# Speech Codes AC – TOC

There’s not many frontlines here to some PICs that were really popular on the topic because I refused to defend whole res – the speech codes plan gave neg debaters excellent ground, allowed me to perm PICs whose restrictions weren’t speech codes, and brought the debate to the heart of the topic

Same goes for Ks – I never really read cards, just cross-applied from the aff

## 1AC – Modules

### fwk – oppression

#### The role of the ballot is to vote for the debater whose advocacy best resolves material conditions of oppression. Prefer –

ommittted

### fwk v phil debaters

### adv – speech codes

[2:10]

#### Inherency – verbal speech codes on campus are extremely common. Lukianoff 12:

Greg, president of FIRE, published articles in the Los Angeles Times, the Boston Globe, the Chronicle of Higher Education, The Atlantic, Inside Higher Ed, and the New York Post, blogger for the Huffington Post and served as a regular columnist for the Daily Journal of Los Angeles and San Francisco. “Speech Codes: The Biggest Scandal On College Campuses Today” Forbes. December 19, 2012. SA-IB

Today’s conventional wisdom seems to be that university speech codes banning “offensive” expression on campus are a distant relic of the heyday of political correctness in the 1980s and 90s. But in truth, speech codes—university policies prohibiting expression protected by the First Amendment in society at large—are nearly as popular as ever. This week, my organization, the Foundation for Individual Rights in Education (FIRE), released its annual study of campus speech codes at more than 400 of America’s largest and most prestigious colleges and universities. We found that an appalling 62 percent of institutions surveyed maintain policies that restrict a substantial amount of speech protected under the First Amendment—what we call “red light” speech codes. Such schools include Harvard, Columbia, the University of Texas at Austin, and the University of North Carolina at Greensboro. Meanwhile, only 15 schools earned FIRE’s “green light” rating, meaning that they don’t maintain any codes that violate First Amendment standards. Some prominent institutions, including the University of Virginia, Dartmouth, and Penn, have polices entirely friendly to free speech, but green light schools represent just 4 percent of the campuses surveyed. Speech codes come in many forms. The University of North Dakota bans student speech that “feels offensive” or “demeaning.” The University of Missouri at St. Louis boasts a policy restricting speech that will “discredit the student body.” Texas’ Sam Houston State University broadly prohibits “abusive, indecent, profane or vulgar language.” And before it was struck down in federal court this summer, the University of Cincinnati, like many public universities, maintained a wildly unconstitutional “free speech zone.” This policy limited all "demonstrations, pickets, and rallies" to an area comprising just 0.1 percent of the university's campus and required all expression in the area to be registered ten working days in advance. At public colleges, speech codes are unconstitutional. And as I demonstrate in my book, Unlearning Liberty: Campus Censorship and the End of American Debate, administrators are unafraid to use them. But even when they aren’t enforced, speech codes chill student speech and send the wrong messages about the values that should govern a free society—let alone our universities, which are supposed to be our most bustling marketplaces of ideas.

#### Speech codes cause reverse enforcement, change nothing, and empower problematic speech – empirics. Strossen 90:

Nadine, John Marshall Harlan II Professor of Law at New York Law School, President of the American Civil Liberties Union from February 1991 to October 2008. She was the first woman and the youngest person to ever lead the ACLU. Professor Strossen’s writings have been published in many scholarly and general interest publications (more than 300 published works). Her book, Defending Pornography: Free Speech, Sex, and the Fight for Women’s Rights, was named by the New York Times as a “Notable Book” of 1995. “FRONTIERS OF LEGAL THOUGHT II THE NEW FIRST AMENDMENT: REGULATING RACIST SPEECH ON CAMPUS: A MODEST PROPOSAL?” 1990 SA-IB

First, there is no persuasive psychological evidence that punishment for name-calling changes deeply held attitudes. To the contrary, psychological studies show that censored speech becomes more appealing and persuasive to many listeners merely by virtue of the censorship. n358 Nor is there any empirical evidence, from the countries that do outlaw racist speech, that censorship is an effective means to counter racism. For example, Great Britain began to prohibit racist defamation in [\*555] 1965. n359 A quarter century later, this law has had no discernible adverse impact on the National Front and other neo-Nazi groups active in Britain. n360 As discussed above, n361 it is impossible to draw narrow regulations that precisely specify the particular words and contexts that should lead to sanctions. Fact-bound determinations are required. For this reason, authorities have great discretion in determining precisely which speakers and which words to punish. Consequently, even vicious racist epithets have gone unpunished under the British law. n362 Moreover, even if actual or threatened enforcement of the law has deterred some overt racist insults, that enforcement has had no effect on more subtle, but nevertheless clear, signals of racism. n363 Some observers believe that racism is even more pervasive in Britain than in the United States. n364 C. Banning Racist Speech Could Aggravate Racism For several reasons banning the symptom of racist speech may compound the underlying problem of racism. Professor Lawrence sets up a false dichotomy when he urges us to balance equality goals against free speech goals. Just as he observes that free speech concerns should be weighed on the pro-regulation, as well as the anti-regulation, side of the balance, n365 he should recognize that equality concerns weigh on the anti-regulation, as well as the pro-regulation, side. n366 [\*556] The first reason that laws censoring racist speech may undermine the goal of combating racism flows from the discretion such laws inevitably vest in prosecutors, judges, and the other individuals who implement them. One ironic, even tragic, result of this discretion is that members of minority groups themselves -- the very people whom the law is intended to protect -- are likely targets of punishment. For example, among the first individuals prosecuted under the British Race Relations Act of 1965 n367 were black power leaders. n368 Their overtly racist messages undoubtedly expressed legitimate anger at real discrimination, yet the statute drew no such fine lines, nor could any similar statute possibly do so. Rather than curbing speech offensive to minorities, this British law instead has been regularly used to curb the speech of blacks, trade unionists, and anti-nuclear activists. n369 In perhaps the ultimate irony, this statute, which was intended to restrain the neo-Nazi National Front, instead has barred expression by the Anti-Nazi League. n370 The British experience is not unique. History teaches us that anti-hate speech laws regularly have been used to oppress racial and other minorities. For example, none of the anti-Semites who were responsible for arousing France against Captain Alfred Dreyfus were ever prosecuted for group libel. But Emile Zola was prosecuted for libeling the French clergy and military in his "J'Accuse," and he had to flee to England to escape punishment. n371 Additionally, closer to home, the very doctrines that Professor Lawrence invokes to justify regulating campus hate speech -- for example, the fighting words doctrine, upon which he [\*557] chiefly relies -- are particularly threatening to the speech of racial and political minorities. n372 The general lesson that rules banning hate speech will be used to punish minority group members has proven true in the specific context of campus hate speech regulations. In 1974, in a move aimed at the National Front, the British National Union of Students (NUS) adopted a resolution that representatives of "openly racist and fascist organizations" were to be prevented from speaking on college campuses "by whatever means necessary (including disruption of the meeting)." n373 A substantial motivation for the rule had been to stem an increase in campus anti-Semitism. Ironically, however, following the United Nations' cue, n374 some British students deemed Zionism a form of racism beyond the bounds of permitted discussion. Accordingly, in 1975 British students invoked the NUS resolution to disrupt speeches by Israelis and Zionists, including the Israeli ambassador to England. The intended target of the NUS resolution, the National Front, applauded this result. However, the NUS itself became disenchanted by this and other unintended consequences of its resolution and repealed it in 1977. n375 The British experience under its campus anti-hate speech rule parallels the experience in the United States under the one such rule that has led to a judicial decision. During the approximately one year that the University of Michigan rule was in effect, there were more than twenty cases of whites charging blacks with racist speech. n376 More importantly, the only two instances in which the rule was invoked to sanction racist speech (as opposed to sexist and other forms of hate speech) involved the punishment of speech by or on behalf of black students. n377 Additionally, the only student who was subjected to a full-fledged disciplinary hearing [\*558] under the Michigan rule was a black student accused of homophobic and sexist expression. n378 In seeking clemency from the sanctions imposed following this hearing, the student asserted he had been singled out because of his race and his political views. n379 Others who were punished for hate speech under the Michigan rule included several Jewish students accused of engaging in anti-Semitic expression n380 and an Asian-American student accused of making an anti-black comment. n381 Likewise, the student who recently brought a lawsuit challenging the University of Connecticut's hate speech policy, under which she had been penalized for an allegedly homophobic remark, was Asian-American. n382 She claimed that, among the other students who had engaged in similar expression, she had been singled out for punishment because of her ethnic background. n383 Professor Lawrence himself recognizes that rules regulating racist speech might backfire and be invoked disproportionately against blacks and other traditionally oppressed groups. Indeed, he charges that other university rules already are used to silence anti-racist, but not racist, speakers. n384 Professor Lawrence proposes to avoid this danger by excluding from the rule's protection "persons who were vilified on the basis of their membership in dominant majority groups." n385 Even putting aside the fatal first amendment flaws in such a radical departure from [\*559] content- and viewpoint-neutrality principles, n386 the proposed exception would create far more problems of equality and enforceability than it would solve. n387 A second reason why censorship of racist speech actually may subvert, rather than promote, the goal of eradicating racism is that such censorship measures often have the effect of glorifying racist speakers. Efforts at suppression result in racist speakers receiving attention and publicity which they otherwise would not have garnered. As previously noted, psychological studies reveal that whenever the government attempts to censor speech, the censored speech -- for that very reason -- becomes more appealing to many people. n388 Still worse, when pitted against the government, racist speakers may appear as martyrs or even heroes. Advocates of hate speech regulations do not seem to realize that their own attempts to suppress speech increase public interest in the ideas they are trying to stamp out. Thus, Professor Lawrence wrongly suggests that the ACLU's defense of hatemongers' free speech rights "makes heroes out of bigots"; n389 in actuality, experience demonstrates that it is the attempt to suppress racist speech that has this effect, not the attempt to protect such speech. n390 There is a third reason why laws that proscribe racist speech could well undermine goals of reducing bigotry. As Professor Lawrence recognizes, [\*560] given the overriding importance of free speech in our society, any speech regulation must be narrowly drafted. n391 Therefore, it can affect only the most blatant, crudest forms of racism. The more subtle, and hence potentially more invidious, racist expressions will survive. Virtually all would agree that no law could possibly eliminate all racist speech, let alone racism itself. If the marketplace of ideas cannot be trusted to winnow out the hateful, then there is no reason to believe that censorship will do so. The most it could possibly achieve would be to drive some racist thought and expression underground, where it would be more difficult to respond to such speech and the underlying attitudes it expresses. n392 The British experience confirms this prediction. n393 The positive effect of racist speech -- in terms of making society aware of and mobilizing its opposition to the evils of racism -- are illustrated by the wave of campus racist incidents now under discussion. Ugly and abominable as these expressions are, they undoubtedly have had the beneficial result of raising public consciousness about the underlying societal problem of racism. If these expressions had been chilled by virtue of university sanctions, then it is doubtful that there would be such widespread discussion on campuses, let alone more generally, about the real problem of racism. n394 Consequently, society would be less mobilized to attack this problem. Past experience confirms that the public airing of racist and other forms of hate speech catalyzes communal efforts to redress the bigotry that underlies such expression and to stave off any discriminatory conduct that might follow from it. n395 [\*561] Banning racist speech could undermine the goal of combating racism for additional reasons. Some black scholars and activists maintain that an anti-racist speech policy may perpetuate a paternalistic view of minority groups, suggesting that they are incapable of defending themselves against biased expressions. n396 Additionally, an anti-hate speech policy stultifies the candid intergroup dialogue concerning racism and other forms of bias that constitutes an essential precondition for reducing discrimination. In a related vein, education, free discussion, and the airing of misunderstandings and failures of sensitivity are more likely to promote positive intergroup relations than are legal battles. The rules barring hate speech will continue to generate litigation and other forms of controversy that will exacerbate intergroup tensions. Finally, the censorship approach is diversionary. It makes it easier for communities to avoid coming to grips with less convenient and more expensive, but ultimately more meaningful, approaches for combating racial discrimination.

#### Censorship empowers speech and encourages minorities to go to people who don’t care for help. Strossen 2k:

Nadine, John Marshall Harlan II Professor of Law at New York Law School, President of the American Civil Liberties Union from February 1991 to October 2008. She was the first woman and the youngest person to ever lead the ACLU. Professor Strossen’s writings have been published in many scholarly and general interest publications (more than 300 published works). Her book, Defending Pornography: Free Speech, Sex, and the Fight for Women’s Rights, was named by the New York Times as a “Notable Book” of 1995. “Incitement to Hatred: Should There Be a Limit” New York Law School. 2000**.** SA-IB

The viewpoint-neutrality principle reflects the philosophy, first stated in pathbreaking opinions by former United States Supreme Court Justices Oliver Wendell Holmes and Louis Brandeis, that the appropriate response to speech with which one disagrees in a free society is not censorship but counterspeech-more speech, not less. Persuasion, not coercion, is the solution. 38 Accordingly, the appropriate response to hate speech is not to censor it, but to answer it. Recall, as I discussed earlier, that this is the strategy that the Anti-Defamation League has been pursuing so effectively in response to Internet hate speech. This counterspeech strategy is better than censorship not only in principle, but also from a practical perspective. That is because of the potentially empowering experience of responding to hate speech with counterspeech. I say "potentially," since I realize that the pain, anger and other negative emotions provoked by being the target of hate speech could well have an incapacitating effect on some targeted individuals, preventing them from engaging in counterspeech. Even in such a situation, though, other members of the community who are outraged by the hate speech could engage in counterspeech, and that is likely to have a more positive impact than a censorial response. Furthermore, once other community members denounce the hate speech, it should be easier for the target to join them in doing so. I will illustrate these practical benefits of a non-censorial, counterspeech response to hate speech in the campus context. Far from being paternalistic, counterspeech is empowering to students; it transforms students who would otherwise be seen-and see themselves-largely as victims into activists and reformers. It underscores their dignity, rather than undermines it. One excellent example of the effective use of counterspeech comes from Arizona State University (ASU) in Tempe, Arizona. Under the leadership of a law professor on that campus, Charles Calleros, the faculty and administration rejected any code that outlawed hate speech or punished students who expressed it. Instead, they endorsed an educational or counterspeech response to any hate speech. Significantly, as a Latino, Charles Calleros is himself a member of a minority group. As such, though, he believes that stifling or punishing hate speech is no better for advancing nondiscrimination and equality than it is for free speech. And, based on his university's actual experience with the non-censorial, more-speech response to hate speech, Professor Calleros' original speech-protective views have been reinforced. Professor Calleros has written articles about the positive impact of the non-censorial approach to hate speech at ASU, explaining how it has been empowering and supportive for the would-be "victims" of the hate speech, and also educational and promotive of tolerance and anti-discrimination values for the university community as a whole.39 Because it is so instructive, I would like to quote at some length Professor Calleros' description of the first hate speech incident under ASU's pro-educational, non-censorial campus policy: [F]our black women students... were understandably outraged when they noticed a racially degrading poster near the residence of a friend they were visiting in Cholla, a campus dormitory. Rather than simply complain to their friends ... they took positive action. First, they spoke with a Resident Assistant who told them that they could express their feelings to the owners of the poster and encourage them to remove it .... The students knocked on the door that displayed the racist poster and expressed their outrage in the strongest terms to the occupant who answered the door .... He agreed that the poster was inappropriate, removed it, and allowed the women to make a photocopy of it. [T]he four students then met with the staff director of Cholla. That director set up a [meeting] for all members of Cholla .... [A] capacity crowd showed up .... All seemed to accept the challenging conclusion that the poster was protected by the First Amendment, and I regard what followed as a model example of constructive response. First, the black women who discovered the poster explained as perhaps only they could why the poster hurt them deeply .... The Anglo-American students assured the black women that they did not share the stereotypes reflected in the poster, yet all agreed that they would benefit from learning more about other cultures. The group reached a consensus that they would support ASU's Black History events and would work toward developing multicultural programming at Cholla. The four women who led the discussion expressed their desire to meet with the residents of the offending dormitory room to exchange views and to educate them about their feelings and about the danger of stereotyping. I understand that the owner of the poster is planning to publish an apology in this newspaper today and a personal communication with the four women would be an excellent followup .... The entire University community then poured its energy into the kind of constructive action and dialogue that took place in the Cholla meeting. Students organized an open forum. The message was this: at most, a few individuals on a campus think that the racist poster is humorous; in contrast, a great number of demonstrators represent the more prevalent campus view that degrading racial stereotypes are destructive. Such a message is infinitely more effective than disciplining the students who displayed the racist poster.4 0 In addition to empowering the students who encountered the racist poster and educating the students who had displayed it, the non-censorial response to this hate speech incident also galvanized constructive steps to counter bias campus-wide. One of the student leaders of this constructive college-wide response was Rossie Turman, who was then Chairman of the AfricanAmerican Coalition at Arizona State University. Turman's leadership in supporting both free speech and non-discrimination earned him much recognition, including an award from the Anti-Defamation League. As one press account stated: Turman and other campus minority group leaders handled their anger by calling a press conference and rally to voice their concerns and allow students and administrators to speak .... Within days, the ASU Faculty Senate passed a previously-proposed domestic diversity course requirement. Turman said: "When you get a chance to swing at racism, and you do, you feel more confident about doing it the next time. It was a personal feeling of empowerment, that I don't have to take that kind of stupidity .... The sickest thing would have been if the racists had been kicked out, the university sued, and people were forced to defend these folks. It would have been a momentary victory, but we would have lost the war." After this incident, Rossie Turman went on to be elected student body President at ASU, the first African-American to hold that position on a campus that had an African-American student population of only 2.3%. Upon his graduation from college, he went to Columbia Law School. Therefore, for him, what could have been a disempowering, victimizing experience with hate speech became instead an empowering, leadership-development experience-not despite the absence of censorship-but precisely because of it. In contrast with the more-speech response to hate speech adopted by Arizona State University, a censorial response does not empower the maligned students. To the contrary, it may well perpetuate their victimization. Worse yet, ironically, censoring hate speech may well empower verbal abusers, by making them into free speech martyrs. This point was captured by the Progressive magazine: [T]he attempt to ban or punish hateful speech does nothing at all to empower the presumed victims of bigotry. Instead, it compels them to seek the protection of authorities whose own commitment to justice is often, to put it mildly, less than vigorous. Restraining speech increases the dependency of minorities and other victims of hate and oppression. Instead of empowering them, it enfeebles them.4

