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Take it down!

I don't remember his name exactly. It was long. And it was really hard to spell. I do remember that he was looking for a job, having recently finished his master's degree. But the year before — or so — he had been caught with weapons in university housing. As I recall, police never charged him with anything. But his name was still in the police report and in the campus crime report the student newspaper published in print and online.

He wanted the crime report removed from the student newspaper website.

He didn't dispute that the event happened. He didn't dispute the accuracy of the report.

He was not convicted of a crime.

Yet every time a prospective employer did an online search for his unique name, the first thing that popped up was the newspaper's campus crime report.

It is a scenario that could happen on any college campus. On high school campuses too, often years later, advisers and student leaders find the discussion about taking down stories published online far from theoretical.

BY BRADLEY WILSON, MJE



“The takedown decision-making process is akin to ethics, not policy, because there is no constantly valid decision. There is no right or wrong with takedown.” | **JOHN BOWEN**, MJE, ADJUNCT PROFESSOR, KENT STATE UNIVERSITY

“EXPUNGEMENT” refers to the process of sealing arrest and conviction records. Virtually every state has enacted laws that allow people to expunge arrests and convictions from their records. Though the details can vary, most states’ laws provide that once an arrest or conviction has been expunged, it need not be disclosed, including to potential employers or landlords.

A “CERTIFICATE OF ACTUAL INNOCENCE” is perhaps the most powerful form of expungement. This certificate does more than seal a prior record; it proves that a record should never have existed at all.

News organizations have been trying since the 1990s to figure out what to publish online, how and when. And almost since those first newspapers went online, they began fielding a different kind of request from readers, listeners and viewers: Will you “unpublish” that?

Scholastic media outlets are not immune. High school antics reported by the school newspaper or online scholastic media pop up in searches by college admissions officers, military recruiters and prospective employers.

How to handle such requests remains unclear, ranging from an absolute “no” to “Let us take a look.” The potential rises for damaging people’s reputations with long-ago or out-of-context accounts of their indiscretions.

For example, what if an administrator were charged with serving alcohol to a minor at your school but the charges were dropped for lack of evidence? Reporters tend to cover the arrest and charging of the administrator but rarely follow up.

What if a club sponsor were charged with misuse of state funds and convicted but later, on appeal, the charges were dropped and all records of the case ordered expunged? Expungement means that the arrest and conviction need not be disclosed. But the news articles about the sponsor being charged still exist.

As Rick Edmonds wrote in “Newspapers hit with a wave of requests to take down embarrassing archived stories,” a 2016 article for Poynter, the European Union’s highest court ruled in May 2014 that there is a privacy “right to be forgotten” — and that Google needed to respond to any reasonable request that “inaccurate, inadequate, irrelevant or excessive” information be removed.

And Frank LoMonte, director of Brechner Center for Freedom of Information at the University of Florida, reminds editors and advisers, “Nobody is ‘owed’ a takedown, so you don’t actually need an excuse to say ‘no.’ The policy might help you withstand a persistent person, but it’s not legally necessary. You could have no policy at all.”

John Bowen, MJE, an adjunct professor at Kent State University, agreed.

“The takedown decision-making process is akin to ethics, not policy, because there is no constantly valid decision,” Bowen said. “There is no right or wrong with takedown,” he said.

Further, Candace Perkins Bowen, MJE, a professor at Kent State University, said schools have to be careful taking down previously published material.

“Takedown requests change the historical record

and should be used only in rare and specific cases — such as a factual error in the original story,” she said. “The staff should also indicate a change has been made.”

As John Bowen wrote for the Scholastic Press Rights Committee in 2014, there are basically three possible takedown choices.

MODEL A — LEAVE EVERYTHING AS IS IF:

- The request is designed to retain image or avoid embarrassment.
- There is no discernible evidence of factual or legal issue.
- There is value of not changing information for historical, reality reasons.
- What is published is true, as best as the staff could determine.
- The credibility of the student media is paramount.
- The mission is to be an accurate record of events and issues.

