

Rebel Reporting: A College Journalist's Guide to Circumventing Administrative Censorship

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Abstract

Over the course of the past half century, the freedoms given to college journalists have been altered due to various court cases that have restricted what student newspapers can and cannot publish. Because each relevant court case dealing with suppression of the press has negated its predecessors, high school censorship has been applied to collegiate publications, inevitably limiting the rights given to the college reporters. However, there is only so much information administrators can prohibit from being printed because they do not have complete control of student media. As a result, universities have attempted to devise ways around the law so they can force the student newspaper to be a public relations tool for the institution instead of a professional development device. Nonetheless, there are ways in which student newspapers at private universities can print the truth without having to fear being censored. This paper will explore the means in which this is possible.

Introduction

Being a student editor is no easy task. From constantly fretting over the strict deadlines that deem whether material will be published in the next issue, to juggling a full course load, to supervising a faction of writers who cannot comprehend the difference between a lede and a lead, collegiate correspondents have an abundance of responsibility that extends far beyond the boundaries of the newsroom. But perhaps the most substantial challenge is one that, more often than not, the student has absolutely no control of whatsoever. When stringent college administrators breathe down the neck of newspaper editors, looking for any excuse they can uncover in order to slash funding for the entity and deprive the journalists of information needed to provide unbiased reporting to the campus community, forging the editorial direction of each print edition is the least of their worries. Because campus administrations strive to promote the school in a positive light, they can attempt to prevent students from publishing facts that may seem hazardous to the public perception of the institution. When this happens, college journalists are deemed powerless and have to take indirect reporting routes in order to actively seek the truth and disclose information that is unearthed (SPJ Code of Ethics, 2014).

The First Amendment

Ever since the first student newspaper rolled off the printing presses at Dartmouth College in 1799, undergraduates have battled with higher authority for supremacy among the boundaries of their respective campuses, often falling in a fight familiar to nearly every campus publication in the United States (Reimold, 2013). When faced with adversity stemming from a controversy on an institution's grounds, student editors have two distinct options they can abide by. During these times, the student press can either fulfill its journalistic integrity by disclosing information that would portray the university in a negative manner, fully aware of the backlash that could ultimately destroy its status as a campus fixture, or it can simply abide by the institution's requests and not publicize subjects that would mar the university's academic prestige. However this was not always the case since, up until the recently, the notion that any publicity was good publicity was the primary marketing tool utilized by the titans of higher education.

When James Madison collaborated with Thomas Jefferson to draft the Freedom of the Press clause in the First Amendment, the two Virginians envisioned a media enterprise that would not be subjected to the same government censorship that its English counterparts faced throughout the 17th century (Head, n.d.). Thus for the previous 240 years, professional media outlets were, under the provisions of the Constitution, emancipated from writing solely about optimistic news and afforded the right to deliver truthful reporting without fear of government intervention. This is the standard in the industry because the publication is likely owned by a parent company and not connected directly with the physical boundaries its reporting jurisdiction lies within.

Conversely, student publications on college campuses are not as fortunate; being a subsidiary of the university, they must adhere to a stringent code of conduct unless they are a separate, fully-funded entity. Even if the publication is liberated from the educational institution and therefore able to freely detail information that would be beneficial to the student population as a whole, the school's leaders could still flex their muscle to induce an aggressive scare tactic to deter the leaking of information that otherwise would have been swept under the rug by the administration, never to be addressed again. Because of the various freedom of speech and expression decisions handed down by the United States judicial system over the past five

decades, it has become increasingly easier for the bureaucrats of higher education to annex full editorial control of the paper from the students, which is partially the reason why these journalists are unable to fulfill their obligations as watchdogs at the already corrupt colleges in the nation.

The Court Cases

Tinker v. Des Moines

The 1969 landmark Supreme Court case, *Tinker v. Des Moines Independent Community School District*, designated the Constitutional privileges granted to public school pupils via the influential *Tinker Test* – which allocates free speech to students as long as it does not disrupt others from learning. At first, it initially appeared that public university newspapers would be safeguarded under federal law for its printed material, under the condition that it was not viewed as obscene in any manner (Ryan & Martinson, 1969). Even though in the 1960s, college leaders were permitted to institute “reasonable rules for the time, place or manner of the distribution of student or other publications,” administrators were likely not to take action regarding the student newspaper unless it was reasoned to be a necessity. Although *Tinker v. Des Moines* was associated with the freedoms given to students in grades 9-12, three years later, in *Healy v. James*, the *Tinker* ruling was applied to colleges after a unanimous verdict affirmed that undergraduates are authorized to receive the same free speech rights that are given to individuals in a general public setting (Van Alstyne, 1990).

