



Seminole County School Board  
Seminole County Public Schools  
400 E. Lake Mary Boulevard  
Sanford, FL 32773

May 11, 2022

Dear School Board Members:

We are writing to express our organization's sincere thanks for your actions on May 10 in support of the Lyman High School yearbook staff, and for the strong words from members in support of the voices of Seminole County Public Schools' students and student journalists. We are thrilled to see a compromise reached so swiftly and decisively, and would like to work with the Seminole County School Board to ensure that no student journalist ever finds themselves facing censorship like that which the Lyman yearbook staff experienced this week.

Unfortunately, as was mentioned several times during the May 10 meeting, the current Seminole County Public Schools School-Sponsored Publications and Productions policy all but ensures that another student journalist will be censored for confusing and arbitrary reasons. We urge the Board to revisit the policy, and to adopt one that provides clarity to students and administrators regarding unprotected speech, removes subjectivity from the process, and ensures a clear appeals process to ensure that censored student journalists have recourse that does not need to include the kind of widespread outrage Seminole County experienced this week. We have attached our model student media publications policy, and look forward to working with you as you adopt new language. A copy of this policy is also available online at <https://splc.org/2021/02/student-press-law-center-model-guidelines-for-high-school-student-media/>.

The Student Press Law Center (SPLC) is an independent non-partisan, non-profit organization based in Washington, DC that supports and protects the press freedom of student journalists and their advisers. As a key part of our work, our free legal hotline works with student journalists whose voices have been censored, suppressed, or otherwise curtailed. We see daily the serious and far-reaching impact that unclear policies can have on student journalists and on the student body as a whole.

The Seminole County School Board policy tracks language from a 1988 U.S. Supreme Court case known as *Hazelwood School District v. Kuhlmeier*, in which the Court held that school-sponsored media can be restricted when there is a "legitimate pedagogical concern." However, the Court failed to articulate what such a concern might be. As a result, school districts and student journalists have been forced to operate for three decades under a confusing standard wherein a "legitimate pedagogical concern" is often felt to be whatever the administrator decides at the time." That administrator decision may be diametrically opposed to how the related board of education or another administrator would decide. The standards are constantly shifting, leading student journalists like the Lyman High School staff scrambling to determine if something is acceptable to the particular administrator reviewing their publication at the time, rather than focusing on meeting the requirements of journalistic ethics. Left alone, policies like those of the Seminole County Public Schools inevitably lead to situations like that of the Lyman yearbook this week.



For instance, it is our understanding that the Lyman yearbook was censored out of concern that the draft failed to expressly state that the walkout was not a school-sponsored event. But nothing within the SCPS policy discusses such a requirement. Superintendent Beamon states that the policy allows for censorship when the speech in question is “likely to cause the substantial disruption or material interference with school activities or the educational process,” but the yearbook spread captured an event that had already happened and presented no new threat of “substantial disruption” as that term has been interpreted by courts. It simply documented an event that was important to the life of the school and its students, as journalists do, whether or not it was school-sponsored. SCPS policy states that legitimate pedagogical concerns “include the teaching by example of the shared values of a civilized social order, which consists of not only independence of thought and frankness of expression but also discipline, courtesy/civility, and respect for authority,” but this provides no clarity to student journalists about whether coverage of controversial issues will be deemed appropriate by any given school administrator. We remain uncertain as to the exact “pedagogical concern” raised by the Lyman high school yearbook, and believe students and administrators are likely similarly confused.

This sort of confusion breeds exactly the censorship controversies SCPS experienced this week. Nationwide, SPLC has seen yearbooks censored because they included timelines of world events, including the death of George Floyd, or because they included images of students wearing “Make America Great Again” clothing. We have seen school newspapers censored because they discussed curriculum changes, or graffiti visible on campus, or misconduct by school officials. Students have even reported censorship of articles about student media censorship. These situations are far too common, and entirely avoidable.

We agree wholeheartedly with Vice Chairman Sanchez’s words that “The greatest gift that we could give to our students is for them to be able to communicate and speak ... We should be able to voice our concerns, and we shouldn’t have anybody take that right away from us.” But the current SCPS policy does not protect that right. While the Lyman High School students were able to galvanize incredible public support, it should not take widespread outrage on social media, coverage in national media, and money spent from board members’ own pockets to ensure that SCPS student journalists have the ability to report honestly and openly on the issues that matter to them.

