DOCUMENTS OF THE GENERAL FACULTY

NARRATIVE REPORT AND RECOMMENDATIONS FROM THE TASK FORCE ON ASSEMBLY AND EXPRESSION AT THE UNIVERSITY OF TEXAS AT AUSTIN

Professor Douglas Laycock and the members of the President’s Task Force on Assembly and Expression submit the following report for discussion by the Faculty Council at its meeting on November 18, 2002.

John R. Durbin, Secretary
The Faculty Council

Posted on the Faculty Council Web site (http://www.utexas.edu/faculty/council/) on November 11, 2002. Paper copies are available on request from the Office of the General Faculty, FAC 22, F9500.
NARRATIVE REPORT AND RECOMMENDATIONS FROM THE TASK FORCE ON ASSEMBLY AND EXPRESSION AT THE UNIVERSITY OF TEXAS AT AUSTIN

October 23, 2002

Dr. Larry Faulkner, President
The University of Texas at Austin
400 Main
G3400

Dear Dr. Faulkner:

We are pleased to submit the report of the Task Force on Assembly and Expression. The report consists of four distinct documents, each of which will require further review by different bodies within the University and the System. The four documents are as follows:

1. Narrative Report and General Recommendations, with four Appendices.
   - Appendix I: Meetings
   - Appendix II: Consolidated Recommendations
   - Appendix III: Index to Principal Substantive Changes in Proposed Rules
   - Appendix IV: Proposed Policy on Campus Surveillance

2. Proposed Amendments to Regents' Rules and Regulations, Part One, Chapter VI, with Section-by-Section Analysis of Proposed Changes.

3. Proposed Chapters 6, 10, and 13, and Proposed Amendments to Chapter 11, Institutional Rules on Student Services and Activities (Appendix C to the General Information Catalog), with Section-by-Section Analysis of Proposed Changes. This document includes proposed drafts of:
   - Recodified Chapter 6 (Student Organizations)
   - Recodified Chapter 10 (University Property, Rooms, and Spaces)
   - Amendments to Chapter 11 (Student Discipline and Conduct)
   - New Chapter 13 (Speech, Expression, and Assembly)

4. Proposed Amendments to Handbook of Operating Procedures, with Section-by-Section Analysis of Proposed Changes. This document includes proposed drafts of:
   - New Policy 2.B.1 (duplicates proposed Chapter 10 of Institutional Rules)
   - New Policy 2.B.2 (replaces Old H.O.P. section 6.06)
   - New Policy 2.B.3 (replaces Old H.O.P. section 6.09)
   - Amendments to Policy 4.A.3 (Sexual Harassment and Sexual Misconduct)
   - Amendments to Policy 4.B.1 (Nondiscrimination Policy)
   - New Policy 12.B.1 (duplicates proposed Chapter 6 of Institutional Rules)
   - New Policy 13.A.1 (duplicates proposed Chapter 13 of Institutional Rules)
   - Amendment to Glossary of Definitions

We look forward to working with you and the rest of the University community as it considers these recommendations.

Very truly yours,

Douglas Laycock, Chair
Alice McKean Young Regents Chair in Law
Cindy I. Carlson
Professor of Educational Psychology
Faculty Council and Committee of Counsel on Academic Freedom and Responsibility

David M. Rabban
Dahr Jamail, Randall Hage Jamail, and Robert Lee Jamail Regents Chair in Law; Distinguished Teaching Professor; General Counsel, American Association of University Professors

Elizabeth Cullinford
Jane & Roland Blumberg Centennial Professor in English
Distinguished Teaching Professor

Alene S. Riley
M.P.A. Candidate 2003
Student Government Representative
Lyndon B. Johnson School of Public Affairs

R. Aaron Garza
Political Communication, Class of 2003

Kevin M. Robnett
English, Government, and Philosophy, Class of 2003 Chair, Senate of College Councils, 2001-02

Cullen M. Godfrey
Vice Chancellor and General Counsel
University of Texas System

Victoria Rodriguez
Vice Provost; Professor, Lyndon B. Johnson School of Public Affairs

Martha F. Hilley
Professor of Music
Chair, Faculty Council, 1999-2000

Janet Staiger
William P. Hobby Centennial Professor in Communication; Chair, Committee of Counsel on Academic Freedom and Responsibility

Richard W. Lariviere
Dean of the College of Liberal Arts
Ralph B. Thomas Regents Professor in Asian Studies

Jarrad A. Toussant
B.A. 2002, Plan II
Vice President of Student Government, 2001-02

Nancy J. McCowen, Staff Executive Assistant to the President

Cheryl L. Wood
Senior Student Affairs Administrator
Office of the Dean of Students

Bruce P. Palka
Professor of Mathematics
Chair, Faculty Council, 2001-02

Glen M. Worley
Manager, Library Services
Narrative Report and General Recommendations

Task Force on Assembly and Expression

The University of Texas at Austin

Prof. Cindy I. Carlson
Prof. Elizabeth Cullingford
Mr. R. Aaron Garza
Vice Chancellor Cullen M. Godfrey
Prof. Martha F. Hilley
Dean Richard W. Lariviere
Prof. Douglas Laycock, Chair
Ms. Nancy McCowen, Staff
Prof. Bruce P. Palka

Prof. David M. Rabban
Ms. Alene Riley
Mr. Kevin M. Robnett
Vice Provost Victoria Rodriguez
Prof. Janet Staiger
Mr. Jarrad A. Toussant
Ms. Cheryl L. Wood
Mr. Glen M. Worley
Table of Contents

I. Introduction ....................................................................................................................... 1

II. The Varieties of Speech on Campus and the Scope of the Task Force's Work .............. 2

III. Guiding Principles ......................................................................................................... 2

IV. Clarity ............................................................................................................................. 3

V. A Special Case of Clarity -- There Is No Such Thing as a "Free Speech Zone" ............ 5

VI. Scarcity of Space .......................................................................................................... 6

VII. Commercial Speech and the Scope of the Forum ....................................................... 8

VIII. Solicitation and Cosponsorship ................................................................................... 9

IX. Harassment .................................................................................................................. 11

X. Advance Permission Requirements .............................................................................. 14

XI. Equal Treatment of Students, Faculty, and Staff ....................................................... 15

XII. Speech by Persons Who Are Not Students, Faculty, or Staff .................................... 16

XIII. Surveillance by University Police ............................................................................. 18

XIV. Police Protection ...................................................................................................... 20

XV. The Lawsuit ................................................................................................................ 22

XVI. Conclusion ............................................................................................................... 22

Appendix I. Meetings ......................................................................................................... 23

Appendix II. Consolidated Recommendations .................................................................. 25

Appendix III. Index to Principal Substantive Changes in Proposed Rules ....................... 27

Appendix IV. Proposed Policy on Campus Surveillance ..................................................... 29
Narrative Report and General Recommendations

I. Introduction

The Task Force was recruited by President Larry Faulkner beginning in 2001, and formally created and given its charge by his letter of January 23, 2002. The Task Force met nineteen times during 2002 (see Appendix I).

One reason for creating the Task Force was the controversy in spring semester 2001 over the Justice for All exhibit -- a large, traveling, pro-life exhibit displayed on campus -- and the pro-choice response to that exhibit. The Task Force did not view itself as charged to conduct yet another investigation of that controversy, or of any other specific free speech controversy that has arisen on the campus. Rather, the Justice for All controversy became the occasion for a general review of the University's rules affecting freedom of speech. The Task Force considered specific past disputes only as illustrations of larger policy issues. With respect to the Justice for All incident, the Task Force relied in substantial part on the very helpful report of the Ad Hoc Committee on February 20 Incident, chaired by Dean Edwin Dorn. The Task Force also had the benefit of rule revisions proposed in the wake of that incident by a committee chaired by former Dean of Students Sharon Justice.

The principal recommendations of the Task Force are in the form of proposed amendments to the Regents' Rules, a proposed recodification of the UT-Austin rules on free speech and conforming changes in the policies on harassment, and a proposed policy on police surveillance of political activity on campus. Our proposals pertaining to free speech are based on a thorough reexamination of substance and organization. We have also proposed conforming changes and organizational clarifications in related sections of UT-Austin rules, but we have not reexamined the substance of issues with little impact on free speech. We have proposed two versions of the UT-Austin rules, one for the Handbook of Operating Procedures and another, substantially identical, for the Institutional Rules on Student Services and Activities. These proposals will have to go through normal legislative processes at the System and campus levels, respectively. Rationales and explanations for specific items in those proposals are provided in section-by-section analyses of the proposed rule changes. Where it is important for future users of the rules to understand a rationale that may not be obvious, succinct statements of rationale are embedded in the text of the proposed rules.

This Narrative Report summarizes the broader findings and conclusions underlying the recommendations of the Task Force, highlights the most important recommendations in the proposed rule changes, and makes certain recommendations that require administrative action other than rewriting of rules. Recommendations are stated at the end of each section of the report; all recommendations are repeated in one place in Appendix II. Principal substantive changes in the proposed new rules are indexed in Appendix III.

Recommendation:

1. The draft amendments to and recodifications of rules affecting speech, expression, and assembly, proposed by the Task Force and accompanying this Narrative Report, should be adopted by the university authority with responsibility for each proposed document.
II. The Varieties of Speech on Campus and the Scope of the Task Force's Work

Much of the University's work is conducted by speech. Teaching is speech; questioning, answering, discussing, and arguing in class is speech; publishing research is speech; lectures, colloquia, brownbags, and similar presentations sponsored by academic units are all forms of speech; the administration of the University requires much speech, both oral and written. Most of this speech is protected in various ways by academic freedom, by constitutional protections for freedom of speech, or by both. Fortunately, this University has not had significant recent experience with efforts to restrict such academic speech, and this Task Force has not undertaken any extensive review of potential issues pertaining to such speech. We have assumed throughout that in the allocation of scarce campus resources, speech that is part of the teaching, research, or administrative functions of the University has first priority.

The Task Force has been principally concerned with other speech on campus -- with speech by students, faculty, and staff that is not part of their course of study, their teaching or research, or their administrative functions. The university campus is by long tradition and natural function a forum for its students, faculty, and staff to exchange and test ideas on all sorts of issues. This speech is often political, religious, philosophical, ideological, or otherwise controversial, but much of it is not. Some of it is student clubs trying to attract new participants in their activities, from ballroom dancing to sailing to conversing in Spanish to doing volunteer work. Some of it is fundraising for various charitable causes. Some of it is people just gathering to talk. The University's students are energetic and intelligent, and many of them are engaged in an amazing variety of causes and activities. Many others just want to go about their business and ignore all the causes and activities. The central problem is how to accommodate in a limited space all these speakers, all their audiences, and all those who choose not to become part of the audience. Most members of the Task Force were surprised by the sheer number and complexity of the issues that grow out of this central problem.

A third category is speech by persons who are not students, faculty, or staff at the University. The Regents have chosen to restrict such speech, and for reasons stated below, the Task Force has treated this policy as generally beyond the scope of its charge. We do have some recommendations designed to clarify the boundaries of the existing policy or to solve problems arising from its implementation.

Finally, we have not examined any free speech issues pertaining to Texas Student Publications or to elections or internal operations of Student Government.

III. Guiding Principles

The Task Force was guided by four goals established early in its deliberations:

1. That any restrictions on free speech should be clearly stated and readily available to potential speakers;
2. That any restrictions on free speech should be legally defensible in the event of threatened lawsuits;
3. That free speech should not disrupt teaching, research, administration, or other functions of the University;
4. That the University should permit the maximum freedom of speech by students, faculty, and staff consistent with point 3.

Free inquiry and debate, and the pursuit of new knowledge and ideas, are at the heart of the University's purpose and function. These concepts are repeatedly emphasized in the University's Mission Statement and Statement of Core Values; stated core values include "Freedom - To seek the truth and express it," and "Individual Opportunity - Many options, diverse people and ideas; one University." The commitment to academic freedom within the university community, and the general guarantees of freedom of speech, press, assembly, and religion in the Constitutions of Texas and of the United States, protect the speech of students, faculty, and staff within their fields of teaching, study, and research and also when they address other issues. The University does not and should not regulate the viewpoints expressed by its students, faculty, or staff; save for very narrow and long settled constitutional exceptions, such as incitement to imminent violence.

Even so, on a crowded campus with many distinct activities, it is necessary to regulate the time, place, and manner of speech, sometimes more tightly than we might prefer in an ideal world. Properly implemented, such regulations can ensure that the functions of teaching, research, and administration continue undisrupted, and that all those desiring to speak receive a fair opportunity to speak and to be heard. It is essential that such rules be clearly stated, that they be readily available to the university community and readily comprehensible, and that they be scrupulously implemented without regard to the viewpoint of different speakers.

The entire campus of The University of Texas at Austin is open to free speech by students, faculty, and staff; we have no specially designated zones for free speech. However, we do have designated zones for certain means of speech, and especially for amplified sound, which has unique capacity to disrupt the speech of others and to disrupt the normal functioning of teaching, research, and administration.

IV. Clarity

Some of the existing rules are stated with admirable clarity, but many are not. The rules have been drafted at different times, by different persons, with different attitudes towards freedom of speech, and using different vocabulary. Rules pertaining to free speech are found in many different places (the Regents' Rules, the Institutional Rules on Student Services and Activities, the Handbook of Operating Procedures, the Student Organization Handbook, policy memoranda, written and unwritten policies of various academic departments). Free speech issues have sometimes been treated directly (as in Part I, Chapter VI, section 7 of the Regents' Rules), sometimes as a problem in the regulation and protection of university facilities (Part I, Chapter VI, section 6 of the Regents' Rules, and Chapter 10 of the Institutional Rules), sometimes as an issue of student discipline (certain provisions in Chapter 11 of the Institutional Rules), and sometimes as a response to the needs and concerns of particular constituencies (various policy memoranda on harassment).

Some of the most important rules, such as those on amplified sound, appear only in the Student Organization Handbook, and not in any set of formal rules from an identifiable body authorized to promulgate rules. Sometimes, again including the important case of amplified
sound, the settled working rule in practice is significantly different from the published versions of the rule. A very important rule prohibiting "cosponsorship" -- student, faculty, or staff organizations sponsoring an event with an off-campus organization -- is stated only in the most general terms, and all the important interpretations that give it meaning exist only in oral tradition. The multiplicity of sources is itself a cause of misunderstanding; persons who find a rule may think they have found the rule, and thus fail to find other rules on the same topic. The policy rationales of the various rules are sometimes not apparent and had to be explained to the Task Force. Much of the Task Force's time was spent simply trying to understand the existing rules and the real or perceived problems those rules were intended to solve.

The principal source of clarity in the existing rules is the Dean of Students Office. The Task Force was greatly impressed with that Office's administration of the existing rules. Campus and Community Involvement, the key office for this purpose within the Dean of Students Office, has worked hard to make sense of the tangle of existing rules, to enforce the rules even-handedly, and to help each student organization work within the rules to complete its programs and activities. Cheryl Wood and Tany Norwood of that office did an admirable job of helping the Task Force understand the existing rules and their practical implementation. Cheryl Wood is a member of the Task Force, but she did not participate in the writing of this paragraph.

Student organizations seem to learn the rules by trial and error and by asking questions of each other and at the Dean of Students Office. The Task Force examined an underground organizing manual that explained the rules, often quite clearly but not always accurately, and that claimed it had taken the authors four years to learn the various rules and how to work within them (or outside them, in the case of some of the manual's advice). Many of the rule changes recommended by the Task Force are principally designed to state existing rules more clearly.

Another obstacle to clarity is unavoidable -- the need for a reasonable degree of decentralization and administrative flexibility in the system. Departments administer bulletin boards, exhibit spaces, and the like in buildings they occupy, and this decentralization undoubtedly increases the opportunities for speech on campus. But it also creates many sets of separate rules that may not be accessible to the persons subject to the rules, may not be written down at all, and may be only impressionistically conceived and administered. Signs have been taken down for violating unpublished local rules that were unknown to the person who posted the signs. Similarly, even in a centralized office focused on free speech issues, important procedural and administrative details will develop in light of experience and cannot easily be included in published permanent rules. The Task Force has sought to strike a balance between decentralization and administrative flexibility on the one hand, and clarity on the other, by recommending simple means by which rules not formally legislated and published may be made available to the persons subject to those rules.

This report has grown to lengths that none of us envisioned when we began. But if its recommendations are adopted, all the important campus-wide rules on speech, assembly, and expression will be stated in one well-organized chapter of just over twenty pages.

**Recommendations:**
2. Rules affecting freedom of speech should be consolidated in one place to the extent feasible.
3. To the extent that Recommendation 2 is not feasible, each source of generally applicable rules should be coordinated with the others, and each source should clearly cross-reference the others.

4. Subsequent revisions to the rules should maintain this unity.

5. Decentralized and locally applicable rules, and procedural and administrative details not included in codified rules, should be made conveniently available by inexpensive means such as websites, or flyers or pamphlets conveniently available at the relevant offices.

V. A Special Case of Clarity -- There Is No Such Thing as a "Free Speech Zone"

In informal discussion of the University's speech rules, and to a lesser extent in the rules themselves, there has been a tendency to equate all forms of public speech. Yet the issues are very different. Quiet discussion in small groups, distributing leaflets and flyers, and setting up a table from which to solicit support, are forms of speech with little potential for disruption and little need for regulation. Exhibits present issues of appropriate location and traffic flow; very large exhibits may present issues of safety. Large demonstrations present issues of crowd control and traffic flow, and potentially of public safety. Amplified sound is uniquely disruptive of other speech essential to the functioning of the campus.

To speak colloquially of "free-speech zones" blurs these distinctions and confuses thought. It implies that free speech is prohibited in all other places on campus, which is obviously absurd. What is actually special about the zones commonly referred to as "free-speech zones" is that amplified sound is permitted there during working hours on weekdays. In addition, according to existing rules, public assembly is permitted without advance permission only in these zones. But that rule is unworkable and misleading. Advance permission is required to use amplified sound, and amplified sound is the reason for using the designated zones, so nearly all events in the designated zones occur with advance permission. Meanwhile, untold numbers of small public assemblies occur all over campus without advance permission and without incident. The designated zones are amplified sound areas, and that term should become common vocabulary on the campus.

The point is not merely pedantic; the term "free-speech zones" is affirmatively misleading. The Task Force found confusion, among student leaders and among its own members, about geographic restrictions on forms of speech that are not geographically restricted. Students, faculty, and staff may distribute literature, or set up a table, almost anywhere on campus, provided only that they do not disrupt other functions or block vehicular or pedestrian traffic. These activities are concentrated on the West Mall, partly because that is where the greatest potential audience may be found, but partly because talk of free-speech zones has led some students to believe that such activities are confined to the West Mall. Some students demanded that they be allowed to put up tables in other places, not realizing that they could already do so.

The term "free-speech zones" was one source (there were many) of the confusion surrounding the Justice for All exhibit. The plaza in front of Gregory Gym is a large open space, appropriate for exhibits. It is not appropriate for amplified sound, because it is too close to many classrooms in the Graduate School of Business. But the term "free-speech zones" implies that an area is open either to all forms of speech or to none; it seemed to follow that if
the plaza had been opened to exhibits, it must have become a free-speech zone and thus it must have been opened to amplified sound.

**Recommendations:**

6. The phrase "free-speech zones" should be banned from the University's rules, from its explanations of the rules, and from the vocabulary of its administrators.

7. Rules and explanations should clearly distinguish the different means of speech, and the distinct regulation of each.

**VI. Scarcity of Space**

The University's population is more than 52,000 students, nearly 3,000 faculty, and more than 18,000 staff. The great majority of these 73,000 persons work or study on the main campus of 407 acres, or just over 6/10 of a square mile. This implies an on-campus density of more than 100,000 persons per square mile.

The effective density is much greater for purposes of the practical problems addressed by the Task Force, because the people are not spread evenly over the 407 acres. Even a glance at the campus map shows that the campus is far more densely developed west of San Jacinto than east of San Jacinto, and more densely developed west of Speedway than between Speedway and San Jacinto. Speakers wishing to reach a general audience want to be where they will find the greatest density of potential listeners. Thus speakers compete for a small number of spaces on the West Mall, where foot traffic is very high.

The most visible forms of free speech occur outdoors, but the most important scarcity may be the shortage of meeting rooms indoors. Academic and administrative units have priority in the scheduling of rooms, and some of their needs are enormous. In addition to classes, some units schedule large blocks of conference rooms in the evening for weeks at a time, for important functions such as job placement.

Second priority in practice is for informal classes taught through the Texas Student Union. This is an important source of cash for the Union, but it diverts large numbers of rooms -- rooms in the Union and also general purpose classrooms -- to users who are heavily from off campus. Reassessing this priority is beyond the charge of the Task Force; it would require a balancing of on-campus speech and other priorities, and probably would require another source of funding for the Union. But this allocation of meeting rooms is a large diversion of a scarce and valuable University resource. This practice appears to be inconsistent with the stated priority, in section 8-601 of the Institutional Rules, that "Union facilities are reserved primarily for use by students, faculty, and staff members."

Third priority is registered student, faculty, and staff organizations seeking places to meet. Nine hundred twenty one student organizations registered for the fall semester 2002. The Dean of Students Office often struggles to find enough rooms so that all these organizations can meet.

Decentralization is part of the solution to the room shortage, but also part of the problem. The Dean of Students schedules outdoor locations, and working through the Registrar, schedules general purpose classrooms for registered student organizations. Other academic and
administrative units control some classrooms and many conference rooms. The Dean of Students cannot schedule these and does not even have a list of them. The academic units thus have priority in scheduling general purpose classrooms and also a monopoly in scheduling the rooms they control. The rooms controlled by academic units are also heavily scheduled, but it seems likely that some of them are little used during some periods, especially outside of business hours. Student organizations with a connection to a college, department, or school often schedule these rooms. It would help ease the shortage of rooms if some means could be found for other student organizations to know where to go to schedule these rooms, and be allowed to schedule them with a priority subordinate to that of the unit that controls each room.

Some forms of speech on the campus are restricted to particular places, and every such place is oversubscribed. Student organizations line up at the beginning of each semester to reserve time slots in the amplified sound areas, and rallies responding to current events must negotiate trades of time slots because none are available on short notice. By March 1, 2002, every available time slot in the West Mall amplified sound area had been reserved through the end of the semester, and Cheryl Wood of the Dean of Students Office told the Task Force that this is typical. Kiosks for posting signs are completely covered, often several layers of signs deep. Overnight space for hanging banners or erecting sign boards and exhibits is also oversubscribed.

There are multiple obstacles to creating additional spaces for these forms of speech. One problem is to avoid disrupting other campus functions; there are few places where amplified sound can be used during the day without disrupting teaching, research, or administration. The other problem is the speakers' desire to be where the densest audience is. We could change the rules to permit unlimited numbers of loud, raucous rallies in the parking lot of Disch-Falk Field, and nothing would happen; no audience would appear except on game days, and even on game days, that audience would have a special interest remote from most campus causes. Many other places, not so obviously remote, are unattractive to speakers because they carry much less foot traffic than the most heavily trafficked parts of the campus.

Planned and ongoing architectural changes on the campus -- most notably the new mall on Speedway and the new drop-off point for campus buses at 23rd and San Jacinto -- will reroute large volumes of foot traffic and may create attractive densities at places far removed from the West Mall. The rerouting of the buses should significantly increase foot traffic at the existing but little used East Bus Circle amplified sound area; pending physical improvements to that site, possibly including an amphitheater, may also make it more attractive. The Dean of Students Office and an earlier committee considering the Speedway Mall have planned a new amplified sound area on the East Mall, between Speedway and Inner Campus Drive. The workability of this space depends on the installation of strategically located speakers; multiple speakers hidden in planters throughout the area will permit successful events at low volume, minimizing any impact on nearby buildings. That installation is planned but awaiting funding.

The Task Force recommends completion of these pending improvements and also proposes four additional spaces for amplified sound. One is the Battle Oaks area, immediately north of Hogg Auditorium, where it is a substantial distance to any classroom and the large trees will help absorb and baffle the sound. Hogg Auditorium is little used during the day, and the
Dean of Students can coordinate scheduling of the amplified sound area with scheduling in Hogg. Another new amplified sound area is recommended at 23rd and San Jacinto, at the south end of the Art Building; that entire south wall has no doors and no windows, and no other building is near. Experience will determine the utility of these areas, but each has the potential for significant foot traffic, coming along 24th Street from Guadalupe and the West Campus area in the first case, and arriving by bus in the second case.

The Task Force also recommends that amplified sound be permitted in the area between the mustang statue on San Jacinto and the Texas Memorial Museum, and in the area between Robert Dedman Drive and the LBJ Fountain. These areas will never have much foot traffic, and thus are unlikely to be used for rallies designed to attract the attention of passersby. But they appear to be excellent sites for occasional events designed to attract an audience willing to travel to reach the event. Each of these areas is more precisely defined in the proposed Part 13 of the Handbook of Operating Procedures (which will also be Chapter 13 of the Institutional Rules), and shown in red on the maps attached to this report.

The shortage of space for signs results partly from existing rules that confine most outdoor signs to kiosks erected for that purpose. This rule serves principally aesthetic purposes; it protects against every outdoor surface on the campus being cluttered with signs. It has not been controversial, and the Task Force recommends no change. The shortage also results from lack of resources to enforce existing rules that ration the available space on kiosks by prohibiting solicitation by individuals and limiting the time each sign can be posted. The Task Force recommends enforcing those rules to the extent reasonably possible, and increasing the number of kiosks.

**Recommendations:**

8. The spaces identified in proposed Institutional Rules section 13-802 (H.O.P. Policy 13.A.1, section 802) should be designated for weekday amplified sound.

9. The Dean of Students should evaluate the use of the new amplified sound areas, and their impact on the campus, and report on whether any further changes are needed, within one year after amplified sound is permitted at the new sites.

10. The Dean of Students should continue to search for, or create, additional sites for banners.

11. The Dean of Students should erect additional kiosks in appropriate locations and seek inexpensive ways to enforce the rules that ration space on kiosks.

12. An appropriate committee should consider current priorities for scheduling rooms and better ways to make information available about rooms controlled by academic and administrative units.

**VII. Commercial Speech and the Scope of the Forum**

Commercial speech is a category that overlaps the distinction between speech by students, faculty, or staff and speech by others. Most speech that persons from off campus wish to bring to the campus is commercial, but not all; some of it is political protest, religious proselytizing, and other noncommercial messages. Most commercial speech on campus is from off-campus sellers and advertisers, but again, not all; students, faculty, or staff might seek to promote a business or advertise a product.
The campus has never been a forum for commercial speech. Speech on campus is generally confined to students, faculty, and staff, and the speech of students, faculty, and staff is generally confined to not-for-profit causes and ideas. These limitations of the forum are embodied in long-standing provisions of the Regents' Rules.

In legal terms, the campus forum is limited to certain speakers (students, faculty, and staff), and to a certain range of topics (non-commercial or not-for-profit topics). It is not necessary to resolve whether this limited forum exists by long tradition and operation of law, or only by designation of the Regents. What is clear is that the campus has never been recognized as a forum for off-campus speakers or for commercial advertising.

The Task Force believes that the exclusion of commercial speech from the forum is appropriate in terms of the University's central purposes. The University is committed to the creation, dissemination, and preservation of knowledge and ideas. It would be naïve to think that the University is wholly unaffected by the commercial marketplace or by its own revenue needs, but fundamentally, the University investigates and debates knowledge and ideas for their own sake. Students, faculty, and staff apply their knowledge and skills to discussion and debate of political, religious, philosophical, ideological, and academic issues, and these debates are closely related to the University's fundamental purposes of investigating knowledge and ideas.

Commercial speech, designed to sell a product or otherwise earn a profit, is much more distant from these fundamental purposes. Moreover, the profit motive is a powerful incentive, generating vast quantities of commercial speech, so that commercial speech dominates many forums where it is permitted. The campus already has insufficient space for all the students, faculty, and staff who wish to speak to non-commercial issues. Broadly opening the campus to commercial speech, or to speech by persons who are not students, faculty, or staff, would divert scarce campus resources to purposes much further removed from the central purposes of the University.

One special and difficult case is a proposal to permit commercial advertising on the campus when that advertising is a for-credit class project by one or more students in our highly ranked Advertising Department. This speech is inescapably dual in character; it is genuinely commercial advertising and it is genuinely part of the teaching mission of the University. Under existing rules, it is treated as prohibited commercial advertising (except in the space occupied by the Advertising Department).

The Task Force was divided on this question, but a large majority voted not to recommend any change in the existing rules. The Task Force was readily persuaded of the pedagogical value of designing real campaigns for real advertisers, but the majority was not persuaded of any pedagogical need for these ads to be displayed on campus. And the entire Task Force was concerned that any exception would provide a backdoor to commercial speech on the campus -- that sellers desiring to advertise on campus would simply volunteer to have advertising students design their campaigns.

VIII. Solicitation and Cosponsorship

The rules on solicitation and cosponsorship are principal tools for controlling commercial speech and speech by persons who are not students, faculty, or staff. It took much effort for the Task Force to understand these rules. These rules require clarification, and in our
judgment, modest relaxation. In the effort to avoid all risk of speech by off-campus groups, the rules have seriously restricted the speech of students.

The solicitation and cosponsorship rules are aimed principally at off-campus speakers, and to some extent, at commercial speech. There is ample incentive for off-campus speakers to evade or defy the rules excluding them from campus. The campus is a concentrated market of some 72,000 persons in a confined space, with a generally young and disproportionately affluent demographic profile. In addition, the University has attractive facilities, with many classrooms, conference rooms, and auditoria. Commercial vendors and advertisers want to reach the University market; commercial vendors and non-profit organizations alike want to use University facilities free of charge.

The Dean of Students Office reports regular incidents of advertisers coming on campus and distributing literature until detected and expelled. It reports vendors of services aimed at students, such as test preparation services, using rooms to deliver sales pitches or even sample lessons. It reports off-campus organizations holding conferences on the campus, without authorization and without paying any rent or expenses. Sometimes such speakers simply appear, without permission or reservation.

Another way for such off-campus speakers to get access is to use students, faculty, or their organizations as fronts. It would do little good to exclude commercial advertisers if they could recruit students to distribute their advertising for them. The solicitation rules are aimed at this potential evasion; solicitation is very broadly defined, and it is prohibited on campus, even if conducted by students, faculty, or staff.

Similarly, off-campus organizations recruit student organizations or faculty members to reserve rooms for them. So the room reservation may say the pre-law club, but the program turns out to be an LSAT test preparation service. The cosponsorship rules are aimed principally at this abuse; student, faculty, and staff organizations may not cosponsor events with off-campus groups. (Academic units -- colleges, departments, research centers, etc. -- may cosponsor events that have educational value.)

These rationales make sense, but neither the rationale nor the meaning of the rules is apparent in the current codification. Solicitation is defined and prohibited with enormous breadth in the Regents' Rules (pt. 1, ch. VI, sec. 6.6), and then permitted in twenty-three distinct exceptions. Many of these are commercial exceptions far removed from the concerns of the Task Force; for example, exception (b) permits vending machines on campus. A general recodification could simplify and clarify the solicitation provisions of the Regents' Rules, but the Task Force has not undertaken that task. Rather, we propose clarification in the Institutional Rules and Handbook of Operating Procedures of those provisions that most directly affect students, faculty, and staff. The Task Force also proposes modest substantive changes to avoid consequences that may have been unintended and in any event are unjustified. These changes are detailed in the proposed amendments to the Regents' Rules.

Cosponsorship is prohibited in quite general terms, and the meaning of cosponsorship has been left to administrative interpretation and oral tradition. The Dean of Students' working rules for
when an event is cosponsored are generally quite sensible, and the Task Force proposes to codify those rules in Chapter 13 of the Institutional Rules. One of those working rules, as the Task Force has drafted it, is that an event is cosponsored (and thus not permitted) if the on-campus group "depends on the off-campus person or organization for planning, staffing, or management of the event." The intent here is not merely that there be at least one student, faculty member, or staff member working at the event, but that students, faculty, and staff doing the bulk of the work.

One administrative interpretation of the cosponsorship rules seems to us mistaken. Students may not display any sign, or distribute any literature, that was prepared by an off-campus group or gives contact information for an off-campus group. So, for example, the University Democrats cannot distribute literature from the Travis County Democratic Party; the Young Conservatives of Texas cannot distribute literature from the national Republican Party; Justice for All was required to cover the URL for the website of a national organization whose views it shared. In general, students can promote the views of off-campus organizations that they support, but they cannot identify those organizations. The Task Force heard testimony from student organizations whose principal political literature is prohibited by these rules.

The Task Force believes that this interpretation may violate the students' right to associate with other like minded persons for common goals, that it significantly interferes with debates on campus among our own students, and that it is not necessary (in fact does not contribute) to the underlying goal of preserving campus facilities for use by students, faculty, and staff. The Task Force believes that if students, faculty, and staff organize the event and occupy the space on campus, and if no other subterfuge disguises control by an off-campus organization, the cosponsorship rules are generally satisfied. We attempt to codify this standard more precisely in proposed Chapter 13.

IX. Harassment

Harassment can appear in many forms, only some of which involve speech. A general revision of harassment policy is beyond the scope of our charge, but the intersection of harassment policy and free speech is squarely within our charge, and we have attempted to clarify that intersection.

The University's rules against harassment have received much attention over the years, and a student committee is preparing new proposals. Harassment is notoriously difficult to regulate clearly and effectively, and the relevant law has been subject to substantial change over time, but the work of successive committees on this campus has created sound substantive policies that are sensitive both to the serious harm of harassment and to the importance of free speech. We propose further elaboration and clarification of existing policies, but these proposals reflect no substantive disagreement with the work that has already been done.

The principal problem with current harassment policy is that students and perhaps others coming to it for the first time still find it unclear, despite or perhaps because of the multiple efforts to clarify. One source of confusion is that separate parts of the existing rules appear in multiple places, without adequate cross-references. There is a ban on harassment by students in section 11-804(a)(12) of the Institutional Rules, under the heading "Certain Other Offenses," a somewhat more
expansive rule against harassment by students in Policy Memorandum 4.121, reprinted as Appendix E to the General Information Catalog, and a provision for enhanced penalties for offenses committed with racial motive in section 11-501(b) of the Institutional Rules. There is a ban on "Sexual Harassment and Sexual Misconduct," in Policy 4.A.3 of the Handbook of Operating Procedures, under the general category of "Ethics." There is a ban on harassment based on the traditional civil rights categories (and some more recent ones) in the "Nondiscrimination Policy," H.O.P. Policy 4.B.1, under the general category of "Discrimination." Some of these prohibitions reappear, in slightly different terms, in the H.O.P. Glossary of Definitions. There is a ban on "physical abuse, threats of violence, and physical assault" in a policy entitled "Prohibition of Campus Violence," H.O.P. Policy 12.A.1, under the general category of "Student Conduct." And there is an exhortation to voluntary civility and sensitivity in Policy Memorandum 4.120, entitled "Student Policy on Race Relations" and reprinted as Appendix I to the General Information Catalog.

Not surprisingly, the Task Force encountered students who had found only part of this array of policies. Some students seem to know about the exhortation to voluntary civility but to believe that there are no enforceable rules against racial harassment. Others seem to know about the rules but not about any remedy for victims. Some students wondered why our policies have so much detail on sexual harassment and so little on racial harassment. Hardly anyone knew that harassment policies that apply to speech must be quite general: the Supreme Court has held (in R.A.V. v. City of St. Paul) that the Constitution prohibits speech applications of harassment policies that protect only certain categories of victims. Section 11-804(a)(12) of the Institutional Rules appears to have been rewritten in light of this decision, but other harassment policies may not have taken full account of R.A.V.

A second source of confusion and dissatisfaction is that the existing rules offer little guidance about what harassing speech is prohibited. The principal provision addressing this problem simply says that speech protected by the Constitution is not harassment. This is a plausible response to cryptic Supreme Court opinions, but it provides little guidance either to potential harassers or their victims. It is probably impossible to draft a clear and succinct rule that defines this line, but it is possible to give more guidance than we have.

