



*Policies that give your student journalists the freedom to learn benefit the students and the district, too*

### **Tyler Buller**

**S**tudent reporters terrify adults, and I've never understood why.

It was a mystery when I was covering school board and city council meetings as the editor of my high school newspaper, and it's been no less a mystery in recent years, when I served as an elected member of my alma mater's school board.

Admittedly, good student journalism does have a tendency to "stir the pot" and cause controversy. But at the same time, student reporting can make adults in the community aware of situations, concerns, and perspectives that otherwise might never come to light.

Over the years, our district's high school newspaper has reported some memorable stories. In 2003, the students wrote both news and editorial pieces on a parent's attempt to remove Maya Angelou's *I Know Why the Caged Bird Sings* from the freshman English curriculum. The next year,

they reported on the unlawful distribution of campaign materials by an incumbent school board member and the subsequent write-in campaign to defeat him.

More recently, we've seen informative stories on topics such as underage drinking, depression, and substance abuse. The students were even the first to break the story when the board hired our current superintendent.

Our students have been recognized for their efforts. They have won national awards from the Journalism Education Association, Quill & Scroll, the National and Columbia Scholastic Press Associations, and even a state championship.

These successes are no coincidence. Our student reporters and newspaper adviser invest many hours in their work. Our district also has made a significant investment in our student publications, through the retention of a talented adviser, a well-funded journalism department, and policies that ensure students can pursue their journalistic education without unjustified interference.

From my own experience as a student journalist and later as a school board member, I've seen that the key to successful, informative student journalism is having two policies. The first protects students from direct censorship, in instances such as an administrator who thinks the newspaper's stories are "too controversial" or "not positive enough." The second policy protects students from indirect censorship, such as when administrators pressure teachers to censor students, for fear of retaliation through a punitive transfer or reassignment.

### Direct censorship

At the core of good reporting is the freedom of students to write stories of interest to the student body or community, and to practice quality journalism.

The most common threat to the integrity of student reporting—indeed, the most common legal issue arising out of high school press—is censorship by school officials and administrators.

Now, you may wonder: Don't high school journalists already have all of the protection from direct censorship they need?

Unless you reside in one of nine states with explicit student free speech protections on the books, the answer is no, students do *not* have the protection they need or were given by the Supreme Court prior to 1988.

Before 1988, student newspapers were protected by the *Tinker* standard (from its namesake 1969 court case, *Tinker v. Des Moines Independent School District*). Under *Tinker*, administrators may only interfere with protected speech that would be reasonably forecast to "cause a material and substantial disruption of school activities" or an "invasion of the rights of others." In other words, only stories that cause significant interference with orderly school operations can be lawfully censored.

In the 1988 *Hazelwood School District v. Kuhlmeier* case, the Supreme Court lowered the protection afforded to most student journalists, writing that *Tinker* only applied to student newspapers that had, by policy or practice, been created as "open forums" for student expression.

The new Supreme Court standard, for newspapers without that special "open forum" status, only requires that censorship of student journalists be "reasonably related to legitimate pedagogical concerns"—in other words, administrators may only interfere when there is a valid educational reason for censorship.

In response to the *Hazelwood* case, nine states have reinstated the *Tinker* standard. Arkansas, California, Colorado, Iowa, Kansas, Massachusetts, and Oregon have student press statutes passed by the legislature, while Pennsylvania and Washington have formalized the *Tinker* standard in administrative regulations.

However, no matter what minimum standard your state or the Supreme Court has laid out for protecting student speech, your board can always adopt policies and administrative regulations that offer greater protection than exists elsewhere in the law. A board in a non-*Tinker* state is always free to adopt that standard and afford increased protection to its students through local policy.

### Indirect censorship

Although enacting prohibitions against direct censorship of students is important, it doesn't cover all of the possible routes administrators sometimes take to interfere with student journalists.

Instances of teachers being punished for student speech and publications have happened across the country, from New York to Indiana, Kansas, Florida, California, New Jersey, Illinois, and even my home state of Iowa.

In California, the frequency of actions taken against teachers to censor student speech were so distressing that two years ago legislators passed S.B. 1370, better known as the "California Journalism Teacher Protection Act."

