a person writes, you don't steal newspapers," said Reed.

At **Linfield College** in McMinnville, Ore., about 500 copies of the student paper, the *Linfield Review*, were found in a garbage bin on Sept. 27. The theft occurred soon after the papers had been distributed on the eve of parents weekend at the college. The issue contained stories on the arrest of a student for making fake identification cards.

Editor Ryan Gardener said that if there were any witnesses, they have not yet come forward. He also said that advertisers in the paper have called and complained about the theft. So far the school administration has not questioned any students in the matter.

The last instance of newspaper theft

on Linfield's campus was eight years ago when members of a fraternity stole copies of the paper. In that incident, said Gardener, the members confessed to the theft and had to pay the cost of reprinting the newspaper.

This time, however, there have been no official confessions to school administrators, according to the college's dean of students, Dave Hansen. Because no one has confessed to the theft, and be-

cause there is no supporting evidence as to who might have stolen the papers, Hansen said, it is unlikely that anyone will be punished.

In North Carolina, copies of the student newspaper at the **University of North Carolina** at Chapel Hill have been vanishing from boxes across campus.

An editor for the paper, John Sweeney, said that an unknown number of copies of *The*

Daily Tar Heel, which has a circulation of 20,000, disappeared from news racks on October 3. In an earlier disappearance on September 19 Sweeney said the paper's general manager reported all of the papers missing. The disappearances have followed no pattern, Sweeney said, but the university police have been notified.

The university's judicial programs officer, Margaret Barrett, said that taking papers is a violation of two parts of the university student code: theft of personal property on the premises and deprivation of the free speech rights of others. The university's administration has yet to decide whether the paper's disappearance will be considered theft. According to a story in the student paper, if the school decides the papers were stolen

(See *THEFT*, page 26)

Theft

(Continued from page 25)

and if the culprits are identified, the school's student attorney general said those involved could be prosecuted.

Meanwhile, on October 9, a student group removed from stands approximately 1,700 copies of *Et Cetera*, the student newspaper of **Eastfield College** in Mesquite, Texas. The paper prints between 2,500 and 3,000 copies, said the paper's adviser, Marilyn Worsham.

The students told newspaper staff members they took the papers because of an editorial cartoon that was run in the October 9 issue, according to *Et Cetera* editor Cory Johnson. The students, members of the Organization of United Hispanic Students, took the papers to protest a cartoon they said was racist, said Johnson.

The student newspaper's adviser said "it is unfortunate that [the incident] happened" and that she and members of the *Et Cetera* staff were surprised the cartoon drew such a heated reaction from students. Worsham said she had not expected the cartoon to be controversial before the paper ran it.

"[The paper's staff] didn't see the same thing [the students] saw," she said, referring to the cartoon.

So far, administrators at the school have refused to take action against the group.

"You can't steal free papers," said the school's vice president of student development, Felix Zamora. Zamora said he is working to bring both parties together to try and work the matter out, but that no disciplinary action was being contemplated against the students.

Students at **Eastern Michigan University** better be wary of where they put their student newspapers. They just might not see them again.

On October 16, after receiving complaints from students about missing copies of the *Eastern Echo*, adviser Paul Heaton decided to keep an eye on the building where the papers had been re-

portedly disappearing.

He soon found what he was looking for when a campus police officer, acting on a statement from a member of the paper's staff, confronted a university janitor. The man admitted to taking the papers that morning and placing them in the garbage bin behind the building.

The adviser said in a campus police report that he found about 250 papers in the garbage bin behind the building. The janitor told police he took the papers because the students threw them all over the floor and did not pick up after themselves.



The school has said it will not prosecute the janitor because police have refused to classify the act as a theft.

In Massachusetts, an administrator admitted to the editor of the student newspaper at **Clark University** that he threw copies of an alternative newspaper into a recycling bin.

Rebecca Kirsznner, editor of *The Scarlet*, said a school administrator told her he took copies of the alternative paper *Wheatbread* because the papers "weren't good for Clark." The administrator refused to comment on the incident.

"It was wrong," said *Wheatbread* editor Randy Mack. "We have a forum for student expression [at Clark], and people we pay to provide us with peripheral services came in and decided they would

prevent students from having access to this [medium]" said Mack.

The school's dean of students, Denise Darrigrand, said she would not have taken the same route as the administrator, whom she would not identify. Darrigrand said that instead of taking copies of the student-funded publication, she would have "left them there." She said university police investigated and found no evidence that a theft had occurred.

In DeLand, Fla., a university's department of public safety found copies of the university's student newspaper in a student's dormitory room after the paper published the arrest of another student on drug charges.

The female student's boyfriend was arrested for dealing drugs and for stealing a **Stetson University** scale worth over \$400, said the *Stetson Reporter's* Managing Editor, Stacy Gum. Gum said that after public safety officials found the papers in the student's room, Gum and editor Davina Yetter met with the student judicial officer, David Bergen, about the theft.

"We told him it was wrong, but if it happens again, we want...whatever it takes" said Gum. Yetter agreed, saying she wanted to get the message across that stealing newspa-

pers is wrong.

Bergen refused to disclose details of the case, but did say that Stetson University considers it theft when individuals take newspapers with the intention of depriving others of the opportunity of reading them. He also said the student involved participated in the university's judicial system and that the matter was resolved.

In the first case this school year of newspaper theft involving a high school, some students at **Rondout High School** in Accord, N.Y., received their copies of the student newspaper *Rondout Review*, but only after adviser Rosalou Novi discovered 450 papers missing. A total of 500 copies of the newspaper, which is

(See *RONDOUT*, page 27)

Anti-theft legislation sprouting wings

State lawmakers plan to introduce bills that would criminalize theft of free periodicals

The Student Press Law Center *Report* devotes space in nearly every issue to detailing student newspaper thefts across the nation. In many cases, thefts go unreported and unprosecuted. But at a number of schools, student journalists, journalism educators and free speech groups have brought the issue to the attention of state legislators.

In response to a newspaper theft in September, the editor of the Northern Essex Community College *Observer* has supported the introduction of a bill in the Massachusetts state legislature that would criminalize newspaper theft.

The bill would amend the general laws to say that anyone who willfully or knowingly obtains newspapers intending to prevent others from reading them can be punished with up to a \$500 fine or 60 days in jail.

The legislation is being introduced in the state House of Representatives by Rep. Brian Dempsey (D-Haverhill) and co-sponsored in the Senate by Sen. James Jajuga (D-Methuen). An aide to Rep. Dempsey said the bill is designed to

protect the freedom of speech guaranteed to students, even when others may object to that speech. Sen. Jajuga said "I will not stand idly by while free speech is allowed to be stifled without further protection under the laws of the Commonwealth [of Massachusetts]."

"I will not stand idly by while free speech is allowed to be stifled without further protection under the laws...."

James Jajuga
Massachusetts State Senator

A bill that will be introduced in the Michigan legislature by Rep. Elizabeth Brater (D-Ann Arbor) in January is similar to the bill in Massachusetts. The bill would make illegal the theft of free periodicals.