A verbal harassment rule can apply only to a narrow range of abusive speech; it cannot prohibit speech that is necessary to the expression of any substantive idea. In most cases the difference is clear, and in cases of doubt, enforcement should err on the side of free speech. Even so, there will be hard cases at the margin. These hard cases do not arise from the rule the Task Force has proposed, but from the interaction of the Free Speech Clause with any harassment rule whatever. The existing policy (H.O.P. Policy 4.B.1, sec. I.C.2), bans harassment by "verbal or physical conduct" and protects "constitutionally protected expression." This policy requires the same judgments as the policy proposed by the Task Force; the existing policy simply says less about how to make those judgments.

The proposed harassment rule requires special attention, because many harassment and hate speech rules at other universities have been held unconstitutional. An opinion of the UT System's General Counsel, dated Nov. 3, 1997, advised that the then-extant racial harassment policy was unconstitutional, because it prohibited only harassment that was based on "race, color, or national
origin." The opinion also noted, citing a passage in the Supreme Court's opinion in *R.A.V.*, that race-specific rules are not necessary "to serve the compelling state interest in ensuring basic human rights of groups historically discriminated against, since an ordinance not limited to the specified topics (race, sex, national origin, etc.) would have the same effect." The Task Force agrees with that analysis. To protect minority students from harassment, it is essential to protect all students from harassment. The Task Force proposal prohibits verbal harassment on any basis, against any category of victim; racial harassment is mentioned merely as one of many non-exclusive illustrations. This proposed policy squarely covers racial harassment, but it also covers harassment on any other basis.

More generally, the Task Force proposal is based squarely on the Supreme Court's opinion in *R.A.V.* Each opinion in that case emphasized that unprotected speech is speech that is "no essential part of any exposition of ideas," and "of such slight social value as a step to truth that any benefit that may be derived . . . is clearly outweighed by the social interest in order and morality." The same idea appeared repeatedly in varied formulations. The Task Force proposes to make it part of the definition of verbal harassment that the harassing speech not be necessary to the expression of any political, religious, philosophical, ideological, or academic idea. The same idea appears, more succinctly, in the existing Policy on Sexual Harassment (H.O.P. Policy 4.A.3). That Policy repeatedly distinguishes "gratuitous" sexual remarks from other sexual remarks. Sexual remarks that are relevant to a substantive discussion are not "gratuitous."

The Court in *R.A.V.* also recognized that harassing words may be a form of discrimination that can be prohibited. That approach to regulating harassment appears in existing Policy 4.B.1, and we propose only modest clarifications to better conform to *R.A.V.*

The lower courts have struck down harassment and hate speech policies at many universities. But nearly all of those policies were confined to race and other civil rights categories, and thus violated *R.A.V.* And many universities enforced them in foolishly aggressive ways, attempting to punish offensive arguments about substantive ideas. Most of those cases had no occasion to consider a policy like that proposed by the Task Force.

Lower courts have generally taken a broad view of what kinds of offensive rhetoric is protected by the First Amendment, although many of these cases involve rhetoric directed at public officials (who probably have less right to protection), or to the world at large, and not to individual victims whose education might be affected.

The cumulative First Amendment limitations are stringent and remain somewhat ill-defined. It may be that the effective range of the proposed policy will be limited to the worst kinds of epithets and personal abuse. Even so, the Task Force is unwilling to say to our students that we will not prohibit the worst kinds of epithets and personal abuse, for fear that we cannot prohibit more or that it may be difficult to draw the line. The proposed policy has been written after very careful attention to the controlling cases, by a Task Force that is very sympathetic to the rights of free speech. Despite the remaining uncertainties, we believe that the proposed policy is constitutional.

The Task Force has not undertaken to rewrite or consolidate all the existing harassment policies, but we do recommend a thorough set of cross references. We recommend withdrawing
Policy Memoranda 4.120 and 4.121; their substance has been incorporated into existing or proposed rules. And we have attempted to define the boundaries of harassment by speech, prominently placed in a set of rules on prohibited speech. This prohibition on verbal harassment applies to all speech on campus, including the classroom and other interactions between students and faculty.

The prohibition on verbal harassment that we have proposed will be fully enforceable through existing procedures -- through the student disciplinary process in the case of students accused of harassment, and through the procedures set out in H.O.P. Policies 4.A.3 and 4.B.1 for faculty and staff accused of harassment.

The Task Force was completing its work at the same time that University officials were negotiating with the federal government about other parts of the harassment and discrimination rules. The result of that negotiation was that students alleging sex discrimination or disability discrimination are encouraged to report to the Dean of Students, but students alleging any other form of discrimination are not affected by that negotiation and are encouraged to report, as in the past, to Equal Opportunity Services. This choice presents no free speech issue, and the Task Force has no opinion on the merits of where to report. We do think that in the interest of clarity, all student allegations of discrimination should be directed to the same place, and as a result of the federal negotiations, that place must now be the Dean of Students. We have drafted proposed rules to that effect.

**Recommendation:**

13. Policy Memoranda 4.120 and 4.121 (Appendices E and I of the General Information Catalog) should be repealed.

**X. Advance Permission Requirements**

The current rules require advance permission to set up a table. They require advance permission for any public assembly, with no size threshold or definition of terms. If the rule is read literally, two students talking together in a public place require advance permission from the Dean of Students. The Dean is not authorized to withhold permission except for a short list of reasonably objective criteria: the proposed activity would disrupt teaching or research, or would disrupt another event, or the group seeking permission is subject to some disciplinary penalty that excludes the event, and the like.

Requiring advance permission to engage in speech is exceptional in the American system, and it has substantial costs. A requirement of advance permission would prohibit spontaneous public assemblies. On evenings and weekends, it would prohibit not just the literally spontaneous, but also any assembly planned on short notice. An unfortunate symbolic meaning inheres in any rule that permits protest only with permission from the authorities who are the target of the protest. And many of these advance permission requirements serve little purpose; they often amount to bureaucratic paper shuffling when students comply, and usually little harm results when students do not. The Task Force believes that advance permission should be required only when there is a sufficient risk of some genuine problem if students proceed without consulting the Dean of Students. We have found such a risk with respect to amplified sound, but not with respect to every public assembly.
There are general rules, which the Task Force would clarify and retain, against disrupting university functions or other ongoing events, or interfering with pedestrian or vehicular traffic. These rules can be enforced when they are violated, and disruptive demonstrations can be broken up. In addition, the Dean of Students informally consults with student organizations, helping them to plan their events in ways that will comply with the rules and minimize disruption. Advance permission requirements provide an opportunity for this informal consultation, but this consultation can be encouraged in other ways, and often it is not needed.

Signs, tables, and distribution of literature should not require advance permission. Banners require advance permission, both because space is scarce and must be reserved, and because in some locations, the physical task of climbing to hang the banner is best left to experienced workers. Amplified sound has a high potential for disruption and thus properly requires advance permission, which provides an opportunity for consultation about scheduling, location, and arrangements.

Large exhibits have a greater potential to block traffic flows, and sometimes present questions about safety or security. Less obvious, but perhaps even more important, temporary exhibits on sidewalks are a hazard to visually impaired pedestrians. The danger is not so much tripping; the more common problem is that the visually impaired can become unsure of where they are when they encounter obstacles in unexpected places. For these reasons, the Dean of Students carefully specifies the location of exhibits, and the Task Force recommends retaining the advance permission requirement for exhibits.

That leaves public assemblies. Clearly it is absurd to require advance permission for any meeting of two or more people in a public place. If we retain an advance permission requirement, it must be only for assemblies larger than some threshold size. Large public assemblies generally require amplified sound, and in that event, advance permission is required for the sound. We are left with a narrow category of large groups meeting without amplified sound -- perhaps carrying signs, marching or picketing, chanting slogans, or holding a silent vigil.

The Task Force recommends, in its proposed Part 13, that no advance permission be required for public assemblies without amplified sound, but that consultation with the Dean of Students be strongly encouraged. Consultation gives adequate opportunity to avoid any unintended disruption or conflict between University authorities and those assembling. Consultation avoids the unfortunate symbolism of asking advance permission for a peaceful and nondisruptive assembly. We have emphasized the advantages of consultation in planning large public assemblies, but we have not required advance permission.

XI. Equal Treatment of Students, Faculty, and Staff

The Task Force has concentrated on speech that is not part of the teaching, research, or other official functions of the University. In that context, the Task Force believes that students, faculty, and staff should have the same rights, should be subject to the same rules, and should have equal priority in the use of campus facilities. Restrictions on speech should be only those that are necessary, and these necessary restrictions should apply to all.

There remains a question of how to enforce and administer these rules. The great bulk
of this speech is the speech of students, and principal enforcement responsibility has long been vested in the Dean of Students. On matters of scheduling and coordination in outdoor spaces, it is essential for everyone to schedule through the Dean of Students. Any division of scheduling responsibility creates a substantial risk of having two events scheduled in the same place at the same time.

Administrative proceedings to enforce the rules present a more difficult question. In the Justice for All dispute, both student and faculty speakers were involved. It is illusory to say that students, faculty, and staff have the same free speech rights if there is an effective mechanism to enforce rules against students but none for faculty and staff. Probably the most effective enforcement mechanism is prevention — to remove the illegally posted sign or exhibit, to ask the disruptive demonstrators to move, or if necessary, to break up the disruptive demonstration. But prevention is not always possible, or not always possible with safety. And prevention is inevitably more difficult if there is no sanction for noncompliance.

Faculty and staff should not be subject to adjudication or discipline by the Dean of Students. Discipline of faculty is rare, and the applicable procedures and possible penalties are neither well developed nor well understood. Procedures appropriate for tenure revocation are likely disproportionate to disputes over unauthorized use of amplified sound or inciting a disruptive demonstration. Procedures for discipline of staff are designed for workplace disputes, and may not work well for enforcing rules about behavior off the job but on the campus.

The Task Force decided that elaborating a disciplinary system for faculty and staff was beyond the scope of its charge and beyond its abilities in the time available. But some appropriate body needs to clarify the rules and procedures for enforcing rules as they apply to faculty and staff. Due process requires clear rules and procedures, academic freedom requires that procedures for faculty be based on traditional principles of peer review, and the vision of equal rights to free speech for students, faculty, and staff requires some effective enforcement mechanism for each group. In the meantime, we adopt the Justice Committee's recommendation that alleged faculty violations be referred to the Executive Vice President and Provost, and that staff violations be referred to Human Resources Services.

Recommendation:
14. An appropriate committee or committees should review the procedures for enforcing rules that apply to faculty and staff, with a view to creating, at least in the context of limits on free speech, equally effective enforcement mechanisms for students, faculty, and staff.

XII. Speech by Persons Who Are Not Students, Faculty, or Staff

The Regents' Rules close the campus to leaflets, demonstrators, and uninvited speakers from off campus. This rule is manifested principally in the declaration that the campus is "not open for assembly, speech, or other activities as are the public streets, sidewalks, and parks," (Regents' Rules, pt. 1, ch. VI, sec. 6.1), and in section 6.2's rule that no university property "may be used for any purpose other than in the course of the regular programs or activities" of the university, "unless authorized by the Regents' Rules." The Regents' Rules go on to generally authorize speech by students, faculty, and staff, but they authorize speech by others only in narrow exceptions to the general prohibition.
Important applications of these rules were litigated in *Brister v. Faulkner*, 214 F.3d 675 (5th Cir. 2000), which involved persons distributing leaflets on or near the West Mall and near the Erwin Special Events Center. The federal district court upheld the exclusion of off-campus speakers from the West Mall. Plaintiffs did not appeal this holding, which is described in footnote 1 of the court of appeals' opinion. The principal legal issue on appeal involved ambiguity about the boundary of the campus near the Erwin Center; the problem of clear boundaries is discussed below.

The Task Force defined the substance of the *Regents' Rules* that exclude outside speakers as beyond the scope of its work. Many members of the Task Force would prefer to broaden the public's right to speak on the campus. However, given the primary uses of the campus for teaching, research, and administration, and given the space constraints discussed above, all members believe that public access for speech must be limited. The Task Force did not define those limits, partly because the problem is difficult and any search for consensus promised to be time consuming, and partly because we had completed an immense amount of work and our Report was already overdue.

Even so, we were confronted with narrower issues arising out of the implementation of these rules. First, the exclusion of off-campus speakers is relevant to another rule, the exclusion of anonymous speech. The *Regents' Rules* require that signs and printed material identify the person or organization that posted the sign or distributed the material. The Task Force discussed this rule, which is in some tension with constitutional protection for anonymous speech in the larger society. But anonymous speech would greatly increase the difficulty of enforcing any distinction between speech by students, faculty, and staff and speech by persons from off campus; in the extreme case of signs, anonymous speech would render any such distinction wholly unenforceable as a practical matter. The constitutional power to restrict anonymous speech is therefore a corollary of the Regents' power to control access to the property that constitutes the campus. The federal court of appeals has indicated approval of the rule against anonymous speech (in footnote 9 of the *Brister* opinion, a case in which the issue was not contested.)

Second, if we are to exclude speakers from the campus, we must have a clear boundary to the campus. But the boundaries are sometimes unclear and are generally unmarked. The public is generally free to speak on the city sidewalks at the perimeter of the campus; city sidewalks are usually public forums and in any event are outside the University's jurisdiction. The boundary between campus and the city sidewalk may be clear when the sidewalk adjoins grass or a retaining wall, although even then it is not inevitable that the edge of the sidewalk is the boundary. The boundary is especially unclear when the city sidewalk adjoins a campus sidewalk or paved plaza. In the neighborhoods north and west of the main campus, the University has bought apartments and other formerly private buildings, with architecture typical of private buildings, so that even the approximate boundary of the campus may be unclear. Fortunately, these parts of the campus are rarely the site of controversial speech.

The one legal issue clearly resolved at the appellate level in *Brister v. Faulkner* is that rules against off-campus speakers are constitutionally unenforceable in areas where the boundary between campus and non-campus is not clearly marked. The case involved the
unmarked boundary between the city sidewalk along Red River and the plaza of the Erwin Center. Similar disputes have arisen, without leading to litigation, over the boundary between the city sidewalk along Guadalupe and paved areas of the West Mall. The solution is to clearly mark the boundaries by some architectural feature or, if nothing else is available, by a painted stripe. It would also help if a conveniently available map clearly showed the boundaries of the campus.

**Recommendations:**

15. An appropriate university office should prepare a map of the campus that clearly and precisely shows the boundaries of the campus. This map should be publicly available on a website and in printed form.

16. The boundaries of the campus should be physically marked at the Erwin Center, at the edge of the West Mall, and at any other boundary site that attracts persons seeking to communicate with other persons passing by.

### XIII. Surveillance by University Police

An issue of substantial concern to students is their perception of the possibility that the University of Texas at Austin Police Department is conducting political surveillance of student activists. These fears are fueled by widely reported abuses that have occurred elsewhere, and by occasional reports here of undercover officers attending meetings of student organizations. The worst fear, of course, is that our campus police might behave like some other law enforcement agencies that maintained intelligence files on suspected political activists in the past.

Surveillance is not unlawful or unconstitutional. Law enforcement authorities may observe what people do in public places, attend meetings that are open to interested members of the university community, and speak to anyone who is willing to talk. These forms of investigation are not searches subject to constitutional scrutiny and do not, as a constitutional matter, require a warrant or even reasonable suspicion. The campus is not immune from criminal activity or even from terrorism, and it is not immune from the risk that large crowds or peaceful demonstrations sometimes get out of hand. In the Justice for All incident, both a demonstrator and a police officer were injured, other officers were pushed and shoved, and an unidentified person attempted to take an officer's weapon from its holster.

Reasonable efforts to prevent harm to persons and property before it happens are better than attempts to punish after the fact. But it is equally clear that political surveillance can be abused, and that the Constitution permits forms of surveillance that would not be good policy, especially on a university campus committed to free and open exchange of ideas. The judiciary cannot manage police investigations in the name of enforcing the Constitution; important judgments about the proper limits of necessary investigations must be left to the political process and to professional law enforcement officers.

The Task Force has investigated to the best of its ability and found no evidence of political abuse in the current or recent practices of the University Police Department. The Task Force recommends that the Department promulgate a set of guidelines for on-campus surveillance. Our model here is the very helpful Policy on Racial Profiling promulgated by Chief Jeffrey Van Slyke and posted on the Department's website. We propose a draft, which we
believe is consistent with current practice, and which might be further improved in consultation with the Department. We believe that a written policy will both provide a stronger basis for current practice, a guide to individual officers, and reassurance to much of the student body. Undoubtedly it is impossible to eliminate all suspicion of the police among student activists. But a large part of the current suspicion seems preventable.

Chief Van Slyke and Assistant Chief Terry McMahan met with the Task Force on February 28, 2002. They described their surveillance practice in some detail. On March 19, Douglas Laycock, an attorney and Chair of the Task Force, and Jeffery L. Graves, Associate Counsel to the University, met again with Chief Van Slyke and Assistant Chief McMahan. Within the protection of the attorney-client privilege, Laycock and Graves reviewed with the officers the contents of the Department's intelligence files, document by document. These files could not be produced more generally, because they are law enforcement investigation files exempt from the Open Records Act, and because the University cannot prudently waive that exemption.

Chief Van Slyke and Assistant Chief McMahan confirm that plainclothes officers have, on rare occasions, attended meetings of student groups planning rallies or other events. They report very few such incidents; they could remember only three. They say that their criterion for attending a meeting is a credible report that participants in the meeting are planning an event that may be disruptive or unusually large, and that their only goal is to determine how much police presence is likely to be necessary at the event. Their ability to provide corroborating details was somewhat limited, in part because they had not anticipated student suspicions and so they had not documented their actions.

The files examined by Laycock and Graves were entirely consistent with UTPD's account. The files were not voluminous. Most of the documents in the files consisted of warnings from citizens and other law enforcement agencies. Many of these warnings involved patterns of ordinary criminal activity; a few involved politically motivated vandalism elsewhere. Most of these documents had relatively short useful lives: the threatened event either happened or it did not, and the threat faded into the past. The files were organized more or less chronologically, reflecting the preventive purposes for which they were used.

There was no file on any student organization or any individual student, and few references to identifiable student organizations. Nothing was organized in a way to reflect the politics of any person or organization. To the extent these files contain some information about identifiable students or organizations, they are organized in such a way that it would be impossible to find that information except the way we found it, by perusing each document. (This broad characterization of course does not include files on individuals who are arrested for an offense, and investigation files on reported crimes and similar incidents that do not result in an arrest.) Chief Van Slyke assured us, and it is impossible to doubt him in light of the files' organization, that there is no linkage between these intelligence files and student files maintained by academic units of the University.

The Task Force sees no need to change these policies of the University Police. However, we believe that codifying these policies would have substantial benefit.
Recommendation:

17. The University Police should promulgate a Policy on Campus Surveillance on the lines of the draft set out in Appendix IV.

XIV. Police Protection

The University of Texas Police Department provides security for all events on campus. For small outdoor events during the day, this can often be done by officers on regular patrol. For larger daytime events, and for nearly all evening events that require security, this requires assigning one or more officers to the event, and it requires overtime pay to those officers. The administrative practice has been to charge the cost of this overtime pay to the organization sponsoring the event. In the case of student organizations, one of the organization's officers is required to guarantee the organization's obligation to pay for security, and that student can be barred from registration if the organization fails to pay. No part of this practice has been stated in any written rule.

Officers are assigned to events that attract large crowds, to events in the Texas Student Union where money is collected, and to other events as determined in consultations among the planners of the event, the Dean of Students Office, and UTPD. Officers are assigned to social, recreational, and academic events as well as to political rallies. Determining the total expenditure for such events would require an audit of UTPD's overtime pay records, which we have not undertaken. In March and April, 2002, the total cost of police overtime for scheduled events sponsored by student organizations was $8,383.64. March and April are relatively heavy months; months when classes are not in session are much lighter. So the annual cost of police protection at scheduled events of the kind considered in this report is well under $50,000; $35,000 seems a reasonable guess.

For some events, there are legal and practical obstacles to collecting the cost of overtime pay. First, controversial events often require more security, but the University cannot lawfully charge more for controversial events than for uncontentious ones. Charging for controversy would discriminate based on the viewpoint of the event's speakers or sponsors. Often it would impose on the speaker costs created by hotheaded critics or counterdemonstrators.

Second, student groups can sometimes avoid the charge by not scheduling their event, not reserving a room or space, and then claiming that the event is a spontaneous group of individuals with no sponsoring organization. This is an obvious student response to the prospect of a substantial financial charge for security, but it is a dysfunctional response that increases the difficulty of planning and policing the event. When an event proceeds in this way, the Dean of Students has neither a regulatory nor an advisory role in planning the event. UTPD has no warning that police protection might be needed. No identifiable persons can be held responsible for the event, and there may be no identifiable leaders to work with if it becomes necessary to control, limit, or redirect the event. A fundamental principal of both the existing and proposed rules on public assemblies is cooperative consultation between student organizations and the Dean of Students Office. The practice of charging for security creates powerful incentives to avoid such consultation whenever possible.

Third, for those occasional events that require substantial security, no student
organization can afford the charge. If confrontations escalate between demonstrators and counterdemonstrators, or if a high profile cause generates sustained demonstrations over time, the costs quickly escalate. Two dozen officers on overtime cost more than $1,000 per hour.

The University could attempt to ban demonstrations by groups that cannot afford to pay for security, but the Task Force believes that such a rule would be bad policy. It would suppress free speech in some of its most important applications. In any period of sustained demonstrations, a ban on those who could not pay would inevitably generate new demonstrations protesting the ban on demonstrations. The ban could be portrayed as free speech only for the rich; it would likely generate negative national publicity. The Task Force was dismayed by the prospect of anti-war demonstrations at campuses around the country, and of Texas struggling to enforce a ban on all demonstrations by students who could not or would not pay the university police for the right to protest the war.

These kinds of considerations have led the University to sometimes waive the charge for security, including the recent example of the first Justice for All Exhibit. Four officers were assigned to that exhibit initially, and many more were called to the scene when the confrontation escalated between the exhibitors and those responding to the exhibit. Waiving the charge in this case raised charges of discrimination from other student groups who had paid a security charge for their events. Waiving the fee may often be appropriate, but the lack of any clear policy leaves the University vulnerable to such charges of discrimination.

One possible solution is for the University to abandon the charge and absorb the cost of security at all events. The Task Force believes that that would be an excessive response, much broader than the problem. Large numbers of routine events with modest security needs are able to support the security charge, and many of these events require a room reservation or some other form of advance planning that makes it difficult to bypass the Dean of Students Office. The challenge is to write a workable rule that roughly separates the cases where the University can reasonably collect the charge from those where it cannot.

The Task Force recommendation, in its proposed Chapter 13, depends on two basic points. First, the Task Force recommends that the University charge for security only when the sponsors of the event charge a fee for admission to the event, or when they pay for services provided by someone from off campus, such as a speaker or a band. The rationale for these two categories is partly economic. If the sponsors are charging a fee, they can afford to pay for security; if they can afford to pay others for necessary services, they can afford to pay the University for its necessary services. In addition, few organizations are willing to put on this kind of event without reserving a room or space; the incentive to bypass the Dean of Students is effectively deterred.

Outdoor political rallies involving our own students would normally not charge a fee for admission, and not pay for services. Thus, the University would normally provide free security for these events. These are the events with the greatest risk of real or perceived discrimination and with the greatest ability to bypass the Dean of Students.

The second key element of the Task Force recommendation is that even when an event charges for admission or pays for services, the University should charge only for the number of officers that would be required if the event were uncontroversial, and not for the additional officers required because of controversy or conflict. In effect, the University should absorb that
part of the cost of security that is attributable to controversies of the kind that implicate the First Amendment. This minimizes the risk of discriminating on the basis of the viewpoint of different speakers, and it minimizes the risk of liability for such discrimination. The number of officers that would have been required may not always be obvious; in cases of doubt, the University should charge for the low end of the range of estimates.

XV. The Lawsuit
On October 1, 2002, Justice for All and two students filed a lawsuit against numerous university officials, including two members of the Task Force. The Task Force has recommended substantial revisions in many of the rules that Justice for All challenges. But because this lawsuit was filed without warning, it had little effect on the work of the Task Force. After consideration, the two named defendants chose to sign the report as planned and not to resign from the Task Force.

When the Task Force first learned of the lawsuit, it had already completed eighteen of its nineteen meetings, had reached agreement on all the issues that are common to the Task Force report and the lawsuit, and had approved drafts of this Narrative Report and of proposed revisions to the rules challenged in the lawsuit. The Task Force had already decided to exclude from its work the basic policy question concerning speakers who are not students, faculty, or staff. It had scheduled a meeting for October 7, and it had already decided that that meeting would be its last before issuing its report. What remained for that final meeting was further substantive discussion of certain issues pertaining to harassment and police protection, neither of which is at issue in the Justice for All lawsuit, and a final proofread and edit of all the documents comprising the report.

We note this chronology because the near coincidence between the date of the lawsuit and the date of this Report is likely to cause readers to wonder about the relationship between the two documents. In fact, the only relationship is that the two documents deal with some of the same issues.

XVI. Conclusion
This Task Force reports to the President, and its recommendations are only that. Each recommendation requires administrative or legislative consideration by other appropriate bodies, and many academic and administrative units and standing committees may have relevant information or expertise that was not available to the Task Force. The members of the Task Force will work with the President and with the university community in consideration of these recommendations, and in implementation of those that are accepted.
Appendix I

Meetings

Feb. 5, 2002  Organizational meeting; met with President Faulkner; discussed basic goals of Task Force and necessary fact finding

Feb. 19, 2002  Cheryl Wood of Dean of Students Office reviewed current rules, practices, interpretations, and problems

Feb. 28, 2002  Met with Chief Jeffrey Van Slyke and Assistant Chief Terry McMahan of University Police, to discuss police practices regarding surveillance and policing; Task Force Chair Douglas Laycock presented brief overview of free speech law

Mar. 7, 2002  Met with representatives of student advocacy groups, selected and invited by Task Force Member Aaron Garza

Mar. 20, 2002  Laycock reported on meeting with counsel and University Police; began discussion of distribution of literature and related solicitation issues

Apr. 4, 2002  Further discussion of distribution of literature, solicitation rules, and cosponsorship rules

Apr. 9, 2002  Review of preliminary decisions thus far; discussion of booths, exhibits, and signs

Apr. 17, 2002  Discussion of amplified sound areas, with large map of campus; created subcommittee to search for additional spaces for amplified sound

Apr. 25, 2002  Met with Jef Richards, Chair of Advertising Dept., to discuss on-campus advertising as part of class projects

Apr. 30, 2002  Discussion of responses to rallies and demonstrations (sometimes called counter-demonstrations); discussion of harassment and hate speech

May 7, 2002  Discussion of special problems of faculty and staff -- consistency of rules, procedure for enforcement, etc.; began review of draft amendments to Regents’ Rules

May 22, 2002  Completed review of draft amendments to Regents’ Rules; began review of
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 29, 2002</td>
<td>Completed review of outline of campus rules; began review of first draft of narrative report</td>
</tr>
<tr>
<td>Sept. 3, 2002</td>
<td>Review proposed draft of sections 13-101 to 13-502</td>
</tr>
<tr>
<td>Sept. 9, 2002</td>
<td>Reviewed draft policy on police surveillance, draft of changes from previous meeting, and proposed draft of subchapters 13-500, 13-600, 13-700, and 13-900</td>
</tr>
<tr>
<td>Sept. 19, 2002</td>
<td>Reviewed draft of changes from previous meeting, sections on amplified sound, guest speakers, and police protection</td>
</tr>
<tr>
<td>Sept. 25, 2002</td>
<td>Reviewed draft of changes from previous meeting; discussed police protection and access for off campus speakers</td>
</tr>
<tr>
<td>Sept. 30, 2002</td>
<td>Reviewed draft of changes from previous meeting; discussed all remaining substantive issues</td>
</tr>
<tr>
<td>Oct. 7, 2002</td>
<td>Reviewed penultimate draft; discussed substantive revisions to sections on harassment and police protection</td>
</tr>
</tbody>
</table>
1. The draft amendments to and recodifications of rules affecting speech, expression, and assembly, proposed by the Task Force and accompanying this Narrative Report, should be adopted by the university authority with responsibility for each proposed document.

2. Rules affecting freedom of speech should be consolidated in one place to the extent feasible.

3. To the extent that Recommendation 2 is not feasible, each source of generally applicable rules should be coordinated with the others, and each source should clearly cross-reference the others.

4. Subsequent revisions to the rules should maintain this unity.

5. Decentralized and locally applicable rules, and procedural and administrative details not included in codified rules, should be made conveniently available by inexpensive means such as websites, or flyers or pamphlets conveniently available at the relevant offices.

6. The phrase "free-speech zones" should be banned from the University's rules, from its explanations of the rules, and from the vocabulary of its administrators.

7. Rules and explanations should clearly distinguish the different means of speech, and the distinct regulation of each.

8. The spaces identified in proposed Institutional Rules section 13-802 (H.O.P. Policy 13.A.1-802) should be designated for weekday amplified sound.

9. The Dean of Students should evaluate the use of the new amplified sound areas, and their impact on the campus, and report on whether any further changes are needed, within one year after amplified sound is permitted at the new sites.

10. The Dean of Students should continue to search for, or create, additional sites for banners.

11. The Dean of Students should erect additional kiosks in appropriate locations and seek inexpensive ways to enforce the rules that ration space on kiosks.

12. An appropriate committee should consider current priorities for scheduling rooms and better ways to make information available about rooms controlled by academic and administrative units.

13. Policy Memoranda 4.120 and 4.121 (Appendices E and I of the General Information Catalog) should be repealed.

14. An appropriate committee or committees should review the procedures for enforcing rules that apply to faculty and staff, with a view to creating, at least in the context of limits on free speech, equally effective enforcement mechanisms for students, faculty, and staff.

15. An appropriate university office should prepare a map of the campus that clearly and precisely shows the boundaries of the campus. This map should be publicly available on a website and in printed form.
16. The boundaries of the campus should be physically marked at the Erwin Center, at the edge of the West Mall, and at any other boundary site that attracts persons seeking to communicate with other persons passing by.

17. The University Police should promulgate a Policy on Campus Surveillance on the lines of the draft proposed by the Task Force.
Appendix III

Index to Principal Substantive Changes in Proposed Rules

1. Amend ban on student organizations "inimical" to the purpose of the University. *Regents' Rules* (pt. 1, ch. VI, sec. 4.8).


4. Authorize charitable raffles by faculty and staff organizations. *Regents' Rules* (pt. 1, ch. VI, sec. 6.61(n)).


9. Repeal rules that exclude from Special Use Facilities religious organizations without proof of tax-exempt status and political parties that did not field candidates in the preceding election. *Regents' Rules* (pt. 1, ch. VI, sec. 6(10(4)).

10. Amend rule permitting component institutions to authorize "speech activities" without prior approval only in designated locations. *Regents' Rules* (pt. 1, ch. VI, sec. 7.1).


16. Define dependence on off-campus persons to staff the event as a form of prohibited


25. Define "guest speaker" and prohibit guest speakers from staffing table or exhibit, conforming local practice to Regents' Rules.


29. Codify existing practice on police surveillance of on-campus political activities. Narrative Report Appendix IV.
Appendix IV

Proposed Policy on Campus Surveillance

The Task Force on Assembly and Expression recommends that Chief Van Slyke promulgate the following policy for the University of Texas Police Department:

This statement is to clarify, both for officers and concerned students, the University of Texas at Austin Police Department's policy and practice regarding attendance at meetings on the campus.

Two of the fundamental rights guaranteed by the United States and Texas Constitutions are freedom of speech and the right to peacefully assemble and petition for redress of grievances. The University of Texas at Austin Police Department respects these rights. The Department will not interfere with peaceful speech and assembly, and it will not condone such interference by any officer.

It is the practice of the University of Texas at Austin Police Department to police in a proactive and responsible manner and to enforce the laws without regard to the political or other motivations of any persons who may be violating the law or creating a danger to persons or property.

Plain clothes officers will attend meetings of registered student, faculty, or staff organizations, or of informal groups of students, faculty, or staff, only in response to credible reports suggesting that persons at the meeting may be planning an event at which participants will be deliberately disruptive or will engage in illegal acts, or when the event's planners refuse to tell the Dean of Students or other appropriate university authority the planned size of the event or other information reasonably necessary to plan police protection and allocate officers. These criteria will be applied without regard to the political views of any person organizing or attending the meeting.

The Department will maintain a record of each occasion on which a plain clothes officer attends such a meeting, and of the reasons for attending. The Department will treat this record as confidential, but it will be available for review by appropriate university officials to whom the Department reports.

The Department maintains arrest files and incident files on alleged crimes and disciplinary violations reported to the Department. Reports or documents created by police officers may appear in disciplinary files maintained by the Dean of Students, but only if police officers become involved in controlling or investigating an incident that leads to disciplinary proceedings. The Department does not and will not maintain files on the political activities of individual students, faculty members, or staff members, or on individual student, faculty, or staff organizations. Files
maintained for law enforcement purposes will be kept in the Department; they will not be linked to academic files maintained elsewhere in the University or to disciplinary files maintained by the Dean of Students.

TO BE PROMULGATED BY AN APPROPRIATE OFFICIAL,
PRESUMABLY CHIEF VAN SYLKE
Proposed Amendments to
Regents' Rules and Regulations
Part One, Chapter VI
With Section-by-Section Analysis of Proposed Changes

Task Force on Assembly and Expression
The University of Texas at Austin

Prof. Cindy I. Carlson
Prof. Elizabeth Cullingford
Mr. R. Aaron Garza
Vice Chancellor Cullen M. Godfrey
Prof. Martha F. Hilley
Dean Richard W. Lariviere
Prof. Douglas Laycock, Chair
Ms. Nancy McCowen, Staff
Prof. Bruce P. Palka

Prof. David M. Rabban
Ms. Alene Riley
Mr. Kevin M. Robnett
Vice Provost Victoria Rodriguez
Prof. Janet Staiger
Mr. Jarrad A. Toussant
Ms. Cheryl L. Wood
Mr. Glen M. Worley
4.8 Any component institution may require any student organization or group whose actions or activities in the opinion of the president or the appropriate Executive Vice Chancellor, are inimical to the educational purpose and work of the institution to sign an agreement to comply with the institution's reasonable and nondiscriminatory rules, and may refuse to register any organization that refuses to sign such an agreement.

6.61 No solicitation shall be conducted on any property, street, or sidewalk, or in any building, structure, or facility owned or controlled by any component institution or the U. T. System unless permitted by the Regents' Rules and Regulations. The following activities shall not be deemed solicitations prohibited by this Subsection when conducted in accordance with the approved rules and regulations of the U. T. System or the component institution. Such activities must be conducted in a manner that does not disturb or interfere with the academic programs or administrative activities of the U. T. System or the component institution or any program or activity that is conducted by or is authorized by the U. T. System or component institution; does not interfere with entry to or exit from a building, structure, or facility; does not interfere with the flow of pedestrians or vehicular traffic on sidewalks or streets or at places of ingress and egress to and from property, buildings, or facilities; does not harass, embarrass, or intimidate the person or persons being solicited; and does not violate applicable state, federal, or local laws or regulations:

(f) The collection of contributions or the sale of merchandise, publications, food, or nonalcoholic beverages by the students' association or by a registered student, faculty, or staff organization. A students' association or a registered student, faculty, or staff organization may not conduct such solicitation activities on behalf of or for the benefit of any individual, association, organization, corporation, or group of individuals that is not registered as a student, faculty, or staff organization or that is not otherwise qualified under the criteria of Item (i) of Subdivision 6.61 to conduct solicitation. In the case of specific drives for
disaster relief, the chief student affairs officer of the institution may approve a drive that complies with all other requirements of Subsection 6.6. Texas law allows a registered student organization to be relieved from State sales tax liability for one fund-raising sale per month. All proposed sales events are subject to applicable provisions of these Rules and to other institutional policies concerning the time, place, and manner of solicitation. The sales must be for the benefit of the registered organization and may not involve another entity not authorized to solicit under these Rules. The items offered for sale may not be items that the organization has obtained on consignment.

\[\text{(n) The sale or offer for sale by a registered student, faculty, or staff organization of charitable raffle tickets on behalf of an organization that is authorized to conduct a charitable raffle under the provisions of Article 179f, Vernon's Texas Civil Statutes Texas Charitable Raffle Enabling Act, Texas Occupations Code chapter 2002.}\]

\[\text{(r) The distribution, sale, or display, at no cost, by a students' association, or a registered student, faculty, or staff organization, of printed material (including any a newspaper, magazine, or other publication, and any leaflet, flyer, or other informal matter), or the distribution or display of such material, at no cost, by individual students, faculty, or staff that contains paid advertising and is published by such organization at its sole expense. Such a publication may contain paid advertising, but only if the publication is primarily devoted to promoting the views of a political, religious, charitable, or other not-for-profit organization or to other bona fide editorial content distinct from the advertising. This rule does not authorize distribution, sale, or display of any publication operated for profit. A publication is operated for profit if any part of the net earnings of the publication, or of its distribution, inures to the benefit of any private shareholder or individual.}\]

\[\text{(x) Subject to reasonable and nondiscriminatory rules of component institutions, students, faculty, and staff may post advertisements for roommates, subleases, and sales of used goods that the seller has personally owned and used.}\]

\[\text{6.72 Students, faculty, or staff, a students' association, or a registered student, faculty, or staff organization, with prior written authorization, may, in compliance with reasonable and nondiscriminatory regulations of the U. T. System and component institution, petition,}\]
post signs, distribute literature, set up booths, tables and exhibits, or peacefully demonstrate on property owned or controlled by the U.T. System or component institution.