MODEL B — PUBLISH CORRECTIONS, RETRACTIONS OR UPDATES IF:

- The information is proven factually false or otherwise legally deficient as of the time it was published.
- There is a need for transparency concerning source inaccuracy.
- There is a need to provide context and perspective for published information.
- The staff needs to clarify or update information.
- The staff feels the situation is a gray area best solved by compromise.
- The staff can write a follow-up story.

MODEL C — TAKE DOWN INFORMATION IF:

- There is a one-time reason, such as fabrications or protection of sources.
- Staff determines, as best it can, that harm to the people identified outweighs all other factors.

Brent Jones, standards and ethics editor of the USA Today Network, commented by email for Edmonds’ article:

“Newsrooms are guided to keep the bar high when considering removal of content from digital platforms. Our journalists strive daily to preserve the integrity of the published record, including publishing corrections or clarifications. We do so in the interest of the public’s right to know now – and in the future. Take-down requests are weighed on a case-by-case basis with senior editors, and some situations may require legal guidance.”



“It’s also important to emphasize that these policies should be student-driven and created, not imposed by the school administrator or adviser.” | **MARK GOODMAN**, PROFESSOR,
KENT STATE UNIVERSITY

Nancy Barnes, former editor of the *Houston Chronicle*, told Edmonds that she and other editors are being “besieged” by requests to delink stories. Her rule of thumb had been to say, “We don’t do that,” but now she is making decisions on a case-by-case basis.

Edmonds said, “For now, case-by-case seems to be the norm. I have a hunch that sorting out good practices will remain a work in progress for a while — but also that this particular genie is not going back into the bottle.”

Mark Goodman, professor and Knight Chair in Scholastic Journalism at Kent State University, said part of dealing with cases individually is having a policy that offers guidelines for student leaders.

“Each student publication should have a policy for handling takedown requests (as opposed to one for the whole school) because different media will have different ways of responding,” Goodman said. “For example, you can edit an incorrect fact out of a written story online, but it may be more complicated to alter video or other visual elements. I also think it’s important to emphasize that these policies should be student-driven and created, not imposed by the school administration or an adviser.”

BEYOND THE TAKEDOWN

Despite concerns largely based on evolving technology, LoMonte said his concerns go beyond policy.

“[M]y greatest concern isn’t a takedown policy but a clear and prominent policy about the news organization’s right to display the author’s work in online archives. I worry that writers who change their minds about what they’ve written will try to assert copyright ownership and demand that their work be unpublished, and that the publications won’t have a good answer because they won’t have retained documentation showing that the author waived the right to object to the continued availability of the work.”

LoMonte said this might even result in another policy regarding use of archived works.

He suggested that media outlets develop language that gives the publication an indefinite and irrevocable license so that authors can’t bombard the publication with demands to de-archive articles they no longer find flattering. And he said he would make sure to keep documentation that the policy was visible to people contributing articles, ideally as a mandatory click before uploading a submission. ■

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Guidelines for responding to takedown requests

As Wayne Pollock wrote in “Responding to Takedown Demands,” a 2010 article for the Student Press Law Center, “A takedown policy – created to guide these decisions when the law does not provide a definitive answer – can be helpful in maintaining a consistent approach to takedowns that is in accord with the publication’s editorial mission.”

Mark Goodman, professor and Knight Chair in Scholastic Journalism at Kent State University, offered basic guidelines for creating a takedown policy.

“Among the key things to include in a takedown/corrections policy would be clear descriptions of the conditions under which the publication will consider altering or removing already published content and those when it will not,” Goodman said.

“For example, many media organizations have decided that they will not take down factually accurate content simply because an interview subject is now embarrassed by quotes they gave to the publication in the past,” Goodman continued. “It is key for the publication staff to keep in mind when developing a takedown policy that there are stakeholders affected by their decisions beyond the person complaining. All of the current and future readers and viewers of their content expect an independent source of information that accurately depicts the events and issues they covered. Sometimes the best response to a takedown request is simply, ‘I’m sorry. We aren’t able to comply with your request.’”