According to an aide to Rep. Brater, the bill is in response to a March 1996 theft of the University of Michigan *Michigan Daily* in which over 8,000 copies of the newspaper were stolen.

The bill would make stealing free periodicals a misdemeanor punishable by up to 90 days in jail and/or a \$100 fine.

After three students were prosecuted in the theft of the student newspaper at the University of Kentucky, the faculty adviser to the *Kentucky Kernel*, Michael Agin, said he is working to get the support of state journalism organizations in passing a law against newspaper theft.

Agin said he has talked to the executive director of the Kentucky Press Association and members of the Kentucky Intercollegiate Press Association about supporting such a law, and hopes to see a bill introduced to the legislature by the next session, which meets in February.

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Rondout

(Continued from page 26)

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23,000 student newspapers stolen

CALIFORNIA — The November elections may have caused rejoicing for some, and disappointment for others. But at *The Daily Californian*, the student newspaper of the University of California at Berkeley, staff members were frustrated after several individuals were seen taking copies of the November 5 issue of the paper.

For the staff the fact that papers were taken was upsetting enough. But in this case, the numbers speak for themselves.

According to the newspaper's editor, Mike Coleman, the thieves made off with almost the entire press run of 24,000 copies. Coleman said the motivation behind the theft was "absolutely political," referring to the paper's endorsement of California Proposition 209.

The ballot issue, which voters ap-

proved, would eliminate race and gender based preferences in hiring, education and contracting practices by government agencies across the state.

For the Nov. 4 and 5 issues of the *Daily Californian*, the paper's editorial board decided to run the endorsement as an editorial. According to Coleman, the 11 member board's decision came after "heated" talks and a vote of 6 to 5 in support of the editorial. On Monday, Nov. 4, about 4,000 copies of the paper were removed soon after they were distributed, Coleman said. On Tuesday morning, Coleman said a number of "loiterers" were seen waiting for the newspapers to be distributed. Witnesses saw the individuals take the papers from news racks and leave, the editor said.

(See *BERKELEY*, page 28)

Anti-theft legislation sprouting wings

State lawmakers plan to introduce bills that would criminalize theft of free periodicals

The Student Press Law Center *Report* devotes space in nearly every issue to detailing student newspaper thefts across the nation. In many cases, thefts go unreported and unprosecuted. But at a number of schools, student journalists, journalism educators and free speech groups have brought the issue to the attention of state legislators.

In response to a newspaper theft in September, the editor of the Northern Essex Community College *Observer* has supported the introduction of a bill in the Massachusetts state legislature that would criminalize newspaper theft.

The bill would amend the general laws to say that anyone who willfully or knowingly obtains newspapers intending to prevent others from reading them can be punished with up to a \$500 fine or 60 days in jail.

The legislation is being introduced in the state House of Representatives by Rep. Brian Dempsey (D-Haverhill) and co-sponsored in the Senate by Sen. James Jajuga (D-Methuen). An aide to Rep. Dempsey said the bill is designed to

protect the freedom of speech guaranteed to students, even when others may object to that speech. Sen. Jajuga said "I will not stand idly by while free speech is allowed to be stifled without further protection under the laws of the Commonwealth [of Massachusetts]."

"I will not stand idly by while free speech is allowed to be stifled without further protection under the laws...."

James Jajuga
Massachusetts State Senator

A bill that will be introduced in the Michigan legislature by Rep. Elizabeth Brater (D-Ann Arbor) in January is similar to the bill in Massachusetts. The bill would make illegal the theft of free periodicals.

According to an aide to Rep. Brater, the bill is in response to a March 1996 theft of the University of Michigan *Michigan Daily* in which over 8,000 copies of the newspaper were stolen.

The bill would make stealing free periodicals a misdemeanor punishable by up to 90 days in jail and/or a \$100 fine.

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(See *BERKELEY*, page 28)

Theft cases have progressed at three universities; two criminal cases are successfully prosecuted

Often when student publications are the victims of theft, administrators are unwilling to investigate and prosecute those responsible. At three schools, however, students have fought to convince officials that stealing papers is a crime.

In Austin, Texas, Corrado Giovanella has been given six months probation and a deferred prosecution after entering a guilty plea to a charge of theft. Giovanella was accused of stealing copies of the University of Texas at Austin's *Daily Texan* in August of 1995.

The charge is a class A misdemeanor that involves materials worth \$500-1,500.

An official in the Austin district attorney's office said the prosecution did

Berkeley

(Continued from page 27)

The university police have been investigating the incident but have no suspects, said Captain Bill Cooper. He said they have not decided whether they consider the action a theft, but that there could be grounds for a civil lawsuit if those responsible are found.

The newspaper's managing editor, Erin Allbay, said she wants those responsible to come forward and acknowledge what they did. She said she would ideally like to have the paper get back the money it lost, but doubts if that will happen. Coleman said costs for advertising, printing and distributing the newspaper were about \$15,000.

The administrator who handles student disciplinary proceedings said no one has been identified as responsible for the theft, and that no administrative investigation will be conducted unless a complaint against another student is filed.

Coleman said if those responsible are found, he "absolutely" plans to file a lawsuit. ■



not seek payment for the lost papers or some other form of restitution. The official said prosecutors would have had difficulty proving the papers' value.

Giovanella was reported in the *Texan* as having admitted to stealing the papers because of an article that appeared on his arrest for forging a letter of recommendation to gain acceptance to the university.

At the University of North Carolina at Chapel Hill, two students are in the middle of an on-going battle to open campus meetings after they were accused of stealing copies of the student publication, *Carolina Review*.

The school's primary student newspaper, *The Daily Tar Heel*, filed a lawsuit against the school in April of 1996 to open hearings of the university honor court where the students, Rich Fremont and Reza Ardalan, were tried. According to the general manager of *The Daily Tar Heel* and the general manager of the *Carolina Review*, both students were acquitted by the school later that same month.

The university's judicial affairs officer, citing school policy, refused to disclose the outcome of the case, even to say whether the case was resolved.

The officer did, however, provide a

copy of the student judicial case listings, which includes an entry: "(2 Students) Restraining freedom of speech of another student or group by removing publications. Plea: Not Guilty. Verdict: Not Guilty." No other information was given.

The battle between the university and the *Daily Tar Heel* over access to the honor court proceedings is still pending in court. (See *Tar Heel*, page 14.)

The students were accused of stealing the publication because of articles in the *Review*

that criticized the student body president, who is a member of Fremont and Ardalan's fraternity.

In Kentucky, three University of Kentucky students will perform community service for the school's disabled students or for a Lexington nature sanctuary as punishment for stealing copies of the student newspaper, the *Kentucky Kernel* in April.

An employee with the Fayette county attorney's office said two of the suspects, Christopher O'Bryan and Cory B. Petry, entered guilty pleas to class B misdemeanor charges.

A third suspect, John W. Thornton, entered an Alford plea, which, according to the attorney's office, means there is evidence to substantiate the charge.

All three have entered a program to perform 60 hours of community service.

If they successfully complete the program, the charges can be dismissed. But if not, they can be punished with 12 months in jail and/or a \$500 fine.

