

## **New Voices in Idaho: High School Journalism Teachers Speak**

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### **Abstract:**

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*New Voices legislation, which expands speech protections for high school journalists, is working through several state legislatures. The question in conservative rural states such as Idaho is: Would such legislation work in this state? This study answers the question from the perspective of Idaho's high school journalism teachers who expressed frustration with the restrictions of the Hazelwood decision and the need to give their students "real world" experiences.*

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In 1988, the U.S. Supreme Court ruled public high schools could legally employ prior restraint against student journalists and teachers in the landmark *Hazelwood v. Kuhlmeier* case (1998). In the case, the school principal objected to articles in a school newspaper dealing with divorce and teen pregnancy, so he removed the articles prior to publication. The teen journalists sued, but the U.S. Supreme Court ruled the principal's actions did not violate the students' free speech rights (SPJ Education, 2015).

The Supreme Court made several distinctions about this case. First, the paper was sponsored by the school and, as such, the school had a legitimate interest in preventing the publication of articles that it deemed inappropriate and that might appear to have the imprimatur of the school (U.S. Courts, n.d.). Second, the Court said the school's newspaper was not intended as a public forum in which everyone could share views; rather, it was a limited forum for journalism students to write articles pursuant to the requirements of their Journalism II class, and subject to "appropriate editing" by the school (U.S. Courts, n.d.). Finally, the Supreme Court drew a distinction between *Tinker v. DesMoines*, where the Court affirmed the right of students to individual expression and the school's responsibility to "tolerate" it, and the school "affirmatively" promoting speech by distributing it via a school newspaper (*Hazelwood v. Kuhlmeier*, 1988).

This ruling, and others concerning First Amendment rights and student speech, only applies to public schools. As government entities, they are restrained by the wording of the First Amendment, "Congress shall make no law ..." (U.S. Const. amend. I). Private schools can make any policies they deem necessary regarding student speech.

Since that time, high school journalist teachers have reported principals can and do routinely censor school publications. In 2014, nearly one third (30.1 percent) of high school journalism teachers surveyed by the Society of Professional Journalists Education Committee reported school administrators have the final OK to publish and that nearly two thirds (74.6 percent) of the same teachers said they either sometimes worry, or are constantly worried, that they may be reprimanded for their students' actions (SPJ Education, 2015).

But in 2015 a new voice was heard in the North Dakota state legislature as the John Wall New Voices Act was passed, signed by the governor into law in April, giving students the same press freedom as other media and removing the restrictions of the Hazelwood decision (SPLC, 2017).

While states must adhere to constitutional decisions made by the federal courts *limiting* rights, they reserve the right to *expand* constitutional protections beyond the minimum standard established by the federal government. This New Voices legislation expanded the rights of high school journalists and teachers and removed the right of a principal to edit stories based on content.

The law does emphasize that this “free” speech is on par with professional standards; in other words, legally problematic areas of speech that professional journalists avoid must still be avoided by high school journalists.

Specifically, the law (SPLC, 2017): Prohibit[s] students from using language that is libelous or slanderous; constitutes an unwarranted invasion of privacy; violates federal law or “so incites students as to create a clear and present danger of the commission of an unlawful act, the violation of institution or state board of higher education policies, or the material and substantial disruption of the orderly operation of the institution.”

Later in 2015, the Student Press Law Center established the New Voices Campaign, a program designed to promote similar legislation in other states, to remove the restrictions of the 1988 Supreme Court decision on high school media and expand high school journalist’s free speech rights, with several states also adding protection for higher education student media. By early 2017, 12 states (North Dakota, Maryland, Illinois, New Jersey, Massachusetts, Arkansas, Iowa, Illinois, Pennsylvania, Kansas, Colorado, California and Oregon) had passed New Voices legislation, with the laws in North Dakota, Maryland, New Jersey, Iowa, California and Oregon covering both high school and post-secondary student journalists (New Voices, 2017). Another 16 states had legislation in various states of preparedness (from early planning to on dockets) in January 2017.

Included in the 16 states preparing legislation was Idaho, a traditionally conservative state, frequently labeled as a solid “red” state on the political spectrum. The U.S. Census Bureau (American Fact Finder, 2017) shows Idaho with a population of 1,567,582 citizens; the primary businesses are agriculture (dairy, wheat, potatoes) and retail sales; 89.5 percent of the population has a high school diploma, but the percentage for a college degree drops to 25.9 percent; and the dominant race is Caucasian (89.1 percent). All the state’s U.S. Senators and Representatives are of the Republican Party, as are all the major state leaders (Governor, Lt. Governor, Secretary of State, etc.) (Idaho.gov, 2017) and the legislature is overwhelmingly Republican (88) to 17 Democrats (Boydston, 2016). In addition, the state is heavily Church of Jesus Christ of Latter Day Saints (Mormon) with 51.1 percent of the population registered as members, followed by the Catholic Church with 15.39 percent of the total population, and nondenominational registering third at 7.81 percent (Homefacts, 2017). The state’s profile raises the question: would a New Voices campaign be acceptable to the state’s high school journalism teachers? This study sought to explore that question by researching the following: What is the attitude of Idaho’s high school journalism and yearbook teachers toward introducing New Voices legislation in the state?