#### Thus, the plan: Public colleges and universities in the United States ought not restrict any constitutionally protected free speech through speech codes. Majeed 09:

Azhar, has a B.A. in Political Science with a minor in History from the University of Michigan in 2004. He is also a 2007 graduate of the University of Michigan Law School, interests include comparative constitutional law and political philosophy. Azhar was one of FIRE’s inaugural Robert H. Jackson Legal Fellows and was also a FIRE legal intern in 2005. “Defying the Constitution: The Rise, Persistence, And Prevalence Of Campus Speech Codes” Georgetown Journal of Law and Public Policy. November 18, 2009. SA-IB

Additionally, even when speech codes avoid the vagueness problem by providing clear, concrete statements of what is prohibited and what is not, they often encompass protected speech and thus fail the overbreadth doctrine or constitute content- or viewpoint-based discrimination.  This too has been borne out in the case law[184] and also can be seen in some of the example policies discussed in this article.[185]  Thus, the fact that some speech codes provide notice to speakers of prohibited expression does not change the reality that they violate students’ First Amendment rights due to other doctrinal flaws.  This explains why other commentators have rejected arguments touting the benefits of speech codes for campus speech.  One commentator writes that “[i]ronically, universities have attempted to improve speech through speech codes. However, the only way to improve speech is to abolish all speech codes. Not improve. Abolish.”[186]  Therefore, Grey’s justification is at best incomplete, as it fails to account for the other doctrinal difficulties posed by speech codes.

#### Counterspeech is empirically effective and a better method to deal with oppressive speech – even if survivors can’t engage, the community can, which takes out indicts of counterspeech. Calleros 95:

Charles R, professor of law at Arizona State University, research interests include international and comparative contract law; international conflict of laws; the intersection of free speech with race and gender discrimination; and various issues regarding legal education. “PATERNALISM, COUNTERSPEECH, AND CAMPUS HATE-SPEECH CODES: A REPLY TO DELGADO AND YUN” Arizona State Law Journal. Winter, 1995. SA-IB

Delgado and Yun characterize these arguments as "paternalistic" and "seriously flawed." n49 In my reply below, I begin in part II.A with the fourth argument that more speech is the best response to offensive hate speech, and I attempt to establish that counterspeech is much more effective than Delgado and Yun are ready to concede. Within the same part, I conclude that free speech consequently can be a powerful instrument of reform benefitting minorities. In part II.B, I support the second argument against restrictions on speech with an example of a policy suppressing offensive speech that hurt a minority group on one campus and an example of a policy favoring speech and counterspeech that helped minorities on another campus. Finally, in part II.C, I support the notion that free speech allows a therapeutic venting of frustrations and provides valuable information about bigotry, but I qualify my conclusions. In the end, I favor education and counterspeech as a response to campus hate speech principally because I believe that such a response is more effective, empowering, constructive, and healing than is suppression of hateful speech. A. Speech as an Instrument of Reform: The Efficacy of Counterspeech Delgado and Yun summarize the support for the counterspeech argument by paraphrasing Nat Hentoff: "Antiracism rules teach black people to depend on whites for protection, while talking back clears the air, emphasizes self-reliance, and strengthens one's self-image as an active agent in charge of one's own destiny." n50 Delgado and Yun also cite to those who believe that counterspeech may help educate the racist speaker by addressing the ignorance and fear that lies behind hostile racial stereotyping. n51 But they reject this speech-protective argument, stating that "it is offered blandly, virtually as an article of faith" by those "in a position of power" [\*1257] who "rarely offer empirical proof of their claims." n52 The authors argue that talking back in a close confrontation could be physically dangerous, is unlikely to persuade the racist speaker to reform his views, and is impossible "when racist remarks are delivered in a cowardly fashion, by means of graffiti scrawled on a campus wall late at night or on a poster placed outside of a black student's dormitory door." n53 They also complain that "even when successful, talking back is a burden" that minority undergraduates should not be forced to assume. n54 In rejecting the counterspeech argument, however, Delgado and Yun cast the argument in its weakest possible form, creating an easy target for relatively summary dismissal. When the strategies and experiential basis for successful counterspeech are fairly stated, its value is more easily recognized. First, no responsible free speech advocate argues that a target of hate speech should directly talk back to a racist speaker in circumstances that quickly could lead to a physical altercation. If one or more hateful speakers closely confronts a member of a minority group with racial epithets or other hostile remarks in circumstances that lead the target of the speech to reasonably fear for her safety, in most circumstances she should seek assistance from campus police or other administrators before "talking back." Even staunch proponents of free speech agree that such threatening speech and conduct is subject to regulation and justifies more than a purely educative response. n55 The same would be true of Delgado's and Yun's other [\*1258] examples of speech conveyed in a manner that defaces another's property or invades the privacy of another's residence. n56 When offensive or hateful speech is not threatening, damaging, or impermissibly invasive and therefore may constitute protected speech, education and counterspeech often will be an appropriate response. n57 However, proponents of free speech do not contemplate that counterspeech always, or even normally, will be in the form of an immediate exchange of views between the hateful speaker and his target. Nor do they contemplate that the target should bear the full burden of the response. Instead, effective counterspeech often takes the form of letters, discussions, or demonstrations joined in by many persons and aimed at the entire campus population or a community within it. Typically, it is designed to expose the moral bankruptcy of the hateful ideas, to demonstrate the strength of opinion and numbers of those who deplore the hateful speech, and to spur members of the campus community to take voluntary, constructive action to combat hate and to remedy its ill effects. n58 Above all, it can serve to define and underscore the community of support enjoyed by the targets of the hateful speech, faith in which may have been shaken by the hateful speech. Moreover, having triggered such a reaction with their own voices, the targets of the hateful speech may well feel a sense of empowerment to compensate for the undeniable pain of the speech. n59 One may be tempted to join Delgado and Yun in characterizing such a scenario as one "offered blandly, virtually as an article of faith" and without experiential support. n60 However, campus communities that have creatively used this approach can attest to the surprising power of counterspeech. [\*1259] Examples of counterspeech to hateful racist and homophobic speech at Arizona State and Stanford Universities are especially illustrative. n61 In an incident that attracted national attention, the campus community at Arizona State University ("A.S.U.") constructively and constitutionally responded to a racist poster displayed on the outside of the speaker's dormitory door in February 1991. Entitled "WORK APPLICATION," it contained a number of ostensibly employment-related questions that advanced hostile and demeaning racial stereotypes of African-Americans and Mexican-Americans. Carla Washington, one of a group of African-American women who found the poster, used her own speech to persuade a resident of the offending room voluntarily to take the poster down and allow her to photocopy it. After sending a copy of the poster to the campus newspaper along with an opinion letter deploring its racist stereotypes, she demanded action from the director of her residence hall. The director organized an immediate meeting of the dormitory residents to discuss the issues. In this meeting, I explained why the poster was protected by the First Amendment, and the women who found the poster eloquently described their pain and fears. One of the women, Nichet Smith, voiced her fear that all nonminorities on campus shared the hostile stereotypes expressed in the poster. Dozens of residents expressed their support and gave assurances that they did not share the hostile stereotypes, but they conceded that even the most tolerant among them knew little about the cultures of others and would benefit greatly from multicultural education. n62 The need for multicultural education to combat intercultural ignorance and stereotyping became the theme of a press conference and public rally organized by the student African-American Coalition leader, Rossie Turman, who opted for highly visible counterspeech despite demands from some students and staff to discipline the owner of the offending poster. The result was a series of opinion letters in the campus newspaper discussing the problem of racism, numerous workshops on race relations and free speech, and overwhelming approval in the Faculty Senate of a measure to add a course on American cultural diversity to the undergraduate breadth requirement. n63 The four women who initially confronted the racist poster were empowered by the meeting at the dormitory residence and later received awards from the local chapter of the NAACP for their activism. n64 Rossie [\*1260] Turman was rewarded for his leadership skills two years later by becoming the first African-American elected President of Associated Students of A.S.U., n65 a student body that numbered approximately 40,000 students, only 2.3 percent of them African-American. n66 Although Delgado and Yun are quite right that the African-American students should never have been burdened with the need to respond to such hateful speech, Hentoff is correct that the responses just described helped them develop a sense of self-reliance and constructive activism. Moreover, the students' counterspeech inspired a community response that lightened the students' burden and provided them with a sense of community support and empowerment.

#### State suppression destroys coalitions by dividing people over the issue of censorship, but counterspeech from both the college AND the community prevents hate speech martyrdom and solves back – Stanford proves. Calleros 2:

Charles R, professor of law at Arizona State University, research interests include international and comparative contract law; international conflict of laws; the intersection of free speech with race and gender discrimination; and various issues regarding legal education. “PATERNALISM, COUNTERSPEECH, AND CAMPUS HATE-SPEECH CODES: A REPLY TO DELGADO AND YUN” Arizona State Law Journal. Winter, 1995. SA-IB

Indeed, the students received assistance from faculty and administrators, who helped organize meetings, wrote opinion letters, spoke before the Faculty Senate, or joined the students in issuing public statements at the press conference and public rally. n67 Perhaps most important, campus administrators wisely refrained from disciplining the owners of the poster, thus directing public attention to the issue of racism and ensuring broad community support in denouncing the racist poster. Many members of the campus and surrounding communities might have leapt to the racist speaker's defense had the state attempted to discipline the speaker and thus had created a First Amendment issue. Instead, they remained united with the offended students because the glare of the public spotlight remained sharply focused on the racist incident without the distraction of cries of state censorship. Although the counterspeech was not aimed primarily at influencing the hearts and minds of the residents of the offending dormitory room, its vigor in fact caught the residents by surprise. n68 It prompted at least three of them to apologize publicly and to display curiosity about a civil rights movement that they were too young to have witnessed first hand. n69 [\*1261] This effective use of education and counterspeech is not an isolated instance at A.S.U., but has been repeated on several occasions, albeit on smaller scales. n70 One year after the counterspeech at A.S.U., Stanford University responded similarly to homophobic speech. In that case, a first-year law student sought to attract disciplinary proceedings and thus gain First Amendment martyrdom by shouting hateful homophobic statements about a dormitory staff member. The dean of students stated that the speaker was not subject to discipline under Stanford's code of conduct but called on the university community to speak out on the issue, triggering an avalanche of counterspeech. Students, staff, faculty, and administrators expressed their opinions in letters to the campus newspaper, in comments on a poster board at the law school, in a published petition signed by 400 members of the law school community disassociating the law school from the speaker's epithets, and in a letter written by several law students reporting the incident to a prospective employer of the offending student. n71 The purveyor of hate speech indeed had made a point about the power of speech, just not the one he had intended. He had welcomed disciplinary sanctions as a form of empowerment, but the Stanford community was alert enough to catch his verbal hardball and throw it back with ten times the force. Thus, the argument that counterspeech is preferable to state suppression of offensive speech is stronger and more fully supported by experience than is conceded by Delgado and Yun. In both of the cases described above, the targets of hateful speech were supported by a community united against bigotry. The community avoided splitting into factions because the universities eliminated the issue of censorship by quickly announcing that the hateful speakers were protected from disciplinary retaliation. Indeed, the counterspeech against the bigotry was so powerful in each case that it underscored the need for top administrators to develop standards for, and some limitations on, their participation in such partisan speech. n72

#### The speech code methodology is statist as hell – prefer a grass-roots methodology that avoids co-option. Calleros 3:

Charles R, professor of law at Arizona State University, research interests include international and comparative contract law; international conflict of laws; the intersection of free speech with race and gender discrimination; and various issues regarding legal education. “PATERNALISM, COUNTERSPEECH, AND CAMPUS HATE-SPEECH CODES: A REPLY TO DELGADO AND YUN” Arizona State Law Journal. Winter, 1995. SA-IB

Perhaps most important, the CET Policies contemplate that the CET should inspire all members of the campus community to join in a "grass roots" movement to make the campus a hospitable place for diverse people [\*1280] and diverse ideas. n146 Thus, rather than impose a solution from the "top down," the CET endeavors to provide support, direction, and inspiration to others. As a result, targets of hateful speech are assured of support and a sense of community but are provided the opportunity to gain the confidence and empowerment that comes from actively responding to hate speech. Indeed, the experience with the CET Policies demonstrates that Nat Hentoff was wrong when he wrote that "the only way to protect free speech . . . is to abolish all speech codes." n147 Even if a university president were concerned solely with protecting free speech on campus to the exclusion of other interests, she would not necessarily accomplish that objective by maintaining no policy at all on problems of harassment. Issues regarding harassment and hateful speech often come in the form of acute crises to which administrators must respond without adequate time for reflection and under pressure from interested groups. They are not likely to respond constitutionally and constructively unless they have the guidance of a thoughtful and carefully crafted policy or have received considerable training that provides a similar basis for decision-making. n148 Moreover, the need is clear for a code that prohibits injurious speech and conduct that is unprotected under current constitutional standards. Fortunately, the CET experience also shows that such a dedication to the protection of civil liberties need not come at the expense of progress in civil rights and the empowerment of those that hateful speakers seek to silence and intimidate. V. CONCLUSION In taking on the moderate left in the campus hate-speech controversy, Delgado and Yun are fighting windmills. Critical Race Theorists and the moderate left should join together to support campus regulation of currently constitutionally unprotected speech and conduct, to otherwise encourage a vigorous flow of ideas on campus, and to promote a "grass roots" movement on campus to respond to hateful, destructive speech with education and counterspeech.

#### Social studies validate counterspeech and disprove censorship. Strossen 2:

Nadine, John Marshall Harlan II Professor of Law at New York Law School, President of the American Civil Liberties Union from February 1991 to October 2008. She was the first woman and the youngest person to ever lead the ACLU. Professor Strossen’s writings have been published in many scholarly and general interest publications (more than 300 published works). Her book, Defending Pornography: Free Speech, Sex, and the Fight for Women’s Rights, was named by the New York Times as a “Notable Book” of 1995. “Incitement to Hatred: Should There Be a Limit” New York Law School. 2000**.** SA-IB

A study that was done by a professor at Smith College in Massachusetts demonstrated the effectiveness of this kind of counterspeech in combating bias and prejudice. It showed that when a student who hears a statement conveying discriminatory attitudes also promptly hears a rebuttal to that statement-especially from someone in a leadership position-then the student will probably not be persuaded by the initial statement. Dr. Fletcher Blanchard, a psychologist at the college who conducted the experiment, concluded that "A few outspoken people who are vigorously anti-racist can establish the kind of social climate that discourages racist acts.' "'2 Thus, this study provides empirical social scientific support for the free speech maxim, discussed above, that the appropriate response to any speech with which one disagrees is not suppression but rather counterspeech.

