The Task Force received numerous helpful comments from various sources. The Report was presented to the Board of Regents, the Board of Regents Committee on Campus Life, and the Faculty Advisory Council of The University of Texas System; and to the Faculty Council, the Staff Council, and Student Government of The University of Texas at Austin. The presenters received helpful comments and questions at each presentation. The Task Force also received formal comments during the public comment period announced by President Faulkner, and informal comments and questions from individuals who saw the report on the University's website or heard about it through one of the public presentations. The Chair reviewed the entire Report in the light of these comments, and the Task Force discussed drafts of proposed changes by e-mail through December and much of January. The following proposed changes have resulted. These changes fix minor mistakes and unintended consequences, or clarify unintended implications; none of them substantially expand or contract the free speech rights of any person on the campus.

Item 8 (and a conforming amendment in Item 13) is probably the most important addition; it explicitly defers to most neutral rules with merely incidental effects on speech. This was a matter of concern to safety officials and laboratory scientists. Items 4 and 19 add or clarify cross-references, including a reference to the policy on speech on university computer networks. That policy is generally consistent with these proposals.

Items 1 and 10 reflect changes already made at the System level. Items 2 and 14 codify a longstanding unwritten policy that the Main Plaza cannot be reserved during weekdays; it remains available for unscheduled events, including public assemblies without amplified sound, and for reservations on evenings and weekends.

Items 3, 15, 16, and 17 consolidate and make uniform various places where the proposed rules list objective criteria for refusing a reservation or advance permission. Items 16 and 17 also clarify the Dean of Students' rulemaking authority with respect to amplified sound.

Item 5 codifies a longstanding policy prohibiting groups from charging admission to movies on campus. Items 6 and 18 clarify the discretion of enforcement authorities in responding to violations. Item 7 is wholly stylistic. Items 9 and 11 clarify the distinction between literature and signs. Item 12 confirms the authority of ushers and other authorized employees to deal with misuse of signs.

1. **The Proposed Amendments to the Regents' Rules** were amended, and as amended, were adopted at the Special Called Meeting of the Regents on December 13, 2002. The amendments as adopted have been incorporated into the online version of the Regents' Rules <www.utsystem.edu/bor/rules>. The individual amendments, as amended, are also available at <www.utsystem.edu/bor/agendabook/>.
2. Institutional Rule Sec. 10-201 (and HOP Policy 2.B.1, section 201) should be amended as follows:

(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. Organizations may not reserve the Main Plaza between 8:00 a.m. and 5:00 p.m. on weekdays; during that time, it is reserved for university-sponsored events and for unscheduled uses.

[This change conforms the proposed section to the longstanding unwritten policy. The original draft excluded tables and exhibits, but neglected the possibility of reservations for other events.]

3. Institutional Rules Sec. 10B203 (and HOP Policy 2.B.1, section 203) should be amended as follows:

(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) has been scheduled for the proposed time and location, or so near that there is a practical conflict;

(3) the room or space requested is inadequate to accommodate the proposed use;

(4) the proposed use of the room or space would violate reasonable and nondiscriminatory fire, health, or safety standards;

(5) the proposed use of the room or space 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;

(6) the applicant is under a disciplinary penalty prohibiting reserving the use of a university room or space, or prohibiting the proposed use of the room or space; or

(7) the applicant owes a monetary debt to the university and the debt is considered delinquent by the crediting agency.

[These changes consolidate all objective criteria for refusing permissions or reservations in a single section, thus avoiding any unintended negative implications arising from small differences among different lists of such criteria. Other advance permission requirements have been changed to cross-reference this section.]

4. Institutional Rules Sec. 13-102 (and HOP Policy 13.A.1, sec. 102) should be amended by adding the following new subsections:
Rules protecting and regulating speech on university computer networks are promulgated by Information Technology Services, and are currently found in ITS Policies, Responsible Use of Information Technology, <www.utexas.edu/its/policies/responsible.html>.

Rules requiring university employees to make clear that controversial statements are in their personal capacity are found in the Regents’ Rules (pt. 1, ch. 1, sec. 8.8). Rules restricting use of university equipment, supplies, services, and working hours for political activities are found in the Regents’ Rules (pt. 1, ch. 3, sec. 35).

[These changes add important cross-references that were overlooked in the original report.]

5. Institutional Rules Sec. 13-205(b)(5) (and HOP Policy 13.A.1, sec. 205(b)(5)) should be amended as follows:

(b) . . . .
(5) A registered student, faculty, or staff organization may collect admission fees for movies or other programs scheduled in advance under chapter 10; provided, that neither university persons nor organizations may collect admissions fees for the exhibition of movies on the campus.

[This change conforms the proposed rule to existing practice at UT-Austin.]