### **New Voices Legislation**

In April, 2013, students from the University of Jamestown, a private religions (Presbyterian) school in Jamestown, North Dakota, took a proposal to the state legislature requesting expanded protections for press freedom (New Voices, 2017). Named in honor of long-time North Dakota educator and legislator John Wall who taught journalism and English at Wahpeton High for 30 years (Leinen, 2015), the students cited the original ruling in the 1967 *Tinker v. DesMoines* case, in which the U.S. Supreme Court said free speech does not stop at the schoolhouse gate (New Voices, 2017). Steve Listopad, Ph.D., an associate professor of journalism at Valley City State University and former student of Wall (Leinen, 2015) who helped the students write the law, said the students pitched the bill to state Reps. Jessica Hawk (D-Jamestown) and Corey Mock (D-Grand Forks), who co-sponsored the legislation (New Voices, 2017).

Although Listopad said the legislation sat for two years, when the bill did make it through the system, the only two “no” votes in the process came in the House Education Committee. The bill was supported by a coalition of people such as Mary Beth Tinker, an original plaintiff in *Tinker v. DesMoines*; Frank LoMonte, executive director of the Student Press Law Center; and Steve Andrist of the North Dakota Newspaper Association. All the votes on the floor of the North Dakota House, the Senate Education Committee and the floor of the Senate were unanimous “yes” (New Voices, 2017). The John Wall New Voices legislation encompassed both public secondary and post-secondary schools in North Dakota.

It is important to note that while public post-secondary schools *can* restrict student speech as well, they are much less likely to face censorship from the administration. As legal adults, the concept of *in loco parentis*, or “in place of a parent,” is not relevant. One of the primary justifications for a K-12 school’s heavy-handed interference with student’s speech rights is that while minors are at school, the school is acting in place of the parent. Therefore, secondary schools can act in the best moral, ethical, and pedagogical interests of the child (though not to simply avoid administrative discomfort with ideas) (*Tinker v. DesMoines*, 1969). While post-secondary student publications can be censored for pedagogical concerns, casual prior restraint is less common.

Fresh from the North Dakota success, the Student Press Law Center established the New Voices Campaign in 2015, designed to go state by state to eliminate the 1988 Hazelwood decision through state legislative action (New Voices, 2017). By January 2017, the website ([newvoicesus.com](http://newvoicesus.com)) listed campaign contacts for 24 states, testimony from students and teachers during legislative hearings, interviews with principals, fact sheets, and status updates on all pending legislation. Most of the proposals after North Dakota do focus on secondary schools rather than both secondary and post-secondary, and SPLC Executive Director Frank LoMonte was actively encouraging state campaigns to use the Maryland law, rather than the North Dakota law, because it was more comprehensive (personal email with F. LoMonte, Oct. 5, 2016).

If developed, the proposed Idaho law would mirror the Maryland law to maintain standards against libel/slander, invasion of privacy, violations of state or federal law, and students would not create a clear and present danger in the commission of an unlawful act, a violation of county board policies or the material and substantial disruption of the orderly operation of a public school (Raskin & Rosapepe, 2016). The Maryland act (Raskin & Rosapepe, 2016) also specifically prohibits a school media advisor from using their position to “influence a student journalist to promote an official position of a county board or a public school.” The same act prohibits a school from any form of retaliation (suspension, dismissal, discipline, reassignment, or transfer) for protecting a student engaged in journalistic activities. The bill also protects student journalists at both the high school and college/university level who are reporting and editing news (Raskin & Rosapepe, 2016).

Overall, the New Voices campaign has three parts: To expand high school journalism rights, to protect post-secondary public education journalism rights, and to extend the same rights to private colleges and universities (New Voices, 2017). In Idaho, the Idaho Journalism Education Association is leading the campaign, but needs more information from teachers before legislators who have said they are willing to carry the bill will begin action.

