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This study examines copyright concerns of syndicated materials within digital copies of college student newspapers. A sample of 100 colleges were inspected to determine if archived issues of the student newspapers were available online and if so, did the newspapers contain syndicated material. The collection was further examined to establish if any effort was made to exclude the copyrighted material or if an explanation was provided for the inclusion of the material. This study shows approximately one third of the student newspapers that are available online contain syndicated material and only twenty percent made an effort to reduce copyright infringement or document fair use. Considering these findings and the prevalence of digitizing college student newspapers, more research is needed in this field.

#### Headings:

College student newspapers and periodicals--United States.

Newspapers--Digitization--United States.

Copyright--Caricatures and cartoons.

BEWARE THE SYNDICATE: AN EXAMINATION OF COPYRIGHTED  
MATERIALS WITHIN DIGITAL COPIES OF COLLEGE STUDENT NEWSPAPERS

by  
Amber N. Sherman

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Approved by

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Richard Marciano

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## **Introduction**

Patrons expect libraries and archives to provide free, open online access to digitized special collections. While technological advancements are making this more feasible, concern over violating copyright still exists. This can be seen in large scale mass digitization of college newspapers containing syndicated materials. Currently, these programs must determine the risk of including syndicated materials that potentially infringe on copyright versus the time and technological limitations involved excluding these works. A lack of literature specifically addressing syndicated material in college student newspaper digitization projects indicates more research is needed to determine how prevalent the situation is among these projects and how different institutions have addressed the problem.

### *Motivation for Research*

As a graduate assistant at the North Carolina Digital Heritage Center, I digitized several college student newspapers and found syndicated material in one of the college student newspapers during the digitization process, which inspired this study. The process is monotonous and fairly simple. While digitizing *The Collegiate*, a newspaper from Atlantic Christian College, the project manager pointed out the regular appearance of Doonesbury cartoons. The project manager consulted with the Scholarly Communications Librarian who provided us with three options:

1. Do not put the newspapers online
2. Obtain permission from Gary Trudeau – creator of Doonesbury

3. Crop out the copyrighted sections and replace with a message indicated copyrighted material was removed.

Although the risk of being sued for publishing the entire newspaper was highly unlikely, all parties agreed this was not an option because we should not chance a copyright infringement. The project manager decided the cartoons should be cropped out. The process of finding all instances of the cartoon, using *Photoshop* to crop, save and re-upload the files adding approximately 20 hours to the process. In the vein of MPLP (more product, less process) this additional step causes a problem for the otherwise easy procedure of digitally publishing college student newspapers. The other options also had drawbacks which inspired research into the way others handle similar situations.

#### *Research Questions*

The goal of this study is to explore various institutions' practices toward digitally publishing copyrighted materials within college student newspapers. To uncover how institutions are dealing with this issue, the digital collections posted on institutions' websites can be examined. Specifically, the study will explore the following questions:

1. Does the college or other organization make digital copies of past issues of the student newspaper freely available online?
2. If the digitized newspapers are available, do they contain instances of syndicated material?
3. If the newspaper contains copyrighted material, was any effort made to either redact the material or explain why the material is left unaltered?

While many Library and Information Science articles discuss digitization of newspapers and copyright concerns separately, an examination of the literature did not reveal answers to these questions.

## Literature Review

### *Newspaper Digitization*

Digitization of special collections is popular for a variety of reasons. “Digital surrogates can be viewed by more people, at a wider range of times, and with less effort” (DeGracia, 2009). The digital collections can be accessed by more users because people at multiple computers around the world can view the same item at the same time. Online collections do not have the same concerns with operating hours as analog collections and viewing an item only takes a few clicks of a mouse compared to locating and physically retrieving material. Depending on the quality of the scans, the attached metadata, and the optical character recognition (OCR), digitized collections are also more searchable.

“A couple of simple word searches is usually enough to determine whether or not there is material worthy of further investigation, and scholars can be far more confident that they will not have to endure the frustration of wasting their precious time through unprofitable trips to reading rooms” (Bingham, 2010).

Libraries and archives also digitize their collections so that less people handle the original material, elongating the life of the original. Even careful users of special collections can inadvertently damage delicate materials. As Jeremy DeGracia points out, handling certain materials can, over time, stress the bindings or tape and digital surrogates do not run the same risks of being lost or stolen (DeGracia, 2009).

