

Student Press Law Center

Model Guidelines for College Student Media

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I. STATEMENT OF POLICY

[Name of institution] recognizes the educational and societal value of encouraging the uninhibited, robust, free and open discussion of issues and ideas on America's college and university campuses, as well as the legal protections afforded students' exercise of freedom of expression and press freedom, especially by the First Amendment to the United States Constitution [omit underlined text for student media at a private college]. It is therefore the policy of the [name of institution] Board of Trustees that all student-edited campus media have been established as designated public forums for student expression.

It is the Board's intent that [name of institution's] student media will provide a full opportunity for its students to inquire, question and exchange ideas and that they will strive to reflect all areas of student interest, including topics about which there may be dissent or controversy.

Because it is the policy of the [name of institution] Board of Trustees that students shall have the right to determine the content of student media, the following guidelines relate only to establishing grounds for disciplinary actions subsequent to publication.

Any disciplinary action must be conducted in a system that provides adequate due process. The burden rests with the college administration to demonstrate the necessity of its disciplinary action.

II. COLLEGE-SPONSORED STUDENT MEDIA

A. Responsibilities of Student Journalists

Students who work on official, college-sponsored student media determine the content of their respective media organizations and are responsible for that content.

These students should strive to:

1. Produce media based upon professional standards of accuracy, objectivity and fairness;

2. Review material to improve sentence structure, grammar, spelling and punctuation;
3. Reasonably check and verify all facts and the accuracy quotations; and
4. In the case of editorials or letters to the editor concerning controversial issues, determine the need for rebuttal comments and opinions and provide space or airtime, if appropriate.

B. Unprotected Expression

The following types of student expression are not protected by this policy:

1. Material that is obscene, as defined by state law and this policy.

"Obscenity" is defined as material that meets all three of the following requirements: (a) the average person, applying contemporary community standards, would find that the publication, taken as a whole, appeals to a prurient interest in sex; (b) the publication depicts or describes, in a patently offensive way, sexual conduct such as ultimate sexual acts (normal or perverted), masturbation and lewd exhibition of the genitals; and (c) the work, taken as a whole, lacks serious literary, artistic, political or scientific value. Indecent or vulgar language is not obscene.

2. Libelous material, as defined by state law.
3. Material that unlawfully invades a person's right to privacy, as defined by state law.
4. Material that will cause "a material and substantial disruption" of college activities.

"Disruption" includes student rioting, unlawful seizures of property, destruction of property, or substantial student participation in a college boycott, sit-in, walk-out or other related form of seriously disruptive, physical activity. Material such as racial, religious or ethnic slurs, however distasteful, is not in and of itself disruptive under these guidelines.

Threats of violence are not materially disruptive without some act in furtherance of that threat or a reasonable belief and expectation that the author of the threat has the capability and intent of carrying through on that threat in a manner that does not allow acts other than suppression of speech to mitigate the threat in a timely manner.

Material that stimulates heated discussion or debate does not constitute the type of disruption prohibited.

For student media to be considered disruptive, specific facts must exist upon which one could reasonably forecast a likelihood of a material and substantial disruption to normal college activities would occur if the material were further distributed or has occurred as a result of the material's distribution or dissemination. Mere undifferentiated fear or apprehension of disturbance is not enough; college administrators must be able affirmatively to show substantial facts that reasonably support a forecast of likely disruption.

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. In this regard, consideration should be given to past experience in the college with similar material, past experience in the college in dealing with and supervising the students in the college, 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.

College officials have a responsibility to protect advocates of unpopular viewpoints.

C. Legal Advice

If, in the opinion of a the student editor or student editorial staff material proposed for publication may be "obscene," "libelous," "invasive or privacy," or would cause a "material and substantial disruption of college activities," the legal opinion of a practicing attorney with an understanding of media law should be sought. The services of the attorney for local news media or the free legal services of the Student Press Law Center (www.splc.org) are recommended.

The final decision of whether the material is to be published will be left to the student editor or student editorial staff.

D. Protected Speech

1. General

By way of example and not limitation, college officials or those acting on their behalf cannot:

- a. Ban student expression solely because it is controversial, takes extreme, "fringe" or minority opinions, or is distasteful, unpopular or unpleasant;

- b. Ban the publication or distribution of material relating to sexual issues;
- c. Censor or punish the occasional use of indecent, vulgar or so called "four-letter" words in student publications;
- d. Prohibit criticism of the policies, practices or performance of faculty, college officials, the college itself or of any public officials;
- e. Censor a publication or punish or fire student editors for grammatical, spelling or other errors that may diminish the "quality" of student media;
- f. Cut off funds to official student media because of disagreement over editorial policy;
- g. Ban student expression that merely advocates illegal conduct without proving that such speech is directed toward and will actually cause imminent unlawful action;
- h. Ban the publication or distribution by students of material written by non-students;
- i. Prohibit the endorsement of candidates for student office or for public office at any level; or
- j. Engage in any activity or cause to be done to student media anything where the effect is to control, diminish, manipulate or otherwise censor student media or to dismiss, punish or retaliate against student media staff where such action is motivated by the otherwise lawful content or newsgathering activities of student media.