6.(10)4 Subject to all constitutional and statutory provisions relating to the use of state property or funds for religious or political purposes, and subject to Subsection 6.(10)3, Special Use Facilities may be made available for religious and political conferences or conventions. Religious organizations applying for use of a Special Use Facility must submit written evidence from the Internal Revenue Service that the organization has been granted an exemption from taxation under Section 501(c)(3) of the Internal Revenue Code. Political organizations applying for use of a Special Use Facility must present written evidence that the organization had candidates for either federal, state, district, or local offices listed on the ballot at the last general election.

7.1 The freedoms of speech and assembly are basic and essential to intellectual development. However, these activities are subject to the well-established right of colleges and universities to regulate time, place, and manner so that the activities do not intrude upon or interfere with the academic programs and administrative processes of the System or the component institutions. Each component institution may designate one or more appropriate areas on the campus where students, faculty, and staff may assemble and engage in speech activities, rallies or group demonstrations without prior administrative approval. In other areas on the campus, all speech and assembly activities must be conducted in accordance with the provisions of this Chapter and the reasonable and nondiscriminatory rules and regulations of the component institution.

Students, faculty or staff who are candidates for public office or who wish to campaign on behalf of a particular candidate or candidates may engage in conduct in behalf of such candidacy in the areas designated pursuant to this Subsection or in accordance with the provisions of Subsection 7.2 of this Chapter relating to off-campus speakers.
APPENDIX

SECTION-BY-SECTION ANALYSIS
OF PROPOSED CHANGES TO
REGENTS' RULES AND REGULATIONS

1. Part One, Chapter VI, Section 4.8

The existing rule prohibits registration of any student organization whose actions or activities are "inimical to the educational purpose and work of the institution." We recommend eliminating this requirement. We would instead give each component institution authority to require proposed student organizations to agree in writing that they will comply with the component's reasonable and nondiscriminatory rules.

"Inimical" is too vague. It seems to invite prohibiting organizations with disapproved goals, on the basis of their viewpoint. We are not aware of any organization that has been banned under this provision in recent years, and any such ban would invite litigation. A ban based on a subjective standard such as "inimical" is of doubtful constitutionality under Healy v. James, 408 U.S. 169 (1972).

Requiring an agreement to abide by the institution's rules serves all the legitimate purposes of the existing rule, and the Court in Healy v. James implied that such a rule would be upheld.

2. Part One, Chapter VI, Section 6.61

This section prohibits solicitation except as authorized by express exceptions, and enacts rules that regulate the solicitation that is permitted. We recommend deleting the word "embarrass" in the next to last clause, which prohibits conducting solicitation in a manner that would "harass, embarrass, or intimidate the person or persons being solicited."

The words "harass or intimidate" are adequate to deal with the real problem here. "Embarrass" is both vague and overbroad. A speaker may embarrass a public official by disclosing truthful information about misconduct in office; that is high value speech that cannot be prohibited. "Embarrass" would be plainly inappropriate as a general regulation of speech.

"Embarrass" is somewhat more tolerable in this provision, which is confined to solicitation and to the persons being solicited. But solicitation is defined very broadly; it includes soliciting votes, which is core political speech. We think "embarrass" sends the wrong message about the University's attitude toward protected speech, and that even in this narrow context, it has potentially troublesome applications.

3. Part One, Chapter VI, Section 6.61(f)

This section authorizes registered student, faculty, or staff organizations to sell
"merchandise, food, or nonalcoholic beverages" on a limited number of days each year to raise funds for campus organizations or for charities that are tax exempt under section 501(c)(3) of the Internal Revenue Code. We recommend inserting the word "publications" after "merchandise," in the first sentence.

We see no reason why organizations can sell candy bars as a fundraiser but cannot sell magazines as a fundraiser. More generally, we think it inappropriate to treat publications, which are protected by the First Amendment, less favorably than other merchandise.

We suspect that in the original understanding of this rule, "publications" were included within "merchandise." But at least at the Austin campus, administrators have come to understand the rule to exclude publications. This ambiguity should be clarified in favor of treating publications like other merchandise.

4. Part One, Chapter VI, Section 6.61(n)

The existing rule authorizes student organizations to conduct charitable raffles within the limits of Texas law. We recommend providing similar authority to faculty and staff organizations; we believe this omission in the original rule was most likely an oversight.

We also recommend updating the statutory cross-reference here. Vernon's Texas Civil Statutes article 179f has been repealed. The relevant provision is now the Texas Charitable Raffle Enabling Act, Texas Occupations Code chapter 2002. This is a purely technical correction.

5. Part One, Chapter VI, Section 6.61(r)

This rule regulates distribution of publications and other literature on the campus. This section is different from section 6.61(f), because it is about distribution that is not part of a fundraiser. We recommend several incremental changes.

The current rule permits registered student, faculty, and staff organizations to distribute publications that contain paid advertising, if the distributing organization published it at the organizations' sole expense and distributes it at no cost. By negative implication, individuals may not distribute literature; no one may sell literature, even to recoup the cost of producing it; and no one may sell or distribute literature obtained from anyone else.

This rule is part of the restriction of commercial solicitation on campus, but it substantially restricts political, religious, journalistic, and literary speech as well. Student organizations are often passionately engaged on both sides of local, state, national, or even international issues -- abortion, AIDS, affirmative action, economic development, environmentalism, globalization, Iraq, Israel, Palestine, and hundreds more. Student organizations would often like to distribute literature from off-campus organizations on the same side of these issues. And some student organizations cannot afford to distribute a publication of any size unless they can sell it to recoup the cost.
The current rule also bans on-campus journalistic and literary efforts that cannot support themselves without sales proceeds. For example, at the Austin campus, journalism students have produced a well-received publication called Orange. But under existing 6.61(r), it is illegal to sell Orange on the campus.

We think that distribution and sale of publications produced by others, whether political, religious, journalistic, literary, or other, are legitimate forms of speech. The ban on publications produced by others interferes with students' right to associate with others who support the same causes. And the Supreme Court held long ago that the right to distribute non-commercial literature includes the right to sell that literature. *Murdock v. Pennsylvania*, 319 U.S. 105, 110-12 (1943).

The purpose of this rule is to control solicitation, and we think that purpose can be satisfied by excluding from the rule any publication operated or distributed for profit. Under our proposed revision, students could not sell or distribute commercial newspapers or magazines (except as part of a fundraiser under section 6.61(f)). But they could sell, distribute, or display any publication or literature operated on a not-for-profit basis.

We also propose authorizing distribution and display of literature by individual students, faculty, and staff; they should not have to join an organization to exercise their free speech rights. We do not recommend authorizing sales by individuals, because that would make it difficult or impossible to enforce the rule against sales for profit. Not-for-profit sales must be conducted through an organization that can be subjected to financial controls that prevent the proceeds from being diverted to individual use.

6. **Part One, Chapter VI, proposed Section 6.61(x)**

This proposed section would be new to the Regents' Rules, but it would ratify the status quo on the ground. At Texas and most other university campuses, there are many bulletin boards with notices posted by students advertising for roommates or subleases, or advertising used furniture, computers, and the like for sale. These bulletin boards play an important role in the student economy, and no one objects to them. Yet they are all prohibited solicitations under current rules.

We propose to expressly authorize them. We have confined the rule to roommates, subleases, and sale of "used goods that the seller has personally owned and used." Thus, this rule would not authorize a student with a small business to advertise his inventory on such a bulletin board.

7. **Part One, Chapter VI, Section 6.72**

This rule authorizes most forms of speech "with prior written authorization." We recommend substituting "reasonable and nondiscriminatory rules of the U.T. System and component institution" for the universal requirement of prior written authorization. We also recommend substituting the phrase "tables and exhibits" for the word "booths," which has been confusing.
The requirement of written authorization is overkill for many activities with little or no potential for disruption. Written authorization should not be needed to post a sign or set up a folding table (which at least on the Austin campus is defined to be a "booth" under this rule). Written authorization should not generally be required for any petitioning or distribution of literature. But in all these examples, any component institution that encounters a problem requiring regulation would have authority to require written authorization as reasonably necessary. We would expect requirements of prior permission for some activities and not for others.

Our proposed revision also includes other minor changes. We have added "distribution of literature" to the list of authorized speech activities. This change does not authorize any violation of the solicitation rules in section 6.61, so any literature with advertisements would remain subject to section 6.61(r).

We have also proposed eliminating the word "booths." A booth in the usual sense of a partially enclosed structure is rare on the Austin campus, and on other campuses so far as we know. But simple tables are very common, and students also display a great variety of exhibits. These words, table and exhibit, more clearly describe the real subject of regulation, and this change would make it easier to understand the rule and to write implementing rules at each component institution.

8. Part One, Chapter VI, Section 6.10(4)

This section regulates religious and political use of Special Use Facilities. It imposes unique requirements on religious and political organizations; these requirements are of doubtful constitutionality and operate in ways that were likely unintended. We recommend deletion of the second and third sentences of the section.

The second sentence requires that any religious organization renting a Special Use Facility submit written evidence that it has been granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code. This may have been intended as a check on bona fides or legitimacy, but it operates principally as a check on bureaucratic organization. Many churches operate under the umbrella of a 501(c)(3) exemption given to their denomination; they have no exemption of their own. Other small religious organizations obtained an exemption years ago and would have considerable difficulty finding the written evidence today. Registered student organizations satisfy the conditions for tax exemption, but never apply for a formal grant of exemption, because they have no taxable income and do not solicit deductible contributions. So a student religious organization could likely never use a Special Use Facility if this were enforced literally. And unfortunately, religious organizations engaged in fraudulent solicitation, or that exist principally to enrich a well-paid pastor, are highly likely to have their tax exemption letter. So the rule has little ability to screen out the guilty, but it penalizes the less sophisticated among the innocent. And because it singles out religious speakers for unique regulation, it is of doubtful constitutionality under cases prohibiting discrimination against religion and religious speech, such as Good News Club v. Milford Central School, 533 U.S. 98 (2001), Rosenberger v. University of Virginia, 515 U.S. 819 (1995), and Church of the Lukumi Babalu Aye, Inc. v. City

The third sentence requires political organizations to show that they had candidates on the ballot at the last general election. This too appears to be a screen for legitimacy that has unintended consequences. Most obviously, it eliminates new parties. In 1992, the rule would have permitted Bill Clinton and George Bush, and also Communists, Socialist Workers, and other minor parties who had fielded candidates in the past, but it would have excluded Ross Perot. Such discrimination would be difficult to defend, and we believe it is not sound policy.

9. Part One, Chapter VI, Section 7.1

This is another general provision authorizing speech and regulation of speech on component campuses. We recommend several changes to clarify and to make it say what we believe was originally intended.

The current rule authorizes each component institution to designate one or more areas where students "may assemble and engage in speech activities." "Speech activities" is too broad and surely was not literally intended. Speech activities, as the Supreme Court has pointed out, includes every conversation and every person who reads a book or a newspaper. Board of Airport Commissioners v. Jews for Jesus, Inc., 482 U.S. 569, 574-75 (1987). We believe that the speech activity the drafters of this rule had in mind was "rallies or group demonstrations," and we have proposed that language.

The next sentence says that except in these designated areas, all speech activities must be conducted in accordance with the Regents' Rules and the rules of the component institution. A literal reading might imply that in the designated areas, no rules apply; that surely was not intended. We recommend rewriting the sentence to say that all rallies and group demonstrations must comply with the Regents' Rules and the component's reasonable and nondiscriminatory rules. We also recommend including faculty and staff in the rule along with students.

We believe these changes will conform the rule to what was originally intended and to how it has actually been implemented on most campuses.
Proposed Chapters 6, 10, and 13

and Proposed Amendments to Chapter 11

Institutional Rules on Student Services and Activities

(Appendix C to the General Information Catalog)

With Section-by-Section Analysis of Proposed Changes

Task Force on Assembly and Expression

The University of Texas at Austin

Prof. Cindy I. Carlson
Prof. Elizabeth Cullingford
Mr. R. Aaron Garza
Vice Chancellor Cullen M. Godfrey
Prof. Martha F. Hilley
Dean Richard W. Lariviere
Prof. Douglas Laycock, Chair
Ms. Nancy McCowen, Staff
Prof. Bruce P. Palka

Prof. David M. Rabban
Ms. Alene Riley
Mr. Kevin M. Robnett
Vice Provost Victoria Rodriguez
Prof. Janet Staiger
Mr. Jarrad A. Toussant
Ms. Cheryl L. Wood
Mr. Glen M. Worley
Table of Contents

Chapter 6. Student Organizations...........................................................................................................1

Chapter 10. Use of University Property, Rooms, and Spaces .................................................................9

Chapter 11. Student Discipline and Conduct ..........................................................................................14

Chapter 13. Speech, Expression, and Assembly ...................................................................................15

Appendix. Section-by-Section Analysis of Proposed Changes .............................................................38

    Student Organizations (Institutional Rules Chapter 6; Handbook of Operating Procedures Policy 12.B.1)......................39

    Use of University Property, Rooms, and Spaces (Institutional Rules Chapter 10; Handbook of Operating Procedures Policy 2.B.1)...........................................................................42

    Student Discipline and Conduct (Institutional Rules Chapter 11) ......................................................45

    Speech, Expression, and Assembly (Institutional Rules Chapter 13; Handbook of Operating Procedures Policy 13.A.1) ............................................................46
CHAPTER 6. STUDENT ORGANIZATIONS

Subchapter 6-100. General Provisions
  Sec. 6-101. Definitions

Subchapter 6-200. Registration
  Sec. 6-201. Registration Required
  Sec. 6-202. Eligibility
  Sec. 6-203. Application
  Sec. 6-204. Use of University Name or Sponsorship
  Sec. 6-205. Action on Application

Subchapter 6-300. Rights and Duties
  Sec. 6-301. Recognition and Activities
  Sec. 6-302. Membership
  Sec. 6-303. Obligations

Subchapter 6-400. Fiscal and Accounting Procedures
  Sec. 6-401. Accounting Procedure
  Sec. 6-402. Ticket Sales

Subchapter 6-500. Discipline
  Sec. 6-501. Organizational Responsibility for Violations
  Sec. 6-502. Penalties
  Sec. 6-503. Notice
  Sec. 6-504. General Procedures for Appeal
  Sec. 6-505. Appeal to the Vice President for Student Affairs
  Sec. 6-506. Appeal to a Hearing Officer

SUBCHAPTER 6-100. GENERAL PROVISIONS

SEC. 6-101. DEFINITIONS

In this chapter, unless the context requires a different meaning,

(a) "authorized representative" means a person designated to represent an organization as required in subsection 6-303(a);

(b) "dean of students" means the dean of students or any delegate or representative of the dean of students;

(c) "hearing officer" means a person appointed by the president of the university to conduct hearings of alleged violations of a regents' rule, university regulation, or administrative rule;

(d) "organization" means a student group holding a valid registration under this chapter;

(e) "student" means a person who is currently enrolled in residence at the university, or who is accepted for admission or readmission to the university, or who has been enrolled at the university in a prior semester or summer session and is eligible to continue enrollment in the semester or summer session that immediately follows.

(f) "university" means the University of Texas at Austin;
(g) "weekday" means Monday through Friday except for official university holidays; "day" means calendar day.

SUBCHAPTER 6-200. REGISTRATION

SEC. 6-201. REGISTRATION REQUIRED

Any group of students that wants to exercise any of the rights and privileges listed in section 6-301 shall apply to the dean of students to be registered as an organization.

SEC. 6-202. ELIGIBILITY

An organization is eligible for registration if:

(a) three or more students sign its application for registration;
(b) it limits membership to students, faculty, and staff of the university;
(c) it does not deny membership on the basis of race, color, national origin, religion, sex, age, disability, or veteran status; but an organization created primarily for religious purposes may restrict the right to vote or hold office to persons who subscribe to the organization's statement of faith);
(d) there are no financial bars against the organization;
(e) it is not under disciplinary penalty prohibiting registration; and
(f) it conducts its affairs in accordance with local, state, and federal laws, the Regents' Rules, university regulations, and administrative rules.

SEC. 6-203. APPLICATION

A group of students that wants to become a registered student organization shall apply on a form prescribed by the dean of students. The form shall include:

(a) the name of the proposed organization;
(b) the names of at least three students and any required signatures;
(c) a description of each prior application for registration and the action taken on it;
(d) an official statement of the proposed organization's purpose and activities; and
(e) any other information reasonably required by the dean.

SEC. 6-204. USE OF UNIVERSITY NAME OR SPONSORSHIP

(a) Only an organization that is officially sponsored by the university may use the name of the university or an abbreviation of the name of the university or any of the university's trademarks or service marks as part of or in conjunction with its group name.

(b) No student, unregistered group, or registered student, faculty, or staff organization may use the name of the university or an abbreviation of the name of the university as part of its name. A student, group, or organization may use terms such as "campus" or "Texas campus" as part of its name.

(c) No student, unregistered group, or registered student, faculty, or staff organization may advertise or promote events or activities in a manner that falsely suggests that the event
or activity is sponsored by the university.

SEC. 6-205. ACTION ON APPLICATION
(a) In considering a completed application, the dean of students shall not pass on the merits of the proposed organization's purpose, but shall register the applicant unless it is ineligible under section 6-202.
(b) The dean approves the registration of an organization by signing the application form and placing it on file.
(c) If an organization is refused registration, the dean shall provide the applicant with a copy of a written statement of the reasons for refusal, and the applicant may appeal in accordance with section 6-504.

SUBCHAPTER 6-300. RIGHTS AND DUTIES

SEC. 6-301. RECOGNITION AND ACTIVITIES
An organization is entitled
(a) to be listed as a registered student organization;
(b) to sponsor or present a guest speaker on university property in accordance with subchapter 13-1000;
(c) to raise funds or make other permissible solicitations on university property under section 13-205;
(d) to reserve the use of university facilities under subchapter 10-200; and
(e) to hang banners under section 13-504.

SEC. 6-302. MEMBERSHIP
(a) An organization must restrict its membership to students, faculty, and staff of the university, but it may not deny membership on any basis that violates subsection 6-202(c).
(b) Membership within groups registered as student governance organizations is limited to individual groups that are registered student organizations.

SEC. 6-303. OBLIGATIONS
(a) Every registered student organization shall furnish to the dean of students at the beginning of each semester a complete list of officers or other members of the organization who are authorized to speak for or represent the organization in its relations with the university and who are authorized to receive for the organization official notices, directives, or information from the university. Each list shall be kept current and accurate throughout the semester by the organization, and it shall be conclusively presumed that the officers or members whose names are on the list most recently filed by the organization are authorized to speak for and represent the organization in its relations with the university and are authorized to receive for the organization official notices, directives, or information from the university.
(b) At the beginning of each semester, each registered student organization must file
with the dean of students a written statement that the organization does not, and will not
during the semester:

(1) have as a member any person who is neither a student nor a member of the
    faculty or staff of the university, or
(2) deny membership on any basis prohibited by subsection 6-202(c).
If an organization fails or refuses to file the required statement, or if the dean determines
that the statement is or has become false, disciplinary proceedings shall be initiated by
the dean, after providing notice. The dean or the hearing officer may cancel the
registered status of the organization or may impose other appropriate penalties.

(c) No organization may re-register or use the facilities of the university as long as it owes a
    monetary debt to the university and the debt is considered delinquent by the crediting
    university agency.

(d) Each semester every registered student organization must sign a statement
    acknowledging that the organization does not engage in activities that involve the
    subjection of a probationary member of the group to dangerous, harmful, or degrading
    acts. The \textit{Regents' Rules} (pt. 1, ch. VI, sec. 3.28) state that such acts are a violation with
    or without the consent of the probationary member.

\textbf{SUBCHAPTER 6-400. FISCAL AND ACCOUNTING PROCEDURES}

\textbf{SEC. 6-401. ACCOUNTING PROCEDURE}

(a) An organization shall deposit in the dean of student's office all funds collected on the
campus, unless such receipts are deposited in a regular university account. An
authorized representative of the organization shall personally deposit all money.

(b) An organization shall make deposits weekly unless receipts exceed \$50 a day, in which
case it shall make deposits daily.

(c) Within thirty days after the beginning of each semester, the organization shall file with
the dean of students a final report, signed by an authorized representative of the
organization, fully disclosing the sources and amounts of money obtained from
solicitations during the preceding semester or summer session, the purposes and
amounts of the expenditures made during the preceding semester or summer session,
and any other information required by the dean about solicitation activities during the
preceding semester.

(d) Authorized banking representatives must comply with all banking procedures as
published by the dean of students.

\textbf{SEC. 6-402. TICKET SALES}

(a) An organization shall order through the dean of students tickets connected with fund-
raising. Each ticket shall show the purchase price and shall be prenumbered unless it
reserves a specific seat for a specific performance.

(b) In accordance with section 6-401, an organization shall deposit all money and checks
received from ticket sales.
(c) On or before the eleventh weekday after ticket sales end, an organization shall file in the dean's office a final report including:

1. a list bearing the name of each recipient of a complimentary ticket;
2. all unused tickets.

SUBCHAPTER 6-500. DISCIPLINE

SEC. 6-501. ORGANIZATIONAL RESPONSIBILITY FOR VIOLATIONS

(a) An organization violates a regents' rule, university regulation, or administrative rule when:

1. one or more of its officers or authorized representatives acting in the scope of their organizational capacities commit the violation;
2. one or more of its members commit the violation after the action that constitutes the violation was approved by majority vote of those members of the organization present and voting;
3. one or more members of a committee of the organization commit the violation while acting in the scope of the committee's assignment;
4. a member of an organization acting with apparent authority of the organization commits the violation;
5. one or more members of an organization or its officers permit, encourage, aid, or assist any of its members in committing a violation;
6. one or more members of an organization or its officers, under circumstances where such persons knew or should have known that an action constituting a violation was occurring or about to occur, fails to prevent that action; or
7. one or more members of an organization fail to report to appropriate university or civil authorities promptly their knowledge or any reasonable information about a violation.

(b) When the dean of students receives information that an organization has allegedly violated a regents' rule, university regulation, or administrative rule, he or she shall investigate the alleged violation. Upon completing the investigation, the dean may:

1. dismiss the allegation as unfounded; or
2. summon the authorized representative(s) of the organization for a conference at which the organization can respond to the charges and, after conferring with the representative(s)
   (A) dismiss the allegation; or
   (B) find the organization in violation and impose a penalty.

(c) The dean of students may impose one or more of the penalties under section 6-502 when an organization fails, without good cause, to comply with a summons under subsection (b).

(c) Notwithstanding any other provision of this chapter, the dean of students or the president of the university may take immediate disciplinary action, pending a conference, against an organization that violates a rule or regulation of the university or the University of Texas System when, in the opinion of the official, the interest of the university or the
University of Texas System would be served by interim action.

(e) A student may be disciplined for a violation under chapter 11 even though the organization of which the student is a member is penalized under this subchapter for the same violation or for a violation growing out of the same factual transaction.

SEC. 6-502. PENALTIES
(a) The dean of students, acting pursuant to section 6-501, or the hearing officer, after a hearing under this subchapter, may impose one or more of the following penalties for violation of a regents' rule, university regulation, or administrative rule:
   (1) place the organization on probation for not more than one calendar year;
   (2) suspend for not more than one calendar year the organization's right to do one or more of the following:
       (A) publicly post signs;
       (B) set up a table or exhibit;
       (C) publicly assemble or demonstrate;
       (D) publicly raise funds or make a solicitation;
       (E) reserve the use of university rooms or spaces;
       (F) participate in intramural sports tournaments and events; or
       (G) maintain a university Web site.
   (3) require restitution, educational seminars, and community service;
   (4) suspend for not more than one calendar year the organization's registration; or
   (5) cancel the organization's registration for not less than one calendar year.
(b) The dean or the hearing officer may impose conditions related to the offense and failure to meet the conditions will be considered an additional violation.

SEC. 6-503. NOTICE
(a) The dean of students shall notify the accused organization by letter of his or her decision. The dean may send the letter to any authorized representative of the organization.
(b) The letter shall
   (1) concisely describe the dean's findings, identifying any violations and any charges on which no violation was found;
   (2) state the penalty imposed, if any; and
   (3) if any violation is found or any penalty imposed, advise the organization of its rights to appeal in accordance with section 6-504.

SEC. 6-504. GENERAL PROCEDURES FOR APPEAL
(a) An organization that has not had its registration suspended or canceled may appeal to the vice president for student affairs.
(b) An organization that has had its registration suspended or canceled may appeal to the vice president or to a hearing officer.
(c) (1) To appeal any decision, an authorized representative of the organization must
give written notice of appeal to the dean of students within ten days after the day on which the decision or action being appealed is mailed to the organization. But if the decision is mailed between semesters, the notice of appeal is due on the tenth calendar day of the following semester.

(2) The notice of appeal may be informal, but shall contain the organization's name, the date of the decision or action, the name of the organization's representative, and the reviewing authority to which the appeal is being made.

(d) Notice of appeal timely given suspends the imposition of penalty until the appeal is finally decided, but interim action may be taken as authorized under subsection 6-501(d).

(e) The organization must file all relevant documentation from the previous decision, including written arguments when appropriate, with the reviewing authority within twenty-one days after notice of appeal is given.

(f) The action of each reviewing authority shall be communicated in writing to the organization and the dean. The decision of the vice president shall be the final appellate review.

SEC. 6-505. APPEAL TO THE VICE PRESIDENT FOR STUDENT AFFAIRS
(a) In the case of an appeal to the vice president for student affairs, arguments either against or in support of the decision will be considered and, at the discretion of the vice president, will be presented in writing rather than orally.

(b) The vice president may approve, reject, or modify the decision in question, or may require that the original decision be reopened for the presentation of additional evidence and reconsideration of the decision.

SEC. 6-506. APPEAL TO A HEARING OFFICER
(a) An authorized representative of the organization may challenge the hearing officer's alleged lack of fairness or objectivity, but is not entitled to disqualify the person from serving. It shall be up to the challenged person to determine whether he or she can serve with fairness and objectivity. If the challenged person disqualifies himself or herself, another hearing officer shall be appointed.

(b) The hearing officer will review written arguments and then meet with both parties together to ask questions, seek clarification, and hear any final comments by the parties. The dean of students shall set the date, time, and place for this meeting and notify the organization.

(c) The hearing officer's meeting with the parties is informal and is closed except that, upon request of the organization, the meeting may be open. With the consent of or by invitation of the representative of the organization, the following persons may attend and may obtain (at their own expense) copies of the written documents submitted to the hearing officer:

(1) one or two representatives of the Student Government;
(2) one or two staff members of the Daily Texan; and
(3) not more than five members of the organization.

(d) The criteria on which the hearing officer's decision will be based are fairness,
reasonableness, and compliance with *Institutional Rules*. The hearing officer may approve, reject, or modify the dean of student's decision.

(e) Either the organization or the dean may appeal the decision of the hearing officer to the vice president for student affairs. The party appealing shall give notice of appeal and file the documents from the earlier decision as provided in section 6-504. If the dean is the appellant, the notice of appeal shall be filed with the vice president, and on the same day, a copy shall be given or mailed to the organization.
CHAPTER 10. USE OF UNIVERSITY PROPERTY, ROOMS, AND SPACES

Subchapter 10-100. General Provisions
Sec. 10-101. Purpose and Application
Sec. 10-102. General Definitions -- Categories of Speakers and Users
Sec. 10-103. Other General Definitions

Subchapter 10-200. Reservation of a Room or Space on University Property
Sec. 10-201. Permission to Use
Sec. 10-202. Application
Sec. 10-203. Consideration of Application

Subchapter 10-300. Regulations Applicable to University Property
Sec. 10-301. Identification
Sec. 10-302. Use of Alcoholic Beverages

Subchapter 10-400. Appeal
Sec. 10-401. Procedures for Appeal
Sec. 10-402. Further Review by Petition

SUBCHAPTER 10-100. GENERAL PROVISIONS

SEC. 10-101. PURPOSE AND APPLICATION
(a) The university permits the orderly use of rooms and spaces on its property, as provided in this chapter, to further the educational process. The university does not endorse any statement or activity that does not represent official university action.

(b) This chapter authorizes and regulates the reservation of university rooms and spaces; the identification of persons present on university property; and the use of alcoholic beverages on university property. Speech, assembly, and expression by students, faculty, and staff on university property is further protected and regulated in chapter 13.

(c) No person or organization may use a university facility for any purpose other than in the course of the regular mission of the university or the University of Texas System unless authorized by the Regents' Rules. Any authorized use must be conducted in compliance with the provisions of the Regents' Rules, the approved rules and regulations of the university, and applicable federal, state, and local laws and regulations.

SEC. 10-102. GENERAL DEFINITIONS -- CATEGORIES OF SPEAKERS AND USERS
As used in this chapter, unless the context requires a different meaning,
(a) "Academic or administrative unit" means any office or department of the university.
(b) "Faculty member and staff member" includes any person who is employed by the university.
(e) "Registered student, faculty, or staff organization" includes a registered student organization under chapter 6, a faculty or staff organization under the Regents' Rules (pt. 1, ch. III, sec. 34), and Student Government and any unit or subdivision thereof.
(d) "Registered student organization" includes a student organization registered under chapter 6; the phrase also includes Student Government and any subdivision thereof.

(e) "Student" means a person who is currently enrolled in residence at the university, or who is accepted for admission or readmission to the university, or who has been enrolled at the university in a prior semester or summer session and is eligible to continue enrollment in the semester or summer session that immediately follows, or who is attending an educational program sponsored by the university while that person is on campus.

SEC. 10-103. OTHER GENERAL DEFINITIONS
As used in this chapter:
(a) "dean of students" means the dean of students or the dean's delegate or representative;
(b) "room or space" includes any room or space, indoors or outdoors, owned or controlled by the university;
(c) "university" means the University of Texas at Austin; and
(d) "weekday" means Monday through Friday except for official university holidays; "day" means calendar day.

SUBCHAPTER 10-200. RESERVATION OF A ROOM OR SPACE ON UNIVERSITY PROPERTY

SEC. 10-201. PERMISSION TO USE
(a) Academic and administrative units, and registered student, faculty, and staff organizations, may reserve the use of a room or space on university property for purposes permitted by the Regents' Rules. Academic and administrative units of the university shall have priority in reserving the use of rooms and spaces, except that they shall not have priority in the use of weekday amplified sound areas defined in section 13-802.

(b) An organization with a reservation has the right to the reserved room or space for the time covered by the reservation. Any person or organization using or occupying the room or space without a reservation must yield control of the room or space in time to permit any organization with a reservation to begin using the room or space promptly at the beginning of its reserved time.

(c) Reservations are not required but are strongly encouraged. A person or organization planning to use a room or space without a reservation may find the facility locked or in use by another person or organization. The University Police rely on a list of scheduled events, and a large group without a reservation is likely to attract their courteous but inquiring attention.

SEC. 10-202. APPLICATION
(a) (1) All organizations wishing to reserve an outdoor space, including academic and administrative units, shall apply to the dean of students on a form prescribed by the dean.
Task Force on Assembly and Expression

Registered student organizations wishing to reserve a general purpose classroom, shall apply to the dean of students on a form prescribed by the dean. Faculty and staff, registered faculty and staff organizations, and academic and administrative units wishing to reserve a general purpose classroom shall apply to the registrar on a form prescribed by the registrar.

Reservations for rooms and spaces controlled by academic or administrative units other than the registrar and the dean of students shall be made through the unit that controls the room or space. These rooms and spaces controlled by other units include Special Use Facilities (the Texas Student Union, the Performing Arts Center, the Erwin Special Events Center), athletic facilities, classrooms that are not general purpose classrooms, many conference rooms, reception areas, and the like, and other specialized rooms and spaces. Some of these rooms and spaces are dedicated to special purposes and are subject to special rules. Academic and administrative units are encouraged to make the rules and procedures for reserving rooms and spaces, and a list of the rooms and spaces that may be reserved, readily available on a website or on a flyer or pamphlet conveniently available at the unit's office.

The dean of students shall maintain, on a website or on a flyer or pamphlet conveniently available at the dean's office:
(1) the procedures for reserving outdoor spaces, or for registered student organizations reserving general purpose classrooms, and any additional rules applicable to such reservations; and
(2) a list of general purpose classrooms.

SEC. 10-203. CONSIDERATION OF APPLICATION
(a) The dean of students shall approve a properly completed application to reserve an outdoor space, and shall facilitate a properly completed application to reserve a general purpose classroom, unless the dean finds that:
(1) the proposed use of the room or space would violate one or more of the general rules in subchapters 13-200 and 13-300;
(2) the proposed use would interfere with a prior reservation, or another scheduled event or exhibit (see subchapter 13-700);
(3) the room or space requested is inadequate to accommodate the proposed use;
(4) the proposed use would constitute an immediate and actual danger to students, faculty, or staff, or to the peace or security of the university that available law enforcement officials could not control with reasonable effort;
(5) the applicant is under a disciplinary penalty prohibiting reserving the use of a university room or space; or
(6) the applicant owes a monetary debt to the university and the debt is considered delinquent by the crediting agency.
(b) If the dean does not approve an application under subsection (a), upon request he or she
shall give the applicant a written statement of the grounds for refusal within three weekdays.

SUBCHAPTER 10-300. REGULATIONS APPLICABLE TO UNIVERSITY PROPERTY

SEC. 10-301. IDENTIFICATION
(a) Any person shall identify himself or herself when requested by an institutional representative while on any property or in any building owned or controlled by the university or the University of Texas System. A person identifies himself or herself by giving his or her name and complete address substantiated by a current driver's license, voter registration card, or other official documentation; and stating truthfully whether he or she is a student or employee of the university or University of Texas System.
(b) An "institutional representative" is any Regent, executive officer, administrative officer, attorney, peace officer, or security officer of the university or of the University of Texas System.
(c) Any person who refuses to identify himself or herself in accordance with subsection (a) may be convicted of a misdemeanor punishable by a fine of not more than $200.
(d) Any student, faculty member, or staff member who refuses to identify himself or herself in accordance with subsection (a) is subject to disciplinary action, including expulsion from the university in the case of a student.

SEC. 10-302. USE OF ALCOHOLIC BEVERAGES
The use of alcoholic beverages is prohibited on property and in buildings and facilities owned or controlled by the university or the University of Texas System. However, the chief administrative officer of the university or the System may waive this prohibition with respect to any specific event sponsored by the university or the University of Texas System. Meetings or events sponsored by registered faculty, staff, or student organizations are not events sponsored by the university or the University of Texas System. State law relating to alcoholic beverages will be strictly enforced at all times on property controlled by the System and its component institutions.

SUBCHAPTER 10-400. APPEAL

SEC. 10-401. PROCEDURES FOR APPEAL
(a) An organization aggrieved by a decision under this chapter is entitled to appeal to the vice president for student affairs by giving written notice to the dean of students on or before the fifth weekday after the day the decision is announced. The notice may be informal, but shall contain the organization's name and mailing address, a concise description of the decision complained of, the organization's reasons for disagreeing
with the decision, and the date the decision was announced.