#### The Foundation for Individual Rights in Education will keep suing universities that violate speech codes and cost them thousands of dollars. New 15:

Jake, reporter, covers student life and athletics for Inside Higher Ed and was awarded the David W. Miller Award for Young Journalists. “Settling Over Speech” January 23, 2015. SA-IB

The Foundation for Individual Rights in Education’s attempt to end “the generation-long scandal of campus speech codes” by helping to file free-speech lawsuits against a number of colleges and universities has so far resulted in more than $200,000 in settlements. The lawsuits are part of a campaign – called the Stand Up for Speech Litigation Project -- that began in July with litigation against Chicago State University, Citrus College, Iowa State University and Ohio University. FIRE had previously brought lawsuits against Modesto Junior College and the University of Hawaii at Hilo for blocking students from passing out copies of the Constitution, and those suits were also folded into the campaign. The project has since grown to include Western Michigan University. "More cases are in the works,” said Catherine Sevcenko, FIRE’s associate director of litigation. “We will continue to work with colleges and universities that reach out to us, as we have for the last 15 years. But colleges and universities need to understand that when we filed four lawsuits in one day last July, it was not a publicity stunt.” In December, Citrus College settled its lawsuit by revising its free speech policy and paying a student $110,000 in court fees and damages. The student alleged that the college threatened to kick him off campus for discussing a petition while outside Citrus College’s “free speech zone” -- an area, FIRE said, that accounts for just 1.37 percent of the campus. The college was already forced to eliminate such zones after a separate FIRE lawsuit in 2003. “The college later reinstated its speech quarantine when it thought no one was watching,” said Greg Lukianoff, FIRE’s president. In a statement, the Citrus Community College District said it will expand the college’s free speech zone to include “most open spaces on campus.” It maintains that its original policies were constitutional, and that the college agreed to the settlement only to avoid a costly lawsuit. “Freedom of expression is crucial in the higher education community, and the district and its Board of Trustees have done much to protect and advance this cherished right,” the college stated. “The challenged policies were written in compliance with a long line of U.S. Supreme Court cases relating to speech activities in public places, including college campuses.” As part of their settlements, the University of Hawaii at Hilo and Modesto Junior College also agreed to revise their free speech policies to allow free speech zones in open areas across campus. The institutions agreed to pay $50,000 each in damages and legal fees. While these three cases were settled, FIRE is facing a bigger challenge in litigating murkier cases like those against Iowa State and Ohio University. The Ohio lawsuit alleges that the university ordered members of Students Defending Students, a group that helps students accused of campus misconduct, to stop wearing shirts featuring the slogan “We get you off for free." The university said that it never directed any students not to wear the T-shirts, however, turning the lawsuit into a case of “he said, she said.” Another T-shirt fracas led to the lawsuit at Iowa State, where students and FIRE allege that administrators manipulated the university’s trademark policy to not allow the continued use of the ISU cardinal mascot on a shirt designed by the campus chapter of the National Organization for the Reform of Marijuana Laws. The university argues that the case is not about free speech, but about whether “Iowa State University should retain the right to administer its own trademarks.” On those grounds, the university motioned to dismiss the lawsuit, but an Iowa federal judge rejected the request in January, saying that “no infringement is involved in the case at hand.” It’s the first time a judge has ruled in any of the cases brought by FIRE’s litigation project. The case will now go to trial in December. Sevcenko said FIRE will continue to bring more lawsuits this year, but there’s no set timetable for when new cases will be announced (the original goal was to sue another college for every lawsuit that was completed). At least nine schools, she said, have already revised some of their speech codes in response to the project. “One of Stand Up for Free Speech’s broader goals is to change the calculus of college administrators to realize that not respecting the First Amendment rights of students and faculty carries a high monetary and reputational cost,” she said. “We have strong indications that our message is being heard.”

### uv – topicality

#### SCOTUS has ruled “any” limited in context of the sentence. Von Eintel 11

Kai Von Fintel, 7-6-2011, "Justice Breyer, Professor Austin, and the Meaning of 'Any'," Language Log, http://languagelog.ldc.upenn.edu/nll/?p=3248

In a recent interview, Supreme Court Justice Breyer lists the five books that have influenced his thinking the most. Among them: J.L. Austin's How to Do Things with Words. Breyer says: JL Austin was an ordinary language philosopher. When I studied in Oxford, I went to one of his classes and I read his books. How to Do Things with Words teaches us a lot about how ordinary language works. It is useful to me as a judge, because it helps me avoid the traps that linguistic imprecision can set. If I had to pick a single thing that I draw from Austin's work it would be that context matters. It enables us to understand, when someone makes a statement, what that statement refers to and what that person meant. When I see the word "any" in a statute, I immediately know it's unlikely to mean "anything" in the universe. "Any" will have a limitation on it, depending on the context. When my wife says, "there isn't any butter," I understand that she's talking about what is in our refrigerator, not worldwide. We look at context over and over, in life and in law. Austin suggests that there is good reason to look beyond text to context. Context is very important when you examine a statement or law. A statement made by Congress, under certain formal conditions, becomes a law. Context helps us interpret language, including the language of a statute. Purpose is often an important part of context. So Austin probably encourages me to put more weight on purpose. It is very interesting that Breyer should choose the word "any" as an example of why context matters. A few years back, there was in fact a Supreme Court decision (Small v. United States) that hinged on the meaning of "any" (pdf of the decision here]). And as it turns out, Justice Breyer wrote the decision for the majority (made up of Breyer, Stevens, O'Connor, Souter, and Ginsburg; ah the good old days). The background: Petitioner Small was convicted in a Japanese Court of trying to smuggle firearms and ammunition into that country. He served five years in prison and then returned to the United States, where he bought a gun. Federal authorities subsequently charged Small under 18 U. S. C. §922(g)(1), which forbids "any person … convicted in any court … of a crime punishable by imprisonment for a term exceeding one year … to … possess … any firearm." Small subsequently argued that any court was not meant to encompass foreign courts, only domestic ones. The Supreme Court agreed. The arguments in the decision are a good case study of semantics/pragmatics in the real (well, legal) world. Here are some excerpts: The question before us is whether the statutory reference "convicted in any court" includes a conviction entered in a foreign court. The word "any" considered alone cannot answer this question. In ordinary life, a speaker who says, "I'll see any film," may or may not mean to include films shown in another city. In law, a legislature that uses the statutory phrase " 'any person' " may or may not mean to include " 'persons' " outside "the jurisdiction of the state." See, e.g., United States v. Palmer, 3 Wheat. 610, 631 (1818) (Marshall, C. J.) ("[G]eneral words," such as the word "'any,' " must "be limited" in their application "to those objects to which the legislature intended to apply them"); Nixon v. Missouri Municipal League, 541 U. S. 125, 132 (2004) (" 'any' " means "different things depending upon the setting"); United States v. Alvarez-Sanchez, 511 U. S. 350, 357 (1994) ("[R]espondent errs in placing dispositive weight on the broad statutory reference to 'any' law enforcement officer or agency without considering the rest of the statute"); Middlesex County Sewerage Authority v. National Sea Clammers Assn., 453 U. S. 1, 15-16 (1981) (it is doubtful that the phrase " 'any statute' " includes the very statute in which the words appear); Flora v. United States, 362 U. S. 145, 149 (1960) ("[A]ny sum," while a "catchall" phase, does not "define what it catches"). Thus, even though the word "any" demands a broad interpretation, see, e.g., United States v. Gonzales, 520 U. S. 1, 5 (1997), we must look beyond that word itself.

#### T-Any is bad for debate

#### 1] Punishes the aff for good research – kills fairness because I’m supposed to find the best arguments for my side, and I can’t just be expected to read the most simple stuff to avoid harming their ground or predictability by even a little

#### 2] their interpretation forces debaters to read WORSE arguments because they’ll fear losing on the T debate – if “I lose these couple arguments” is a legitimate argument, then no one will ever attempt to debate the topic

#### 3] the aff speaks in the dark which means they have bidirectional interps – if my interp is good enough, then discussion of the aff outweigh

### uv – theory

#### Aff gets 1AR theory and it’s a voting issue a) without 1AR theory, the neg can engage in infinite abuse which outweighs any other arg b) the 1AR is too short to have a fair shot on substance if I have to check an abusive practice, so drop the debater is the only way to rectify abuse.

#### Fairness is a voter because debate’s a competitive game that needs rules to function, this means that the judge should have the ability to determine who was the better debater not the better cheater. Education is a voter because it’s the purpose of debate in the first place.

#### No neg RVIs a) aff flex – allows me to go down to substance if the 2NR screws up, which should always be available b) the 2NR has plenty of time to cover theory and substance c) neg RVIs encourage a 6 minute blipstorm collapse on theory that it’s impossible for me to prove abuse. No 2NR theory that’s drop the debater – if the 1AR did something abusive, then all you have to do is spend about 20 seconds giving reasons to reject the arg instead of a theory shell which is unfair because it creates a 6-3 skew for the neg on theory. Since no judge will vote on the 2ar RVI the skew becomes exacerbated as I have to go for substance as well.

### uv – kritik

#### ommitted

### uv – modesty

#### Use modesty to evaluate aff impacts – 6 reasons. Overing et al 14:

Bob Overing and Adam Bistagne, coaches for Loyola. “Ethical Modesty Part 1 by Bob Overing and Adam Bistagne” Premier Debate. August 31, 2014. SA-IB

1 – decision making – coffee example

2 – EC is incoherent – saving lives example

3 – prevents sketchy fw and is good for actual phil ed – stops

4 – prevents NIBs – it makes them tunable with aff impacts

5 – prevents dogmatism

6 – combats neg skew – 1AR gets to weigh impacts

There is substantial philosophical debate about normative uncertainty. Let’s sketch some arguments for why some philosophers have found the modest view persuasive. First, ethical modesty seems consistent with everyday decision-making. The following example is taken from the dissertation of Andrew Sepielli, now a professor at the University of Toronto: Suppose that I am deciding whether to drink a cup of coffee. I have a degree of belief of .2 that the coffee is mixed with a deadly poison, and a degree of belief of .8 that it’s perfectly safe. If I act on the hypothesis in which I have the highest credence, I’ll drink the coffee. But this seems like a bad call. A good chance of coffee isn’t worth such a significant risk of death – at least, not if I assign commonsensical values to coffee and death, respectively.[1] It’s hard to argue that confidence gets it right here. We should think similarly when deliberating about normative theories. Employing some social-contract theory, we might think that the United States government should take only Constitutional action; however, some Constitutional violation might be permissible to protect a large city from a terrorist attack even if we care less about utilitarian reasons. Or what if we have equal credence in two different ethical theories? Ethical confidence would be of no help since neither has priority. Ethical modesty, on the other hand, can deal with these cases in a compelling way. Suppose we are choosing between (1) saving one person and letting two die and (2) saving two persons and letting one die and our credence is divided equally between theory A and theory B. Theory A is aggregative (in this case, saving more is better) and recommends option (2) and Theory B is non-aggregative and indifferent between options (1) and (2). In short, Theory A says save more lives and Theory B doesn’t care. If we don’t know which theory is right, we should err on the side of saving more lives, since Theory A says that’s valuable. Ethical confidence comes to the bizarre conclusion that (1) and (2) are equally rational even though we are 50% sure (2) is better than (1). Ethical confidence thus prevents common sense applications of rational choice. That’s all well and good but why should we adopt it in debate? Ethical modesty might remedy a lot of the fairness concerns with frameworks. Necessary/insufficient burdens, skepticism, and unturnable cases lose their force when the criterion is no longer all-or-nothing. Those arguments create reciprocity problems precisely because they exclude the opponent’s offense. Under a frame of ethical modesty, they would not be exclusive; the aff can weigh its offense. Status quo LD framework debate incentivizes finding frameworks that heavily favor one side such that winning the criterion is sufficient to vote. More reasonable, inclusive frameworks are crowded out in favor of more unfair ones. For instance, a deontological framework is a predictable, reasonable framework, but ethical confidence makes it much more likely to create structural unfairness. If the neg defends a narrow conception of deontology, a strong act/omission distinction, that perfect duties strictly precede imperfect duties, and that any risk of a violation of the standard is sufficient to negate, aff offense under the neg framework is effectively impossible. These arguments alone are not problematic, however. If the aff can weigh the advantages of the plan even when the framework debate favors the neg, then the aff still has options. Modesty makes the strength of the aff impacts matter at the end of the day. Perhaps such a method of evaluation will help the time-pressured 1AR beat back neg layering strategies without resorting to theory arguments. Ethical modesty might also encourage LDers to make multiple kinds of moral arguments in a given round. For instance, instead of defending utilitarianism to the death, a debater might also forward rights-based or contract-based reasons. This model would be a less dogmatic form of framework debating that largely reflects how applied philosophy is done. When thinking about abortion, drone strikes, or physician-assisted suicide, a comprehensive analysis would include justification from a variety of moral perspectives. Additionally, with more frameworks in any given debate, the cost to introducing an ethical principle would be much lower since a debater would have others to fall back on. If a framework can be ‘kicked’ at little strategic loss, debaters might be more willing to ditch their tired framework backfiles in favor of more innovative strategies. Ethical modesty might inject some life into deont vs. util debates that have largely characterized even the best framework debates in LD for some time. Finally, ethical modesty might “get it right” in more debates in the sense that it more often leads the judge to vote for the better debater. In the Close Debate scenario above, the aff has decisively won two-thirds of the arguments in the debate, and the neg has only marginally won one-third of the arguments. An observer unfamiliar with the norms for framework evaluation in LD (ethical confidence) would be inclined to vote aff[2]. Certainly, the fact that the neg adapted to these judging norms better than the aff is relevant, but we should privilege a form of evaluation that encourages more, high-quality refutation, embedded clash, and round vision. The aff might be the better debater all-in-all but lose on a framework trick or a one-line weighing argument. Modesty lessens the impact that any one argument can have by considering all moral reasons forwarded. This means the best moral reasoning and the best debaters win out.

## 1AC – Extra

### 1AC – Definition

#### Speech codes are restrictions on verbal offensive speech. Hudson 16:

David, Adjunct Professor of Law, Vanderbilt University. “How Campus Policies Limit Free Speech” Huffington Post. June 01, 2016. SA-IB

First, let’s look at speech codes on campuses. A speech code refers to a set of provisions or regulations that limit certain types of offensive or harassing speech.

