

No. 26-12085

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

Rihanna Pointer, et al.,

Appellants,

v.

Scott Phelps, et al.,

Appellees.

On Appeal from the United States District Court
for the Northern District of Alabama,
No. 7:26-cv-00476-EGL

**Brief of *Amicus Curiae* Student Press Law Center and *Amici*
Listed Below in Support of Appellants and Reversal**

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CORPORATE DISCLOSURE STATEMENT

None of the *amici curiae* organizations has a parent corporation or issues stock. No publicly held corporation has an ownership interest of more than 10% in any of the *amici curiae* organizations.

CERTIFICATE OF INTERESTED PERSONS

Pursuant to 11th Cir. R. 26.1-1(a)(2), *amici curiae* believe Appellants' Certificate of Interested Persons is correct and complete.

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**IDENTITY AND INTEREST OF *AMICI*
AND COMPLIANCE WITH RULE 29**

The Student Press Law Center (“SPLC”) is a nonprofit, nonpartisan organization founded in 1974 to promote youth involvement in civic life through journalism. The SPLC provides free educational materials and workshops to students across the country about the First Amendment and about ways to protect their freedom of expression, and its attorneys are the authors of the widely used reference text, *Law of the Student Press*. The SPLC regularly advocates on behalf of students in court as *amicus curiae* by opposing government actions that restrict students’ First Amendment rights. The SPLC has an interest in protecting the ability of student journalists to express themselves freely without fear of official retaliation.

The Foundation for Individual Rights and Expression (“FIRE”) is a nonpartisan, nonprofit that defends the individual rights of all Americans to free speech and free thought—the essential qualities of liberty. Since 1999, FIRE has successfully defended First Amendment rights nationwide without regard to speakers’ views through public advocacy, targeted litigation, and *amicus curiae* filings, including in cases implicating expressive rights at public institutions of higher

education. See e.g., *Pernell v. Fla. Bd. of Governors of State Univ.*, 181 F.4th 1135 (11th Cir. 2026) (counsel); *Stanford Daily Publ'g Corp. v. Rubio*, 2026 WL 2549090 (N.D. Cal. Aug. 28, 2026) (counsel); *Fellowship of Christian Univ. Students at the Univ. of Tex. at Dall. v. Eltife*, 806 F. Supp. 3d 662 (W.D. Tex. 2025), appeal docketed, No. 25-50914 (5th Cir. Nov. 5, 2025) (counsel); Br. Amici Curiae, FIRE, *Stokes v. Boyce*, No. 26-60184 (5th Cir. 2026).

The Associated Collegiate Press (“ACP”) is a national, nonprofit, nonpartisan organization established in 1921. ACP is the largest and oldest national membership organization for college student media in the United States.

The College Media Association (“CMA”) is a national, nonprofit, nonpartisan organization established in 1955. CMA is the only organization focused exclusively on educating, supporting, and defending the rights of college media advisers and their students.

The Society of Professional Journalists (“SPJ”) is the nation’s most broad-based journalism organization. SPJ champions journalists by recognizing outstanding achievement, fighting to protect press freedom, promoting high ethical standards, and educating new generations of emerging professionals.

Amici curiae SPLC, FIRE, ACP, CMA, and SPJ (collectively, “*Amici*”) are also authorized to disclose support for their advocacy in this brief from dozens of student media outlets and newsroom leaders nationwide identified in Appendix A, who—like Appellants—carry out important, and increasingly vital work to inform their communities that rely on public university student media. *Amici* and their supporters therefore have a profound interest in ensuring colleges and universities do not arbitrarily shutter public college student media.

Amici accordingly submit this brief to emphasize the importance of the work of a student press that reflects a diverse range of viewpoints and voices; to detail the real, persistent, and devastating chilling effect that the district court’s decision can have on student media, and to explain the potential long-term harms that will flow from allowing the district court’s decision to stand.

All parties have consented to *Amici* filing this brief.¹

¹ Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), *Amici* state that: (i) no party’s counsel authored the brief in whole or in part; (ii) no party nor their counsel contributed money that was intended to fund preparing or submitting the brief; and (iii) no person other than *Amici*, their members, or their counsel contributed money that was intended to fund preparing or submitting the brief.

STATEMENT OF THE ISSUES

Amici incorporate Appellants' Statement of the Issues.