Widmar v. Vincent

This decision was reaffirmed in the 1981 freedom of speech and religion suit *Widmar v. Vincent* in which the Supreme Court determined that there is “no doubt that the First Amendment rights of speech and association extend to campuses of state universities” (Hunker, 2007). Thus, as long as a college was publically funded and an integral part of the state’s system of higher education, its student media syndicates would be permitted to freely express ideas as an open forum. This clearly distinct line dividing a student publication’s right to report on its school became hazed seven years later as a result of the Supreme Court case that set the precedent for nearly every student media outlet, no matter the scholastic level. Prior to May 1983, it had been nothing new for student newspapers to challenge the authority of the institution, but often times the administration had admonished the thought of monitoring every facet of the paper because it was simply viewed as an arduous and futile burden that would not be the means to an end of free press (Tanner, 2007). Because of this, no matter what articles were produced, the newspapers were sheltered from censorship as long as the university was deemed a public institution and received funding from both the state and national governments. This enabled the media to liberally cover whatever they desired without being subjected to legal or internal repercussions from the department.

Hazelwood v. Kuhlmeier

Yet following the breakthrough 1988 case *Hazelwood School District v. Kuhlmeier*, the boundary delineating journalistic integrity between unethical behaviors by a university was not coherent and various aspects fell into a gray area that inevitably made it difficult to differentiate what a school executive could and could not suppress (Tanner, 2007).

It all began at Hazelwood East High School in St. Louis County, Missouri after journalists had intended to print two controversial articles in their newspaper, *The Spectrum*. Both bylines, one chronicling teen pregnancy within the district and the other detailing the feelings of students coping with their parents’ divorce, were judged to be unsuitable for a high

school aged audience by Principal Robert Eugene Reynolds during the publication's customary administrative audit period prior to publication.

Because the end of the academic year was approaching, Reynolds thought that there would not be enough time to make the appropriate alterations and subsequently opted to cut two of *The Spectrum's* four pages, neglecting to inform the writers that their work was omitted from the final product. As a result, student editor Cathy Kuhlmeier, along with two staff reporters and the aid of the American Civil Liberties Union, filed a lawsuit against the district, claiming that the school's censorship policy was not only in a direct violation of their first and fourteenth amendment freedoms, but also unjust because prior editions of *The Spectrum* tackled the same issues that were now being considered obscene. In its initial ruling, the U.S. District Court for the Eastern District of Missouri contended that the school was not in violation of any morality charter because administrators were permitted to curb student work if, and only if, there was "substantial and reasonable basis" for the restriction (United States Courts, n.d.).

The litigation process was reassigned to the U.S. Court of Appeals for the Eighth Circuit, where the previous proceedings were overturned on the basis that student publications functioned as a public forum for the academic institution. Because of this, content could not be suppressed unless it hindered the rights of those in the school. The Supreme Court then disseminated a writ probing judicial review, which ultimately transferred the dispute to the highest federal court in the U.S. In January 1988 – nearly five years since the preliminary ban issued by Reynolds – in a 5-3 majority, the Supreme Court reversed the Court of Appeals' decision, asserting that school-sponsored activities and organizations that were not granted immunity from executive bowdlerization. The justices in the majority, William Rehnquist, Byron White, John P. Stevens, Sandra Day O'Connor and Antonin Scalia, argued that, because the paper was an entity subsidized by the district, its sole purpose was not to function as a student communication mechanism. In other words, *The Spectrum* did not warrant the same benefits that its self-sufficient and professional counterparts maintain (Meyer, 1988). The publication was the byproduct of a Journalism II course and intended only to serve as a training tool for the students, consequently rendering it a non-legitimate media source which, in turn, made it permissible to blacklist certain articles.

This majority opinion has been one of the most pertinent examples associated with student press incidents because it superseded the precedent set forth by *Tinker v. Des Moines* 19 years earlier. In its simplest form, the ruling stated that student reporters must abide by the orders of a school's authority figure when asked to do so, whereas the *Tinker* decision established the notion that the only possible way speech could be censored was if it was determined to be a detriment to other students or if it disrupted the institution's learning environment. For the most part, the *Hazelwood* case was meant to only be applied to instances of high school-based expression though the ruling has been known to be applicable to a college setting from time to time (Meyer, 1988). However in the 27 years since White penned the majority opinion, some federal courts have maintained that the verdict can, theoretically, be pertinent to collegiate publications, while other tribunal systems have ruled against this.

