



Media Law Presentation:  
Invasion of Privacy

# An introduction to invasion of privacy law for high school student journalists and their advisers

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# Student Press Law Center

Provides free legal help and information on media law issues to student journalists and their advisers

Web site: [www.splc.org](http://www.splc.org)

Phone: (703) 807-1904

Monday - Friday 9 a.m. - 6 p.m. Eastern Time

# Invasion of Privacy

How far is too far when covering the “news”?

# Four types of invasion of privacy claims

- Public Disclosure of Private and Embarrassing Facts
- Intrusion
- False Light
- Misappropriation

# Public Disclosure of Private and Embarrassing Facts

Going too far when publishing the “news”

# “Reasonable Expectation of Privacy”



# Public Disclosure of Private and Embarrassing Facts

Look for facts that are:

- Sufficiently private

# Public Disclosure of Private and Embarrassing Facts

Look for facts that are:

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- Sufficiently intimate

# Public Disclosure of Private and Embarrassing Facts

Look for facts that are:

- Sufficiently private
- Sufficiently intimate
- Disclosure would be highly offensive to a reasonable person (shocking!)

# Public Disclosure of Private and Embarrassing Facts

Examples could include publishing detailed information about a person's:

- Sexual conduct
- Medical/mental condition
- Addiction recovery
- Educational records

# Quarterback still wets his bed

*Medical records found in school dumpster reveal startling facts about CHS students*

Student medical records found in a school dumpster last week will probably have more than a few Central High School students blushing this week.

Among the discoveries was that this year's starting quarterback still occasionally wets his bed due to a chronic bladder condition for which he continues to receive treatment, his athletics physical records showed. It's not clear yet how the records ended up in the

# Guilty pleasures: English teacher reads dime store romance novels!



file photo

A peek into Ms. Miller's bookbag, left open on her desk, reveals that she would rather curl up with a racy page-turner like Jennie Adam's *Her Millionaire Boss* than Shakespeare's *Hamlet*.

# Public Disclosure of Private and Embarrassing Facts

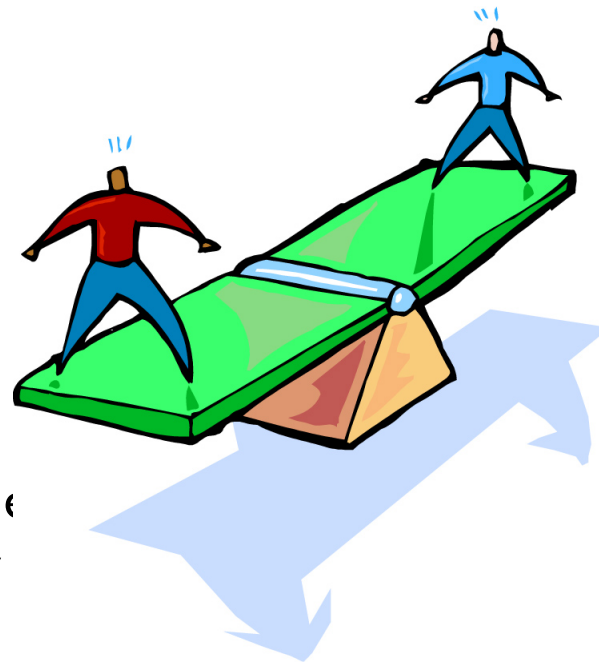
**Truth is not a defense**

# Public Disclosure of Private and Embarrassing Facts

## Defenses:

- Newsworthiness

Public Interest in Knowledge  
(Newsworthiness)



Individual's Reasonable  
Expectation of Privacy

# 24 students at Central High in danger of flunking out

*Student transcripts obtained by Student Times reveal surprising news*

The Student Times has learned that at least 24 students at Central High School are in danger of flunking out of school this year, according to academic transcripts anonymously provided to Times reporters last month.