6. Institutional Rules Sec. 13-301(b) (and HOP Policy 13.A.1, sec. 301(b)) should be amended as follows:

(b) . . . .
(1) The term "disruption" and its variants, as used in this rule, are distinct from and broader than the phrase "disruptive activities," as used in the Regents’ Rules (pt. 1, ch. 3, sec. 6.5; and pt. 1, ch. 6, sec. 13). This rule is concerned not only with deliberate disruption, but also with scheduling and coordination of events to manage or minimize the inevitable conflicts between legitimate events conducted in close proximity.

(2) 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 prevents makes it difficult for listeners from hearing 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 stopping the event or 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.

These changes are designed to avoid any unintended implication that enforcement officials were to have no discretion in responding to any form of disruption.

7. Institutional Rules Sec. 13-304 (and HOP Policy 13.A.1, sec. 304) should be amended as follows:

(b) An event is a prohibited cosponsorship if the university person, an individual or a student, faculty, or staff 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 a prohibited 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.

[These changes are not substantive. Some readers thought it was inconsistent to say in section (a) that campus organizations cannot cosponsor, and to define in section (b) what it means for them to cosponsor. "Prohibited consponsorship" is common informal usage among the attorneys and Dean of Students' personnel responsible for enforcing these rules, and it has the advantage of emphasizing that we are talking about something that is prohibited. The other changes cascade grammatically from that one.]

8. A new Institutional Rule Sec. 13-305 (and a new HOP Policy 13.A.1, sec. 305) should be inserted as follows:

**SEC. 13-305. OTHER RULES WITH INCIDENTAL EFFECTS ON SPEECH**

(a) Other generally applicable or narrowly localized rules, written and unwritten, incidentally limit the time, place, and manner of speech, but are too numerous to compile or cross-reference here. For example, libraries typically have highly restrictive rules concerning noise; laboratories and rooms containing the electrical and mechanical infrastructure of the university typically have safety rules and rules excluding persons without specific business there; fire and safety codes prohibit the obstruction of exits and limit the constriction of hallways. Speech within classrooms is generally confined to the subject matter of the class; the right to attend a class at all is subject to registration and payment of tuition; individual professors may have rules of decorum in their classroom. These kinds of rules limit the right of students, faculty, and staff to enter and speak in the places to which these rules apply.

(b) Reasonable and nondiscriminatory rules of this kind generally control over the rights of free speech guaranteed in this chapter. But even these kinds of rules are subject to the constitutional right of free speech. Such rules must be viewpoint neutral. Such rules cannot regulate speech more restrictively than they regulate other activities that cause the problems to be avoided by the rule. Such rules should not restrict speech more than is reasonably necessary to serve their purpose. Such rules cannot ban unobtrusive forms of communication with no potential for disruption even in the specialized environment subject to the localized rule. Thus, for example, means of silent expression or protest confined to the speaker's immediate person, such as armbands, buttons, and t-shirts, are nearly always protected because they are rarely disruptive in any environment.

[This change is in response to comments from scientists who run laboratories and from an official responsible for enforcing the fire code on campus. It states explicitly what the Task Force always assumed. It is difficult to draft; it takes the same discursive form as 13-301(b), and for the same reason: it is impossible to provide a clear rule for all the possibilities within the scope of the rule. First, we cannot know the full scope of the other rules we are talking about. Second, new rules could be created in response to this invitation. To say
absolutely that any other rule controls over these free speech rules would invite professors and administrators so inclined to ban free speech within their respective jurisdictions. The example in the concluding sentence is based on a Supreme Court decision protecting middle-school students who wore an armband to protest the Vietnam War. It seems clear that university students have at least as much free speech protection as middle school students, even if some professor or lab supervisor disapproves of the armband.

9. **Institutional Rule Sec. 13-401** (and HOP Policy 13.A.1, sec. 401) should be amended as follows:

   (b) "Literature" means any printed material, including any newspaper, magazine, or other publication, and any leaflet, flyer, or other informal matter, that is produced in multiple copies for distribution to potential readers.

   [This change prevents the definition of literature from including signs, which are separately regulated in subchapter 13-500.]

10. **Institutional Rule Sec. 13-403** (and HOP Policy 13.A.1, sec. 403) should be amended as follows:

   Literature distributed on campus may contain the following advertising . . . .

   (c) paid advertising in a publication primarily devoted to promoting the views of a political, religious, charitable, or other not-for-profit organization cause, or to other bona fide editorial content distinct from the paid advertising and . . . .

   [This change conforms to a change in the authorizing amendment to the Regents' Rules. It does not change the substance of the rule.]