Hosty v. Carter

Despite these inconsistencies regarding whether administrative censorship at the high school level can be a relevant cause to expurgate media outlets in a university environment, the collegiate press was frequently exempt from the Supreme Court's decision made on that fateful day in mid-January 1988. That changed in 2005 when executive restriction on student media was

brought to the forefront once again and more articulately defined the position administrations can take in terms of limiting the material student publications can print.

In the fall of 2000, *The Innovator* – the student newspaper at Governor’s State University – published a series of articles castigating authoritative measures taken by the institution. In order to limit the circulation of material that could be considered a public relations nightmare, Dean Patricia Carter demanded to view and approve all future issues before they could be distributed throughout the suburban Chicago campus (Free-speech rights of college newspapers contested, 2004). Despite the fact that Governor’s State had a policy giving *The Innovator*’s staff the sole right to “determine content and format of their respective publications without censorship or advance approval,” Carter went ahead with her edict, which prompted the student editors to file suit against both the institution and the Illinois Attorney General’s office, claiming that they were denied their freedom of the press doctrine and that the rights they possessed as college students were equivalent to those at a high school level (Waldman, 2006). Nevertheless, up until that point, the precedent set by *Hazelwood v. Kuhlmeier* was never applied to a court case dealing with suppression of a college newspaper. Consequently, in its preliminary ruling, the court of appeals pronounced that the “decisional framework at the university level should be the same as the ‘Hazelwood framework’ established by the Supreme Court for the high school level” (Murphy, 2014).

Because of the ruling made by the Seventh Circuit, there is a clear and present danger suspended over the heads of college reporters everywhere in which administrators are patiently waiting to fully suppress their rights at campuses scattered throughout the nation (Silver, 2007). Since the court case made it reasonable to apply the public forum doctrine to a college audience, a line has been drawn separating what can be classified as student expression as opposed to what is in the sincere securities of the college when it comes to banishing printed or digital news material (Smith, 2002).

Yet with all of the student expression court cases that have incited outrage in both the minds of administrators and student correspondents alike, the chief difference between public and private universities and self-sufficient media conglomerates versus those whose existence is fully dependent on the institution is what censorship limits are enacted to keep a keen eye on the editorial influence given to the hierarchical educational executives (Plopper, 2001). Public colleges that receive capital from the state government’s budget are generally exempt from press restrictions because they are the backbone of a state’s educational system; any attempt to hinder this reputation would jeopardize the institution’s chances of inheriting backing from the commonwealth. This is because public universities are considered state agencies, whereas private schools are not and the only way this doctrine would be altered is if mutualistic relationship is inevitably forged between private universities and their state educational departments (Meyer, 1988). Though despite the fact that it may seem like there is no hope whatsoever for college reporters to fully devote themselves to providing unprecedented coverage to their respective private institution campuses since the threat of censorship or the refusal to disclose pertinent information is constantly lingering, there are unconventional ways to circumnavigate the system to stay within a journalist’s legal boundaries and also deliver the best possible story to the masses.

An Alternative Approach

It is a situation that every newspaper editor at a private institution has faced. The publication has just inked an investigative piece documenting the president’s tax fraud. Or

perhaps someone on the staff discovered that the star athlete is involved in an academic cheating scandal. If the articles get published, two prominent figures of the campus community will fall from grace. Should the editor opt to fulfil their journalistic integrity and report the news regardless of the ramifications? Or do they feel obligated, as students, to not want to damage the reputation of their educational precinct? What if the university pays the students' stipends, therefore constituting them as employees of the school? When all of these factors are taken into consideration, it is no wonder why some publications elect to turn their backs on the truth (Filak, 2012). And even if they do strive to serve as a watchdog over the student body, monitoring the actions of those in control, what is going to stop the institution from censoring the newspaper?

The Difference

There is a lot that can stand in the way of administrative restriction of the press. But without fully comprehending the law, the university will continually bully the student newspaper, thinking no one knows better (Wright, 1986). Though there are ways around this appalling situation. They are not ideal, but they are effective, which is why everyone needs to be made aware of their privileges as undergraduate reporter (Buss, 1989).