2. Commercial Speech

Advertising is constitutionally protected expression. Student media may accept advertising. Acceptance or rejection of advertising is within the purview of the publication staff, which may accept any ads except those for products or services that are illegal for all students. Advertisements for political candidates and ballot issues may be accepted; however publication staffs are encouraged to solicit ads from all sides on such issues.

E. Online Student Media and Use of Electronic Information Resources

1. Online Student Media. Students may use Internet-based media, including, for example, Web sites, blogs, e-mail, listservs and online discussion groups, as they would any other communications media to reach an audience both inside and outside the college. All official, college-sponsored online student publications are

entitled to the same protections and are subject to no greater limitations than other student media, as described in this policy.

2. **Electronic Information Resources.** Student journalists may use online and other electronic information resources to gather news and information, to communicate with other students and individuals and to ask questions of and consult with sources. College officials will apply the same criteria used in determining the suitability of other educational and information resources to attempts to remove or restrict student media access to online and electronic material. Just as the purchase, availability and use of media materials in a classroom or library does not indicate endorsement of their contents by college officials, neither does making electronic information available to students imply endorsement of that content. Although faculty advisers to student media are encouraged to help students develop the intellectual skills needed to evaluate and appropriately use available resources to meet their newsgathering purposes, advisers are not responsible for approving the online resources used or created by their students.

3. **Acceptable Use Policies.** The Board recognizes that the technical and networking environment necessary for online communication may require that college officials define guidelines for student exploration and use of Internet-based and other electronic information resources. The purpose of such guidelines will be to provide for the orderly, efficient and fair operation of the college's resources. The guidelines may not be used to unreasonably restrict student use of or communication on online media. Such guidelines may address the following issues: file size limits, password management, system security, data downloading protocol, use of domain names, use of copyrighted software, access to computer facilities, computer hacking, computer etiquette and data privacy.

III. ADVISER JOB SECURITY

The student media adviser is not a censor. No person who advises student media will be fired, transferred or removed from their position by reason of his or her refusal to exercise editorial control over student media or to otherwise suppress the protected free expression of student journalists.

IV. NON-COLLEGE-SPONSORED STUDENT MEDIA

Non-college-sponsored student media and the students who produce them are entitled to the protections provided in section II(D) of this policy. In addition college officials may not ban the distribution of non-college-sponsored student media on college grounds. However, students who distribute material described in section II(B) of this policy may be subject to reasonable discipline after physical distribution on college grounds has occurred.

A. College officials may reasonably regulate the time, place and manner of distribution, subject to the following:

1. Non-college-sponsored media distributed by students will have the same rights of distribution as official student media;
2. "Distribution" means dissemination of media to students at a time and place of normal college activity, or immediately prior or subsequent thereto, by means of handing out free copies, selling or offering copies for sale, accepting donations for copies of the media or displaying the media in areas of the college which are generally frequented by students.

B. College officials cannot:

1. Prohibit the distribution of anonymous literature or other student media or require that it bear the name of the sponsoring organization or author;
2. Ban the distribution of student media because it contains advertising;
3. Ban the sale of student media; or
4. Create regulations that discriminate against non-college-sponsored media or interfere with the effective student distribution of sponsored or non-sponsored media.

These regulations do not apply to media independently produced or obtained and distributed by students off college grounds and without college resources. Such material is fully protected by the First Amendment and is not subject to regulation by college authorities. Reference to or minimal contact with a college will not subject otherwise independent, off-campus media, such as student-produced Web sites, to regulation by college officials.

V. PRIOR REVIEW/RESTRAINT

No student media, whether official or non-college-sponsored, will be subjected to mandatory review-by college administrators, faculty or employees prior to publication or withheld from distribution.

VI. LIABILITY FOR STUDENT MEDIA

As recognized by several courts, the college assumes no liability for the content of any student media over which it exercises no editorial control. The college urges all student journalists to recognize that with editorial control comes responsibility and

potential liability for all content and newsgathering decisions.

VII. CIRCULATION

These guidelines will be included in the college's statements on student rights and responsibilities and circulated to all students.