Many researchers also now expect material to be online. A 2006 IMLS report showed over half of large academic libraries surveyed “make some of their digital image collections available to the public” (IMLS, 2006). Although a more recent survey is not available, this number has likely increased over the past seven years. Interestingly, none of the institutions surveyed in the 2006 report were currently working on newspaper projects (IMLS, 2006). The Library of Congress and the National Endowment for the

Humanities are now funding the National Digital Newspaper Program which is a “long-term effort to develop an Internet-based, searchable database of U.S. newspapers with descriptive information and select digitization of historic pages” (Chronicling America, 2013). Over the last several years, many colleges have begun digitizing and publishing newspapers from their archives as “scanning and making your school’s student newspaper collection is an extremely valuable asset - to the college, to alumni, to historians and to future scholars” (Magoc, 2013). Digitally publishing student newspapers allows people to access the vast amount of information without a trip to the microfilm room of their university.

Many scholarly articles and independent blogposts are available to help interested institutions take up newspaper digitization projects. Earlier projects, such as the Utah Digital Newspapers Project in 2002, ironed out many of the technical considerations such as file storage and best practices around digitization (Arlitsch, 2003). New platforms designed to display newspapers have also eased concerns presented by Lynda James-Gilboe, such as “large image size, complex formats that change from page to page, and stories that are continued on another page or pages” (James-Gilboe, 2005). According to the digital projects librarian at Drake University, now it only takes “a Microtech Scanpro microfilm scanner, Adobe Photoshop, CONTENTdm digital collection-management software, and student labor” (Howard, 2011). Although the digitization of newspapers is now fairly simple, these projects still need to use caution when making the copies available online because some of the material may still be under copyright.

### *Copyright Issues*

Copyright concerns plague digitized collections in general. Many articles reference the ambiguity of copyright law when digitizing special collections for educational or research purposes (Beaudoin, 2012) but library and archives professionals tend to air on the side of caution. “Avoiding legal risk” is a top ranked motivation among libraries, archives, and museums when creating online collections (Eschenfeler, 2010). Rather than potentially infringe on copyright, one grant funded project decided that “any problematic materials discovered after the initial selection will be removed from the digitization queue by the libraries” (Brown, Rutenberg and Smith, 2011). Materials published after 1923 and not part of the public domain need to be cleared. In reference to a manuscript collection that contained third party materials, Maggie Dickson writes:

“if we did not claim any exemptions to copyright statutes, and if we wanted to present the entire archival collection on the Web under a strict interpretation of copyright law, we needed to identify all authors of materials in the collection, determine their death dates, locate descendants for those who died after 1939, contact those descendants, and request and then obtain permission to use their deceased family members’ materials” (Dickson, 2010)

Each step in this process is time consuming and places a strain on staff and budget.

At first glance, copyright is not a major concern when digitizing college student newspapers because permission can be obtained by contacting the college (Gwynn, 2012) and most projects are initiated by the colleges themselves. A problem arises when the college newspapers contain syndicated material from larger media networks. While not specific to college newspapers, Bradley Daigle acknowledges this issue:

“Think of a digital environment that delivers a digitized version of a local newspaper. However, this newspaper (like most) may bring in content from other sources -- Associated Press or United Press International -- where the photos may have copyright restriction associated with them” (Daigle, 2012).



If strictly following copyright law, college student newspaper digitization programs would need to identify any work on any page of the newspaper that was not created by a student, then request and obtain permission to show the newspaper in its entirety online. For colleges attempting to allow online access to their digitized newspapers, these steps could take more time and effort than initially thought as well as require more experienced oversight.

Best practices surrounding copyright concerns and advice available for digitization projects at large are available but none specifically address newspapers with syndicated materials. How to Digitize Safely - a chapter from *Copyright and Cultural Institutions: Guidelines for US Libraries, Archives, and Museums* outlines questions programs should consider before even agreeing to make a collection available online (Hirtle, Hudson and Kenyon, 2009). Most of the literature advocates for projects to start by documenting any known potential copyright concerns, procedures for dealing with identified risks, and any efforts taken to secure permissions (Brown, Ruttenberg and Smith, 2011). This documentation, along with the concept that collections are digitized for “the public good” (Lavoie and Dempsey, 2004) will not ensure projects do not violate copyright but will hopefully help if litigation is ever initiated over an infringement. If an item or collection is challenged, most of the literature agrees that ‘fair use’ is the best argument. Several case studies use the following structure and outline how the project meets (or at least puts up a good argument for) fair use:

- “Although there are no hard-and-fast rules determining whether or not a use is fair, the courts must consider 4 factors when determining fair use:
1. the purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;
  2. the nature of the work itself [whether it is a factual or creative work];

3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole;
4. the effect of the use upon the potential market for or value of the copyrighted work” (Dickson, 2010).

