



Edit policies By John Bowen

It's 3 pm Friday and final page deadlines are in four hours. Designers created space on page 6 for a just-submitted political ad that seems to be an answer to budget problems, but that's not what everyone is talking about.

The staff is divided. Some want to run the ad because it is for their candidate. Others say there has to be balance, not one without the opponent's. Production skids to a halt as the debate heats up.

There are larger questions:

- Can the paper run political ads?
- Would the staff have to give other political viewpoints an opportunity to run an ad?
- Where to find the answers?*

The source that comes to mind is the editorial policy.

Having an editorial policy, though, does not mean it's the right editorial policy.

Editorial policies, says Mark Goodman, Knight Chair in Scholastic Journalism at Kent State University and former executive director of the Student Press Law Center, are like a double-edged sword.

The right ones can protect student journalists admirably well as several court cases have shown. The wrong ones – well, they're worse than no protection at all.

“If carefully drafted,” Goodman said, “policies can be used to cut the bonds of censorship. If not carefully worded, however, they can ultimately create more trauma for advisers and students than having no policy at all.”

Policies, Goodman said, should be a reflection of the publication's own values and commitments.

"As a result," he said, "one of the most important parts should be statements relating to the public's right to know and the independence of the student editors from control by school officials. I would definitely suggest including a statement that says the publication is operating as a 'designated public forum' with student editors making the content decisions."

A good policy should also clearly establish the publication's role and educational mission plus the educational value of student decision-making, all stated positively. Students and advisers who created the policies need to understand, and state clearly, that student decision-makers accept the responsibility and liability for their work, and their learning.

The notion of "forum" means the school has given content control, in whole or in part, to someone other than school officials, in this case student editors, Goodman said. Creation of this designated public forum can come as school policy or student media being a forum through practice.

"Thus the importance of policies." Goodman said. "If your school has one giving student editors content control, that policy can effectively exclude your student media from the limitations of Hazelwood."

Courts, at least in the Sixth Circuit (Ohio, Michigan, Kentucky and Tennessee), have recognized the importance of policies by practice, Goodman said. The Dean case in the Sixth Circuit is one example where there was no board policy but long practice as a forum led the court to support student freedom of expression. Other relevant cases are the Yeo case from the First Circuit and the Wooster case from the Sixth Circuit.

Goodman said the best ways to establish a forum by practice – in order of importance – are:

- Publish statements in editorial policies and in the pages of the publication.
- Avoid administrative prior review, or if that review happens, make explicit in some official document that it is only for informational purposes and not for content control.
- Make sure there is nothing in writing that says the adviser (let alone some other school official) has ultimate authority over the content.
- Be able to show a history of covering controversial issues without any school censorship.

"The great thing about a publication's own editorial policy," Goodman said, "is that it can be used as a reflection of practice. Thus the longer period of time statements like the ones I've just described appear in an editorial policy (and ideally, in the pages of the publication itself), the

further they will go to establish that the practice is for the publication to operate as a forum.”

And it’s possible to convert this into an official policy at some point.

“The only thing really different,” Goodman said, “is to get some school official to sign off on their policy statement.”

Ideally, he said, that would be the school board, but it could be an individual building administrator or even an adviser.

“Basically,” Goodman said. “the signature of a school official (and date, I’d suggest) on a statement that says the publication is operating as a designated public forum and student editors make the content decisions is all you need to meet the policy test for public forum status.”

The difficulty comes if there are contradictory policies. If, for example, the school board has adopted a policy that pretty clearly says it isn’t public forum, it’s unlikely that policy statements by the building principal or the adviser can supercede that.

“Statements of the highest level authority of the school on the matter are going to be the most accurate reflection of the intent to create a forum by policy,” Goodman said. “But, at least if you’re in the Sixth Circuit, you may still have the option of showing public forum by practice.”

*Oh, by the way, despite some policy-making groups saying student media cannot endorse political candidates or issues, student media can publish ads supporting, or opposing, political candidates or issues. They can also editorially endorse candidates and issues. The key is student decision-making, uncontrolled by administrators or other school officials.

Questions to answer in policy development:

Given the importance of operating student media as designated public forums by policy or practice, here are some things to consider:

- What is the mission of your student media? Thorough, accurate and complete reporting on issues and events of importance to your audiences?
- What is the role of your media? How will your media demonstrate civic responsibility and showcase student learning? What is your responsibility to your audience? To the concept of democracy and the public’s right to know?
- What type of forum do you want to be (closed, limited or open) and which model brings the best educational benefits to you and your audience?
- Who makes final decisions of content and how does that define responsibility?