First and foremost, there is a significant difference between the rights public and private school journalists have. Since all public colleges receive money from the state or commonwealth that governs it, the students attending have all of the basic freedoms they would possess in any public place. If the institution would infringe on these rights, its funding would be slashed. In theory, this could be done but if so, the college would run the risk of not receiving an allocated operating budget from the state, which would be its worst nightmare. As a result, state educational establishments are deterred from doing this (Gow, 1990).

The private school sector is where things get a little more complicated. These institutions do not rely on public subsidy, so they have less to lose and consequently are more likely to wage the suppression war against student newspapers. Therefore, student publications under this jurisdiction have to be crafty in order to stay one step ahead of the administrators.

Independent Student Media

Plain and simple, if a college newspaper at a private institution does not want to be subjected to hierarchical censorship, then it has to find a way to become financially independent from the university, a separate entity altogether that serves the boundaries of the campus, but has no affiliation with the school other than its coverage area (Knull, 2001). Even though this can sometimes not be a practical or feasible option, it is the most appropriate course of action. Even though the outlet will not have a formal meeting space on campus, will have to generate its own revenue through print and online advertisement sales and cannot bank on the school to pay its staff a cushy monthly salary, it is the ideal situation. In a sense, it is a large investment with little to no return. But that is exactly why it is worth it in the long run.

If there is one sure fire way to ensure that freedom of the press will not be an issue at a respective post-secondary institution, it is liberating student media from the school (Reed, 2004). If the university would attempt to censor an independent college publication, its act would quickly be thwarted because they would have no case whatsoever against the newspaper. They would not be able to threaten the organization with expulsion because there would not be any wrongdoing occurring. It would be equivalent to intimidating a group of students into not playing their weekly pickup basketball game because of the possibility that that faction of friends would promote the school in a negative light. There just is not any argument to be made there. Though the only censor these independent publications have to worry about is having student

groups steal free issues straight from the newsstand (Koster, 1994). And since most college newspapers have a supplementary website, this has become less of an issue.

However the reality of the situation is that it is not possible to have every student newspaper at a private university be self-governing.

There comes a time when college publications have to seek outside financial assistance thus putting them in debt of another organization. For instance, the *Daily Egyptian*, the newspaper of Southern Illinois University Carbondale, was stuck in a rut following the spring 2014 semester. After realizing that their independent voice was in jeopardy of becoming a thing of the past, SIUC students created a “rallying cry,” #SavetheDE, which led the Illinois Legislature to allocate \$70,000 from its state budget to the *Daily Egyptian* (Otto, 2014).

The previous year, Western Michigan University’s *Western Herald* found itself in a similar position, which forced the student body to approve the Student Media Group ballot initiative. Despite the fact that this act collects a \$5 activity fee from all students and divvies the revenue between the campus newspaper, radio station and television channel, it puts the *Western Herald* in a difficult situation (Grasgreen, 2013). Technically, the paper is an entity of the entire student body, which technically gives them the ability to censor it. Because of this, if students are upset, displeased or downright outraged at the outlet for publishing a controversial story, they can barrage the editors to take the information out of print.

If being funded by an outside source is the only option, then censorship is bound to occur, more likely sooner rather than later (Lyons, 2006). But before this happens, administrators will do whatever is permissible to not allow valuable information seep through the cracks of conversation, only to later appear in a printed product. If insight is not released into the public sphere, then the institution does not have to worry. Even if they are financially independent and able to report the news without fear of censorship, student journalists can sometimes be unable to do so due to the fact that data is not always made publically available. The most common example of this occurs whenever a reporter inquires about a topic that has snuck under the radar. If it is something that the public relations department does not want exposed, they will coach the school’s administrators not to say anything more than the bare minimum so that any information that can potentially shed the institution in a negative light is not released, thus safeguarding the institution’s reputation (Stewart, 2004). Unfortunately, this is the way things are, have been and always will be.

Forging Relationships with Administrators

As a result, it is imperative that journalists think outside the box when seeking to bring attention to aspects about a college that need to be altered for the betterment of the entire student body. Sure, a reporter can run with the phony answers that are conceived prior to an interview, but quotations like that do not do a public service. Rather, if anything, it actually harms the reader more than it aids them because they are being fed information that serves no use, filler material that is a bane to the students if digested. The only way to get authentic reactions out of campus officials is to first form pertinent relationships with these individuals prior to covering breaking news (Nesvisky, 2008). This is why the beat system is an essential part of college news organizations. By getting to know administrators, deans, coaches and the president, collegiate correspondents are able to extract information that otherwise would be locked up within the bowels of an executive’s mind.