The newspaper's adviser, Michael Agin, said he was pleased with the outcome of the case.

"We proved the point that theft is a criminal act, that people can be held accountable for their actions...that freedom of the press is important." ■

Ex-Rutgers professor sues university

Former professor alleges race discrimination was cause of firing

NEW JERSEY—A fired Rutgers University journalism professor is suing his former school for discrimination he alleges occurred over several articles he wrote for the student newspaper.

Gregg Morris, who is African-American, filed suit in federal court and is pursuing his case in arbitration and with the Equal Employment Opportunities Commission.

Morris had taught journalism at the New Brunswick campus of Rutgers for seven years. According to Morris, two years ago his contract was not renewed because of several satirical columns he wrote for *The Daily Targum*. The pieces, featuring the mythical character T.B. Knight, mocked an air of insensitivity towards blacks and women which Morris felt had permeated the school's journalism department.

After several columns ran, Morris, a popular professor among students, was unofficially notified that his contract would not be

renewed the next year.

The following year, Morris, a member of the American Association of University Professors, filed for arbitration under his union contract. The case is ongoing. Morris expects favorable results, but says that could take another year or so. Regardless of the outcome, because he was not tenured at Rutgers, the arbitrator's decision is non-binding.

In February 1996, the agency rejected his claim, a decision Morris is appealing.

Despite this initial setback, Morris has continued his fight, filing suit in federal court. He believes he has a good chance of winning because "[Rutgers] has a lot of contradictory information." A federal Magistrate was set to hear the case in December.

In response to Morris' complaints, Rutgers first said his contract was not renewed be-

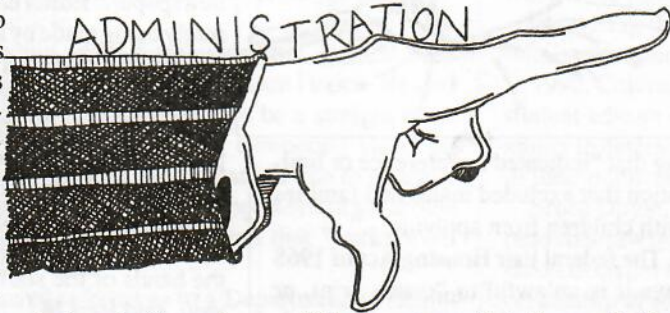
cause he had no master's degree. Morris pointed out that he earned one from Cornell University. Since then, Rutgers has said it is not obliged to explain employment decisions.

The journalism department at Rutgers

did not return phone calls to the *Report*.

Morris wrote for various publications, including the *New York Post*, before deciding to teach. He is also an author.

Currently, Morris is in a tenure-track position as an Assistant Professor of Journalism at Hunter College in New York. ■



"I just want people to know what happened to me and to know what happens to other minorities," Morris said. "The problem is [the discrimination] is usually kept under wraps."

Morris also filed a claim with the Equal Employment Opportunities Commission.

Teacher sues administrators over bestiality story

WASHINGTON—A high school teacher who was removed from her position as adviser to the student newspaper last May, has filed suit against the Stanwood School District, the superintendent and the school principal.

Val Schroeder was removed from her duties teaching journalism and yearbook and from her position as adviser to the student newspaper at the beginning of the 1996-97 school year, according to Fern Valentine of the Washington Journalism Education Association.

Schroeder claims in her suit that she lost her position as adviser to the *Spartan Spectrum* because of how administrators treated her after one of her students wrote a story in the paper about bestiality. The suit claims that Schroeder was removed from her position and reassigned in retaliation for allowing the article to be published.

The school district's superintendent, Raymond Reid, filed a written complaint with the state superintendent of public instruction in early 1996, reporting "certain misconducts." He claims that Schroeder allowed the publication of an article

whose subject matter was "inappropriate for high school-aged students." The letter also directed the superintendent's attention to school guidelines defining obscene material. The letter has not yet been addressed by the state superintendent, said Valentine.

Although he would not comment on the specifics of Schroeder's suit, Stanwood principal Gary Vegar said the case had "no merit." He would not say whether the material in question was obscene, only that it was "inappropriate for high school-aged students." "The real issue," he said, "is whether or not students should be given total control over issues of taste." Valentine disagreed.

"They treated her completely unfairly" she said. Valentine added that when the superintendent called the story obscene, "they only quoted the part [in the school policy] about obscenity, and this clearly wasn't obscene. But [administrators] ignored the part of the guidelines that say no prior restraint is allowed and that a teacher can't be liable for what students write." ■

Editors, housing board settle suit over ad

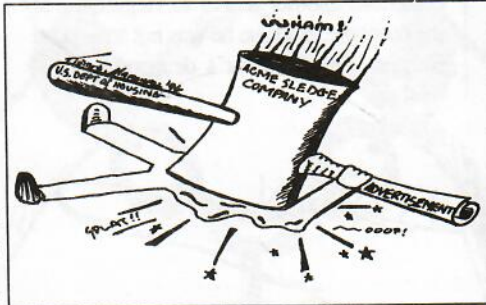
HAWAII — A community housing board in Honolulu has settled its complaint that a student newspaper violated a federal housing law by discriminating against certain groups in the paper's classified advertising space.

The complaint, filed in September 1995 with the U.S. Department of Housing and Urban Development by the Honolulu Community Housing Resource Board against the University of Hawaii-Manoa's Board of Publications, claimed that in April of 1995, the student newspaper, *Ka Leo O Hawaii'i* discriminated against males and children when it ran a housing advertisement that read in part "females preferred."

According to Jim Reis, Director of Co-curricular Activities, Programs and Services for the University, both the publications board and the housing board have decided on an agreement. In it, the paper's board, while not admitting liability, agrees not to publish discrimina-

tory advertising. *Ka Leo O Hawaii'i* staff members and the paper's adviser also must attend a four-hour training session on fair housing and illegal discriminatory advertising.

The housing board, a non-profit organization, claimed the paper violated federal housing law by publishing advertis-



ing that "indicated a preference or limitation that excluded males and families with children from applying...."

The federal Fair Housing Act of 1968 says it is unlawful to "make, print, or publish...any notice, statement, or ad-

vertisement, with respect to the sale or rental of a dwelling that indicates any preference...based on race, color, religion, sex, handicap, familial status, or national origin...." (42 U.S.C. 3600 et seq.)

"We're working to get people not to walk into traps" said Norman Tam of the housing board, referring to editors who he said may not recognize discriminatory advertising.

When asked about the complaint, Reis said "[*Ka Leo O Hawaii'i*] is a student newspaper." Editorial decisions are currently being made by students, said Reis, adding that the paper will continue this policy despite the complaint.

In addition to the training session, the publications board has also agreed to print an article on fair housing laws and the rights of students, though just when the article is to be published remains in the hands of the staff at *Ka Leo O Hawaii*, said Reis. ■

Tobacco advertisers say ban could affect student journalism

NORTH CAROLINA — The struggle between tobacco interests and federal regulators has put students in the middle of what has become a heated First Amendment debate over tobacco advertising.