### Methodology

In a sparsely-populated rural state, finding high school journalism teachers to participate in such a study was the immediate problem. Because the University of Idaho’s College of Education does keep a list of what courses are taught in common education and who teaches them, a list was made available of all the secondary journalism, yearbook, broadcast and mass communications teachers, their courses and in which schools they teach. Middle and junior high schools were approached only if connected as part of a Junior/Senior high school since the researchers wanted to focus primarily on high schools. That left 111 teachers who teach journalism and/or yearbook. An additional two teachers have classes in broadcasting and one teacher has a course in mass communications.

Due to the state’s relatively small population size, the researchers opted for a universal sample contacting all 111 high school teachers by email. This entailed looking up school websites and finding individual teacher emails (if available) in addition to the member’s email list provided by the Idaho Journalism Education Association. The final count of 107 teachers who had email addresses available were sent a survey. Eight email addresses bouncing back because the account had been eliminated, most likely because the teacher was no longer employed at the school, leaving a total population of 99 teachers. By the end of the survey time period 17 teachers had responded, or 17 percent of the total known population.

In the survey introduction, the basics of the Hazelwood decision and the Maryland law were explained. The questions poised in the survey directly relating to the Hazelwood decision were:

- Q1 Does the Hazelwood impact how you teach journalism? If yes, please explain.
- Q2 Does the Hazelwood decision restrict what content goes into your student media?
- Q3 In your opinion, does the Hazelwood decision diminish learning outcomes for student media?
- Q4 Would you be in favor of the Idaho Legislature passing New Voices legislation which mirrors the Maryland act?

Q5 How could New Voices legislation benefit Idaho?

Q6 Are you currently afraid of being reprimanded by administration for the work your students might produce in their news stories?

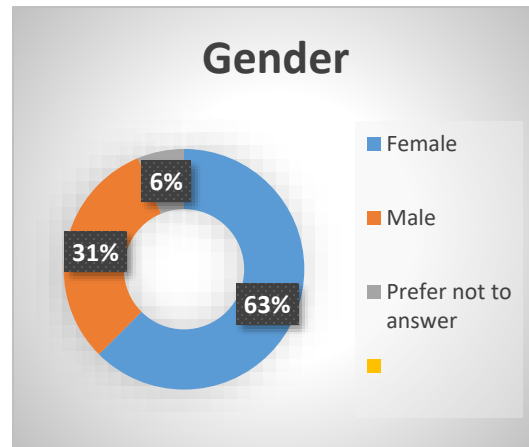
Q7 Do you have written restrictions as to what cannot go into your student publications?

Q8 Who has final approval of student media work?

Other questions involved how much prior journalism training the teachers had before becoming a teacher or advisor, if they wanted additional training through workshops or online classes and demographic questions.

### The Responses

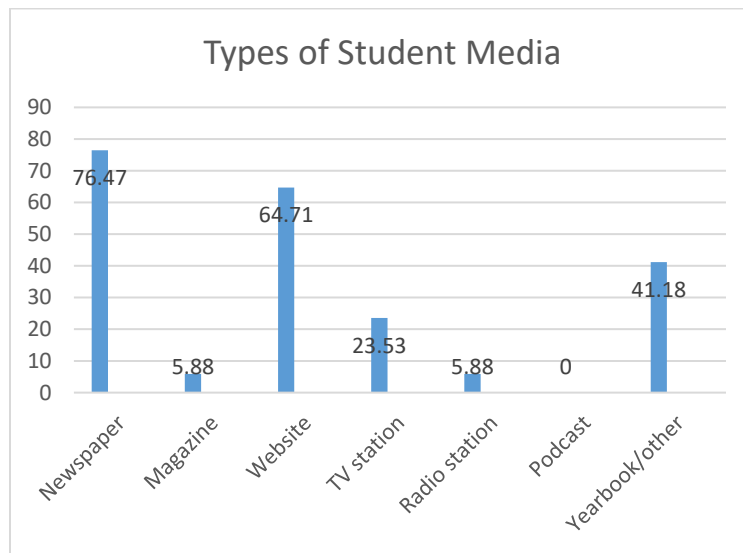
Demographically, the respondents were overwhelmingly identified as female (10) with five male respondents, and one person who preferred not to identify. One person skipped the question.



### Q 19 What is your gender?

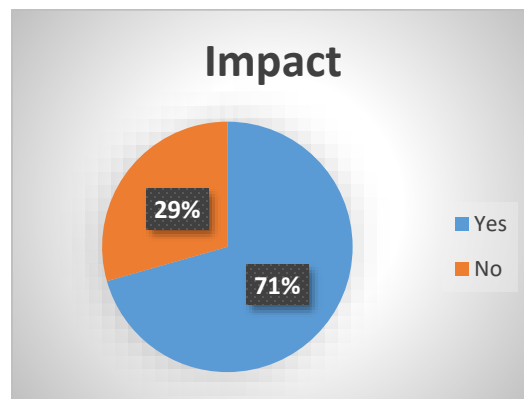
The number of years teaching in high school ranged from 3 to 22, with the average being 11.4 years. As to how many years the respondents have been teaching high school journalism, the range was much different, between one and 19 years, with the average being 6.75 years. One person identified themselves as a student with three years teaching experience, but did not say how many years as a journalism teacher. Eleven people said they are both a teacher and advisor, two said they only teach journalism and three people said "other." Of the other responses, one person said "I advise the school newspaper, but the other classes I teach are journalism-related (photography, graphic design)"; another said they are a student; and the third said "Teacher, advisor and professional broadcaster for 30 years."