Few examples of legal action brought against academic institutions digitizing special collections for violating copyright exist (Hirtle, Hudson and Kenyon, 2009). Some projects address potential copyright infringements by including ‘take down policies’ on their website. For example, the Grateful Dead Archive Online provides contact information for users who find conflicting information regarding the copyright holder (Fortney, 2013). In a content analysis of copyright statements on digital library collections, Melanie Schlosser found institutions using their copyright or policy statements as a way of mitigating legal risk by stating the ambiguity of the rights of the materials (Schlosser, 2009).

More direct ways of avoiding copyright violations include cropping out the syndicated materials and the use of digital rights management software (Daigle, 2012). Jeremy DeGracia suggests incorporating watermarks or low quality resolutions that make the content available but make reproduction or downloading by the user difficult. However, he also points out that this could “impair a researcher’s ability to obtain information being sought, in direct opposition to a major goal of most digitization projects (DeGracia, 2009). Another criticism of this method is that modifications made to the digital objects challenge the authentication of the materials (Beaudoin, 2012). These methods are also time consuming and add an additional expense to create. As none of these suggestions provide a fast or easy solution, there is a wide variety in the actual steps college student newspaper digitization programs take.

## **Methodology**

### *Sample*

The sample for this study was derived from a Wikipedia list of U.S. College Newspapers (Wikipedia, 2013). The Wikipedia page identified over 700 college newspaper titles in the U.S. and acknowledges it is an incomplete list. Although more college newspapers exist, the list served as a base for a random sample. The list was imported to a spreadsheet and a random number generator (Urbaniak and Plous, 2008) was used to select 100 college newspapers.

### *Operationalization*

This paper will only focus on post-1923 college newspaper collections digitized from print copies that previously were only available by going to the related institution. Any paper published before 1923 is out of copyright and therefore, not a concern for this paper. Using the Getty Art and Architecture Thesaurus, newspapers are defined as “serials published at stated, frequent intervals, such as daily or weekly, and containing news, editorials, features, advertisements, and other items of current interest” (J. Paul Getty Trust). Narrowing the scope to college newspapers allows focus on non-profit digitization projects. Digitized college newspaper collections that require a login to view will also not be included. Digitized, according to the SAA glossary of archival and records terminology, “is used to distinguish materials that have been transformed from the media in which they were created from material that are born digital” (Pearce-Moses). Syndicated materials include “media special writing and artwork, often written by a noted journalist or eminent authority or drawn by a well-known cartoonist, that cannot be classified as spot coverage of the news.”

### *Data Collection*

For each college newspaper, an initial search for freely available digitized copies had to be conducted. A website for the library, special collections, or archive was found for all 100 institutions. Within each website a search was performed for past issues of the newspaper. If the newspaper was not found through the website, searches were conducted for the newspaper on Internet Archive and through a statewide digital consortium. If digitized copies of the college newspaper were not found through any of these methods, it was determined the newspaper had not yet been digitized.

For the newspapers that were available online, an effort was made to determine if the newspaper contained syndicated material. If a keyword search feature was available, a search was conducted across the collection for known syndicated material, such as Doonesbury cartoons. If the keyword search yielded multiple results, the issues were viewed to see if the copyrighted materials appeared frequently. If the keyword searches did not produce any hits, the newspaper was recorded as not containing syndicated material.

