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## First Amendment only free speech policy needed

**Daniel Shapiro**  
Guest Columnist



On Feb. 12, the Students for Economic Justice, in coalition with a variety of groups across the political spectrum, will protest the restriction of free speech at West Virginia University. The purpose of this column is to express support for that protest, and to explain to the University community how free speech is being squelched at WVU.

Free speech being squelched at WVU? What am I talking about? Surely, one might think, everyone acknowledges that free speech is essential to the life of a university. And so one might think that WVU would be committed to the right to free speech. However, these assumptions are wrong. WVU's record on free speech is dismal, simply dismal. For students and faculty who do not appreciate or know this, some history is in order.

1). In 1997 a faculty group called the West Virginia Association of Scholars (WVAS), was formed in order to combat political correctness on campus that we believed was inhibiting discussion of unpopular views. We soon discovered that WVU had speech codes. These were regulations, found on the Office of Social Justice (OSJ) Web site under the labels of "Homophobia," "Racism" and "Sexism," which forbid students and faculty from expressing unpopular viewpoints on race, sex and gender. These regulations were supposedly about preventing harassment and discrimination, but since the regulations defined racism, sexism and homophobia in terms of speech and expression, and prescribed severe punishments for violating the rules -- including expulsion from the University -- speech codes is what they were. (Indeed, the regulations also had punishments for having the wrong attitudes and beliefs, so they were also thought codes.) WVAS threatened to take the University to court, since speech codes, besides being morally outrageous, are blatantly unconstitutional at a state university. The heart of the right to free speech, as guaranteed by the First Amendment of the Bill of Rights, is viewpoint neutrality: governments cannot restrict speech because of its viewpoint. No government can prescribe an orthodoxy on any matter of opinion, whether it be politics, religion, or race, sex and gender.

Under the threat of a lawsuit, the University withdrew the codes from OSJ's Web site. You can read about these codes and WVAS' success at removing them from OSJ's Web site at:

n <http://www.nas.org/affiliates/westvirginia/wvu98codes.htm>

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2). The removal of these codes from OSJ's Web site, did not, however, end WVU's attacks on free speech. Now we have a new problem -- the free speech zones. Basically, the University has decreed that only two small areas at the University are for free speech and assembly: the amphitheater area of the

Mountainlair plaza and the concrete stage area in front of the Mountainlair and adjacent to the WVU Bookstore. That's it. While the free speech zones are not as bad as speech codes since they do not censor or punish anyone's viewpoint, they are almost as bad because the space on the campus that is set aside for free speech and assembly is so small. In particular, the free speech zones prevent individuals and groups from leafleting, picketing, raising objections and engaging in other forms of peaceful speech inside buildings where speeches, talks, colloquia, etc., are taking place. This is not just a hypothetical worry; the effect of the free speech zones has been to severely restrict free speech.

Consider the following:

- n A preacher who talked to gay and lesbian students inside the Mountainlair during Gay Pride Week was warned that he was violating University policy by expressing his dissenting opinion outside of the free speech zone, and told not to repeat his transgression. (Dominion Post, Oct. 13 and 15, 1999)

- n College Republicans were forbidden to pass out flyers disputing the claims made by a speaker advocating gay rights during a Festival of Ideas lecture because the 'Lair was not a free speech zone. (Daily Athenaeum, March 13, 2000)

- n Students for Economic Justice (SEJ) in the past year, have attempted to protest Disney labor practices during their recruitment seminars at the Business and Economics building. For this they have had their leaflets confiscated and one student even had his student ID and Social Security number taken by the University police, who told the student that he had to leave the seminar, even though the student was simply listening to the talk. (See SEJ member Michael Bomford's open letter to David Hardesty:

<http://www.wvej.org/speech/letter.html>)

Warning people not to voice a dissenting opinion, forbidding leafleting, confiscating literature, forcing students to leave a talk with which they disagree -- is this what a university should be about?

The University defends the free speech zones (in The Mountie, the only place where the free speech zones are mentioned) on the grounds that space is limited at WVU on the Downtown Campus. But this is, to put it mildly, a very weak argument. None of the incidents described above indicates that the University lacks space for people raising disagreements or leafleting. The University also says that it has the right to relocate or cancel an activity if there is disruption due to excess traffic or noise, or if necessary to protect someone's safety. They do indeed have that right; while government cannot target or censor a viewpoint, they can impose reasonable regulations on the time, place and manner of speech or assembly. But the free speech zone is utterly unreasonable. None of the incidents described above created loud noise or disrupted traffic; none of the individuals mentioned above behaved violently or threatened the physical safety of any individual.

I hope I have made clear why the protest on Tuesday (noon, in front of the Mountainlair) is so important. It is heartening to see that there is growing awareness of WVU's attack on the right to free speech. WVAS salutes the efforts of the protesters and hopes for a large turnout. The free speech zone policy should be abolished. The only free speech policy WVU needs is the First Amendment's guarantee of the right to free speech.

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