### 1AC – Extra Substance

#### Speech codes shut down minority voices as they are seen as offensive when they are being angry – you should let black people be pissed at whites. Calleros 95:

Charles R, professor of law at Arizona State University, research interests include international and comparative contract law; international conflict of laws; the intersection of free speech with race and gender discrimination; and various issues regarding legal education. “PATERNALISM, COUNTERSPEECH, AND CAMPUS HATE-SPEECH CODES: A REPLY TO DELGADO AND YUN” Arizona State Law Journal. Winter, 1995. SA-IB

The first example shows how several outspoken African-American students benefitted from the atmosphere of free speech and counterspeech at A.S.U. after the racist poster incident described in part A above. Vernard Bonner, the African-American leader of Students Against Racism, vented his [\*1264] outrage over the racist poster with an opinion letter that some complained reflected racist stereotyping of whites. n83 Although his own speech was offensive to some and sparked criticism, he was secure in his right to speak his mind without fear of censorship or discipline. Similarly, one year after he led the counterspeech to the racist poster and a year before being elected student body president, Rossie Turman reaffirmed his support for A.S.U.'s policies supporting free speech, precisely because those policies protected his right to strongly express his own views. n84 In the same year, a militant African-American student, Ashahed Triche, expressed his more radical views on race relations in a regular column of the campus newspaper, regularly offending white readers. Though some of the offended readers engaged in their own counterspeech and even recommended that the newspaper drop his column, n85 he continued to express his provocative views free from censorship. A campus policy that prohibited offensive, racially hostile speech presumably would have bottled up these emerging African-American speakers along with their white counterparts. n86 Perhaps the result of such a policy would be a kinder, gentler campus, but these African-American students were willing to sacrifice subtlety in their speech to draw attention to their perspectives. n87

#### Limiting speech gives power to the institution to determine what speech is or is not acceptable – ceding that power to the state is problematic. Wizner 12:

Ben, director of the American Civil Liberties Union’s Speech, Privacy & Technology Project, worked at the intersection of civil liberties and national security, litigating numerous cases involving airport security policies, government watch lists, surveillance practices, targeted killing, and torture. He appears regularly in the global media, has testified before Congress, and is an adjunct professor at New York University School of Law. He was the principal legal advisor to NSA whistleblower Edward Snowden. Ben is a graduate of Harvard College and New York University School of Law and was a law clerk to the Hon. Stephen Reinhardt of the U.S. Court of Appeals for the Ninth Circuit. “Should There Be Limits on Freedom of Speech?” Constitution USA with Peter Sagal on PBS, accompanying statement from the ACLU. 2012. SA-IB

“What is freedom of expression?” asks author Salman Rushdie. “Without the freedom to offend, it ceases to exist.” Rushdie himself very nearly ceased to exist for exercising his “freedom to offend.” His 1998 novel The Satanic Verses included passages considered blasphemous by some Muslims, sparking violent protests around the world. In 1999, Iran’s Ayatollah Ruhollah Khomeini issued a “fatwa,” or religious edict, calling for Rushdie’s death. Rushdie was forced into hiding for nine years. He escaped harm, but one of his translators was stabbed to death and another was seriously injured in an attack. Dozens of people died during riots in protest against the book. Was Rushdie’s freedom of expression, protected in America by the First Amendment, worth so high a cost? It’s a question that arises all too frequently in a world full of people eager to offend. In Gainesville, Florida, an evangelical Christian pastor sets fire to a Koran. At funerals for U.S. soldiers killed in Iraq and Afghanistan, religious extremists picket with signs that say “God hates fags” and “Thank God for dead soldiers.” In Illinois, a neo-Nazi group announces its intention to march with swastikas through a neighborhood of elderly Holocaust survivors. Such repellent speech would be illegal in many countries – and calls to impose limits on offensive speech here in the United States have come from all sides of the political spectrum. Some have advocated restrictions on speech that demeans vulnerable minority groups. Others have advocated restrictions on speech by minority groups that calls for violence against the majority. But virtually every proposal to limit offensive speech shares a common attribute: its proponents are confident that if we give the government the authority to prohibit the speech they disfavor, the government will use that authority in the manner the proponents intended. They are almost certainly wrong. The truth is that when the government gets to decide which speech is permissible, its exercise of that authority is almost always driven by political considerations, not principled distinctions. And those who proposed the restrictions often come to regret it. Would-be government censors have sought to prohibit speech hostile to [LGBTQ+] gays and lesbians – and speech supportive of gay rights. They have sought to interfere with speech promoting religion – and speech attacking religion. They have barred anti-abortion protests near abortion clinics – and barred doctors from providing patients with information about legal abortion. They have prosecuted citizens for burning flags – and for displaying flags. Indeed, the only thing predictable about giving the government the power to censor speech is that it will use that power unpredictably. The founder of the American Civil Liberties Union, Roger Baldwin, put it well when he said, “In order to defend the people you like, you have to defend the people you hate.” It would be dishonest to deny that permitting grossly offensive speech can exact a high cost. As Georgetown Law School Professor David Cole has written, “free speech is not free.” When, as in the case of Rushdie, that cost includes the death of innocents, it’s understandable that some people question the price. But the alternative – empowering the government to suppress speech because of its potential to provoke violent reactions – is far more dangerous. A society in which provocative speech could be punished would be a society without controversial politics, or art, or ideas. It would be a society in which citizens feared expressing dissident thoughts. In short, it would be a society wholly alien to America’s founders who, after all, had some pretty provocative ideas of their own.

#### Speech codes encourage reverse enforcement – they aren’t enforced against whites but are constantly used to shut down minority voices. Friedersdorf 15:

Conor, staff writer at The Atlantic, where he focuses on politics and national affairs. He lives in Venice, California, and is the founding editor of The Best of Journalism, a newsletter devoted to exceptional nonfiction. “Free Speech Is No Diversion” The Atlantic, November 12, 2015. SA-IB

In January of 1987, flyers distributed anonymously at the University of Michigan declared “open season” on black people, referring to them with the most disgusting racial slurs. “Shortly thereafter,” Catherine B. Johnson noted in a law journal article, “a student disc jockey for the campus radio station allowed racist jokes to be told on-air. In response to these incidents, students at the University staged a demonstration to voice their opposition. The rally, however, was interrupted by the display of a Ku Klux Klan uniform dangling out of a nearby dormitory window.” Students in Ann Arbor were understandably upset and outraged by the racist climate created by these events. Administrators decided to respond by implementing a speech code. Thereafter, racist incidents kept occurring on campus at the same rate as before. And before the speech code was struck down 18 months later as a violation of the First Amendment, white students had charged black students with offensive speech in 20 cases. One “resulted in the punishment of a black student for using the term ‘white trash’ in conversation with a white student,” the ACLU later reported, explaining its position that “speech codes don't really serve the interests of persecuted groups. The First Amendment does.”

### 1AC – Offense Defense

#### – default to an offense-defense paradigm – key to fairness. Nelson 8

Adam F. Nelson, J.D.1. Towards a Comprehensive Theory of Lincoln-Douglas Debate. 2008.

And the truth-statement model of the resolution imposes an absolute burden of proof on the affirmative: if the resolution is a truth-claim, and the afﬁrmative has the burden of proving that claim, in so far as intuitively we tend to disbelieve truthclaims until we are persuaded otherwise, the afﬁrmative has the burden to prove that statement absolutely true. Indeed, one of the most common theory arguments in LD is conditionality, which argues it is inappropriate for the afﬁrmative to claim only proving the truth of part of the resolution is sufﬁcient to earn the ballot. Such a model of the resolution also gives the negative access to a range of strategies that many students, coaches, and judges ﬁnd ridiculous or even irrelevant to evaluation of the resolution. If the negative need only prevent the affirmative from proving the truth of the resolution, it is logically sufficient to negate to deny our ability to make truth-statements or to prove normative morality does not exist or to deny the reliability of human senses or reason. Yet, even though most coaches appear to endorse the truth-statement model of the resolution, they complain about the use of such negative strategies, even though they are a necessary consequence of that model. And, moreover, such strategies seem fundamentally unfair, as they provide the negative with **functionally inﬁnite ground**, as there are a nearly inﬁnite variety of such skeptical objections to normative claims, while continuing to bind the afﬁrmative to a much smaller range of options: advocacy of the resolution as a whole. Instead, it seems much more reasonable to treat the resolution as a way to equitably divide ground: the affirmative advocating the desirability of a world in which people adhere to the value judgment implied by the resolution and the negative advocating the desirability of a world in which people adhere to a value judgment mutually exclusive to that implied by the resolution. By making the issue one of desirability of competing world-views rather than of truth, the affirmative gains access to increased flexibility regarding how he or she chooses to defend that world, while the negative retains equal flexibility while being denied access to those skeptical arguments indicted above. Our ability to make normative claims is irrelevant to a discussion of the desirability of making two such claims. Unless there is some significant harm in making such statements, some offensive reason to reject making them that can be avoided by an advocacy mutually exclusive with that of the affirmative such objections are not a reason the negative world is more desirable, and therefore not a reason to negate. Note this is precisely how things have been done in policy debate for some time: a team that runs a kritik is expected to offer some impact of the mindset they are indicting and some alternative that would solve for that impact. A team that simply argued some universal, unavoidable, problem was bad and therefore a reason to negate would not be very successful. It is about time LD started treating such arguments the same way. Such a model of the resolution has additional benefits as well. First, it forces both debaters to offer offensive reasons to prefer their worldview, thereby further enforcing **a parallel burden structure.** This means debaters can no longer get away with arguing the resolution is by definition true of false. The “truth” of the particular vocabulary of the resolution is irrelevant to its desirability. Second, it is intuitive. When people evaluate the truth of ethical claims, they consider their implications in the real world. They ask themselves whether a world in which people live by that ethical rule is better than one in which they don’t. Such debates don’t happen solely in the abstract. We want to know how the various options affect us and the world we live in.

# Frontlines – T

## A2 T-Any

### a2 t-any

counter-interp: at the TOC, the aff may specify a type of restriction if they remove it for all protected speech

1. clash – restrictions have different effects; whole res kills clash on the aff advantage – spec is key at TOC because we’ve had 4 months to learn

2. skew – neg gets PICs out of any speech – outweighs **A.** explodes limits – they can PIC out of single colleges or speech while I defend an entire restriction **B.** they only have to prep one 1NC which kills deep research **C.** empirics, there are 6 plans and 50 different PICs, moots your standards **D.** they can read generics against plans but the 1AR can’t against PICs

3. depth – spec makes us focus on a single implementable policy

### a2 limits

1. clash outweighs – hard workers can prep many affs but can’t affirm an impossible topic

2. generics check – you get every single one

3. counter-interp checks – only a few type of restrictions

4. T – more research is good, creates better thinkers

### a2 limits – fire

only three affs under my interp.

Fire 16 Foundation for Individual Rights in Education, founded in 1999 by University of Pennsylvania professor Alan Charles Kors and Boston civil liberties attorney Harvey Silverglate after the overwhelming response to their landmark 1998 book, The Shadow University: The Betrayal of Liberty On America’s Campuses. “Campus Rights” 2016. https://www.thefire.org/campus-rights/ SA-IB

Freedom of speech is a fundamental American freedom and a human right, and there’s no place that this right should be more valued and protected than America’s colleges and universities. A university exists to educate students and advance the frontiers of human knowledge, and does so by acting as a “marketplace of ideas” where ideas compete. The intellectual vitality of a university depends on this competition—something that cannot happen properly when students or faculty members fear punishment for expressing views that might be unpopular with the public at large or disfavored by university administrators. Nevertheless, freedom of speech is under continuous threat at many of America’s campuses, pushed aside in favor of politics, comfort, or simply a desire to avoid controversy. As a result, \*\*[1]\*\* speech codes dictating what may or may not be said, “\*\*[2]\*\* free speech zones” confining free speech to tiny areas of campus, and \*\*[3]\*\* administrative attempts to punish or repress speech on a case-by-case basis are common today in academia.

### a2 ground

1. plenty of literature on why police are necessary – its why they exist now – cut cards

2. generics check – you get every single one

3. structural abuse outweighs substantive abuse – hard debate is good debate

### a2 breadth

1. T – plans key to breadth plus clash which is better

2. not everyone reads plans, so you still get breadth

### a2 textuality

1. I’m textual – “any” modifies “speech” not “restriction”

2. courts have ruled any can be limited

Kai Von Eintel 11, 7-6-2011, "Justice Breyer, Professor Austin, and the Meaning of 'Any'," Language Log, http://languagelog.ldc.upenn.edu/nll/?p=3248

In a recent interview, Supreme Court Justice Breyer lists the five books that have influenced his thinking the most. Among them: J.L. Austin's How to Do Things with Words. Breyer says: JL Austin was an ordinary language philosopher. When I studied in Oxford, I went to one of his classes and I read his books. How to Do Things with Words teaches us a lot about how ordinary language works. It is useful to me as a judge, because it helps me avoid the traps that linguistic imprecision can set. If I had to pick a single thing that I draw from Austin's work it would be that context matters. It enables us to understand, when someone makes a statement, what that statement refers to and what that person meant. When I see the word "any" in a statute, I immediately know it's unlikely to mean "anything" in the universe. "Any" will have a limitation on it, depending on the context. When my wife says, "there isn't any butter," I understand that she's talking about what is in our refrigerator, not worldwide. We look at context over and over, in life and in law. Austin suggests that there is good reason to look beyond text to context. Context is very important when you examine a statement or law. A statement made by Congress, under certain formal conditions, becomes a law. Context helps us interpret language, including the language of a statute. Purpose is often an important part of context. So Austin probably encourages me to put more weight on purpose. It is very interesting that Breyer should choose the word "any" as an example of why context matters. A few years back, there was in fact a Supreme Court decision (Small v. United States) that hinged on the meaning of "any" (pdf of the decision here]). And as it turns out, Justice Breyer wrote the decision for the majority (made up of Breyer, Stevens, O'Connor, Souter, and Ginsburg; ah the good old days). The background: Petitioner Small was convicted in a Japanese Court of trying to smuggle firearms and ammunition into that country. He served five years in prison and then returned to the United States, where he bought a gun. Federal authorities subsequently charged Small under 18 U. S. C. §922(g)(1), which forbids "any person … convicted in any court … of a crime punishable by imprisonment for a term exceeding one year … to … possess … any firearm." Small subsequently argued that any court was not meant to encompass foreign courts, only domestic ones. The Supreme Court agreed. The arguments in the decision are a good case study of semantics/pragmatics in the real (well, legal) world. Here are some excerpts: The question before us is whether the statutory reference "convicted in any court" includes a conviction entered in a foreign court. The word "any" considered alone cannot answer this question. In ordinary life, a speaker who says, "I'll see any film," may or may not mean to include films shown in another city. In law, a legislature that uses the statutory phrase " 'any person' " may or may not mean to include " 'persons' " outside "the jurisdiction of the state." See, e.g., United States v. Palmer, 3 Wheat. 610, 631 (1818) (Marshall, C. J.) ("[G]eneral words," such as the word "'any,' " must "be limited" in their application "to those objects to which the legislature intended to apply them"); Nixon v. Missouri Municipal League, 541 U. S. 125, 132 (2004) (" 'any' " means "different things depending upon the setting"); United States v. Alvarez-Sanchez, 511 U. S. 350, 357 (1994) ("[R]espondent errs in placing dispositive weight on the broad statutory reference to 'any' law enforcement officer or agency without considering the rest of the statute"); Middlesex County Sewerage Authority v. National Sea Clammers Assn., 453 U. S. 1, 15-16 (1981) (it is doubtful that the phrase " 'any statute' " includes the very statute in which the words appear); Flora v. United States, 362 U. S. 145, 149 (1960) ("[A]ny sum," while a "catchall" phase, does not "define what it catches"). Thus, even though the word "any" demands a broad interpretation, see, e.g., United States v. Gonzales, 520 U. S. 1, 5 (1997), we must look beyond that word itself.

### a2 textuality first

1. if I have a definition, default to pragmatics – we don’t decide interps on which one is the most grammatical, but rather which is the best for debate

2. this is racist – voting issue for deterrence and its key to punish racism as a judge.

Niemi 15 Rebar. “Nebel T: I sip it.” Premier Debate. September 22, 2015.

Correctness is racism. Correctness is “you must be either a boy or a girl or you are wrong.” Correctness is “the ideal functioning body versus all others.” Correctness is one kind of person having access to The Truth and others lacking it. Correctness is “sit down and shut up.” Correctness is “your kind aren’t welcome here.” Any debater who runs so called “Nebel T” and any judge who votes for this argument must acknowledge that they are situationally and strategically embracing a perspective from which there is an implicit or explicit metric of what it means to be a competent english speaker. What is the logical conclusion of speaking competent english? The notion that “mongrel” forms of english are inferior, diminished, unpersuasive, and should not have access to the ballot. Quite possibly the notion that those who can’t live up to these standards should not be involved in debate. After all, their dialects are not what resolutions are written in – it is people like Mr. Nebel whose dialect prescribes correct resolutional meaning.

Your argument is that unless we all speak the king’s english, fairness, education, nor oppression matters – that’s ridiculous.

3. Prefer pragmatic benefits- there’s no way to weigh between semantic interps because they just rely on competing conceptions of grammar- fairness and education need to be a part of it.

4. This relies on truth testing and that the affs burden is to prove the resolution true but comparing worlds is better, I just have to prove a world is good.

5. Adhering to strict resolution text does not produce fair and educational debate – the res is written by traditional 80 years old for lay debaters. We should be allowed to modify it.

6. the ‘topicality rule’ is nonsense-you can evaluate my standards like that too. The ‘aff flex’ and ‘depth’ rule also promote fair and educational outcomes.

### a2 no neg pics

1. they can’t tack this on to their interp – its not an interp of the resolution

2. reject their interp on face – that plank of their interp isn’t justified, which leads to bad theory

### a2 cy-woods t-any

counter-interp: at the TOC, the aff may specify a type of restriction if they remove it for all protected speech

1. clash – restrictions have different effects; whole res kills clash on the aff advantage – spec is key at TOC because we’ve had 4 months to learn

2. skew – neg gets PICs out of any speech – outweighs **A.** explodes limits – they can PIC out of single colleges or speech while I defend an entire restriction **B.** they only have to prep one 1NC which kills deep research **C.** empirics, there are 6 plans and 50 different PICs, moots your standards **D.** they can read generics against plans but the 1AR can’t against PICs

**A2 Limits**

1. clash outweighs – hard workers can prep many affs but can’t affirm an impossible topic

2. only three affs under my interp.