SUMMARY OF THE ARGUMENT

Student press freedom was born in Alabama. In 1967, when a college president tried to silence a student editor for criticizing the state legislature, a federal court in Montgomery struck down the president's actions and held that public college students do not surrender their First Amendment rights at the campus gates, an idea the U.S. Supreme Court adopted two years later. That principle has governed for nearly six decades. The district court's ruling now threatens to end it in the very state where it began.

Since the founding of the first college student newspaper at Dartmouth College in 1799, student media have served integral roles on college campuses throughout America, and the modern student press continues this tradition. Student media provide needed experience for future journalists, writers, editors, and other aspiring literary professionals, giving students opportunities to cover news about current events that occur on campus and in the surrounding communities. This positions students to become the next generation of the Fourth Estate.

Because student publications serve these important functions, they often face censorship. College administrators and student governments wield their authority against quality journalism and reporting by threatening publications' funding or infrastructure. That is unsurprising given that student media cover many issues of great public importance. They are on the frontlines, reporting breaking news that occurs in and around their campuses. They have alerted taxpayers when public college administrations failed to meet their obligations under federal law, and they have revealed when college officials misused public funds. And they provide countless opportunities for their readers to hear different perspectives on social and political issues of the day that may not necessarily be the official position of an educational institution. Such actions are bound to draw the ire of college administrators.

Although this case concerns two magazines at the University of Alabama ("UA")—*Alice* and *Nineteen Fifty-Six*—it has far broader implications. Student media across Alabama, Florida, and Georgia will feel a chilling effect if this Court permits UA to stop these presses.

ARGUMENT

I. UA’S EDITORIALY INDEPENDENT STUDENT PUBLICATIONS ARE NOT GOVERNMENT SPEECH.

A. Student Publications at Public Universities Serve a Critical Function for Sustaining the Fourth Estate.

Nearly sixty years ago, Gary Dickey was the editor of the student newspaper at Troy State College in Alabama. When he wrote an editorial defending academic freedom, the college president refused to let him publish it. The president’s justification was a standing rule: the student paper could praise the Governor and the Legislature, but it could never criticize them. The president testified that “a newspaper could not criticize its owners, and in the case of a state institution the owners were to be considered as the Governor and the members of the Legislature.” *Dickey v. Alabama State Bd. of Ed.*, 273 F. Supp. 613, 618 (M.D. Ala. 1967), *rev’d sub nom. on other grounds Troy State University v. Dickey*, 402 F.2d 515, 517 (5th Cir. 1968). The college offered Dickey a substitute piece about raising dogs in North Carolina. Dickey refused. He printed “CENSORED” across the blank column instead. The college expelled him.

Chief Judge Frank M. Johnson Jr. ordered Dickey reinstated, holding that a state “cannot force a college student to forfeit his constitutionally protected right of freedom of expression as a condition to

his attending a state-supported institution.” *Id.* Two years later, the Supreme Court cited *Dickey* in *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969). In the decades that followed, courts have repeatedly recognized substantial First Amendment protection for independently edited public college media: the First Amendment protects student journalists at public colleges from administrative censorship.

This case asks whether that principle survives. UA shuttered two student magazines and, when their editors sued, the district court held that the publications were “government speech” beyond the reach of the First Amendment. If that ruling stands, student press freedom will die in the state where it was born.

Student publications cover critical community news and commentary relevant to universities—quintessential “marketplaces of ideas”—and the surrounding communities they serve. *See, e.g., Healy v. James*, 408 U.S. 169, 180–81 (1972) (recognizing that a university “with its surrounding environs is peculiarly the ‘marketplace of ideas’”). These media sources are increasingly important for those local communities as traditional local news media have closed. William Anderson, *Student Journalists Are Our Future*, *The Nation*, July 11, 2017 (explaining that

“student journalists are uniquely positioned to fill the hole created by the decline of local news”), <https://www.thenation.com/article/archive/student-journalists-are-our-future-we-should-start-treating-them-like-it/>; Jennifer Conlin, *Local News, Off College Presses*, The New York Times, Apr. 13, 2014 (detailing how college newspapers fill the void of shuttered local news agencies), <https://www.nytimes.com/2014/04/14/business/media/turning-to-college-journalists-for-the-news-in-town-michigan.html>. In this way, collegiate student media uphold the great traditions of the Fourth Estate—serving as watchdogs of government officials and fostering the “marketplace of ideas” that American colleges and universities ought to promote. *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).

