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WVU students mourn death of free speech

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By VICKI SMITH

Mourning the loss of free speech on campus, West Virginia University students dressed in black, marched to a somber drumbeat and laid a copy of the First Amendment to rest Monday in a newspaper-wrapped coffin.

About 18 students participated in the Free Speech Consortium protest, which came as the Faculty Senate endorsed a policy limiting student gatherings and demonstrations to seven "free expression areas."

"Like an endangered species, the habitat of free speech is shrinking," senior Helena Triplett said during her eulogy. "It is not until we try to move that we realize we cannot." The policy now goes to President David Hardesty, who plans to study it with an attorney, then take it to the WVU Board of Governors in June.

The students, meanwhile, are taking it to court.

John W. Whitehead, president of The Rutherford Institute, said his Virginia-based organization will file a lawsuit against WVU within weeks.

The policy is unconstitutionally vague, wrongly scales down what is intended to be a public forum and gives university officials too much discretion, he said.

The policy also uses language that has traditionally been struck down by the courts and contains vague provisions such as a ban on using sticks or "hard objects" to hold up signs.

"They can't use sticks or hard objects to hold up signs, so essentially they can't have signs," Whitehead said. "And what's a hard object? My arm could be a hard object.

"Anything that regulates free speech has to be very, very clear on its face so the parties, when they look at it, know they'll violate it," he said.

Many schools have tried to adopt policies like WVU's, but most back down when the constitutionality is challenged.

"This generation of students is the least aggressive in the history of mankind," Whitehead said. "There's

not much to protest - or they don't think there is. WVU is giving them something to protest."

Students and a few faculty supporters began publicly objecting to the little-known free speech zones in February, arguing the U.S. Constitution invalidates the need for any further regulation.

Although no one has claimed credit for it, the initial policy created just two small zones for some 22,000 students. It first appeared in a WVU student handbook in 1995. Enforcement began in 2000, when students picketed companies recruiting on campus.

The administration has balked at eliminating the zones, arguing the need for a peaceful academic environment must be balanced against the right to speak out.

A committee formed to find a compromise agreed to increase the number of zones while also imposing additional restrictions on student activity.

It also agreed to remove provisions in a draft policy that students found objectionable. A permitting process was abandoned, along with a provision that would have let the university charge groups for the cost of security.

The committee also revised what had been a ban on demonstrations at dormitories and university clinics, creating time, place and manner restrictions instead.

In explaining the policy's latest incarnation, committee members said groups of any size could gather inside the free expression areas, but groups of more than 30 would have to seek permission to venture elsewhere on school property.

However, students say no such procedure is outlined in writing.

About 40 individuals and organizations sent comments on the new policy to WVU last month, including the Foundation for Individual Rights in Education, the American Civil Liberties Union and the West Virginia Lawyers Guild.

Most were negative, said former Faculty Senate chairman Bob Griffith, who led the policy committee.

Still, the measure was endorsed by a voice vote, with only a handful of audible dissenters. The Faculty Senate has no authority to set policy; it merely recommends that Hardesty and the Board of Governors adopt it.

At the mock funeral, Bomford said the First Amendment's "burial in law shall not long delay her resurrection."