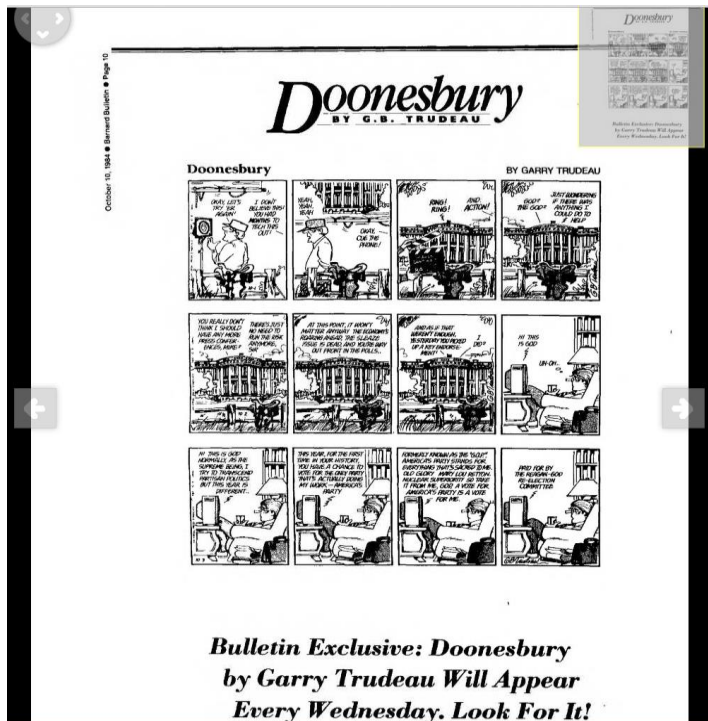
For the newspapers that did contain copyrighted sections, an effort was made to determine if the institution made any attempt to block from downloading, crop out, acknowledge rights had been obtained to digitally publish the material, or stance on the material falling under the principle of fair use. I looked on the main collection page as well as the issue level descriptions to see if any such properties existed.

## **Results**

### *Data*

Of the 100 colleges sampled, 42 had digital copies of their student newspapers freely available online (See Appendix). Of the found collections, 35 (83%) were hosted

by the student newspapers college, six (14%) were hosted by a statewide digitization project, and one (2%) was hosted by Internet Archive. From the 42 digitized newspapers, 15 (36%) contained multiple instances of known copyrighted material.



Out of these 15, one (7%) required an account be established to download or copy the newspaper.



One (7%) made a statement regarding fair use.

The screenshot shows the website header for San Diego State University Library & Information Access. It includes a search bar, navigation links like 'Home / Collections / Browse', and a 'You are here' breadcrumb trail. The main content area is titled 'Copyright and terms and conditions' and contains text regarding copyright law, fair use, and the university's policies on digital collections. The footer includes the university's name, contact information, and a copyright notice for 2011.

One (7%) cropped the material in question.

The screenshot displays a digital library interface for a document titled 'The Collegiate [Wilson, N.C.: January 30, 1975], 1975-01-30'. The page number is 2. The interface includes search and navigation tools. The document content is visible on the left, but the right side is obscured by a large black redaction box. The text 'Copyrighted material removed.' is printed in white on the black box. The visible text on the left discusses 'Your Pride' and mentions 'The Whittaker House'.

*Limitations*

The data gathered in this study is problematic in several ways. First, the sample is roughly four percent of the estimated total population of colleges with student newspapers. As of 2010, 2774 four-year colleges and universities exist in the United States. Although a random sample assists in generalizing the results to the larger population, more institutions should be examined. Second, collecting this data relies on the persistence of the researcher as the institutions could host their digitized collections on sites other than the common ones searched for in this study. Furthermore, keyword searching for known copyrighted material does not ensure additional copyright material does not exist. Additionally, if a collection has obscured copyrighted material, it would be difficult to find unless the researcher already knows it exists.

*Analysis*

A surprising, and unintended, finding of this study is less than half of the sampled colleges have digitized copies of their student newspapers available online considering the popularity and push for digital copies of newspapers. If this sample held true for the larger population of colleges, 58% of institutions may still be in the process of or considering beginning a digitization project. With such a large percentage of college student newspapers waiting to be digitally published, it is likely many institutions will come across similar copyright concerns. I consider 36% of newspapers containing syndicated material available online to be rather high. Again, if these results were generalized for the larger population, a significant number of institutions would need to make decisions on how to proceed with digitally publishing their collections. I also

consider 80% a high proportion of the newspapers containing syndicated material to not make an effort to protect against copyright infringement.

