



January 9, 2012

Chancellor Steve Ballard
East Carolina University
East Fifth Street
Greenville, N.C. 27858-4353

Trustees Chairman Robert V. Lucas
Lucas, Denning & Ellerbe, P.A.
P.O. Box 309
Selma, N.C. 27576

Dear Chancellor Ballard and Chairman Lucas,

The Student Press Law Center is a nonprofit source of research, information and advocacy in support of the student media nationwide. The SPLC monitors and reports on the well-being of the student media, and intercedes where it appears that the independence of students' editorial voice is at risk.

The Student Press Law Center is deeply concerned by the Jan. 4 removal of Paul Isom from the position of director of student media at East Carolina University. At a public university, the firing of a media adviser goes beyond a routine personnel decision. It carries profound implications for the overall climate for free expression on campus, and in particular for the willingness of student journalists to publish material that provokes strong public reaction, as journalists must.

It is neither legally supportable nor educationally sound to punish a college media adviser for the lawful editorial judgments of the students he advises. If the removal of Mr. Isom was in any way motivated by disapproval of the discretionary content choices made by student editors, then the decision was unlawful and must be reversed. We call on the Board of Trustees to commission an independent investigation into the circumstances of Mr. Isom's firing and, if an unlawful motive is discerned, to take all appropriate corrective measures.

It cannot be ignored that Mr. Isom's firing followed shortly after publication of a controversial series of photographs in the Nov. 8, 2011, edition of the student-run newspaper, *The East Carolinian*, depicting a nude man "streaking" across the field and being arrested during an ECU home football game. According to Mr. Isom, he was given no basis for his removal other than the University's desire to pursue a "different direction" for student media. Absent any legitimate justification, the cause-and-effect inference between the students' judgment and Mr. Isom's removal is unavoidable.

Your administrators are clearly on record opposing the decision to publish the Nov. 8 photos. The editor-in-chief of *The East Carolinian*, Caitlin Hale, has related to us a conversation during which an administrator threatened that unspecified "consequences" would be forthcoming for the editors' decision.

Paul Isom is a very experienced and well-liked adviser who is known for his regard for the editorial independence of the student media. The University must appreciate that a decision of this magnitude does not take place in a vacuum. History is

replete with instances of advisers who have been discharged, demoted or transferred for no greater “offense” than standing up for the editorial autonomy of their students. In just the past year, we have witnessed nakedly retaliatory firings of college media advisers at the University of Texas-Tyler and Missouri Southern State University, just to name two. Against this historical backdrop, the firing of an adviser will necessarily be met with great skepticism.

It is beyond dispute that, at a public university, student journalists enjoy – at a bare minimum – the benefit of the First Amendment rights recognized by the Supreme Court in *Tinker v. Des Moines Independent Community School District* (1969). Under *Tinker*, a public institution may take no action to restrain, punish or chill student expression unless the speech is unlawful (*e.g.*, it credibly threatens violence) or will imminently incite others to “substantially” disrupt classwork. None of the *Tinker* exceptions is even arguably applicable to the photos in *The East Carolinian*. Courts have held time and time again that merely provoking sharp differences of opinion – as the speech in *Tinker* itself did – is never a lawful justification for censorship.

Because the photographs were protected speech under the First Amendment, Mr. Isom as adviser was *legally prohibited* from overruling the judgment of the student editors. Had he done so, he would have exposed the University to substantial litigation risk. He would further have been violating his ethical obligations under the code of conduct of College Media Advisers, the professional standard-setting body for the field, which states in pertinent part:

Freedom of expression and debate by means of a free and vigorous student media are essential to the effectiveness of an educational community in a democratic society. This implies the obligation of the student media to provide a forum for the expression of opinion – not only those opinions differing from established university or administrative policy, but those at odds with the media staff beliefs or opinions as well.

Student media must be free from all forms of external interference designed to regulate its content, including confiscation of its products or broadcasts; suspension of publication or transmission; academic personal or budgetary sanctions; arbitrary removal of staff members or faculty; or threats to the existence of student publications or broadcast outlets. . . .

. . . Faculty, staff and other non-students who assume advisory roles with student media must remain aware of their obligation to defend and teach without censoring, editing, directing or producing. It should not be the media adviser’s role to modify student writing or broadcasts, for it robs student journalists of educational opportunity and could severely damage their rights to free expression.

To be very clear, if Mr. Isom was punished because of the photos published Nov. 8 in *The East Carolinian*, then he was punished for refusing to break the law and violate his industry's professional code of ethics.

We have spoken at length with the student editors at *The East Carolinian* about their decision to publish the disputed photographs. Regardless of whether any of us agrees with the editorial judgment call they made, it is clear that the editors went through a deliberative process in which they considered the news value of their decision and the impact it would have. That is exactly what an adviser is supposed to teach. Their handling of this matter demonstrates not that Mr. Isom failed as adviser, but that he succeeded.

It is important to step back and view what was done on Nov. 8 with some perspective. No one was harmed by the students' actions beyond a momentary affront. The student depicted in the photos freely consented to be interviewed using his full name. Whatever fleeting and minimal impact the newspaper photos had on the University's image has been worsened a thousand-fold by the decision to remove Mr. Isom without an outwardly apparent lawful justification.

While the photographs that appear to be the provocation for the University's decision are of no great journalistic significance, the message that is sent by the precipitous removal of an adviser goes beyond a single editorial judgment. The unmistakable message – which the student editors have received, loud-and-clear – is that *any* controversial editorial decision is subject to severe retaliatory action.

In addition to commencing an independent investigation, it is incumbent on ECU to give the strongest assurance to the students who work in Student Media that the removal of Mr. Isom in no way signals an intent to discourage the wide-open debate on controversial issues that is uniquely at home on the campus of a university. They are owed at least that much. Independent journalism cannot flourish under the cloud of fear that Mr. Isom's sudden and unexplained removal has created.

We thank you for giving this matter your immediate and urgent attention.

Yours truly,



Frank D. LoMonte, Esq.
Executive Director
Student Press Law Center

cc: Members, ECU Board of Trustees