The students, whose GPA's are all under 1.0, include: John Doe, Mary Smith, Warren Peace, Shirley U. Jest, Sarah Bellum, Peter

# Players may have been academically ineligible

*Records show two starters on basketball team had GPA under 2.0; championship title in jeopardy*

An investigation by the state's high school

athletic association has found that two starting players on this year's Central High School basketball team, Dwayne Pipe '09 and Chester Drawers '10, played while academi-

# Public Disclosure of Private and Embarrassing Facts

## Defenses:

- Newsworthiness
- Consent

# Privacy Law MythBuster #1

Minors (persons under the age of 18) cannot provide valid consent to an invasion of their privacy.

**False:** The law suggests that in most cases, high school students — even those who are minors — can provide valid consent.

# Intrusion

Going too far when gathering the “news”

Intrusion

Publication not required

# “Reasonable Expectation of Privacy”



Generally based  
on the act of  
newsgathering

# Intrusion

No “reasonable expectation of privacy”



# Intrusion

General Rule:

You have the right to photograph anything from a public spot that you can see with the naked eye

PHOTO ESSAY

## PDA's!



staff photo

**John Doe and Mary Smith enjoy a public display of affection in the student parking lot during lunch.**



Consent is generally required before newsgathering in a private space



# Intrusion



Classrooms probably fall in the “grey” middle zone

# Intrusion

Three most common types of intrusion:

- Trespass: Newsgathering in a private space without valid consent



# Intrusion



Reporting in “public” spaces on privately owned property can present a special challenge to journalists

# Intrusion

Three most common types of intrusion:

- **Trespass:** Newsgathering in private space without valid consent
- **Secret Surveillance:** Using bugging equipment, hidden cameras, other electronic aids

# Intrusion

Three most common types of intrusion:

- Trespass: Newsgathering in private space without valid consent
- Secret Surveillance: Using bugging equipment, hidden cameras, other electronic aids
- Misrepresentation: Invalid or exceeded consent (often in the context of undercover reporting)

# Intrusion

## Defenses:

- Newsworthiness
- Consent

# False Light

The unflattering, highly offensive portrayal  
—in words or pictures— of a person as  
something that he or she is not

# False Light

Not recognized in all states

# False Light

## School buys new security software to thwart would-be hackers

*By John Smith, staff writer*

Hackers beware. Central High School's computer system is waiting for you.

CHS principal Olive Branch this month announced the purchase of a new, state-of-the-art computer security system that not only protects the school's computers from hackers

