

**EXHIBIT A**

**DEPOSITION TESTIMONY OF  
JUDITH C. PASTEL (EXCERPTS)**

1 promulgation of the guidelines that are referred to in  
2 Exhibit 31?

3 A I don't remember.

4 Q As a reasonable person, is it a fair inference  
5 that as of January 26, 2005, prior to your receipt of this  
6 e-mail, you were not aware of the cartoon?

7 MR. QUESNEL: Object to form. If you  
8 agree with that.

9 A I can't agree with that because I really don't  
10 remember.

11 Q Does your letter of March 9th, 2005, Exhibit 31,  
12 accurately set forth your view of why that cartoon should  
13 not be published in *The Tattler*?

14 A Let me read it. I haven't read it since I wrote  
15 it. Yes, these are my views.

16 (OFF-THE-RECORD DISCUSSION)

17 (RECESS TAKEN)

18 (Exhibit Numbers 44 and 45 were marked  
19 for identification.)

20 Q I'm showing you Exhibit 45 which is an e-mail from  
21 Joe Wilson to Bill Russell copied to you dated October 25th,  
22 2004 and ask, did you receive your copy of that e-mail on or  
23 about October 25th, 2004?

24 A I assume so.

1           A     Some students were dissatisfied with him upholding  
2     the board's policy and student code of conduct and the  
3     handbook for the high school on student behavior.

4           Q     Is it a fair statement that you supported  
5     Assistant Superintendent Russell's decision with respect to  
6     not allowing the cartoon to be published in the February  
7     issue of *The Tattler*, February 2005 issue of *The Tattler*?

8                     MR. QUESNEL: Object to form.

9           Q     Do you understand the question?

10          A     What do you mean supported?

11          Q     I'm sorry, let me rephrase it. Your appeal of  
12     March 9th, 2005, Exhibit 31, in that appeal you determined  
13     to uphold Principal Wilson's decision with respect to the  
14     cartoon; is that a fair statement?

15          A     If that's what you read that I said, yes.

16          Q     Okay. So my question is: Is that a fair  
17     statement?

18          A     Yes, what I wrote.

19          Q     All right. In March 2005 when the editors, the  
20     editorial staff of *The Tattler* sought to publish the  
21     so-called *March Issue*, you ultimately prohibited that from  
22     being circulated on campus; is that accurate?

23                     MR. QUESNEL: Object to form.

24          A     I did not allow the distribution of what was

1 called the *March Issue*.

2 Q Why?

3 A For the same reasons I didn't -- all the reasons  
4 outlined in here.

5 Q Referring to Exhibit 31?

6 A Right.

7 Q In your opinion of Exhibit 31, you state that the  
8 cartoon would substantially interfere with the work of the  
9 school. What do you mean by that?

10 A That centered around the curriculum for the health  
11 and curriculum which includes the dialogue and instructional  
12 issues around responsibility and abstinence, responsibility  
13 being the key, that it's a serious health issue.

14 Q I'm sorry, explain what you just said,  
15 responsibility for what?

16 A Responsibility as an individual in decision making  
17 when it comes to sexual intercourse.

18 Q And abstinence refers to what?

19 A Abstinence in that sense, part of the curriculum  
20 for health is how to protect oneself, the decision making,  
21 talking about the decision making in terms of when to engage  
22 or not engage in sexual intercourse and also the whether or  
23 not to engage also involves the abstinence from that  
24 standpoint.

**EXHIBIT B**

**DEPOSITION TESTIMONY  
OF WILLIAM RUSSELL (EXCERPTS)**

1           A     No.

2           Q     Pardon?

3           A     No.

4           Q     I want to show you Exhibit 33 which are the  
5 guidelines that bear a date of January 19th, 2005. Did you  
6 draft those guidelines?

7           A     I had a hand in drafting them.

8           Q     What was your hand in drafting those?

9           A     They were initially drafted by Stephenie Vinch who  
10 was at that time the editor of *The Tattler* or the advisor to  
11 *The Tattler*, excuse me. She submitted a draft to me, I  
12 reviewed them, I also reviewed them with the superintendent  
13 of schools and with the district's attorneys, Bond,  
14 Schoeneck & King. Several revisions went back and forth  
15 resulting in, ultimately in this draft.