Nearly every public college in the United States has at least one student publication. Such college media are uniquely situated to cover administrations and provide critical perspectives at these institutions of higher education. Student staff members have on-the-ground access at these institutions, and their passion for their future alma maters increases their motivation to cover their institutions’ successes and failures and foster discussion of issues of importance to the schools and their faculty, staff, and students. That access and passion allows student

publications to cover matters of significance to the university community, just like professional journalists do. *See, e.g.,* Corinne Purtill, *Q&A: How this Stanford freshman brought down the president of the university*, Los Angeles Times (July 21, 2023) (recounting a freshman student journalist's efforts at Stanford University), <https://www.latimes.com/science/story/2023-07-21/how-stanford-freshman-brought-down-university-president>. Providing a recent example of the critical role student media plays for communities, consider the work of Theo Baker, a former student journalist for the *Stanford Daily*. Baker began investigating rumors that Stanford University's President at the time, Marc Tessier-Lavigne, altered images in research papers he published. Baker's reporting eventually led an expert panel to conclude Tessier-Lavigne failed to correct errors in his work on Alzheimer's disease and other topics, causing him to step down from his post in August 2023. *Id.* Baker's work would not have been possible if the *Stanford Daily* were considered government speech controlled by Tessier-Lavigne himself—underscoring the important role student media on college campuses plays.

Likewise, student media help cover perspectives and issues that would not attract as much attention from other, professional media

outlets. For example, the *NYCity News Service* from the City University of New York published a comprehensive, interactive project about the struggles of young people aging out of the foster care system—providing coverage on a unique segment of the population relevant to its readership. Larisa Karr, Georgina Hallowell, Modou Nyang, & Megan Conn, *Funded But Forgotten*, NYCity News Service, <https://fundedbutforgotten.nycitynewsservice.com/>. And *The Washtenaw Voice* from Washtenaw Community College in Michigan published a piece on how students and others in the larger community navigated their addiction recovery during the COVID-19 pandemic. Xailia Claunch, *WCC and community navigate addiction recovery through pandemic, quarantine, and shutdowns*, *The Washtenaw Voice* (December 24, 2020), <https://www.washtenawvoice.com/2020/12/24/wcc-and-community-navigate-addiction-recovery-through-pandemic-quarantine-and-shutdowns/>.

B. Editorially Independent Student Publications at Public Universities Are Not Government Speech.

The Supreme Court has long made clear that there is “no doubt that the First Amendment rights of speech and association extend to the campuses of state universities.” *Widmar v. Vincent*, 454 U.S. 263, 268—

69 (1981). That is, of course, consistent with the long national tradition of fostering a “marketplace of ideas” as an essential aspect of the college campus. *Keyishian*, 385 U.S. at 603. Consistent with that tradition, earlier this year this Court again recognized that “the First Amendment trusts students to figure it out for themselves.” *Pernell v. Fla. Bd. of Governors of State Univ.*, 181 F.4th 1135, 1145 (11th Cir. 2026) (affirming grant of preliminary injunction prohibiting enforcement of Florida law that violated the First Amendment).

Against that backdrop, *Amici* respectfully assert that the district court’s classification of the student journalists’ publication as “government speech” makes little sense. To be sure, “[t]he Free Speech Clause . . . does not regulate government speech.” *Matal v. Tam*, 582 U.S. 218, 234 (2017) (quoting *Pleasant Grove City v. Summum*, 555 U.S. 460, 467 (2009)). But the government-speech label does not provide governmental entities with a talismanic catchall to escape First Amendment scrutiny.

The Supreme Court warned that courts “must exercise great caution before extending [its] government-speech precedents” or risk the government “simply affixing a government seal of approval” to certain speech to “silence or muffle” certain expression. *Id.* at 235. That warning

is especially important “[w]hen the government encourages diverse expression—say, by creating a forum for debate.” *Shurtleff v. City of Boston*, 596 U.S. 243, 247 (2022).

The Supreme Court and this Court have assessed several key factors to determine whether speech qualifies as “government speech.” *Id.* at 252; *see also Cambridge Christian Sch., Inc. v. Fla. High Sch. Athletic Ass’n*, 115 F.4th 1266, 1288–89 (11th Cir. 2024). Those factors include: (1) “the history of the expression at issue,” (2) “the public’s likely perception as to who (the government or a private person) is speaking,” and (3) “the extent to which the government has actively shaped or controlled the expression.” *Shurtleff*, 596 U.S. at 252; *see also Cambridge Christian*, 115 F.4th at 1288–89. In the non-curricular context at issue here, the application of those factors should have led the district court to reject the government-speech classification and reverse UA’s decision to shutter *Alice* and *Nineteen Fifty-Six* because the factors illustrate why those magazines are student speech, not government speech.