In August, President Clinton called on the Food and Drug Administration (FDA) to regulate tobacco as an addictive drug. The regulations would place tighter controls on tobacco advertising. Shortly thereafter, advertising and tobacco groups filed lawsuits challenging the restrictions.

At a press briefing the same day that the President announced the new restrictions, FDA Commissioner David Kessler and Health and Human Services Secretary Donna Shalala also spoke about them.

Kessler said that the regulations are focused on "kids and kids only," and

that "encouraging advertising and promotion that encourages illegal behavior is simply not the right thing to do, nor is it protected under the First Amendment." "The government can protect children" Kessler insisted. Secretary Shalala called the restrictions "the most important public health initiative in a generation."

Advertisers connected with the suit argue that the regulations, proposed by the President and supported by the Department of Health and Human Services, are unconstitutional because of the excessive way they restrict speech.

"Contrary to what people may think, this [lawsuit] is not about tobacco or giving tobacco to kids" said Jeff Perlman, the American Advertising Federation's Senior Vice President of Governmental Affairs. Perlman said that in pursuing this action, the government is not playing by the rules set down in the constitution. Where the student press is involved, Perlman said, its role as a carrier of advertising could be undermined.

"If you think about the government's definition of what the student press is...and what kinds of [publications] they

can regulate, anything that carries advertising is potentially affected ...anything from *Boys' Life* to *Foreign Affairs*" Perlman said.

A federal district court in North Carolina is scheduled to hold a hearing on February 10 to decide whether the case warrants a trial. ■



Story on gay teen life sparks controversy

'Well written' article results in policy review for student newspaper

COLORADO —The editor of a student newspaper in Colorado Springs who authored a story about gay youth has seen a backlash of local and administrative protest, including a push by some to revise the district's student publications guidelines.

Mary Margaret Nussbaum wrote the story as a feature article for the front page of the Palmer High School *Lever*.

"It was an article about difference in high school" she said. "We'd been thinking about it for a while, and [other staff members] planned to write about it. We'd gotten letters from gay and bi-sexual students saying there was a need for this [article]." According to Nussbaum, the day after the article was published, a parent called the school principal and complained about the article.

"Twenty-four hours after distribution, the phones were ringing off the hook" said *Lever* adviser Vince Puzick. He said the article was originally not intended to be a straight news story, that it dealt not with balancing competing views on homosexuality, but with describing what it's like to be a gay member of the population. Puzick said opponents of the article did not argue its journalistic quality, and that "critics even agreed it was well written."

The article included references to a Department of Health and Human Services study into gay teen suicide rates, as well as interviews with two lesbians, one of whom is a Palmer student, and information about a local support and activity group for gay, lesbian, and bisexual youth. At the end of the article, Nussbaum included phone numbers for the support group and a national gay/lesbian/bisexual youth hotline.

Puzick said a school board meeting was held on November 6 to decide on the present student publication guidelines. At the meeting, he said, members of the public were invited to make suggestions about changing the guidelines. He said board members even brought a tentative revision of the guidelines to the meeting. The new policy guidelines included a proposed list of inappropriate topics of discussion, and a requirement that the student paper not express an opinion on controversial topics that would affect the school's neutrality on those topics, said Puzick. He pointed out, however, that there were many in the audience at the meeting who supported the article and had no wish to see the guidelines altered.

In revising the guidelines, the school board may find itself running up against not only public opinion but state law as well. In 1990, Colorado passed a student free expression law giving student editors of school-sponsored student publications the ability to determine the news, opinion, and advertising content of their publications.

Bruce Doyle, a member of the school board, said the Colorado state law provides more protection than the 1988 Supreme Court decision *Hazlewood v. Kuhlmeier*, which allowed more censorship of school-sponsored student newspapers under the First Amendment.

"These students are pretty well protected by the law" he said.

Doyle said that the school board would decide what changes in the guidelines to make, if any, at a meeting scheduled for Dec. 11. The student publications guidelines, said Doyle, would then be made available to the public. ■

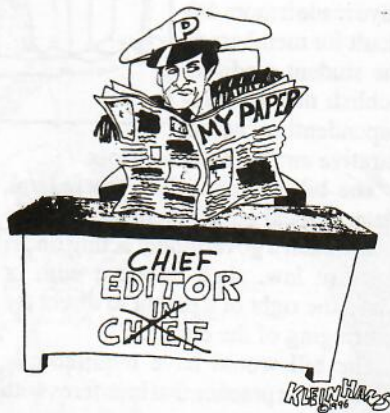
Principal names himself paper's editor

MISSISSIPPI — In an unusual twist to the issue of high school censorship, principal Pete McMurry of Itawamba Agricultural High School has named himself editor in chief of the student newspaper after students sought to include a political cartoon in the paper last spring.

Former *Chieftain* editor Nicholas Nunnally, who is now a student at nearby Itawamba Community College, said the current student editor at the newspaper may bring a lawsuit if the school does not give students more control over their newspaper.

"If the administration of the high school...won't give control [of *The Chieftain*] to students unless a court tells them to," Nunnally said, "we'll take them to court."

Itawamba High School superinten-



dent David Cole, who is also the president of Itawamba Community College said he will support McMurry's decision

to act as adviser and editor of *The Chieftain*. Cole said the school has no official newspaper adviser to "teach students the role of the press in a free society" and that McMurry's decision to name himself the paper's editor was reasonable.

"Their influences are not school-based...the students meant well, but were led by influences not related to them" said Cole.

Cole defended McMurry's initial response to the cartoon, which was to confiscate all copies of the newspaper, by saying the cartoon was "inappropriate" and "would have caused bad blood."

The original cartoon portrayed a school district administrator visibly sweating after being asked about his long term plans for the high school. The cartoon has never been published in *The Chieftain*. ■

School board sues New York Commissioner

NEW YORK — A case of high school censorship has gone before the second highest court in the state of New York.

The Monticello Central School Board of Education is suing the Commissioner of Education of New York, Richard Mills, to overturn the commissioner's ruling that a Monticello High School senior had not been afforded due process when school officials decided to suspend the student after he published an underground newspaper in January of 1995 that urged students to "wear your Pot, Acid, Alcohol and Revolution T-shirts."

Mills ruled in favor of student Josh Herzog in November of 1995. At the request of school officials, police entered his home to search for evidence of his crime. Herzog was also charged with "inciting a riot." The charges against Herzog were later dropped.

Herzog and his parents filed a civil suit against the school and the police department in 1995, which is set to go to trial in January.

"I don't think anyone is proud of Josh's misspellings ...but that they should be angry his First Amendment rights [were found violated] is ridiculous...."

Mark Schulman
Attorney

According to Herzog's attorney, Mark Schulman, the school board denied Herzog's appeal of his suspension without ever considering the appeal's contents. Schulman said that members of the school board admitted under oath that they had not even read Herzog's appeal of the suspension. Further, Schulman said that both the school board and police officials violated Herzog's right to due process when they entered the Herzog family's home and seized computer disks containing information about the newspaper.

Schulman said the disciplinary case was argued before the state Supreme Court, Appellate Division, in October. He said the school has spent close to \$45,000 on the case, without giving any thought to its own actions.