Question 11 asked what types of student media were in the respondent's school and the teachers were allowed to mark all the types of media which applied. Thirteen of the respondents said their high school has a newspaper, 11 said their students write for a website, five responded they have a yearbook, four reported a TV station and one each a magazine and radio station. One respondent said they have broadcast which is only on the web and another said "We produce pieces to contribute to our local town paper (bi-weekly)."



*Q11 What type of student media is in your school?*

Of the responding teachers, the majority (12) said they believe the Hazelwood decision impacts what they teach.



*Q1 Does the Hazelwood decision impact how you teach journalism?*

Five explicitly said they must pre-censor or check with administration before publication; one said she or he must explain to the student they must be careful not to provoke the administration or the principal will enact prior restraint, another said their administration has prior review so they cannot report on issues which are problematic and students must re-write until the work is “little more than a puff piece.” Still another answered the question with “Because I want to keep my job!” One teacher said their community has a major influence: “Because we live in a community with a predominant religion and culture. I know when we can/can’t print something.”

There were six other teachers who responded with additional details. One teacher said: “While I’m in a lucky situation in my school district (we have a school board policy in place), I have seen how it impacts journalism teachers and advisers and their students across the state. Often times, these teachers and students are scared on how the administration will perceive and react to a story. In other cases, students have worked hard to properly report a story that is fair only to have it demined by an administrator who does not give much explanation on why.”

Another teacher said: “We had a wonderful piece written by a student on Abortion (which in my opinion was well done and unbiased and covered multiple sides of the issue), but our principal wouldn’t let us publish it. We also did a piece on bullying with a graphic created by the art club with words floating above a student’s head to show the pressure and agony words can cause, and we had to pull it from our publication because a teacher took offense to some of the bullying words depicted in the art.”

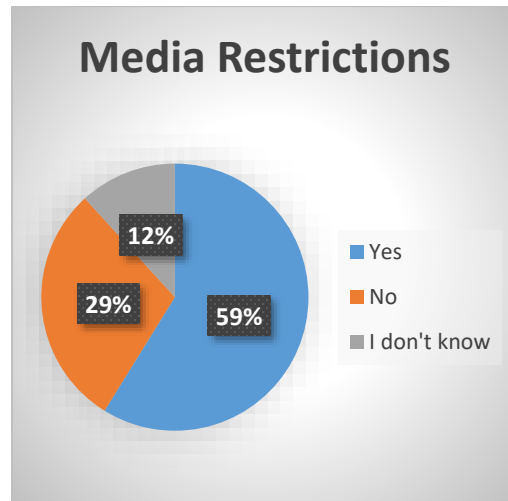
In another response, a teacher said: “It places in the principal’s mind an imbalance of what’s appropriate to publish in a high school newspaper. Advisers are always cognizant of what’s legal and what’s ethical, and we are always leaning toward a healthy discussion of all issues. Principals have a different priority altogether, and given Hazelwood, can always feel confident to monitor and impose their will on high school publications.”

Apparently still stinging from a recent incident, one teacher said: “We have been censored in recent times. We were going to run an article on xenophobia and the understanding of the tenants of Islam to better inform – IN A COMPLETELY nonbiased way – to educate students on world views. Also, we were told that we were out of line by mentioning a formerly suspended teacher’s name in a humor article.”

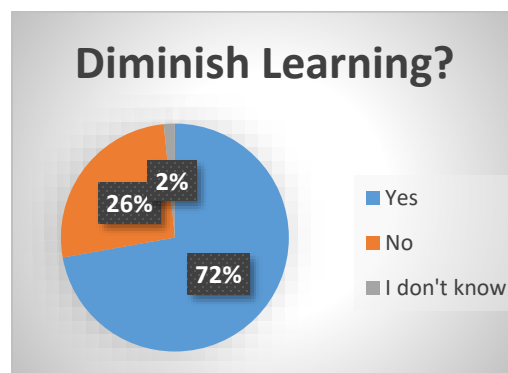
But not all of the teachers agreed, one of the five teachers who said they do not believe Hazelwood impacts how they teach journalism said:

I actually like Hazelwood. I am not an adviser by choice <sic>, but by necessity, so I don’t feel comfortable in my own background to provide students with the support they would need with the freedoms Tinker allows. On another note, just as high school theatre departments wouldn’t be able to stage a version of ‘Last Tango in Paris’ or ‘Goodfellas,’ I think a high school paper should be a safer learning experience for young journalists; we still discuss stories that can and can’t be done and why, but the line is clearer. And at this stage, that is certainly age-appropriate.