(b) When timely notice of appeal is received, the dean of students shall prepare and send to the vice president for student affairs a copy of the written statement of the reason given for the dean's decision. The vice president shall provide the organization with an opportunity for a hearing and the organization shall be notified at least one weekday before the date of the hearing.

SEC. 10-402. FURTHER REVIEW BY PETITION

The dean of students or the organization may petition in writing through the vice president for student affairs to the president of the university to review the decision being appealed. The president may establish an ad hoc committee to review the appeal and make recommendations regarding it. The president reviews appeals solely at his or her discretion.
CHAPTER 11. STUDENT DISCIPLINE AND CONDUCT

[Proposed amendments to this chapter shown by striking through proposed deletions and underlining proposed insertions. Portions of chapter 11 to which no amendments are proposed are not reprinted here.]

SUBCHAPTER 11-500. PENALTIES

SEC. 11-501. AUTHORIZED DISCIPLINARY PENALTIES

. . . .

(b) If a violation of a regents' rule, university regulation, or administrative rule, other than section sections 11-804(a)(12) or 13-204, is committed because of the race, color, or national origin of a student or students directly harmed by the violation, such a discriminatory purpose shall be treated as an aggravating factor for the purpose of determining the appropriate penalty under section 11-501(a). For a complete set of cross-references to all regulation of harassment on the campus, see section 13-204(c).

SUBCHAPTER 11-800. STUDENT STANDARDS OF CONDUCT

SEC. 11-804. CERTAIN OTHER OFFENSES

(a) Notwithstanding any action taken by civil authorities or agencies charged with the enforcement of criminal laws on account of the violation, the dean may initiate disciplinary proceedings under subchapter 11-300 against a student who

. . . .

(12) engages in harassment. Harassment is defined as conduct that is sufficiently severe, pervasive, or persistent to create an objectively hostile environment that interferes with or diminishes the ability of an individual to participate in or benefit from the services, activities, or privileges provided by the university. For a complete set of cross-references to all harassment policies on the campus, see section 13-204(c):
CHAPTER 13. SPEECH, EXPRESSION, AND ASSEMBLY

Subchapter 13-100. Governing Principles
   Sec. 13-101. Freedom of Speech, Expression, and Assembly
   Sec. 13-102. Scope of This Chapter and Related Provisions
   Sec. 13-103. General Definitions -- Categories of Speakers
   Sec. 13-104. Other General Definitions

Subchapter 13-200. Prohibited Expression
   Sec. 13-201. Obscenity
   Sec. 13-202. Defamation
   Sec. 13-203. Incitement to Imminent Violations of Law
   Sec. 13-204. Harassment
   Sec. 13-205. Solicitation

Subchapter 13-300. General Rules on Means of Expression
   Sec. 13-301. Disruption
   Sec. 13-302. Damage to Property
   Sec. 13-303. Coercing Attention
   Sec. 13-304. Cosponsorship

Subchapter 13-400. Distribution of Literature
   Sec. 13-401. General Rule on Distribution of Literature
   Sec. 13-402. Not-for-Profit Literature Only
   Sec. 13-403. Limits on Advertising
   Sec. 13-404. Identification
   Sec. 13-405. Clean up of Abandoned Literature

Subchapter 13-500. Signs and Banners
   Sec. 13-501. General Rule on Signs
   Sec. 13-502. Hand-Held Signs
   Sec. 13-503. Signs on Kiosks
   Sec. 13-504. Banners
   Sec. 13-505. A-frames
   Sec. 13-506. Signs in Other Designated Locations

Subchapter 13-600. Tables
   Sec. 13-601. General Rule on Tables
   Sec. 13-602. Locations
   Sec. 13-603. Identification
   Sec. 13-604. Clean up Around Tables
   Sec. 13-605. Sources of Tables

Subchapter 13-700. Exhibits and A-Frames
   Sec. 13-701. General Rule on Exhibits
   Sec. 13-702. Application Process
   Sec. 13-703. Criteria for Approval
Sec. 13-704. Time Limits
Sec. 13-705. Clean Up Around Exhibits
Sec. 13-706. Liability

Subchapter 13-800. Amplified Sound
   Sec. 13-801. General Rule on Amplified Sound
   Sec. 13-802. Location and Times of Weekday Amplified Sound Areas
   Sec. 13-803. Regulation and Scheduling of Weekday Amplified Sound
   Sec. 13-804. Amplified Sound on Evenings and Weekends
   Sec. 13-805. Amplified Sound Indoors

Subchapter 13-900. Public Assemblies Without Amplified Sound
   Sec. 13-901. General Rule on Public Assemblies
   Sec. 13-902. Reservation of Space
   Sec. 13-903. Notice and Consultation

Subchapter 13-1000. Guest Speakers
   Sec. 13-1001. Definitions
   Sec. 13-1002. Who May Present
   Sec. 13-1003. Location and Form of Presentation
   Sec. 13-1004. Application
   Sec. 13-1005. Obligations of Presenting Organization

Subchapter 13-1100. Responding to Speech, Expression, and Assembly
   Sec. 13-1101. General Rule on Responding
   Sec. 13-1102. Applications of Section 13-1101

Subchapter 13-1200. Enforcement and Appeals
   Sec. 13-1201. Police Protection
   Sec. 13-1202. Response to Violations
   Sec. 13-1203. Appeals

SUBCHAPTER 13-100. GOVERNING PRINCIPLES

SEC. 13-101. FREEDOM OF SPEECH, EXPRESSION, AND ASSEMBLY
(a) The freedoms of speech, expression, and assembly are fundamental rights of all persons and are central to the mission of the university. Students, faculty, and staff have the right to assemble, to speak, and to attempt to attract the attention of others, and corresponding rights to hear the speech of others when they choose to listen, and to ignore the speech of others when they choose not to listen.

(b) Students, faculty, and staff are free to express their views, individually or in organized groups, orally or in writing or by other symbols, on any topic, in all parts of the campus, subject only to rules necessary to preserve the equal rights of others and the other functions of the university. Teaching, research, and other official functions of the university shall have priority in allocating the use of space on campus.

(b) Except as expressly authorized by subchapter 13-200, the university shall not
discriminate on the basis of the political, religious, philosophical, ideological, or academic viewpoint expressed by any person, either in the enforcement and administration of these rules or otherwise.

SEC. 13-102. SCOPE OF THIS CHAPTER AND RELATED PROVISIONS

(a) This chapter protects and regulates speech, expression, and assembly of students, faculty, and staff that is not part of the teaching, research, or other official functions of the university, not otherwise sponsored by the university or any academic or administrative unit, and not submitted for academic credit.

(b) This chapter also regulates certain speech that is part of the teaching, research, or other official functions of the university:
   (1) Section 13-204 on Harassment applies to all speech on campus.
   (2) This entire chapter applies to speech by academic and administrative units, and speech that is submitted for academic credit, in outdoor locations on the campus. The dean of students administers and schedules outdoor signs, tables, exhibits, public assemblies, and amplified sound, even for faculty, staff, and administrative and academic units, because scheduling through a single office is necessary to avoid conflicts.

(c) Any program or event sponsored by an academic or administrative unit of the university shall have priority in the use of space and facilities over any speech, expression, and assembly that is not sponsored by an academic or administrative unit, except that programs or events sponsored by an academic or administrative unit shall not have priority in the use of weekday amplified sound areas defined in section 13-802. This chapter does not limit other existing authority of university officials to authorize programs and events sponsored by an academic or administrative unit and not provided for in this chapter.

(d) Additional rules concerning free speech and academic freedom of faculty are found in the Regents' Rules (pt. 1, ch. III, secs. 7 and 8).

(e) Underlying rules concerning free speech of students are found in the Regents' Rules (pt. 1, ch. VI, secs. 6 and 7). This chapter implements those provisions and applies them to the Austin campus.

(f) Rules restricting access to the campus and restricting speech on the campus by persons who are not students, faculty, or staff are found in the Regents' Rules (pt. 1, ch. VI, sec. 6).

SEC. 13-103. GENERAL DEFINITIONS -- CATEGORIES OF SPEAKERS

As used in this chapter:
(a) "Academic or administrative unit" means any office or department of the university.
(b) "Faculty member and staff member" includes any person who is employed by the university.
(c) "Off-campus person or organization" means any person, organization, or business that is not an academic or administrative unit, a registered student, faculty, or staff organization, or a student, faculty member, or staff member.
(d) "University person or organization" includes academic and administrative units, registered student, faculty, and staff organizations, and individual students, faculty members, and staff members. This phrase describes the most inclusive category of potential speakers on campus; all persons and organizations of any kind are either an "off-campus person or organization" or a "university person or organization".

(e) "Registered student, faculty, or staff organization" includes a registered student organization under chapter 6, a faculty or staff organization under the Regents' Rules (pt. 1, ch. III, sec. 34), and Student Government and any unit or subdivision thereof;

(f) "Student" means a person who is currently enrolled in residence at the university, or who is accepted for admission or readmission to the university, or who has been enrolled at the university in a prior semester or summer session and is eligible to continue enrollment in the semester or summer session that immediately follows, or who is attending an educational program sponsored by the university while that person is on campus.

SEC. 13-104. OTHER GENERAL DEFINITIONS
(a) "Amplified sound" means sound whose volume is increased by any electric, electronic, mechanical, or motor-powered means. Shouting and group chanting are not amplified sound and are not subject to the special rules on amplified sound, but are subject to general rules on disruption.

(b) "Dean of students" means the dean of students or any delegate or representative of the dean of students.

(c) "Main Plaza" means the area bounded by the south wall of the Tower, the line of the first north-south hedge immediately west of Garrison Hall, the north edge of Inner Campus Drive, and the line of the first north-south hedge immediately east of Battle Hall. The Main Plaza includes the south steps and south porches of the Tower.

(d) "Room or space" includes any room or space, indoors or outdoors, owned or controlled by the university.

(e) "University" means The University of Texas at Austin.

(f) "Weekday" means Monday through Friday except for official university holidays; "day" means calendar day.

SUBCHAPTER 13-200. PROHIBITED EXPRESSION

SEC. 13-201. OBSCENITY

No person or organization shall distribute or display on the campus any writing or visual image, or engage in any public performance, that is obscene. A writing, image, or performance is "obscene" if it is obscene as defined in Texas Penal Code section 21.08 or successor provisions, and is within the constitutional definition of obscenity as set forth in decisions of the United States Supreme Court.
SEC. 13-202. DEFAMATION
(a) No person shall make, distribute, or display on the campus any statement that unlawfully defames any other person.
(b) A statement unlawfully defames another person if it is false, if the false portion of the statement injures the reputation of the other person, and if the speaker has the constitutionally required state of mind as set forth in decisions of the United States Supreme Court.

SEC. 13-203. INCITEMENT TO IMMINENT VIOLATIONS OF LAW
No person shall make, distribute, or display on the campus any statements directed to inciting or producing imminent violations of law under circumstances such that the statements are likely to actually and imminently incite or produce violations of law.

SEC. 13-204. HARASSMENT
(a) No person shall make, distribute, or display on the campus any statement that constitutes verbal harassment of any other person. This section applies to all speech on the campus, including speech that is part of teaching, research, or other official functions of the university.
(b) (1) "Verbal harassment" means hostile or offensive speech, oral, written, or symbolic, that:
   (A) personally describes or is personally directed to one or more specific individuals; and
   (B) is sufficiently severe, pervasive, or persistent to create an objectively hostile environment that interferes with or diminishes the victim’s ability to participate in or benefit from the services, activities, or privileges provided by the university; and
   (C) is not necessary to the expression of any idea described in paragraph (2) of this subsection.
(2) To make an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea is not verbal harassment, even if some listeners are offended by the argument or idea. The categories of sexually harassing speech set forth in Policy 4.A.3 of the Handbook of Operating Procedures are rarely, if ever, necessary to argument for or against the substance of any political, religious, philosophical, ideological, or academic idea.
(3) Verbal harassment may consist of threats, insults, epithets, ridicule, personal attacks, or the categories of harassing sexual speech set forth in Policy 4.A.3 of the Handbook of Operating Procedures, and is often based on the victim’s appearance, personal characteristics, or group membership, including but not limited to race, color, religion, national origin, gender, age, disability, citizenship, veteran status, sexual orientation, ideology, political views, or political affiliation.
(c) Harassment can also consist of nonverbal conduct, such as hazing, practical jokes,
damage to property, and physical assault. In the case of sexual harassment and sexual misconduct, sexual conduct is often central to the offense. These forms of harassment are prohibited in section 11-804(a)(12), in Policies 4.A.3 and 4.B.1 of the Handbook of Operating Procedures, and in the Regents' Rules (pt. 1, ch. III, sec. 4.8). Some forms of harassment violate the Prohibition of Campus Violence in Policy 12.A.1 of the Handbook of Operating Procedures. For enhanced penalties for disciplinary offenses motivated by the race, color, or national origin of a student harmed by the offense, see section 11-501(b). To the extent of any conflict in the definition of verbal harassment, the more detailed definition in this section controls.

(d) The harassment that this section prohibits does not exhaust the category of speech that is unnecessary and inappropriate to vigorous debate in a diverse community of educated people. An essential part of higher education is to learn to separate substantive argument from personal offense, and to express even the deepest disagreements within standards of civility that reflect mutual respect, understanding, and sensitivity among the diverse population within the university and in the larger society. These are community norms, even though they cannot be enforced by disciplinary rules.

(e) Verbal harassment has been interpreted very narrowly by the federal courts. Many university policies on verbal harassment or hate speech have been held unconstitutional, either because they prohibited harassment only when it was based on race, sex, and similar categories, or because they failed to protect the expression of potentially offensive ideas. This policy should be interpreted as narrowly as need be to preserve its constitutionality.

(f) 

(1) A student who believes he or she has been harassed should report the alleged violation to the dean of students.

(2) A faculty member or staff member who believes he or she has been harassed should report the alleged violation to the Office of Equal Opportunity Services.

(3) Alternatively, any person who believes he or she has been harassed may report the alleged violation to the Office of Equal Opportunity Services or to any university official, administrator, or supervisor. A faculty member is not an "official, administrator, or supervisor" for this purpose unless that faculty member holds an administrative position.

(4) Any university official, administrator, or supervisor who receives a report of alleged harassment shall promptly refer that report and the complainant to the Office of Equal Opportunity Services, or to the dean of students, as appropriate. A complainant whose report is not forwarded to the Office of Equal Opportunity Services, or to the dean of students, has not initiated proceedings for providing a remedy to the complainant or for imposing discipline on the alleged harasser.

(5) Investigation of the information provided, and any remedial or disciplinary proceedings, shall proceed under the procedures set out in the harassment policies cross referenced in section 13-204(c).
SEC. 13-205. SOLICITATION

(a) (1) No person shall make, distribute, or display on the campus any statement that offers or advertises any product or service for sale or lease, or requests any gift or contribution, except as authorized in paragraph (b), by section 13-403, or by the Regent’s Rules.

(2) Words or symbols on personal apparel, or on decals or bumper stickers affixed to a vehicle by an owner of that vehicle, are not solicitation within this definition.

(3) Unadorned acknowledgements or thanks to donors are not solicitation within this definition.

(b) (1) A registered student, faculty, or staff organization may advertise or sell merchandise, publications, food, or nonalcoholic beverages, or request contributions, for the benefit of the organization, for the benefit of another registered student, faculty, or staff organization, or for the benefit of an organization that is tax-exempt under section 501(c)(3) of the Internal Revenue Code. No organization may sell items obtained on consignment. No organization may request contributions for an off-campus tax-exempt organization for more than fourteen days in any fiscal year.

(2) Registered student, faculty, and staff organizations, and academic and administrative units, may sell, distribute, or display literature that contains advertising, subject to the limits in section 13-403. Individual students, faculty members, and staff members may distribute or display such literature, but may not sell it.

(3) Individual students, faculty members, and staff members may post advertisements for roommates, subleases, and sales of used goods that the seller has personally owned and used, but only on a bulletin board designated for that purpose by an academic or administrative unit in space that the unit occupies or controls. Any unit that designates a bulletin board for this purpose may regulate that bulletin board under the procedures set forth in section 13-506.

(4) A resident of a university residence hall or apartment building may occasionally invite one or more salespersons to come to the resident's room or apartment, and in that room or apartment, the salesperson may offer products or services for sale to other residents of that residence hall or apartment building.

(5) A registered student, faculty, or staff organization may collect admission fees for movies or other programs scheduled in advance under chapter 10.

(6) A registered student, faculty, or staff organization may collect membership fees or dues at meetings of the organization scheduled in advance under chapter 10.

(7) A registered student, faculty, or staff organization may sell charitable raffle tickets on behalf of an organization that is authorized to conduct a charitable raffle under the Texas Charitable Raffle Enabling Act, Texas Occupations Code chapter 2002, or successor provisions.

(c) A registered student organization that receives funds from solicitations under this section shall deposit and account for such funds under the rules in section 6-401(a).
More detailed regulation of solicitation appears in the *Regents' Rules* (pt. 1, ch. VI, sec. 6.6). The provisions most relevant to students, faculty, and staff have been incorporated here.

**SUBCHAPTER 13-300. GENERAL RULES ON MEANS OF EXPRESSION**

**SEC. 13-301. DISRUPTION**

(a) Except as expressly authorized in section 13-802, or by an authorized university official responsible for a program or event sponsored by an academic or administrative unit, no speech, expression, or assembly may be conducted in a way that disrupts or interferes with any:

1. teaching, research, administration, or other authorized activities on the campus;
2. free and unimpeded flow of pedestrian and vehicular traffic on the campus; or
3. signs, tables, exhibits, public assemblies, distribution of literature, guest speakers, or use of amplified sound by another person or organization acting under the rules in this chapter.

(b) Except in the most extreme cases, interference and disruption are unavoidably contextual. Intentional physical interference with other persons is nearly always disruptive in any context. Interfering with traffic depends on the relation between the volume of traffic and the size of the passageway left open. Disruptive noise is the most contextual of all, because it depends on the activity disrupted. Any distracting sound may disrupt a memorial service. Any sound sufficiently loud or persistent to make concentration difficult may disrupt a class or library. Occasional heckling in the speaker's pauses may not disrupt a political speech, but persistent heckling that makes it difficult for listeners to hear the speaker does disrupt a political speech. These illustrations may be helpful, but none of them includes enough context to be taken as a rule. We cannot escape relying on the judgment and fairness of university authorities in particular cases. In this context where difficult enforcement judgments are unavoidable, it is especially important to remind administrators and law enforcement officials that their judgments should not be influenced by the viewpoint of those claiming disruption or of those allegedly disrupting.

(c) Potentially disruptive events can often proceed without disruption if participants, administrators, and law enforcement officials cooperate to avoid disruption without stopping the event. In cases of marginal or unintentional disruption, administrators and law enforcement officials should clearly state what they consider disruptive and seek voluntary compliance before resorting to disciplinary charges or arrest. But in cases of serious or intentional disruption, the *Regent's Rules* (pt. 1, ch. 7, sec. 11) require the university to use all lawful measures to immediately halt the disruption without negotiation.
SEC. 13-302. DAMAGE TO PROPERTY
(a) No speech, expression, or assembly may be conducted in a way that damages or defaces property of the university or of any person who has not authorized the speaker to damage or deface his or her property.
(b) No person may damage, deface, or interfere with any sign, table, or exhibit posted or displayed by another person or organization acting under the rules in this chapter.

SEC. 13-303. COERCING ATTENTION
(a) No person may attempt to coerce, intimidate, or badger any other person into viewing, listening to, or accepting a copy of any communication.
(b) No person may persist in requesting or demanding the attention of any other person after that other person has attempted to walk away or has clearly refused to attend to the speaker's communication.

SEC. 13-304. COSPONSORSHIP
(a) Neither registered student, faculty, or staff organizations, nor individual students, faculty, or staff, may cosponsor any event on campus with an off-campus person or organization. Only academic or administrative units with authority delegated from the president of the university may cosponsor events with an off-campus person or organization.
(b) An event is cosponsored if the university person or organization:
   (1) Depends on the off-campus person or organization for planning, staffing, or management of the event; or
   (2) Advertises the event as cosponsored by the off-campus person or organization; or
   (3) Operates the event as agent of, or for the benefit of, the off-campus person or organization, except for solicitation of charitable contributions under the authority of section 13-205(b)(1); or
   (4) Distributes any proceeds of the event to the off-campus person or organization, except for:
      (A) the proceeds of charitable contributions solicited under the authority of section 13-205(b)(1); or
      (B) payment of a fair market price for goods or services provided to the university person or organization; or
   (5) Reserves a room or space for the use of the off-campus person or organization; or
   (6) Engages in any other behavior that persuades the dean of students that the off-campus person or organization is in fact responsible for the event, in full or in substantial part.
(c) The following facts do not, in and of themselves, indicate cosponsorship:
   (1) That a university person or organization endorses an off-campus person or organization or its message;
   (2) That a university person or organization sells, distributes, or displays literature prepared by an off-campus person or organization or containing contact
information for an off-campus person or organization;
(3) That a university person or organization has purchased goods or services from an off-campus provider;
(4) That a registered student, faculty, or staff organization has invited a guest speaker under subchapter 13-1000;
(5) That a registered student, faculty, or staff organization has received financial contributions to support the event from an off-campus donor.
(d) The purpose of this rule is to preserve the limited space on campus for the use of students, faculty, and staff, and the rule shall be interpreted to serve that purpose. It is not the purpose of this rule to prevent students, faculty, or staff from exercising their right to associate with other persons or organizations holding views similar to their own.

SUBCHAPTER 13-400. DISTRIBUTION OF LITERATURE

SEC. 13-401. GENERAL RULE ON DISTRIBUTION OF LITERATURE
(a) Registered student, faculty, and staff organizations, and academic and administrative units, may sell, distribute, or display literature on campus, subject to the rules in this subchapter and to the general rules in subchapters 13-200 and 13-300. Individual students, faculty members, and staff members may distribute or display literature but may not sell it. In either case, no advance permission is required.
(b) "Literature" means any printed material, including any newspaper, magazine, or other publication, and any leaflet, flyer, or other informal matter.

SEC. 13-402. NOT-FOR-PROFIT LITERATURE ONLY
(a) Except as expressly authorized by the Regents' Rules or by contract with the university, no person or organization may sell, distribute, or display on campus any publication operated for profit. A registered student, faculty, or staff organization may sell publications operated for profit as part of a fundraiser authorized by, and subject to the limits of, section 13-205(b)(1).
(b) A publication is operated for profit if any part of the net earnings of the publication, or of its distribution, inures to the benefit of any private shareholder or individual.

SEC. 13-403. LIMITS ON ADVERTISING
Literature distributed on campus may contain the following advertising:
(a) advertising for a registered student, faculty, or staff organization, or an academic or administrative unit;
(b) advertising for an organization that is tax exempt under section 501(c)(3) of the Internal Revenue Code;
(c) paid advertising in a publication primarily devoted to promoting the views of a political, religious, charitable, or other not-for-profit cause, or to other bona fide editorial content distinct from the paid advertising; and
(d) other advertising expressly authorized by the Regents' Rules or by contract with the university.
All other advertising in literature distributed on campus is prohibited.

SEC. 13-404. IDENTIFICATION
All literature distributed on campus must identify the university person or organization responsible for its distribution.

SEC. 13-405. CLEAN UP OF ABANDONED LITERATURE
Any person or organization distributing literature on campus shall pick up all copies dropped on the ground in the area where the literature was distributed.

SUBCHAPTER 13-500 SIGNS AND BANNERS

SEC. 13-501. GENERAL RULE ON SIGNS
(a) "Sign" means any method of displaying a visual message to others.
(b) Subject to the rules in this subchapter and to the general rules in subchapters 13-200 and 13-300, a university person or organization may display a sign by holding or carrying it, by displaying it at a table (see subchapter 13-600), or by posting it on a kiosk, bulletin board, or other designated location. Signs may not be posted in any other location.

SEC. 13-502. HAND-HELD SIGNS
(a) Students, faculty, and staff may display a sign on campus by holding or carrying it by hand or otherwise attaching it to their person. No advance permission is required.
(b) Any person holding or carrying a sign shall exercise due care to avoid bumping, hitting, or injuring any other person.
(c) Any person holding or carrying a sign at a speech, performance, or other event shall exercise due care to avoid blocking the view of any other person observing the speech, performance, or event. Depending on the venue, this may mean that signs may be displayed only around the perimeter of a room or an audience.
(d) A law enforcement officer or the dean of students may warn any person that his or her sign is being handled in violation of paragraphs (b) or (c). If the violation persists after a clear warning, the law enforcement officer or dean may confiscate the sign.

SEC. 13-503. SIGNS ON KIOSKS
(a) A kiosk is an outdoor structure, attached to the ground in a fixed location, designed for the posting of signs.
(b) University persons and organizations may post signs on kiosks. No advance permission is required. Individuals may not post on kiosks any sign advertising goods or services for sale (see section 13-205).
(c) No sign posted on a kiosk may be larger than 11 inches by 17 inches.
(d) Each sign posted on a kiosk must identify the University person or organization that posted the sign, and must state the date the sign was posted or the date of the event being advertised. No sign advertising an event may be posted on a kiosk more than fourteen days before the date of the event.

(e) The person or organization that posts a sign on a kiosk must remove that sign not later than fourteen days after it was posted, or twenty-four hours after the event it advertised, whichever is earlier.

(f) No sign may be posted on a kiosk on top of another properly posted sign.

(g) No person or organization may post more than two signs on the same kiosk at the same time.

(h) The dean of students may remove any sign that violates any of the rules in this section.

SEC. 13-504. BANNERS

(a) "Banner" means a sign hung from a structure, or between two buildings, structures, or poles.

(b) (1) The dean of students shall designate places where banners may be hung in outdoor locations not occupied or controlled by any other academic or administrative unit.

(2) Other academic and administrative units may designate one or more places where banners may be hung in indoor or outdoor locations that the unit occupies or controls.

(c) (1) Academic and administrative units and registered student, faculty, and staff organizations may hang banners in locations designated under paragraph (b). Individuals may not hang banners.

(2) Advance permission is required from the unit administering the location, and usually, advance reservations are required. Academic and administrative units advertising official university events or programs may be given priority. In locations administered by academic or administrative units other than the dean of students, organizations affiliated with the unit administering the location may be given priority.

(d) (1) In locations administered by the dean of students, each banner may be hung for one week. The banner may be renewed from week to week if space is available, but usually, other organizations are waiting their turn and renewal is not possible.

(2) Other units administering a location for banners may limit the time each banner may hang. Any such time limit shall be applied without discrimination to all organizations, except that academic and administrative units may be given preference.

(e) The dean of students shall maintain, on a website or on a flyer or pamphlet conveniently available at the dean's office:

(1) a list of outdoor locations where banners may be hung;

(2) the academic or administrative unit that administers banners at each outdoor location; and

(3) a current description of the rules and procedures for reserving the right to hang a
banner in locations administered by the dean of students.

(f) The unit administering a banner location may require that the physical work of hanging the banners be performed only by employees of Physical Plant or other appropriate university personnel.

SEC. 13-505. A-FRAMES

(a) "A-frame" means a movable and self-supporting sign board designed to stand on the ground.

(b) A-frames are subject to the rules on exhibits in subchapter 13-700.

SEC. 13-506. SIGNS IN OTHER DESIGNATED LOCATIONS

(a) Each academic or administrative unit of the university may authorize the posting of signs in spaces that unit occupies and controls. Such authorization may be granted by general rule, by stamping or initialing individual signs, or by longstanding tradition.

(b) Signs in spaces occupied by academic or administrative units may be:
   (1) confined to bulletin boards or other designated locations;
   (2) subjected to viewpoint-neutral rules limiting the size of signs, limiting how long they may be posted, requiring each sign to show the date it was posted and the name of the person or organization who posted it, and similar rules designed to facilitate fair and equal opportunities to post signs;
   (3) confined to official statements or business of the unit, or to certain subject matters of interest within the unit, or to signs posted by persons or organizations affiliated with the unit.

(c) Each academic or administrative unit shall post on or near each bulletin board or other designated location that it administers:
   (1) either the rules applicable to that bulletin board or location, or a particular office or website where the rules applicable to that bulletin board or location may conveniently be found; and
   (2) if a stamp or initials are required on signs before they are posted on that bulletin board or location, the name and office location of the person whose stamp or initials are required.

This notice shall be posted in the upper left corner of each bulletin board or other designated location for posting signs, or conspicuously in another nearby location. If no such notice is posted, then the only applicable rules are those contained in subchapters 13-200 and 13-300.

(d) Within the scope of the subject matters permitted on a particular bulletin board or other designated location, no academic or administrative unit shall discriminate on the basis of the political, religious, philosophical, ideological, or academic viewpoint expressed on a sign.

(e) This section does not apply to any enclosed bulletin board or display case that is accessible only to authorized personnel for official university business.
SUBCHAPTER 13-600. TABLES

SEC. 13-601. GENERAL RULE ON TABLES
University persons or organizations may set up tables from which to display literature and disseminate information and opinions, subject to the rules in this subchapter and to the general rules in subchapters 13-200 and 13-300. No advance permission is required.

SEC. 13-602. LOCATIONS
(a) Subject to the restrictions in paragraph (b) and subject to the rules on disruption of other functions and interference with vehicular and pedestrian traffic (see section 13-301), university persons and organizations may set up tables in any outdoor location on the campus and in any large, open, indoor location.

(b) (1) Tables may not be set up on the Main Plaza.
(2) Tables may not be set up inside any library, classroom, laboratory, performance hall, stadium, or office, or in any hallway less than ten feet wide, without permission from the academic or administrative unit that controls the space, or from the faculty member or staff member who controls the space at a particular time.
(3) An academic or administrative unit may further specify these rules by restricting tables to reasonable locations in spaces occupied by that unit. Academic and administrative units are encouraged to clearly state any such rules in writing, and to publish those rules on a website or on a flyer or pamphlet conveniently available at the chief administrative office of the unit.

(c) If any table is set up in a prohibited or disruptive location, any university employee pointing out the violation shall also point out other locations, as nearby as is reasonably possible, where the table is permitted.

SEC. 13-603. IDENTIFICATION
Each table must have a sign or literature that identifies the University person or organization sponsoring the table.

SEC. 13-604. CLEAN UP AROUND TABLES
Any person or organization sponsoring a table shall remove litter from the area around the table at the end of each day.

SEC. 13-605. SOURCES OF TABLES
Persons and organizations may supply their own tables. In addition, the dean of students maintains a supply of tables that may be reserved and checked out for use on campus. The dean of students shall maintain, on a website or on a flyer or pamphlet conveniently available at the dean's office, a current description of the rules and procedures for reserving and checking out tables.
SUBCHAPTER 13-700. EXHIBITS AND A-FRAMES

SEC. 13-701. GENERAL RULE ON EXHIBITS
(a) "Exhibit" means an object or collection of related objects, designed to stand on the ground or on a raised surface, that is not a table, and that is designed for temporary display and is not permanently attached to the ground. An A-frame sign (see section 13-505) is an exhibit.
(b) University persons and organizations may erect exhibits, subject to the rules in this subchapter and to the general rules in subchapters 13-200 and 13-300. Advance permission is required from the dean of students, except that an academic unit may authorize indoor exhibits in a space that it occupies and controls.

SEC. 13-702. APPLICATION PROCESS
A person or organization desiring to erect an exhibit shall apply on a form prescribed by the dean of students.

SEC. 13-703. CRITERIA FOR APPROVAL
(a) The dean of students shall authorize an exhibit described in a completed application under section 13-702 unless the dean finds that:
   (1) the exhibit would violate one or more of the general rules in subchapters 13-200 and 13-300;
   (2) the exhibit would violate fire, health, or safety standards;
   (3) another exhibit or event has been scheduled for the proposed time and location, or so near that there is a practical conflict;
   (4) the applicant is under a disciplinary penalty that prohibits erecting an exhibit; or
   (5) the exhibit would be erected in the Main Plaza.
(b) The dean shall specify the location of each exhibit to reduce the hazard to visually impaired pedestrians.
(c) The dean shall advise each applicant how to correct, if possible, any conditions that preclude approval of his or her application. Even if an applicant is entitled to have its application approved as submitted, the dean may give advice about other possible locations, or about modifications to the exhibit, that would avoid potential problems or make the proposed exhibit more workable.

SEC. 13-704. TIME LIMITS
(a) In locations administered by the dean of students, each exhibit may be displayed for fourteen days. The exhibit may be renewed for an additional fourteen days if space is available.
(b) The exhibit must be removed at the end of each day and may be reerected each morning. However, the vice president for student affairs or the dean of students may authorize overnight exhibits in designated locations. Overnight exhibit locations shall be listed on a website, or on a flyer or pamphlet conveniently available in the dean's office.
SEC. 13-705. CLEAN UP AROUND EXHIBITS
Any person or organization sponsoring an exhibit shall remove litter from the area around the exhibit at the end of each day.

SEC. 13-706. LIABILITY
Any person or organization sponsoring an exhibit assumes full responsibility for the exhibit, including all injuries or hazards that may arise from the exhibit. The university shall not be liable for any damage that may occur to the exhibit, and any person or organization sponsoring the exhibit shall indemnify the university for any claims arising from the exhibit's presence on campus.

SUBCHAPTER 13-800. AMPLIFIED SOUND

SEC. 13-801. GENERAL RULE ON AMPLIFIED SOUND
University persons and organizations may use amplified sound on campus at designated times and locations, subject to the rules in this subchapter and to the general rules in subchapters 13-200 and 13-300. Advance permission is required. This subchapter creates limited exceptions to the general rule on disruption in section 13-301.

SEC. 13-802. LOCATION AND TIMES OF WEEKDAY AMPLIFIED SOUND AREAS
(a) (1) The West Mall Amplified Sound Area is the extreme east end of the West Mall, adjacent to the west steps of the Tower.
(2) University persons and organizations may use amplified sound in this area from 11:30 a.m. to 1:30 p.m. Monday through Friday.
(b) (1) The Union Patio Amplified Sound Area is the flagstone area between the Texas Union and the Flawn Academic Center.
(2) University persons and organizations may use amplified sound in this area from 11:30 a.m. to 1:30 p.m. Monday through Friday.
(c) (1) The East Bus Circle Amplified Sound Area is the grassy area south of the East Mall Fountain and east of Steindam Hall.
(2) University persons and organizations may use amplified sound in this area from 8:00 a.m. to 5:00 p.m. Monday through Friday.
(d) (1) The East Mall Amplified Sound Area is the area bounded by the west side of Speedway Avenue, by the south end of Welch Hall, by the top of the steps at the east side of Inner Campus Drive, and by the north end of Waggener Hall.
(2) Permanent speakers will be installed in the planters in this area. This area may not be used until those speakers are installed. Thereafter, university persons and organizations may use amplified sound in this area from 8:00 a.m. to 5:00 p.m. Monday through Friday.
(e) (1) The Battle Oaks Amplified Sound Area is the area bounded by the north wall of Hogg Auditorium, by an extension drawn northward from the east wall of the Texas Union, by the south edge of the sidewalk on the south side of 24th Street,
and by the west edge of the sidewalk on the west side of Inner Campus Drive.

(2) University persons and organizations may use amplified sound in this area from 8:00 a.m. to 5:00 p.m. Monday through Friday.

(f) (1) The Mustangs Amplified Sound Area is the area bounded by the sidewalk on the east side of San Jacinto Boulevard, by the west wall of the Texas Memorial Museum, and by the outer edge of the two stairways on either side of the lawn.

(2) University persons and organizations may use amplified sound in this area from 8:00 a.m. to 5:00 p.m. Monday through Friday.

(g) (1) The San Jacinto Amplified Sound Area is the area bounded by the south wall of the Art Building, by the east edge of the sidewalk on the east side of San Jacinto Boulevard, by the north edge of the sidewalk on the north side of 23rd Street, and by the west edge of the sidewalk on the west side of Trinity Avenue.