Finally, Goodman said, the most important part of any takedown policy should make clear that the final call on any request lies with the student editor or editorial board of the publication. Because many of these decisions are subjective, using language like “may” or “will consider” is better than “will” or “must.” Anyone reading the policy should know that students are the ultimate decision-making authority.

Frank LoMonte, director of Brechner Center for Freedom of Information at the University of Florida, agreed and encouraged staffs to build a policy that allows for exceptions.

“If you say, ‘We will take down stories if given written documentation that the material is defamatory,’ for instance, then you’re issuing an invitation to anyone who wants to write a letter insisting that an old article was libelous. You don’t want to create the impression that anyone is assured or guaranteed that ‘if you do X, Y and Z, then we will pull down a story.’ Leave yourself room to make judgment calls in unusual situations.”

Lori Keekly, MJE, JEA’s director of Scholastic Press Rights, said, “Policies are important for all situations — including takedown requests. These guidelines should outline specific instances in which such a request may be granted (such as falsification, factually inaccurate, illegal, etc.) and determine how the editors and/or editorial boards evaluate the request. Additionally, include how the requestor will be notified and by whom.”

Grand Center Arts Academy (St. Louis)

Contributed by Travis Armknecht, CJE, adviser

REGARDING TAKEDOWN REQUESTS/PUT-UP POLICY

While the editorial board will handle takedown requests on a case-by-case basis, the student media practices a put-up policy that involves a series of proactive steps to prevent the need for future removal of information.

Put-up policy steps:

- Independently confirm information to be used for accuracy, context, perspective, truth and coherence.
- Determine whether sources used are credible and representative of diverse and knowledgeable viewpoints.
- Clearly attribute all information as needed for clarity and authority.
- Avoid anonymous sources except in situations where they are the best source and identities need protection.
- Determine whether sources used have conflicts of interest.
- Ensure that the information has gone through a vetting process with editors.
- If using teens or young people as sources, do so with an understanding of minimizing harm as well as publishing truthful and contextual information.
- If using social media sources, be sure information is attributed, accurate, in context and used legally and ethically.
- Train and background reporters in legal and ethical issues.
- If using crowd-generated content, clearly indicate the source and ensure its credibility.
- Be skeptical of any information that cannot be verified.

Travis Armknecht, CJE, adviser at Grand Center Arts Academy in St. Louis, said, “We had a couple of reasons for creating the policy. One, we didn’t have one and after reading stories on the email distribution list, I knew it was one of the next things we’d need to address. Second, we encountered our first takedown request — from a staff member.

“Our school’s only social worker had agreed to be photographed/quoted for our regular ‘Humans of GCAA’ feature,” Armknecht recalled. “She’d also been a primary source in a feature story a reporter was working on about students in transition (homeless). She Googled herself and found the ‘Humans’ feature and asked for it to be removed. It turns out that there was a stalking incident in the past. Given the circumstance, the editors and I decided it made sense to take the post down. The reporter working on the homeless-student story then had to go to our head of counseling and just used the social worker on background. She was still listed in the online staff directory, so she had herself removed from it as well.”

Granite Bay High School (Granite Bay, California)

Contributed by Karl Grubaugh, CJE, adviser

Gazette content that has been posted online shall remain online indefinitely. Any inaccuracies will be corrected in the online version of *Gazette* content. However, the adviser and co-editors-in-chief will consider takedown requests on a case-by-case basis.

Adviser Karl Grubaugh, CJE, recounted his need for such a policy.

“We didn’t have a policy several years ago when a recent graduate — let’s call him Eric — reached out to us and asked us to take down a story we’d posted about him. He was one of four recent grads we’d featured in a story about how students were doing in their freshman year of college. Eric quite willingly shared with us his take on his first year at the University of Oregon, which included plenty of opportunities to consume adult beverages at fraternity functions and gatherings.