First, the history and tradition of student media at public universities weigh against characterizing the shuttering of the magazines as government speech. “Courts have long recognized that student media outlets at public universities, and the student journalists

who produce those outlets, are entitled to strong First Amendment protection.” *Husain v. Springer*, 494 F.3d 108, 121 (2d Cir. 2007); *see also Kincaid v. Gibson*, 236 F.3d 342, 349–53 (6th Cir. 2001) (*en banc*); *Joyner v. Whiting*, 477 F.2d 456, 460 (4th Cir. 1973); *Bazaar v. Fortune*, 476 F.2d 570, 574 (5th Cir. 1973), *modified on reh’g by* 489 F.2d 225 (5th Cir. 1973). And a “public university’s establishment of a student media outlet typically involves the creation of a limited public forum, which means that the ability of school administrators to interfere with the speech made through such an outlet is generally strictly curtailed.”² *Husain*, 494 F.3d at 121.

In *Kincaid*, for example, the *en banc* Sixth Circuit held that a university student yearbook was a limited public forum, not government speech, because the university’s own policy placed editorial control in the

² Additionally, *Amici* respectfully contend the district court erred in holding that only *Alice* and *Nineteen Fifty-Six* were the relevant fora. Dkt. 40 at 22–29. Appellants focused their challenge on the Media Planning Board, which was created “to provide oversight, guidance and support to student media” at UA. *Id.* at 3. The Board’s purpose shows the district court should have considered it **and** *Alice* and *Nineteen Fifty-Six* as the relevant fora. *See Koala v. Khosla*, 931 F.3d 887, 902–03 (9th Cir. 2019) (holding all student activity funding qualified as the relevant forum in a First Amendment challenge to a college’s restriction on funding to a student magazine). Understood in context, UA’s argument that it merely closed the relevant fora fails because the Board was not shut down.

hands of student editors, the university exercised no content oversight in practice, and the yearbook was by nature a vehicle for student expression. 236 F.3d at 349–52. Likewise, in *Joyner*, the Fourth Circuit reasoned that “if a college has a student newspaper, its publication cannot be suppressed because college officials dislike its editorial comment.” 477 F.2d at 460. And the Fifth Circuit in *Bazaar* explained that “once a public school makes an activity available to its students, faculty, or even the general public, it must operate the activity in accord with First Amendment principles” and cannot “restrict arbitrarily what it may publish.” 476 F.2d at 574 (citations omitted).

This case falls squarely in line with that deep history and tradition of the former Fifth, and now Eleventh, Circuit’s precedents balancing the rights of public educational institutions and students’ First Amendment rights. As the district court acknowledged, UA’s Media Planning Board’s Charter vests editorial freedom in student editors, protects them from censorship and prior restraint, and prohibits removal based on “student, faculty, administrative or public disapproval of editorial policy and content.” Dkt. 40 at 7.³ The Charter designates “[s]tudent media at the

³ Citations to “Dkt.” refer to the district court’s docket in the underlying case, *Pointer, et al. v. Phelps, et al.*, No. 7:26-cv-476 (N.D. Ala. 2026).

University of Alabama” as “public forums for the free and responsible discussion of ideas and issues on campus.” *Id.* at 4, 13. In other words, UA provides the apparatus for student publications to operate but otherwise consciously exerts no influence or control over their editorial operations. The UA apparatus and policy mirrors that which applied to the yearbook in *Kincaid*. In short, its apparatus and policy reflects the history of enshrining protections for student media on college campuses.

Second, the public would not reasonably perceive the magazines as UA’s own speech. To be sure, the student magazines bear UA’s marks and are created with its funding. But the students—not the UA administrators—determined the content for publication. The magazines themselves explicitly state “[a]ll content and design are produced by students in consultation with professional staff advisers.” *Masthead Page*, Nineteen Fifty-Six, Fall 2025, at 4, <https://www.yumpu.com/en/document/read/70864122/nineteen-fifty-six-fall-2025-in-the-black/5>; *Masthead Page*, Alice, Fall 2025, at 4, <https://www.yumpu.com/en/document/read/70864100/alice-fall-2025/3>.