(2) University persons and organizations may use amplified sound in this area from 8:00 a.m. to 5:00 p.m. Monday through Friday.

(h) (1) The LBJ Fountain Amplified Sound Area is the area bounded by the east edge of Robert Dedman Drive, by the first sidewalk north of the LBJ Fountain, by a line drawn tangent to the west side of the LBJ Fountain and parallel to Robert Dedman Drive, and by the base of the hill on the south side of the Fountain.

(2) University persons and organizations may use amplified sound in this area from 8:00 a.m. to 5:00 p.m. Monday through Friday.

(i) (1) The vice president for student affairs may designate additional areas for weekday use of amplified sound.

(2) If the dean of students concludes that it is unworkable to use the Union Patio Amplified Sound Area and the Battle Oaks Amplified Sound Area at the same time, the dean may close the Union Patio Amplified Sound Area or refuse to schedule simultaneous events in the two areas.

SEC. 13-803. REGULATION AND SCHEDULING OF WEEKDAY AMPLIFIED SOUND

(a) The dean of students may prescribe rules concerning scheduling, sound levels, the location of speakers and direction in which they are pointed, and other rules to facilitate the use of weekday amplified sound areas, to mediate any conflict with university functions and other nearby activities, and to manage environmental impact.

(b) (1) Persons or organizations wishing to use a weekday amplified sound area must reserve a particular area at a particular time. Reservations must be made with the dean of students on a form prescribed by the dean.

(2) The dean may limit the number or frequency of reservations for each person or organization to ensure reasonable access for all persons and organizations desiring to use amplified sound on weekdays.

(3) In the Union Patio or Battle Oaks Amplified Sound Area, the dean shall reserve some time slots each week for emergency reservations by persons or organizations responding to events that have occurred, or issues that have arisen,
since the preceding week.

(c) Amplified sound in the West Mall and Union Patio Amplified Sound Areas is in fact disruptive of teaching, administration, and research in the Tower, in the Flawn Academic Center, in Parlin Hall, and in Battle Hall. The disruption inherent in this use of amplified sound is expressly authorized, but no other disruption is authorized. Disruption is permitted to this extent because otherwise, it would be necessary to ban all use of amplified sound in and near the center of campus during working hours. The hours are limited because otherwise, work in these important buildings would be continuously disrupted.

(d) Between 8:00 a.m. and 5:00 p.m. Monday through Friday, all persons and organizations must use sound equipment owned or controlled by the university. Some sound equipment may be borrowed, and other sound equipment may be rented for a nominal fee, from the dean of students.

(e) Persons and organizations using amplified sound are responsible for maintaining a passageway for pedestrians that is adequate to the volume of pedestrian traffic passing through the area.

(f) Any designations of additional areas, any additional rules regulating the designated areas, and the rules and procedures for reserving the right to use a designated area, shall be clearly stated on a website or on a flyer or pamphlet conveniently available at the dean of student's office.

SEC. 13-804. AMPLIFIED SOUND ON EVENINGS AND WEEKENDS

(a) With advance permission, university persons and organizations may use amplified sound in any outdoor location on campus, including the weekday amplified sound areas designated in section 13-802, after 5:00 p.m. Monday through Friday, and after 8:00 a.m. Saturday and Sunday, except for the early morning hours excluded in paragraph (b).

(b) If amplified sound is authorized for an event on a Sunday, Monday, Tuesday, Wednesday, or Thursday evening, the sound must be turned off by 1:00 a.m. on the following day. If amplified sound is authorized for an event on a Friday or Saturday evening, the sound must be turned off by 2:00 a.m. on the following day.

(c) On evenings and weekends, speakers may provide their own sound equipment. Some sound equipment may be borrowed, and other sound equipment may be rented for a nominal fee, from the dean of students.

(d) Use of amplified sound on evenings and weekends requires advance permission from the dean of students. Persons and organizations shall apply on a form prescribed by the dean. The dean shall authorize amplified sound as described in a completed application unless the dean finds that:

(1) the proposed use of amplified sound would violate one or more of the general rules in subchapters 13-200 and 13-300;

(2) the proposed use of amplified sound would interfere with another scheduled event; or

(3) the applicant is under a disciplinary penalty that prohibits the use of amplified
sound.
The dean shall advise each applicant how to correct, if possible, any conditions that preclude approval of its application. Even if an applicant is entitled to have its application approved as submitted, the dean may give advice about other possible locations, or about modifications to the proposed event, that would avoid potential problems or make the proposed event more workable.

SEC. 13-805. AMPLIFIED SOUND INDOORS
Amplified sound sufficient to be heard throughout the room may be used in any room in any building, but the dean of students may limit or prohibit sound that would be disruptive outside the room. Reservations may be required. Rules concerning use of university buildings are contained in chapter 10.

SUBCHAPTER 13-900. PUBLIC ASSEMBLIES WITHOUT AMPLIFIED SOUND

SEC. 13-901. GENERAL RULE ON PUBLIC ASSEMBLIES
(a) "Publicly assemble" and "public assembly" include any gathering of persons, including discussions, rallies, and demonstrations. The rules of subchapter 13-800 apply to any use of amplified sound at a public assembly.
(b) University persons and organizations may publicly assemble on campus in any place where, at the time of the assembly, the persons assembling are permitted to be. This right to assemble is subject to the rules in this subchapter, to the general rules in subchapters 13-200 and 13-300, and to the rules on use of university property in chapter 10. No advance permission is required.

SEC. 13-902. RESERVATION OF SPACE
(a) University persons or organizations who wish to publicly assemble in a particular room or space at a particular time may reserve the room or space under the provisions in subchapter 10-200.
(b) An organization with a reservation has the right to the reserved room or space for the time covered by the reservation. Any person or organization using or occupying the room or space without a reservation must yield control of the room or space in time to permit any organization with a reservation to begin using the room or space promptly at the beginning of its reserved time.
(c) Reservations are not required but are strongly encouraged. A person or organization planning to use a room or space without a reservation may find the facility locked or in use by another person or organization. The University Police rely on a list of scheduled events, and a large group without a reservation is likely to attract their courteous but inquiring attention.
SEC. 13-903. NOTICE AND CONSULTATION
Persons or organizations who are planning a public assembly with more than fifty participants are strongly encouraged to notify and consult with the dean of students as soon as practicable after the point at which the planners anticipate or plan for more than fifty participants. Persons or organizations planning smaller assemblies are encouraged to consult the dean of students if there is uncertainty about applicable university rules, the appropriateness of the planned location, or possible conflict with other events. The dean has much experience in helping student organizations structure events in ways that both comply with the university's rules and achieve the organization's goals for the event. The dean can help identify appropriate space and potentially conflicting events. The dean can help the planners avoid unintended disruption or other violations that may result in subsequent discipline or subsequent interference with the assembly by campus authorities.

SUBCHAPTER 13-1000. GUEST SPEAKERS

SEC. 13-1001. DEFINITIONS
"Guest speaker" means a speaker or performer who is not a student, faculty member, or staff member.

SEC. 13-1002. WHO MAY PRESENT
Registered student, faculty, and staff organizations, and academic and administrative units, may present guest speakers on university property. In the case of registered student organizations, advance permission from the dean of students is required. Individuals may not present a guest speaker.

SEC. 13-1003. LOCATION AND FORM OF PRESENTATION
(a) A guest speaker may present a speech or performance, or lead a discussion, at a time announced in advance, in a fixed indoor location, or in a fixed outdoor location approved by the dean of students. A guest speaker may distribute literature to persons who attend the speech, performance, or discussion.
(b) A guest speaker may not:
(1) accost potential listeners who have not chosen to attend the speech, performance, or discussion; or
(2) distribute literature to persons who have not chosen to attend the speech, performance, or discussion; or
(3) help staff a table or exhibit set up under subchapter 13-600 or 13-700.

SEC. 13-1004. APPLICATION
(a) A registered student organization that wishes to present a guest speaker shall apply to the dean of students, on a form prescribed by the dean, at least forty-eight hours before the scheduled event or any planned advertising for the event, whichever is earlier. The
application shall be combined with an application under section 10-202 to reserve the use of a university room or space for the event.
(b) The dean shall approve an application properly made under subsection (a) unless it must be disapproved under the criteria in section 10-203.

SEC. 13-1005. OBLIGATIONS OF PRESENTING ORGANIZATION
A student, faculty, or staff organization that presents a guest speaker must make clear that:
(a) the organization, and not the university, invited the speaker; and
(b) the views expressed by the speaker are his or her own and do not necessarily represent the views of the university, The University of Texas System, or any component institution.

SUBCHAPTER 13-1100. RESPONDING TO SPEECH, EXPRESSION, AND ASSEMBLY

SEC. 13-1101. GENERAL RULE ON RESPONDING
University persons and organizations may respond to the speech, expression, or assembly of others, subject to all the rules in this chapter.

SEC. 13-1102. APPLICATIONS OF SECTION 13-1101
(a) Responders may not damage or deface signs or exhibits, disrupt public assemblies, block the view of participants, or prevent speakers from being heard.
(b) Means of response that are permitted in many locations and without advance permission or reservation, such as signs, tables, distribution of literature, and public assembly without amplified sound, may be used immediately and in any location authorized in this Policy.
(c) Means of response that require advance permission or reservation, such as banners, A-frames, exhibits, and amplified sound, may be used as soon as the needed permission or reservation may be arranged. Banner space and some amplified sound areas may be unavailable on short notice because of earlier reservations, but the dean of students shall expedite approval of A-frames, exhibits, and available banner space and amplified sound areas where necessary to permit appropriate response to other speech, assembly, or expression.
(d) Means of response that are confined to authorized locations, such as banners and amplified sound, may be used only in those locations. It is not possible to respond to amplified sound with amplified sound in the same location; similarly if an exhibit or public assembly is in a location where amplified sound is not permitted, it is not possible to respond with amplified sound in that location. In either case, it is possible to respond with amplified sound in another location and to use signs or distribution of literature to advertise the response at the other location.
SUBCHAPTER 13-1200. ENFORCEMENT AND APPEALS

SEC. 13-1201. POLICE PROTECTION
(a) It is the responsibility of the university to protect the safety of all persons on campus and to provide police protection for speakers, public assemblies, persons staffing or viewing exhibits, and other events. The normal patrolling of officers during regular duty areas in the area of such events will be at the cost of the university. When the magnitude, timing, or nature of an event requires overtime hours from police officers (including contract hours for officers hired from other departments or private security agencies), the university will, to the extent specified in subsections (b) and (c), charge the cost of overtime or contract officers to the person or organization sponsoring the event or exhibit that requires overtime police protection. The purpose of subsections (b) and (c) is to charge for police overtime where reasonably possible, but not to charge for police overtime made necessary by the content of speech at the event or by the controversy associated with any event.
(b) A reasonable and nondiscriminatory fee for overtime police work will be charged for events that require overtime police protection, and
(1) charge a price for admission, or
(2) pay a speaker, band, or other off-campus person or organization for services at the event.
Persons or organizations planning such events should budget for the cost of police protection.
(c) The university shall have the sole power to decide, after reasonable consultation with the person or organization planning the event, whether and to what extent overtime police protection is required. No fee shall be charged for officers assigned because of political, religious, philosophical, ideological, or academic controversy anticipated or actually experienced at the event. All fees shall be based on the number of officers required for an uncontroverted event of the same size and kind, in the same place and at the same time of day, handling the same amount of cash.
(d) Nothing in this section applies to any interdepartmental charge or transfer among units or accounts funded by the university.

SEC. 13-1202. RESPONSE TO VIOLATIONS
(a) A student who violates a prohibition in this chapter may be disciplined under the procedures in chapter 11.
(b) A faculty member who violates a prohibition in this chapter may be disciplined under applicable procedures provided by other rules. If no such procedures exist, violations by faculty members shall be referred to the Office of the Executive Vice President and Provost.
(c) A staff member who violates a prohibition in this chapter may be disciplined under applicable procedures provided by other rules. If no such procedures exist, violations by staff members shall be referred to Human Resource Services.
(d) Authorized university personnel may prevent imminently threatened violations, or end
ongoing violations, of a prohibition in this chapter, by explanation and persuasion, by reasonable physical intervention, by arrest of violators, or by any other lawful measures.

(e) Persons and organizations on the campus shall comply with instructions from university administrators and law enforcement officials at the scene. A person or organization that complies with an on-the-scene order limiting speech, expression, or assembly may test the propriety of that order in an appeal under section 13-1203.

SEC. 13-1203. APPEALS

(a) A person or organization that is denied permission for an activity requiring advance permission under this chapter may appeal the denial of permission.

(b) A person or organization that complies with an on-the-scene order limiting speech, expression, or assembly may, on or before the fifth weekday after complying with the order, file an appeal to determine the propriety of the order limiting the speech, expression, or assembly. The question on appeal shall be whether, under the circumstances as they reasonably appeared at the time of the order, the appellant's speech, expression, or assembly should have been permitted to continue. Such an appeal may be useful to clarify the meaning of a rule, or to resolve a factual dispute that may recur if the appellant desires to resume the speech, expression, or assembly that was limited by the order.

(c) An appeal authorized by this section shall be heard under the procedures set out in subchapter 10-400.
APPENDIX

SECTION-BY-SECTION ANALYSIS
OF PROPOSED CHANGES TO
INSTITUTIONAL RULES ON STUDENT SERVICES AND ACTIVITIES

The proposed rules in this document, consisting of a substantial recodification of Chapters 6 and 10, amendments to Chapter 11, and a new Chapter 13, of the Institutional Rules on Student Services and Activities, (Appendix C to the General Information Catalog), constitute the principal recommendations of the Task Force. Because these rules also regulate faculty and staff, to some extent in the existing version and to a greater extent in our proposed version, we propose putting these rules in the Handbook of Operating Procedures (H.O.P.). They should also remain in the Institutional Rules (I.R.), which are more accessible to students. Future amendments should change both versions, unless there is a carefully considered decision to change only one.

H.O.P. and I.R. have different organizations, resulting in different numbers for I.R. "chapters" and H.O.P. "parts" and "policies." We have conformed to each numbering system, but within chapters and policies, we have used the same numbering system for sections. Thus an informal reference to section 304 of the free speech rules will accurately identify I.R. section 13-304 and H.O.P. Policy 13.A.1, section 304.

This Appendix briefly explains our proposed changes, section by section. It identifies the existing rule for comparison to each proposed rule, and it briefly explains substantive changes and their rationale. References to existing rules are to I.R. unless otherwise indicated; corresponding references to H.O.P. are given in headings.
The proposed changes to Chapter 6 (to be inserted in the H.O.P. as Policy 12.B.1) conform that chapter to the proposed rules on free speech, and make simple editing changes for clarity. We have not undertaken substantive review, nor a systematic editorial review, of policies unrelated to free speech.

SEC. 6-101. DEFINITIONS (H.O.P. 12.B.1-101)
Mostly from existing 6-101; definition of "authorized representative" from existing 10-102(1). Minor editing for clarity. No substantive change.

SEC. 6-201. REGISTRATION REQUIRED (H.O.P. 12.B.1-201)
From existing 6-201(c). Minor editing for clarity. No substantive change.
Existing 6-201(a) now dealt with in proposed Chapter 13 (H.O.P. Policy 13.A.1).
Existing 6-201(b) moved to proposed 6-202 on eligibility.
Existing 6-201(d) deleted as possibly unconstitutional under *Healy v. James*, 408 U.S. 169 (1972). Issue now dealt with in proposed 6-202(f).

SEC. 6-202. ELIGIBILITY (H.O.P. 12.B.1-202)
From existing 6-202 and 6-201(b). Minor editing for clarity.
One important substantive change in proposed 6-202(c), permitting religious organizations to require a statement of faith for voting and office holding. This is not invidious discrimination, but rather a core exercise of religious liberty and protective of the organization's mission. Political organizations can insist on loyalty to their cause without running afoul of discrimination rules, and religious organizations should have the same right. Organizations committed to a message or to a political or religious goal have a constitutional right to insist at least that their leaders, and perhaps their members, adhere to the organization's message or goal. This right has been recognized in such cases as *Boy Scouts v. Dale*, 530 U.S. 640 (2000); *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston*, 515 U.S. 557 (1995); and *Democratic Party v. Wisconsin*, 450 U.S. 107 (1981). These principles were applied to on-campus religious groups in *Hsu v. Roslyn Union Free School District No. 3*, 85 F.3d 839 (2d Cir. 1996).

SEC. 6-203. APPLICATION (H.O.P. 12.B.1-203)
From existing 6-203. Minor editing for clarity. No substantive change.

SEC. 6-204. USE OF UNIVERSITY NAME OR SPONSORSHIP (H.O.P. 12.B.1-204)
From existing 6-204. Minor editing for clarity. No substantive change.
The Task Force did not consider the merits of this section. Another committee is actively considering existing policy on use of the University's trademarks by student, faculty, and staff.
organizations. When that committee reports, it should revise this section as necessary in both the H.O.P. and the I.R.

**SEC. 6-205. ACTION ON APPLICATION (H.O.P. 12.B.1-205)**
From existing 6-205. Cross-references updated. No substantive change.

**SEC. 6-301. RECOGNITION AND ACTIVITIES (H.O.P. 12.B.1-301)**
From existing 6-301. Minor editing for clarity. Reference to public performance or exhibition deleted. Subsection (e) added for clarity, but this is not a substantive change.

**SEC. 6-302. MEMBERSHIP (H.O.P. 12.B.1-302)**
From existing 6-302. Minor editing for clarity. One substantive change, already discussed under 6-202.

**SEC. 6-303. OBLIGATIONS (H.O.P. 12.B.1-303)**
From existing 6-304. Minor editing for clarity. One substantive change, already discussed under 6-202.
Existing 6-303 moved to proposed 6-401.

**SEC. 6-401. ACCOUNTING PROCEDURE (H.O.P. 12.B.1-401)**
From existing 6-303 and 10-502. Minor editing for clarity and to eliminate duplication. No substantive change.

**SEC. 6-402. TICKET SALES (H.O.P. 12.B.1-402)**
From existing 10-503. Cross-reference updated. No other change.

**SEC. 6-501. ORGANIZATIONAL RESPONSIBILITY FOR VIOLATIONS (H.O.P. 12.B.1-501).**
From existing 6-401, unchanged. Section title changed for clarity.

**SEC. 6-502. PENALTIES (H.O.P. 12.B.1-502)**
From existing 6-402. Reference to "booth" changed to "table or exhibit" for clarity. No other change.

**SEC. 6-503. NOTICE (H.O.P. 12.B.1-503).**
From existing 6-403. Minor editing for clarity. No substantive change.

**SEC. 6-504. GENERAL PROCEDURES FOR APPEAL (H.O.P. 12.B.1-504)**
From existing 6-404(a), (b), (c), (d), (i), and (j). Existing 6-404(e) and (f) moved to proposed 6-505. Existing 6-404(g) and (h) moved to proposed 6-506. Minor editing for clarity. No substantive change.
SEC. 6-505. APPEAL TO THE VICE PRESIDENT FOR STUDENT AFFAIRS (H.O.P. 12.B.1-505).
   From existing 6-404(e) and (f). Minor editing for clarity. No substantive change.

SEC. 6-506. APPEAL TO A HEARING OFFICER (H.O.P. 12.B.1-506)
   From existing 6-404(g) and (h) and 6-405. Minor editing for clarity. No substantive change.
USE OF UNIVERSITY PROPERTY, ROOMS, AND SPACES
INSTITUTIONAL RULES CHAPTER 10
PROPOSED HANDBOOK OF OPERATING PROCEDURES POLICY 2.B.1

Existing Chapter 10 on University facilities includes most rules on speech, assembly, and expression, conceived as rules about what people can say and do in and on University facilities. The Task Force proposes to move the free speech rules to a new I.R. Chapter 13 (H.O.P. Policy 13.A.1), which will make them easier to find and which makes it easier to organize those rules more clearly. This leaves in Chapter 10 the rules that are primarily about University facilities.

As with Chapter 6, we did not undertake a substantive review, or a systematic editorial review, of policies unrelated to free speech. But the large removals of material from Chapter 10 require significant amendments for organization and clarity in the material that remains. The revised Chapter 10 is also to be inserted in the Handbook of Operating Procedures as Policy 2.B.1.


From existing 10-101. Existing 10-101(c) moved to proposed 13-203 (H.O.P. 13.A.1-203); other references to speech moved to appropriate sections in proposed Chapter 13 (H.O.P. Policy 13.A.1). Cross-references added. Exclusion of Texas Union deleted; Union and other facilities not subject to centralized scheduling now expressly provided for in 10-202(a)(3). No substantive change.

SEC. 10-102. GENERAL DEFINITIONS -- CATEGORIES OF SPEAKERS AND USERS (H.O.P. 2.B.1-102)

From existing 10-102. Minor editing for clarity. No substantive change. Some phrases are newly defined to distinguish various categories of speakers: "academic or administrative unit," "faculty member and staff member," and "registered student, faculty, or staff organization."

SEC. 10-103. OTHER GENERAL DEFINITIONS (H.O.P. 2.B.1-103)

From existing 10-102. Minor editing for clarity. The phrase "room or space" is substituted for "university facility," which several members found confusing. No substantive change.

SEC. 10-201. PERMISSION TO USE (H.O.P. 2.B.1-201)

Proposed 10-201(a) from existing 10-201(a). Subsection expanded to introduce general guide, by rule or cross-reference, to all room reservations on campus, including by academic and administrative units and by faculty and staff organizations. Explicitly states priority of academic and administrative units, except in weekday amplified sound areas.

Proposed 10-201(b) is based on current administrative practice; it explicitly states the rights and priorities of an organization with a reservation.

Proposed 10-201(c) explains to users the advantage of reserving a room or space instead of simply using one that appears empty.
Existing 10-201(b) moved to proposed 10-202(a).
Existing 10-201(c) moved to proposed 13-304(a) (H.O.P. 13.A.1-304(a)).

SEC. 10-202. APPLICATION (H.O.P. 2.B.1-202)
From existing administrative practice, which is partly stated in existing 10-201(a) and 10-202(a), and existing Old H.O.P. 6.06 (which will be moved to new H.O.P. Policy 2.B.2). Expanded to explain who controls reservations for which rooms, and where each set of users should go to make reservations. No substantive change.
Requires Dean of Students, and encourages academic and administrative units, to create transparent reservation processes. It is not feasible for the Dean of Students to list all rooms and who administers them, but she can prominently publish list of general purpose classrooms, and users can infer that rooms not listed are controlled by some nearby unit.
Omits details of Dean of Students’ application form.
Existing 10-202(b) moved to proposed subchapter 13-1000.

SEC. 10-203. CONSIDERATION OF APPLICATION (H.O.P. 2.B.1-203)
From existing 10-203. Minor editing for clarity; cross-references added. No substantive change in criteria for approval. More time allowed for explaining disapproval.

SEC. 10-301. IDENTIFICATION (H.O.P. 2.B.1-301)
From existing 10-204. Edited for clarity. No substantive change.

SEC. 10-302. USE OF ALCOHOLIC BEVERAGES (H.O.P. 2.B.1-302)
From existing 10-205. No change.

SEC. 10-401. PROCEDURES FOR APPEAL (H.O.P. 2.B.1-401)
From existing 10-601. Minor editing for clarity. No substantive change.

SEC. 10-402. FURTHER REVIEW BY PETITION (H.O.P. 2.B.1-402)
From existing 10-602. Minor editing for clarity. No substantive change.

MISSING SECTIONS
Existing subchapter 10-300 (student advocacy) moved to proposed Chapter 13 (H.O.P. Policy 13.A.1), generally reorganized, and substantially rewritten.
Existing 10-301 (petitions, handbills, and literature) mostly moved to proposed subchapter 13-400.
Existing 10-302, 10-303, and 10-304 (signs) mostly moved to proposed subchapter 13-500.
Existing 10-305 (booths) mostly moved to proposed subchapter 13-600.
Existing 10-306 (public demonstrations) mostly moved to proposed subchapter 13-900.
Existing 10-307 (designated areas) mostly moved to proposed subchapter 13-800.
Restrictions on speech in existing sections mostly consolidated in proposed subchapters.
13-200 and 13-300.

Existing subchapter 10-400 is eliminated. The categories of "public performance" and "public exhibition" were undefined, and generally unused. Anything that might have fallen in these categories is dealt with in proposed subchapters 13-1000 on guest speakers, 13-800 on amplified sound, and 13-900 on public assemblies.

Existing subchapter 10-500 moved to proposed 13-205.
The proposed amendments to Chapter 11 are essentially cross-references, connecting existing rules to related rules in the Task Force proposals. The student disciplinary rules are not to be incorporated into the Handbook of Operating Procedures.

SEC. 11-501. AUTHORIZED DISCIPLINARY PENALTIES
The proposed amendment inserts a cross-reference to harassment rules into the existing rule providing enhanced penalties for racially motivated offenses. No substantive change.

SEC. 11-804. CERTAIN OTHER OFFENSES.
The proposed amendment inserts a cross-reference to the full set of harassment rules into the existing disciplinary rule that prohibits harassment in somewhat conclusory terms. No substantive change in the cross-reference; substantive clarification in the harassment rules that are cross-referenced.
Proposed I.R. Chapter 13 (H.O.P. Policy 13.A.1) is a complete reorganization and rewriting of the rules on speech, expression, and assembly.

We have attempted to consolidate all restrictions on the content of speech in subchapter 13-200, and all the general restrictions on the means of speech in subchapter 13-300. These two subchapters apply to all speech within the scope of this chapter. The succeeding subchapters deal with particular forms of speech: distribution of literature, signs and banners, tables, exhibits, amplified sound, public assemblies, guest speakers, and responses. The final subchapters deal with enforcement and appeals.

Entirely rewritten for clarity and emphasis. Similar statements of the University's commitment to free speech and of the essential limits on that commitment appear in existing 6-201(a) and 10-307(a), and the Regents' Rules (pt. 1, ch. VI, secs. 6.1 and 7.1).


SEC. 13-102. SCOPE OF THIS CHAPTER AND RELATED PROVISIONS (H.O.P. 13.A.1-102)
This proposed section is mostly new, but the substance of what it explains is not new. It explains that this chapter deals with speech that is not officially sponsored by the University, and also with most official speech that occurs outdoors or is alleged to be harassing. It explains why faculty, staff, and even academic units sometimes have to schedule through the Dean of Students, as provided in existing Old H.O.P. section 6.06. It cross-references other regulations of speech on campus.

The priority for official events, stated in proposed 13-102(c), and again with respect to reservation of rooms and spaces in proposed 10-201(a), is stated in the existing Regents' Rules (pt. 1, ch. VI, sec. 6.95 and 7.1).

SEC. 13-103. GENERAL DEFINITIONS -- CATEGORIES OF SPEAKERS (H.O.P. 13.A.1-103)
Definitions used in more than one subchapter appear here and in 13-104. They are generally taken from existing campus person or organization,
"registered student, faculty, or staff organization," and "university person or organization."

SEC. 13-104. OTHER GENERAL DEFINITIONS (H.O.P. 13.A.1-104)

From existing 10-102. Minor editing for clarity. No substantive change. The definition of "amplified sound" is new. The definition does not include raising or combining human voices; every other form of sound amplification is within these rules. The phrase "room or space" is substituted for "university facility," which several members found confusing.

SEC. 13-201. OBSCENITY (H.O.P. 13.A.1-201)

From existing 10-301(a), 10-303(a), and 10-305(d)(6). Expanded for clarity and made generally applicable. The proposed section omits the prohibition on vulgarity in the existing sections. The term has no settled legal meaning; its prohibition is of doubtful constitutionality under Papish v. University of Missouri, 410 U.S. 667 (1973), and Cohen v. California, 403 U.S. 15 (1971); and the Task Force thought the prohibition was unnecessary.


From existing 10-301(a), 10-303(a), and 10-305(d)(6). Expanded for clarity and made generally applicable. No substantive change. The required mental state is not set out, because it varies depending on the victim and subject matter of the defamation, and many words would be required to state it accurately and precisely.

SEC. 13-203. INCITEMENT TO IMMINENT VIOLATIONS OF LAW (H.O.P. 13.A.1-203)

This standard is taken from Brandenburg v. Ohio, 395 U.S. 444 (1969). It appears in existing 10-101(c) and 11-804(a)(10), and in several places in the Regents' Rules. No substantive change.

SEC. 13-204. HARASSMENT (H.O.P. 13.A.1-204)

This section is new. Proposed 13-204(a) prohibits harassing speech, and applies that prohibition to all speech on campus. The rest of this chapter applies only to speech that occurs outdoors or that is not part of the official work of the University.

The University has multiple harassment policies, cross-referenced in proposed 13-204(c). None of them attempt the difficult task of clearly defining the boundary between harassment and free speech. Proposed 13-204(b)(1) begins a definition, focusing on hostile speech directed at individual victims; proposed 13-204(b)(2) clarifies that definition by affirmatively stating the substance of the principal free-speech limit on harassment rules; proposed 13-204(b)(3) attempts to further clarify that definition with examples. The principal free speech limit in proposed 13-204(b)(2) is that the harassing speech not be necessary to the argument for any political, religious, philosophical, ideological, or academic idea. The concept of speech "not essential to any exposition of ideas" has a long history in Supreme Court cases. We have specified broad categories of ideas, to avoid the circular argument "my idea was to harass and abuse the victim." We have also specified that the illustrations in the existing policy on sexual harassment, which involve various forms of sexual propositions or verbal sexual titillation, are rarely if ever
necessary to the expression of ideas within the meaning of this policy. We are confident from context that when the Supreme Court talked about speech "essential to any exposition of ideas," it did not mean to include personal abuse or sexual imposition as protected ideas.

The illustrative list of categories in proposed 13-204(b)(3) lists all the categories in existing Policy 4.B.1 of the Handbook of Operating Procedures. It adds ideology, political views, and political affiliation, and makes clear that the list is illustrative rather than exclusive. These changes are designed to comply with R.A.V. v. City of St. Paul, 505 U.S. 377 (1992). R.A.V. held unconstitutional a ban on hate speech that was confined to the traditional civil rights categories; to protect minorities from harassing speech, we must protect everybody from harassing speech.

Proposed 13-204(b)(1)(B) is taken verbatim from existing 11-804(a)(12). Proposed 13-204(d) is based on existing Policy Memorandum 4.120. The University can exhort its community to a higher standard of civility than it can impose by disciplinary rule. We minimize misunderstanding by putting the narrow disciplinary rule and the broader exhortation in the same section and stating the relationship between them.

The Task Force did not attempt a general review or consolidation of existing harassment policies. We do propose amending each of those policies to cross-reference this section, which will become the primary treatment of non-sexual verbal harassment. In our Narrative Report, we recommend repeal of existing Policy Memoranda 4.120 and 4.121 (Appendices E and I to the General Information Catalog), because they add little to existing and proposed rules. The provision in Policy Memorandum 4.121, providing a greater penalty for offenses motivated by race, color, ethnicity, or national origin, also appears in the student disciplinary rules (in 11-501(b)), and should remain there.

Proposed 13-204(e) is partly a guide to interpretation and partly an explanation to students who might have unrealistic expectations about the kinds of speech that harassment rules can reach.

Proposed 13-204(f) restates and clarifies reporting rules. For reasons of simplification, we have proposed encouraging students to report all claims of harassment or discrimination through the Dean of Students; existing H.O.P. Policies 4.A.3 and 4.B.1 direct some student complaints to the Dean of Students and some to the Office of Equal Opportunity Services. Those policies also provide that complaints may be directed to any "official, administrator, or supervisor." To avoid misunderstanding, we have clarified that a faculty member is not an "official, administrator, or supervisor" for reporting purposes.

SEC. 13-205. SOLICITATION (H.O.P. 13.A.1-205)

From existing subchapter 10-500, which tracks the Regents' Rules (pt. 1, ch. VI, sec. 6.6). The definition of solicitation has been simplified for clarity. The numerous exceptions that pertain principally or exclusively to off-campus commercial interests have been omitted, again in the interest of clarity.

The omitted provisions will still be in the Regents' Rules, and will still in be in effect, but they rarely regulate the speech of students, faculty, and staff. Proposed 13-205(d) cross-references the omitted provisions for those who need them.
The definitional exclusions in proposed 13-205(a)(2) and (3) codify longstanding practice.

All the exceptions are based on subsections of existing 10-501(b). Most of these exceptions have been edited for clarity; two have been substantively amended; one is new.

Proposed 13-205(b)(1) is from existing 10-501(b)(6). The proposed authorization to sell publications for fundraising purposes is new and must await amendment of the Regents' Rules. Publications may be included in the existing authorization for the sale of "merchandise," but in light of existing 10-501(b)(18), that has not been the administrative interpretation. The Task Force saw no reason to treat publications less favorably than other merchandise.

Proposed 13-205(b)(2) (together with proposed 13-403, which it cross-references) substantially amends existing 10-501(b)(18). These changes depend on proposed amendments to existing Regents' Rule 6.61(r). Existing 10-501(b)(18) permits free distribution of literature but not sale of literature, and it permits distribution only of literature produced by students, faculty, and staff. Thus, a campus organization cannot distribute literature from an off-campus organization whose goals it shares, and it cannot recoup the cost of producing or acquiring the literature it distributes. The Task Force believes these rules are unduly restrictive and that they may infringe the students' right to associate for political, religious, and similar purposes. The Task Force heard testimony from student organizations whose principal political literature is prohibited by these rules.

The important restriction common to both the existing rules and the proposed rules is that no person or organization acting under this rule may sell, distribute, or display any publication produced or distributed for profit, except as part of a fundraiser for a not-for-profit organization. The definition of not-for-profit is the standard definition in section 501(c)(3) of the Internal Revenue Code.

Proposed 13-205(b)(3) is new, based on a proposed Regents' Rule 6.61(x). All over campus there are bulletin boards advertising for roommates and subleases, and offering old furniture and computers for sale. No one complains about these ads, which serve an important purpose in the student economy, yet all are prohibited solicitation under the existing Regents' Rules. The Task Force has proposed amending the Regents' Rules to permit these ads when authorized by individual departments, which administer most bulletin boards on campus. The limitation to "used goods that the seller has personally owned or used" is designed to prohibit students from operating a small business on these bulletin boards.

Proposed 13-205(b)(4) is from existing 10-501(b)(10). Think of it as the Tupperware Party exception. The need for this exception was suggested by State University of New York v. Fox, 492 U.S. 469 (1989). No substantive change.

Proposed 13-205(b)(5) is from existing 10-501(b)(8). Cross-references updated. No substantive change.

Proposed 13-205(b)(6) is from existing 10-501(b)(7). Cross-references updated. No substantive change.

Proposed 13-205(b)(7) is from existing 10-501(b)(14). The statutory cross-reference has been corrected. No substantive change.

Proposed 13-205(c) is from existing 6-303. Minor editing for clarity. No substantive
change. Other provisions on accounting procedures in existing 10-501(d), 10-502, and 10-503 have been consolidated in proposed subchapter 6-400.

Existing 10-501(c) on penalties for solicitation has been consolidated into proposed 13-1202(a).

SEC. 13-301. DISRUPTION (H.O.P. 13.A.1-301)

From existing 10-301(a), 10-305(d)(8), 10-306(c)(4) and (5), and 10-307(c). Expanded, consolidated, and made generally applicable. Clarifies that no one may disrupt the speech of another person or group. Attempts to give guidance to administrative judgment in assessing borderline disruption, but ultimately relies on good judgment of administrative and law enforcement officers.

SEC. 13-302. DAMAGE TO PROPERTY (H.O.P. 13.A.1-302)

From existing 10-305(d)(8). Expanded and made generally applicable. Clarifies that property of other persons, including property used for speech, is protected. Authorization to damage or deface property with permission permits destruction of props and the like for dramatic effect.


Based on existing 10-301(c) and 10-305(g), and on existing Regents' Rules (pt. 1, ch. VI, sec. 6.61), with substantive amendments. Existing 10-301(c) and 10-305(g) prohibit "accosting," "hawking," or "shouting." This is unrealistic and of doubtful constitutionality; speakers must be able to make reasonable efforts to attract the attention of an audience.