It does not make sense why an individual would give honest answers to someone they just met five minutes prior to an interview. Acquaintances receive generic responses while associates get the truth. The journalist does not have to become best friends with their sources,

but the greater the bond they have with the leaders of academia, the less likely they are to have their pieces censored. Even if an official disagrees with an article written about them, they are not as inclined to take action if they know and respect the writer on a personal level. This goes back to the common notion that it is easier to attack someone you don't know rather than a colleague.

Inside Sources

Nevertheless, no matter how close a reporter is with their contact list, sometimes they are unable to persuade this person to budge and, as a result, are unable to craft a compelling story because the facts are not being disclosed.

It is during this time that the university believes it has won. For example, news of the star basketball player being suspended for violating the program's drug policy or the professor who was arrested for driving under the influence will never be discussed outside of the confined walls of a campus boardroom. And most likely, in situations similar to this, they are correct. If something happens within the perimeters of a private college campus, the records will be kept internally and are nearly impossible to retrieve. However if outside law enforcement is brought in, then they must file a police report, therefore making that incident a public record. For instance, in the case of a basketball player being caught with narcotics on a private campus, the case will be handled through judicial affairs, the individual's name will not appear in the police blotter and the head coach will handle this matter internally and in a press release, the sports information director will say said player was suspended for a "violation of team rules." If the actual scandal was revealed, then the university would receive negative attention, prompting an abundance of unwanted attention that could ultimately affect application numbers, in turn, equating to a loss of revenue. A college is a business and the less students who want to attend, the less money that is being brought in, which typically translates to a high tuition bill to those already enrolled.

So in short, since private institutions are not required to announce this information, they will not. Though, if inside sources have a say in this, the story, good, bad or ugly, will be leaked. The first rule of journalism is to know your audience and no one knows this statement better than student journalists, simply because they are students first and reporters second. Rumors and speculation spread like wild fire in a college setting because everyone knows someone who knows someone else, validating the six degrees of separation theory. So if an athlete is caught with drugs, the journalist can track down someone who knows exactly what happened. It is just a matter of whether they trust that person enough to run with the information they are told. If they believe the source to be credible, then they can ultimately publish their account of the story. But is this method advised?

That depends.

Anytime anything is published, a journalist's integrity is on the line and the first time false facts are printed, that person is doomed since it is easier to destroy a reputation than it is to build it back up. A lot of risk lingers with this alternative. But at the same time, so does a huge reward, most notably being the first writer to break a story that could potentially send ripples throughout the college community (Snyder, 2002). Even if the information is legitimate, the university could still attempt to remove the article from the school paper. However even if this is done, once the news is in the public sphere, it is out there for good, opening the floodgates of negative publicity all at once for the institution. Thus, the news outlet is able to fulfill its first and only duty to the student body; exposing all the corruption and wrongdoing that occurs on campus.

Conclusion

So what about all of the previous court cases dealing with student expression and freedom of the press? Are they still relevant? It really just depends on a case by case basis. If there is one thing for sure, it is that the law is not generally in the favor of student newspapers at private colleges. Father time has not been fair to post-secondary publications. Every major suit that has been brought to the public eye has had a differing opinion regarding what rights should be granted to student media channels. When one case ruled in favor of one side, the preceding opinion went against the precedent, attempting to manufacture its own identity. Because of this, there has never been a coherent guide to follow, often times putting reporters in a bind because the administration of their university follows one precedent and not the other. Sometimes it could rule in their favor, other times not. There never seems to be any consistency with this, which is why the need for student journalists to not only comprehend their rights, but also understand the varying courses of actions they are permitted to take is held in such a high regard.

Tinker v. Des Moines really did not do anything for college newspapers, neither did *Hazelwood v. Kuhlmeier* nor *Hosty v. Carter*. In fact, none of these court cases benefited college publications at private universities (Ramey, 2009). If anything, they did more harm than good. But being a journalist is an uphill battle so something like this should not be anything new to these future professional writers, editors, photographers, anchors and producers. If anything, it can only make them more prolific at their occupation after graduating because they would have faced every journalistic adversity known to man in college. Let's face it, even though there is not much student reporters can do, there are ways to circumvent the system, it just depends which one is the most appropriate fit for a particular situation.

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