Readers of any UA student publication would understand that the publications expressed the students’ views, not UA’s. And the examples of insightful reporting described above underscore the absence of any

confusion about whether the students or UA are speaking through the magazines. *See supra* Section I(A).

The publications' use of UA funding and infrastructure does not alter the analysis. As this Court recently explained, paying a university employee's salary does not then grant the institution total control over every expression the employee utters, even if it relates to an employee's role. *See Pernell*, 181 F.4th at 1158. So too here, that UA funds assist *Alice's* and *Nineteen Fifty-Six's* operations does not transform those magazines into government speech. *See Antonelli v. Hammond*, 308 F. Supp. 1329, 1337 (D. Mass. 1970) ("We are well beyond the belief that any manner of state regulation is permissible simply because it involves an activity which is part of the university structure and is financed with funds controlled by the administration. The state is not necessarily the unrestrained master of what it creates and fosters.").

Third, UA exercised no editorial control over the magazines. It cannot claim to have "actively shaped or controlled the expression" when its own Charter expressly disclaimed that authority. *Shurtleff*, 596 U.S. at 252. In analyzing this factor, the district court conflated UA's structural decisions about which publications to grant charters with editorial control over what the publications say. Dkt. 40 at 19–20. The

government-speech doctrine only provides refuge to the state when the government genuinely speaks for itself—not when it silences the independent expression of students who are merely affiliated with the state. *See Gambino v. Fairfax County School Bd.*, 429 F. Supp. 731, 735 (E.D. Va. 1977) (explaining that because a student newspaper at a public school “was conceived, established, and operated as a conduit for student expression on a wide variety of topics[,] . . . [i]t falls clearly within the parameters of the First Amendment”), *aff’d*, 564 F.2d 157 (4th Cir. 1977).

If a public university’s funding, branding and infrastructure are enough to convert student journalism into government speech, then every student newspaper at every public college in America is government speech. Every editorial a student writes, every investigation a student reporter pursues, every quote a student reporter gets from someone to capture different perspectives, and every opinion a student columnist expresses would belong not to the student but to the state. That is not what the First Amendment means, and no court has ever held otherwise, until now.

II. THE DISTRICT COURT’S RULING MAY HAVE A CHILLING EFFECT ON STUDENT MEDIA NATIONWIDE.

A. Public University Officials Commonly Use Their Authority to Censor Student Publications.

This Circuit, and courts in Alabama in particular, have long recognized the First Amendment’s importance in the university setting. In 1969, Chief Judge Johnson warned that “[t]he arbitrary acts of a censor cannot be tolerated; not because arbitrary power will be abused in every case but because of its inherent potential for discrimination against unorthodox views.” *Brooks v. Auburn Univ.*, 296 F. Supp. 188, 197 (M.D. Ala. 1969), *aff’d* 412 F.2d 1171 (5th Cir. 1969). As Chief Judge Johnson saw it, “arbitrary power in the administration would permit discrimination against speakers who it was felt would be unpopular with a state legislature.” *Id.* The district court’s decision here, if affirmed, would chill student media throughout the Circuit whenever that media broached potentially unpopular, or even uncomfortable or different, topics or viewpoints.

Student press censorship follows a consistent yet troubling pattern: administrators wield legal tools to control student media and thereby push back against student publications. Although student journalists should be applauded for efforts to investigate or raise issues facing their

campuses and communities, often these journalists bear the brunt of censorship. *E.g.*, Eugene Volokh, *Warning to Student Journalists*, The Washington Post, Apr. 7, 2016 (analyzing Ninth Circuit decision upholding application of college harassment policy for its potential to increase censorship of student journalists), <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/04/07/warning-to-student-journalists-asking-hostile-questions-and-videotaping-may-be-treated-as-threatening-or-endangering-health-or-safety/>.