"I don't think anyone is proud of

Josh's misspellings or grammatical errors, but that they should be angry his rights [were found violated] is ridiculous" said Schulman.

The attorney for the school, Henri Shawn, declined to comment on the appeal. ■

Two bills not passed called restrictive

Legislation could have placed more control in hands of parents

WASHINGTON, D.C. — Bills that could have placed more restrictions on high school student press freedom failed to become laws during the 104th Congress.

Sponsored by Sen. Charles Grassley (R-Iowa) and Rep. Steve Largent (R-Okla.), the Parental Rights and Responsibilities Act was left in the judiciary committees of both houses at the end of the session.

Also shelved was a piece of legislation by Grassley and Rep. Steve Horn (R-Calif.) titled the Family Privacy Protection Act. This bill passed the House but never made it from committee to the Senate floor.

The first bill, if enacted, would have given parents more control over schools. But critics have said that the bill could also have made it more difficult for members of the student media to publish materials independently of administrative and parental controls.

The bill required that "no federal, state, or local government, or any official of such a government acting under color of law, shall interfere with or usurp the right of a parent to direct the upbringing of the child...."

The bill would have required any government practice that interferes with parental rights to serve a compelling purpose, and that the practice be narrowly drawn in order to be the least restrictive. This kind of "strict scrutiny" test would have provided a high

standard for schools and students to meet in order not to interfere with parental rights.

Critics of the bill, including school administrators, said that this type of legislation would have given parents too much authority over the way their children are taught in schools.

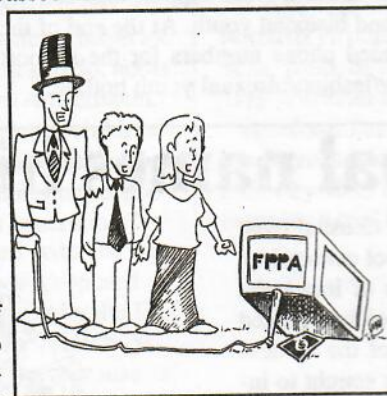
"This creates a right, and imposes a burden on school districts to justify what they're doing, that's impossible to meet" said Gwen Gregory, an attorney with the National Association of School Boards. Gregory said that where the student media is concerned, if the

bill had passed, the burden of proof that news stories on unpopular or controversial subjects do not violate parental rights would be impossible.

Also left in committee was the Family Privacy and Protection Act, sponsored by Grassley and Horn.

This bill would have required schools that receive federal funding to get permission from students' parents or guardians in order to survey students on certain topics. Parents or guardians would have had to provide a written consent form in order for students to participate in surveys that ask about a number of issues, including "parental political affiliations or beliefs" and "religious affiliations or beliefs."

The sponsors of both bills have said that they plan to reintroduce them in the new Congress in January. ■



Students claim softball suit censorship

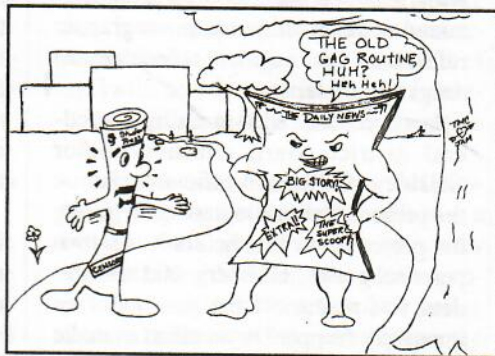
Superintendent says student newspaper is not a forum for free speech, students argue it is

NEBRASKA — At North Platte High School, staff members of the student newspaper have written editorials about a lawsuit against the school district despite what they say was a gag order on the story.

Michael Shearer, a reporter for the *Bulldogger*, wrote an editorial in the October 23 issue of the paper criticizing the administration for prohibiting discussion about a 1995 sexual discrimination lawsuit and its settlement. Two other students wrote an editorial on the lawsuit in September.

The legal battle began in April of 1995, when parents of seven North Platte students filed a Title IX sexual discrimination lawsuit against the North Platte Public School District. The plaintiffs alleged that the school discriminated against the female students by not providing them with the same athletic opportunities it provided male students.

The plaintiffs called upon the school to do a number of things, among them: add girls varsity softball to North Platte's fall athletic program, provide for the same size girls and boys locker rooms, and pay the plaintiffs \$75,000 in attorneys' fees.



In April of 1996, before the suit went to trial, the plaintiffs and the school agreed on a settlement, called a consent decree, that the school board approved by a vote of 4-2.

Also in April, students said the school district's superintendent applied a stipulation of the settlement to the student newspaper.

A section of the consent decree, which was signed by both parties, stated that "the parties to this action have agreed not to discuss this action or this Consent Decree with the Nebraska media..."

Superintendent Chris Richardson said this section was designed to prevent the school from striking back at the plaintiffs for bringing the lawsuit. He said that because the plaintiffs "were high school students and their parents, there was concern that they would be verbally...retaliated against, because they pressed to have a girls' softball team."

Richardson, citing a school district attorney, said the parties to the action included the *Bulldogger* because the (See *BULLDOGGER*, page 34)

Students lose battle to distribute alternative press

WISCONSIN — Students in Milwaukee suffered a blow in their censorship battle with high school administrators when a state court ruled in favor of the school's decision to censor the students' underground publication. The students have appealed the decision to the state court of appeals.

The ruling came in the form of a summary judgment decision against six Nicolet High School students who were suspended by their principal after they distributed the non school-sponsored underground newspaper *Ricochet* in January of 1995.

In the August decision, Wisconsin State Circuit Court Judge Raymond Gieringer said that time, place, and manner restrictions placed on the newspaper by school administrators were valid under federal and state constitutions. He also said that regulations developed by the

school's principal, Dr. Elliot Moeser, before the first issue of *Ricochet* came out, regulations designed to restrict certain kinds of speech distributed by students, were in fact constitutional.

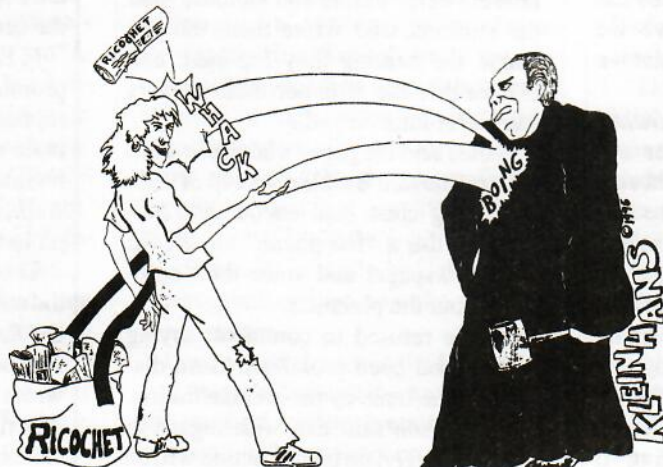
Part of the school guidelines placed limits on the types of materials students were able to distribute. One section read

"Students shall not distribute written material which: is obscene, pornographic, lewd, contains indecent or vulgar language, or advocates or encourages illegal behavior, including but not limited to the use of products illegal for use by minors..."