### *Discussion*

This study did not investigate if the institutions with syndicated material in the newspaper collection made deliberate decisions to publish the newspapers in this manner or if they were unaware of the existence of the copyrighted material. As discussed in the literature review, many resources are available to guide newspaper digitization programs with technical specifications, but few articles specifically mention syndicated material. With the large number of pages in typical student newspapers, it is possible some institutions did not check each page. Another possibility is that the institution was aware of the possible infringement but decided the process to remove the material could challenge the authenticity of the object. Other institutions may have felt the risk of lawsuit was low and if challenged, fair use could be applied.

Before accessing the San Diego State University collection of digitized student newspapers, a note on copyright is displayed mentioning fair use. If the fair use argument is to be applied to the situation of syndicated materials within digital copies of student newspapers, several points need to be addressed. The first argument of fair use regarding the educational purpose applies to these institutions as the mission is not to make a profit but to further research and learning. Arguments also exist regarding the transformation of the works as they originally exist in bound volumes and are now digital surrogates. The second point in the fair use argument regarding the nature of the copyrighted work weakens the argument as syndicated materials were clearly created for commercial use and artistically intended. The third discussion of the portion of the work



in relation to the copyrighted work as a whole will vary depending on each newspaper, but is typically a very small portion. Finally, concerning the effect on the potential market, it is difficult to imagine the quality represented in digitized newspapers would affect the possible sale of the material.

This paper only studied college newspapers because the majority of newspaper digitization projects currently underway either focus on pre-1923 titles, require subscriptions for patrons to view, or are student newspapers. As national digitization efforts continue to grow in popularity, more newspapers may run into similar problems. While this paper only focused on college student newspapers, the issues apply to any digitized newspaper after 1923 which contains syndicated material.

## **Conclusion**

The goal of this exploratory study was to investigate the current environment concerning digital publishing of copyrighted material within college student newspapers. The motivation behind this study grew from an experience deciding how to handle the appearance of syndicated cartoons in a college student newspaper. The options presented and the resulting additional work was unsatisfying which caused me to investigate how other institutions dealt with this issue.

The lack of mention of copyright concerns specific to newspaper collections in the existing literature and the high percentage of institutions studied publishing syndicated material indicates this is an issue that needs more attention. As institutions digitize more and more college student newspapers, it is helpful to share best practices and concerns. Making institutions aware of this issue as they task students to digitize newspapers may help reduce the possible copyright infringement. Starting a conversation

among institutions may also lead to solutions not initially presented to the North Carolina Digital Heritage Center after finding the Doonesbury cartoons.

*Recommendations for Future Study*

First, a more detailed study should be conducted with a larger sample. The study should include more search methods to find copyrighted material as well as methods to find collections which have cropped out the syndicated sections. A web scraping program or image segmentation techniques could assist the research. Second, some attempt should be made to determine why certain institutions decided to leave the materials and others chose to restrict them somehow. A more specific survey could also include the institutions' feelings on either using the 'fair use' argument and opinions on how cropping could challenge the authenticity of the digital file.

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## Appendix

| <b>School and Newspaper</b>                                | <b>Digitized Copies Available Freely Online</b> | <b>Contain Syndicated Material</b> | <b>Remove, Block or Explain Syndicated Material</b> | <b>Notes</b>                             |
|--|---|------------------------------------|---|--|
| Arkansas Tech University – Arka Tech                       | No  |                                    |   |  |
| Atlantic Christian College - The Collegiate                | Yes   | Yes                                | Yes   | Crop with "Copyrighted Material Removed" |
| Auburn University – The Auburn Plainsman                   | No  |                                    |   |  |
| Barnard College - The Bulletin                             | Yes   | Yes                                | Yes   | Sign-Up required to copy                 |
| Bethel University- The Clarion                             | Yes   | No                                 |   |  |
| Boston College - The Heights                               | Yes   | No                                 |   |  |
| California Baptist University - The Banner                 | Yes   | No                                 |   |  |
| California State University, Fullerton – The Daily Titan   | No  |                                    |   |  |
| California State University, Long Beach – The Union Weekly | No  |                                    |   |  |
| Carnegie Mellon University – The Tartan                    | Yes   | No                                 |   |  |
| Chowan University - The Chowanian                          | Yes   | No                                 |   |  |