While two teachers responded “I don’t know” to question 2, “Does the Hazelwood decision restrict what content goes into your student media?”, 12 teachers said yes, five said no. There was a similar response to Q3, “In your opinion does the Hazelwood decision diminish learning outcomes for student media?” with 11 responding yes, four no and two “I don’t know.”

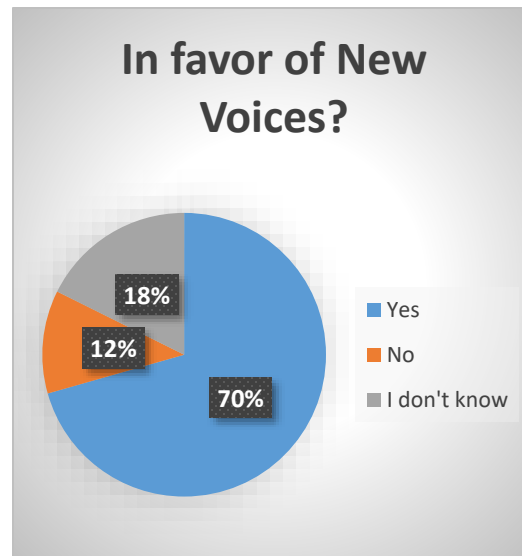


Q2 Does the Hazelwood decision restrict what content goes into your student media?



Q3 In your opinion, does the Hazelwood decision diminish learning outcomes for student media?

Q4 had a similar split, with 12 teachers saying they are in favor of New Voices legislation in Idaho, 2 saying no and 3 responding “I don’t know.”



*Q4 Would you be in favor of the Idaho Legislature passing New Voices legislation which mirrors the Maryland act?*

Two teachers who disagreed with New Voices legislation said: “It would limit it because Idaho is so conservative and it would mirror that consensus” and “I don’t think it would work.” Most of the teachers responded favorably to the New Voices Legislation:

“By promising students to have more authentic learning and engagement in their work.”

“Students could be more prepared for real world scenarios.”

“Allows students to write without having to worry about being censored, and for the teacher to collaborate directly with the students. I think it allows for more open and honest open conversations.”

“It would be huge. It would allow students to practice journalism and develop the research, communication, and critical thinking skills associated with the profession. It would also provide an organized voice for the student bodies of Idaho’s high schools. It would also allow their advisers to sleep better at nights.”

“It would empower students to find their own voices free from the fear of censorship. It would also allow students to be exposed to real world content that is currently being censored.”

“Protecting Publications <sic> advisers/teachers is important.”

“This would allow students to talk about really <sic> issues in the world. It would also give parents and adults a really like <sic – perhaps look?> at the concerns students have.”

“Allowing more diversity of ideas and protection for me as an adviser.”

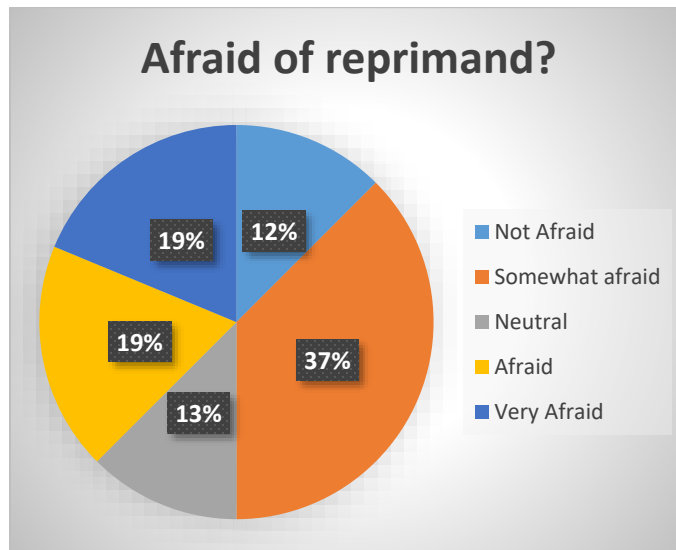
“It would attract journalism advisers who aren’t afraid to teach journalism and be in fear of losing their jobs or being written up for supporting a free press.”