Inevitably, when discussing the issues surrounding an adviser protection policy that addresses indirect censorship, someone will justify censorship by comparing the school to a publisher or newspaper CEO, and the students to staff writers.

The "school as CEO" analogy is flawed. In Iowa, for example, state law clearly states that students "shall assign and edit the news," while the role of the journalism teacher is to advise the students. In other words, the students are in charge, and the adviser is there to counsel the students on best practices of quality journalism.

For a thriving student press, the role of the students must be to serve as the true leaders of their publications, with the student editorial board as the board of directors and the student editor as CEO. For the adviser, the role

must be that of the outside consultant and auditor, brought in to assist in the development of quality publications and ensure compliance with regulations and the law.

Such a relationship—where the adviser is serving in a truly advisory capacity—serves not only to allow the students the freedom to report objective, fair journalism, but also the opportunity to learn from an adviser’s insight, suggestions, and critiques. A policy that accomplishes this aim will help give your students the tools they need to succeed.

### Policy decisions

With any policy revision or addition, it’s important to follow the procedure set out in your board governance policies. Whether the introduction of policies comes in committee discussions, to the board president, or to your board as a whole, following that process to the letter is important for your board’s legitimacy.

When you take a hard look at your student publication policies, you have to remember that you’re not in this alone. Not only might you find experts from the journalism industry in your own district, but your state’s high school press association can also give firsthand accounts of why policies that give strong protection are so important for your students. The Student Press Law Center, a nonprofit legal assistance agency for student journalists and free speech issues, offers model policies and statutes on its website, [www.splc.org](http://www.splc.org).

However, the most important resource for your board’s consideration of policy revisions in this area will be the very individuals it affects most: your students.

When our board was considering such a policy revision, we sought input from students and alumni, and we received a letter signed by nearly two dozen former student journalists urging our adoption of a policy to protect our students from indirect censorship. This letter conveyed, in their own words, the benefits of such a policy in a way that was easy for our board members to understand.

After gathering this information, it’s up to your board to take further action and transform the ideas here into real, substantive policies. Whether your aim is to draft a new policy, or to adopt models from organizations or other districts, you can be assured of results so long as the protections against direct and indirect censorship described here are carried into your policy.

### Why is this important?

Students have to come first in all your board’s decisions. Our responsibility as school board members is, first and foremost, to provide the best quality education we can for our students. Who could argue against providing a solid foundation in real, informative, and compelling journalism as part of a top-notch education?

That’s exactly what adding policies to strengthen the stu-

dent press is all about.

Our journalism alumni (me included) will be the first to tell you that the skills we learned reporting for and managing publications cannot be matched. Journalism students learn to investigate complex topics, leave their comfort zone to interview individuals from all walks of life, and even gain significant leadership skills as they supervise the content and business aspects of their publications.

Beyond their direct impact on student reporters, these policies also broaden the education of every student in a district, as quality reporting improves their understanding of local issues and brings light to diverse viewpoints.

Administrators have told me they see the benefits of a clear local policy that ensures students are protected from both direct and indirect censorship. Community members, especially parents, are quick to storm the principal’s office, demanding the student newspaper be shut down or the adviser fired every time an unflattering article is published. In high school, I spent more than my fair share of time sitting in the principal’s office, listening to these complaints firsthand.

Without a local policy protecting students and their advisers, these complaints put principals in a difficult position. They could cite state law, or point to court cases. However, a clear board policy will get them much further than will some fuzzy concept like “the *Tinker* standard for student free speech.”

Perhaps the greatest beneficiary of these policies, in both practical and abstract ways, is the district as a whole. In terms of the practical, local policies protecting students can help to avoid the rash of six-figure settlements paid out by districts over the last few years when the courts have found censorship to be unlawful.

The abstract contribution of these policies is, of course, their value in civic education. According to the 2009 State of the First Amendment survey, only 55 percent of respondents know the First Amendment protects, freedom of speech, and just 16 percent know it protects freedom of the press.

With such a lack of understanding of our fundamental freedoms, sound civics lessons have never been more important. What better way to teach your students and community about First Amendment principles than to put them into action in their classrooms and activities?

Given the numerous benefits—for your students, your employees, your board, and your community—it’s time to put an end to that fear of student reporters and adopt local policies that give them the tools they need to succeed.

You might be surprised to see what you learn about your district from a robust, free student press. ■

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