



November 15, 2019

Youngtown Staff
Youngtown Edition
County College of Morris
214 Center Grove Road
Randolph, NJ 07869-2086

— Sent by E-mail —

Dear *Youngtown* Staff:

Thank you for contacting the Student Press Law Center for information regarding the rights of public college student journalists. Founded in 1974, the Student Press Law Center is a nonprofit center of legal research serving the student media nationwide. For clarity, we should emphasize that we do not represent you or your publication as legal counsel and that if you have case-specific questions about your legal rights and responsibilities, we maintain a nationwide network of volunteer referral attorneys that student media regularly work with. With that understood, and in anticipation of a meeting with the County College of Morris (CCM) Board of Trustees next week, we are happy to provide information about the law of the First Amendment and how it applies in the campus setting.

The Facts

As you have told me, the administration seemed to first take an extra interest in the content of the *Youngtown Edition*, the student newspaper of the County College of Morris, during Fall 2017 when Brett Friedensohn, the editor in chief at that time, published a story about the college having outdated fire safety certificates in violation of New Jersey state law. You told me the story was factual, accurate and won press awards, but caught campus officials in a string of inconsistent and false explanations.

Following its publication, you say the adviser at the time, Russ Crespolini, was pulled into a meeting with Dr. Bette Simmons, Vice President of Student Development and Enrollment Management. She said she had concerns about the paper and was “tasked with bringing the *Youngtown* under control.” Unfortunately, it didn’t end there. You say the newspaper continued to receive complaints from the administration about an editorial written about the school’s cafeteria food, a series of satire pieces and several non-specific factual errors. Around this time, you say Simmons threatened Crespolini that she could cut the *Youngtown Edition* budget whenever she wanted.

In the Summer 2018 Simmons met with Crespolini and Friedensohn separately and suggested Friedensohn should step down as Editor-in-Chief.

More recently, you told me that Don Phelps, the Director of the Office of Campus Life, met with Alexa Wyszowski, current *Youngtown Edition* editor-in-chief multiple times this summer to say the college wanted to cut the newspaper's printing budget by 80%. He proposed the paper be printed on copy paper stapled together instead of on newsprint. In order to keep the paper on newsprint you had to make a new deal. Phelps said you would now have to make \$6000 in ad revenue instead of the \$1900 that was previously part of the budget.

Let me pause here to say that I have worked with the Student Press Law Center for about 30 years. Were the *Youngtown Edition* to follow Mr. Phelps directive to print on copy paper — stapled together — it would, as far as I know, have the inglorious distinction of being the only college student newspaper in the country to do so.

Unfortunately, the biggest — and most disturbing — surprise was yet to come. Two days after the start of the 2019 fall semester, you were told that Russ Crespolini had been removed as the newspaper's adviser and was being replaced by Kevin Moore, a full-time faculty member — already teaching seven classes at the school — who had no experience, knowledge or background in journalism.

The Law

The recent acts by CCM officials that you describe are extremely disturbing and raise serious legal concerns. The U.S. Supreme Court first explicitly recognized that public school students enjoy First Amendment protections in *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969). Although the *Tinker* decision involved symbolic expression of high school students, the Court subsequently applied the same constitutional principles to a case involving censorship of a student publication at a public college. *Papish v. Board of Curators*, 410 U.S. 667 (1973). The Court again affirmed the strong First Amendment protections afforded college student publications when it struck down a decision by University of Virginia officials to withdraw school funding of a student publication solely because of its content. *Rosenberger v. University of Virginia*, 115 S. Ct. 2510 (1995).

Moreover, in a comprehensive and consistent body of case law that began even prior to the Supreme Court's ruling in *Tinker* and that continues to this day, lower federal courts have made clear that First Amendment protections must be afforded to student media at public colleges and universities, even though the school may provide funds and facilities. *See, e.g., Dickey v. Alabama Board of Education*, 273 F. Supp. 613 (M.D. Ala. 1967); *Kincaid v. Gibson*, 236 F.3d 342 (6th Cir. 2001)(en banc); *Husain v. Springer*, 494 F.3d 104 (2nd Cir. 2007). Indeed, as one court has said, student publications at state-supported schools are entitled to the constitutional protections afforded all members of the "press," including freedom of expression for editors. *Sinn v. Daily Nebraskan*, 638 F. Supp. 143 (D. Neb.), *aff'd* 829 F.2d 662 (8th Cir. 1976).

The law is clear: at a public college or university, the student editor is responsible for making all decisions regarding the editorial content in his or her student publication. School officials, while they may act in an advisory role, are required to exercise a strictly "hands-off" approach. For example, a

school, or those acting on the school's behalf, may not withdraw, withhold or limit funding, fire editors, fire student media advisers, censor articles or issues, "stack" a publications board, limit access to facilities or equipment or take any other action whose effect or intent is to mold, manipulate, punish or otherwise inhibit constitutionally protected expression. *Bazaar v. Fortune*, 476 F.2d 570 (5th Cir.), *modified en banc per curiam*, 489 F.2d 255 (5th Cir. 1973), *cert. denied*, 416 U.S. 995 (1974); *Joyner v. Whiting*, 477 F.2d. 456 (4th Cir. 1973); *Lueth v. St. Clair County Community College*, 732 F.Supp. 1410 (E.D. Mich. 1990); *Antonelli v. Hammond*, 308 F.Supp. 1329 (D. Mass. 1969); *Trujillo v. Love*, 322 F.Supp. 1266 (D. Colo. 1971); *Stanley v. Magrath*, 719 F.2d 279 (8th Cir. 1983); *Moore v. Watson*, 738 F. Supp.2d 817 (N.D. Ill. 2010)(termination of student media adviser can be adverse action in violation of First Amendment); *Coppola v. Larson*, 2006 U.S. Dist. LEXIS 51205 (D.N.J. 2006)(granting injunction preventing removal of student media adviser in retaliation for college newspaper's content.)

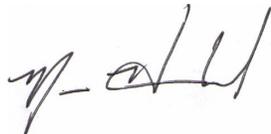
Moreover, courts have been steadfast in holding that administrators cannot censor or otherwise take action against a student publication merely because they are unhappy with its content, be it for reasons of political views, physical appearance, or a fear of "inferior quality." See *Schiff v. Williams*, 519 F.2d 257 (5th Cir. 1975)(university president's removal of three student editors of a Florida public college student newspaper for poor grammar, spelling errors and language expression was a clear violation of the First Amendment.)

It is clear that CCM officials are in desperate need of a First Amendment refresher course. They have taken and threatened multiple actions that raise serious legal concerns, including their removal of your adviser and cuts to your budget for reasons that seem very clearly tied to their unhappiness with the journalism you are practicing. I urge you to share this information with CCM officials and ask that they reconsider their actions and work with you to amicably resolve your concerns. I cannot imagine that they want to find themselves the defendants in a First Amendment legal battle. Nevertheless, if they refuse, we would be happy to consult with the New Jersey-based members of our nationwide Attorney Referral Network to assist you in finding local pro bono counsel. We would also help you contact local and national media to assist you in publicizing CCM's actions.

We hope that this information has been of some help. If you have any questions, please feel free to contact us.

Sincerely,

STUDENT PRESS LAW CENTER



Mike Hiestand
Senior Legal Counsel