Fire 16 Foundation for Individual Rights in Education, founded in 1999 by University of Pennsylvania professor Alan Charles Kors and Boston civil liberties attorney Harvey Silverglate after the overwhelming response to their landmark 1998 book, The Shadow University: The Betrayal of Liberty On America’s Campuses. “Campus Rights” 2016. https://www.thefire.org/campus-rights/ SA-IB

Freedom of speech is a fundamental American freedom and a human right, and there’s no place that this right should be more valued and protected than America’s colleges and universities. A university exists to educate students and advance the frontiers of human knowledge, and does so by acting as a “marketplace of ideas” where ideas compete. The intellectual vitality of a university depends on this competition—something that cannot happen properly when students or faculty members fear punishment for expressing views that might be unpopular with the public at large or disfavored by university administrators. Nevertheless, freedom of speech is under continuous threat at many of America’s campuses, pushed aside in favor of politics, comfort, or simply a desire to avoid controversy. As a result, \*\*[1]\*\* speech codes dictating what may or may not be said, “\*\*[2]\*\* free speech zones” confining free speech to tiny areas of campus, and \*\*[3]\*\* administrative attempts to punish or repress speech on a case-by-case basis are common today in academia.

3. generics check – you get every single one

4. counter-interp checks – only a few type of restrictions

5. T – more research is good, creates better thinkers

6. bennett’s stupid – inherency checks his examples

**A2 Generics**

1. silly – I defend unrestricting all speech, you can read any pic, but I get to research and clash on the restriction I specify

2. just do research – there’s plenty of lit as to why police is good

**A2 Predictability**

1. lit is basis for prep – my affs in the lit

2. I can’t spec to any level – I have to defend all speech, I just spec a restriction

3. I outweigh – predictable debates that don’t clash are boring

4. disclosure

5. non-unique and turn – pics link

**A2 TVA**

1. doesn’t solve my offense

2. slip slope claims mean that you literally have to frontline one thing and then quit researching

### A2 TVA

#### 1 – solves none of my offense about research and aff ground

#### 2 – you’ll always PIC out of something else like term papers or campaign finance instead of discussing the aff.

## A2 T-Internet

### Counter-Interp

#### Counter-interpretation: the aff does not have to defend internet free speech rights, if they defend an entire venue of restriction.

#### 1] PICs – the more I spec, the more PICs they get out of stuff the aff isn’t about, which means there’s a huge limits and predictability disad to their interpretation.

#### 2] Aff flex – having to defend internet leads to stale debaters because they’re always prepped on internet and I’m always tacking it on to my aff to meet their interp – their interp leads to the same round for four months.

#### 3] Side bias impacts turns their offense – I need to limit your ground a little in order to actually win some rounds, otherwise you would just win on cyberbullying every time instead of actually engaging with verbal speech codes.

### A2 Cy-Woods

#### A2 Topic Lit

1] just because it’s part of the lit doesn’t mean I should be FORCED to defend it – your interp presumes T-any is true, which you haven’t justified – obviously the aff is in the topic lit too, which means that this is non-unique

2] whole res affs will defend this so ur offense is silly – lets talk about my aff

3] reading internet specific affs solves – check out Lexington’s wiki

#### A2 Ground

1] side bias impact turns

2] just because you lose SOME ground against internet doesn’t mean you shouldn’t be prepped to have OTHER ground – this is the biggest aff in the lit and you literally have authors like Delgado who basically line-by-line my aff for you, all you have to do is cut cards

## A2 T-Everywhere

### Counter-Interp

#### C/I: the aff may defending removing restrictions that some colleges have, if they defend that all colleges have a moral obligation not to do that restriction.

#### 1] their interp kills debate, certain colleges don’t even restrict free speech at all, which means its impossible to affirm under their interp.

#### 2] mine’s key to specification, which is key to avoid stale debates and gain better education.

## A2 T-Government

### Counter-Interp

#### C/I: the aff can defend that all public colleges and universities take the aff action without a unified actor

#### 1] framers intent – the aff defends that colleges have obligations to do the aff and defends implementation for you to answer the aff – it’s a question of their obligations – I just defend a policy cuz that’s how we determine obligations under my fw

#### 2] their interp is literally impossible. Free dictionary:

http://legal-dictionary.thefreedictionary.com/Colleges+and+Universities SA-IB

Public institutions are established either by state constitution or by statute, and they receive funding from state appropriationsas well as tuition and endowments. Although the federal government operates several institutions of higher learning, such asthe U.S. Military Academy and the U.S. Air Force Academy, it is prohibited by statute from exercising direct control over other educational institutions.

#### 3] no fiat abuse claims – fiating all members of congress act together is just as silly as fiating all colleges – my interp of fiat is that I get to fiat that institutions either pass or remove policies

## A2 T-Legal Ought

### New Counter-Interp

#### **ommited**

# Frontlines – Case

## Overviews

### Case Offense

#### Im going for a couple pieces of offense –

#### reverse enforcement – extend Strossen 90 – speech codes are used to shut down minority voices – the Michigan college and the entirety of Britain proves. Additionally, it proves that speech codes don’t actually solve oppression so only aff has offense.

#### martyrdom – extend Strossen 2k – speech restrictions empower the speech they attempt to stifle by turning people into free speech martyrs which is a free commercial for their cause

### Counterspeech

## A2 Turns

### A2 Wisconsin (Holduik)

#### This card is atrocious – only says that speech codes didn’t restrict flow of ideas, which none of the AFF is about. Also, just says that speech codes were used to restrict racial epithets, but doesn’t make judgments on what those were or whether there was deterrence or not.

### A2 FBI Study (Delgado)

#### The FBI study just says hate crimes are committed at the same rate by black people and white people, but doesn’t provide empirics on the claim that enforcement was equal. This card is also from ‘94, so I outweigh on recency.

### A2 Counterspeech Bad (Delgado)

#### Calleros directly answers this – counterspeech is about the community coming together, not about forcing black people to go get shot. I also outweigh on empirics since Calleros cites Stanford and Arizona as empirical examples.

### A2 History (Delgado)

#### Link turn – says that 1st amendment rights were applied unequally, which the AFF resolves. Independently, speech codes probably would have shut MLK and Malcolm X up.

#### No impact either articulated to this argument either.

### A2 Fire (Codes fought in court)

#### Doesn’t resolve any of the AFF offense. Also, proves all neg args are non-unique and there’s a net benefit of voting AFF to avoid the cost of those lawsuits.

### A2 Fang (Minorities suppressed)

#### Link turn – this says minorities are afraid they will violate some rule while using free speech, which the AFF resolves and this proves reverse enforcement.

### A2 Ross (Blackface)

#### Aff outweighs – this card is about Halloween costumes. Also, all of the free speech martyr stuff link turns this argument.

### A2 Dropouts (Wilkerson)

#### Counterspeech solves – administrations can support counterspeech which Calleros proves empirically. If it’s a question of perception, then the case solves the impact.

### A2 Victim Blaming (Johnson)

#### Counterspeech doesn’t put the onus on the survivors – the community does it, which is Calleros.

### A2 Facism (Anarchist Library)

#### This card talks about fascists limiting the free speech of dissenters, which means this is an AFF harm card.

## A2 Phil Warrants

I didn’t really go for oppression first v fw debaters a lot because they would over cover it from the 1ac and then I would just go for actual consequentialism warrants versus whatever NC

### A2 Oppression Complex

#### Omitted

### A2 Wood

ommited

### A2 Chesterton

ommitted

### A2 Inevitable

ommitteed

# Frontlines – NC

## Generic Stuff

### NIBs Bad

#### NIBs are unfair – they skew reciprocal burdens because the neg can win by winning one of their burdens and I have to meet both burdens in order to win, which doubles time skew. Reciprocity is the definition of fairness so it outweighs. Voter and drop the debater were conceded.

#### Multiple NIBs are unfair – the skew reciprocal burdens because they can win on multiple layers individually while I have to beat back all of them – more than one NIB explodes time skew because they become blippy no risk issues that the neg reads with impunity. Reciprocity is the definition of fairness so it outweighs. Voter and drop the debater were conceded.

## A2 Hobbes NC

### a2 fwk

#### ommitted

### a2 offense

#### 1 – the sovereign being able to do anything isn’t offense – it’s a reason to presume aff because the sovereign isn’t denied from doing the aff.

#### 2 – the sovereign can’t function unless speech is free. Varden 10:

**brackets for gendered language** Helga, Associate professor of philosophy, associate professor of gender studies at the University of Illinois. Varden’s main research interests are in legal, political, and feminist philosophy, with an emphasis on the Kantian and the Lockean traditions. She has published on a range of classical philosophical issues, currently the co-president for the Society for the Philosophy of Sex and Love and the Vice-President of the North American Kant Society. “A Kantian Conception of Free Speech” 2010. SA-IB

There is clear textual support that Kant provides the kind of twofold defense of free speech argued here, namely that communication of thought does not typically involve private wrongdoing and that the state must protect free speech in order to function as a representative authority. To outlaw free speech, Kant argues in the essay “What is Enlightenment?”, is to “renounce enlightenment… [and] to violate the sacred right of humanity and trample it underfoot” (8: 39). Outlawing free speech is not only stupid, since it makes enlightenment or governance through reason impossible [and], but it involves denying people their right of humanity. Their right of humanity is denied by outlawing free speech, because such legislation involves using coercion against the citizens even when their speech does not deprive anyone of what is theirs. Moreover, outlawing free speech evidences a government “which misunderstands itself” (8: 41). Similarly, Kant argues both in this text and in “Theory and Practice” that such legislation expresses sheer irrational behavior on the part of a government. “[F]reedom of the pen”, Kant writes in the latter essay, is the sole palladium of the people’s rights. For to want to deny them this freedom is not only tantamount to taking from them any claim to a right with respect to the supreme commander (according to Hobbes), but is also to withhold from the latter – whose will gives order to the subjects as citizens only by representing the general will of the people – all knowledge of matters that he himself would change if he knew about them and to put him in contradiction with himself…. (8: 304, cf. 8: 39f) Free speech is seen as the ultimate safeguard or protection of the people’s rights. Therefore, a public authority – an authority representing the will of the citizens and yet the will of no one in particular – cannot outlaw free speech, since citizens qua citizens cannot be seen as consenting to it. Such a decree would bring the sovereign ‘in contradiction with [themself] himself’ since it would involve denying the sovereign the vital information it needs in order to act as the representative of the people. In “What is Enlightenment?” Kant expands this point: “[t]he public use of one’s reason must always be free… by the public use of one’s own reason I understand that use which someone makes of it as a scholar before the entire public of the world of readers” (8: 37). Every citizen must have the right to engage truthfully, yet critically in public affairs – to be a scholar – and so to raise her voice and explain why she judges the current public system of laws to be unjust or unfair. If such voices are not raised, the public authority cannot possibly be able to govern wisely; without a public expression of the consequences for right of particular laws, the public authority does not have the information required to secure right for all and so to represent its citizens

#### 3 – turn – forcing colleges to remove their speech codes allows the sovereign to exercise control over colleges, which solidifies its power.

## A2 Levinas NC

### A2 FW

#### ommitted

### A2 Contention

#### 1 – turn, speech restrictions totalize all kinds of speech and the aff removes those

#### 2 – aff’s a negative action, so there’s no risk of totalization – the plan doesn’t make assumptions about speech, it removes speech codes

#### 3 – squo means that violating the NC is impossible to avoid so risk of offense on EM and the aff means you affirm

## A2 Kant NC

### A2 FW

#### ommitted

### A2 Contention

#### 1 – hindering a hindrance is good, and they’ve conceded most of the advantage so getting rid of speech codes are hindering a hindrance.

#### 2 – in order to win their offense, they have to prove that a speech codes only restricts speech that directly violates freedom, but all the case arguments prove that speech codes restrict stuff that doesn’t violate the NC, so speech codes violate freedom – that’s a turn.

#### 3 – they need to win that every instance of what qualified as seditious/hate speech under speech codes directly violates freedom, which is impossible, so you vote aff.

#### 4 – turn – even if you win that some speech is bad, the sovereign cannot restrict it – this outweighs because it appeals to Kant’s political philosophy. Varden 10:

**brackets for gendered language** Helga, Associate professor of philosophy, associate professor of gender studies at the University of Illinois. Varden’s main research interests are in legal, political, and feminist philosophy, with an emphasis on the Kantian and the Lockean traditions. She has published on a range of classical philosophical issues, currently the co-president for the Society for the Philosophy of Sex and Love and the Vice-President of the North American Kant Society. “A Kantian Conception of Free Speech” 2010. SA-IB

There is clear textual support that Kant provides the kind of twofold defense of free speech argued here, namely that communication of thought does not typically involve private wrongdoing and that the state must protect free speech in order to function as a representative authority. To outlaw free speech, Kant argues in the essay “What is Enlightenment?”, is to “renounce enlightenment… [and] to violate the sacred right of humanity and trample it underfoot” (8: 39). Outlawing free speech is not only stupid, since it makes enlightenment or governance through reason impossible [and], but it involves denying people their right of humanity. Their right of humanity is denied by outlawing free speech, because such legislation involves using coercion against the citizens even when their speech does not deprive anyone of what is theirs. Moreover, outlawing free speech evidences a government “which misunderstands itself” (8: 41). Similarly, Kant argues both in this text and in “Theory and Practice” that such legislation expresses sheer irrational behavior on the part of a government. “[F]reedom of the pen”, Kant writes in the latter essay, is the sole palladium of the people’s rights. For to want to deny them this freedom is not only tantamount to taking from them any claim to a right with respect to the supreme commander (according to Hobbes), but is also to withhold from the latter – whose will gives order to the subjects as citizens only by representing the general will of the people – all knowledge of matters that he himself would change if he knew about them and to put him in contradiction with himself…. (8: 304, cf. 8: 39f) Free speech is seen as the ultimate safeguard or protection of the people’s rights. Therefore, a public authority – an authority representing the will of the citizens and yet the will of no one in particular – cannot outlaw free speech, since citizens qua citizens cannot be seen as consenting to it. Such a decree would bring the sovereign ‘in contradiction with [themself] himself’ since it would involve denying the sovereign the vital information it needs in order to act as the representative of the people. In “What is Enlightenment?” Kant expands this point: “[t]he public use of one’s reason must always be free… by the public use of one’s own reason I understand that use which someone makes of it as a scholar before the entire public of the world of readers” (8: 37). Every citizen must have the right to engage truthfully, yet critically in public affairs – to be a scholar – and so to raise her voice and explain why she judges the current public system of laws to be unjust or unfair. If such voices are not raised, the public authority cannot possibly be able to govern wisely; without a public expression of the consequences for right of particular laws, the public authority does not have the information required to secure right for all and so to represent its citizens

#### 5 – reverse enforcement directly turns the hate speech argument because it proves that a harm intrinsic to speech codes literally puts minorities in a worse position.

#### 6 – Varden’s hate speech argument is the definition of aggregation – she says that we need to restrict someone’s freedom now in order to compensate for past violations of freedom.

#### 7 – status quo also violates the NC, which is terminal defense and a risk of offense means you affirm.

## a2 virtue nc

omitted

## a2 skep nc

### 1AR – skep

#### ommitted

### 1AR – Skep K

omitted

## a2 i-law nc

omitted

## a2 god nc

omitted

# Frontlines – K

## General K Stuff

### Bleiker – Method Pluralism

omitted

### Cochran – Prior Questions

omitted

### Zanotti – Heuristic

ommitted

## A2 Afropess K

### 1AR – Afropess K

omitted

### link turns

### evans

### negrophilia v non-black debaters

## A2 Cap K

### 1AR – Cap Good

#### omitted

### link turns

## A2 Constitution K

### 1AR – Constitution K

#### 1] The neg links comparatively harder – they attempt to use a static definition of the constitution to restrict certain forms of free speech. The AFF says ‘screw it’ to attempt to define the constitution and just removes prohibitions, while the NEG attempts to define protected speech and embrace legal restrictions.

#### 2] No link – I don’t really put the constitution on a pedestal, its just that the constitution is the only existing metric for free speech and the AFF is important to talk about.

### Impact turns

Constitution good lol

Omitted

## A2 Hate Speech K

### 1AR – Hate Speech K

#### Their link is premised on some silly idea that I don’t condemn hate speech, which is nonsense – I definitely do. Strossen explicitly acknowledges the effect of hate speech. My argument is about how state control of speech is worse. Wizner says that hate speech may be bad, but relying on the state to curtail the right speech is bad because the state won’t pick the speech you want.