16          Q     When did Ms. Vinch first submit her first writing  
17 to you?

18          A     In the fall of 2004.

19          Q     Do you know when in the fall of 2004,  
20 approximately?

21          A     I would say November, but that's a guess, I don't  
22 know the exact date.

23          Q     When was the subject of written guidelines first  
24 brought up?

1           A     Early in the fall of 2004.

2           Q     What were the circumstances that led to that  
3 conversation?

4           A     Ms. Vinch came to me saying that she had been  
5 having a very difficult time working with the editors of the  
6 paper who constantly made it clear that in their view they  
7 could disregard her advice if they chose and that there were  
8 frequent struggles over content in the paper that were  
9 upsetting to her and making it difficult for her to do her  
10 job, and that given that there were no written guidelines  
11 for the newspaper or for the newspaper's advisor, she  
12 entered into conversation with me about whether her job  
13 might be easier and some of the issues that she was facing  
14 working with the students would be more easily resolved if  
15 there were guidelines that were clear and apparent to  
16 everyone involved.

17          Q     Did she say -- and, again, going back to the very  
18 first part of this conversation about the guidelines, did  
19 she point to particular incidents or episodes where she felt  
20 the students were disregarding her?

21          A     We had several conversations and I'm certain that  
22 she did.

23          Q     Can you tell us what those are, please?

24          A     At which point in the time line are you interested

1           A     I haven't given it any thought until you asked the  
2 question.

3           Q     So when Ms. Vinch drafted these documents, do you  
4 know from where she got her information?

5           A     No.

6           Q     Did you give her any direction with respect to  
7 resources that she could use?

8           A     No.

9           Q     Did you consult any resources other than what  
10 you've just described in responding to her draft?

11          A     I indicated that I discussed the issue with the  
12 district's attorneys at Bond, Schoeneck & King.  
13 Mr. Ochshorn had provided me with articles from the Student  
14 Press Law Center about guidelines which I had dutifully  
15 read. I had been familiar through my graduate study and  
16 teaching with the Tinker case. I also read the Hazelwood  
17 case.

18          Q     Okay. So you read Hazelwood, you read Tinker, you  
19 got some material from the Student Press Law Center, you  
20 talked to Bond, Schoeneck & King, and you talked to the  
21 superintendent, you talked to Ms. Vinch and read her drafts?

22          A     Correct.

23          Q     Did you do anything else in connection with  
24 studying resources or getting information from other sources

1 concerning these guidelines?

2 MR. QUESNEL: Object to form.

3 A Not that I can recall.

4 Q So you did not, for instance, look at guidelines  
5 from other schools?

6 A Not that I can recall.

7 Q You did not look into any kind of an  
8 administrative database to determine whether there were any  
9 guidelines to be reviewed comparable to what was proposed by  
10 the Student Press Law Center?

11 A No.

12 Q And the language that is set forth in Exhibit 33  
13 is language that in the first instance was drafted by or in  
14 the first iteration was drafted by Stephenie Vinch; right?

15 A Correct.

16 Q Stephenie Vinch at that time was a first year  
17 teacher at Ithaca High School?

18 A No.

19 Q How many years had she been teaching?

20 A I don't recall, but I don't believe she was first  
21 year.

22 Q Fairly young teacher?

23 A Yes.

24 Q Not a lawyer?

1           A     No.

2           Q     And to your knowledge, no training in the law; is  
3 that correct?

4           A     I don't know about that.

5           Q     Do you know whether she had any background at all  
6 in journalism?

7           A     I believe she herself had been a student  
8 journalist I believe both in college and high school. I  
9 can't recall beyond that.

10          Q     Did Mr. Wilson have any input into these  
11 guidelines?

12          A     Very likely.

13          Q     Explain that, please.

14          A     In part because he felt awkward in exercising his  
15 role and authority as principal in this matter, in part  
16 because he himself was the target of very critical  
17 commentary at the hands of the editors and writers of the  
18 newspaper, much of the discussion around the guidelines and  
19 how to approach this whole question moved over to me. In  
20 essence, he recused himself at some level because he felt he  
21 had personal feelings about it because he was being roundly  
22 criticized and attacked, in his view. I'm certain that I  
23 did talk with him about them. To be as clear as I can be, I  
24 did not ask -- what I asked Ms. Vinch is what would be

1 helpful to you, give me sort of layperson's guidelines what  
2 would be helpful to you in terms of making your job easier  
3 and your work with the students more effective in your view.  
4 She submitted some items that she thought would be helpful  
5 in that regard. I used that as a starting point and with  
6 the discussion that I've already described to you with a  
7 variety of people, crafted this language. I'd be hard  
8 pressed to know how much of Ms. Vinch's words remain in that  
9 document, but certainly what we wanted to know from her was  
10 what's the problem we're trying to resolve here as we're  
11 writing a document, what are we trying to solve here.