The existing Regents' Rule prohibits "harass[ing]," "embarrass[ing]," and "intimidat[ing]". This comes much closer to the real problem. The Supreme Court's longstanding view, applied in many contexts, is that the speaker has a right to try to attract a potential listener's attention, and the potential listener has the right to say no. A recent case that clearly states the point is Hill v. Colorado, 530 U.S. 703, 716-17 (2000).

Proposed 13-303 states the rule in terms of coercion, badgering, and persistence after a clear refusal to attend to the message. The Task Force is also proposing to amend the Regents' Rule to eliminate "embarrass," which is overbroad.


Based on existing 10-201(c) and existing administrative practice of the Dean of Students, with some substantive amendment. The ban on cosponsorship is essential to preserve the availability of University facilities for students, faculty, and staff, but existing rules state the ban only in the most general terms.

Proposed 13-304(a) clearly states the general principle.

Proposed 13-304(b) and (c) generally codify the Dean of Students' existing practice for identifying cosponsorships. Proposed 13-304(b)(6) gives the Dean of Students ample authority in case someone discovers a loophole in the proposed codification.

Proposed 13-304(c)(2) is a substantive change from existing administrative practice. As
discussed in connection with proposed 13-205(b)(2), the Task Force thought it unreasonable to prohibit students from distributing literature for causes they support. The outside organization that prepared the literature occupies no space on campus and consumes no campus resources. This modification of the cosponsorship rules does not affect the separate ban in the solicitation rules on literature produced or distributed for profit.

Proposed 13-304(d) explains the purpose of the rule and is an aid to interpretation, especially of proposed 13-304(b)(6).

SEC. 13-401. GENERAL RULE ON DISTRIBUTION OF LITERATURE (H.O.P. 13.A.1-401)

Based on existing 10-301(a). Clarified and expanded. The proposed changes in the solicitation and cosponsorship rules, permitting literature produced by off-campus organizations, means that a broader range of literature can now be distributed.

Proposed 13-401(a) authorizes the sale of literature. This is a substantive change, as discussed under the solicitation rules. Individuals may distribute or display literature but may not sell it, because the profits of sale cannot go to an individual. Not-for-profit sales must be conducted through organizations.

The definition in proposed 13-401(b) is expanded and clarified from existing 10-301(a).

SEC. 13-402. NOT-FOR-PROFIT LITERATURE ONLY (H.O.P. 13.A.1-402)

This section is new, stated here for clarity and emphasis. The rule is in fact a longstanding corollary of the solicitation rules, and is a specific application of proposed 13-205.

SEC. 13-403. LIMITS ON ADVERTISING (H.O.P. 13.A.1-403)

Advertising is a form of solicitation, and the permitted forms of advertising must be drawn out of the many exceptions in existing subchapter 10-500.

Proposed 13-403(a) is based principally on existing 10-501(6).
Proposed 13-403(b) is based on existing 10-501(9).
Proposed 13-403(c) is based on existing 10-501(18), with substantive amendment. The scope of permitted advertising is not changed, but the scope of publications that may be distributed is expanded. This proposed change is incorporated into proposed 13-205(b)(2), thus expanding the range of permitted literature.

Proposed 13-403(d) conforms these rules to the Regents' Rules, which contain many advertising provisions that permit performance of contracts between the University and vendors from off-campus.


From existing 10-301(b). Minor editing for clarity. No substantive change.


From existing 10-301(c). Minor editing for clarity. No substantive change.
From existing 10-302 and 10-303, reorganized and edited for clarity. The definition of "sign" in proposed 13-501(a) is new; the definition in existing 10-302(a) is a list of examples.

Expanded and substantively amended from existing 10-303(c), which prohibits carrying signs indoors. The Task Force thought that restriction unreasonable and counter-productive. Quietly holding up a sign is an effective form of protest, much less disruptive than alternatives such as heckling or shouting at the speaker. Proposed 13-502(b), (c), and (d) respond to legitimate concerns about signs in crowded places and blocking the view of others.

Proposed 13-502(a) provides for signs attached to the person, such as sandwich boards and messages on t-shirts.

SEC. 13-503. SIGNS ON KIOSKS (H.O.P. 13.A.1-503)
Expanded and clarified from existing 10-304(b). Modest substantive change: the existing rule against tacks and staples, which has never been enforced, is eliminated. The rule that individuals may not post advertisements (except for certain ads on designated bulletin boards) is found in the proposed 13-205 on solicitation. It is restated here because it is easily overlooked by persons focused only on whether they can post a kiosk sign.

SEC. 13-504. BANNERS (H.O.P. 13.A.1-504)
From the existing practice of the Dean of Students office, described in the Student Organization Handbook (pp. 6-7). There is no existing formal rule. The Handbook provisions have been expanded and clarified.

Proposed 13-504(b)(2) takes account of banner sites administered by other academic and administrative units. Proposed 13-504(d) makes those sites generally available to all users, but official events and organizations affiliated with the unit administering the site may be given priority.

Proposed 13-504(f) is a safety rule and is based on existing practice.

This section is new, and functions essentially as a cross-reference. A-frames fall within the definition of signs, but they are functionally like exhibits and have been so treated under existing practice.

SEC. 13-506. SIGNS IN OTHER DESIGNATED LOCATIONS (H.O.P. 13.A.1-506)
From existing 10-304(a). Expanded and clarified, with substantive amendments.

Much free speech occurs on bulletin boards administered by academic and administrative units. The existing rules for these bulletin boards are largely unknowable. This proposed section addresses that problem in ways designed to minimize any burden on departments.

Some departments permit signs to be posted on walls or windows. Proposed 13-506(a) ratifies this practice in departments that permit it.
Proposed 13-506(b) authorizes departments to restrict signs to bulletin boards, and to restrict its bulletin boards to departmental users or to subjects of departmental interest.

Proposed 13-506(c) provides a simple procedure for making such rules known to potential users, and requires departments to use that procedure if they want authority to enforce restrictive rules. Many bulletin boards are operated informally, and have been confined to certain uses by custom, without the need for formal rules. So long as persons posting signs voluntarily comply with custom, these departments need do nothing. But to have enforceable rules, or authority to remove signs that violate those rules, the rules must be written down and made available to users.

Proposed 13-506(d) restates the general prohibition on viewpoint discrimination (in proposed 13-101(c)) in the particular context of departmental bulletin boards. This is for emphasis and because departments may not know the rule. Bulletin boards may be limited to certain persons, to certain subjects, or to official business, but within the scope of whatever private postings are permitted, the Constitution generally prohibits viewpoint discrimination.

SEC. 13-601. GENERAL RULE ON TABLES (H.O.P. 13.A.1-601)

Rewritten and clarified, with substantive amendment, from existing 10-305. In existing rules, tables are called "booths," a term that also includes "a temporary structure." The Task Force found the term confusing and has abandoned it.

Under existing 10-305, advance permission is required. Proposed 13-601 drops the advance permission requirement; the potential for disruption from a folding table is simply too small to justify an advance permission requirement.


Expanded and clarified from existing 10-305(d)(2).

The Main Plaza is marked in blue on the maps attached to the Narrative Report. The exclusion of tables from the Main Plaza reflects partly an aesthetic judgment that is important to some members of the University community, partly a judgment about preserving the Main Plaza for the many spontaneous activities that go on there, and partly a judgment that there are ample other locations for tables. Existing administrative practice has been to exclude tables from the Main Plaza, but this rule has never been written down. No other change.

SEC. 13-603. IDENTIFICATION (H.O.P. 13.A.1-603)

From existing 10-305(e). Minor editing for clarity. No substantive change.


From existing 10-305(f). Edited for clarity. No substantive change.

SEC. 13-605. SOURCES OF TABLES (H.O.P. 13.A.1-605)

This section is new. It acknowledges the Dean of Students' existing administrative practice, and requires transparency in that practice. In practice, a large majority of student organizations obtain their tables from the Dean of Students.
SEC. 13-701. GENERAL RULE ON EXHIBITS (H.O.P. 13.A.1-701)

The vocabulary in this section is new. Existing rules provide for exhibits, if at all, as "a temporary structure . . . for other forms of expression," a form of booth under existing 10-305(a). Authorization to install such booths is in existing 10-305(b). The Dean of Students has more explicitly provided for exhibits in the Student Organization Handbook (pp. 8-9), and a remarkable variety of exhibits are displayed on campus, from small art projects to the Sailing Club's sailboat to the Justice for All exhibit.

The proposed definition makes "exhibit" the catch-all category; if it is not a table, and it is not permanently attached to the ground, it is an exhibit. Any University person or organization may erect an exhibit with advance permission.


Based on existing 10-305(c). Omits details of the Dean of Students' application form.

SEC. 13-703. CRITERIA FOR APPROVAL (H.O.P. 13.A.1-703)

Based on existing 10-305(c) and existing practice. Edited for clarity and cross-references updated. The unwritten practice has been not to approve exhibits on the Main Plaza, for the same reasons that tables are not authorized on the Main Plaza (see analysis of proposed 13-602).


Replaces existing 10-305(f), which provides a one-semester time limit and allows overnight exhibits with permission. The proposed 14-day time limit with overnight exhibits only in designated locations is based on the existing actual practice of the Dean of Students, summarized in the existing Student Organization Handbook (p. 8).

SEC. 13-705. CLEAN UP AROUND EXHIBITS (H.O.P. 13.A.1-705)

From existing 10-305(f). Edited for clarity. No substantive change.

SEC. 13-706. LIABILITY (H.O.P. 13.A.1-706)

From existing 10-305(h). Edited for clarity. No substantive change.

SEC. 13-801. GENERAL RULE ON AMPLIFIED SOUND (H.O.P. 13.A.1-801)

There is no existing rule on amplified sound. The administrative practice of the Dean of Students is set out in the Student Organization Handbook (p.9). Amplified sound is broadly defined in proposed 13-104(a).

SEC. 13-802. LOCATION AND TIMES OF WEEKDAY AMPLIFIED SOUND AREAS

This proposed section applies the term "amplified sound areas" to what are called "rally areas" in the existing Student Organization Handbook (p.9), "designated areas" in existing 10-
307, and "free speech areas" in now-repealed rules that linger in informal vocabulary. What is special about these areas is that amplified sound may be used there during business hours on weekdays.

Proposed 13-802(a), (b), and (c) codify existing practice for the West Mall, Union Patio, and East Bus Circle Amplified Sound Areas. In the Student Organization Handbook, the stated hours for the Union Patio area no longer reflect actual practice.

Proposed 13-802(d), (e), (f), (g), and (h) create five new amplified sound areas. Proposed 13-802(i) authorizes the Vice President for Student Affairs to create still more amplified sound areas, and authorizes the Dean of Students to resolve any conflict between the existing Union Patio Amplified Sound Area and the proposed Battle Oaks Amplified Sound Area.


Proposed 13-803(a) gives the Dean of Students ample authority to regulate the use of amplified sound areas.

Proposed 13-803(b)(1) and (2) codify existing practice on reservations. Proposed 13-803(b)(3), requiring that some time slots be held for response to current events, is new.

Proposed 13-803(c) is explanatory. The West Mall and Union Patio Amplified Sound Areas are a compromise between free speech and disruption. They are not a measure of what counts as disruption, and they are not a precedent for allowing similar disruption elsewhere or for longer hours.

Proposed 13-803(d) reflects existing practice. Requiring the use of University-owned equipment makes it easier to control excessive volumes. Such requirements were upheld against constitutional challenge in Ward v. Rock Against Racism, 491 U.S. 781 (1989). A limit of 84 decibels on the A-meter, stated in the existing Student Organization Handbook, has been abandoned as unworkable and not well adapted to the actual problem of disruption.

Proposed 13-803(e) is new. Especially the West Mall and East Mall Amplified Sound Areas carry large volumes of pedestrian traffic, and the crowd listening to amplified sound must maintain a passageway.

Proposed 13-803(f) requires transparency in any additional rules regulating amplified sound areas.

SEC. 13-804. AMPLIFIED SOUND ON EVENINGS AND WEEKENDS (H.O.P. 13.A.1-804)

This section provides general authorization for amplified sound, with advance permission, on evenings and weekends. This codifies the existing practice of the Dean of Students, which, so far as the Task Force can tell, is not written down anywhere.

Proposed 13-804(a) provides the general authorization. Proposed 13-804(b) limits late night hours. Proposed 13-804(c) authorizes speakers to provide their own equipment; some after-hours equipment is available from the Dean of Students.

Proposed 13-804(d) delegates the details of the application to the Dean of Students, states objective criteria for approving applications, and encourages cooperative consultation between applicants and the Dean.
SEC. 13-805. AMPLIFIED SOUND INDOORS (H.O.P. 13.A.1-805)
This section codifies existing unwritten practice with respect to amplified sound indoors. Sound appropriate to a room depends partly on the room's size and partly on its structure. Some rooms are built with soundproofing to hold in sound; most are not. The proposed standard is disruption outside the room.

SEC. 13-901. GENERAL RULE ON PUBLIC ASSEMBLIES (H.O.P. 13.A.1-901)
The definition in proposed 13-901(a) is new; public assembly and public discussion are undefined in existing rules. The proposed definition is all inclusive, but public assemblies without amplified sound are largely deregulated.

Proposed 13-901(b) is derived from existing 10-306(a), with an important substantive change. Existing 10-306(a) requires advance permission for a public assembly or demonstration. Existing 10-307(b)(1) implies a requirement of advance permission for public discussion. These advance permission requirements are abandoned, for reasons stated in the Narrative Report of the Task Force.

SEC. 13-902. RESERVATION OF SPACE (H.O.P. 13.A.1-902)
This is essentially a cross-reference to the reservation procedures in chapter 10 (proposed H.O.P. 2.B.1).

SEC. 13-903. NOTICE AND CONSULTATION (H.O.P. 13.A.1-903)
This section is new, and substitutes for the advance permission process in existing 10-306(b) and (c). The section strongly encourages consultation with the Dean of Students concerning assemblies with more than fifty participants and in other cases where the Dean can help anticipate and resolve potential problems.

Definition of guest speaker derived from existing 10-202(b). Also incorporates guest performers, dealt with in existing subchapter 10-400 on public performances and exhibitions.

SEC. 13-1002. WHO MAY PRESENT (H.O.P. 13.A.1-1002)
From existing 10-202(b). Expanded to state all groups that may invite a guest speaker; these clarifications make no substantive change. Other editing for clarity.

SEC. 13-1003. LOCATION AND FORM OF PRESENTATION (H.O.P. 13.A.1-1003)
This section is new. It confines guest speakers to a fixed location at an announced time, and prohibits them from approaching persons who have not chosen to attend their presentation. This section is aimed at an unwritten practice that has been tolerated but appears to be unauthorized by the Regents' Rules, under which some organizations have been bringing volunteers from off-campus to staff tables or distribute literature, sometimes registering these
persons as guest speakers. If this practice became widespread, the distinction between on-campus and off-campus speakers would largely break down.

SEC. 13-1004. APPLICATION (H.O.P. 13.A.1-1004)

From existing 10-202(b) and 10-203. Omits details of Dean of Students' application form. Uses cross-reference to consolidate existing 10-303 (criteria for approving speaker) with existing 10-203 (criteria for approving facility reservation). Single application form and list of criteria include appropriateness of facility for proposed use.

SEC. 13-1005. OBLIGATIONS OF PRESENTING ORGANIZATION (H.O.P. 13.A.1-1005)

From existing Regents' Rules (pt. 1, ch. VI, sec. 7.22). No amendment to the Regents' Rule is proposed; this section makes the rule more visible. No substantive change.

SEC. 13-1101. GENERAL RULE ON RESPONDING (H.O.P. 13.A.1-1101)

This section states no additional rule. It simply emphasizes that all the rules regulating speech apply to persons responding to the speech of others. This was a point of controversy or confusion in the response to the Justice for All exhibit.


This section is also principally for clarification and emphasis. It applies each of the principal proposed rules to the case of responders, clarifying what they may and may not do. Proposed 13-1102(c) does state a new rule, imposing a duty on the Dean of Students.

Proposed 13-1102(a) reminds responders that they cannot disrupt the speech to which they are responding.

Proposed 13-1102(b) reminds responders that they can immediately respond with signs, tables, literature, and public assembly without amplified sound.

Proposed 13-1102(c) reminds responders that they cannot respond with banners, exhibits, A-frames, or amplified sound until they get the necessary permission from the Dean of Students. The Dean of Students is directed to expedite these requests.

Proposed 13-1102(d) reminds responders that they can respond with banners and amplified sound only in locations authorized for banners and amplified sound, and points out permitted methods to address the problem if their amplified sound response must be at a distance from the exhibit to which they are responding.


This section is new. It codifies an existing practice that is not well defined; we are probably proposing some substantive change.

The University decides for itself how much security is needed. The University has charged for security at scheduled events; it is generally impractical to charge for security at events not scheduled in advance. The University waived security charges for Justice for All, and undoubtedly, it has waived or failed to collect security charges for other events that required
large amounts of police overtime.

Proposed 13-1201(a) explains the basic policy considerations. 13-1201(b) identifies the two categories of events for which it is feasible to charge for security. These categories are based on the exchange of money, which is an objective criterion that requires no difficult judgments. But they have the effect of excluding most political rallies from the events for which the University will charge for overtime.

Proposed 13-1201(c) specifies that the charge will not vary on the basis of any controversy associated with the event. This limitation is required by Forsyth County v. Nationalist Movement, 505 U.S. 123 (1992). The authorized charge may vary with other distinctions in the kind of event. For example, a thousand undergraduates attending a dance, with the latest band playing until the early morning hours, may require a different level of police protection than a thousand persons of all ages attending an academic lecture in the late afternoon, and the need for additional police protection would be unrelated to any controversy of the kind described in this section.

SEC. 13-1202. RESPONSE TO VIOLATIONS (H.O.P. 13.A.1-1202)

This section codifies existing practice with respect to students. The University may respond to violations of these rules by immediate intervention to end the violation, by subsequent disciplinary proceedings, or both.

Enforcement procedures against faculty and staff are unclear, at least to the Task Force. Until and unless a clear enforcement procedure is created, faculty violations are referred to the Provost, and staff violations to Human Resource Services.

Proposed 13.1202(e) is based on existing 11-804(d), which would be retained.

SEC. 13-1203. APPEALS (H.O.P. 13.A.1-1203)

This section functions as a cross-reference to appeal procedures in existing and proposed chapter 10.

It also creates a new category of appeal. In dealing with apparent rule violations and potential disruption, administrators must often make on-the-scene decisions and order persons to stop or modify their activities. Existing 11-804(d), and proposed 13-1202(e), require persons on the campus to obey such commands. Persons who disobey such a command are thus subject to discipline. The innovation here is that persons who comply are entitled to appeal, under the simple appeal procedures provided for denial of advance permission for activities that require advance permission. This both increases the rewards to compliance and provides a mechanism by which students, faculty, and staff can get a ruling in the event of disputes about the scope of permitted speech activities.
Proposed Amendments to Handbook of Operating Procedures

Policy 2.B.1
Policy 2.B.2 (replaces Old H.O.P. section 6.06)
Policy 2.B.3 (replaces old H.O.P. section 6.09)
Policy 4.A.3
Policy 4.B.1
Policy 12.B.1
Glossary of Definitions

With Section-by-Section Analysis of Proposed Changes

Task Force on Assembly and Expression

The University of Texas at Austin

Prof. Cindy I. Carlson
Prof. Elizabeth Cullingford
Mr. R. Aaron Garza
Vice Chancellor Cullen M. Godfrey
Prof. Martha F. Hilley
Dean Richard W. Lariviere
Prof. Douglas Laycock, Chair
Ms. Nancy McCowen, Staff
Prof. Bruce P. Palka

Prof. David M. Rabban
Ms. Alene Riley
Mr. Kevin M. Robnett
Vice Provost Victoria Rodriguez
Prof. Janet Staiger
Mr. Jarrad A. Toussant
Ms. Cheryl L. Wood
Mr. Glen M. Worley
Table of Contents

Part 2. Campus Services ........................................................................................................................................1

Policy 2.B.1. Use of University Property, Rooms, and Spaces
(proposed amendments to Chapter 10 of Institutional Rules on
Student Services and Activities) .........................................................................................................................1

Policy 2.B.2. Use of Outdoor Public Areas of the Campus
(proposed amendments to Section 6.06 of Old H.O.P.) .............................................................................6

Policy 2.B.3. Use of Special Events Center
(proposed amendments to Section 6.09 of Old H.O.P.) .............................................................................7

Part 4. Standards of Conduct .............................................................................................................................9

Policy 4.A.3. Sexual Harassment and Sexual Misconduct
(proposed amendments) ..................................................................................................................................9

Policy 4.B.1. Nondiscrimination Policy
(proposed amendments) ..................................................................................................................................11

Part 12. Students ..................................................................................................................................................13

Policy 12.B.1. Student Organizations
(proposed amendments to Chapter 6 of Institutional Rules on
Students Services and Activities) ......................................................................................................................13

Part 13. Civil Liberties ........................................................................................................................................21

Policy 13.A.1. Speech, Expression, and Assembly
(proposed new policy, amending Chapter 10 of Institutional Rules on
Student Services and Activities) ......................................................................................................................21

Glossary of Definitions (proposed amendments) ............................................................................................44

Appendix. Section-by-Section Analysis of Proposed Changes
to Handbook of Operating Procedures ........................................................................................................45

Part 2. Campus Services ......................................................................................................................................46
Policy 2.B.1. Use of University Property, Rooms, and Spaces .................................................................46
Policy 2.B.2. Use of Outdoor Public Areas of the Campus .......................................................................46
Policy 2.B.3. Use of Special Events Center .................................................................................................46
Part 4. Standards of Conduct .............................................................................................................47
Policy 4.A.3. Sexual Harassment and Misconduct .......................................................................47
Policy 4.B.1. Nondiscrimination ......................................................................................................48

Part 12. Students .............................................................................................................................49
Policy 12.B.1. Student Organizations ............................................................................................49

Part 13. Civil Liberties ....................................................................................................................49
Policy 13.A.1. Speech, Expression, and Assembly .........................................................................49

Glossary of Definitions ..................................................................................................................49
Subchapter 100. General Provisions
   Sec. 101. Purpose and Application
   Sec. 102. General Definitions -- Categories of Speakers and Users
   Sec. 103. Other General Definitions
Subchapter 200. Reservation of a Room or Space on University Property
   Sec. 201. Permission to Use
   Sec. 202. Application
   Sec. 203. Consideration of Application
Subchapter 300. Regulations Applicable to University Property
   Sec. 301. Identification
   Sec. 302. Use of Alcoholic Beverages
Subchapter 400. Appeal
   Sec. 401. Procedures for Appeal
   Sec. 402. Further Review by Petition

SUBCHAPTER 100. GENERAL PROVISIONS

SECTION 101. PURPOSE AND APPLICATION
(a) The University permits the orderly use of rooms and spaces on its property, as provided in this Policy, to further the educational process. The University does not endorse any statement or activity that does not represent official University action.
(b) This Policy authorizes and regulates the reservation of University rooms and spaces; the identification of persons present on University property; and the use of alcoholic beverages on University property. Speech, assembly, and expression by students, faculty, and staff on University property is further protected and regulated in Policy 13.A.1.
(c) No person or organization may use a University facility for any purpose other than in the course of the regular mission of the University or the University of Texas System unless
authorized by the Regents' Rules. Any authorized use must be conducted in compliance with the provisions of the Regents' Rules, the approved rules and regulations of the University, and applicable federal, state, and local laws and regulations.

SECTION 102. GENERAL DEFINITIONS -- CATEGORIES OF SPEAKERS AND USERS

As used in this Policy, unless the context requires a different meaning,

(a) "Academic or administrative unit" means any office or department of the University.
(b) "Faculty member and staff member" includes any person who is employed by the University.
(c) "Registered student, faculty, or staff organization" includes a registered student organization under Policy 12.B.1, a faculty or staff organization under the Regents' Rules (pt. 1, ch. III, sec. 34), and Student Government and any unit or subdivision thereof.
(d) "Registered student organization" includes a student organization registered under Policy 12.B.1; the phrase also includes Student Government and any subdivision thereof.
(e) "Student" means a person who is currently enrolled in residence at the University, or who is accepted for admission or readmission to the University, or who has been enrolled at the University in a prior semester or summer session and is eligible to continue enrollment in the semester or summer session that immediately follows, or who is attending an educational program sponsored by the University while that person is on campus.

SECTION 103. OTHER GENERAL DEFINITIONS

As used in this Policy:

(a) "Dean of Students" means the Dean of Students or the Dean's delegate or representative;
(b) "room or space" includes any room or space, indoors or outdoors, owned or controlled by the University;
(c) "University" means the University of Texas at Austin; and
(d) "weekday" means Monday through Friday except for official University holidays; "day" means calendar day.

SUBCHAPTER 200. RESERVATION OF A ROOM OR SPACE ON UNIVERSITY PROPERTY

SECTION 201. PERMISSION TO USE

(a) Academic and administrative units, and registered student, faculty, and staff organizations, may reserve the use of a room or space on University property for purposes permitted by the Regents' Rules. Academic and administrative units of the University shall have priority in reserving the use of rooms and spaces, except that they shall not have priority in the use of weekday amplified sound areas defined in section 802 of Policy 13.A.1.
(b) An organization with a reservation has the right to the reserved room or space for the time covered by the reservation. Any person or organization using or occupying the
room or space without a reservation must yield control of the room or space in time to permit any organization with a reservation to begin using the room or space promptly at the beginning of its reserved time.

(c) Reservations are not required but are strongly encouraged. A person or organization planning to use a room or space without a reservation may find the facility locked or in use by another person or organization. The University Police rely on a list of scheduled events, and a large group without a reservation is likely to attract their courteous but inquiring attention.

SECTION 202. APPLICATION
(a) (1) All organizations wishing to reserve an outdoor space, including academic and administrative units, shall apply to the Dean of Students on a form prescribed by the Dean.

(2) Registered student organizations wishing to reserve a general purpose classroom shall apply to the Dean of Students on a form prescribed by the Dean. Faculty and staff, registered faculty and staff organizations, and academic and administrative units wishing to reserve a general purpose classroom shall apply to the Registrar on a form prescribed by the Registrar.

(3) Reservations for rooms and spaces controlled by academic or administrative units other than the Registrar and the Dean of Students shall be made through the unit that controls the room or space. These rooms and spaces controlled by other units include Special Use Facilities (the Texas Student Union, the Performing Arts Center, the Erwin Special Events Center), athletic facilities, classrooms that are not general purpose classrooms, many conference rooms, reception areas, and the like, and other specialized rooms and spaces. Some of these rooms and spaces are dedicated to special purposes and are subject to special rules. Academic and administrative units are encouraged to make the rules and procedures for reserving rooms and spaces, and a list of the rooms and spaces that may be reserved, readily available on a website or on a flyer or pamphlet conveniently available at the unit's office.

(b) The Dean of Students shall maintain, on a website or on a flyer or pamphlet conveniently available at the Dean's office:

(1) the procedures for reserving outdoor spaces, or for registered student organizations reserving general purpose classrooms, and any additional rules applicable to such reservations; and

(2) a list of general purpose classrooms.

SECTION 203. CONSIDERATION OF APPLICATION
(a) The Dean of Students shall approve a properly completed application to reserve an outdoor space, and shall facilitate a properly completed application to reserve a general purpose classroom, unless the Dean finds that:

(1) the proposed use of the room or space would violate one or more of the general rules in subchapters 200 and 300 of Policy 13.A.1;
(2) the proposed use would interfere with a prior reservation, or another scheduled event or exhibit (see subchapter 700 of Policy 13.A.1);
(3) the room or space requested is inadequate to accommodate the proposed use;
(4) the proposed use would constitute an immediate and actual danger to students, faculty, or staff, or to the peace or security of the University that available law enforcement officials could not control with reasonable effort;
(5) the applicant is under a disciplinary penalty prohibiting reserving the use of a University room or space; or
(6) the applicant owes a monetary debt to the University and the debt is considered delinquent by the crediting agency.
(b) If the Dean does not approve an application under subsection (a), upon request he or she shall give the applicant a written statement of the grounds for refusal within three weekdays.

SUBCHAPTER 300. REGULATIONS APPLICABLE TO UNIVERSITY PROPERTY

SECTION 301. IDENTIFICATION
(a) Any person shall identify himself or herself when requested by an institutional representative while on any property or in any building owned or controlled by the University or the University of Texas System. A person identifies himself or herself by giving his or her name and complete address substantiated by a current driver's license, voter registration card, or other official documentation; and
(1) stating truthfully whether he or she is a student or employee of the University or University of Texas System.
(b) An "institutional representative" is any Regent, executive officer, administrative officer, attorney, peace officer, or security officer of the University or of the University of Texas System.
(c) Any person who refuses to identify himself or herself in accordance with subsection (a) may be convicted of a misdemeanor punishable by a fine of not more than $200.
(d) Any student, faculty member, or staff member who refuses to identify himself or herself in accordance with subsection (a) is subject to disciplinary action, including expulsion from the University in the case of a student.

SECTION 302. USE OF ALCOHOLIC BEVERAGES
The use of alcoholic beverages is prohibited on property and in buildings and facilities owned or controlled by the University or the University of Texas System. However, the chief administrative officer of the University or the System may waive this prohibition with respect to any specific event sponsored by the University or the University of Texas System. Meetings or events sponsored by registered faculty, staff, or student organizations are not events sponsored by the University or the University of Texas System. State law relating to alcoholic beverages will be strictly enforced at all times on property controlled by the System and its component institutions.
SUBCHAPTER 400. APPEAL

SECTION 401. PROCEDURES FOR APPEAL
(a) An organization aggrieved by a decision under this Policy is entitled to appeal to the Vice President for Student Affairs by giving written notice to the Dean of Students on or before the fifth weekday after the day the decision is announced. The notice may be informal, but shall contain the organization's name and mailing address, a concise description of the decision complained of, the organization's reasons for disagreeing with the decision, and the date the decision was announced.

(b) When timely notice of appeal is received, the Dean of Students shall prepare and send to the Vice President for Student Affairs a copy of the written statement of the reason given for the Dean's decision. The Vice President shall provide the organization with an opportunity for a hearing and the organization shall be notified at least one weekday before the date of the hearing.

SECTION 402. FURTHER REVIEW BY PETITION
The Dean or the organization may petition in writing through the Vice President for Student Affairs to the President of the University to review the decision being appealed. The President may establish an ad hoc committee to review the appeal and make recommendations regarding it. The President reviews appeals solely at his or her discretion.
USE OF OUTDOOR PUBLIC AREAS OF THE CAMPUS

To coordinate outdoor programs sponsored by University departments, agencies, and registered student, faculty, and staff organizations, sponsoring organizations shall notify the Office of Campus and Community Involvement of the Dean of Students Office in advance of any activity planned for the outdoor public areas of the campus. Where necessary, that Office will assist in coordination with Physical Plant.

The Campus and Community Involvement Office does not approve or disapprove officially sponsored events; it places those events on the master calendar to avoid scheduling two events at the same time and place. Officially sponsored events have scheduling priority over events that are not officially sponsored. The principal mechanism for implementing this priority is that academic and administrative units of the University are permitted to schedule events and reserve outdoor spaces as far in advance as they choose. Student, faculty, and staff organizations may not reserve space for the Fall Semester until the preceding May 1, and may not reserve space for the Spring Semester until the preceding December 1. Academic and administrative units are therefore encouraged to schedule their outdoor events before May 1 and December 1, respectively.

Additional detail on reserving the use of indoor and outdoor rooms and spaces is provided in Policy 12.B.1.
USE OF SPECIAL EVENTS CENTER

F. General Policies

6. Speech and Expression. Signs and Displays. No signs, messages or other materials may be posted, displayed, distributed or announced in, on or adjacent to, the Special Events Center without prior written approval of the Director. Such materials may not be fastened to any part of the facility except in spaces provided for this purpose and may not be permitted to interfere with crowd movement and safety. The provisions of the Regents' Rules and of Policy 13.A.1 shall apply to speech, assembly, and expression in and around the Special Events Center. The Director may make more specific rules to implement the provisions in the Regents' Rules and in Policy 13.A.1. Any such additional rules shall be made available on a website or on a flyer or pamphlet conveniently available at the Director's office and at the Office of the Dean of Students.

G. Special Policies Applicable to Non-University Users. In addition to all general policies, and the specific policies set forth above, the following policies apply specifically to non-University users, including Registered Student Organizations and Registered Faculty and Staff Organizations:

1. Religious Organizations. A religious organization applying for use of the facility must submit written evidence from the Internal Revenue Service that the
organization has been granted an exemption from taxation under Section 501 (c) (3) of Title 26 of the United States Code (Internal Revenue Code), and shall be permitted to use the facility no more than one time during a calendar year.

2. Political Organizations. A political organization applying for use of the facility must present written evidence that the organization had candidates for either state, district or local offices listed on the ballot at the last general election, and shall be permitted to use the facility no more than one time during a calendar year.

3. Individual Candidates for Political Office. Individual political candidates and their election organizations are not permitted to reserve the Special Events Center. Such candidates may be invited by Registered Student Organizations or Registered Faculty and Staff Organizations and may appear in the facility, provided that the organization extending the invitation is responsible for reserving the facility and meeting all costs related to the event.

4. Advertising. All news releases, handbills, advertisements, television and radio announcements or other media utilized to inform the public of a non-University event to be held in the Special Events Center must carry a disclaimer, approved by the Director, to the effect that use of University of Texas facilities does not imply endorsement of the event or the sponsoring organization by the University.
SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

Section I. General Policy Guidelines

. . . .

B. Scope

1. This policy applies to the conduct of all students, faculty and staff of, and visitors to, The University of Texas at Austin.

2. a. This policy deals with sexual harassment by words or conduct. For harassment as a form of gender discrimination, and for harassment that is not sexual, see Policy 4.B.1. Extreme cases of harassment may also violate Policy 12.A.1.

b. For harassment by students, see Section 11-804(a)(12) of the Institutional Rules on Student Services and Activities (reprinted as Appendix C to the General Catalog). For enhanced penalties for disciplinary offenses motivated by the race, color, or national origin of a student harmed by the offense, see Section 11-501(b) of the Institutional Rules on Student Services and Activities.

c. For further specification of verbal harassment, including the boundary between harassment and free speech, see Policy 13.A.1, Section 204. That provision also appears in Section 13-204 of the Institutional Rules on Student Services and Activities. Words and conduct within the definitions and illustrations of sexual harassment set forth in this Policy 4.A.3 are rarely, if ever, protected by the First Amendment or by Policy 13.A.1, Section 204.
C. Definitions

Behaviors that may constitute sexual harassment include but are not limited to:

- Intentional touching;
- Explicit or implicit propositions to engage in sexual activity;
- Gratuitous comments of a sexual nature such as explicit statements, questions, jokes or anecdotes; remarks of a sexual nature about a person's clothing or body;
- Remarks about sexual activities or speculation about sexual experiences;
- Exposure to gratuitous sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials;
- Deliberate physical interference with or restriction of an individual's movements;
- Persistent, unwanted sexual/romantic attention;
- Subtle or overt pressure for sexual favors;
- Deliberate, repeated humiliation or intimidation based upon the sex of the individual.

Section II. General Procedures

A. Reporting Locations

A member of, or visitor to, the University community who believes that he or she has been subjected to sexual harassment or sexual misconduct should report the incident to any University official, administrator or supervisor. A faculty member is not an "official, administrator, or supervisor" for this purpose unless that faculty member holds an administrative position. Students are encouraged to report such incidents to the Office of the Dean of Students; employees and campus visitors are encouraged to report to Equal Opportunity Services. Complainants should report such incidents as soon as possible after the time of their occurrence.
Nondiscrimination Policy

Section I. General Policy Guidelines

B. Scope

1. This policy applies to visitors, applicants for admission to or employment with the University, students and employees of the University who allege discrimination by University employees, students, visitors, or contractors.