*Hazelwood*, and the SCPS policy, is the bare minimum that a school can do to ensure student press freedom - there is much more that can and should be done. The enclosed model student media policy tracks what is the law in 15 states (and on the Governor’s desk in Hawaii, and which was considered this year by the Florida legislature as SB 1860. The model policy ensures that SCPS will follow the standard set in *Tinker v. Des Moines* rather than that set by *Hazelwood*, and provide clear guidance to all parties about what is, and is not, acceptable student media. The model policy protects student journalists, including yearbooks, from censorship except in certain specific circumstances proscribed by law including libel, slander, unwarranted invasions of privacy, and a clear and present danger of a material and substantial disruption.

We encourage the Seminole County School Board to continue to serve as a model for Florida - as your student journalists have done - and adopt this policy. We look forward to working with you in any way that we can. Thank you for your attention to this important matter, and for your strong support of Seminole County student journalists.

Sincerely,



Hadar Harris  
Executive Director

Hillary Davis  
Advocacy and Organizing Director

cc: Superintendent Serita D. Beamon  
Encl. SPLC model district policy for high school student media

## **SPLC model district policy for high school student media**

### **Purpose**

The \_\_\_\_\_ School District believes that freedom of expression and press freedom are fundamental principles in a democratic society that provide all citizens with the right to engage in a vigorous discussion of ideas, and that a robust and free student press is critical to the development of informed and civic-minded adults. Freedom of expression through school-sponsored media is protected by the First Amendment to the United States Constitution [, appropriate state constitutional citation, if applicable] and [state New Voices law citation, if applicable].

It is the policy of this District to ensure all students enjoy free speech and free press protections related to school-sponsored media, and to encourage students to become educated, informed and responsible members of society.

No expression made by students in the exercise of free speech or free press rights shall be deemed to be an expression of school or district policy.

### **Definitions**

“Libel” is the willful or negligent publication of provably false and unprivileged statements of fact that do demonstrable harm to a living person’s reputation.

1. Criticism of public officials, public figures, school policy, or the work performance of teachers, administrators, school officials and/or other school employees is generally protected unless it meets the definition of libel, above.

“Non-school-sponsored student media” is media that is independently produced and distributed by a student, on or off-school grounds, without formal guidance from the school’s student media adviser. It includes printed media, electronic audio/visual media and online media, including a student’s personal social media. Non-school-sponsored student speech is protected by the First Amendment, but is not the subject of this policy.

“Orderly operation of the school” is educational student activity sponsored by the school, including classroom work, school assemblies and similar gatherings, school-sponsored athletic contests, band concerts, school plays and scheduled in-school lunch periods. It does not include activity involving students that takes place off-campus and outside school hours or school-sponsored activity time.

“Prior restraint” is any action taken to prohibit, prevent, or stop the creation, research, production, or distribution of school-sponsored media. This includes, but is not limited to, verbal statements that a story may not be distributed or should not be researched or written; deletion of material including sentences, photographs, or portions of a broadcast; interfering with printing or distribution decisions; and destruction of already-distributed school-sponsored media.

“Prior review” is the review by a school administrator before publication or distribution of school-sponsored media. This does not include review by a student media adviser or administrative review done at the behest of the student journalist.

“Slander” is the speaking of false statements of fact that seriously harm a living person’s reputation.

1. Criticism of public officials, public figures, school policy, or the work performance of teachers, administrators, school officials and/or other school employees is generally protected unless it meets the definition of slander, above.

“Student media adviser” means an individual employed, appointed, or designated by a school to supervise or provide instruction relating to school-sponsored media.

“Student journalist” means a student who gathers, compiles, writes, edits, photographs, records, or prepares information for inclusion in school-sponsored media.

“School-sponsored student media” means any material that is prepared, substantially written, published or broadcast, in any media, by a student journalist under the direction of a student media adviser and distributed or generally made available to members of the student body. School-sponsored media includes, but is not limited to, newspapers, magazines, web sites and other Internet-based media, yearbooks, TV, radio, podcasts and video productions. School-sponsored media does not include media intended for distribution or transmission for classroom purposes only, or non-school-sponsored student media.

### **Student freedom of expression in school-sponsored student media**

Student journalists are responsible for determining the news, opinion, feature, and advertising content of school-sponsored student media. Student journalists may create an editorial hierarchy (e.g, student editorial board, editor in chief, section editors, etc.) for determining content.

