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New policy keeps limits on free speech at WVU

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Students with something to say now have more room to roam at West Virginia University, but large groups of demonstrators are still confined to "free expression areas" under a temporary policy adopted Monday.

In February, dozens of WVU students - some with duct-taped mouths - paraded across campus in protest of a longstanding policy that limits freedom of expression to two small outdoor areas. They argued the zones were not only unconstitutional but inadequate for some 22,000 students.

Hours before a Faculty Senate committee presented a new plan Monday, members of the WVU Free Speech Consortium gathered again to display their idea of the only appropriate policy, a copy of the First Amendment. "No law abridging the freedom of speech or the right to peaceably assemble? What will those crazy kids come up with next?" said Mike Bomford, a 30-year-old doctoral candidate from Canada.

"We don't intend to accept anything less than the guarantees of the First Amendment," he said.

The new policy, which has been posted for public comment through April 16, eliminates designated areas for small groups, meaning those of 15 or fewer people, and creates seven newer, larger zones for big groups. It also sets guidelines for appropriate behavior and defines permitted activities.

"The policy is designed to protect free speech rights, not prohibit them ... balanced with the need for orderly operation of the university," said Linda Hausman, a graduate assistant and member of the Faculty Senate's committee.

"The draft proposal is neither as liberal as some would like, nor as restrictive as others would prefer," added committee Chairman Robert Griffith.

The administration has already rescinded the old policy, which is spelled out in the student handbook, and it will rely on the interim policy until a final draft is endorsed by the full Faculty Senate in May.

WVU President David Hardesty then has the final say.

"Frankly, we're all a little disappointed," said Matthew Poe, a 20-year-old junior from Fairmont. "There

are still free-speech zones, and that was the issue in the first place. There are seven now instead of two but they're still there. It is immensely frustrating."

Poe said he was also troubled that the committee has drafted a policy that's as restrictive as possible within the confines of current case law.

Greg Lukianoff, director of legal and public advocacy for the Philadelphia-based Foundation for Individual Rights in Education, said the preamble to the new policy says all the right things, but the potential to abuse certain provisions remains.

"The right of free expression in a university includes the right to peaceful dissent, protests in peaceable assembly and orderly demonstrations which include picketing, the distribution of leaflets, or other means of symbolic expression," the policy says.

"These shall be permitted on the campus, until or unless they substantially disrupt regular or essential operations of the University or significantly infringe the rights of others, particularly the right to listen to a speech or lecture."

"If they actually mean that as being a binding part of the law, then this is a vast improvement," Lukianoff said. "I just hope they're sincere."

He worries, however, that the university administration could abuse a provision that allows it to charge groups for providing security.

"The administration at WVU has not had the best track record with freedom of speech, and anything that gives them the power of discretion concerns me," Lukianoff said.

Having free-speech zones effectively strips students of their ability to direct their messages where they want, he said.

A code of conduct in the new policy prohibits protesters from blocking traffic, pressuring people into accepting materials or creating a threat to health and safety.

Student demonstrators are also prohibited from using sticks or other hard objects to hold up signs inside buildings or at the WVU football stadium. They cannot block the view of an audience, interrupt a speaker or use voice amplification devices that "interfere with university activities."

WVU medical clinics and dormitories remain off limits.

Groups of 50 or more are also required to reserve the new free-expression areas and use them only between 8:15 a.m. and 4:45 p.m.

It's doubtful either the time limits or the arbitrary definition of a large group would withstand a constitutional challenge, Lukianoff said.