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Stefani Hicswa, Ph.D., President
Northwest College
231 W. 6th Street
Powell, WY 82435

RE: *Rob Breeding*

Dear President Hicswa:

We are writing this to you in our capacity as legal counsel for Rob Breeding, a journalism instructor employed by Northwest College. This is addressed to you as the head of the College with the understanding that you will convey its contents to all those administrators who are involved in the matter.

This letter has been prompted by substantial concerns regarding how some in administration at the College have been responding toward Mr. Breeding and by extension, the *Northwest Trail*, following the publication of material in that paper which was critical of certain events related to College administrators and officials. In particular, we are deeply concerned that the conduct at issue constitutes a form of unlawful and inappropriate retaliation for protected First Amendment activities.

Connected to new accreditation-related standards for instructor qualifications, there has recently been a need at the College for the qualifications of a few instructors, including Mr. Breeding, to be reviewed in order to document and demonstrate their qualifications for the positions they have held successfully for some time. As you know, Mr. Breeding has a record of success as an instructor and as the advisor for the *Northwest Trail*, has a substantial body of experience, both practical and instructing, and has been the recipient of awards. The process at the College of reviewing and establishing Mr. Breeding's qualifications under the new standards was proceeding without concern until the students at the paper published content which drew attention to and questioned certain actions related to College administration. From that point, everything changed and what was previously indicated to be a straightforward process of addressing Mr. Breeding's qualifications under the standards suddenly was turned into an unreasonably difficult and punitive process. The requirements for the College's approval essentially became a moving target, with more and more being required of Mr. Breeding. It also appears that a double standard has been applied

to Mr. Breeding as compared other employees who are not affiliated with the newspaper or connected to the content which was published. Mr. Breeding was eventually notified that he would receive a contract for the next school year, but despite his substantial practical experience and qualifications, nonetheless would have to complete an onerous plan for substantial additional education and conditional upon the arbitrary approval of administration. Mr. Breeding was also told that consideration for his obtaining tenure status, which would otherwise occur during the upcoming school year, would be put off for another year despite there being clear provisions of College policy establishing the timeline for tenure review.

Although the position taken by administration in connection with this process has been arbitrary and imposed disparate treatment on him, Mr. Breeding has nevertheless acted in good faith and taken action to comply with the oppressive requirements being imposed upon him. He has at the same time, pursued the issue of the delay in tenure consideration and his unequal treatment by appropriately filing a grievance under the College's policy. As the grievance was being processed at the initial stages, the grievance chairman resigned, apparently in protest for interference in the process by administration which kept him from being able to appropriately do his job. This stunning development has raised concerns about the validity of the grievance process, including the possibility that some in administration may be attempting to influence the information which is being considered in the grievance, or even the outcome of the grievance.

Not only are there concerns about improper First Amendment retaliation against Mr. Breeding as the journalism instructor/newspaper advisor, but there are now also concerns that the newspaper and the entire journalism department may also be a target of retaliation by administration. As the College is going through a process of considering program or personnel reductions due to financial considerations, it has become apparent that some in the administration are apparently advocating that the entire journalism department at NWC be eliminated, an act which would have the effect of not only eliminating that course of study for students, but also eliminating the newspaper and Mr. Breeding's position with the College.


It is fundamental principle of law that adverse action taken by a public college's administration against a college newspaper, its writers, or its advisor, which is motivated, even in part, because of the administration's unhappiness with the reporting or editorial content in that newspaper, is a violation of the First Amendment. Given the sequence of events which have occurred at the College, as discussed in this letter, it appears that the true motivation for the possible wholesale elimination of the journalism department, the effort to keep Mr. Breeding from being able to obtain tenure, the machinations regarding approving Mr. Breeding's qualifications, and the manipulation of his employment status is likely retaliation for the exercise of First Amendment protected speech and activities which was disliked by administration. Although this retaliation appears to be occurring under the guise of a review of Mr. Breeding's qualifications and under the guise of making cuts in the budget, those forms of retaliation are as much a violation of law as if the retaliation had occurred more directly and openly.

Retaliation for student newspaper reporting strikes at the heart of free speech and academic freedom. Of all places in our society, a college should respect and encourage students' rights to report and comment on matters of importance to them. The students who write the paper, and the collective college community who read the paper, are adults capable of judging the content of the paper. Virtually every college has a newspaper as a vital part of the institution. It is inherent in the creation of newspapers on campus or elsewhere that there will be material printed which some will not agree with or appreciate. It is incumbent on College personnel to demonstrate respect for the right of others to communicate, even if the content of the communication is on subjects some may find as sensitive.

Additionally, it appears that efforts by some in administration to advocate for the elimination of the journalism department may also be retaliation for Mr. Breeding's having brought a grievance. The actions of the administration in relation to the resigned grievance chairman would appear to reflect a high level of interest and investment by administration in the contents and outcome of his grievance. Moreover, a decision to eliminate the journalism department would then allow the College to be in the position to at least argue that the grievance should be ended (and thus the credible and concerning issues raised by Mr. Breeding would remain unreviewed and unaddressed).

In closing, I want to emphasize that Mr. Breeding is a highly qualified, competent, and dedicated employee who wants only the ability to do his job, and for the students to exercise their right of expression, free of retaliation.

Very truly yours,



Patrick E. Hacker