11. **Institutional Rule Sec. 13-501** (and HOP Policy 13.A.1, sec. 501) should be amended as follows:

   (a) "Sign" means any method of displaying a visual message to others, except that transferring possession of a copy of the message is distribution of literature and not a sign.

   [This change prevents the definition of signs from including literature, which is separately regulated in subchapter 13-400.]

12. **Institutional Rules Sec. 13-502** (and HOP Policy 13.A.1, sec. 502) should be amended as follows:

   (d) A law enforcement officer or the dean of students, or an authorized university employee if authorized by officials responsible for managing the venue, 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 authorized university employee, may . . . .
The authorized employee may confiscate the sign.

[This change corrects the inadvertent omission of ushers and other university employees with relevant responsibility.]

13. Institutional Rules Sec. 13-506 (and HOP Policy 13.A.1, sec. 506) should be amended as follows:

SEC. 13-506. SIGNS IN OTHER DESIGNATED LOCATIONS (INCLUDING DEPARTMENTAL BULLETIN BOARDS)

(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 sections 13-301 to 13-304.

[The expansion of the title is a finding aid. The change in text is a conforming change to accommodate the addition of section 13-305, which does not state a rule but rather recognizes locally applicable rules. Proposed 13-305 is not intended to negate the posting requirement in this section.]

14. Institutional Rule Sec. 13-701 (and HOP Policy 13.A.1, sec. 701) should be amended as follows:

(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. Exhibits may not be erected on the Main Plaza between 8:00 a.m. and 5:00 p.m. on weekdays.

[This change relocates a rule formerly stated in sec. 13-70B. It also conforms the rule to the existing unwritten policy; exhibits have been excluded as a corollary of the refusal to allow reservations of the space during weekdays.]

15. Institutional Rule Sec. 13-703 (and HOP Policy 13.A.1, sec. 703) should be amended as follows:

(a) The dean of students shall authorize an exhibit described in a completed application under
section 13-702 unless the dean finds that use of the proposed space for the proposed exhibit must be disapproved under the criteria in section 10-203, 

- (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.

[The cross-reference is to the criteria for reserving space. The exclusion of exhibits from the Main Plaza is now in sec. 13-701.]

16. Institutional Rule Sec. 13-803(a) (and HOP Policy 13.A.1, sec. 803(a)) should be corrected as follows:

(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. All such rules shall be reasonable and nondiscriminatory.

(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. The dean of students shall approve a properly completed application to reserve an amplified sound area, unless the application must be disapproved under the criteria in section 10-203 or under rules promulgated by the dean under the authority of this section.

[The requirement that additional amplified sound rules be reasonable and nondiscriminatory is to avoid any unintended negative implication. The cross-reference is to the criteria for reserving rooms and spaces.]

17. Institutional Rules Sec. 13-804 (and HOP Policy 13.A.1, sec. 804) should be amended as follows:

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

(e) 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
The dean finds that the application must be disapproved under the criteria in section 10-203 or under rules promulgated by the dean under the authority of this section; or

(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.

[The rule-making authority to the dean of students is to avoid any unintended negative implication. The cross-reference is to the criteria for reserving rooms and spaces.]

18. Institutional Rule Sec. 13-1202(d), and HOP Policy 13.A.1, sec. 1202(d)) should be amended as follows:

(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. Alternatively or additionally, they may initiate disciplinary proceedings under paragraph (a), (b), or (c). Discretion regarding the means and necessity of enforcement shall be vested in university personnel designated by the president of the university, but such discretion shall be exercised without regard to the viewpoint of any speaker.

[This change is to dispel any unintended implication that enforcement officials were to have no discretion in responding to any violation.]

19. Handbook of Operating Procedures, Policy 4.B.1, Section I.B.2 should be amended as follows:

2. a. This policy is the principal prohibition of all forms of discrimination on campus, except for sex discrimination. The principal policy on sex discrimination is Policy 4.A.3. Harassment is included in this policy as one form of discrimination, and is also addressed separately in rules and policies cross-referenced in subparagraph b.

b. i. This policy includes deal with harassment, by words or conduct, 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, see Policy 4.A.3. For sexual misconduct, see Policy 4.A.4. Extreme cases of harassment may also violate

b. ii. For further treatment of 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 face, 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. iii. 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 Rules), may proceed under the procedures set out in this Policy 4.B.1 (but in the case of verbal sexual harassment, under the procedures set out in Policy 4.A.3).

[These changes do two things. First, they give greater prominence to general discrimination cross-references; the sheer number of harassment cross-references might have given an unintended implication that our discrimination policy is mostly about harassment. Second, they correct various errors in the cross-references; these errors resulted partly from misreading the array of other policies, and partly from changes to the sexual harassment policies proposed since this report was drafted.]