



April 25, 2022

Jim Wohlpart
Office of the President
Central Washington University
400 East University Way
Ellensburg, Washington 98926

Sent via U.S. Mail and Electronic Mail (jim.wohlpart@cwu.edu)

Dear President Wohlpart:

The Foundation for Individual Rights in Education¹ is concerned by the recent theft of copies of *The Observer* by Central Washington University (CWU) administrators after critical coverage of CWU budget cuts. Newspaper theft is a crime, and retaliation against student publications over its content violates both CWU's obligations under the First Amendment and state law protecting the rights of journalists. CWU must act immediately to ensure its staff are trained on these important obligations so this never happens again.

I. CWU Administrators Throw Away Copies of *The Observer*

The following is our understanding of the pertinent facts, though we appreciate you may have additional information, and if so, invite you to share it with us.

On April 9, CWU hosted CWU Preview Day, a chance for admitted students to visit campus and learn more about the university.² While preparing for this event in Shawn-Smyser Hall, Jeffrey Stinson, Dean of CWU's College of Business, in the presence of *The Observer* social media editor Crystal Clausen, announced with regard to copies of *The Observer*, "I'm going to put these papers in the recycling."³ Stinson and Associate Dean Keke Wu then removed the newspapers. When Clausen questioned why the administrators were discarding the papers,

¹ FIRE is a nonpartisan, nonprofit organization dedicated to defending freedom of the press, freedom of expression, and other essential liberties on America's college campuses.

² *Spring Wildcat Preview Day*, CENT. WASH. UNIV., [https://www.cwu.edu/news/campus-notice/spring-wildcat-preview-day#:~:text=The%20Spring%20Wildcat%20Preview%20Day,via%20the%20CWU%20Visitation%20Page.\[https://perma.cc/S66Q-G2C7\]](https://www.cwu.edu/news/campus-notice/spring-wildcat-preview-day#:~:text=The%20Spring%20Wildcat%20Preview%20Day,via%20the%20CWU%20Visitation%20Page.[https://perma.cc/S66Q-G2C7]) (last visited Apr. 21, 2022).

³ Star Diavolakis, *Editorial: Censorship is alive and well*, THE OBSERVER, Apr. 13, 2022, <https://cwuobserver.com/22002/news/editorial-censorship-is-alive-and-well> [https://perma.cc/4AUY-XMMG].

Wu replied, in apparent reference to the story about CWU’s budget, “Why did [*The Observer*] think it was smart to print that story on the day that we have so many students coming to campus?” The same day, copies of *The Observer* in the Student Union and Recreation Center were covered by copies of another student publication, *HYPE Magazine*, though it is unclear who covered these copies of *The Observer*.⁴

In a comment to *The Observer*, Stinson stated that “Preview Day is critical to our recruitment efforts” and removing the paper was part of the university’s plan to “present our prospective students and guests with a positive portrayal and outlook of the college and university.”⁵ In a later comment to *The Observer*, Kremiere Jackson, Vice President of Public Affairs, admitted that Wu and Stinson’s removal of the newspapers “could have been handled differently,” and insisted that CWU “does not censor the work of student journalists” but instead “supports student journalism in all its forms.”⁶

II. Confiscation of Newspapers Constitutes Censorship and Is Made Worse by Viewpoint Animus

It has long been settled law that the First Amendment is binding on public universities like CWU.⁷ Accordingly, the decisions and actions of its administrators must comply with the First Amendment. And beyond First Amendment protections, CWU is also bound by state law protecting “the right to exercise freedom of speech and of the press in school-sponsored media” for Washington State college students.⁸ Put simply, stealing newspapers to prevent would-be readers from accessing content critical of the university is consistent with neither the First Amendment nor the rights Washington’s legislature has specially conferred on college students.

Despite CWU’s claims that it “does not censor the work of student journalists,” newspaper theft is censorship. Especially when effectuated by public university officials like Stinson and Wu, censorship via newspaper theft is prohibited by both the First Amendment and Washington State law. In fact, these actions also often constitute criminal theft.⁹ While student newspapers such as *The Observer* are usually distributed for free, this does not make the papers valueless, nor does it permit individuals to take them *en masse* as a means of preventing readers from accessing their content.

Both the Constitution and state statute protect the right of *The Observer* to critically cover CWU without fear of administrative censorship. Here, removal of the publications was, by Wu

⁴ *Id.*

⁵ *Id.*

⁶ Statement from Kremiere Jackson to *The Observer*, Apr. 19, 2022 (on file with author).

⁷ *Healy v. James*, 408 U.S. 169, 180 (1972) (“[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’”) (internal citation omitted).

⁸ RCW 28B.10.037.

⁹ See Adam Goldstein, *Thieves steal 500 copies of U. of South Carolina student newspaper*, FIRE, Mar. 1, 2019, <https://www.thefire.org/thieves-steal-500-copies-of-u-of-south-carolina-student-newspaper>.

and Stinson’s own admission, based on concerns with the critical viewpoint espoused in the newspaper. Thus, this is a clear example of viewpoint-based discrimination, “an egregious form” of censorship.¹⁰

The Federal Court of Appeals for the Ninth Circuit, the rulings of which are binding upon CWU, has made plain viewpoint-based confiscation of student publications by college officials violates the First Amendment.¹¹ Given this precedent, it is clear CWU betrayed its legal obligations when Stinson and Wu took copies of *The Observer* with the intent of ensuring their contents were not seen by prospective students.

III. Conclusion

While we understand that CWU sought to paint a rosy picture of its university for admitted students during Preview Day, it cannot place marketing concerns above its legal obligations. CWU’s half-apology—asserting the situation “could have been handled differently”—is a severe understatement. Not only *could* the situation have been handled differently, the First Amendment and state law *require* it.

Given the irreversible harm that has already occurred in this case, we must respectfully insist that CWU issue an unequivocal, public apology to *The Observer* and affirm that it will ensure its administrators do not engage in publication theft or other forms of press censorship in the future.

We request a substantive response to this letter no later than the close of business on Friday, May 6, 2022.

Sincerely,



Lindsie Rank
Student Press Counsel, Student Press Freedom Initiative

Cc: Jeffrey Stinson, Dean, CWU College of Business
Keke “Coco” Wu, Associate Dean, CWU College of Business
Kremiere Jackson, Vice President of Public Affairs

¹⁰ *Rosenberger v. Rectors and Visitors of the Univ. of Virginia*, 515 U.S. 819, 829 (1995); *see also Koala v. Khosla*, 931 F.3d 887, 904–05 (discussing retaliation against student publications based on content); *Stanley v. Magrath*, 719 F.2d 279, 282 (8th Cir. 1983) (“A public university may not constitutionally take adverse action against a student newspaper . . . because it disapproves of the content of the paper”).

¹¹ *OSU Student Alliance v. Ray*, 699 F.3d 1053, 1066–67 (9th Cir. 2012) (holding that, Oregon State University officials’ confiscation of copies of student publication *Liberty* for allegedly viewpoint-based reasons would violate the First Amendment if proven; the court also held that removal of these newspapers without notice could violate the publication’s right to due process); *see also Kincaid v. Gibson*, 236 F.3d 342, 354 (6th Cir. 2001) (holding that a state university’s content-motivated confiscation of yearbooks violated the First Amendment).