“It allows students to experience real responsibility.”

“Students would actually have a voice without fear of reprisal. This is especially important in a world full of fake news and ‘alternative facts.’ My students are constantly censored, and I have been reprimanded for trivial matters twice in the last two years. Neither of which would violate any disruption of school atmosphere.”

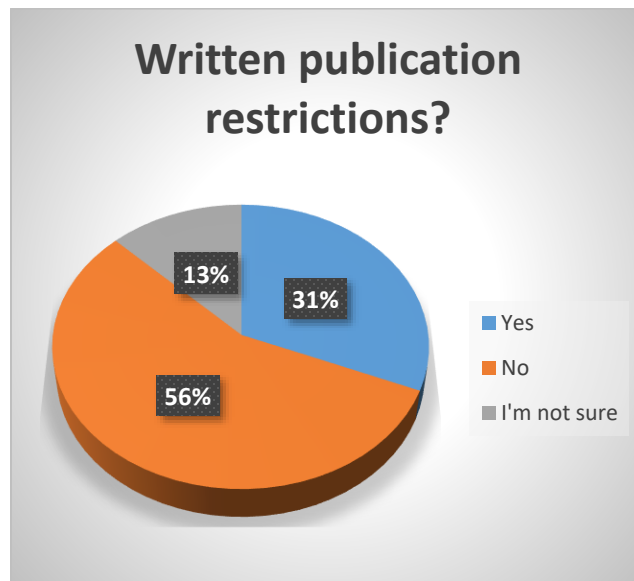
“Students could report on issues relevant to the school and their peers.”

In answering Qs 4 and 5, several teachers mentioned fear of reprisals. In answering Q6, only two teachers said they were not afraid of reprimand for student-produced stories, another two were neutral to the question and one person skipped the question. The remaining 12 had six teachers reporting they are “somewhat afraid” while three said they are “afraid” and the remaining three said they are “very afraid.”



*Q 6 Are you currently afraid of being reprimanded by administration for the work your students might produce in their news stories?*

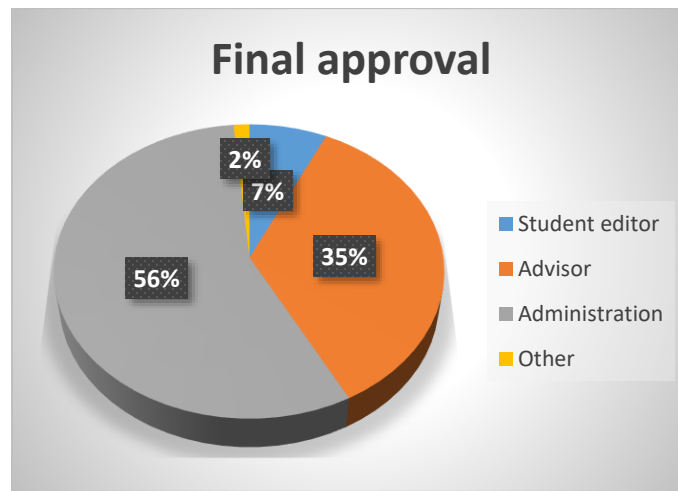
Five teachers responding to Q7 said they have written restrictions in place for their student publications, while nine said they do not have written restriction. Two respondents said they were not sure and one person skipped the question.



*Q7 Do you have written restrictions as to what cannot go into your student publications?*

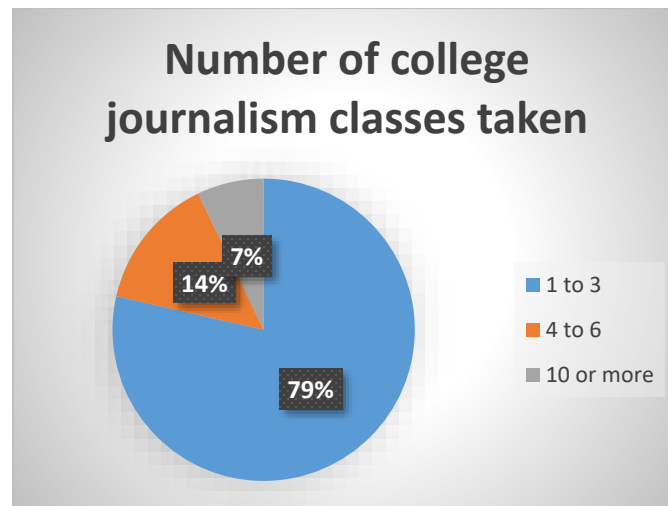
As to who has final approval of student work, one teacher said it is the student editor, five said it was the student advisor, and eight said it is the high school principal. Of the remaining three respondents, one said the final approval is the principal, but the “district office reads the paper and tells him things to tell me;” one said “Me first ... then if I find something that is deemed controversial or offensive, the administration or board would get involved,” and finally, “The Boise School District has a specific policy naming school publications non-public-forums with principals and board administrators having the final approval, if it comes to that.”