The regulations also required 24 hours notice before any written materials could be distributed, and a disclaimer on each paper telling readers the school did not endorse the paper.

School officials argued in briefs filed with the court that the content of *Ricochet* was not the issue. They said the school guidelines, which required any and all student-sponsored printed materials, including underground newspapers, to be distributed after school and at school exits, were established to maintain order in the school

(See *NICOLET*, page 37)



Suspended student settles writing project lawsuit

English teacher, school board found 'gangsta rap' lyrics threatening

VIRGINIA — A student at a Warrenton high school has settled a lawsuit against a school board for violating his constitutional free speech rights when it suspended him for presenting a creative writing assignment to his English class.

Daniel Green Jr. was suspended from Fauquier High School in the spring of 1996 after he presented to his teacher and class a year-long writing project about urban black youth.

The ninth grader was given an "F" for the project, a "D" for the course, and a ten-day suspension from school, according to court documents. The grades came directly after the incident, and the suspension came after a July 1996 school

board hearing to decide on a recommendation by Superintendent Anthony Lease that Green be disciplined for what he described as "very disrespectful" and "threatening" writing. The board agreed with Lease, saying Green's writing contained extreme vulgarity, pornographic references and explicit references to drugs and violence.

In a complaint filed in a Virginia federal district court, attorney Victor Glasberg said school officials mistook the persona Green adopted while giving his presentation for the student's own personal views. Glasberg said the student was acting out the persona of an inner-city "rapper" in an effort to make

his presentation more meaningful.

Glasberg wrote in the complaint that by punishing Green, Fauquier officials showed they were neither "ready, willing or, apparently, able to understand either [Green's] creative endeavor or the actual context [of his project]."

The attorney representing the school, Bill Chapman, declined to comment on the case, and the school district's superintendent, John Williams, did not return a call for comment.

In an article published by *The Washington Post*, the director of the Virginia chapter of the ACLU, Kent Willis, said of Green's project "I literally cannot
(See FAUQUIER, page 36)

Bulldogger

(Continued from page 33)

newspaper was not an independent forum for ideas, but a part of the school. Richardson said that "because the *Bulldogger* is school-sponsored...if it prints anything that attacks the plaintiffs, the school is responsible."

Shearer and *Bulldogger* co-editor Heather Kouba said they were told by Richardson in April that they would not be allowed to write about the terms of the settlement or about the lawsuit itself.

"We really wanted to write about it" said Kouba.

"I believe it is a violation [of the First Amendment] because I believe we should be able to write about what we want to" she said.

The subject was of enough interest to *Bulldogger* writers Ryan Hunter and Kyle Shepherd to write an editorial. Soon after classes resumed in the fall, Hunter said, the editorial was published. Hunter said the pieces focused on a request by the plaintiffs' to mandate that the school add a junior varsity softball team to its athletics program. The story criticized the plaintiffs for seeking the mandate, calling the litigation "silly little lawsuits" and saying "If you whine and complain enough and threaten people with lawsuits, you can

get anything you want."

Attorney Kristen M. Galles, who represented the plaintiffs, said no gag was ordered on the paper. "Nobody told the student newspaper they couldn't write about this, anybody who [says] different is lying" she said. Galles said a note was sent by Richardson to the newspaper's adviser, Dennis Burkle, telling him to confirm facts before printing anything. "We never asked to block the newspaper, nor has the superintendent [done so]" Galles said.

Galles said that the girls involved in the suit were retaliated against, not only in the hallways, but in the *Bulldogger* as well. She said that the articles about the lawsuit were "untrue and vicious," that the students who wrote them did not attend the hearing they reported, and that neither the girls nor their lawyers were ever interviewed.

Galles said the paper's adviser was to blame. She said Burkle spoke ill of Title IX during class, and encouraged students to use a "fan phone" to call the local newspaper and voice their opinions about the plaintiffs.

Burkle refused to comment, saying that he had been prohibited from discussing the issue by the administration.

Richardson said that with regard to the *Bulldogger*, no further action will be taken unless the plaintiffs appeal to a court. ■

Journalism 'shattered'

WASHINGTON — Steve Simpson, who still teaches English at Port Townsend High School, quit his post teaching journalism and advising the *Arrow* because he said the school principal "left a journalism program that was shattered and journalistically censored."

No members of the student newspaper staff have plans to sue the school district for censorship, as far as the paper's former adviser knows. As for Simpson, he is currently involved in a lawsuit with the school unrelated to the censorship.

In February of 1996, the paper was prohibited from reporting sexual harassment accusations by several female students against a school staff member, said Simpson. He said the staff member, who was a counselor, no longer works at the school.

The school principal, Arcella Hall, did not return a call for comment from the *Report*.

Last year's editor of the *Arrow* wrote a letter to the school district superintendent asking that the censorship be overturned. Simpson said the district has since affirmed the censorship. ■

Student free speech gains support

Bills in the works in six states would guarantee free expression to students

Students across the country have been working to see the number of states currently operating under student free expression laws double come January. Next legislative session, lawmakers plan to take the battle for student free speech to the state house.

Student free expression legislation that has been introduced twice to the Missouri legislature will likely be reintroduced again in January, said an aide to the bill's sponsor, Rep. Joan Bray (D-University City).

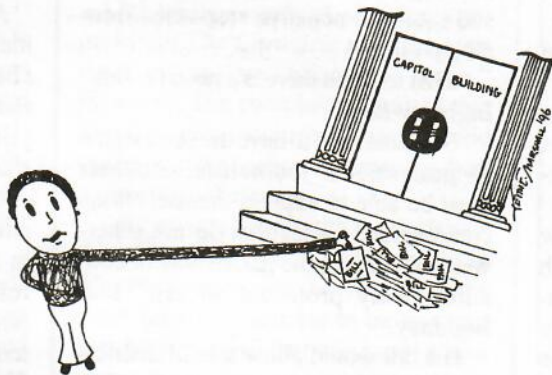
The proposed legislation says "students of the public schools have the right to exercise student freedom of the press, including the right to write, publish, and disseminate news and opinions in student publications."

The bill has gone through some changes since its introduction was supported in 1996 by the state Freedom of Expression Committee. Bill Hankins, a high school teacher and a member of the committee, said the new bill is designed to give students the chance to express themselves under the guidance of a faculty adviser. In response to critics who say officials should have the power to say "no" to student newspaper articles, Hankins said the bill puts the burden of guidance on the shoulders of the newspaper adviser, where it belongs. But the adviser should be able to inform students so they can make editorial decisions themselves, Hankins said.

Like the laws in the six states that have passed student free expression legislation, the Missouri bill uses free expression standards modeled after the Supreme Court's 1969 *Tinker v. Des Moines Independent Community School District* decision. The

law would protect student speech as long as it is not obscene, libelous, an unwarranted invasion of privacy, inciteful of unlawful acts or materially and substantially disruptive of the orderly operation of the school.

