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Colleges Blasted Over 'Free - Speech' Zones

By THE ASSOCIATED PRESS

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DALLAS (AP) -- Time and again, Ruben Reyes asked the University of Texas at El Paso for permission to hold protests about environmental dangers, the administration and censorship -- typical stuff for a campus demonstration.

Each time, Reyes was turned down by officials who said the student union where the creative-writing student wanted to talk was not one of the two "free-speech zones" on the campus of 17,000 students.

Reyes responded by joining a growing number of students around the country who have taken university officials to court, complaining that free speech is being stifled by institutions that in many cases promote themselves as pillars of democracy.

Free-speech zones began appearing on campuses in the 1980s as a way to allow expression without interrupting learning. But in recent years, students and activists say that limiting speech to a few designated areas is unconstitutional because it effectively bans speech everywhere else.

"What they have done is turn the First Amendment on its head," said Harvey Silverglate, a former Harvard law professor who co-founded the Foundation for Individual Rights in Education.

Instead of designating places where students can speak, schools should be designating only places where they cannot, Silverglate said.

Some universities have agreed. Since November, West Virginia University has dropped its free speech zones after a legal challenge, and the University of Texas opened its entire Austin campus to demonstrations after a campus clash between abortion activists. Still pending is an ACLU lawsuit against the University of Maryland over free-speech zones.

At some schools, the battle is not over zones but codes that restrict the content of speech. Harvard Law School, for example, is considering a ban on offensive speech after a series of racially charged incidents.

Silverglate's group sued Shippensburg University in Pennsylvania this year over a diversity policy that warns against "unconscious attitudes toward individuals which surface through the use of discriminatory semantics" and conduct or "attitude" that "annoys" others.

At the University of California at Berkeley, the birthplace of the Free Speech Movement during the 1960s, administrators replaced the school's broad ban on "fighting words" a year ago with a more narrow policy that prohibits harassing speech toward a specific person. Generally, hate speech is allowed against a group, but not an individual, said university counsel Maria Shanle. (Berkeley does not restrict speech to certain zones.)

At the University of Houston, an anti-abortion student group went to court to get the right to display pictures of dead fetuses outside

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designated speech zones. Under the university policy at the time, speech was allowed outside those zones only if the dean of students agreed.

A judge allowed the display and struck down the policy, saying it granted the dean "unfettered discretion" to decide what speech to allow outside the zones. The students sued again when the university changed its policy to ban all speech outside the four designated zones.

"Thirty-five thousand people and there's these four small areas and that's it," said Jonathan Saenz, a law student and Pro-Life Cougars chairman. "It sent the message to the students that your speech isn't that important."

University spokesman Mike Cinelli said schools have the right to regulate the time, place and manner of speech. He also said schools can limit demonstrations that "disrupt the academic mission" of the university.

Free-speech activists say some universities are violating U.S. Supreme Court rulings that say limits on campus speech can only be strong enough to protect normal campus activities.

"It's one thing to say no bullhorns right outside classrooms," said Jamin Raskin, a constitutional law professor at American University who wrote a book, "We the Students," that focused on students' constitutional rights. "It's another thing to say you can only leaflet in the far northeast quadrant of school."

Sidney Buchanan, a law professor at the University of Houston for 36 years, argues that speech zones can pass constitutional muster if they are administered fairly. He said the Supreme Court has never explicitly listed universities among other traditional public forums and therefore speech is not as protected as it would be on public streets, on sidewalks and in parks.

Buchanan said universities can drift into unconstitutional territory if they let content dictate who has access to certain areas.

At the El Paso campus, Reyes said administrators used intimidating tactics such as summoning campus police to supervise demonstrations and threatening administrative action against students who push the limits on speech.

"What they use is this phrase: 'Would you like to endanger your relationship with the university?'" said Reyes, who recently ran for City Council.

UTEP Dean of Students William Schafer did not return repeated requests for comment. He told the El Paso Times in March that the university supports "the free exchange of information and expression."

Reyes' battle has caught the attention of state lawmakers, who are pushing legislation to cut down on the use of designated speech zones and other restrictions on speech.

In the meantime, Reyes said, he will keep trying to stir things up, one application at a time.

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Foundation for Individual Rights in Education: <http://www.thefire.org>



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