

Student Media Rights

First Amendment Protection

Student journalists enjoy the broad protection of the First Amendment. The standard was set in 1969 with the landmark Supreme Court case *Tinker vs. Des Moines Independent Community School District*. The First Amendment **forbids most censorship** of student-run publications by college administrators unless:

- It breaks the law (ex. obscene, threatens violence)
- It disrupts normal school activities
- Invades the rights of others
- It is against lawful school regulations

In the case of student newspapers that are a part of a credit class, schools may have more authority. Schools can justifiably censor the student paper when there are legitimate pedagogical concerns. The *Hazelwood School District v. Kuhlmeier* decision by the Supreme Court in 1988 is considered the starting point for college media censorship cases in some states. Anti-censorship groups generally believe the law has been abused by schools. Some states have enacted more laws to protect student media rights.

California provides additional protection to student journalists akin to that provided to professional journalists through:

- The 1977 [California Student Free Expression law](#) (Ed Code 48907)
- The 1977 [California Community College Free Expression Law](#) (Ed Code 76120)
- The 1992/2006 [Leonard Laws](#) (Ed Code 66301)

According to the nonprofit advocacy group Student Press Law Center, there have been more than 60 cases in the last two decades directly related to student press freedom at public colleges. These cases show that:

- Students have a right to free expression, including using bulletin boards, distributing print and online.
- School officials **cannot** use funding and discipline of students/staff members to control and manipulate content. This is also true for student governments.
- School officials **cannot** demand to review content before publication.
- School officials can regulate issues that are not related to content. For example, ensuring the publication is fiscally sound and hiring practices are legal.

Read more:

- [Guide to Student Press Freedom at Public Colleges](#), by the Student Press Law Center.

Trespassing

If an event is occurring in public, journalists and student journalists are free to cover the event through photographs, video, recordings and observation. However, they are not free to trespass.

Journalists cannot:

- Enter someone else's land without their consent
- Use force to enter a property
- Use fraud or misrepresentation to enter a property (pretending to be an employee, etc.)
- Stay on a property despite an owner or occupant objecting to the journalists' presence

- Enter a crime scene or disaster scene when the general public is excluded unless invited by police/fire officials and if the owner does not object
- Digitally trespass by hacking, intrusion software, etc.

Journalists can:

- Work and gather material in public areas
- Go to public areas of private businesses, like lobbies and malls and showroom floors, to gain information. (California provides more journalistic freedom than federal law in this case)
- Go to an apartment when invited by the tenant even if the property owner does not want them there
- Go to a crime scene or disaster scene if invited by police/fire agency during an investigation (but not when a search warrant is served) and if the owner does not object

Read more:

- [Fair Trespass](#), Columbia Law Review
- [7 Things You Didn't Know About California Trespass Laws](#), Aizman Law Group
- [Journalists and Trespass](#), Pennsylvania News Media Association Handbook
- [California Anti-paparazzi laws](#), Reporters Committee for Freedom of the Press

Children and Media

Journalists must use caution whenever working with children. In the FindLaw article "[Kid Gloves: Interviewing and Reporting on Minors](#)" a number of cases highlight the dangers of journalists working with children. The primary risks involve (1) whether the child can give consent to an interview, photograph or recording and (2) whether the child's privacy rights and emotional wellbeing could be infringed upon. The courts have generally been protective of the children's right to privacy over the media's freedom of press and right to publish material that is newsworthy and of general public interest.

Journalists must tread carefully when:

- Identifying minors in sensitive contexts
- Identifying intimate private facts about minors
- Interviewing minors without consent

School officials:

- Can check if an interview or photoshoot with a minor has the parent's consent.
- Can warn the journalist that without consent the journalist and publication can face legal consequences in publishing material about minors.
- Cannot force a photographer to hand over their equipment
- Without a court order, cannot force a photographer to delete images they have taken

In December 2012, 20 children were shot at Sandy Hook Elementary. Some of the most iconic images are of children and families, in a public space, who are fearful and grieving. Those images are examples of material that is newsworthy rather than merely curious or interesting. They are also taken in a public place where there is no assumption of privacy.

Read more:

- [The Photographer's Right](#), a flyer by attorney Bert P. Krages II
- [Reporters Field Guide: Schools](#), Reporters Committee for Freedom of the Press
- [Interviewing Children: Guidelines for Journalists](#), Dart Center for Journalism and Trauma
- [The Media and Children's Rights](#), UNICEF handbook

The Photographer's Rights

Attorney Bert P. Krages II has an informational flyer and book about [The Photographer's Rights](#).

Photographers can:

- Take pictures, in public places, of accidents and fires, children, law enforcement officials, employees, students, celebrities, buildings, utility sites and more
- Take photographs of private property if they are standing at a public location or at a location where they have permission to photograph

Photographers cannot:

- Take pictures in places that have an expectation of privacy, like bathrooms, changing rooms, medical facilities, and homes.
- Take pictures in areas that impede the activities of law enforcement officers.
- Ignore a private property owner's request to leave or stop taking photographs from their private property. They can get arrested for trespassing.

School officials:

- Cannot force a photographer to hand over their equipment
- Without a court order, cannot force a photographer to delete images they have taken
- Cannot force a photographer to show their photographs or videos
- Can control access to the interior of buildings that the general public is not allowed, such as the Child Development Center and Student Health Center

Read more:

- [The Photographer's Right](#), a flyer by attorney Bert P. Krages II
- [Know Your Rights: Photographers](#), American Civil Liberties Union