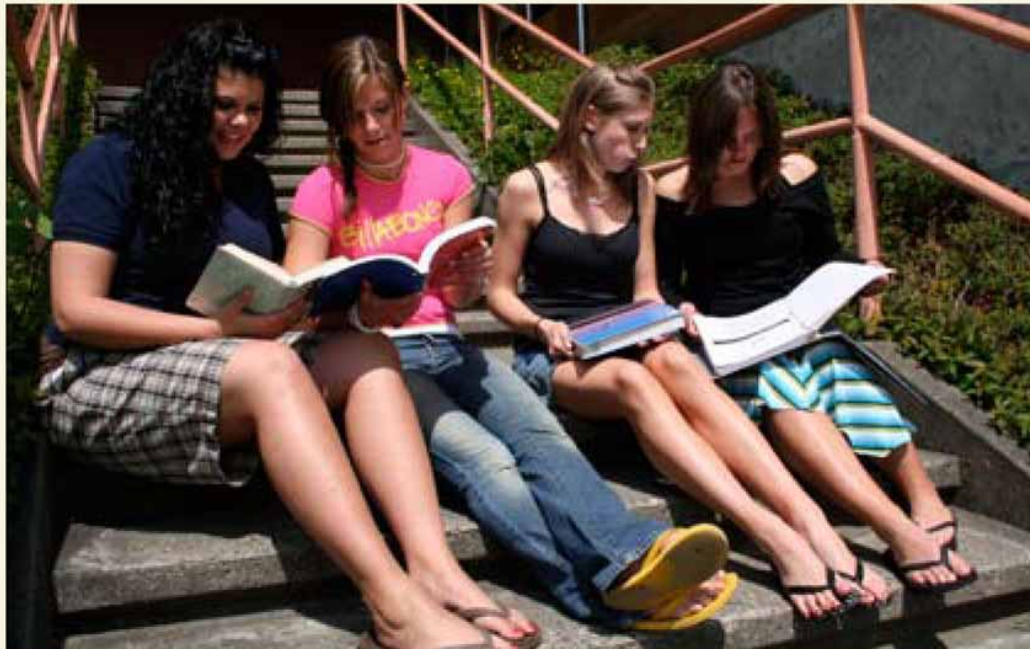


staff photo

**Jane Staltzman uses a school computer for classwork**

# False Light

## Flip-floppers facing hard time



staff photo

**Tough new dress code policy catches some CHS students off guard. School officials are handing down 1-day suspensions for repeated footwear violations.**

Careless use  
of “morgue”  
photos

# False Light

Inaccurate  
attribution of a  
letter to the editor;  
senior quote, etc.

## LETTER TO THE EDITOR

*Central not a welcoming  
place for gay students*

To the editor: I've found that CHS students and teachers have a long way to go in making gay students feel at home in this school. I'm tired of the whispering and the snickers in the hallway when I pass. I tolerated such immaturity in junior high because, well, 13-year-olds are immature. You're in high school now, people. Grow up!

**Peter Smith**  
**11th grade**

# Misappropriation

Unauthorized use of a person's name, photograph, likeness, voice or endorsement to promote the sale of a commercial product or service

**CHS Students Love Pepitos!**



**Another satisfied customer!**

**Come in this week for our  
\$3.99 lunch special.**

**Pepitos. Rad Pizza for Rad Students.**

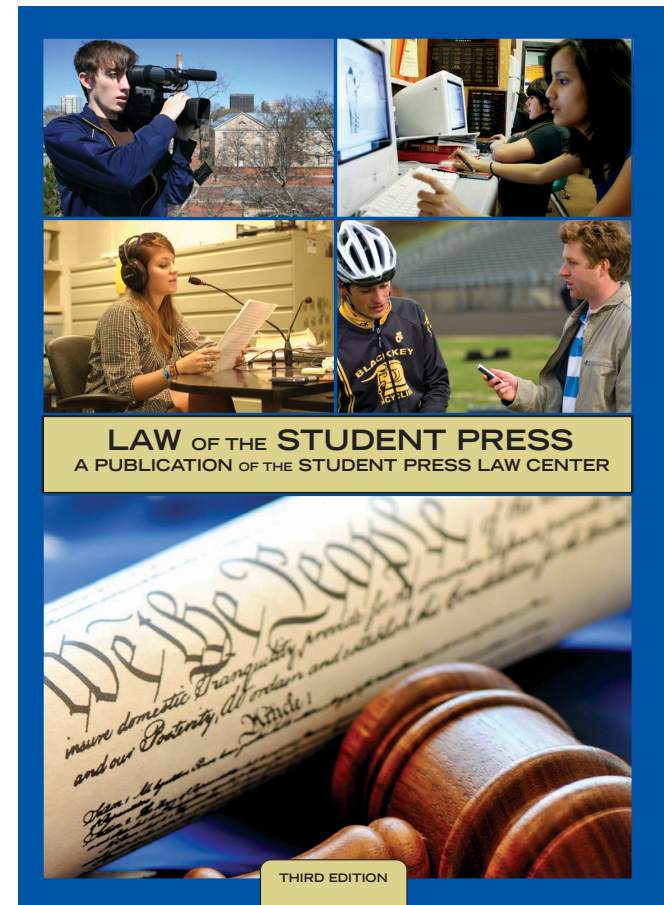
# Misappropriation

Defense: Consent

Publications should routinely have subjects sign a model release form when using their name or likeness in a commercial context

# Other Student Media Law Resources

Student media newsroom  
“Must Have” resource



# Other Student Media Law Resources

- SPLC monthly podcast ([splc.org/podcasts](http://splc.org/podcasts))
- SPLC Report: thrice-yearly magazine
- SPLC News Flashes: news stories about legal issues affecting student media
- News Media and the Law: RCFP's magazine

Seek help when you need it!

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