*Q8 Who has the final approval of student media work?*

When asked about their journalism background and training, only one person said they have ever been a professional journalist, 15 said no to the question and one person skipped the question. Eleven respondents said they took between one and three journalism classes in college, two people said they took between four and six college journalism classes, and only one person said they took 10 or more classes.



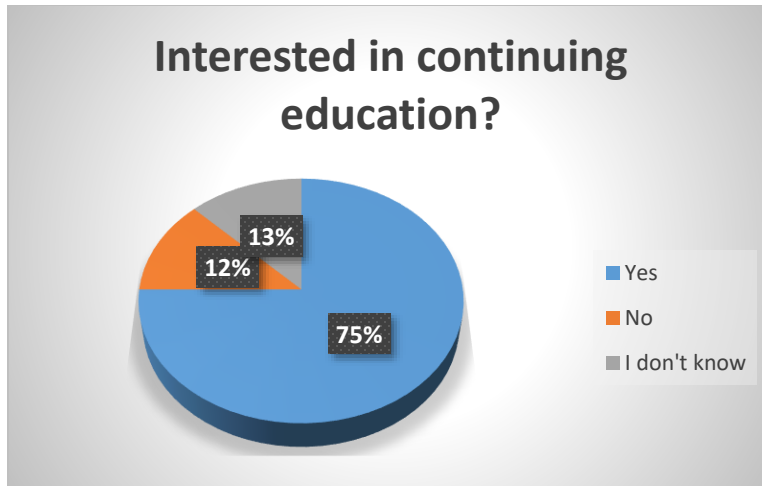
*Q14 How many college journalism classes did you take?*

The majority, nine respondents, said they do attend workshops to assist with their journalism knowledge while five said no and two skipped the question. For those who attend workshops, most said at least one, with one person responding “too many to number.”

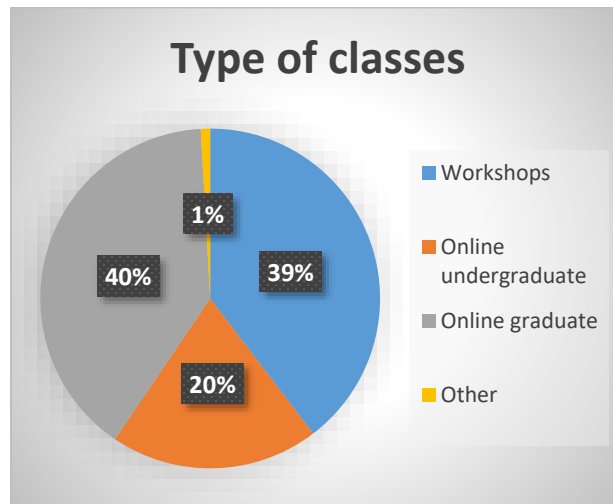


*Q15 Do you attend workshops to assist with your journalism knowledge?*

Several have attended national conferences, such as Journalism Education Association/National Scholastic Press Association. One person noted they just attended one conference, which they described as “poorly ran,” and although they have heard another conference is better, but attending the workshop is a now a “money issue.” The majority, 12 respondents, said they are interested in continuing education in journalism (something the state of Idaho does not currently offer), with eight saying they would like workshops, eight saying they wanted online graduate classes and four saying they wanted online undergraduate classes.



*Q17 Are you interested in continuing education for journalism through workshops or online graduate classes?*



*Q18 If you are interested in continuing education, would you prefer:*

**Analysis**

The Hazelwood decision is clearly impacting the professional standard of high school media advisers as well as student content. The majority of respondents indicated that administrative censorship dramatically influenced what content ended up in student publications. This results in the publication of “puff pieces,” content that is otherwise removed of critical or challenging content. Journalistic standards of fair and balanced reporting is edited out to please the administration.

There are few sound pedagogical reasoning supporting these content changes. From the responses, respondents indicate that the changes often seem to focus on avoiding controversial content, which devalues the importance of the press as an institution and conveys poor professional standards to student journalists. This also diminishes high school journalism advisers’ efforts to integrate and enforce professional production standards themselves. As one teacher highlighted, “Advisers are always cognizant of what’s legal and what’s ethical,” likely much more so than the administrators asking for censorship.