# Frontlines – CP

## A2 Generic PICs

### Perm Overview

#### The PIC is a reasonable TPM –it’s not competitive. **Lukianoff 14**

(Lukianoff, Greg. Unlearning Liberty: Campus Censorship and the End of American Debate)

Of course, some kinds of speech are unprotected even under our First Amendment, including child pornography, obscenity (meaning hard-core pornography, not simple swear words), and libel. However, the Supreme Court takes special pains to limit these restrictions to a handful of narrow categories in order to protect as much speech as possible and is hesitant to create new exceptions. Also, **state officials**, including administrators at public colleges, **have the power to place reasonable “time, place, and manner” guidelines on some speech as long as it is done in a “content neutral” way**. So **a college is within its rights to stop a protest that is substantially disrupting the university**. For example, **nothing prevents colleges from stopping student takeovers of administrative buildings, from kicking a disruptive student out of class, or from punishing students for trying to disrupt a speech.** (Throughout this book, you will see administrators exploit even that humble power beyond recognition.)(19)

### Case Cross-Apps

#### – cross-apply Strossen 90 – the speech code gets abused against minorities and the white perpetrators get away with it – Michigan and Britain prove. Also, empirics prove speech codes aren’t enforced in general and don’t deter speech.

#### – cross-apply Strossen 2k – speech codes turn people into free speech martyrs which makes that speech more virulent, which turns the net benefit.

#### – cross-apply Wizner 12 – the state gets to define \_\_\_\_ which means they can abuse the CP. Independently, proves spillover because the CP gives the state the authority to limit speech, which the state will abuse.

#### – cross-apply Calleros 95 – counterspeech solves the impact better than the CP, which encourages the community comes together.

#### – cross-apply Calleros 2 – state suppression fractures the community and prevents coalitions, which is net worse than the CP’s harm.

#### – cross-apply New 15 – FIRE will keep suing schools, which proves rollback – which means the CP is the same as the AFF. However, the net benefit of avoiding settlements means you affirm.

### Precedent Theory

#### A] Interpretation: Debaters reading arguments about constitutional precedent as basis for competition must allow contestation of the basis behind that precedent as answers to that competition.

#### B] Violation: If I prove \_\_\_ *shouldn’t* be protected under the constitution, the PIC still competes because the Court has currently ruled \_\_\_ is protected.

#### C] Standards:

#### 1] Reciprocity and Ground – their competition model is the “is-ought” fallacy – they get to argue for one form of constitutional precedent, I should be able to argue why the perm would be consistent with the constitution in theory. \_\_\_’s constitutionality is in dispute, but they have the recency ground – I need to be able to contest why the constitution doesn’t mean that \_\_\_ is protected. Their interp kills perm ground on this topic because there are infinite PICs and I need to be able to make arguments.

#### 2] Real World Education – instead of just listening to authorities, we can actually make our own arguments and readings of the founding documents which encourages critical investigation on what kind of laws the U.S. should pass. Key to education-ensures we fully learn and understand the constitution.

### Time suck

#### omitted

condo

condo pic

pic

dispo

solvency advocate

## A2 Hate Speech PIC

### 1AR – Hate Speech PIC

#### First, non-unique, no solvency, and turn – restricting speech will be used against students of color – only the AFF can solve. Friedersdorf 15:

Conor, staff writer at The Atlantic, where he focuses on politics and national affairs. He lives in Venice, California, and is the founding editor of The Best of Journalism, a newsletter devoted to exceptional nonfiction. “Free Speech Is No Diversion” The Atlantic, November 12, 2015. http://www.theatlantic.com/politics/archive/2015/11/race-and-the-anti-free-speech-diversion/415254/ IB

In January of 1987, flyers distributed anonymously at the University of Michigan declared “open season” on black people, referring to them with the most disgusting racial slurs. “Shortly thereafter,” Catherine B. Johnson noted in a law journal article, “a student disc jockey for the campus radio station allowed racist jokes to be told on-air. In response to these incidents, students at the University staged a demonstration to voice their opposition. The rally, however, was interrupted by the display of a Ku Klux Klan uniform dangling out of a nearby dormitory window.” Students in Ann Arbor were understandably upset and outraged by the racist climate created by these events. Administrators decided to respond by implementing a speech code. Thereafter, racist incidents kept occurring on campus at the same rate as before. And before the speech code was struck down 18 months later as a violation of the First Amendment, white students had charged black students with offensive speech in 20 cases. One “resulted in the punishment of a black student for using the term ‘white trash’ in conversation with a white student,” the ACLU later reported, explaining its position that “speech codes don't really serve the interests of persecuted groups. The First Amendment does.”

#### Second, turn – censorship encourages hate groups and adds fuel to the flame – placing your trust to prevent violence in oppressive institutions is silly. Only the AFF method of free speech can solve – that’s Strossen 2k. \*\*Directly responds to Delgado and Yun\*\*

#### Third, turn – the government can never have the authority to restrict speech because they’ll use that authority against you. Means the CP can’t solve AND that they authority the CP grants colleges will be abused – that’s Wizner 12.

## A2 Racial Insults PIC

### Case-Cross Apps

#### – cross-apply Strossen 90 – the speech code gets abused against minorities and the white perpetrators get away with it – Michigan and Britain prove. Also, empirics prove speech codes aren’t enforced in general and don’t deter speech.

#### – cross-apply Strossen 2k – speech codes turn people into free speech martyrs which makes that speech more virulent, which turns the net benefit.

#### – cross-apply Wizner 12 – the state gets to define \_\_\_\_ which means they can abuse the CP. Independently, proves spillover because the CP gives the state the authority to limit speech, which the state will abuse.

#### – cross-apply Calleros 95 – counterspeech solves the impact better than the CP, which encourages the community comes together.

#### – cross-apply Calleros 2 – state suppression fractures the community and prevents coalitions, which is net worse than the CP’s harm.

#### – cross-apply New 15 – FIRE will keep suing schools, which proves rollback – which means the CP is the same as the AFF. However, the net benefit of avoiding settlements means you affirm.

### A2 Greenhill Insults PIC

#### A2 Byrne

#### 1 – doesn’t solve the aff because the aff doesn’t say discourse is great, just that speech codes are bad

#### A2 Delgado – Impacts

#### 1 – actual harassment codes that don’t restrict speech solve for the forms of racial insults that cause these harms.

#### 2 – alt causes exist to all the impacts so don’t let them claim some large impact in the 2N.

#### A2 Delgado – Solvency

#### 1 – you highlighted the warrant out of this card, it literally has a sentence that’s highlighted that just asserts legal action is good. All the rest of the card is just impact extrapolation.

#### 2 – this deterrence argument is hypothetical – Strossen is empirical and so is all of the free speech martyr stuff, so you err aff.

## A2 Revenge Porn

### 1AR – Revenge Porn PIC

#### Revenge porn isn’t protected – it’s a malicious invasion of privacy. The reason you have your competition is because the 1st amendment struck down a revenge porn law that was too broad and lead to government censorship. Bragg 15:

Michael, writer at the Student Press Law Center. “Nudes you can use: What happens when college news organizations choose to bare it all?” March 17, 2015. Student Press Law Center. NOTE – [this article discusses the basis for the ruling that establishes the PIC’s competition. The ruling about revenge porn being protected didn’t say RP was protected, it said the RP law that Arizona passed harmed protected speech because it was too broad] http://www.splc.org/article/2015/03/nudes-you-can-use# SA-IB

But the broad language that accompanies many of the laws could have unintended consequences to free speech, said Lee Rowland, a staff attorney at the American Civil Liberties Union, which has been tracking this legislation since 2013. “The laws were drafted very broadly without really narrowly focusing in on the malicious and harmful conduct that is commonly understood as revenge porn, and the consequence of that broad language was that many of these laws, whether intentionally or otherwise, criminalize the sharing of protected speech,” Rowland said. “So they didn’t focus in on malicious invasions of privacy, but rather placed broad restraints on the sharing of nudity, and that’s fully protected by the First Amendment.” Arizona’s revenge porn legislation, for instance, was so broadly written that it criminalizes sharing or publishing any image with nudity in it without consent of the subject, Rowland said. Publishing newsworthy images — in a newspaper, book or in any other form of distribution — such as the “Napalm Girl,” the naked prisoners at Abu Ghraib and even former U.S. Rep. Anthony Weiner’s indecent photos of himself that he sent to women, could be in violation of Arizona’s law because those subjects have not explicitly given their consent for the image to be published, Rowland said.

Implications – they’re in a double bind, a) their PIC’s revenge porn ban is specific enough to not link, which means they have no competition or b) they open up massive government crackdown on images the world needs to see, ie, prisoners at Abu Grahib.

#### Perm do the CP – its justified because the 1NC stole a lot of the AFF so I get to reciprocally steal part of the neg. Reciprocity comes first because its by definition fairness.

#### CP is not competitive – 34 states and DC have revenge porn laws that haven’t been struck down. Permutation solves your offense. Cyber Civil Rights Initiative ((https://www.cybercivilrights.org/revenge-porn-laws/))

#### CP can’t solve – colleges don’t restrict revenge porn; legal criminalization does which means colleges restricting it does nothing.

### Binary K

#### Evaluate representations before everything else – as a judge, you should embrace the teachable moment and reject oppressive discourse. Vincent 13:

Christopher, debate coach, former college NDT debater. “Re-Conceptualizing Our Performances: Accountability In Lincoln Douglas Debate” 2013. SA-IB

Again for debaters of color, their performance is always attached to their body[,] which is why it is important that the performance be viewed in relation to the speech act. Whites are allowed to take for granted the impact their words have on the bodies in the space. They take for granted this notion of personhood and ignore the concerns of those who do not matter **divorced from the flow.** It is never a question of “should we make arguments divorced from our ideologies,” it is a question of is it even possible. It is my argument that our performances, regardless of what justification we provide, are always a reflection of the ideologies we hold. Why should a black debater have to use a utilitarian calculus just to win a round, when that same discourse justifies violence in the community they go back home to? Our performances and our decisions in the round, reflect the beliefs that we hold[.] when we go back to our communities. As a community we must re-conceptualize this distinction the performance by the body and of the body by re-evaluating the role of the speech and the speech act. It is no longer enough for judges to vote off of the flow anymore. Students of color are being held to a higher threshold to better articulate why racism is bad, which is the problem in a space that we deem to be educational. It is here where I shift my focus to a solution. Debaters must be held accountable for the words they say in the round. We should no longer evaluate the speech. Instead we must begin to evaluate the speech act itself. Debaters must be held accountable for more than winning the debate. They must be held accountable for the implications of that speech. As educators and adjudicators in the debate space we also have an ethical obligation to foster an atmosphere of education. It is not enough for judges to offer predispositions suggesting that they do not endorse racist, sexist, homophobic discourse, or justify why they do not hold that belief, and still offer a rational reason why they voted for it. Judges have become complacent in voting on the discourse, if the other debater does not provide a clear enough role of the ballot framing, or does not articulate well enough why the racist discourse should be rejected. Judges must be willing to foster a learning atmosphere by holding debaters accountable[.] for what they say in the round. They must be willing to vote against a debater if they endorse racist discourse. They must be willing to disrupt the process of the flow for the purpose of embracing that teachable moment. The speech must be connected to the speech act. We must view the entire debate as a performance of the body, instead of the argument solely on the flow**.** Likewise, judges must be held accountable for what they vote for in the debate space. If a judge is comfortable enough to vote for discourse that is racist, sexist, or homophobic, they must also be prepared to defend their actions. We as a community do not live in a vacuum[.] and do not live isolated from the larger society. That means that judges must defend their actions to the debaters, their coaches, and to the other judges in the room if it is a panel. Students of color should not have the burden of articulating why racist discourse must be rejected, but should have the assurance that the educator with the ballot will protect them in those moments. Until we re-conceptualize the speech and the speech act, and until judges are comfortable enough to vote down debaters for a performance that perpetuates violence in the debate space, debaters and coaches alike will remain complacent in their privilege. As educators we must begin to shift the paradigm and be comfortable doing this. As a community we should stop looking at ourselves as isolated in a vacuum and recognize that the discourse and knowledge we produce in debate has real implications for how we think when we leave this space. Our performances must be viewed as of the body instead of just by it. As long as we continue to operate in a world where our performances are merely by bodies, we will continue to foster a climate of hostility and violence towards students of color, and in turn destroy the transformative potential this community could have.

#### Their view of harassment props up a gender binary in which straight women are seen as the only legitimate survivors of harassment. Shwayder 13:

Maya, journalist based in New York City. She has written for Gawker, DNAinfo New York, and The Jerusalem Post. “A Same-Sex Domestic Violence Epidemic Is Silent” The Atlantic. November 05, 2013. http://www.theatlantic.com/health/archive/2013/11/a-same-sex-domestic-violence-epidemic-is-silent/281131/ **brackets for offensive language** SA-IB

Yejin Lee, an associate at the Anti-Violence Program in New York City, said that the assumption of heterosexuality has been a huge stumbling block for [LGBTQ+] gays and lesbians seeking refuge from an abuser. "One problem is the way [IPV] domestic violence has been framed for the past 30 years," she said. Since the entire movement against domestic abuse started as a battered women's movement, Lee said, we are ingrained to think that [survivors] victims are all are married, straight women. As a mental health counselor with the Violence Recovery Program in Boston, Jessica Newman says that because the default assumption is that people are straight, there can be an attitude within shelters that a gay person somehow “deserved” the violence. "Same-sex relationships are often demonized or marginalized," she said, "So some people's attitudes are 'it serves you right.'" But Newman, Lee, and Valentine all added that there are also internal factors that keep a cover of darkness over the issue of domestic violence in the gay community. "There can be a fear of making the community look bad," said Newman. "Some people might have a real and legitimate fear of being looked down on, or not finding services through the police, judicial system, or a shelter. People don't want that negative image of the community out there." Valentine added, "There's the idea that we'll be airing dirty laundry. It sort of discredits the community to say that abuse is happening, after all the work we've been doing [to enter mainstream society]. There's the feeling that we don't want to attach something additionally bad to us, so it's not talked about." Sitting in a small restaurant near Madison Square Garden, Chris mulled over his past. "I know gay couples in the Bronx who beat the shit out of each other," he said. "The weird thing is, it's like fighting with your brother. You're going at each other, and you're not taking it seriously, and you don't think of it as a problem, it's just the fabric of your relationship. But you don't realize it's a piece of fabric you can cut out." Raised in a conservative, military family, with a history of sexual abuse running on both sides, Chris said he always felt like the odd one out growing up. "I was raised to tolerate what was dished out," he remembered. "It was just dysfunctional. I grew up with a closeted uncle who died of AIDS and a mother who hit my father, who would then turn around and hit us." Chris moved from Chicago to New York when he was 21 so that he could live life as an out gay man, he said. "I had a full time job, full time benefits, and my own apartment," he said. "That didn't last." Chris met José at a lounge in Washington Heights in late September 2004, and for him, it was love at first sight. "I saw his eyes, the way he dressed," he said. "He made me feel secure. He was a husky guy. My ideal: a masculine Latino." A honeymoon period ensued and within three months the two were living together. Chris said he doted on José, alienating friends and family in the process. But the honeymoon period ended soon after José moved in. He started taking over everything in Chris's life. "It started with verbal abuse," Chris said. "Little things: put downs about the apartment, about me, and then it turned into everything. He wasn't happy with anything." "I grew up self-conscious. I was made to feel inferior at school and at home," Chris continued. "And I just lost all the self-esteem that I had found when I came here and came out. I'm smart! I graduated from college, I've won awards. And he just made me feel like so much less than I was. [But] the less happy he was, the more I would try to fix things." Chris sensed José wasn't happy, but it never occurred to him that the relationship had turned bad, or would soon turn physically violent. "I didn't tell anybody [about the violence in the relationship],” Chris said. “I didn't want to! They're just going to tell you what you don't want to hear." The summer after José moved in, after those first incidents of violence, Chris was mugged on the street outside their apartment. The thief punched him in the nose, but when Chris went to run after him, José grabbed his arm and stopped him. "He wouldn't let me call the cops," recalled Chris. "José didn't have legal papers to be in the U.S. and he was scared of what might happen." Furious, traumatized, and gushing blood, Chris turned around and backhanded José on the street. The two stood looking at each other. Chris remembers this as the moment when the relationship truly began to go downhill. "I didn't think about leaving until that moment," he said. "It got to the point where I was crying in public. I was crying at work. I couldn't speak my feelings." The very last time José turned violent was close to the end of their relationship. "He was always on the phone a lot," Chris said. "So one time I reached for his phone to go through it and see who he was talking to, and he just grabbed my wrist and twisted." By this point, Chris remembers, José was out all the time and coming home late, or not coming home at all. In August of 2005, Chris kept a promise to himself. "I told him, 'I can't count on these fingers how many times you've lied,'" Chris said, spreading all ten fingers out on the table in front of him. "And I promised myself once I couldn't count your lies on these fingers, it would be over.'" That night, Chris went out without José. "I told myself if I could kiss someone else, then I didn't really love him. Well, I kissed someone else, and I went home and told him to move out." Data on the rates of same-sex partner abuse have only become available in recent years. Even today, many of the statistics and materials on domestic violence put out by organizations like the Center for Disease Control and the Department of Justice still focus exclusively on heterosexual relationships, and specifically heterosexual women. While the CDC does provide some resources on its website for the LGBT population, the vast majority of the information is targeted at women. Materials provided by the CDC for violence prevention and survivor empowerment prominently feature women in their statistics and photographs. In 2013, the CDC released the results of a 2010 study on victimization by sexual orientation, and admitted that “little is known about the national prevalence of intimate partner violence, sexual violence, and stalking among [LGBTQ+ people] lesbian, gay, and bisexual women and men in the United States.” The report found that bisexual women had an overwhelming prevalence of violent partners in their lives: 75 percent had been with a violent partner, as opposed to 46 percent of lesbian women and 43 percent of straight women. For bisexual men, that number was 47 percent. For gay men, it was 40 percent, and 21 percent for straight men. The most recent statistics available on same-sex intimate partner violence from the National Coalition of Anti-Violence Programs, which focuses on LGBT relationships, reported 21 incidents of intimate partner homicides in the LGBT community, the highest ever. Nearly half of them were gay men and, for the second year in a row, the majority of survivors were people of color—62 percent. In 2012, NCAVP programs around the country received 2,679 reports of intimate partner violence, a decrease of around 32 percent from 2011. However the report noted that many of the NCAVP’s member organizations were operating at decreased capacity due to limiting the number of cases they were able to take. The report said that excluding data from organizations, there was actually a 29 percent increase in reports of violence from 2011 to 2012. "Statistics are very controversial," wrote Curt Rogers, executive director of the Gay Men's Domestic Violence Program, in an email. "And it's possible that men are underreported. The bottom line for me [is that] it happens to men, period, so we should be inclusive in our approach and not marginalize the male victim population." Valentine, from The Network/La Red, said that in his experience, the rates of violence in the LGBTQ community seem comparable to those in the straight community. "The rate of domestic violence that has been documented is one in four women, and it's pretty much the same for LGBTQ folks," he said. "Reporting can be really difficult, and historically we [LGBTQ people] have not had a very good relationship with police and law enforcement, so folks may not be reporting it." In any case, he continued, the police might not believe the victims when they call, the attitude often being, "You're both men, work it out between yourselves," or, "Women aren't violent; they don't hit each other." Indeed, according to the NCAVP report, only 16.5 percent of survivors reported interacting with the police, but in one-third of those cases, the survivor was arrested instead of the abuser. A mere 3.7 percent of survivors reported seeking access to shelters. "We need to change the way we look at [IPV] domestic violence," Rogers said. "I don't see it in any way as a gender issue. I see it as a power and a control issue."

