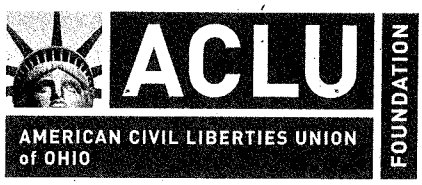

Russell Jones, Superintendent
Stow-Munroe Falls City School District
4350 Allen Road
Stow, Ohio 44224
[redacted]

November 10 , 2009- Sent via facsimile and U.S. Mail

Dear Superintendent Jones:

AMERICAN CIVIL LIBERTIES UNION OF OHIO FOUNDATION,
4506 CHESTER AVENUE
CLEVELAND, OH 44103-3621
[redacted]
F/216.472.2210
WWW.ACLUOHIO.ORG
contact@acluohio.org

It has been brought to the attention of the American Civil Liberties Union of Ohio Foundation that the Stow-Munroe Falls High School administration is attempting to censor the *Stohion*, a student-run newspaper. Such censorship of student speech violates the First Amendment of the United States Constitution. Therefore, the ACLU of Ohio requests that you cease all unconstitutional censorship immediately.

As the administration at Stow-Munroe Falls is likely aware, the United States Supreme Court has stated that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." *Tinker v. Des Moines Ind. Co. Sch. Dist.*, 393 U.S. 503, 506 (1969). The *Tinker* court stressed that school officials may not censor student speech simply because the speech is not officially approved.

> School officials do not possess absolute authority over their students. Students in school as well as out of school are 'persons' under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views.

Tinker, 393 U.S. at 511.

While schools do have a recognized interest in maintaining the school environment, school officials cannot arbitrarily censor student speech out of fear that it *might* cause disruption. The United States Supreme Court has found that, "undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression." *Tinker*, 393 U.S. at 508. Thus, school officials may not censor speech simply because the speech may pose some possibility of a disturbance in the future.

ACLU
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FOUNDATION

As you are likely aware, in *Hazelwood School District v. Kuhlmeier*, the U.S. Supreme Court found that in some circumstances schools have authority to exercise control over school-sponsored publications. 484 U.S. 260, 271 (1988). However, in *Hazelwood*, the school administration had complete control over the production of the newspaper. The students had no authoritative power over the content or final product. *Hazelwood*, 484 U.S. at 268. The circumstances surrounding the *Stohion* are much different. The *Stohion* is run by the student journalists. The students decide on the newspaper's content and final production. The students also personally solicit advertisers for funding. When a school newspaper is under the control of the students, rather than the administration, the newspaper is considered a "limited public forum" and a different set of rules apply. Federal Courts in Ohio and Michigan have clearly stated that, in this situation, the high school newspaper is a limited-public forum, and therefore cannot be arbitrarily censored by school authorities. *Draudt v. City of Wooster Dist. Bd. of Educ.*, 246 F. Supp. 2d 820 (N.D. Ohio 2003); *Dean v. Utica Com. Sch.*, 345 F.Supp.2d 799 (E.D. Mich. 2004).

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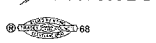

The local U.S. Court of Appeals for the Sixth Circuit has stated that when a student newspaper is a limited public forum, "the rights of the state to limit expressive activity are sharply circumscribed." *Kincaid v. Gibson*, 236 F.3d 342, 346, n.5, 354, 349 (6th Cir. 2001). As a limited public forum, the *Stohion* enjoys full protection under the First Amendment. The school administration must have a highly compelling reason for censorship. The justification given by Stow-Munroe Falls administrators for censoring the Stohion does not amount to more than "apprehension of disturbance." Likewise, telling students that they are not allowed to discuss the situation during school is not justified by a compelling reason beyond a mere fear of possible disruption. This censorship by the Stow-Munroe Falls schools is unconstitutional.

Illegal censorship of student speech is also a poor educational message to send to students. It is important that students who participate in student-run newspapers learn not only about the mechanics of running a newspaper but also about the rights and freedoms of journalists. Together, freedom of speech and freedom of the press form the very foundation of the First Amendment. Where else should students learn about their free speech rights if not while writing for a student-run newspaper? One U.S. District Court recently stated that, "if the role of the press in a democratic society is to have any value, all journalists - including student journalists - must be allowed to publish viewpoints contrary to those of state authorities without intervention or censorship by the authorities themselves." *Dean*, 345 F. Supp.2d, at 804.

The ACLU of Ohio is deeply concerned by Stow-Munroe Falls High School's blatant censorship of student speech. Freedom of speech is a fundamental constitutional right that students do not lose simply because they choose to exercise

those rights while on school grounds. The ACLU urges the administration at Stow-Munroe Falls to immediately cease its censorship of the *Stohion* student newspaper and its student staff. We sincerely hope this violation of the students' constitutional rights will be resolved without having to resort to legal action. We respectfully request a response by November 17, 2009. I can be reached at the phone number below if you have any questions.

Sincerely,

[redacted]

Carrie L. Davis
Staff Counsel

[redacted]

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cc: Susan Schur
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3227 E. Graham Road
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