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Free Speech Pressed

U-M Considers Restricting Student Media

By: Michael O'Brien, Editor-in-Chief and Adam Paul, Executive Editor

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The College of Literature, Science, and the Art's Facilities and Operations Department is considering adopting regulations that could seriously affect the ability of student publications to distribute their products on campus, according to various interviews and documents obtained by The Michigan Review. (A copy of the draft policy can be found by clicking [here.](#))

According to preliminary drafts of the proposed policies, distribution of publications would be limited to those governed by the Board of Student Publications (which includes The Michigan Daily and humor magazine The Gargoyle) and student organizations approved by the Michigan Student Assembly. The policy also forbids distribution of materials between April 14 and September 15. The Michigan Daily currently distributes a weekly summer issue on campus.

Robert Johnston, the Director of Facilities and Operations for LSA, said that this policy has been under consideration for the last two years, and is intended to minimize the amount of clutter and litter associated with publications being scattered around LSA buildings. The policy additionally seeks to limit access to outside publications, specifically commercial publications distributed in University facilities.

"We want to provide a place that publications can be distributed from, and still allow them to attain access," said Johnston, adding that LSA is considering constructing what he called "nodes," similar to the cubbies in the Michigan Union, for publications.

According to the draft policy, to gain access to these nodes, publications would have to apply on a "first-come, first-serve" basis. To accommodate all publications, though, the policy says, "LSA reserves the right to limit the number of times per academic term and/or per year in which a recognized student organization will be granted permission to distribute publications in LSA facilities."

"What we need to do is determine which publications are distributed in which buildings," said Johnston, "because we can't accommodate everyone everywhere."

The latest draft was presented to the Board of Student Publications Monday, raising the concern of some in attendance. Samuel Offen, the Student Publications General Manager, said he had concerns about the policy when it was first introduced.

"I just don't like that they can decide who gets to distribute and who doesn't get to distribute," said Offen. "Even though I understand their need regards safety or security or financial-having to pay for additional custodial work-anytime anyone determines who gets to distribute publications, I think that's a concern."

Maya Kobersy, the Assistant General Counsel for the University, said the regulations are permissible as "time, place, and manner" restrictions under the First Amendment. Kobersy, who helped develop the

distribution policy, said the University is "concern[ed] about the disruption to the educational nature and character" of its facilities posed by extraneous materials in LSA buildings.

LSA buildings, she asserted, are not "public" venues under the Constitution, and the entire facility-- even the hallways and commons areas accessible after-hours-- are encompassed by that policy. She concluded that the regulations pass muster.

"We are limiting things only in terms of there being so many racks," said Kobersy. "That addresses the clutter issue."

"I don't have any knowledge of an intent to change the policy," said Kobersy, when asked if the University will back off of this policy which could be challenged on legal grounds.

There could be other significant constitutional issues associated with the proposed guidelines, Adam Goldstein, an Attorney Advocate with the Student Media Law Center said.

"On rational basis, the amount of approvals [for distribution] given is not at all related to how many issues are handed out," said Goldstein. "It doesn't even address the problem. It does not approach the level of First Amendment compliance required of any state in the country."

Though there are a few schemes where pre-approval can limit free speech, Goldstein said that this is not one of those cases for the University.

The process regarding violations to this policy gives power to the LSA Facilities as well as the Michigan Student Assembly (MSA) to assess violations. The policy states that organizations in violation "may be denied future opportunities to distribute or display publications in LSA facilities, or may be subject to other disciplinary action."

Central Student Judiciary Chief Justice Alex Edelson said that he has not been informed of the policy.

"We have not been made aware but that's not something that is offensive. It may be standard operating procedure," said Edelson. Edelson said that CSJ has been given new powers by the administration during his tenure. "

CSJ has evolved a lot over the last few years. It has just developed its source of power. There are more details we are still trying to work out regarding where CSJ fits into dispute resolution on campus," said Edelson.

Edelson said CSJ's purpose is to review violations to the MSA Constitution and to the Student Code of Conduct. University officials can choose to enlarge CSJ's power. While Edelson did not comment directly upon the proposed policy, he said that CSJ involvement in similar issues only arises when a complaint is brought before CSJ.

"If you wanted to challenge the policy, that might require that you go to someone higher up in the administration," said Edelson.

While CSJ had not been informed about the development of the policy, Jennifer Garfinkle, the business manager for The Gargoyle Humor Magazine, said her organization had been made aware of the policy. Garfinkle said that Cynthia Alexander, an LSA Facilities Manager, informed her of the policy proposal when she requested information about placing new stands on campus. Garfinkle expressed concerns about the policy's impact on publicity.

"One of the main problems we have is recognition on campus, having a limited amount of time to have our

publications in racks will severely limit the exposure that we do have on campus," said Garfinkle. While Garfinkle said the policy would negatively impact The Gargoyle, she could not see how The Michigan Daily could follow the policy.

"Basically, just from the two week limitation at the start and the end of the semester, The Daily prints on the first day of the semester and on the day the semester ends and so it does not make sense for them" said Garfinkle.

Garfinkle, who was not aware of an updated proposal that enlarged the role of the Board of Student Publications, also criticized the role of MSA.

"My only real concern with MSA is if they had to approve materials that get put into racks," said Garfinkle. She also said that The Gargoyle has scheduled meetings through Offen to provide input on this policy.

According to incoming Michigan Daily Editor in Chief Andrew Grossman, the Michigan Daily also has plans to meet with university administrators.

"We're going to sit down with someone from LSA and talk about the policy, but I think it's wrong to restrict publications," Grossman said. Grossman continued that the Michigan Daily has always been an advocate of first amendment rights.

"The first amendment supports our right to distribute our publication, and we fully support the right of another publication to distribute theirs," said Grossman.

The Foundation for Individual Rights in Education (FIRE) issued a statement Thursday blasting the proposal.

"Restricting student speech by excessively tight control on distribution of printed material is a dangerous step for a public university to take," said Will Creeley. Creeley, an Associate Director for Legal and Public Advocacy at the Foundation for Individual Rights in Education, held that while the policy under consideration by the University may pass constitutional muster, it seems "strikingly harsh."

In e-mail correspondence, Creeley took issue with the need for publications to apply, the regulation of display stands, the limitations on the number of distributions per term, and the possibility of internal judicial sanction. Creeley said that, while attempts by universities to regulate the distribution of student-produced print materials are not new, U-M's proposal goes to greater lengths than most.

"Indeed, the University seeks here to institute a far more labyrinth process for distribution than FIRE normally sees, particularly at public universities," said Creeley.

Goldstein echoed Creeley's sentiment.

"This is either insincere or a monumentally ineffective way to do this," said Goldstein. "Generally speaking, employees of the state are more sophisticated than this."

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