Furthermore, because of Hazelwood, high school journalism teachers are operating under a looming threat of professional reprisal. Only two of the respondents had zero concern about being professionally reprimanded for their role as student media advisers (with two more being neutral and one skipping). The majority of the respondents expressed that reprisals were a large component of how they and students interacted with content, chose content for publication, even prior to submitting ideas or rough drafts to the administration. One respondent noted that he/she had been “reprimanded for trivial matters twice in the last two years.”

Most respondents were in favor of enacting the New Voices legislation in Idaho. Teachers cited strong pedagogical support for creating more “authentic” real world scenarios, properly preparing students for possible careers in media content production. New Voices would allow students to practice critical process and reasoning skills. Protecting fair and balanced news reporting would encourage students to develop research skills and present both sides of controversial issues by synthesizing complicated information for their audiences. One respondent also pointed out that student newspapers would also be able to better represent the perspectives and voices of high school students in the state.

Additionally, the New Voices legislation would protect the high school advisers themselves. Instead of fearing an editorial mistake costing them their jobs, they could “sleep better at nights.” This protection for advisers would “attract journalism advisers who aren’t afraid to teach journalism and be in fear of losing their jobs.”

There also seems to be interest in continuing and strengthening professional education for high school media advisers. Respondents expressed both a need and interest in better understanding and making connections regarding media law and student journalism. Only one respondent said they had been a professional journalist. Fifteen of 17 respondents had no journalism background or training outside a college classroom. If teachers are surer of what they can and cannot allow students to publish, they will be more likely to protect what students can legally publish.

Nine of the respondents specifically attended workshops to try to augment their journalism knowledge and provide a more educationally robust experience for their students.

Overall, journalism teachers in Idaho are frustrated with a lack of press freedom. Compared to a nation-wide survey conducted by the Society of Professional Journalists Education Committee in 2014, Idaho teachers are far more susceptible to censorship by principals and school boards than the national average. This small survey shows nearly 50 percent of Idaho principals and school administrators actively use the right of censorship, as applied under Hazelwood, compared to 30.1 percent for the national average. The Idaho survey shows 70.59 percent of Idaho journalism teachers believe the Hazelwood decision negatively impacts how they teach journalism. This leads to fear for teachers, with 75 percent either somewhat to very afraid for being reprimanded, which is just slightly higher than the national average of 74 percent.

Idaho teachers make a compelling argument for the state legislature to pass New Voices legislation. From teaching student’s accountability and responsibility in this era of fake news and alternative facts, to providing security for both the teachers and students; allowing students the opportunities to develop critical thinking skills and to find their own voices without fear of censorship also lean into the four elements of the state’s core curriculum: critical thinking, collaboration, creative thinking, and communication. The plea from one teacher: “It would attract journalism advisers who aren’t afraid to teach journalism and be in fear of losing their jobs or being written up for supporting a free press” perhaps rings the loudest.

The legislation would inspire people who know how to do quality journalism, or who are willing to learn more about it, to become teachers and advisers. Fear of reprisal can be a stumbling block for people who might want to teach journalism, but who do not want to deal with the potential for censorship; witness the one teacher who said she/he is a journalism teacher not by choice but by necessity and who admitted she/he is unsure of her/his journalism knowledge.

## **Conclusions**

This survey clearly shows that high school journalism teachers have a need for New Voices legislation in Idaho. The current atmosphere in the state runs counterintuitive to the core goals of Idaho’s Department of Education proposed Consolidated Plan (2017): persevere in life by being prepared for college and careers, educator responsibility and accountability for student progress, and in-state retention for high quality educators.

Implementation of the New Voices legislation would help bridge this gap between the current state standards established under Hazelwood and the proposed Consolidated Plan. First, it would better prepare students involved in high school journalism for both higher education and professional careers. By making the high school experience more in line with professional standards, students will have practice creating content in a close one-on-one situation, overseen by high school newspaper advisers. Many students who participate in school media in high school go on to pursue careers in media production, whether this is journalism, public relations, broadcast, or advertising.

Second, the existing standard of accountability puts high school administrators and advisers in constant conflict. Instead of working towards mutual goals of student progress, high school advisers operate in a fear-based and oppositional environment, where they must screen student content or enforce prior restraints issued by principals for a variety of reasons that may not reflect the professional media landscape. Providing protections for advisers and protecting the editorial process, putting it in the hands of the students, will allow advisers and principals to pursue a mutual goal of student progress without the tension that administrative prior restraint currently engenders.

Finally, establishing progressive educational criteria, for pursuing educationally robust goals in the area of student media will help attract and increase retention of high quality educators in the state. Given national trends regarding New Voices legislation, this is becoming the new standard for high school journalism. It has successfully been implemented in other states. According to this survey of the educators New Voices is designed to protect, Idaho would be well served by pursuing this legislation.

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