Student journalists shall strive to:

1. Make decisions based upon news value and guided by the Code of Ethics provided by the Society of Professional Journalists, National Scholastic Press Association, Journalism Education Association, or other relevant group;
2. Produce media based upon professional standards of accuracy, objectivity, and fairness;
3. Review material to improve sentence structure, grammar, spelling, and punctuation;
4. Check and verify all facts and verify the accuracy of all quotations; and
5. In the use of editorials or letters to the editor concerning controversial issues, determine the need for rebuttal comments and opinions and provide space therefore if appropriate.

No student journalist shall be disciplined, penalized, restrained, or otherwise censored, penalized, or punished when acting in accordance with this section. There shall be no prior restraint by any person of material prepared for school-sponsored media unless it falls within one of the exceptions, listed below.

Administrative prior review shall be rare, if it occurs at all. Sound pedagogical, ethical and legal rationale exist opposing all forms of prior review. Any reason for such prior review shall be clearly communicated to the student journalist in writing, and at no time will school-sponsored student media be held for prior review longer than 72 hours or more than 24 hours beyond the publication deadline time as established by the student journalist, whichever comes first. Any costs borne by the student media program as a result of delays pertaining to administrative prior review shall be covered by the school.

### **Student Media Advisers**

Student media advisers are responsible for working with and providing guidance to student journalists. Student media advisers provide training in journalistic principles and access to necessary resources, including but not limited to training in journalistic ethics and media law. Student media advisers may provide feedback to students including teaching professional standards of English and journalism. Student media advisers do not determine, assign, or approve the content of student media, except if the adviser believes the student media has met the criteria for exclusion listed in “Exceptions” below. Such decisions are subject to the appeal process, outlined below.

In the event a student media adviser is not previously trained in journalism, appropriate professional development will be made available by the school district, preferably through the state’s journalism education association, the national Journalism Education Association or other recognized entity aimed at supporting media advisers.

A student media adviser may not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against for acting to protect a student journalist engaged in permissible conduct or refusing to infringe on conduct that is protected by the First Amendment to the United States Constitution [, relevant section of state constitution], [relevant New Voices state law] or this policy. No financial decisions relating to the student media program may be based, in whole or in part, on the past, present, or potential content of school-sponsored student media.

### **Exceptions**

This policy does not authorize or protect school-sponsored media that:

1. Is libelous or slanderous;
2. Constitutes an unwarranted invasion of privacy;
3. Is obscene;
4. Violates federal or state law; or
5. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of a lawful school district policy, or the material and substantial disruption of the orderly operation of the school.

If, in the opinion of a student editor, student editorial staff or faculty adviser, material proposed for a publication may fall within the list of exceptions, above, the legal opinion of a practicing attorney should be sought. The free services of the Student Press Law Center ([splc.org](http://splc.org)) are recommended. The final decision of whether the material is to be published or distributed will be left to the student editor or student editorial staff.

School or district officials must base a forecast of material and substantial disruption on specific facts, including past experience in the school and current events influencing student behavior, and not on undifferentiated fear or apprehension. In determining whether student media is disruptive, consideration must be given to the context of the distribution as well as the content of the material. Consideration should be given to past experience in the school with similar material, past experience in the school in dealing with and supervising the students in the school, current events influencing student attitudes and behavior, and whether there have been any instances of actual or threatened disruption prior to or contemporaneously with the dissemination of the student publication in question. Actual or potential heated discussion or debate alone is not sufficient evidence of a material and substantial disruption.

School officials shall have the burden of providing to the student journalist prior written justification for their limitation of school-sponsored media.

### **Appeals**

The student journalist shall have the right, within five business days of receiving the written reason for limitation of school-sponsored student media, to appeal the decision to the Superintendent. Appeals must be filed in writing. The Superintendent shall convene a hearing within five business days. The student journalist shall have the right to have the student's parent or legal guardian and the student media adviser present. The burden of proof shall be on the principal or his or her appointed representative to demonstrate that the media in question has met the criteria for exclusion. The Superintendent shall render a written decision within 48 hours of the hearing.

The student journalist shall have the right, within five business days of receiving the Superintendent's written decision, to appeal to the school board. The school board shall hear the appeal at the next regularly scheduled board meeting, or within 10 business days, whichever comes first. The school board shall render a written decision within 48 hours of the hearing.

The decision of the school board shall be considered the final determination by the District deemed ripe for judicial review if the student journalist should choose to do so.