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Inside the First Amendment: Defending a free student press

Paying the price of liberty

By CHARLES HAYNES, chaynes@freedomforum.org
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Ron Johnson refused to resign — so now he's been "reassigned." That must be the cost of standing up for a free press at Kansas State University these days.

The controversy erupted earlier this year when the Kansas State Collegian, the student newspaper Johnson advises, failed to cover a conference on black student government. Citing a pattern of neglect and insensitivity by the newspaper, minority students demanded Johnson's resignation (even though the adviser doesn't decide what goes into the paper).

Despite receiving apologies from the newspaper staff and promises to provide better coverage of multicultural groups, protesting students continued to call for Johnson's removal. This week university administrators informed Johnson that he would no longer serve as director of student publications and adviser to the Collegian. Although school officials deny any connection to the controversy, it's not hard to figure out why Johnson is losing his position after 15 years on the job. His fate is just the latest example of intimidation and censorship faced by numerous student publications on campuses throughout the nation.

If you picture America's colleges and universities as bastions of free expression and open inquiry, take a closer look. According to well-documented evidence collected by the Foundation for Individual Rights in Education (www.thefire.org), First Amendment rights are undermined daily on many campuses across the nation. Since 1999, FIRE has intervened in hundreds of cases involving First Amendment freedoms at more than 200 institutions of higher learning.

Student newspapers are especially vulnerable targets in the current climate of political correctness that pervades many campuses. Despite the fact that the



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First Amendment protects student journalists at public universities, school officials (and sometimes student governments) look for ways to censor or punish "offensive speech" in student newspapers.

Consider the over-the-top reaction to a cartoon that appeared last November in The Standard, the student newspaper at Southwest Missouri State University. The cartoon, labeled "the 2nd Thanksgiving," depicts two American Indians and a Pilgrim woman gathering for Thanksgiving dinner. The Pilgrim calls to another, "Gladys, the Indians are here and it looks like they brought corn again." An innocuous, mildly amusing spoof of Thanksgiving rituals? Not so fast. Earlier this year, a complaint was filed with the university's Office of Equal Opportunity claiming that the cartoon amounted to discrimination against American Indians. According to FIRE, the discrimination charge has triggered an investigation of the student editor and faculty adviser — and the university will not rule out taking action against the adviser.

But what happens when student speech is truly offensive, even hateful? Shouldn't universities have the power to shut it down? That's the issue at Rutgers University this month after the Medium, an alternative student newspaper, published a cartoon that has understandably outraged many people. The April 21st edition of the paper had an illustration showing a man throwing a ball at another man sitting on an oven at the campus spring fair. The text read: "Knock a Jew in the oven. Three throws for one dollar!" In an open letter to the president of Rutgers, former New York mayor Ed Koch strongly condemned university officials for not taking action to punish the paper. Why should student fees, he asked, be used to "finance bigotry"? So far, the university hasn't punished the Medium, beyond denouncing the cartoon as contrary to Rutgers' values.

As tough as it may be to uphold, the First Amendment protects offensive speech — including hate speech — by students at a public university. (For a complete discussion of student newspaper rights on campuses, consult the First Amendment Center Online at <http://www.firstamendmentcenter.org/speech/index.aspx> and the Student Press Law Center at www.splc.org.) But that doesn't mean the university community shouldn't vigorously debate the issue. The answer to bad speech (or speech that some may find offensive) is more speech, not less. That's why Mandy Phillips, student editor of The Standard, did the right thing by turning the Thanksgiving cartoon controversy into an opportunity for dialogue. Protesting students were invited to meet with the newspaper staff and given space on the editorial page to respond.

Sticking to First Amendment principles while encouraging open debate also seems to have worked at Rutgers. A week after publishing the offending cartoon, the editors of the Medium apologized. Will the Medium use its freedom more responsibly in the future? That remains to be seen. But shutting the paper down (even if it were legal to do so) would mean no lessons learned.

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As Ron Johnson has learned the hard way, freedom of the press isn't one of our more popular freedoms — not just on college campuses, but in the nation. In fact, 46 percent of the American people think that the press has too much freedom, according to the First Amendment Center's 2003 survey.

That's why defending a free student press is critical to the future of the First Amendment. As the co-founders of FIRE, Alan Charles Kors and Harvey Silverglate, put it: "A nation that does not educate in freedom will not survive in freedom and will not even know when it has lost it."

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