

Faculty Council Executive Committee (FCEC)
Review of Justice Committee Report
4/21/01 (PJ Davis)

Preliminary Note: This document was generated from the FCEC discussion on 4/20 and was then discussed at the FCEC+ meeting with the Provost Ekland-Olson and Vice President Jim Vick on 4/23. In our discussion, we recognized that the Justice Committee had a narrowly defined charge and a relatively short timeline in specifically addressing the six questions posed by the President, and suggesting any changes in the wording of current policies to meet the deadline for the next edition of the GIB (i.e., by the end of the Spring semester). The Faculty Executive Committee (FCEC) and the Committee on Academic Freedom and Responsibility were charged to review the Justice Report and provide feedback. The response below (and the discussion in the FCEC+ cited above) represents the FCEC's review.

In order to clarify the responsibilities of various committees looking into 'free speech' issues (i.e., the Justice Committee, the Dorn Committee, and the Academic Freedom Committee) it was noted that the recently empanelled Dorn Committee has a specific charge to address the inquiry (resolution) passed by the Faculty Council (i.e., "...that the administration investigate the allegation that Professor Mia Carter was singled out by the campus police during the demonstrations concerning the display on the Gregory Gym mall."). In addition, the Committee on Academic Freedom and Responsibility (currently reviewing the Justice Committee Report) will be given a charge to examine the broader range of free speech issues that have arisen on our campus, particularly those that are faculty-related. It is recognized that this latter charge will be a longer-term effort.

The comments shown below in *[bracket italics]* are notes derived from the FCEC+ meeting and from FCEC-member comments following that meeting.

Comments on Intro: The FCEC concurs that processes are needed to better inform the community as to the current (and to be modified) rules regarding use of University facilities (GIB Chapter 10). In addition to the processes suggested (web-based distribution, informational handouts, etc.) we would also suggest that the Dean of Students Office consider developing a set of 'policy sheets' that succinctly summarize the pertinent rules for each type of facility usage or event. Such a document could be downloadable from the web, and would be signed by the organizational representative (signifying understanding and acceptance of the rules) and turned in as part of the application for using the facility. *[Discussion: Jim Vick thought this was a very good idea]*

Comments on Responses to President Faulkner's Questions:

1. We concur that the University should not (in general) get into the business of restricting displays based on content. The question posed, however, was whether the University has the *right* to restrict displays based on content. The second part of the response would suggest that the answer is 'yes' (denying a permit based on content is tantamount to restricting content). We concur that such a denial would be appropriate if there was reason to believe that there would be 'significant disruption of campus activities'. The question is, how is

such a determination to be made (so that it does not appear to be arbitrary)?
[Discussion: Long discussion on 'what if' scenarios, but Jim Vick agreed this was one of the more difficult issues to deal with and still needs discussion. This is one area where exploration by the Committee on Academic Freedom & Responsibility would be helpful; i.e., how does the University decide unacceptable content (obscene, etc), and how does the University predict 'significant disruption' without basing it on content?]

2. OK
3. It is not clear why Gregory Gym Plaza would be appropriate for an exhibit area, but not as a rally area. We're not suggesting that it *should* be, rather we're asking what goes into making the recommendation that a particular area be designated a 'rally area'. *[Discussion: This is an example of where the surrounding academic environment would dictate what should vs should not be a rally area based on the use of amplified sound. For example, if the Business School (which faces this area to the west) did not have objections to the use of amplified sound during specific time periods (e.g., 11:30-1:30), this then could be a rally area during that period of time. It's a community decision. That said, concern was voiced after the FCEC+ meeting as to whether the Gregory Gym Plaza area should be designated either a display or a rally area, based on the public traffic (i.e., including visitors for outside the University) across that area. The concern was that it would be difficult to protect visitors (especially kids) from potentially offensive material in such a high traffic area. One possible suggestion is to look at the Indiana model, where there are designated 'anything goes' areas with other areas designated with more restrictions].*
4. Assuming that 'existing rules' on co-sponsorship refers to Subchapter 10-200, Sec 10-201(c), this really is not clear since it simply refers to Regents' Rules. Is there a succinct way of stating what co-sponsorship would or would not be allowed? *[Discussion: A very long discussion ensued with the basic conclusion that this is an area that needs substantial work and definition. Input from the Committee on Academic Freedom and Responsibility on this issue would be helpful. It is important that this be clearly defined and communicated so that decisions for approval versus non-approval do not appear to be arbitrary, but in addition, to avoid allowing ambiguity to serve as a mechanism to circumvent the rules (i.e., 'loopholes')].*
5. Clarification of what constitutes amplified sound, when it is allowed, and (what appears to be) the requirement for prior approval in *all* cases is helpful. The definition of amplified sound needs work, however (how can amplified sound be a 'device'?). *[Discussion: A clearer definition will be proposed].*
6. We concur that the rules should apply to students, faculty, and staff.

Comments on the Subsection Revisions to Chapter 10:

1. Clarification of specific campus areas (for exhibits, rallies, etc) is very helpful.
2. Modifications for the section on Public Demonstrations: While it is understood why a longer period of time for application approval is necessary, there is concern that a 5-day turnaround could stifle timely, public response to a pressing issue. *[Discussion: Jim Vick agreed that the proposed timeline has the potential of creating the problem specified, and wasn't sure whether the*

one day turnaround was actually causing problems. He will therefore be taking this back to the Committee].

3. The final level of appeal is specified as the Vice President. Is there precedent for this (implying that a decision cannot be appealed to the President)?
[Discussion: From a practical standpoint, anyone can write a letter to the President appealing any decision. However, from an operational standpoint, there are ample examples of policies where Vice Presidents or Deans have the final word. An additional proposal would be that potential 'problem' application for use of campus facilities or a rally area be referred to an appropriate Committee (e.g., the Academic Freedom Committee if appropriate for the issue) for rapid response.]