2. a. This policy deals with harassment that is a form of invidious discrimination, by words or conduct, when the alleged harasser is a faculty member or staff member. For further specification of sexual harassment and sexual misconduct, whether by students, faculty, or staff, see Policy 4.A.3. Extreme cases of harassment may also violate Policy 12.A.1.

   b. For harassment by students, see Section 11-804(a)(12) of the Institutional Rules on Student Services and Activities (Appendix C to the General Information Catalog). For enhanced penalties for disciplinary offenses motivated by the race, color, or national origin of a student harmed by the offense, see Section 11-501(b) of the Institutional Rules on Student Services and Activities.

   c. For further specification of verbal harassment, including the boundary between harassment and free speech and harassment on bases not mentioned in this policy, see Policy 13.A.1, Section 204. That provision also appears in Section 13-204 of the Institutional Rules on Student Services and Activities. Investigation, remediation, and enforcement with respect to alleged harassment prohibited by Policy 13.A.1, Section 204 (or its equivalent in the Institutional
C. Definitions

1. **Discrimination**, including harassment, is defined as conduct directed at an individual because of race, color, religion, national origin, gender, age, disability, citizenship, veteran status or sexual orientation that subjects the individual to treatment that adversely affects the individual's employment or education.

2. **Harassment** as a form of discrimination is defined as verbal or physical conduct that is directed at an individual because of his or her status, as described above. Such conduct will constitute harassment when it is sufficiently severe, pervasive or persistent to reasonably have the purpose or effect of creating a hostile environment that adversely affects the individual's employment or education. Constitutionally protected expression cannot be considered harassment under this policy.

Section II. Complaint Reporting and Processing

All discrimination complaints except for those alleging sexual harassment, disability, discriminatory conduct by a student, or that involve academic matters will be brought and resolved pursuant to the following procedures:

A. Reporting

1. Responsibility of Complainant. A visitor or member of the University community who believes that he or she has been subjected to discriminatory conduct on account of race, color, religion, national origin, gender, age, disability, citizenship, veteran status or sexual orientation is encouraged to report the incident as soon as possible after its occurrence. Students are encouraged to report such incidents to the Office of the Dean of Students; employees and campus visitors are encouraged to report to the Office of Equal Opportunity Services. Any person may also report any such incident to any University official, administrator or supervisor. A faculty member is not an "official, administrator, or supervisor" for this purpose unless that faculty member holds an administrative position.

2. Responsibility of University Official, Administrator or Supervisor. Any University official, administrator or supervisor who receives a report of discrimination shall promptly refer it and the complainant to either the Office of the Dean of Students, in the case of student complaints, or to the Office of Equal Opportunity Services for all other complaints.

...
STUDENT ORGANIZATIONS

SUBCHAPTER 100. GENERAL PROVISIONS

SECTION 101. DEFINITIONS

In this Policy, unless the context requires a different meaning,
"authorized representative" means a person designated to represent an organization as required in subsection 303(a);
(2) "Dean of Students" means the Dean of Students or any delegate or representative of the Dean of Students;
(3) "hearing officer" means a person appointed by the President of the University to conduct hearings of alleged violations of a Regents' Rule, University regulation, or administrative rule;
(4) "organization" means a student group holding a valid registration under this Policy or its equivalent in the Institutional Rules on Student Services and Activities;
(5) "student" means a person who is currently enrolled in residence at the University, or who is accepted for admission or readmission to the University, or who has been enrolled at the University in a prior semester or summer session and is eligible to continue enrollment in the semester or summer session that immediately follows;
(6) "University" means the University of Texas at Austin;
(7) "weekday" means Monday through Friday except for official University holidays; "day" means calendar day.

SUBCHAPTER 200. REGISTRATION

SECTION 201. REGISTRATION REQUIRED
Any group of students that wants to exercise any of the rights and privileges listed in section 301 shall apply to the Dean of Students to be registered as an organization.

SECTION 202. ELIGIBILITY
An organization is eligible for registration if:
(a) three or more students sign its application for registration;
(b) it limits membership to students, faculty, and staff of the University;
(c) it does not deny membership on the basis of race, color, national origin, religion, sex, age, disability, or veteran status (but an organization created primarily for religious purposes may restrict the right to vote or hold office to persons who subscribe to the organization's statement of faith);
(d) there are no financial bars against the organization;
(e) it is not under disciplinary penalty prohibiting registration; and
(f) it conducts its affairs in accordance with local, state, and federal laws, the Regents' Rules, University regulations, and administrative rules.

SECTION 203. APPLICATION
A group of students that wants to become a registered student organization shall apply on a form prescribed by the Dean of Students. The form shall include:
(a) the name of the proposed organization;
(b) the names of at least three students and any required signatures;
(c) a description of each prior application for registration and the action taken on it;
(d) an official statement of the proposed organization's purpose and activities; and
(e) any other information reasonably required by the Dean.

SECTION 204. USE OF UNIVERSITY NAME OR SPONSORSHIP
(a) Only an organization that is officially sponsored by the University may use the name of the University or an abbreviation of the name of the University or any of the University's trademarks or service marks as part of or in conjunction with its group name.
(b) No student, unregistered group, or registered student, faculty, or staff organization may use the name of the University or an abbreviation of the name of the University as part of its name. A student, group, or organization may use terms such as "campus" or "Texas campus" as part of its name.
(c) No student, un registered group, or registered student, faculty, or staff organization may advertise or promote events or activities in a manner that falsely suggests that the event or activity is sponsored by the University.

SECTION 205. ACTION ON APPLICATION
(a) In considering a completed application, the Dean of Students shall not pass on the merit of the proposed organization's purpose, but shall register the applicant unless it is ineligible under section 202.
(b) The Dean approves the registration of an organization by signing the application form and placing it on file.
(c) If an organization is refused registration, the Dean shall provide the applicant with a copy of a written statement of the reasons for refusal, and the applicant may appeal in accordance with section 504.

SUBCHAPTER 300. RIGHTS AND DUTIES

SECTION 301. RECOGNITION AND ACTIVITIES
An organization is entitled
(a) to be listed as a registered student organization;
(b) to sponsor or present a guest speaker on University property in accordance with Policy 13.A.1, subchapter 1000;
(c) to raise funds or make other permissible solicitations on University property under Policy 13.A.1, section 205;
(d) to reserve the use of University facilities under Policy 2.B.1, subchapter 200; and
(e) to hang banners under Policy 13.A.1, section 504.

SECTION 302. MEMBERSHIP
(a) An organization must restrict its membership to students, faculty, and staff of the University, but it may not deny membership on any basis that violates subsection 202(c).
(b) Membership within groups registered as student governance organizations is limited to
individual groups that are registered student organizations.

SECTION 303. OBLIGATIONS

(a) Every registered student organization shall furnish to the Dean of Students at the beginning of each semester a complete list of officers or other members of the organization who are authorized to speak for or represent the organization in its relations with the University and who are authorized to receive for the organization official notices, directives, or information from the University. Each list shall be kept current and accurate throughout the semester by the organization, and it shall be conclusively presumed that the officers or members whose names are on the list most recently filed by the organization are authorized to speak for and represent the organization in its relations with the University and are authorized to receive for the organization official notices, directives, or information from the University.

(b) At the beginning of each semester, each registered student organization must file with the Dean of Students a written statement that the organization does not, and will not during the semester:

1. have as a member any person who is neither a student nor a member of the faculty or staff of the University, or
2. deny membership on any basis prohibited by subsection 6-202(c).

If an organization fails or refuses to file the required statement, or if the Dean determines that the statement is or has become false, disciplinary proceedings shall be initiated by the Dean, after providing notice. The Dean or the hearing officer may cancel the registered status of the organization or may impose other appropriate penalties.

(c) No organization may re-register or use the facilities of the University as long as it owes a monetary debt to the University and the debt is considered delinquent by the crediting University agency.

(d) Each semester every registered student organization must sign a statement acknowledging that the organization does not engage in activities that involve the subjection of a probationary member of the group to dangerous, harmful, or degrading acts. The Regents' Rules (pt. 1, ch. VI, sec. 3.28) state that such acts are a violation with or without the consent of the probationary member.

SUBCHAPTER 400. FISCAL AND ACCOUNTING PROCEDURES

SECTION 401. ACCOUNTING PROCEDURE

(a) An organization shall deposit in the Dean of Student's office all funds collected on the campus, unless such receipts are deposited in a regular University account. An authorized representative of the organization shall personally deposit all money.

(b) An organization shall make deposits weekly unless receipts exceed $50 a day, in which case it shall make deposits daily.

(c) Within thirty days after the beginning of each semester, the organization shall file with the Dean of Students a final report, signed by an authorized representative of the
organization, fully disclosing the sources and amounts of money obtained from solicitations during the preceding semester or summer session, the purposes and amounts of the expenditures made during the preceding semester or summer session, and any other information required by the Dean about solicitation activities during the preceding semester.

(d) Authorized banking representatives must comply with all banking procedures as published by the Dean of Students.

SECTION 402. TICKET SALES

(a) An organization shall order through the Dean of Students tickets connected with fund-raising. Each ticket shall show the purchase price and shall be prenumbered unless it reserves a specific seat for a specific performance.

(b) In accordance with section 401, an organization shall deposit all money and checks received from ticket sales.

(c) On or before the eleventh weekday after ticket sales end, an organization shall file in the Dean's office a final report including:

(1) a list bearing the name of each recipient of a complimentary ticket;

(2) all unused tickets.

SUBCHAPTER 500. DISCIPLINE

SECTION 501. ORGANIZATIONAL RESPONSIBILITY FOR VIOLATIONS

(a) An organization violates a Regents' Rule, University regulation, or administrative rule when:

(1) one or more of its officers or authorized representatives acting in the scope of their organizational capacities commit the violation;

(2) one or more of its members commit the violation after the action that constitutes the violation was approved by majority vote of those members of the organization present and voting;

(3) one or more members of a committee of the organization commit the violation while acting in the scope of the committee's assignment;

(4) a member of an organization acting with apparent authority of the organization commits the violation;

(5) one or more members of an organization or its officers permit, encourage, aid, or assist any of its members in committing a violation;

(6) one or more members of an organization or its officers, under circumstances where such persons knew or should have known that an action constituting a violation was occurring or about to occur, fails to prevent that action; or

(7) one or more members of an organization fail to report to appropriate University or civil authorities promptly their knowledge or any reasonable information about a violation.

(b) When the Dean of Students receives information that an organization has allegedly violated a Regents' Rule, University regulation, or administrative rule, he or she shall
investigate the alleged violation. Upon completing the investigation, the Dean may:
(1) dismiss the allegation as unfounded; or
(2) summon the authorized representative(s) of the organization for a conference at
which the organization can respond to the charges and, after conferring with the
representative(s)
   (A) dismiss the allegation; or
   (B) find the organization in violation and impose a penalty.
(c) The Dean of Students may impose one or more of the penalties under section 502 when
an organization fails, without good cause, to comply with a summons under subsection
(b).
(d) Notwithstanding any other provision of this Policy, the Dean of Students or the
President of the University may take immediate disciplinary action, pending a
conference, against an organization that violates a rule or regulation of the University or
the University of Texas System when, in the opinion of the official, the interest of the
University or the University of Texas System would be served by interim action.
(e) A student may be disciplined for a violation under Chapter 11 of the Institutional Rules
on Student Services and Activities even though the organization of which the student is
a member is penalized under this subchapter for the same violation or for a violation
growing out of the same factual transaction.

SECTION 502. PENALTIES
(a) The Dean of Students, acting pursuant to section 501, or the hearing officer, after a
hearing under this subchapter, may impose one or more of the following penalties for
violation of a Regents' Rule, University regulation, or administrative rule:
(1) place the organization on probation for not more than one calendar year;
(2) suspend for not more than one calendar year the organization's right to do one or
more of the following:
   (A) publicly post signs;
   (B) set up a table or exhibit;
   (C) publicly assemble or demonstrate;
   (D) publicly raise funds or make a solicitation;
   (E) reserve the use of University rooms or spaces;
   (F) participate in intramural sports tournaments and events; or
   (G) maintain a University Web site.
(3) require restitution, educational seminars, and community service;
(4) suspend for not more than one calendar year the organization's registration; or
(5) cancel the organization's registration for not less than one calendar year.
(b) The Dean or the hearing officer may impose conditions related to the offense and failure
to meet the conditions will be considered an additional violation.
SECTION 503. NOTICE
(a) The Dean of Students shall notify the accused organization by letter of his or her decision. The Dean may send the letter to any authorized representative of the organization.
(b) The letter shall
   (1) concisely describe the Dean's findings, identifying any violations and any charges on which no violation was found;
   (2) state the penalty imposed, if any; and
   (3) if any violation is found or any penalty imposed, advise the organization of its rights to appeal in accordance with section 504.

SECTION 504. GENERAL PROCEDURES FOR APPEAL
(a) An organization that has not had its registration suspended or canceled may appeal to the Vice President for Student Affairs.
(b) An organization that has had its registration suspended or canceled may appeal to the Vice President or to a hearing officer.
(c) (1) To appeal any decision, an authorized representative of the organization must give written notice of appeal to the Dean of Students within ten days after the day on which the decision or action being appealed is mailed to the organization. But if the decision is mailed between semesters, the notice of appeal is due on the tenth calendar day of the following semester.
   (2) The notice of appeal may be informal, but shall contain the organization's name, the date of the decision or action, the name of the organization's representative, and the reviewing authority to which the appeal is being made.
(d) Notice of appeal timely given suspends the imposition of penalty until the appeal is finally decided, but interim action may be taken as authorized under subsection 501(d).
(e) The organization must file all relevant documentation from the previous decision, including written arguments when appropriate, with the reviewing authority within twenty-one days after notice of appeal is given.
(f) The action of each reviewing authority shall be communicated in writing to the organization and the Dean. The decision of the Vice President shall be the final appellate review.

SECTION 505. APPEAL TO THE VICE PRESIDENT FOR STUDENT AFFAIRS
(a) In the case of an appeal to the Vice President for Student Affairs, arguments either against or in support of the decision will be considered and, at the discretion of the Vice President, will be presented in writing rather than orally.
(b) The Vice President may approve, reject, or modify the decision in question, or may require that the original decision be reopened for the presentation of additional evidence and reconsideration of the decision.
SECTION 506. APPEAL TO A HEARING OFFICER

(a) An authorized representative of the organization may challenge the hearing officer's alleged lack of fairness or objectivity, but is not entitled to disqualify the person from serving. It shall be up to the challenged person to determine whether he or she can serve with fairness and objectivity. If the challenged person disqualifies himself or herself, another hearing officer shall be appointed.

(b) The hearing officer will review written arguments and then meet with both parties together to ask questions, seek clarification, and hear any final comments by the parties. The Dean of Students shall set the date, time, and place for this meeting and notify the organization.

(c) The hearing officer's meeting with the parties is informal and is closed except that, upon request of the organization, the meeting may be open. With the consent of or by invitation of the representative of the organization, the following persons may attend and may obtain (at their own expense) copies of the written documents submitted to the hearing officer:

(1) one or two representatives of the Student Government;
(2) one or two staff members of the Daily Texan; and
(3) not more than five members of the organization.

(d) The criteria on which the hearing officer's decision will be based are fairness, reasonableness, and compliance with the Institutional Rules on Student Services and Activities. The hearing officer may approve, reject, or modify the Dean of Student's decision.

(e) Either the organization or the Dean may appeal the decision of the hearing officer to the Vice President for Student Affairs. The party appealing shall give notice of appeal and file the documents from the earlier decision as provided in section 504. If the Dean is the appellant, the notice of appeal shall be filed with the Vice President, and on the same day, a copy shall be given or mailed to the organization.
THE UNIVERSITY OF TEXAS AT AUSTIN
HANDBOOK OF OPERATING PROCEDURES

Part 13. Civil Liberties
  Section A. Speech, Expression, and Assembly
Policy Number: 13.A.1

Approved By:  Date Issued:

(A substantially identical version of this Policy appears as
Chapter 13, Institutional Rules on Student Services and Activities,
in Appendix C to the General Information Catalog)

SPEECH, EXPRESSION, AND ASSEMBLY

Subchapter 100. Governing Principles
  Sec. 101. Freedom of Speech, Expression, and Assembly
  Sec. 102. Scope of This Chapter and Related Provisions
  Sec. 103. General Definitions -- Categories of Speakers
  Sec. 104. Other General Definitions

Subchapter 200. Prohibited Expression
  Sec. 201. Obscenity
  Sec. 202. Defamation
  Sec. 203. Incitement to Imminent Violations of Law
  Sec. 204. Harassment
  Sec. 205. Solicitation

Subchapter 300. General Rules on Means of Expression
  Sec. 301. Disruption
  Sec. 302. Damage to Property
  Sec. 303. Coercing Attention
  Sec. 304. Cosponsorship

Subchapter 400. Distribution of Literature
  Sec. 401. General Rule on Distribution of Literature
  Sec. 402. Not-for-Profit Literature Only
  Sec. 403. Limits on Advertising
  Sec. 404. Identification
  Sec. 405. Clean up of Abandoned Literature

Subchapter 500. Signs and Banners
  Sec. 501. General Rule on Signs
  Sec. 502. Hand-Held Signs
  Sec. 503. Signs on Kiosks
  Sec. 504. Banners
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sec. 505.</td>
<td>A-Frames</td>
</tr>
<tr>
<td>Sec. 506.</td>
<td>Signs in Other Designated Locations</td>
</tr>
<tr>
<td>Subchapter 600.</td>
<td>Tables</td>
</tr>
<tr>
<td>Sec. 601.</td>
<td>General Rule on Tables</td>
</tr>
<tr>
<td>Sec. 602.</td>
<td>Locations</td>
</tr>
<tr>
<td>Sec. 603.</td>
<td>Identification</td>
</tr>
<tr>
<td>Sec. 604.</td>
<td>Clean up Around Tables</td>
</tr>
<tr>
<td>Sec. 605.</td>
<td>Sources of Tables</td>
</tr>
<tr>
<td>Subchapter 700.</td>
<td>Exhibits and A-Frames</td>
</tr>
<tr>
<td>Sec. 701.</td>
<td>General Rule on Exhibits</td>
</tr>
<tr>
<td>Sec. 702.</td>
<td>Application Process</td>
</tr>
<tr>
<td>Sec. 703.</td>
<td>Criteria for Approval</td>
</tr>
<tr>
<td>Sec. 704.</td>
<td>Time Limits</td>
</tr>
<tr>
<td>Sec. 705.</td>
<td>Clean Up Around Exhibits</td>
</tr>
<tr>
<td>Sec. 706.</td>
<td>Liability</td>
</tr>
<tr>
<td>Subchapter 800.</td>
<td>Amplified Sound</td>
</tr>
<tr>
<td>Sec. 801.</td>
<td>General Rule on Amplified Sound</td>
</tr>
<tr>
<td>Sec. 802.</td>
<td>Location and Times of Weekday Amplified Sound Areas</td>
</tr>
<tr>
<td>Sec. 803.</td>
<td>Regulation and Scheduling of Weekday Amplified Sound</td>
</tr>
<tr>
<td>Sec. 804.</td>
<td>Amplified Sound on Evenings and Weekends</td>
</tr>
<tr>
<td>Sec. 805.</td>
<td>Amplified Sound Indoors</td>
</tr>
<tr>
<td>Subchapter 900.</td>
<td>Public Assemblies Without Amplified Sound</td>
</tr>
<tr>
<td>Sec. 901.</td>
<td>General Rule on Public Assemblies</td>
</tr>
<tr>
<td>Sec. 902.</td>
<td>Reservation of Space</td>
</tr>
<tr>
<td>Sec. 903.</td>
<td>Notice and Consultation</td>
</tr>
<tr>
<td>Subchapter 1000.</td>
<td>Guest Speakers</td>
</tr>
<tr>
<td>Sec. 1001.</td>
<td>Definitions</td>
</tr>
<tr>
<td>Sec. 1002.</td>
<td>Who May Present</td>
</tr>
<tr>
<td>Sec. 1003.</td>
<td>Location and Form of Presentation</td>
</tr>
<tr>
<td>Sec. 1004.</td>
<td>Application</td>
</tr>
<tr>
<td>Sec. 1005.</td>
<td>Obligations of Presenting Organization</td>
</tr>
<tr>
<td>Subchapter 1100.</td>
<td>Responding to Speech, Expression, and Assembly</td>
</tr>
<tr>
<td>Sec. 1101.</td>
<td>General Rule on Responding</td>
</tr>
<tr>
<td>Sec. 1102.</td>
<td>Applications of Section 13-1101</td>
</tr>
<tr>
<td>Subchapter 1200.</td>
<td>Enforcement and Appeals</td>
</tr>
<tr>
<td>Sec. 1201.</td>
<td>Police Protection</td>
</tr>
<tr>
<td>Sec. 1202.</td>
<td>Response to Violations</td>
</tr>
<tr>
<td>Sec. 1203.</td>
<td>Appeals</td>
</tr>
</tbody>
</table>
SUBCHAPTER 100. GOVERNING PRINCIPLES

SECTION 101. FREEDOM OF SPEECH, EXPRESSION, AND ASSEMBLY
(a) The freedoms of speech, expression, and assembly are fundamental rights of all persons and are central to the mission of the University. Students, faculty, and staff have the right to assemble, to speak, and to attempt to attract the attention of others, and corresponding rights to hear the speech of others when they choose to listen, and to ignore the speech of others when they choose not to listen.

(b) Students, faculty, and staff are free to express their views, individually or in organized groups, orally or in writing or by other symbols, on any topic, in all parts of the campus, subject only to rules necessary to preserve the equal rights of others and the other functions of the University. Teaching, research, and other official functions of the University shall have priority in allocating the use of space on campus.

(c) Except as expressly authorized by subchapter 200, the University shall not discriminate on the basis of the political, religious, philosophical, ideological, or academic viewpoint expressed by any person, either in the enforcement and administration of this Policy or otherwise.

SECTION 102. SCOPE OF THIS POLICY AND RELATED PROVISIONS
(a) This Policy protects and regulates speech, expression, and assembly of students, faculty, and staff that is not part of the teaching, research, or other official functions of the University, not otherwise sponsored by the University or any academic or administrative unit, and not submitted for academic credit.

(b) This Policy also regulates certain speech that is part of the teaching, research, or other official functions of the University:
(1) Section 204 on Harassment applies to all speech on campus.
(2) This entire Policy applies to speech by academic and administrative units, and speech that is submitted for academic credit, in outdoor locations on the campus. The Dean of Students administers and schedules outdoor signs, tables, exhibits, public assemblies, and amplified sound, even for faculty, staff, and administrative and academic units, because scheduling through a single office is necessary to avoid conflicts.

(c) Any program or event sponsored by an academic or administrative unit of the University shall have priority in the use of space and facilities over any speech, expression, and assembly that is not sponsored by an academic or administrative unit, except that programs or events sponsored by an academic or administrative unit shall not have priority in the use of weekday amplified sound areas defined in section 802. This Policy does not limit other existing authority of University officials to authorize programs and events sponsored by an academic or administrative unit and not provided for in this Policy.

(d) Additional rules concerning free speech and academic freedom of faculty are found in the Regents' Rules (pt. 1, ch. III, secs. 7 and 8).
Underlying rules concerning free speech of students are found in the Regents' Rules (pt. 1, ch. VI, secs. 6 and 7). This Policy implements those provisions and applies them to the Austin campus.

Rules restricting access to the campus and restricting speech on the campus by persons who are not students, faculty, or staff are found in the Regents' Rules (pt. 1, ch. VI, sec. 6).

SECTION 103. GENERAL DEFINITIONS – CATEGORIES OF SPEAKERS

As used in this Policy:

(a) "Academic or administrative unit" means any office or department of the University.
(b) "Faculty member and staff member" includes any person who is employed by the University.
(c) "Off-campus person or organization" means any person, organization, or business that is not an academic or administrative unit, a registered student, faculty, or staff organization, or a student, faculty member, or staff member.
(d) "University person or organization" includes academic and administrative units, registered student, faculty, and staff organizations, and individual students, faculty members, and staff members. This phrase describes the most inclusive category of potential speakers on campus; all persons and organizations of any kind are either an "off-campus person or organization" or a "University person or organization".
(e) "Registered student, faculty, or staff organization" includes a registered student organization under Policy 12.B.1, a faculty or staff organization under the Regents' Rules (pt. 1, ch. III, sec. 34), and Student Government and any unit or subdivision thereof.
(f) "Student" means a person who is currently enrolled in residence at the University, or who is accepted for admission or readmission to the University, or who has been enrolled at the University in a prior semester or summer session and is eligible to continue enrollment in the semester or summer session that immediately follows, or who is attending an educational program sponsored by the University while that person is on campus.

SECTION 104. OTHER GENERAL DEFINITIONS

(a) "Amplified sound" means sound whose volume is increased by any electric, electronic, mechanical, or motor-powered means. Shouting and group chanting are not amplified sound and are not subject to the special rules on amplified sound, but are subject to general rules on disruption.
(b) "Dean of Students" means the Dean of Students or any delegate or representative of the Dean of Students.
(c) "Main Plaza" means the area bounded by the south wall of the Tower, the line of the first north-south hedge immediately west of Garrison Hall, the north edge of Inner Campus Drive, and the line of the first north-south hedge immediately east of Battle Hall. The Main Plaza includes the south steps and south porches of the Tower.
(d) "Room or space" includes any room or space, indoors or outdoors, owned or controlled by the university.
(e) "University" means The University of Texas at Austin.
(f) "Weekday" means Monday through Friday except for official University holidays; "day" means calendar day.

SUBCHAPTER 200. PROHIBITED EXPRESSION

SECTION 201. OBSCENITY
No person or organization shall distribute or display on the campus any writing or visual image, or engage in any public performance, that is obscene. A writing, image, or performance is "obscene" if it is obscene as defined in Texas Penal Code section 21.08 or successor provisions, and is within the constitutional definition of obscenity as set forth in decisions of the United States Supreme Court.

SECTION 202. DEFAMATION
(a) No person shall make, distribute, or display on the campus any statement that unlawfully defames any other person.
(b) A statement unlawfully defames another person if it is false, if the false portion of the statement injures the reputation of the other person, and if the speaker has the constitutionally required state of mind as set forth in decisions of the United States Supreme Court.

SECTION 203. INCITEMENT TO IMMINENT VIOLATIONS OF LAW
No person shall make, distribute, or display on the campus any statements directed to inciting or producing imminent violations of law under circumstances such that the statements are likely to actually and imminently incite or produce violations of law.

SECTION 204. HARASSMENT
(a) No person shall make, distribute, or display on the campus any statement that constitutes verbal harassment of any other person. This section applies to all speech on the campus, including speech that is part of teaching, research, or other official functions of the university.
(b) (1) "Verbal harassment" means hostile or offensive speech, oral, written, or symbolic, that:
   (A) personally describes or is personally directed to one or more specific individuals; and
   (B) is sufficiently severe, pervasive, or persistent to create an objectively hostile environment that interferes with or diminishes the victim's ability to participate in or benefit from the services, activities, or privileges provided by the University; and
   (C) is not necessary to the expression of any idea described in paragraph (2) of this subsection.
(2) To make an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea is not verbal harassment, even if some listeners are offended by the argument or idea. The categories of sexually harassing speech set forth in Policy 4.A.3 are rarely, if ever, necessary to argument for or against the substance of any political, religious, philosophical, ideological, or academic idea.

(3) Verbal harassment may consist of threats, insults, epithets, ridicule, personal attacks, or the categories of harassing sexual speech set forth in Policy 4.A.3, and is often based on the victim's appearance, personal characteristics, or group membership, including but not limited to race, color, religion, national origin, gender, age, disability, citizenship, veteran status, sexual orientation, ideology, political views, or political affiliation.

(c) Harassment can also consist of nonverbal conduct, such as hazing, practical jokes, damage to property, and physical assault. In the case of sexual harassment and sexual misconduct, sexual conduct is often central to the offense. These forms of harassment are prohibited in section 11-804(a)(12) of the Institutional Rules on Student Services and Activities, in Policies 4.A.3 and 4.B.1, and in the Regents' Rules (pt. 1, ch. III, sec. 4.8). Some forms of harassment violate the Prohibition of Campus Violence in Policy 12.A.1. For enhanced penalties for disciplinary offenses motivated by the race, color, or national origin of a student harmed by the offense, see Section 11-501(b) of the Institutional Rules on Student Services and Activities. To the extent of any conflict in the definition of verbal harassment, the more detailed definition in this section controls.

(d) The harassment that this section prohibits does not exhaust the category of speech that is unnecessary and inappropriate to vigorous debate in a diverse community of educated people. An essential part of higher education is to learn to separate substantive argument from personal offense, and to express even the deepest disagreements within standards of civility that reflect mutual respect, understanding, and sensitivity among the diverse population within the University and in the larger society. These are community norms, even though they cannot be enforced by disciplinary rules.

(e) Verbal harassment has been interpreted very narrowly by the federal courts. Many university policies on verbal harassment or hate speech have been held unconstitutional, either because they prohibited harassment only when it was based on race, sex, and similar categories, or because they failed to protect the expression of potentially offensive ideas. This policy should be interpreted as narrowly as need be to preserve its constitutionality.

(f) (1) A student who believes he or she has been harassed should report the alleged violation to the Dean of Students.

(2) A faculty member or staff member who believes he or she has been harassred should report the alleged violation to the Office of Equal Opportunity Services.

(3) Alternatively, any person who believes he or she has been harassed may report the alleged violation to the Office of Equal Opportunity Services or to any university official, administrator, or supervisor. A faculty member is not an
"official, administrator, or supervisor" for this purpose unless that faculty member holds an administrative position.

(4) Any university official, administrator, or supervisor who receives a report of alleged harassment shall promptly refer that report and the complainant to the Office of Equal Opportunity Services, or to the Dean of Students, as appropriate. A complainant whose report is not forwarded to the Office of Equal Opportunity Services, or to the Dean of Students, has not initiated proceedings for providing a remedy to the complainant or for imposing discipline on the alleged harasser.

(5) Investigation of the information provided, and any remedial or disciplinary proceedings, shall proceed under the procedures set out in the harassment policies cross referenced in section 204(c).

SECTION 205. SOLICITATION

(a) (1) No person shall make, distribute, or display on the campus any statement that offers or advertises any product or service for sale or lease, or requests any gift or contribution, except as authorized in paragraph (b), by section 403, or by the Regents' Rules.

(2) Words or symbols on personal apparel, or on decals or bumper stickers affixed to a vehicle by an owner of that vehicle, are not solicitation within this definition.

(3) Unadorned acknowledgements or thanks to donors are not solicitation within this definition.

(b) (1) A registered student, faculty, or staff organization may advertise or sell merchandise, publications, food, or nonalcoholic beverages, or request contributions, for the benefit of the organization, for the benefit of another registered student, faculty, or staff organization, or for the benefit of an organization that is tax-exempt under section 501(c)(3) of the Internal Revenue Code. No organization may sell items obtained on consignment. No organization may request contributions for an off-campus tax-exempt organization for more than fourteen days in any fiscal year.

(2) Registered student, faculty, and staff organizations, and academic and administrative units, may sell, distribute, or display literature that contains advertising, subject to the limits in section 403. Individual students, faculty members, and staff members may distribute or display such literature, but may not sell it.

(3) Individual students, faculty members, and staff members may post advertisements for roommates, subleases, and sales of used goods that the seller has personally owned and used, but only on a bulletin board designated for that purpose by an academic or administrative unit in space that the unit occupies or controls. Any unit that designates a bulletin board for this purpose may regulate that bulletin board under the procedures set forth in section 506.

(4) A resident of a University residence hall or apartment building may occasionally invite one or more salespersons to come to the resident's room or apartment, and
in that room or apartment, the salesperson may offer products or services for sale to other residents of that residence hall or apartment building.

(5) A registered student, faculty, or staff organization may collect admission fees for movies or other programs scheduled in advance under Policy 2.B.1.

(6) A registered student, faculty, or staff organization may collect membership fees or dues at meetings of the organization scheduled in advance under Policy 2.B.1.

(7) A registered student, faculty, or staff organization may sell charitable raffle tickets on behalf of an organization that is authorized to conduct a charitable raffle under the Texas Charitable Raffle Enabling Act, Texas Occupations Code chapter 2002, or successor provisions.

(c) A registered student organization that receives funds from solicitations under this section shall deposit and account for such funds under the rules in Policy 12.B.1, section 401(a).

(d) More detailed regulation of solicitation appears in the Regents’ Rules (pt. 1, ch. VI, sec. 6.6). The provisions most relevant to students, faculty, and staff have been incorporated here.

SUBCHAPTER 300. GENERAL RULES ON MEANS OF EXPRESSION

SECTION 301. DISRUPTION

(a) Except as expressly authorized in section 802, or by an authorized university official responsible for a program or event sponsored by an academic or administrative unit, no speech, expression, or assembly may be conducted in a way that disrupts or interferes with any:

(1) teaching, research, administration, or other authorized activities on the campus;
(2) free and unimpeded flow of pedestrian and vehicular traffic on the campus; or
(3) signs, tables, exhibits, public assemblies, distribution of literature, guest speakers, or use of amplified sound by another person or organization acting under the rules in this Policy.

(b) Except in the most extreme cases, interference and disruption are unavoidably contextual. Intentional physical interference with other persons is nearly always disruptive in any context. Interfering with traffic depends on the relation between the volume of traffic and the size of the passageway left open. Disruptive noise is the most contextual of all, because it depends on the activity disrupted. Any distracting sound may disrupt a memorial service. Any sound sufficiently loud or persistent to make concentration difficult may disrupt a class or library. Occasional heckling in the speaker's pauses may not disrupt a political speech, but persistent heckling that makes it difficult for listeners to hear the speaker does disrupt a political speech. These illustrations may be helpful, but none of them includes enough context to be taken as a rule. We cannot escape relying on the judgment and fairness of University authorities in particular cases. In this context where difficult enforcement judgments are unavoidable, it is especially important to remind administrators and law enforcement officials that their judgments should not be influenced by the viewpoint of those claiming disruption or of those allegedly disrupting.
Potentially disruptive events can often proceed without disruption if participants, administrators, and law enforcement officials cooperate to avoid disruption without stopping the event. In cases of marginal or unintentional disruption, administrators and law enforcement officials should clearly state what they consider disruptive and seek voluntary compliance before resorting to disciplinary charges or arrest. But in cases of serious or intentional disruption, the Regent's Rules (pt. 1, ch. VII, section 11) require the University to use all lawful measures to immediately halt the disruption without negotiation.

**SECTION 302. DAMAGE TO PROPERTY**

(a) No speech, expression, or assembly may be conducted in a way that damages or defaces property of the University or of any person who has not authorized the speaker to damage or deface his or her property.

(b) No person may damage, deface, or interfere with any sign, table, or exhibit posted or displayed by another person or organization acting under the rules in this Policy.

**SECTION 303. COERCING ATTENTION**

(a) No person may attempt to coerce, intimidate, or badger any other person into viewing, listening to, or accepting a copy of any communication.

(b) No person may persist in requesting or demanding the attention of any other person after that other person has attempted to walk away or has clearly refused to attend to the speaker's communication.

**SECTION 304. COSPONSORSHIP**

(a) Neither registered student, faculty, or staff organizations, nor individual students, faculty, or staff, may cosponsor any event on campus with an off-campus person or organization. Only academic or administrative units with authority delegated from the President of the University may cosponsor events with an off-campus person or organization.

(b) An event is cosponsored if the University person or organization:

(1) Depends on the off-campus person or organization for planning, staffing, or management of the event; or

(2) Advertises the event as cosponsored by the off-campus person or organization; or

(3) Operates the event as agent of, or for the benefit of, the off-campus person or organization, except for solicitation of charitable contributions under the authority of section 205(b)(1); or

(4) Distributes any proceeds of the event to the off-campus person or organization, except for:

(A) the proceeds of charitable contributions solicited under the authority of section 205(b)(1); or

(B) payment of a fair market price for goods or services provided to the University person or organization; or
(5) Reserves a room or space for the use of the off-campus person or organization; or
(6) Engages in any other behavior that persuades the Dean of Students that the off-campus person or organization is in fact responsible for the event, in full or in substantial part.

c) The following facts do not, in and of themselves, indicate cosponsorship:
(1) That a University person or organization endorses an off-campus person or organization or its message;
(2) That a University person or organization sells, distributes, or displays literature prepared by an off-campus person or organization or containing contact information for an off-campus person or organization;
(3) That a University person or organization has purchased goods or services from an off-campus provider;
(4) That a registered student, faculty, or staff organization has invited a guest speaker under subchapter 1000;
(5) That a registered student, faculty, or staff organization has received financial contributions to support the event from an off-campus donor.

d) The purpose of this rule is to preserve the limited space on campus for the use of students, faculty, and staff, and the rule shall be interpreted to serve that purpose. It is not the purpose of this rule to prevent students, faculty, or staff from exercising their right to associate with other persons or organizations holding views similar to their own.

