

Student Media and Access to Information

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The First Amendment gives journalists the right to free press, which means any form of news media should not be controlled or censored by the government. The Freedom of Information Act (FOIA), was established in order to give the general public rights to request access to records from any federal agency. Its purpose is to make citizens aware of what was going on with their government. Sunshine laws were established to give citizens the right to obtain access to open meetings and public records. These laws vary in different states, but in Louisiana, freedom of information is taken seriously (“Open Records and Meetings (FOIA),” 2011). These freedoms are sometimes put on hold for student journalists when their university has something to hide or simply does not want information released that could potentially harm reputation of the institution. This results to student journalists running into major issues with their college or university’s administration attempting to censor them by refusing to provide public information. A few tactics they use to do this is by simply avoiding the student, claiming the information and/or meeting is not public, or suing the student before the student would get the chance.

Louisiana’s late senator, Russel Long, said, “A government by secrecy benefits no one. It injures the people it seeks to serve; it damages its own integrity and operation. It breeds distrust, dampens the fervor of its citizens and mocks their loyalty.” According to an article from the Public Affairs Research Council of Louisiana, “all records and meetings of Louisiana public entities are public, unless specifically exempted in the law.” A meeting is considered public when a group of individuals in a public body come together to deliberate, act, or receive information in which the body has control over the matter (“Top 10 Things to Know About Louisiana’s Sunshine Laws,” n.d.).

The book, “Open Government Guide: Access to Public Records and Meetings in Louisiana” (2006) suggests that the only restriction regarding the requester is that in general, “any person of the age of majority” may request records. The requester's purpose should not be questioned. The law states that the custodian of the records “shall make no inquiry of any person who applies for a public record, except an inquiry as to the age and identification of the person.” (p. 4)

Issue 1: Avoiding the Student

Public records are supposed to be given to any citizen who request them and the custodian of the records should respond within a three- day period. These freedoms apply to all citizens, including the media and student media. Access to public information and meetings is necessary for them to do their jobs and provide newsworthy content to the public. Here lately, student journalists are often running into issues with their administrators making it difficult for them to get a hold of public information and allowing them to attend open meetings.

According to an article on the American Association of University Professors (AAUP) website, it has become common for colleges and universities to make students who request public records wait months for a response, or simply avoid the request altogether. It is unacceptable and illegal for a response to take so long. There are numerous instances where colleges and universities tend to filter the access to information through their public-relations offices, which gets in the way of student journalists doing their jobs and gathering enough information for a story. (“Threats to the Independence of Student Media,” 2016).

The Student Press Law Center (SPLC) suggest that in many cases, it is beneficial for student journalists to make a verbal public records request first. Afterwards, if the request is denied, a written letter is another option to obtaining the information. That particular method

comes in handy in order to avoid any delays. The SPLC website has a public records request letter generator that helps students create a well-written request (“Public Records Letter Generator,” 1997).

Nicholls State University’s student publication, *The Nicholls Worth*, ran into issues with their administration refusing to provide public records by avoiding the student and eventually denying their request. The students got word that meetings were held which reviewed and discussed the possibility of eliminating certain student funded programs, which made an impact on the administration’s decision to defund Nicholls’ yearbook, La Pirogue.

Students wrote multiple public records requests asking for documents relating to the meeting. The news editor, Ana Pizzolio, sent the first request and the university failed to respond within the required three-day period. The editor-in-chief eventually requested once again, even though the administration already broke the law. The staff had to result to reaching out to a Scott Sternberg, a Louisiana lawyer, who wrote a formal request on behalf of the students and brought up the consequences of their failure to respond to the requests. The students also attempted to gather information about the meetings and were told no minutes were taken and the administration claimed the meetings were not public, when it was clear it was. Although *The Nicholls Worth* did not file suit, they interviewed Sternberg and Frank LaMonte, senior legal fellow for SPLC, and covered the issue. The publication gained some notoriety from their coverage about the administration refusing to provide public record and the defunding of La Pirogue (Cannon, 2017).

Another example of administrations attempting to hide what should be public information, was in 2013, when Andrea Gallo, the former editor of LSU’s publication, *The Daily Reveille*, filed suit on the university’s private foundation and university system not providing her

the names of their presidential candidates. An article written by Daniel Moore (2013) on the Student Press Law Center's website suggests that LSU not only denied the Reveille, but also other news organizations who wanted to find out those names. Gallo was represented by Scott Sternberg, a Louisiana attorney, who looked into the case and felt it was an "unprecedented attempt to keep these records a secret." Sternberg came to the conclusion that LSU was protected from the public eye because they used its private foundation to argue that the presidential search was a private matter. They also argued that "private firms who perform a normally public business should still be responsible for following public records laws" (Moore, 2013).