| <b>School and Newspaper</b>                          | <b>Digitized Copies Available Freely Online</b> | <b>Contain Syndicated Material</b> | <b>Remove, Block or Explain Syndicated Material</b> | <b>Notes</b> |
|--|---|------------------------------------|---|--------------|
| Clemson University – The Tiger                       | No  |                                    |   |              |
| Cleveland State University – Cleveland Stater        | No  |                                    |   |              |
| Colgate University – The Colgate Maroon-News         | Yes   | Yes                                | No  |              |
| Cornell University – The Cornell Daily Sun           | Yes   | Yes                                | No  |              |
| Dakota State University – Trojan Times               | No  |                                    |   |              |
| Dartmouth College – The Dartmouth                    | No  |                                    |   |              |
| Dickinson College – The Dickinsonian                 | Yes   | No                                 |   |              |
| Drexel University – The Triangle                     | No  |                                    |   |              |
| East Carolina University – The East Carolinian       | No  |                                    |   |              |
| Fayetteville State University – The Voice            | Yes   | No                                 |   |              |
| Florida Gulf Coast University – The Eagle            | No  |                                    |   |              |
| Florida State University – FSView                    | No  |                                    |   |              |
| Franklin and Marshall College - The College Reporter | Yes   | Yes                                | No  |              |
| George Washington University – The Daily Colonial    | No  |                                    |   |              |
| Georgetown University – The Hoya                     | Yes   | No                                 |   |              |
| Gonzaga University – The Bulletin                    | No  |                                    |   |              |
| Hofstra University - The Chronicle                   | No  |                                    |   |              |
| Idaho State University - The Bengal                  | No  |                                    |   |              |
| Ithaca College – The Ithacan                         | Yes   | Yes                                | No  |              |
| Jacksonville State University - The Chanticleer      | Yes   | No                                 |   |              |

| <b>School and Newspaper</b>  | <b>Digitized Copies Available Freely Online</b> | <b>Contain Syndicated Material</b> | <b>Remove, Block or Explain Syndicated Material</b> | <b>Notes</b>                    |
|--|---|------------------------------------|---|---------------------------------|
| Longwood University - The Rotunda  | Yes   | No                                 |   |                                 |
| Loyola University - Maroon   | Yes   | No                                 |   |                                 |
| Marshall University – The Parthenon  | No  |                                    |   |                                 |
| Mercyhurst College – The Merciad   | Yes   | No                                 |   |                                 |
| Miami University – The Western Roundup                                       | Yes   | No                                 |   |                                 |
| Middlebury College – The Campus  | Yes   | No                                 |   |                                 |
| Minnesota State University, The Reporter                                     | Yes   | No                                 |   |                                 |
| MIT – The Tech   | No  |                                    |   |                                 |
| Montana State University – The Exponent                                      | No  |                                    |   |                                 |
| Mount Holyoke College – Mount Holyoke News                                   | No  |                                    |   |                                 |
| North Carolina Central University The Campus Echo                            | Yes   | No                                 |   |                                 |
| Northern Arizona University – The Lumberjack                                 | No  |                                    |   |                                 |
| Northwestern University – The Daily Northwestern                             | No  |                                    |   |                                 |
| Old Dominion University – The Mace & Crown                                   | No  |                                    |   |                                 |
| Pennsylvania State University (University Park Campus) – The Daily Collegian | Yes   | Yes                                | No  |                                 |
| Rensselaer Polytechnic Institute – The Rensselaer Polytechnic                | No  |                                    |   |                                 |
| San Diego State University – The Daily Aztec                                 | Yes   | Yes                                | Yes   | Copyright statement of Fair Use |
| San José State University – The Spartan Daily                                | No  |                                    |   |                                 |
| Santa Clara University – The Santa Clara                                     | No  |                                    |   |                                 |



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| South Dakota State University-The Collegian            | No  |                                    |   |              |
| Southeast Missouri State University – The Capaha Arrow | No  |                                    |   |              |
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| St. Andrew's University - The Lance                    | Yes   | No                                 |   |              |
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| University of Puget Sound - The Puget Sound Trail                   | No  |                                    |   |              |
| University of Richmond – The Collegian                              | Yes   | Yes                                | No  |              |
| University of Rochester – Campus Times                              | No  |                                    |   |              |
| University of San Diego - "The Vista"                               | No  |                                    |   |              |
| University of Scranton – The Aquinas                                | Yes   | No                                 |   |              |
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