For instance, a February 2026 report in *Poynter* explained that student media across the country face “shrinking budgets and increasing pressure from the universities that fund them.” Barbara Allen, *Cash-starved and censored, America’s student newspapers are fighting to survive*, Poynter, Feb. 23, 2026, <https://www.poynter.org/educators-students/2026/student-newspaper-challenges-business-censorship/>. That same article reported numerous examples of student publications facing institutional censorship, including firing editors, cancelling entire budgets, and requiring formal approval of interviews and articles. *Id.* Those actions unfortunately are not new. A 2015 article from The Atlantic shows the same conduct has been deployed against student media for years after students engaged in important journalism. David

R. Wheeler, *The Plot Against Student Newspapers?*, The Atlantic, Sept. 30, 2015, <https://www.theatlantic.com/education/archive/2015/09/the-plot-against-studentnewspapers/408106/>. That 2015 report highlighted the sudden firing of the faculty journalism adviser at Butler University after she was accused of tipping off the newspaper to an impending announcement of campus-wide budget cuts.⁴ *Id.* Likewise, it explained how the Fairmont State University student newspaper *The Columns* saw its faculty adviser fired after it published an investigative piece revealing that toxic mold had been found in campus dorms. *Id.* A rule permitting universities to selectively close student publications based on disagreement with their editorial focuses would chill the creation of new student media enterprises and undermine the robust marketplace of ideas on college campuses that the First Amendment protects. *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 828 (1995)

⁴ Courts have recognized retaliation against faculty advisers as a form of indirect censorship. *See Coppola v. Larson*, 2006 WL 2129471, at *10 (D.N.J. July 26, 2006) (explaining “the Plaintiffs have sustained the burden of showing that [the adviser’s] removal will undermine their ability to continue the Paper for the 2006/07 academic year” and that “it is clear that such a retaliatory removal would, nonetheless, have an impermissibly chilling effect on the Paper’s student editors’ freedom of expression in future issues of the Paper, and inflict irreparable harm on the Plaintiffs”).

(“It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys.”).

College officials have also used funding cuts to push back against responsible student media reporting. Few student newspapers are financially independent from their universities, with many publications receiving student activities fees or general college funds. Lillian Lodge Kopenhaver, *Research Spotlight: Still in Growth Mode*, College Media Review Sept. 6, 2012, https://www.collegemedia.org/assets/CMRArchive/CMR_Vol50_Iss1_Fall2012.pdf. Many newspapers rely on these funds for at least half of their annual budgets. *See id.* (finding that nearly forty percent of college newspapers receive at least half their annual budgets from student activities fees, while over twenty percent receive at least half their annual budgets from general college funds). This dependency leaves many student publications especially vulnerable to official censorship.

B. Censorship Anywhere Can Chill Speech Everywhere.

This case has the potential to impact the freedom of student media throughout the Eleventh Circuit and across the country. College publications should be free to report on controversial and important issues of public interest without fear of official censorship. The rule

established in this case will affect flagship student newspapers that focus on investigative reporting as much as it will affect topical-focused magazines like *Alice* and *Nineteen Fifty-Six*. If UA can shutter these publications based on the facts and district court ruling in this case, college administrators elsewhere could shutter any publication whose editorial focus they disfavor, for any reason or no reason at all.

Student media play an irreplaceable role in this marketplace. Courts in this Circuit have understood as much, reasoning that there can be no doubt that “constitutional freedoms must be respected in the relationships between students and faculty and their university.” *Brooks*, 296 F. Supp. at 192. And although UA continues to support multiple student publications, despite the district court’s opinion giving them free rein to extinguish them all, smaller colleges may fund only one or two, placing student media at such institutions in precarious situations any time they consider publishing on a potentially disfavored or even uncomfortable topic.

Amici have long maintained that the pedagogical value of student media depends on genuine editorial independence. Reducing student publications to instruments of university messaging defeats their educational purpose and undermines the development of responsible

journalism and media professionals. Although this Court has approved certain restrictions in other contexts, it should not countenance a blanket rule that university-supported student media is government speech. Instead, the Court should continue to apply a case-by-case approach to First Amendment issues that arise in the college setting, as recently reaffirmed in *Pernell*. 181 F.4th at 1159.

The next student journalist who uncovers a university president's research fraud, finds evidence of toxic mold in campus housing, or has sources claiming public funds have been misused, will have to ask before reporting whether her publication is next on the chopping block. That calculation, that fear, is the chilling effect the First Amendment exists to prevent.

CONCLUSION

In 1967, an Alabama federal court recognized that a public college student editor could not be punished for publishing what the administration did not want the public to read. That principle has protected student journalists for six decades. It should protect them still. The closure of *Alice* and *Nineteen Fifty-Six* threatens free speech rights for student media at universities throughout Alabama, Georgia, and

Florida. *Amici* respectfully urge this Court to reverse the district court's denial of the preliminary injunction.