#### It happens in non-traditional relationships and to men as well. Abdul-Alim 16:

Jamaal, a freelance journalist and a Washington correspondent for Diverse Issues in Higher Education. His articles have appeared in Education Week, Washington Monthly, and U.S. News & World Report. Abdul-Alim plans to explore the impact of various efforts to hold teacher preparation programs more accountable for student achievement. “Colleges may get Help Fighting ‘Revenge Porn’” October 03, 2016. Diverse, Issues in Higher Education. http://diverseeducation.com/article/87594/ SA-IB

Similar things have happened at colleges and universities in recent years.For example, Tyler Clementi, an 18-year-old Rutgers University freshman, leapt to his death after a roommate used a webcam to live broadcast Clementi on social media having sex in his dorm with another man. The roommate, Dharun Ravi, served 20 days in jail on various charges and was ordered to pay $10,000 to a program to help victims of hate crimes. However, his conviction was overturned last month due to a change in state law. Last year, Penn State banned Kappa Delta Rho fraternity for three years after it surfaced that members of the fraternity had been using an invitation-only Facebook page to post photos of nude women who were passed out. Congresswoman Speier said the Internet has become a “new age sewage pipeline carrying the worst material imaginable in endless quantities.” “As social media proliferates, so do the opportunities to destroy people’s lives,” Speier said at Friday’s discussion on The Hill. “Young people are committing suicide because of their images being distributed without their consent.” While the majority of states have passed various types of anti-revenge porn laws, Speier said the “patchwork” of state laws — some of which only target those who are motivated by a desire to harass the victim — creates great uncertainty for victims. “If passed, this bill will punish individuals and websites that knowingly post private, intimate materials while also providing a safe harbor for websites that don’t advertise or solicit such content,” Speier said. Speier said her proposed revenge porn law has been reviewed by 12 constitutional scholars who have all refuted concerns that the law would violate free speech. Among the scholars who back the bill are University of Miami law professor Mary Anne Franks. “A federal criminal law is necessary not only to provide a single, clear articulation of the relevant elements of the crime, but also to signal society’s acknowledgement and condemnation of this serious wrongdoing,” Franks, who helped draft the bill, has written. Under the bill, perpetrators who post images of a person who is naked or engaged in sex could be fined or imprisoned for up to five years if they did so without the person’s consent. Carrie Goldberg, a Brooklyn-based attorney who represents victims of revenge porn, said 90 percent of the victims are women and range in age from 13 to 65. She said having one’s naked images published online can do irreparable harm. “At this point in time no one can get a job, date or even a roommate without being Googled,” Goldberg said. “How would you feel if the first five pages of your results were images of you fully exposed and images you never wanted anyone to see?” Goldberg said revenge porn on campus is becoming more common and said her firm is handling one such case but that she could not disclose the particulars. She criticized authorities who handled the Penn State case because although Pennsylvania has a revenge porn law, it was not applied against the Kappa Delta Rho fraternity because of apparent lack of intent.

#### Impact calc –

#### 1] The K is an indict of their argument choice and defending that norm. That’s not something you can sever out of and it’s the biggest out-of-round impact.

#### 2] Going for no impact or severance is a new link – they’re trying to distance the round from their oppressive discourse.

#### 3] The K comes first because our performance affects the way we engage in other layers. Fiat is illusory, but our discourse is real.

### Binary K v Brentwood

#### Evaluate representations before everything else – as a judge, you should embrace the teachable moment and reject oppressive discourse. Vincent 13:

Christopher, debate coach, former college NDT debater. “Re-Conceptualizing Our Performances: Accountability In Lincoln Douglas Debate” 2013. SA-IB

Again for debaters of color, their performance is always attached to their body[,] which is why it is important that the performance be viewed in relation to the speech act. Whites are allowed to take for granted the impact their words have on the bodies in the space. They take for granted this notion of personhood and ignore the concerns of those who do not matter **divorced from the flow.** It is never a question of “should we make arguments divorced from our ideologies,” it is a question of is it even possible. It is my argument that our performances, regardless of what justification we provide, are always a reflection of the ideologies we hold. Why should a black debater have to use a utilitarian calculus just to win a round, when that same discourse justifies violence in the community they go back home to? Our performances and our decisions in the round, reflect the beliefs that we hold[.] when we go back to our communities. As a community we must re-conceptualize this distinction the performance by the body and of the body by re-evaluating the role of the speech and the speech act. It is no longer enough for judges to vote off of the flow anymore. Students of color are being held to a higher threshold to better articulate why racism is bad, which is the problem in a space that we deem to be educational. It is here where I shift my focus to a solution. Debaters must be held accountable for the words they say in the round. We should no longer evaluate the speech. Instead we must begin to evaluate the speech act itself. Debaters must be held accountable for more than winning the debate. They must be held accountable for the implications of that speech. As educators and adjudicators in the debate space we also have an ethical obligation to foster an atmosphere of education. It is not enough for judges to offer predispositions suggesting that they do not endorse racist, sexist, homophobic discourse, or justify why they do not hold that belief, and still offer a rational reason why they voted for it. Judges have become complacent in voting on the discourse, if the other debater does not provide a clear enough role of the ballot framing, or does not articulate well enough why the racist discourse should be rejected. Judges must be willing to foster a learning atmosphere by holding debaters accountable[.] for what they say in the round. They must be willing to vote against a debater if they endorse racist discourse. They must be willing to disrupt the process of the flow for the purpose of embracing that teachable moment. The speech must be connected to the speech act. We must view the entire debate as a performance of the body, instead of the argument solely on the flow**.** Likewise, judges must be held accountable for what they vote for in the debate space. If a judge is comfortable enough to vote for discourse that is racist, sexist, or homophobic, they must also be prepared to defend their actions. We as a community do not live in a vacuum[.] and do not live isolated from the larger society. That means that judges must defend their actions to the debaters, their coaches, and to the other judges in the room if it is a panel. Students of color should not have the burden of articulating why racist discourse must be rejected, but should have the assurance that the educator with the ballot will protect them in those moments. Until we re-conceptualize the speech and the speech act, and until judges are comfortable enough to vote down debaters for a performance that perpetuates violence in the debate space, debaters and coaches alike will remain complacent in their privilege. As educators we must begin to shift the paradigm and be comfortable doing this. As a community we should stop looking at ourselves as isolated in a vacuum and recognize that the discourse and knowledge we produce in debate has real implications for how we think when we leave this space. Our performances must be viewed as of the body instead of just by it. As long as we continue to operate in a world where our performances are merely by bodies, we will continue to foster a climate of hostility and violence towards students of color, and in turn destroy the transformative potential this community could have.

#### Their view of harassment props up a gender binary in which straight women are seen as the only legitimate survivors of harassment. Shwayder 13:

Maya, journalist based in New York City. She has written for Gawker, DNAinfo New York, and The Jerusalem Post. “A Same-Sex Domestic Violence Epidemic Is Silent” The Atlantic. November 05, 2013. http://www.theatlantic.com/health/archive/2013/11/a-same-sex-domestic-violence-epidemic-is-silent/281131/ **brackets for offensive language** SA-IB

Yejin Lee, an associate at the Anti-Violence Program in New York City, said that the assumption of heterosexuality has been a huge stumbling block for [LGBTQ+] gays and lesbians seeking refuge from an abuser. "One problem is the way [IPV] domestic violence has been framed for the past 30 years," she said. Since the entire movement against domestic abuse started as a battered women's movement, Lee said, we are ingrained to think that [survivors] victims are all are married, straight women. As a mental health counselor with the Violence Recovery Program in Boston, Jessica Newman says that because the default assumption is that people are straight, there can be an attitude within shelters that a gay person somehow “deserved” the violence. "Same-sex relationships are often demonized or marginalized," she said, "So some people's attitudes are 'it serves you right.'" But Newman, Lee, and Valentine all added that there are also internal factors that keep a cover of darkness over the issue of domestic violence in the gay community. "There can be a fear of making the community look bad," said Newman. "Some people might have a real and legitimate fear of being looked down on, or not finding services through the police, judicial system, or a shelter. People don't want that negative image of the community out there." Valentine added, "There's the idea that we'll be airing dirty laundry. It sort of discredits the community to say that abuse is happening, after all the work we've been doing [to enter mainstream society]. There's the feeling that we don't want to attach something additionally bad to us, so it's not talked about." Sitting in a small restaurant near Madison Square Garden, Chris mulled over his past. "I know gay couples in the Bronx who beat the shit out of each other," he said. "The weird thing is, it's like fighting with your brother. You're going at each other, and you're not taking it seriously, and you don't think of it as a problem, it's just the fabric of your relationship. But you don't realize it's a piece of fabric you can cut out." Raised in a conservative, military family, with a history of sexual abuse running on both sides, Chris said he always felt like the odd one out growing up. "I was raised to tolerate what was dished out," he remembered. "It was just dysfunctional. I grew up with a closeted uncle who died of AIDS and a mother who hit my father, who would then turn around and hit us." Chris moved from Chicago to New York when he was 21 so that he could live life as an out gay man, he said. "I had a full time job, full time benefits, and my own apartment," he said. "That didn't last." Chris met José at a lounge in Washington Heights in late September 2004, and for him, it was love at first sight. "I saw his eyes, the way he dressed," he said. "He made me feel secure. He was a husky guy. My ideal: a masculine Latino." A honeymoon period ensued and within three months the two were living together. Chris said he doted on José, alienating friends and family in the process. But the honeymoon period ended soon after José moved in. He started taking over everything in Chris's life. "It started with verbal abuse," Chris said. "Little things: put downs about the apartment, about me, and then it turned into everything. He wasn't happy with anything." "I grew up self-conscious. I was made to feel inferior at school and at home," Chris continued. "And I just lost all the self-esteem that I had found when I came here and came out. I'm smart! I graduated from college, I've won awards. And he just made me feel like so much less than I was. [But] the less happy he was, the more I would try to fix things." Chris sensed José wasn't happy, but it never occurred to him that the relationship had turned bad, or would soon turn physically violent. "I didn't tell anybody [about the violence in the relationship],” Chris said. “I didn't want to! They're just going to tell you what you don't want to hear." The summer after José moved in, after those first incidents of violence, Chris was mugged on the street outside their apartment. The thief punched him in the nose, but when Chris went to run after him, José grabbed his arm and stopped him. "He wouldn't let me call the cops," recalled Chris. "José didn't have legal papers to be in the U.S. and he was scared of what might happen." Furious, traumatized, and gushing blood, Chris turned around and backhanded José on the street. The two stood looking at each other. Chris remembers this as the moment when the relationship truly began to go downhill. "I didn't think about leaving until that moment," he said. "It got to the point where I was crying in public. I was crying at work. I couldn't speak my feelings." The very last time José turned violent was close to the end of their relationship. "He was always on the phone a lot," Chris said. "So one time I reached for his phone to go through it and see who he was talking to, and he just grabbed my wrist and twisted." By this point, Chris remembers, José was out all the time and coming home late, or not coming home at all. In August of 2005, Chris kept a promise to himself. "I told him, 'I can't count on these fingers how many times you've lied,'" Chris said, spreading all ten fingers out on the table in front of him. "And I promised myself once I couldn't count your lies on these fingers, it would be over.'" That night, Chris went out without José. "I told myself if I could kiss someone else, then I didn't really love him. Well, I kissed someone else, and I went home and told him to move out." Data on the rates of same-sex partner abuse have only become available in recent years. Even today, many of the statistics and materials on domestic violence put out by organizations like the Center for Disease Control and the Department of Justice still focus exclusively on heterosexual relationships, and specifically heterosexual women. While the CDC does provide some resources on its website for the LGBT population, the vast majority of the information is targeted at women. Materials provided by the CDC for violence prevention and survivor empowerment prominently feature women in their statistics and photographs. In 2013, the CDC released the results of a 2010 study on victimization by sexual orientation, and admitted that “little is known about the national prevalence of intimate partner violence, sexual violence, and stalking among [LGBTQ+ people] lesbian, gay, and bisexual women and men in the United States.” The report found that bisexual women had an overwhelming prevalence of violent partners in their lives: 75 percent had been with a violent partner, as opposed to 46 percent of lesbian women and 43 percent of straight women. For bisexual men, that number was 47 percent. For gay men, it was 40 percent, and 21 percent for straight men. The most recent statistics available on same-sex intimate partner violence from the National Coalition of Anti-Violence Programs, which focuses on LGBT relationships, reported 21 incidents of intimate partner homicides in the LGBT community, the highest ever. Nearly half of them were gay men and, for the second year in a row, the majority of survivors were people of color—62 percent. In 2012, NCAVP programs around the country received 2,679 reports of intimate partner violence, a decrease of around 32 percent from 2011. However the report noted that many of the NCAVP’s member organizations were operating at decreased capacity due to limiting the number of cases they were able to take. The report said that excluding data from organizations, there was actually a 29 percent increase in reports of violence from 2011 to 2012. "Statistics are very controversial," wrote Curt Rogers, executive director of the Gay Men's Domestic Violence Program, in an email. "And it's possible that men are underreported. The bottom line for me [is that] it happens to men, period, so we should be inclusive in our approach and not marginalize the male victim population." Valentine, from The Network/La Red, said that in his experience, the rates of violence in the LGBTQ community seem comparable to those in the straight community. "The rate of domestic violence that has been documented is one in four women, and it's pretty much the same for LGBTQ folks," he said. "Reporting can be really difficult, and historically we [LGBTQ people] have not had a very good relationship with police and law enforcement, so folks may not be reporting it." In any case, he continued, the police might not believe the victims when they call, the attitude often being, "You're both men, work it out between yourselves," or, "Women aren't violent; they don't hit each other." Indeed, according to the NCAVP report, only 16.5 percent of survivors reported interacting with the police, but in one-third of those cases, the survivor was arrested instead of the abuser. A mere 3.7 percent of survivors reported seeking access to shelters. "We need to change the way we look at [IPV] domestic violence," Rogers said. "I don't see it in any way as a gender issue. I see it as a power and a control issue."