A high school student in North Carolina is hoping the legislature will pass a bill that would guarantee free speech for students. Brooke Langly hopes her proposal will number North Carolina among those six states that have already enacted student free press laws. Currently, Colorado, California, Massachusetts, Iowa,



Kansas, and Arkansas have such laws.

Langly, a student journalist at Broughton High School, wrote the proposal while attending a youth leadership meeting of high school students from across the state. The proposal then became part of a large compendium of legislative ideas that is on its way to the legislature. Once at the capitol, the compendium will be made available to state representatives who can choose to become sponsors.

Langly said she wrote the free expression proposal because she wanted to bring the issue of student press rights to the attention of lawmakers on a state-wide basis. Langly believes protecting the First

Amendment rights of student journalists is important.

"I don't see why high school students should have their rights taken away" she said.

In Arizona, a lawmaker has heard the call from students and journalism educators to enact a state law protecting the rights of student journalists.

Rep. Eddie Joe Lopez (D-Phoenix) plans to introduce a student free expression bill to the next session of the Arizona legislature in January. Lopez said the bill would protect students' right to free expression, but he said it would do something else along the way. Lopez said he has always worked to get students involved, and "young people looking to change a law that they feel is unjust would involve young people in the political process." When students and teachers came to him in October and asked him for help, Lopez was interested.

"If they're looking at journalism as a career, they ought to be able to express themselves" he said.

Students from Tolleson Union High School told Lopez of battles between the student newspaper, the *Wolver News*, and the school's principal, Joseph Rega.

The editor of the newspaper, Michelle Beaver, said talking to Lopez was the logical next step in getting a student free expression bill passed. She said the need to pass a state law came about because school district policy follows the student speech controls set by the Supreme Court's restrictive 1988 *Hazlewood v. Kuhlmeier* decision. Beaver said she had battled over articles in the paper with Rega numerous times, and that it was necessary to pass a law to give

(See *EXPRESSION*, page 36)

Expression

(Continued from page 35)

students the right to "say what we want to say, and think what we want to think."

In one instance, Beaver said, the newspaper wanted to write a story about the school math program. The program elicited negative reactions from nearly all those surveyed by the paper, said Beaver. For a favorable response, Beaver said the *Wolver News* unsuccessfully attempted to contact a math teacher who had been instrumental in creating the program. But Rega said the students only left "a couple" notes for the teacher, which was not enough for him. Rega censored the article, saying there was no balance in the piece. Rega said his role was that of a publisher, and that he could edit out any material that might be inaccurate.

Rega said he has not seen the bill written by Lopez, but that if a free expression bill were passed, the school would obey it.

"Would we knowingly violate a state law? No," Rega said.

In Illinois, students and journalism educators alike are voicing their support for a bill that would give students guaranteed freedom of expression.

Representative Mary Lou Cowlisnow (R-Naperville) will be working with members of the Illinois Journalism Education Association and the Illinois chapter of the American Civil Liberties Union on a bill they hope will be introduced in January, according to Mary Dixon of the ACLU of Illinois.

Cowlisnow introduced a student free expression bill in February of 1996 that passed the House of Representatives, but was blocked by a Republican majority in the Senate. Now that the Democrats have gained control of the House, said Dixon, members of the student press in Illinois stand a good chance of seeing legislation passed that has a Senate sponsor and broad, bi-partisan support in both houses. At a public hearing in November, students, educators, and student press experts from around the country met in Naperville to discuss the possible legislation.

Michigan students will have to wait for a state law guaranteeing them the

right to free expression. A bill introduced by Rep. Kirk Profit (D-Ypsilanti) in September of 1995 has been sitting in the Education Committee for over a year. The chairman of the committee, Rep. Bill Bryant (R-Gross Point Park), will retire after this legislative session, to be replaced by a new, Democratic chairman in the January session.

An aide to Rep. Profit said the bill may stand a better chance now that the Democrats control the House, but that the Senate is still in the hands of the Republicans and the bill as yet has no Senate sponsor.

A lawmaker in Oregon has plans to introduce student free press legislation to the Oregon state legislature in January.

Rep. George Eighmey (D-Portland) said the bill is in answer to a need for student free speech protection in Oregon. Eighmey said he wrote to every superintendent of every school district in Oregon about student free speech, and received negative responses from all but one.

"That tells me there is a need for this" Eighmey said.

"Students have to have the same rights as professional journalists. Students must be able to express themselves on controversial issues that do not otherwise fall outside the parameters of constitutionally protected speech" said Eighmey.

The bill would allow school districts to adopt policies governing student expression, while at the same time guaranteeing that "student editors of school-sponsored publications are responsible for determining the news, opinion and advertising content of their publications" subject to restrictions that follow the speech guidelines set forth by *Tinker*. Also, the bill would guarantee free speech rights to "school-sponsored publications, whether or not such publications...are supported financially by the school or by use of school facilities or are produced in conjunction with a class." This would mean that official, school-sponsored publications would be accorded the same free speech rights as alternative student publications, including underground newspapers not sponsored by the school. ■

Story finally told

CONNECTICUT — Nearly three months after students at Hall High School in West Hartford learned that a science teacher was being investigated for improperly coaching students for a state science test, the student newspaper *Hall Highlights* has finally been allowed to publish their story.

The students were only allowed to publish the story after a local newspaper ran it, said the student newspaper's adviser, Mark Grudzien.

Grudzien said principal Elaine Bessette told students in June they could not print information relating to personnel.

Miro Kazakoff, who is now the editor of the paper, said the principal told students they could not write about the investigation, in effect gagging the paper. He said he felt "disappointed and frustrated" that the paper had been restricted.

A story about the situation first ran in the *Hartford Courant* in June, one day after the student newspaper ran an editorial criticizing the decision by the school's principal not to let the story into the student newspaper.

Grudzien said that only after the school administration issued a public statement in late summer saying the teacher had resigned were the students allowed to write about the investigation in the September 3 issue of the *Hall Highlights*. ■

Fauquier

(Continued from page 32)

imagine a more protected form of free speech." Willis added that "It's the ultimate paradox to punish a student for what he writes in a creative writing class."

Green, who is now a sophomore at Fauquier, settled the case in early December. The school halted Green's suspension and allowed him to return to classes. The school has also agreed to remove all mention of the incident from Green's record, and to refrain from giving him any additional punishment. The school will pay Green's attorney's fees of \$8,000. In return, Green agreed to accept the grades he received. ■

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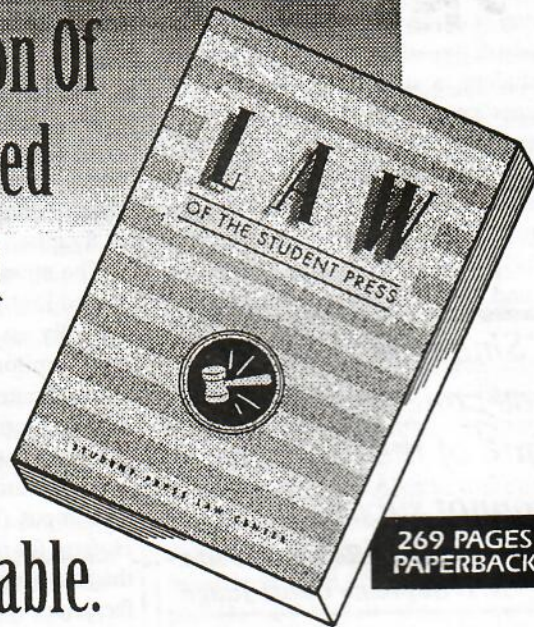
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Lawsuit over story on sexual assault dismissed

NEW YORK — In a much anticipated decision, a state court in October dismissed a defamation lawsuit involving a law student, a student newspaper and the paper's coverage of a sexual assault incident that occurred on campus in 1995.

