

## **Student Media and Fraternal Organizations: Rights and Responsibilities**

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It would not be possible to have a complete conversation about freedom of speech in the collegiate environment without discussing the role of student media. As professionals working with fraternities and sororities and members of these organizations, we have likely encountered negative press and run-ins with student media groups, specifically campus newspapers. While there are a lot of emotions involved in defending chapters and communities from “bad press,” it is imperative as professionals we understand the rights of association and speech are not just applicable to fraternities and sororities.

### **Freedom of the Press**

The First Amendment prohibits Congress from passing any law “abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble.” In plain language, this means individuals and organizations may not be fined, jailed, or held civilly liable for the content of what they say or write, except in extreme instances such as defamation, threats, and obscenity (National Constitution Center). In the context of student media, this means fraternal organizations and institutions cannot take criminal or civil action against individual chapters unless what has been published is proven to be false, and therefore, causes harm to the reputation of those named, or is determined to be threatening or obscene.

Over 60 cases of censorship involving college student media have been heard in state and federal courts over the past two decades. It has been found almost unanimously that censorship of student media of any kind violates the rights afforded by the First Amendment except in cases where the published article or statements result in “a material and substantial disruption of normal school activities or invades the rights of others” (*Tinker v. Des Moines Independent Community School District*, 1969). This landmark case clearly stated schools could not censor student expression simply because they did not like the content. In order to claim censorship due to potential disruption, school officials would have to show “compelling evidence” of imminent or immediate disruption for it to be considered substantial enough for courts to uphold the censorship – a feat which rarely occurs (Student Press Law Center). Additionally, public universities and their officials (including student government associations) may not withdraw or reduce student media funding as an attempt to censor the organization.

Because many of the aforementioned free speech protections are applicable specifically to public colleges and universities, some student media organizations at private universities choose to publish independently from the university and without the use of their funds to avoid potential censorship. This allows them more rights and less oversight by school officials. Although private colleges and universities are not held to a number of the same laws and regulations as state universities, it is best practice to afford student media as much freedom as possible and follow a similar set of guidelines

at any institution. While students at private institutions may not be able to challenge censorship the same way in the court, they always have access to local or national media and the court of public opinion when their university challenges their rights and freedoms for unsubstantiated reasons.

In addition to rights afforded through the first amendment, additional protection is provided by some states specifically for student media, including Arizona, California, Colorado, Iowa, Illinois, Kansas, Massachusetts, North Dakota and Oregon. Likewise, states have varying degrees of reporter's privilege, which protects journalists from having to reveal confidential or non-confidential sources and information (Student Press Law Center). Student media groups can and have looked to organizations such as the Student Press Law Center, Associated Collegiate Press, the Foundation for Individual Rights in Education, and the American Civil Liberties Union for support if they feel their rights have been violated.

### **Freedom of Information/Open Records**

Freedom of information laws, sometimes referred to as "sunshine laws," require government agencies, including public universities and police departments, to make official records and meetings open to members of the public. Therefore, campus media organizations are able to obtain open records and attend open meetings held by these entities. While many of these laws apply specifically to public universities, additional state and federal laws require even private colleges and universities to share certain information such as federal tax forms and crime statistics. Also note student privacy laws, such as FERPA, do not apply to police reports or to incidents involving organizations, so student media staff may request those and other public incident reports. Additionally, student government meetings and records at public universities are also subject to freedom of information laws if they exercise authority over things like activity fee allocation (Student Press Law Center). Finally, student media at both public and private universities also have access to budget information, enrollment data, and graduation rates through the Student Right-to-Know and Campus Security Act (U.S. Government Publishing Office, 1990). It is also important to understand any information posted on the Internet, such as chapter grades and disciplinary records, are available for student journalists to access.

Additionally, when approached by student media, it is advisable to avoid saying "no comment" whenever possible within the guidelines of your institution or organization. While it is good journalism to include both sides of a story, if one side refuses to say anything, the journalist's only option is to just report the information they are given and include one line that states "[source] refused to comment," which can make an organization or person appear guilty in the court of common opinion.

### **Publication Theft and Destruction**

Unfortunately, stealing and destroying newspapers has become a common occurrence on campuses across the country. It not only costs the student organizations money and

potential advertisers, but it is also seen as a type of censorship and can lead to civil and other punitive consequences. Over the past few years, there have been more than a dozen proven thefts by fraternity or sorority members at various campuses. Whether copies of the paper are taken to hide a negative story or for use in pranks or school projects, stealing or destroying campus newspapers, even those that are free, is considered a crime and is a threat to media organizations. Recent instances have even included university staff removing or moving papers with negative stories during campus open houses and away from the path of campus tours. At a public university this would be seen as a direct violation of the first amendment (Student Press Law Center).

### **Staff Harassment and Threats**

In some cases, individuals and groups have moved beyond the attempt to destroy articles they disagree with to the use of harassment and threats toward individual journalists and entire newspaper staffs. Vandalism of media news racks and offices, as well as verbal and written threats, are a reality and safety concern for media organizations. Almost all campuses have code of conduct regulations addressing threatening and violent behavior after the fact. However, as fraternity/sorority professionals, care should be taken to educate members about the consequences of those actions prior to an incident occurring.

When an incident occurs and stress is high, many students are not prepared to come under increased scrutiny by the media. Chapter advisors are expected to take on the role of educating students regarding what to say (or in most cases, not say) to campus media after an incident, but that education is usually limited to student leaders and those individuals involved in the incident. However, when something negative is published regarding a fraternity or sorority, other organizations tend to jump in to defend them. While this is not inherently a problem (other than the fact increased traffic and comments actually make the article more high profile, which is probably not what the group wanted), there have been incidences where these comments have included threats and online harassment toward the student media, which can be addressed criminally or through the campus conduct process. There is nothing that will inflate a bad incident more than adding violence and threats to it.

It is important to note media organizations are not liable for the content posted by guests/non-staff members on their websites. As many have seen, the comment sections on news articles can get out of hand and aggressive quickly, especially when a controversial article is posted. While the media organization can monitor and delete posts or even turn off the comment section altogether, they cannot be held responsible for what other individuals may post there.

### **Conclusion**

In the end, as higher education and student development professionals, it is important to remember the role as an educator not just when working with fraternity and sorority members but also with other organizations, including student media. Campus media

organizations can be a strong influence on a campus and throughout history have been instrumental in challenging issues and making change. It is their job to report the news on campus, which sometimes may not paint fraternity and sorority members in the best light. However, it is always a better approach to try to work with student media organizations than to be combative toward them. This includes educating students to interact in positive ways with the media and also maintaining cooperative relationships when approached for information.

*Natalie Shaak is a member of Delta Zeta Sorority, spent eight years working professionally with fraternities and sororities, and continues to serve as a volunteer advisor. She spent six years as a member of campus student media organizations and currently serves as faculty/staff adviser to the student newspaper at Drexel University, where she works in the communication department of the LeBow College of Business.*

## References

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