The case, *Capital City Press v. LSU Board* (2014), is another public records case involving journalists and the Louisiana State Board of Supervisors. They were sued by media outlets such as NOLA.com, *The Times Picayune* and *The Advocate* for access to the same public records The Daily Reveille asked for, involving the presidential candidates. A news article by Diane Samuels (2013) stated that the judge ruled that LSU must pay \$500 per day or make the records public information. This case showed that with the help of outside media, a case like this can be a lot stronger.

Issue 2: Claiming the Information/Meeting is not public

In many instances, administrators may think student journalists are naive to knowing their rights and being knowledgeable about what is considered public or private information, especially in a school setting. There are some cases where administrators claim a meeting or information is not public when it can clearly be argued that it is. In *the Nicholls Worth's* second attempt at requesting public records, the custodian responded stating that there were "no meeting(s) of a public body, no committee meetings, minutes, or voting records." This statement was exposed in their article and was considered to be untrue because other sources came forward

stating that there were committee meetings and scoresheets were even being used by those who attended the meetings to determine which programs should stay or go (Cannon, 2017). The article also calls out Nicholls' chief of staff, Alex Arceneaux, who stated that minutes were not taken and that the University's president had the authority to convene groups of individuals for a "private" meeting. When Sternberg and LaMonte looked into the situation with *The Nicholls Worth*, they concluded that the meetings the administration claimed were private and seemed to be a textbook open meeting. (Cannon, 2017).

Meetings by a public institution, such as a college, that appoints a committee dealing with policies that control that public entity are required by the open meetings laws to properly notice and document meetings of that body. According to Louisiana's state statute, a "public body means any committee, subcommittee, advisory board, or task force thereof" ("Louisiana State Legislature," n.d.).

Issue 3: Administrators Filing Suit First

Although a case of this nature hasn't occurred in Louisiana, it is a fact that student journalists can be in danger of their university filing suit first. In 2016, the editor of the *Kentucky Kernel*, Will Wright, requested documents asking for investigation regarding student-professor misconduct. An article written by Mary Tyler March (2016), stated that the university provided the professor's settlement document but refused to give him information on the full investigation which included even more accusations. The paper appealed for an opinion and it was released. It concluded that the university was in the wrong, which led to the President of the university, Eli Capilouto, to send a campus-wide email which threatened to sue to publication arguing confidentiality and privacy, claiming the investigation was not to be public. But according to open records law, the investigation was not protected. A disclosure of the records were ordered

claiming the documents were protected under the federal Family Educational Rights and Privacy Act (FERPA) (March, 2016). Eventually, an anonymous source handed an investigation document which included the victims' names and identifiers. The President made a statement saying that their university usually obeys records requests laws but felt as if in certain cases, such as this, they should be denied.

A similar situation occurred at Western Kentucky University, when they sued their student newspaper, the *College Heights Herald*, regarding faculty sexual misconduct investigations. On October 13, 2017 a circuit court judge ruled that the state Attorney General should be able to privately review public records regarding sexual assault at Kentucky State University so they can decide whether or not the school can release them to reporters. "The court grants the Attorney General's motion. KSU is ordered to tender to the Attorney General all documents previously tendered under seal for in camera review. Documents tendered will remain under seal for review upon appeal" ("Commonwealth of Kentucky Franklin Circuit Division II," 2017). These types of situations can happen to any student publication.

In conclusion, student journalists have more rights than they may think when it comes to obtaining access to information. Administrators are unable to punish a student for recognizing their rights to free press and making a decision to file suit. More and more administrators are becoming so concerned with the college or university's image, they are attempting to make their publication into a public relations tool by coming up with ways to censor students, and denying access to information is one of them. They also do this because of their desire to keep their decision making behind closed doors.

Because of this, student journalists are unable to fully apply their knowledge and skills, and reach their full potential. The cases used as examples show that more and more students are

learning more about their free speech rights and are filing suit when they feel their institution is not treating them fairly. A student newspaper is not a public relations tool and is meant to be used to cover issues of student journalism, whether it be good news or bad.

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