“After we published the four compiled stories, Eric reached out to us and explained that his father had seen the story and was quite worried that Eric had done some potential current and future damage to his job and career prospects.

“Because we didn’t have a policy, I gathered my co-editors and told them A) we needed a policy, and B) we needed to figure out how to respond to Eric. They decided on the policy above, but they removed Eric’s portion of the feature story as a courtesy ... and because we didn’t have a formal policy yet in place.

“Since then ... we’ve gotten two or three takedown requests, one every couple of years. One was righteous; a former student was quoted in the *Gazette* five or six years earlier describing an off-campus altercation that, in fact, never occurred. The writer, we discovered, had made the whole thing up. The victimized student had found the PDF version of the story online while doing research for an upper-division business course at Arizona State in which he had to Google himself online and see if there was anything about his online presence that he needed to clean up before graduating and hitting the job market.

“Another takedown request came in the fall when we named several students who were disciplined at a state business convention,” Grubaugh said. “I ended up seeking input from the JEA email list, and the consensus was that most publications don’t print the names of students in disciplinary matters, the same way minors accused of crimes are rarely named in the professional press. We changed our policy about naming students involved in disciplinary matters (we no longer do so), and we removed the specific names of disciplined students from the online version.”

Southwest Career and Technical Academy (Las Vegas)

Contributed by Matthew LaPorte, CJE, adviser
unedited version available online at
southwestshadow.com/content-removal-request/

CONTENT REMOVAL REQUEST

In journalistic writing, stories and articles may contain content that is perceived as offensive or inappropriate for the readers. Because of this, a staff may be asked to pull a story from the online publication. However, as student writers, we hold the right to the protection of the content we write about.

Gov. Brian Sandoval signed a New Voices bill into law on June 2, 2017. This law clarified prior misconceptions of the role of student publications. In short, this publication is written and produced by students and all decisions related to content are made by students.

Those who want a story to be pulled from the website must have a legitimate reason. Mere disagreement with the writer does not justify the altering of content. All readers will have their own opinions toward the issue that may conflict with the writer’s view, but this does not justify the removal of a certain article.

Valid reasons for withdrawing a story from the online publication must have regard to the material within it. The criteria are as follows:

- Does the story contain false statements?
 - Does the story contain mistakes in writing skills (grammar, spelling, punctuation, etc.) that show its unreadiness for posting?
 - Does the story contain material that is too graphic or vulgar for an educational environment?
 - If the story or article meets any of the aforementioned criteria, then the request for removal may be sent.
- The process to make a decision will be:
- Verify the identity of the reader who submitted the request.
 - If the reason is considered to be valid, the staff writers, editors and adviser will hold a meeting and decide if the article should remain online or be pulled from the website.
 - The Student Press Law Center will be contacted if the decision cannot be made.

The process of the editorial board in reviewing the request is as follows:

1. Validity of the reason will be assessed. It must meet one or more of the requirements mentioned above.
2. Article or story of concern will be re-evaluated by each member of the editorial board. To their best reasoning, they will determine whether the request for its removal should be approved by checking for false statements, writing errors and vulgar material.
3. Members of the editorial board will reconvene and vote on the approval or disapproval of the request.

If the majority of the editorial board decides that the article in question meets the criteria for removal, then the story will be pulled from the website as soon as possible.

If the majority decides that the article does not meet the criteria for removal, the story will remain on the website. A detailed explanation for the request’s denial will be created and agreed upon by the editorial board. This will then be communicated to the sender of the request as soon as possible.



For links and more information about takedown requests, visit JEA’s Scholastic Press Rights Committee site
<https://jeasprc.org/takedown-requests/>



For links and more information about takedown requests, visit CJET’s online page
<http://jea.org/wp/home/for-educators/cjet/onlinesupp/>