12 Q Prior to these guidelines, is it accurate that  
13 there were no written guidelines in the Ithaca City School  
14 District with respect to --

15 A None that I'm aware of.

16 Q -- *The Tattler*?

17 Did you folks conduct a search in that regard?

18 A Yes.

19 Q And you found nothing; is that correct?

20 A That's correct.

21 Q Ms. Vinch had been a faculty advisor to *The*  
22 *Tattler* for how long?

23 A I don't know. I wasn't involved in her  
24 appointment or this whole issue came to my attention only at

1 counsel concerning these proposed guidelines?

2 A I don't recall.

3 Q Other than the law firm of Bond, Schoenick & King,  
4 was any other law firm consulted with respect to these  
5 guidelines?

6 A No.

7 Q Did you share any copy of these guidelines --  
8 during the informative process did you share any copies of  
9 these guidelines with any of the prior *Tattler* faculty  
10 advisors?

11 A I don't believe so.

12 Q Were you aware that there were other *Tattler*  
13 faculty advisors at the Ithaca High School at the time when  
14 these guidelines were being formed?

15 A Eileen Bach had been a long-time *Tattler* advisor.

16 Q Were you aware that Roselyn Teukolsky had also  
17 been advisor?

18 A I don't think I knew that she was an advisor until  
19 after Ms. Vinch resigned.

20 Q Did you consult with Eileen Bach concerning these  
21 guidelines prior to their formation?

22 A I don't recall, I may have. I don't think so.

23 Q In Exhibit 33 the phrase, "Would substantially  
24 interfere with the district's work or impinge upon the

1 rights of other students," whose words are those?

2 A Again, I've told you that these guidelines were a  
3 product of multiple revisions with a great deal of input  
4 from many people. I couldn't tell you word for word whose  
5 words they are.

6 Q And is your answer the same with respect to the  
7 bullet beneath that that starts with the phrase, it is  
8 inconsistent with the methodological concerns?

9 A I would refer to all of it there, that is, that it  
10 was the product of a variety of input from a number of  
11 people that I've already identified.

12 Q I want to show you Exhibit 1. Are you familiar  
13 with that document?

14 A Yes.

15 Q When did you first have contact with that document  
16 or a copy of that document?

17 A I can't recall --

18 Q Was it --

19 A -- with a specific date. It was sometime during  
20 the year, the academic year 2005-2006.

21 Q So this was after the year involving *The Tattler*  
22 and all the issues that gave rise to this lawsuit?

23 A I'm sorry, maybe I'm misspeaking. Those issues  
24 were 2004 and 5? I'm asking.

1 period of time.

2 Q What is that period of time?

3 A I don't know.

4 Q Well, you were involved in that when you first  
5 came to the district; isn't that correct?

6 A Yes.

7 Q What was the period of time at that point?

8 A I just said I don't know.

9 Q Okay.

10 A I had many staff that worked for me that were  
11 responsible for such things, I would not have been involved  
12 in that level of micro management of the technology systems.

13 Q With respect to the period of time, are we talking  
14 weekly, monthly, annually, biannually; do you have any idea?

15 A For what, backups?

16 Q For the backups, overwriting the backups?

17 A Again, I said I don't know.

18 Q I want to refer you to Exhibit 50. Did you  
19 receive that e-mail from Mr. Wilson at or about the time  
20 indicated?

21 A Yes.

22 Q In this particular e-mail Mr. Wilson asks for an  
23 opinion letter guiding us on the legal status of the paper  
24 and what the rules are vis-a-vis the advisor and the school

1 rights and obligations. Did you guys ever get such an  
2 opinion letter?

3 A I don't believe so.

4 Q Did you ever ask for one?

5 A I don't believe so.

6 Q Why not?

7 A Because we were working on the guidelines.

8 Q He said he also wanted a copy of the *Ithaca Times*  
9 article where Stephenie and I were apparently quoted. Do  
10 you know why he wanted that?

11 A No.

12 Q Did you ever give it to him?

13 A I don't recall.

14 Q And then he said, I also think that next year the  
15 paper should be part of a credit bearing course in which the  
16 editorial board is enrolled. Did that happen?

17 A Not in that next year, no.

18 Q Why not?

19 A The English department was not in favor of it.

20 Q Why not?

21 MR. QUESNEL: Object to form. Calls for  
22 speculation. Unless you know.

23 Q What were the reasons why the English department  
24 was not in favor of it, to your knowledge?

1 guidelines?

2 A They attempted to publish the cartoon and  
3 Ms. Vinch denied them permission to publish the cartoon.

4 Q Did you see it --

5 MR. QUESNEL: Hold on. Did you have an  
6 opportunity to finish your question?

7 A And I know for a fact that that was well before  
8 February.

9 Q Did you see the cartoon?

10 A Yup.

11 Q In that time period when it was -- when, as you  
12 claim, they attempted to publish it?

13 A Yes.

14 Q And how was it that you saw it?

15 A I saw a copy of the galleys of the newspaper with  
16 Ms. Vinch's markings on it that said, no, we're not  
17 publishing this.

