

Local & State

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Former editors: ICSD curbs free speech

Suit filed over Tattler rules

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A federal lawsuit involving free speech, the Ithaca City School District and the Ithaca

High School newspaper The Tattler is going forward.

In a decision handed down this week, United States District Judge Norman A. Mordue denied the district's motion for summary dismissal of two causes of action in a lawsuit filed by former Tattler editors — that the school's guidelines for the paper are unconstitutional and represent a

danger to free speech.

"Those are the two most important claims," said Ray Schlather, the attorney for the plaintiffs, who, among other things, have asked the court to declare the guidelines "unconstitutional and therefore void," and prohibit the district "from implementing the guidelines and exercising prior restraint in violation of plaintiffs' con-

stitutional rights."

However, the court dismissed three other causes of action which alleged the district violated the plaintiffs' right to free speech and asked for damages and attorney's fees.

The Tattler guidelines in question were given to students in January 2005, following a series of stories that student editors have described as "con-

troversial." They included articles critical of Principal Joe Wilson's school policies, a restaurant review with racially inflammatory language and a story on academic dishonesty.

The guidelines declare the Tattler a "school-sponsored publication." They also delegate broad authority to the paper's faculty adviser, who under the

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guidelines can edit or remove content that would "substantially interfere with the district's work or impinge upon the rights of other students, or is inconsistent with the legitimate pedagogical concerns of the district."

Those concerns could include poor grammar or writing, inadequate research, inaccuracy, libel, bias or prejudice, unethical content and vulgarity or profan-

ity, according to the guidelines.

The district, Wilson, Superintendent Judith Pastel and Bill Russell, former assistant superintendent for curriculum and instruction, are named as defendants in the lawsuit, which claims that requiring an adviser's approval on coverage is an unconstitutional use of prior restraint. In the context of censorship, "prior restraint" refers to every instance a person must seek permission to publish and is denied.

"That's why the lawsuit was filed," Schlather said.

A 1969 Supreme Court decision, *Tinker v. Des Moines*, established that public school officials could only limit free speech or expression when they could demonstrate a disruption of school activities or an invasion of others' rights.

In 1988, however, the court ruled in *Hazelwood v. Kuhlmeier* that the level of First Amendment protections provided depend on whether the school paper serves as a public forum. In schools in

which the paper is used as a pedagogical tool, the court decided, officials can censor it.

In the decision, the court found the "middle ground" between the *Tinker* and *Hazelwood* decisions, declaring the Tattler a "limited open forum," Schlather said. Barring further appeals, the case should go to trial later this year, he added.

Pastel declined to comment on the case until she read the decision and spoke with the district's attorney about its ramifications.