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Groups fight West Virginia U. speech policy

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By Grant Smith, The Daily Athenaeum

Two national civil liberties groups have joined a fight for a more liberal free speech policy at West Virginia University.

Letters were sent to WVU President David Hardesty and other University officials from the Foundation for Individual Rights in Education and the Rutherford Institute, calling for a more liberal policy. Both groups reviewed the interim policy at the request of Students for Economic Justice. "The policy, as long as it doesn't allow for demonstrators to direct their speech at the intended audience, is flatly unconstitutional," Greg Lukianoff, FIRE Director of Legal and Public Advocacy said.

Free speech committee member Marjorie McDiarmid, who helped draft the interim policy, disagreed.

"There clearly has to be some limit," she said. "You can't cram 'x' number of people in 'y' amount of space."

Demonstrators have the right to protest within reasonable proximity to their intended audience, McDiarmid said.

"That is exactly what the policy provides for," she said.

An ad hoc committee of the faculty senate executive committee, appointed in December 2001, created the interim policy. A new "policy on freedom of expression" was presented during the April 1 faculty senate executive committee meeting and implemented on an interim basis for a two-week comment period. The policy requires demonstration groups with more than 50 participants to reserve one of the seven free expression areas.

Lukianoff said other free speech zones have been basically laughed out of existence.

"I think the draft policy very thoroughly protects free speech rights, period," said Bob Griffith, free speech committee chair. "What is kind of at issue seems to be the right to peaceably assemble groups."

Everything the University is trying to prevent with the policy is already covered by law and by the student code of rights and responsibilities, and is unneeded in a free speech policy, according to both

Lukianoff and SEJ member Matthew Poe "You don't have to be redundant about it," Lukianoff said.

The student code of rights and responsibilities is located toward the back of the student handbook, and is often overlooked, according to Griffith.

"Nobody reads the damn things," Griffith said.

Griffith said restating the rights and responsibilities in the free speech policy would ensure more people actually read it.

There need to be clear guidelines on what demonstrators can and cannot do, and that good policies usually contain a definition section to clarify the policy, according to John W. Whitehead, president of the Rutherford Institute. He added that the policy should contain the penalties for violating the guidelines.

"With no definite guidelines, it is automatically unconstitutional," Whitehead said. "For these things to be constitutional, they have to be really precise."

"(The policy) just leaves it up to the school to make a willy-nilly decision," Whitehead said.

The policy should contain an appeals process for groups denied demonstration reservations. WVU General Counsel Mary Roberta Brandt previously said she thought the only reason a group would be denied would be if the location was already reserved.

The interim policy included a clause stating that the "University reserves the right to require security at protests and demonstrations at the expense of the individual or organization planning the event."

This clause has caused much ruckus among opponents of the free speech policy.

"They're going to tax you for free speech?" Whitehead asked. "The word 'free' means free."

"(The clause) certainly needs reworded," Griffith said. "That received more adverse comments than any other. Even people who thought that designated areas for larger groups was OK were objecting to the 'paying for security' provision. Clearly, that section needs reworked."

The threat or possibility of having to pay for security would create a chilling effect on speech and discourage protestors from holding demonstrations, Lukianoff said.

A student affairs fund is available to provide extra security, according to University officials.

"(The policy) is incredibly stingy with speech," Lukianoff said. "That is not how any university should

think about speech.

"I hope Hardesty and other people at WVU realize that the sky will not fall if they don't have a free speech policy in place," Lukianoff said. "They shouldn't be afraid of a very politically robust WVU."

This University is a government area, a designated public forum, Whitehead said.

"A university itself has a very special role in any democratic society," Lukianoff said. "A lot of universities are not fulfilling their obligations."

Lukianoff was not entirely critical, however.

"The overall policy is an improvement," he said. "I do think they are trying. I think there are some great people doing some great work toward a more liberal policy."

"Free speech is a great thing," Whitehead said. "Let us keep it free. Without it, this country is not distinctive, and like every other country."

The free speech committee is expected to meet Friday to revise the interim policy.

"I would expect that we are going to firm up the policy a little bit," McDiarmid said.

She added that the revision should not contain any constitutional discrepancies.

A report from the committee is planned for Monday's faculty senate executive committee meeting.