18 Q And when did you see a copy of the galleys of the  
19 newspaper with Ms. Vinch's markings on it?

20 A Again, you'd have to remind me which issue it was  
21 where she initially told them that they could not publish  
22 it.

23 MR. SCHLATHER: Show him Exhibit 20,  
24 please.

1 MR. QUESNEL: Would you like to use it?

2 MR. SCHLATHER: Yes.

3 Q Exhibit 20, I'm showing you Exhibit 20 marked for  
4 identification which is a document entitled *The Tattler*,  
5 January 5th, 2005, with the word Vinch on it and a lot of  
6 handwriting on it. It's been previously identified as her  
7 proof set. When did you first see that document or a copy  
8 thereof?

9 A Sometime before January 5th.

10 Q And do you know, can you give us a better date  
11 than sometime before January 5th?

12 A No.

13 Q I want you to assume that that document did not  
14 exist in that form until sometime after January 1st of 2005.  
15 Does that refresh your recollection as to when you saw that?

16 A No.

17 MR. QUESNEL: Object to form.

18 Q But the -- in any event, the first time you saw it  
19 was -- the first time you saw the cartoon was in that  
20 particular document, Exhibit 20, or a copy thereof; is that  
21 right?

22 A I believe that's right.

23 Q I want to show you Exhibit 41 marked for  
24 identification which is an e-mail from Pastel to the board

1 first time you had such a conversation?

2 MR. QUESNEL: Object to form.

3 A You can't reach that conclusion from what you have  
4 there. You ask if it was the first time. I have no idea  
5 whether it was the first time or not.

6 Q Is it a fair statement that, based on your  
7 statement work through the guidelines we come up with, that  
8 as of January 7th, 2005 the guidelines had not been set  
9 forth in any written form?

10 A You can't conclude that from that language.

11 Q Okay. So regardless of the language in that  
12 document, your best testimony is that there were other  
13 versions of these guidelines that were generated prior to  
14 January 7th, 2005; is that your testimony?

15 A I believe so, yes.

16 Q And you believe, I think you've said that your  
17 first -- the first iteration was something that Stephenie  
18 Vinch had drafted?

19 A Correct.

20 Q Now in the first e-mail from Wilson to you that  
21 seems to imply that in fact Stephenie has "made an excellent  
22 start," which would suggest that she had written something  
23 by that point in time; is that a fair inference?

24 MR. QUESNEL: Object to form.

1                   exist.

2           BY MR. SCHLATHER:

3           Q     Doctor, I want to show you Exhibit 65. I think  
4           it's Exhibit 65, let me just make sure. 65 that has already  
5           been testified to by others, which is an e-mail from Wilson  
6           to you and Vinch based on an earlier e-mail from you to  
7           Vinch and Wilson. Your e-mail is dated January 14th, 2005.  
8           Would you take a look at that, please.

9           A     What's your question?

10          Q     In this document, in your e-mail of January 14th  
11          you state specifically, I've revised the draft you sent us  
12          attached and believe it represents a reasonable approach.  
13          Do you see that sentence?

14          A     Yes.

15          Q     First of all, from a technical standpoint, when  
16          you say it's attached, how was it attached?

17          A     That would be a text file attached to an e-mail.

18          Q     And did that text file that was attached to the  
19          e-mail originate in your computer?

20          A     As I testified last week, there were a variety of  
21          iterations of the document, whether it originated in mine,  
22          the attachment would have come from my computer, yes.

23          Q     Okay. So when you're saying that you may have  
24          been working off of an earlier iteration that had been sent

1 to you as an attachment by somebody else, is that what  
2 you're suggesting?

3 A As I indicated the other day, I had consulted with  
4 our attorneys at Bond, Schoeneck & King, I had consulted  
5 with the superintendent and there had been various versions  
6 and iterations of that document going back and forth. This  
7 implies that it was very nearly the final version that I was  
8 sending to Vinch and Wilson.

9 Q Well, you've referred to, I've reviewed the  
10 revised draft that you sent us.

11 A Right.

12 Q The you refers to whom?

13 A Vinch.

14 Q Stephenie Vinch; right?

15 A Yes.

16 Q And I think your testimony last time was that  
17 Stephenie Vinch was the -- in other words, the first draft  
18 came from her?

19 A Correct.

20 Q So is this referring to that first draft?

21 A It appears to be referring to -- if it says --  
22 when it says I revised the draft you sent us, yes, that  
23 would have been the draft that Vinch sent us, I believe.

24 Q Okay. So in terms of how many drafts at this