- Will students agree not to print unprotected speech? Why is this important?
- What is the role – and the rights – of the adviser? The student staff? The administration?
- What is the best way to establish accurate and thorough reporting and information-gathering practices?
- What is the best way to establish policies and practices that demonstrate professional standards?
- What is the best way to know what thorough and professional reporting requires?

Other policy considerations:

In creating the best policy, either by policy or practice, consider avoiding:

- Imprecise language – a classic example is a prohibition of “offensive” expression, which is not a legally defined terms like “obscene.”
 - Vague obligations of the student staff – “students must include opposing viewpoints” or “controversial material will be discussed with administrators” should be avoided because they set undeliverable standards....
 - Wording that calls your media a student forum but leaves the final decisions to someone other than students.
 - Wording that says your publication’s purpose is to promote and encourage school activities
 - Statements that you won’t publish material not generally acceptable (to a school official, community or a significant majority or minority)
 - Wording prohibiting association of the school with any position other than neutrality on matters of political controversy
 - Wording that student media should promote and encourage school spirit and to support the best traditions of the school
 - Wording the media should promote cooperation among taxpayers, parents, the school and its students.
- Vague, indefinable and unenforceable is not good.

What’s at stake in good policy development:

Ultimately, then, what’s at stake in developing the right policy? It’s far more than money from ads.

It’s your credibility, plus:

- Whether citizens have access to independent information that makes it possible for them to take part in governing themselves. Citizens cannot verify, interpret or act successfully on information limited by control.

- Whether schools develop in the young not only an awareness of this freedom but a will to exercise it and the intellectual power and perspective to do so effectively. Those who have been censored and not encouraged to think for themselves – or carry out research for themselves – will see no need to do so.

- Whether school publications provide something unique to a culture: Independent, reliable, accurate and comprehensive information citizens require to be free.

- Whether students lose belief in an educational system when they see they cannot practice what they are taught.

- When schools, as government, misinterpret Hazelwood they teach the wrong civics lesson by controlling ideas and actions for any reason they choose.

- Whether we reinforce the belief in our Constitutional heritage, that citizens can and do make educated decisions when give the responsibility for those actions.

Possible editorial policy content

- Statement of forum status and why it is important
- Positive statement of educational value of a free student press for students and their communities
- Protected vs. unprotected speech
- Statement of mission and goals
- Roles of the adviser, editors and administration
- Prior review and why it has no educational value
- Letters to the editor and process
- Death coverage statement
- Copyright procedures
- Plagiarism and statement for not doing it
- Advertising guidelines
- Photo manipulation statement

Links to court decisions mentioned in this article:

The Dean decision

- Dean v. Utica FAQ

<http://www.studentpress.org/nspa/trends/~law0205hs.html>

- SPLC summary

<http://www.splc.org/newsflash.asp?id=911>

- Seattle situation citing Dean

<http://www.thestranger.com/seattle/Content?oid=167429>

- Michigan article that drew censorship

<http://www.ajr.org/Article.asp?id=2554>

- The Wooster decision

http://www.splc.org/law_library.asp?id=35

(the case itself)

- Students, school district reach settlement

<http://www.splc.org/newsflash.asp?id=716>

- Wooster decision clarifies censorship guidelines

<http://www.studentpress.org/nspa/trends/~law0203hs.html>

The Yeo decision

- Court refuses to hear advertiser

http://www.splc.org/report_detail.asp?id=304&edition=10

- Yeo v Lexington

<http://lw.bna.com/lw/19980106/961623.htm> • School overreaches in banning yearbook photo

<http://www.yeodoug.com/articles/text/livefree.html>

- First circuit court decision

<http://www.ca1.uscourts.gov/cgi-bin/getopn.pl?OPINION=96-1623.01A>

Links to other materials and policies:

- Link to policy examples, including JEA's model editorial policy, PowerPoints, articles on policy development and other editorial policy examples

<http://www.jea.org/resources/pressrights/2008documents/2008ResponsibleJ/2008principle1policies/responjour1.html>

- JEA Press Rights Commission updated site for legal and ethical materials and newly developed section on the principles of Responsible Journalism

<http://jeapressrights.org>