



March 21, 2005

Corey Friedman  
Editor  
*The Campus Communicator*  
104 Student Center  
800 College Court  
New Bern, NC 28562

Dear Mr. Friedman:

Thank you for your telephone call relating some of the recent problems you have encountered as editor of *The Campus Communicator*, Craven Community College's student newspaper. Specifically, you have told me that school officials are considering a change in the paper's governing structure based on a dislike of its recent content.

In an effort to better inform yourself and in anticipation of a meeting with college administrators, you have asked for information regarding the general law under which the collegiate student press in America operates. As the only legal assistance agency in the country devoted exclusively to protecting and educating the student media about their First Amendment and freedom of information rights and having responded to over 2,000 legal assistance requests last year alone, I am happy to respond.

The recent acts by Craven Community College officials that you describe are extremely disturbing -- and illegal. The

U.S. Supreme Court first explicitly recognized that public school students enjoy First Amendment protections in *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969). Although the *Tinker* decision involved symbolic expression of high school students, the Court subsequently applied the same constitutional principles to a case involving censorship of a student publication at a public college. *Papish v. Board of Curators*, 410 U.S. 667 (1973). Recently, the Court again affirmed the strong First Amendment protections afforded college student publications when it struck down a decision by University of Virginia officials to withdraw school funding of a student publication solely because of its content. *Rosenberger v. University of Virginia*, 115 S. Ct. 2510 (1995).

Moreover, in a comprehensive and consistent body of case law that began even prior to the Supreme Court's ruling in *Tinker* and that continues to this day, lower federal courts have made clear that First Amendment protections must be afforded to student media at public colleges and universities, even though the school may provide funds and facilities. See, e.g., *Dickey v. Alabama Board of Education*, 273 F. Supp. 613 (M.D. Ala. 1967); *Kincaid v. Gibson*, 236 F.3d 342 (6th Cir. 2001) (en banc). Indeed, as one court has said, student publications at state-supported schools are entitled to the constitutional protections afforded all members of the

"press," including freedom of expression for editors. *Sinn v. Daily Nebraskan*, 638 F. Supp. 143 (D. Neb.), *aff'd* 829 F.2d 662 (8th Cir. 1976).

The law is clear: at a public college or university, the student editor is responsible for making all decisions regarding the editorial content in his or her student publication. School officials, while they may act in an advisory role, are required to exercise a strictly "hands-off" approach. For example, a school, or those acting on the school's behalf, may not withdraw, withhold or limit funding, fire editors, censor articles or issues, "stack" a publications board, require permission for controversial articles, limit access to facilities or equipment or take any other action whose effect or intent is to mold, manipulate or inhibit constitutionally protected expression. *Bazaar v. Fortune*, 476 F.2d 570 (5th Cir.), *modified en banc per curiam*, 489 F.2d 255 (5th Cir. 1973), *cert. denied*, 416 U.S. 995 (1974); *Lueth v. St. Clair County Community College*, 732 F.Supp. 1410 (E.D. Mich. 1990); *Antonelli v. Hammond*, 308 F.Supp. 1329 (D. Mass. 1969); *Trujillo v. Love*, 322 F.Supp. 1266 (D. Colo. 1971); *Stanley v. Magrath*, 719 F.2d 279 (8th Cir. 1983); *Schiff v. Williams*, 519 F.2d 257 (5th Cir. 1975),

Moreover, courts have been steadfast in holding that administrators cannot censor a student publication merely

because they are unhappy with its content, be it for reasons of political views, physical appearance, or a fear of "inferior quality." Of particular relevance to your situation is the North Carolina case *Joyner v. Whiting*, 477 F.2d. 456 (4th Cir. 1973), where a federal appellate court said that the president of North Carolina Central University could not exert control over the student newspaper merely because the content was controversial. Specifically, the court noted that protected expression cannot be limited by a public college administration's "requiring imprimatur of controversial articles [...] or asserting any other form of censorial oversight based on an institution's power of the purse." *Id.* at 460.

I hope that you are able to resolve the situation you described in an amicable manner. I urge you to share this information with Craven Community College officials and ask that they reconsider their actions immediately. I cannot imagine that they want to find themselves the defendants in a First Amendment legal battle that they would ultimately lose. Nevertheless, if they refuse, we would be happy to consult with members of our nationwide Attorney Referral Network to assist you in finding local *pro bono* counsel. We would also help you contact local and national media to assist you in publicizing the school's actions.

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We hope that this information has been of some help. If you  
have any questions, please feel free to contact us.

Sincerely,

STUDENT PRESS LAW CENTER

A handwritten signature in black ink, appearing to read 'Adam Goldstein', written over a horizontal line.

Adam Goldstein, Esq.  
New Media Legal Fellow