SUBCHAPTER 400. DISTRIBUTION OF LITERATURE

SECTION 401. GENERAL RULE ON DISTRIBUTION OF LITERATURE
(a) Registered student, faculty, and staff organizations, and academic and administrative units, may sell, distribute, or display literature on campus, subject to the rules in this subchapter and to the general rules in subchapters 200 and 300. Individual students, faculty members, and staff members may distribute or display literature but may not sell it. In either case, no advance permission is required.
(b) "Literature" means any printed material, including any newspaper, magazine, or other publication, and any leaflet, flyer, or other informal matter.

SECTION 402. NOT-FOR-PROFIT LITERATURE ONLY
(a) Except as expressly authorized by the Regents' Rules or by contract with the University, no person or organization may sell, distribute, or display on campus any publication operated for profit. A registered student, faculty, or staff organization may sell publications operated for profit as part of a fundraiser authorized by, and subject to the limits of, section 205(b)(1).
(b) A publication is operated for profit if any part of the net earnings of the publication, or of its distribution, inures to the benefit of any private shareholder or individual.

SECTION 403. LIMITS ON ADVERTISING
Literature distributed on campus may contain the following advertising:
(a) advertising for a registered student, faculty, or staff organization, or an academic or administrative unit;
(b) advertising for an organization that is tax exempt under section 501(c)(3) of the Internal Revenue Code;
(c) paid advertising in a publication primarily devoted to promoting the views of a political, religious, charitable, or other not-for-profit cause, or to other bona fide editorial content distinct from the paid advertising; and
(d) other advertising expressly authorized by the Regents' Rules or by contract with the University.
All other advertising in literature distributed on campus is prohibited.

SECTION 404. IDENTIFICATION
All literature distributed on campus must identify the University person or organization responsible for its distribution.

SECTION 405. CLEAN UP OF ABANDONED LITERATURE
Any person or organization distributing literature on campus shall pick up all copies dropped on the ground in the area where the literature was distributed.

SUBCHAPTER 500. SIGNS AND BANNERS

SECTION 501. GENERAL RULE ON SIGNS
(a) "Sign" means any method of displaying a visual message to others.
(b) Subject to the rules in this subchapter and to the general rules in subchapters 200 and 300, a University person or organization may display a sign by holding or carrying it, by displaying it at a table (see subchapter 600), or by posting it on a kiosk, bulletin board, or other designated location. Signs may not be posted in any other location.

SECTION 502. HAND-HELD SIGNS
(a) Students, faculty, and staff may display a sign on campus by holding or carrying it by hand or otherwise attaching it to their person. No advance permission is required.
(b) Any person holding or carrying a sign shall exercise due care to avoid bumping, hitting, or injuring any other person.
(c) Any person holding or carrying a sign at a speech, performance, or other event shall exercise due care to avoid blocking the view of any other person observing the speech, performance, or event. Depending on the venue, this may mean that signs may be displayed only around the perimeter of a room or an audience.
(d) A law enforcement officer or the Dean of Students may warn any person that his or her sign is being handled in violation of paragraphs (b) or (c). If the violation persists after a clear warning, the law enforcement officer or Dean may confiscate the sign.
SECTION 503. SIGNS ON KIOSKS
(a) A kiosk is an outdoor structure, attached to the ground in a fixed location, designed for the posting of signs.
(b) University persons and organizations may post signs on kiosks. No advance permission is required. Individuals may not post on kiosks any sign advertising goods or services for sale (see section 205).
(c) No sign posted on a kiosk may be larger than 11 inches by 17 inches.
(d) Each sign posted on a kiosk must identify the University person or organization that posted the sign, and must state the date the sign was posted or the date of the event being advertised. No sign advertising an event may be posted on a kiosk more than fourteen days before the date of the event.
(e) The person or organization that posts a sign on a kiosk must remove that sign not later than fourteen days after it was posted, or twenty-four hours after the event it advertised, whichever is earlier.
(f) No sign may be posted on a kiosk on top of another properly posted sign.
(g) No person or organization may post more than two signs on the same kiosk at the same time.
(h) The Dean of Students may remove any sign that violates any of the rules in this section.

SECTION 504. BANNERS
(a) "Banner" means a sign hung from a structure, or between two buildings, structures, or poles.
(b) (1) The Dean of Students shall designate places where banners may be hung in outdoor locations not occupied or controlled by any other academic or administrative unit.
(2) Other academic and administrative units may designate one or more places where banners may be hung in indoor or outdoor locations that the unit occupies or controls.
(c) (1) Academic and administrative units and registered student, faculty, and staff organizations may hang banners in locations designated under paragraph (b). Individuals may not hang banners.
(2) Advance permission is required from the unit administering the location, and usually, advance reservations are required. Academic and administrative units advertising official university events or programs may be given priority. In locations administered by academic or administrative units other than the Dean of Students, organizations affiliated with the unit administering the location may be given priority.
(d) (1) In locations administered by the Dean of Students, each banner may be hung for one week. The banner may be renewed from week to week if space is available, but usually, other organizations are waiting their turn and renewal is not possible.
(2) Other units administering a location for banners may limit the time each banner may hang. Any such time limit shall be applied without discrimination to all
organizations, except that academic and administrative units may be given preference.

(e) The Dean of Students shall maintain, on a website or on a flyer or pamphlet conveniently available at the Dean's office:
(1) a list of outdoor locations where banners may be hung;
(2) the academic or administrative unit that administers banners at each outdoor location; and
(3) a current description of the rules and procedures for reserving the right to hang a banner in locations administered by the Dean of Students.

(f) The unit administering a banner location may require that the physical work of hanging the banners be performed only by employees of Physical Plant or other appropriate university personnel.

SECTION 505. A-FRAMES
(a) "A-frame" means a movable and self-supporting sign board designed to stand on the ground.
(b) A-frames are subject to the rules on exhibits in subchapter 700.

SECTION 506. SIGNS IN OTHER DESIGNATED LOCATIONS
(a) Each academic or administrative unit of the University may authorize the posting of signs in spaces that unit occupies and controls. Such authorization may be granted by general rule, by stamping or initialing individual signs, or by longstanding tradition.
(b) Signs in spaces occupied by academic or administrative units may be:
(1) confined to bulletin boards or other designated locations;
(2) subjected to viewpoint-neutral rules limiting the size of signs, limiting how long they may be posted, requiring each sign to show the date it was posted and the name of the person or organization who posted it, and similar rules designed to facilitate fair and equal opportunities to post signs;
(3) confined to official statements or business of the unit, or to certain subject matters of interest within the unit, or to signs posted by persons or organizations affiliated with the unit.
(c) Each academic or administrative unit shall post on or near each bulletin board or other designated location that it administers:
(1) either the rules applicable to that bulletin board or location, or a particular office or website where the rules applicable to that bulletin board or location may conveniently be found; and
(2) if a stamp or initials are required on signs before they are posted on that bulletin board or location, the name and office location of the person whose stamp or initials are required.

This notice shall be posted in the upper left corner of each bulletin board or other designated location for posting signs, or conspicuously in another nearby location. If no such notice is posted, then the only applicable rules are those contained in subchapters 200 and 300.
(d) Within the scope of the subject matters permitted on a particular bulletin board or other designated location, no academic or administrative unit shall discriminate on the basis of the political, religious, philosophical, ideological, or academic viewpoint expressed on a sign.

(e) This section does not apply to any enclosed bulletin board or display case that is accessible only to authorized personnel for official university business.

SUBCHAPTER 600. TABLES

SECTION 601. GENERAL RULE ON TABLES

University persons or organizations may set up tables from which to display literature and disseminate information and opinions, subject to the rules in this subchapter and to the general rules in subchapters 200 and 300. No advance permission is required.

SECTION 602. LOCATIONS

(a) Subject to the restrictions in paragraph (b) and subject to the rules on disruption of other functions and interference with vehicular and pedestrian traffic (see section 301), University persons and organizations may set up tables in any outdoor location on the campus and in any large, open, indoor location.

(b) (1) Tables may not be set up on the Main Plaza.

(2) Tables may not be set up inside any library, classroom, laboratory, performance hall, stadium, or office, or in any hallway less than ten feet wide, without permission from the academic or administrative unit that controls the space, or from the faculty member or staff member who controls the space at a particular time.

(3) An academic or administrative unit may further specify these rules by restricting tables to reasonable locations in spaces occupied by that unit. Academic and administrative units are encouraged to clearly state any such rules in writing, and to publish those rules on a website or on a flyer or pamphlet conveniently available at the chief administrative office of the unit.

(c) If any table is set up in a prohibited or disruptive location, any University employee pointing out the violation shall also point out other locations, as nearby as is reasonably possible, where the table is permitted.

SECTION 603. IDENTIFICATION

Each table must have a sign or literature that identifies the University person or organization sponsoring the table.
SECTION 604. CLEAN UP AROUND TABLES
   Any person or organization sponsoring a table shall remove litter from the area around the table at the end of each day.

SECTION 605. SOURCES OF TABLES
   Persons and organizations may supply their own tables. In addition, the Dean of Students maintains a supply of tables that may be reserved and checked out for use on campus. The Dean of Students shall maintain, on a website or on a flyer or pamphlet conveniently available at the Dean's office, a current description of the rules and procedures for reserving and checking out tables.

SUBCHAPTER 700. EXHIBITS AND A-FRAMES

SECTION 701. GENERAL RULE ON EXHIBITS
   (a) "Exhibit" means an object or collection of related objects, designed to stand on the ground or on a raised surface, that is not a table, and that is designed for temporary display and is not permanently attached to the ground. An A-frame sign (see section 505) is an exhibit.
   (b) University persons and organizations may erect exhibits, subject to the rules in this subchapter and to the general rules in subchapters 200 and 300. Advance permission is required from the Dean of Students, except that an academic unit may authorize indoor exhibits in a space that it occupies and controls.

SECTION 702. APPLICATION PROCESS
   A person or organization desiring to erect an exhibit shall apply on a form prescribed by the Dean of Students.

SECTION 703. CRITERIA FOR APPROVAL
   (a) The Dean of Students shall authorize an exhibit described in a completed application under section 702 unless the Dean finds that:
      (1) the exhibit would violate one or more of the general rules in subchapters 200 and 300;
      (2) the exhibit would violate fire, health, or safety standards;
      (3) another exhibit or event has been scheduled for the proposed time and location, or so near that there is a practical conflict;
      (4) the applicant is under a disciplinary penalty that prohibits erecting an exhibit; or
      (5) the exhibit would be erected in the Main Plaza.
   (b) The Dean shall specify the location of each exhibit to reduce the hazard to visually impaired pedestrians.
   (c) The Dean shall advise each applicant how to correct, if possible, any conditions that preclude approval of his or her application. Even if an applicant is entitled to have its application approved as submitted, the Dean may give advice about other possible locations, or about modifications to the exhibit, that would avoid potential problems or make the proposed exhibit more workable.
SECTION 704. TIME LIMITS
(a) In locations administered by the Dean of Students, each exhibit may be displayed for fourteen days. The exhibit may be renewed for an additional fourteen days if space is available.
(b) The exhibit must be removed at the end of each day and may be reerected each morning. However, the Vice President for Student Affairs or the Dean of Students may authorize overnight exhibits in designated locations. Overnight exhibit locations shall be listed on a website, or on a flyer or pamphlet conveniently available in the Dean's office.

SECTION 705. CLEAN UP AROUND EXHIBITS
Any person or organization sponsoring an exhibit shall remove litter from the area around the exhibit at the end of each day.

SECTION 706. LIABILITY
Any person or organization sponsoring an exhibit assumes full responsibility for the exhibit, including all injuries or hazards that may arise from the exhibit. The University shall not be liable for any damage that may occur to the exhibit, and any person or organization sponsoring the exhibit shall indemnify the University for any claims arising from the exhibit's presence on campus.

SUBCHAPTER 800. AMPLIFIED SOUND

SECTION 801. GENERAL RULE ON AMPLIFIED SOUND
University persons and organizations may use amplified sound on campus at designated times and locations, subject to the rules in this subchapter and to the general rules in subchapters 200 and 300. Advance permission is required. This subchapter creates limited exceptions to the general rule on disruption in section 301.

SECTION 13-802. LOCATION AND TIMES OF WEEKDAY AMPLIFIED SOUND AREAS
(a) (1) The West Mall Amplified Sound Area is the extreme east end of the West Mall, adjacent to the west steps of the Tower.
   (2) University persons and organizations may use amplified sound in this area from 11:30 a.m. to 1:30 p.m. Monday through Friday.
(b) (1) The Union Patio Amplified Sound Area is the flagstone area between the Texas Union and the Flawn Academic Center.
   (2) University persons and organizations may use amplified sound in this area from 11:30 a.m. to 1:30 p.m. Monday through Friday.
(c) (1) The East Bus Circle Amplified Sound Area is the grassy area south of the East Mall Fountain and east of Steindam Hall.
   (2) University persons and organizations may use amplified sound in this area from 8:00 a.m. to 5:00 p.m. Monday through Friday.
The East Mall Amplified Sound Area is the area bounded by the west side of Speedeway Avenue, by the south end of Welch Hall, by the top of the steps at the east side of Inner Campus Drive, and by the north end of Waggener Hall. Permanent speakers will be installed in the planters in this area. This area may not be used until those speakers are installed. Thereafter, University persons and organizations may use amplified sound in this area from 8:00 a.m. to 5:00 p.m. Monday through Friday.

The Battle Oaks Amplified Sound Area is the area bounded by the north wall of Hogg Auditorium, by an extension drawn northward from the east wall of the Texas Union, by the south edge of the sidewalk on the south side of 24th Street, and by the west edge of the sidewalk on the west side of Inner Campus Drive. University persons and organizations may use amplified sound in this area from 8:00 a.m. to 5:00 p.m. Monday through Friday.

The Mustangs Amplified Sound Area is the area bounded by the sidewalk on the east side of San Jacinto Boulevard, by the west wall of the Texas Memorial Museum, and by the outer edge of the two stairways on either side of the lawn. University persons and organizations may use amplified sound in this area from 8:00 a.m. to 5:00 p.m. Monday through Friday.

The San Jacinto Amplified Sound Area is the area bounded by the south wall of the Art Building, by the east edge of the sidewalk on the east side of San Jacinto Boulevard, by the north edge of the sidewalk on the north side of 23rd Street, and by the west edge of the sidewalk on the west side of Trinity Avenue. University persons and organizations may use amplified sound in this area from 8:00 a.m. to 5:00 p.m. Monday through Friday.

The LBJ Fountain Amplified Sound Area is the area bounded by the east edge of Robert Dedman Drive, by the first sidewalk north of the LBJ Fountain, by a line drawn tangent to the west side of the LBJ Fountain and parallel to Robert Dedman Drive, and by the base of the hill on the south side of the Fountain. University persons and organizations may use amplified sound in this area from 8:00 a.m. to 5:00 p.m. Monday through Friday.

The Vice President for Student Affairs may designate additional areas for weekday use of amplified sound. If the Dean of Students concludes that it is unworkable to use the Union Patio Amplified Sound Area and the Battle Oaks Amplified Sound Area at the same time, the Dean may close the Union Patio Amplified Sound Area or refuse to schedule simultaneous events in the two areas.

SECTION 803. REGULATION AND SCHEDULING OF WEEKDAY AMPLIFIED SOUND

The Dean of Students may prescribe rules concerning scheduling, sound levels, location of speakers and the direction in which they are pointed, and other rules to facilitate the use of weekday amplified sound areas, to mediate any conflict with University functions.
and other nearby activities, and to manage environmental impact.

(b) (1) Persons or organizations wishing to use a weekday amplified sound area must reserve a particular area at a particular time. Reservations must be made with the Dean of Students on a form prescribed by the Dean.

(2) The Dean may limit the number or frequency of reservations for each person or organization to ensure reasonable access for all persons and organizations desiring to use amplified sound on weekdays.

(3) In the Union Patio or Battle Oaks Amplified Sound Area, the Dean shall reserve some time slots each week for emergency reservations by persons or organizations responding to events that have occurred, or issues that have arisen, since the preceding week.

(c) Amplified sound in the West Mall and Union Patio Amplified Sound Areas is in fact disruptive of teaching, administration, and research in the Tower, in the Flawn Academic Center, in Parlin Hall, and in Battle Hall. The disruption inherent in this use of amplified sound is expressly authorized, but no other disruption is authorized. Disruption is permitted to this extent because otherwise, it would be necessary to ban all use of amplified sound in and near the center of campus during working hours. The hours are limited because otherwise, work in these important buildings would be continuously disrupted.

(d) Between 8:00 a.m. and 5:00 p.m. Monday through Friday, all persons and organizations must use sound equipment owned or controlled by the University. Some sound equipment may be borrowed, and other sound equipment may be rented for a nominal fee, from the Dean of Students.

(e) Persons and organizations using amplified sound are responsible for maintaining a passageway for pedestrians that is adequate to the volume of pedestrian traffic passing through the area.

(f) Any designations of additional areas, any additional rules regulating the designated areas, and the rules and procedures for reserving the right to use a designated area, shall be clearly stated on a website or on a flyer or pamphlet conveniently available at the Dean of Student's office.

SECTION 804. AMPLIFIED SOUND ON EVENINGS AND WEEKENDS

(a) With advance permission, University persons and organizations may use amplified sound in any outdoor location on campus, including the weekday amplified sound areas designated in section 802, after 5:00 p.m. Monday through Friday, and after 8:00 a.m. Saturday, Sunday, and University holidays, except for the early morning hours excluded in paragraph (b).

(b) If amplified sound is authorized for an event on a Sunday, Monday, Tuesday, Wednesday, or Thursday evening, the sound must be turned off by 1:00 a.m. on the following day. If amplified sound is authorized for an event on a Friday or Saturday evening, the sound must be turned off by 2:00 a.m. on the following day.

(c) On evenings and weekends, speakers may provide their own sound equipment. Some sound equipment may be borrowed, and other sound equipment may be rented for a
nominal fee, from the Dean of Students.

(d) Use of amplified sound on evenings and weekends requires advance permission from the Dean of Students. Persons and organizations shall apply on a form prescribed by the Dean. The Dean shall authorize amplified sound as described in a completed application unless the Dean finds that:

1. the proposed use of amplified sound would violate one or more of the general rules in subchapters 200 and 300;

2. the proposed use of amplified sound would interfere with another scheduled event; or

3. the applicant is under a disciplinary penalty that prohibits the use of amplified sound.

The Dean shall advise each applicant how to correct, if possible, any conditions that preclude approval of its application. Even if an applicant is entitled to have its application approved as submitted, the Dean may give advice about other possible locations, or about modifications to the proposed event, that would avoid potential problems or make the proposed event more workable.

SECTION 805. AMPLIFIED SOUND INDOORS

Amplified sound sufficient to be heard throughout the room may be used in any room in any building, but the Dean of Students may limit or prohibit sound that would be disruptive outside the room. Reservations may be required. Rules concerning student use of University buildings are contained in Policy 12.B.1.

SUBCHAPTER 900. PUBLIC ASSEMBLIES WITHOUT AMPLIFIED SOUND

SECTION 901. GENERAL RULE ON PUBLIC ASSEMBLIES

(a) "Publicly assemble" and "public assembly" include any gathering of persons, including discussions, rallies, and demonstrations. The rules of subchapter 800 apply to any use of amplified sound at a public assembly.

(b) University persons and organizations may publicly assemble on campus in any place where, at the time they assemble, the persons assembling are permitted to be. This right to assemble is subject to the rules in this subchapter, to the general rules in subchapters 200 and 300, and to the rules on use of University property in Policy 12.B.1. No advance permission is required.

SECTION 902. RESERVATION OF SPACE

(a) University persons or organizations who wish to publicly assemble in a particular room or space at a particular time may reserve the room or space under the provisions in Policy 12.B.1, subchapter 200.

(b) An organization with a reservation has the right to the reserved room or space for the
time covered by the reservation. Any person or organization using or occupying the room or space without a reservation must yield control of the room or space in time to permit any organization with a reservation to begin using the room or space promptly at the beginning of its reserved time.

(c) Reservations are not required but are strongly encouraged. A person or organization planning to use a room or space without a reservation may find the facility locked or in use by another person or organization. The University Police rely on a list of scheduled events, and a large group without a reservation is likely to attract their courteous but inquiring attention.

SECTION 903. NOTICE AND CONSULTATION

Persons or organizations who are planning a public assembly with more than fifty participants are strongly encouraged to notify and consult with the Dean of Students as soon as practicable after the point at which the planners anticipate or plan for more than fifty participants. Persons or organizations planning smaller assemblies are encouraged to consult the Dean of Students if there is uncertainty about applicable university rules, the appropriateness of the planned location, or possible conflict with other events, or the appropriateness of the planned location. The Dean has much experience in helping student organizations structure events in ways that both comply with the University's rules and achieve the organization's goals for the event. The Dean can help identify appropriate space and potentially conflicting events. The Dean can help the planners avoid unintended disruption or other violations that may result in subsequent discipline or subsequent interference with the assembly by campus authorities.

SUBCHAPTER 1000. GUEST SPEAKERS

SECTION 1001. DEFINITIONS

"Guest speaker" means a speaker or performer who is not a student, faculty member, or staff member.

SECTION 1002. WHO MAY PRESENT

Registered student, faculty, and staff organizations, and academic and administrative units, may present guest speakers on University property. In the case of registered student organizations, advance permission from the Dean of Students is required. Individuals may not present a guest speaker.
SECTION 1003. LOCATION AND FORM OF PRESENTATION
(a) A guest speaker may present a speech or performance, or lead a discussion, at a time announced in advance, in a fixed indoor location, or in a fixed outdoor location approved by the Dean of Students. A guest speaker may distribute literature to persons who attend the speech, performance, or discussion.
(b) A guest speaker may not:
(1) accost potential listeners who have not chosen to attend the speech, performance, or discussion; or
(2) distribute literature to persons who have not chosen to attend the speech, performance, or discussion; or
(3) help staff a table or exhibit set up under subchapter 600 or 700.

SECTION 1004. APPLICATION
(a) A registered student organization that wishes to present a guest speaker shall apply to the Dean of Students, on a form prescribed by the Dean, at least forty-eight hours before the scheduled event or any planned advertising for the event, whichever is earlier. The application shall be combined with an application under Policy 12.B.1, section 202 to reserve the use of a University room or space for the event.
(b) The Dean shall approve an application properly made under subsection (a) unless it must be disapproved under the criteria in Policy 12.B.1, section 203.

SECTION 1005. OBLIGATIONS OF PRESENTING ORGANIZATION
A student, faculty, or staff organization that presents a guest speaker must make clear that:
(a) the organization, and not the University, invited the speaker; and
(b) the views expressed by the speaker are his or her own and do not necessarily represent the views of the University, The University of Texas System, or any component institution.

SUBCHAPTER 1100. RESPONDING TO SPEECH, EXPRESSION, AND ASSEMBLY

SECTION 1101. GENERAL RULE ON RESPONDING
University persons and organizations may respond to the speech, expression, or assembly of others, subject to all the rules in this Policy.

SECTION 1102. APPLICATIONS OF SECTION 1101
(a) Responders may not damage or deface signs or exhibits, disrupt public assemblies, block the view of participants, or prevent speakers from being heard.
(b) Means of response that are permitted in many locations and without advance permission or reservation, such as signs, tables, distribution of literature, and public assembly without amplified sound, may be used immediately and in any location authorized in this Policy.
(c) Means of response that require advance permission or reservation, such as banners, A-frames, exhibits, and amplified sound, may be used as soon as the needed permission or reservation may be arranged. Banner space and some amplified sound areas may be unavailable on short notice because of earlier reservations, but the Dean of Students shall expedite approval of A-frames, exhibits, and available banner space and amplified sound areas where necessary to permit appropriate response to other speech, assembly, or expression.

(d) Means of response that are confined to authorized locations, such as banners and amplified sound, may be used only in those locations. It is not possible to respond to amplified sound with amplified sound in the same location; similarly if an exhibit or public assembly is in a location where amplified sound is not permitted, it is not possible to respond with amplified sound in that location. In either case, it is possible to respond with amplified sound in another location and to use signs or distribution of literature to advertise the response at the other location.

SUBCHAPTER 1200. ENFORCEMENT AND APPEALS

SECTION 1201. POLICE PROTECTION

(a) It is the responsibility of the University to protect the safety of all persons on campus and to provide police protection for speakers, public assemblies, persons staffing or viewing exhibits, and other events. The normal patrolling of officers during regular duty areas in the area of such events will be at the cost of the University. When the magnitude, timing, or nature of an event requires overtime hours for police officers (including contract hours for officers hired from other departments or private security agencies), the University will, to the extent specified in subsections (b) and (c), charge the cost of overtime or contract officers to the person or organization sponsoring the event or exhibit that requires overtime police protection. The purpose of subsections (b) and (c) is to charge for police overtime where reasonably possible, but not to charge for police overtime made necessary by the content of speech at the event or by the controversy associated with any event.

(b) A reasonable and nondiscriminatory fee for overtime police work will be charged for events that require overtime police protection, and

1. charge a price for admission, or
2. pay a speaker, band, or other off-campus person or organization for services at the event.

Persons or organizations planning such events should budget for the cost of police protection.

(c) The University shall have the sole power to decide, after reasonable consultation with the person or organization planning the event, whether and to what extent overtime police protection is required. No fee shall be charged for officers assigned because of political, religious, philosophical, ideological, or academic controversy anticipated or actually experienced at the event. All fees shall be based on the number of officers
required for an uncontroversial event of the same size and kind, in the same place and at the same time of day, handling the same amount of cash.

(d) Nothing in this section applies to any interdepartmental charge or transfer among units or accounts funded by the University.

SECTION 1202. RESPONSE TO VIOLATIONS

(a) A student who violates a prohibition in this Policy may be disciplined under the procedures in Chapter 11 of the Institutional Rules on Student Services and Activities.

(b) A faculty member who violates a prohibition in this Policy may be disciplined under applicable procedures provided by other rules. If no such procedures exist, violations by faculty members shall be referred to the Office of the Executive Vice President and Provost.

(c) A staff member who violates a prohibition in this Policy may be disciplined under applicable procedures provided by other rules. If no such procedures exist, violations by staff members shall be referred to Human Resource Services.

(d) Authorized University personnel may prevent imminently threatened violations, or end ongoing violations, of a prohibition in this Policy, by explanation and persuasion, by reasonable physical intervention, by arrest of violators, or by any other lawful measures.

(e) Persons and organizations on the campus shall comply with instructions from University administrators and law enforcement officials at the scene. A person or organization that complies with an on-the-scene order limiting speech, expression, or assembly may test the propriety of that order in an appeal under section 1203.

SECTION 1203. APPEALS

(a) A person or organization that is denied permission for an activity requiring advance permission under this Policy may appeal the denial of permission.

(b) A person or organization that complies with an on-the-scene order limiting speech, expression, or assembly may, on or before the fifth weekday after complying with the order, file an appeal to determine the propriety of the order limiting the appellant's speech, expression, or assembly. The question on appeal shall be whether, under the circumstances as they reasonably appeared at the time of the order, the appellant's speech, expression, or assembly should have been permitted to continue. Such an appeal may be useful to clarify the meaning of a rule, or to resolve a factual dispute that may recur if the appellant desires to resume the speech, expression, or assembly that was limited by the order.

(c) An appeal authorized by this section shall be heard under the procedures set out in Policy 2.B.1, subchapter 400.
Harassment is defined as verbal or physical conduct that is hostile and offensive and directed at an individual because of his or her status. Such conduct will constitute harassment when it is sufficiently severe, pervasive or persistent to reasonably have the purpose or effect of creating a hostile environment that adversely affects the individual's employment or education. Constitutionally protected expression cannot be considered harassment under this policy. Verbal harassment and the boundary between harassment and free speech are further defined in Policy 13.A.1, Section 204.
SECTION-BY-SECTION ANALYSIS
OF PROPOSED CHANGES TO HANDBOOK OF OPERATING PROCEDURES

The proposed rules in this document are of two kinds. Proposed Policies 2.B.1, 12.B.1, and 13.A.1 substantially duplicate Chapters 6, 10, and 13 of the Institutional Rules on Student Services and Activities (Appendix C to the General Information Catalog), as amended or newly created under the Task Force proposals. These Policies have their greatest effect on students and student organizations, but they also regulate faculty and staff, and therefore belong in the Handbook of Operating Procedures. Numbering systems and references to organizational subdivisions have been conformed to traditional usage in the Institutional Rules and the Handbook of Operating Procedures respectively, but the two proposed versions of these policies are substantively identical. Detailed section-by-section analysis of these changes is in the Appendix to Proposed Chapters 6, 10, and 13 of the Institutional Rules.

Proposed Policies 2.B.2 and 2.B.3, and proposed amendments to Policies 4.A.3 and 4.B.1 and to the Glossary of Definitions, are conforming amendments, cross-references, or updating amendments. Some of these have substantive effect, implementing changes proposed in Policies 2.B.1, 12.B.1, or 13.A.1. This Appendix briefly explains these proposed changes, section by section.
Campus Services
Proposed Handbook of Operating Procedures Part 2

Policy 2.B.1. Use of University Property, Rooms, and Spaces

For section-by-section analysis of this proposed policy, see the section-by-section analysis of proposed Chapter 6 in the Appendix to Proposed Chapters 6, 10, and 13 of the Institutional Rules on Student Services and Activities.

Policy 2.B.2. Use of Outdoor Public Areas of the Campus

This is from existing Old H.O.P. 6.06. Names of offices within the Dean of Student's office updated; more explanations added; cross-reference added. No substantive change from existing administrative practice.

This policy adds nothing to Policy 2.B.1 and could perhaps be deleted. We propose to retain it, because its title may make it more visible.

Policy 2.B.3. Use of Special Events Center

This is from existing Old H.O.P. 6.09. The Policy regulates the Erwin Special Events Center. It is seven pages long, and dated 1977; the Task Force has not investigated to determine whether this Policy reflects current practice. We propose only those changes necessary to conform this Policy to other proposals.

Policy 2.B.3, Section F.6. Signs and Displays

The proposed amendment substitutes all the proposed rules in Policy 13.A.1 for the existing absolute ban on any sign in or near the Erwin Center. The proposed rules prohibit holding or carrying a sign in any way that bumps other persons or blocks their view, and notes that these restrictions may confine signs to the perimeter of some venues. Proposed 6.F authorizes the Director or the Special Events Center to make more specific rules that implement these basic policies. This proposal does not authorize the Director to reinstate a total ban.

Policy 2.B.3, Section G. Non-University Users.

The proposed amendment deletes existing paragraphs 1 and 2, which impose special restrictions on religious and political organizations. These restrictions track provisions of the Regents' Rules, which we are also proposing to delete, for reasons stated in the Appendix to Proposed Amendments to Regents' Rules and Regulations. This amendment would make some organizations eligible to rent the Special Events Center that are currently ineligible. It would not change the low priority now given to non-University users.

The Task Force did not seriously review existing paragraph 3, which bars political candidates unless invited by a registered student, faculty, or staff organization. This policy has little effect on students, faculty, or staff; and we treated it as part of the general policy against off-campus speakers, beyond the scope of our charge.
Standards of Conduct
Proposed Handbook of Operating Procedures Part 4

Policy 4.A.3. Sexual Harassment and Sexual Misconduct

The existing policy is eight pages long, and we propose only appropriate cross-references and minor clarifications.

Policy 4.A.3, Paragraph I.B. Scope

Proposed paragraph I.B.2 informs users where to find relevant policies on other kinds of harassment.

The proposed rule on verbal harassment would limit claims of harassment based on the expression of ideas about women, such as defending the rights of pornographers, opposing abortion, or advocating traditional sex roles; such claims were never authorized by Policy 4.A.3 in any event. The Task Force believes that its proposed rule would have no effect on conventional claims of sexual harassment involving sexual touchings, sexual propositions, or verbal sexual titillation, because the words involved in these violations are not part of the expression of any substantive idea.

Concern has been expressed that the Task Force may be wrong about this, and that the cross-reference encourages persons accused of sexual harassment to raise First Amendment defenses they would not previously have imagined. If such defenses are raised, the appropriate response will usually be to reject the defense. We have added the final sentence of paragraph I.B.2.c. to clarify the University's understanding that the kinds of ideas that are protected by the free speech limitations on verbal harassment rules do not include sexual harassment as defined and illustrated in Policy 4.A.3 as it has existed or as we propose to amend it.

Policy 4.A.3, Paragraph I.C. Definitions

In the illustrative list of sexually harassing behaviors, we propose to insert the word "gratuitous" before "remarks about sexual activities or speculation about sexual experiences." This enables the proposed last sentence of paragraph I.B.2.c to be unqualified. "Gratuitous" is a useful word that appears elsewhere in this list of illustrations; it excludes legitimate discussions of sexual activities or experiences in medical treatment, counseling, teaching or research in biology, psychology, sociology, and other so on.

Policy 4.A.3, Paragraph II.A. Reporting Locations

This and other University policies say that persons who believe they are victims of discrimination or harassment may report the alleged violation to any official, administrator, or supervisor. But it has recently been decided that faculty members are not, in every case, obliged to report alleged violations to enforcement officials. To avoid any risk of misleading victims, we propose to clarify that faculty members are not officials, administrators, or supervisors for this purpose.
Policy 4.B.1. Nondiscrimination
The existing Policy is six pages long. We propose only cross-references and minor amendments to clarify or deflect claims of unconstitutionality.

Policy 4.B.1, Paragraph I.B. Scope
Proposed paragraph I.B.2 informs users where to find relevant policies on other kinds of harassment. We are not aware of any concern that this cross-reference might have unintended substantive consequences.

Policy 4.B.1, Paragraph I.C. Definitions
Existing paragraph I.C.2 defines "Harassment;" we propose to make this "Harassment as a form of discrimination." We believe that this was the intent, and that the proposed amendment is not a substantive change. Under R.A.V. v. City of St. Paul, 505 U.S. 377 (1992), rules on verbal harassment may not be limited to certain categories of harassment, such as racial and sexual. However, that opinion recognizes that discrimination rules may be limited to such categories, and that sometimes harassment falls within a general rule on discrimination. Thus, the definition of harassment in Policy 4.B.1 can only be a definition of harassment as a form of discrimination.

Policy 4.B.1, Section II. Complaint Reporting and Processing
The proposed amendments in paragraph II change the rules for reporting alleged violations. Under existing rules, students are encouraged to report some forms of discrimination to the Dean of Students, and other forms to the Office of Equal Opportunity Services. We believe it would be simpler, and less likely to confuse students, to encourage them to report all forms of discrimination to the same place.

With or without this change, victims are also authorized to report to any official, administrator, or supervisor. We again propose to clarify that this category does not include faculty members. See the discussion under Policy 4.A.3, Paragraph II.A.
Students
Proposed Handbook of Operating Procedures Part 12

Policy 12.B.1. Student Organizations

For section-by-section analysis of this proposed policy, see the section-by-section analysis of proposed Chapter 6 in the Appendix to Proposed Chapters 6, 10, and 13 of the Institutional Rules on Student Services and Activities.

Civil Liberties
Proposed Handbook of Operating Procedures Part 13

Policy 13.A.1. Speech, Expression, and Assembly

For section-by-section analysis of this proposed policy, see the section-by-section analysis of proposed Chapter 13 in the Appendix to Proposed Chapters 6, 10, and 13 of the Institutional Rules on Student Services and Activities.

Glossary of Definitions
Handbook of Operating Procedures

Definition of Harassment
The proposed amendment conforms the definition to R.A.V. v. City of St. Paul, 505 U.S. 377 (1992). Harassment when used in a general sense that includes verbal harassment cannot be defined in terms of protected classes or the status of victims. It must be defined in terms of abusive speech directed at any victim.

49