The student newspaper, the Hofstra University *Chronicle*, had said in a motion to dismiss that it accurately and truthfully wrote articles about the incident and therefore did not defame the

"Since the Plaintiff has conceded to the truth of the facts...he cannot succeed..."

*Hon. Robert Roberto
N.Y. Supreme Court Judge*

plaintiff, Hofstra University law student Michael Liebgold. Liebgold has filed a motion to appeal the decision.

In granting the paper's June motion to dismiss, New York State Supreme Court Judge Robert Roberto cited another court decision in explaining that because falsity is a necessary element in any defamation claim, it follows that only statements alleging facts can properly be the subject of a defamation suit.

Roberto agreed with the *Chronicle's* argument that the newspaper's coverage was in fact true and accurate. He said that "since the Plaintiff has conceded to the truth of the facts published in the

articles by the Defendant, the *Chronicle*, he cannot succeed" with a defamatory claim.

The initial suit against both the university and *The Chronicle* was filed last April. The suit alleged that articles and an editorial published by the newspaper characterized the first year law student as a rapist.

The newspaper said it accurately reported Liebgold's April 1995 arrest for sexually assaulting a female student in his dormitory room. The editorial ran approximately two weeks after the incident and criticized Hofstra's administration for its "policy of maligned neglect" toward publicizing alleged crimes on campus. The editorial also chastised Hofstra for not disclosing the details of the case, asking rhetorically, "Was it in fact a rape? Or was it some other type of sex offense?" The charges against Liebgold were eventually dismissed.

Liebgold's complaint said that a reporter for *The Chronicle* used the term "rape" as an "unsubstantiated claim." However, the complaint admitted that *The Chronicle* accurately reported and commented on Liebgold's arrest for third degree sexual assault.

"We're very happy with the decision" said *The Chronicle's* attorney, Craig Bloom. Bloom said he was glad the court found the articles to be true and that he was confident the paper had a strong case.

"I was confident the law was on our

side...confident we would prevail ultimately, hopeful we would prevail initially" said Bloom.

"The dismissal came as very much of a surprise to us" said Jeffrey Duban, who is representing Liebgold. Duban said he was surprised and disappointed that the court dismissed the case with such brevity, referring to the 16 line decision. He said the overall impression of *The Chronicle's* articles "gave rise to the impression that Michael Liebgold had been accused of and committed rape." Liebgold has denied committing the assault. ■

Court favors student; 'trigger-happy bitch' held to be 'opinion'

NEVADA — A state court judge has ruled in favor of three McQueen High School students who were sued for libel by an employee of the Washoe County School District.

The suit came about because of articles published in December of 1995 in an underground student newspaper.

In its September ruling, the state district court concluded that the students, Patravutit Leelacharoenpol (also known as Pat Lee), Jackie Shoemaker and Robert Berry, could not be sued because the articles written in the newspaper *Kuhnspeeruhsee* could be "reasonably characterized as expressions of opinion."

The plaintiff, Sandra Lessman, said statements in the newspaper referred to her as a "whore," a "bastard," and a "trigger-happy bitch."

Statements can be defamatory, said the court citing another decision, "only if they are presented as fact rather than opinion, and only if the facts asserted are false."

Lee's attorney said Lessman paid \$1,500 for the legal fees in the case and waived her ability to appeal the case. Lessman's attorney did not return a call for comment. ■

Nicolet

(Continued from page 33)

and prevent the disruption of classes.

But the students had a different view. Represented by attorney Patricia Meunier, the students argued that the regulations were in fact content-based, because they were drawn up in an effort to prevent a reoccurrence of what happened at Nicolet several years ago. In that case, another underground newspaper was blamed for disrupting the school environment when articles in the paper *Gathering No Moss* embarrasses students. Because the new rules drawn up by Moeser and the school district's legal

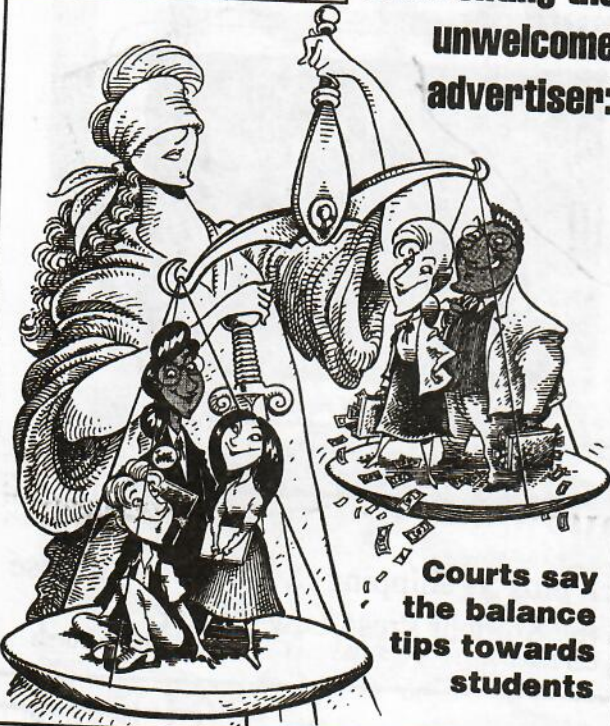
counsel were created with the content of *Gathering No Moss* in mind, the students argued, the rules were content-based and as such should be subject to a high standard of scrutiny to ensure they did not violate the First Amendment.

The court disagreed with the students, saying the school should "strive to maintain an atmosphere conducive to learning for all students in attendance." Judge Gieringer went on to say that "school officials must have the authority to prescribe and control the conduct of students while in school."

Meunier said the students have appealed the decision to the Wisconsin Court of Appeals. ■

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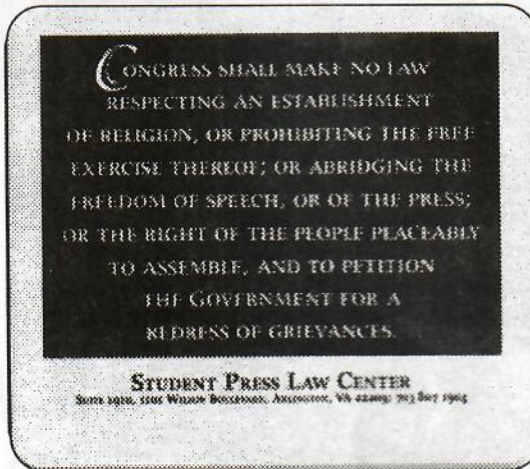
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