Respectfully submitted,

Dated: September 2, 2026

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CERTIFICATE OF COMPLIANCE

Undersigned counsel for *Amici Curiae* certifies that:

- This brief complies with the length limitation of Rule 29(a)(5) of the Federal Rules of Appellate Procedure because it contains 4,447 words; and
- This brief complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it was prepared using Microsoft Office Word 2010 and is set in 14-point Century Schoolbook font.

Dated: September 2, 2026

By: /s/Andrew J. Tuck

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing documents on this date with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit using the Appellate Electronic Filing system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: September 2, 2026

By: /s/Andrew J. Tuck

Appendix A

Appendix A

Non-curricular student outlets:⁵

The Student Life
Claremont Colleges

The Mass Media
University of Massachusetts Boston

The College Hill Independent
Brown University

The Louisville Cardinal
University of Louisville

City on a Hill Press
University of California, Santa Cruz

The Rotunda Newspaper
Longwood University

The Murray State News
Murray State University

The Alestle
Southern Illinois University Edwardsville

The Daily
University of Washington

Thread Magazine
Ohio University

***World Series Way Publishing Company, Inc. d/b/a The
Huntington News***

⁵ School names are provided only to help identify the student publications listed in Appendix A as being supportive of the arguments included in this brief. No university, college, or other educational institution is an *Amici* or otherwise participated in *Amici*'s brief in support of Appellants.

Northeastern University

The Reporter

Stetson University

Kentucky Kernel

University of Kentucky

The Heights

Boston College

The Vanderbilt Hustler

Vanderbilt University

The Retrograde Newspaper Corporation; d/b/a The Retrograde

University of Texas at Dallas

The Gustavian Weekly

Gustavus Adolphus College

Duke Student Publishing Company Board of Directors, dba The Chronicle

Duke University

The Clock

Plymouth State University

The New Political

Ohio University

The AUMnibus

Auburn University at Montgomery

The Red & Black

The University of Georgia

The Cavalier Daily Inc. d/b/a The Cavalier Daily

University of Virginia

The Clarion

Sinclair Community College

ASUCLA Communications Board d/b/a The Daily Bruin
University of California, Los Angeles

The Post
Ohio University

Dale News
State University of New York (“SUNY”) Farmingdale College

The Reflector
Mississippi State University

The Campus Newspaper
Allegheny College

The Arbiter
Boise State University

The Stylus
SUNY Brockport

The Tufts Daily
Tufts University

The Kaleidoscope
University of Alabama at Birmingham

Curricular student outlets:

PCC Courier
Pasadena City College

The Signpost
Weber State University

The Oak Leaf News
Santa Rosa Junior College

La Voz News
De Anza College

The University Daily Kansan
University of Kansas

T&C Media
Otterbein University

The Citizen
Laney College

Student media leaders:⁶

Emma Brandenburg, Editor-in-Chief, *The Crimson White*
The University of Alabama

Max Krzeminski, Managing Editor, *The Crimson White*
The University of Alabama

Jacob Ritondo, former Managing Editor (2024-26), *The Crimson White*

Maeve Bauer, Executive Editor, *The Commonwealth Times*
Virginia Commonwealth University

James Berreth, Editor-in-Chief, *The Metropolitan*
Metropolitan State University

Mae Harding, Managing Editor, News Section Editor, *The Hawkeye*
University of Louisiana Monroe

Gray Nocjar, Editor-in-Chief, *The Observer*
University of Notre Dame, Saint Mary's College, and Holy Cross College

Alex Carbone, Editor-in-Chief, *The Torch*
Bergen Community College

Nathan Feller, Editor-in-Chief, *Ponder*
Black Hills State University

⁶ Titles and names of publications and schools are provided only to help identify supporters listed in Appendix A.

Tyler Church, Editor-in-Chief, *Minnesota Daily*
University of Minnesota - Twin Cities

Jack Forrest & Mateo Fuentes-Rohwer, Editors-in-Chief, *Indiana Daily Student*, Indiana University

Annabelle Zhang, Editor-in-Chief, *The Dartmouth*
Dartmouth College

Kaeleigh Banda, Editor-in-Chief, *The Ithacan*
Ithaca College

Norah McLaughlin, Editor-in-Chief, *Whitworthian*
Whitworth University