

Student Press Law Center's

COLLEGE Top10

The ten questions college student journalists most frequently ask about their rights



Q: If school officials or student governments fund a student publication, radio or television station, can't they censor it like any other publisher or owner could?

A: Not at a public school. The courts have ruled that if a school creates a student news medium and allows students to serve as editors, the First Amendment drastically limits the school's ability to censor. Among the censoring actions the courts have prohibited are confiscating copies of publications, requiring prior review, removing objectionable material, limiting circulation, suspending editors and withdrawing or reducing financial support. (The Supreme Court's *Hazelwood* ruling gives administrators at K-12 schools added leeway to censor some publications, but – with the exception of one federal court ruling impacting only Wisconsin, Indiana and Illinois – no court has given college officials the *Hazelwood* level of authority.)

Q: Does including "in my opinion" protect me from a libel or defamation suit?

A: Including the phrase "in my opinion" (for example, "In my opinion, the coach is a cheater") does not create an automatic shield to libel. Neither does simply reprinting what someone else has said. (For example, "The coach is a cheater," said Kristen Jones.") Nor does "alleged" automatically provide protection – if someone has been accused of wrongdoing, describe the source and nature of the accusation with specificity ("Coach Walsh, who has been accused by two opponents of cheating," not "Coach Walsh, an alleged cheater").

Q: Can student media refuse to publish a lawful advertisement?

A: Yes, as long as students – and students alone – are responsible for rejecting the ad. Where public college officials, including an adviser, play a role in refusing the ad, the law can get murky, since they are government officials subject to the First Amendment. But students are private individuals and can accept or reject ads for virtually any reason. Student media at private colleges are not subject to the First Amendment and can generally accept or reject advertisements at will.

Q: Am I in danger of getting sued for defamation or invasion of privacy?

A: Rarely, but it can happen, and you need to observe professional standards if you want your work to be taken seriously. You can't be liable for defamation if you just publish a critical opinion about someone or reveal an unpleasant truth. But if you make a false accusation of fact, you may have committed defamation. Invasion of privacy occurs when a publication publicizes embarrassing personal information without consent and with no newsworthy justification. It can also happen if you mislabel a photo so that it gives a false impression that harms a person's reputation ("false light").

Q: Is my newspaper legally responsible for online comments?

A: Generally no. The Safe Harbor of the Communications Decency Act says that no provider of a Web site is responsible for text provided by a non-staff user, except in cases of copyright infringement. There's a separate safe harbor provision in the Digital Millennium Copyright Act that requires you to fill out a form and pay a one-time fee with the Copyright Office, but if you do that, text in comments posted by members of the public shouldn't create any liability for the publication. Remember, though, that information posted by staff members wouldn't fall under the safe harbor.

Q. Can I reprint a picture found on Facebook or MySpace or Google Images?

A. Sometimes, but not usually, and you need to do some research to figure out whether or not you can. There are two primary areas of the law you need to worry about: copyright and privacy. From the copyright perspective, you need to be making a fair use of the work, or you need permission from the owner. Check the SPLC Web site to read up on these topics, but as a general rule, unless you know who owns the image and how they're using it, you can't make a fair use. In other words, Google image search will almost never be a safe place to stop.

Q. Can I use a picture from the Internet if I credit where it came from?

A. This is a common misconception. As much as journalism cares about crediting images, the law really doesn't. Nothing in copyright law will give you any greater right to use an image just because you credited it. It's nice to credit it correctly, but it's not something copyright law has any interest in, at least as far as publications are concerned.

Q. Can student reporters protect confidential news sources or information when they receive a court subpoena asking them to turn it over?

A. In most cases, yes. Some states have "shield laws" and others have court-created reporters' privileges that protect journalists from having to reveal this kind of information. Most states have never explicitly applied these laws to student journalists, and the language in a few of them may not protect students. You should check your state law.

Q. How can I make use of freedom of information laws? And what about private schools?

A. Freedom of information, or "sunshine" laws, require that government agencies such as public schools and police departments open up to the public most of their official records and meetings. These laws, which vary from state to state, are usually simple to use and often require that a journalist simply make an informal request. Every newsroom should have a copy of their states open records and open meetings laws. There are a number of state and federal laws that now require private schools to reveal certain information, including the institution's federal informational tax return, the IRS Form 990, which the law says this form must be available at the school's business office for public inspection. The form provides information about where your school gets its money and how it spends it.

Q. How should an editor respond to a community member asking that a story be removed from our publication's website?

A. If the material is lawful – that is, it is not defamatory nor an invasion of the individual's privacy – the fact that someone finds it embarrassing or bothersome does not obligate you to take it down. Additionally, it is important to remember that material that was lawful at the time of its original publication does not become improper with the passage of time – a publication cannot be held liable for its failure to update a past news article. It is helpful to be prepared for these situations by developing a standing policy for dealing with "takedown" demands.