#### It happens in non-traditional relationships and to men as well. Abdul-Alim 16:

Jamaal, a freelance journalist and a Washington correspondent for Diverse Issues in Higher Education. His articles have appeared in Education Week, Washington Monthly, and U.S. News & World Report. Abdul-Alim plans to explore the impact of various efforts to hold teacher preparation programs more accountable for student achievement. “Colleges may get Help Fighting ‘Revenge Porn’” October 03, 2016. Diverse, Issues in Higher Education. http://diverseeducation.com/article/87594/ SA-IB

Similar things have happened at colleges and universities in recent years.For example, Tyler Clementi, an 18-year-old Rutgers University freshman, leapt to his death after a roommate used a webcam to live broadcast Clementi on social media having sex in his dorm with another man. The roommate, Dharun Ravi, served 20 days in jail on various charges and was ordered to pay $10,000 to a program to help victims of hate crimes. However, his conviction was overturned last month due to a change in state law. Last year, Penn State banned Kappa Delta Rho fraternity for three years after it surfaced that members of the fraternity had been using an invitation-only Facebook page to post photos of nude women who were passed out. Congresswoman Speier said the Internet has become a “new age sewage pipeline carrying the worst material imaginable in endless quantities.” “As social media proliferates, so do the opportunities to destroy people’s lives,” Speier said at Friday’s discussion on The Hill. “Young people are committing suicide because of their images being distributed without their consent.” While the majority of states have passed various types of anti-revenge porn laws, Speier said the “patchwork” of state laws — some of which only target those who are motivated by a desire to harass the victim — creates great uncertainty for victims. “If passed, this bill will punish individuals and websites that knowingly post private, intimate materials while also providing a safe harbor for websites that don’t advertise or solicit such content,” Speier said. Speier said her proposed revenge porn law has been reviewed by 12 constitutional scholars who have all refuted concerns that the law would violate free speech. Among the scholars who back the bill are University of Miami law professor Mary Anne Franks. “A federal criminal law is necessary not only to provide a single, clear articulation of the relevant elements of the crime, but also to signal society’s acknowledgement and condemnation of this serious wrongdoing,” Franks, who helped draft the bill, has written. Under the bill, perpetrators who post images of a person who is naked or engaged in sex could be fined or imprisoned for up to five years if they did so without the person’s consent. Carrie Goldberg, a Brooklyn-based attorney who represents victims of revenge porn, said 90 percent of the victims are women and range in age from 13 to 65. She said having one’s naked images published online can do irreparable harm. “At this point in time no one can get a job, date or even a roommate without being Googled,” Goldberg said. “How would you feel if the first five pages of your results were images of you fully exposed and images you never wanted anyone to see?” Goldberg said revenge porn on campus is becoming more common and said her firm is handling one such case but that she could not disclose the particulars. She criticized authorities who handled the Penn State case because although Pennsylvania has a revenge porn law, it was not applied against the Kappa Delta Rho fraternity because of apparent lack of intent.

#### There are three specific links –

#### First, their Rennison and Addington 14 card is only about revenge porn against women.

#### Second, their Filipovic card is literally like “revenge porn only happens to women, men never get abused” – if this card is not a link, I don’t know what is.

#### Third, their Pinar evidence about free speech is also framed against women.

#### Impact calc –

#### 1] The K is an indict of their argument choice and defending that norm. That’s not something you can sever out of and it’s the biggest out-of-round impact.

#### 2] Going for no impact or severance is a new link – they’re trying to distance the round from their oppressive discourse.

#### 3] The K comes first because our performance affects the way we engage in other layers. Fiat is illusory, but our discourse is real.

## A2 Title IX PIC

### 1AR – Title IX PIC

#### 1 – they misunderstand title IX, which requires colleges to investigate instances of harassment and not dismiss which is not mutually exclusive with removing speech codes, which is the plan – permutation do both solves back.

#### 2 – double bind – either the CP is strong enough that it’s not competitive or its too vague and links to the advantage. Hudson 02:

David L, expert in First Amendment issues who writes for firstamendmentcenter.org and for other publications. Hudson teaches law and was a scholar at the First Amendment Center. He is the author or co-author of more than 30 books, including several on the U.S. Supreme Court, the Constitution and student rights. He is a First Amendment contributing editor for the American Bar Association’s Preview of United States Supreme Court Cases. “FREE SPEECH ON PUBLIC COLLEGE CAMPUSES Sexual harassment” September 13, 2002. http://www.firstamendmentcenter.org/sexual-harassment SA-IB

Universities must combat sexual harassment, a pervasive problem in society. Polls have indicated that an alarmingly high number of female students have been subjected to some form of harassment during their college years. But universities also represent unique marketplaces of ideas where the thought of silencing educators’ in-class expression sounds downright repressive. After all, the First Amendment should provide for robust discussion in a university classroom setting. First Amendment advocates assert that many university professors chill their own speech in order to avoid saying anything that might offend students. This, the advocates warn, could lead to a sterile learning environment. Public universities have a legal responsibility to prohibit sexual discrimination in education. A federal law known as Title IX requires such action. 1 Title IX provides that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Under Title IX, Congress can withhold federal funds to universities that allow sexual discrimination in the university setting. This duty to prevent sexual discrimination extends to so-called “hostile environment” harassment. The U.S. Department of Education defines hostile environment discrimination as follows: Hostile environment harassment occurs when unwelcome conduct of a sexual nature is so severe, persistent, or pervasive that it affects a student’s ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening or abusive educational environment. — Office of Civil Rights, “Questions and Answers about Sexual Harassment” Harassment law prohibits severe and pervasive harassment that alters the conditions of the workplace or classroom. Professors who create a hostile learning environment can be subject to discipline under a university sexual harassment policy. But, applying a sexual harassment policy to a professor’s in-class speech raises substantial First Amendment concerns. If the teacher’s speech is not directed at a particular student for sexual favors, the First Amendment concerns loom larger. “If the speech is not repetitive, severe and persistent, then generally it should receive protection,” says University of Pennsylvania history professor Alan Charles Kors. Kors’ colleague at the Foundation for Individual Rights in Education, attorney Harvey A. Silverglate, wrote in a 1999 memorandum: “Title VII workplace law and Title IX education law cannot be interpreted so as to allow, much less require an institution of higher learning to curtail speech anywhere on campus, especially in the classroom which is the cauldron of the educational process. Such laws may be applied to genuine harassment, but not to speech cleverly classified as acts of harassment. If these statutes and regulations were in fact interpreted to apply to pure speech, they would thereby be rendered unconstitutional.” Despite arguments that punishing professors for in-class speech violates the First Amendment, several university professors have faced discipline for violating sexual harassment regulations based on their in-class speech. Many of these cases began in the early 1990s, although it took several years before a federal court ruled in the matters. A few examples follow: Silva v. University of New Hampshire In 1992, several students at the University of New Hampshire accused tenured faculty member and writing instructor Donald Silva of sexual harassment in part because of his comments in class. These allegedly included: “Focus is like sex. You seek a target. You zero in on your subject. You move from side to side. You close in on the subject. You bracket the subject and center on it. Focus connects experience and language. You and the subject become one.” “Belly dancing is like jello on a plate with a vibrator under the plate.” Eight students filed written complaints with the university. The school created another section of the class and 26 students transferred from Silva’s class to the other instructor. University officials reprimanded Silva for violating the school’s sexual harassment policy. He filed a grievance that was denied. The university suspended him without pay. At a formal hearing, a panel found that Silva’s comments “contributed to a hostile academic environment.” The university placed Silva on leave without pay for one year and required him to receive counseling before teaching again. After losing his appeals in the university system Silva sued in federal court, contending that his First Amendment rights were violated. A federal district court sided with Silva. The court focused on the fact that some of Silva’s statements, such as the vibrator statement, were not necessarily sexual. The court also emphasized that the university’s sexual-harassment policy did not prohibit nonsexual verbal conduct. “The court finds that Silva’s classroom statements advanced his valid educational objective of conveying certain principles related to the subject matter of his course,” the court wrote. “The record demonstrates that Silva’s classroom statements were made in a professionally appropriate manner as part of a college class lecture.” The court concluded that the university’s sexual harassment policy “as applied to Silva’s classroom speech is not reasonably related to the legitimate pedagogical purpose of providing a congenial academic environment because it employs an impermissibly subjective standard that fails to take into account the nation’s interest in academic freedom.” Legal commentator Lisa Woodward wrote that “the court’s great deference to academic freedom effectively negated the mandates of Title IX.” However, Kors, president of FIRE, disputes this characterization, calling the prosecution of Silva “beyond belief.” Cohen v. San Bernardino Valley College Dean Cohen taught a remedial English class at San Bernardino Valley College. He used a self-described “confrontational teaching style designed to shock his students and make them think and write about confrontational subjects.” In 1992, he read articles to his class that he had published in Hustler and Playboy magazines. He led classroom discussions on topics such as obscenity, cannibalism and consensual sex with children. After a student complained, the university determined that Cohen had violated the school’s sexual harassment policy. The board of trustees ordered Cohen to warn students ahead of time of his “confrontational style,” attend a sexual harassment seminar, and be cognizant of how his teaching style might affect his students. Cohen sued the school, claiming a violation of his First Amendment rights. A federal district court rejected Cohen’s arguments, finding the sexual harassment policy constitutional. On appeal, the 9th U.S. Circuit Court of Appeals reversed, finding that the policy was “simply too vague as applied to Cohen in this case.” The court reasoned: “Cohen’s speech did not fall within the core region of sexual harassment as defined by the Policy. Instead, officials of the College, on an entirely ad hoc basis, applied the Policy’s nebulous outer reaches to punish teaching methods that Cohen had used for many years.”

#### 3 – permutation do the counterplan, it’s justified because they stole a large portion of the 1AC, so I get to reciprocally steal back some of the 1NC. No moving target arguments for severance because I only shift to what you read in the 1NC, so it’s predictable.

### A2 Funding Impact

#### 1 – federal funding high now. Pew 15:

Pew [Polling and information organization] “Federal and State Funding of Higher Education.” July 2015.

**The federal government is the nation’s largest student lender; it issued $103 billion in loans in 2013.** States, by contrast, provided only $840 million in loans that year, less than 1 percent of the federal amount. Although they must be paid back with interest, federal loans allow students to borrow at lower rates than are available in the private market. **Federal loans grew 376 percent between 1990 and 2013 in real terms**, compared with enrollment growth of 60 percent. These figures represent the volume, rather than the cost, of those loans. The federal government also supports higher education through the tax code. In 2013, it provided $31 billion in tax credits, deductions, exemptions, and exclusions to  offset costs, essentially equal to the $31 billion it spent for Pell Grants. Because these expenditures allow taxpayers to reduce their income taxes, they reduce federal revenue and are similar to direct government spending. **The value of federal tax expenditures for higher education is $29 billion larger than it was in 1990 in real terms**.  Much of the growth coincided with the creation of the American Opportunity Tax Credit (formerly Hope Tax Credit) in 1997 (effective 1998) and its expansion and renaming in 2009. Between 1990 and 2013, the number of FTE students grew by 60 percent.

#### 2 – so many alt causes

### A2 Harassment Impact

#### 1 – title IX is inefficient and not enforced. Thomas 11:

Thomas, Katie [Contributor, The New York Times] “Review Shows Title IX Is Not Significantly Enforced.” The New York Times. July 2011.

In 1998, the University of Southern California was accused of denying its female students a fair chance at participating in sports. **Thirteen years later**, the federal agency charged with investigating sex discrimination in schools has not completed its inquiry of U.S.C. In 2008, the same federal agency, the Office for Civil Rights, came across evidence that Ball State University in Indiana was losing a disproportionate number of women’s coaches. But the agency opted to let Ball State investigate itself. After a two-week inquiry, during which Ball State failed to interview a single coach, the university concluded that there was no evidence that any of the coaches had been unfairly treated or let go. The federal law known as **Title IX** — requiring schools at all levels across the country **to** offer girls and women equal access to athletics — has produced a wealth of progress since it was enacted almost four decades ago. Almost no one disputes that. But scores of **schools**, **year in and year out**, **still fail to abide by the law.** For those schools, **almost no one disputes this**: **There is little chance their shortcomings will ever be investigated**, **and** even if they are, **few will be meaningfully punished.** According to a review by The New York Times, the Office for Civil Rights allows cases of suspected discrimination to drag on for years, long after the affected athletes have graduated. The office — whose staff of 600 full-time employees at its Washington headquarters and 12 regional offices must juggle a variety of cases, including those for disability, age and race discrimination — routinely asks schools to investigate themselves and to develop their own plans for fixing problems. Not surprisingly, the process can lead to further delays and little change.

#### 2 – counterspeech solves back, that’s Calleros 95 – the community can engage in protest or lectures or workshops, which is better than title IX.

#### 3 – cross-apply Strossen, you force survivors to go the institution for help, when the institution most likely doesn’t care.

## A2 Wisconsin

### Perm

#### Big mistake – the code that was declared unconstitutional is NOT the policies that worked – the ones that work are green lighted by FIRE and don’t violate const. speech, which means perm do both. FIRE 17:

https://www.thefire.org/schools/university-of-wisconsin-madison/. “University of Wisconsin” SA-IB. 2017.

Green Light Policies. Prohibited Harassment: Definitions and Rules Governing the Conduct of UW-Madison Faculty and Academic Staff Speech Code Category: Harassment Policies Last updated: June 1, 2016 A member of the university faculty or academic staff is subject to discipline if, in a work or learning-related setting, he or she makes sexual advances, requests sexual favors, or makes physical contacts commonly understood to be of a sexual nature, and if 1.the conduct is unwanted by the person(s) to whom it is directed, and 2.the actor knew or a reasonable person could clearly have understood that the conduct was unwanted, and 3.because of its flagrant or repetitious nature, the conduct either 1.seriously interferes with work or learning performance of the person(s) to whom the conduct was directed, or 2.makes the university work, learning, or service environment intimidating or hostile, or demeaning to a person of average sensibilities. » Read More Dean of Students Office: Bias Reporting Process Speech Code Category: Policies on Bias and Hate Speech Last updated: October 5, 2016 Definition of bias and hate: Single or multiple acts toward an individual, group, or their property that are so severe, pervasive, and objectively offensive that they create an unreasonably intimidating, hostile, or offensive work, learning, or program environment, and that one could reasonably conclude are based upon actual or perceived age, race, color, creed, religion, gender identity or expression, ethnicity, national origin, disability, veteran status, sexual orientation, political affiliation, marital status, spirituality, cultural, socio-economic status, or any combination of these or other related factors. Bias and hate incidents include, but are not limited to the following, when they rise to the level of the standard set forth above: slurs, degrading language, epithets, graffiti, vandalism, intimidation, symbols, and harassment that are directed toward or affect the targeted individual or team. Incidents of bias and hate contribute to a hostile campus environment and can occur even if the act itself is unintentional or delivered as a joke, prank, or having humorous intent. The above definition is used for reporting and statistical purpose only. It carries no independent sanctioning weight or authority. Although the expression of an idea or point of view may be offensive or inflammatory to some, it is not necessarily a violation of law or university policy. The university values and embraces the ideals of freedom of inquiry, freedom of thought, and freedom of expression, all of which must be vitally sustained in a community of scholars. While these freedoms protect controversial ideas and differing views, and sometimes even offensive and hurtful words, they do not protect acts of misconduct that violate criminal law or university policy. » Read More Prohibited Harassment: Definitions and Rules Governing the Conduct of UW-Madison Faculty and Academic Staff Speech Code Category: Advertised Commitments to Free Expression Last updated: June 1, 2016 The University of Wisconsin-Madison endeavors to maintain an environment that challenges students, faculty, and staff to develop their critical thinking capacities to their fullest potential-an environment in which controversial, provocative, and unpopular ideas can safely be introduced and discussed. The university is, therefore, unswervingly committed to freedom of speech as guaranteed under the First Amendment to the Constitution of the United States and to the principle of academic freedom adopted by the Board of Regents in 1894, which states in part: “whatever may be the limitations which trammel inquiry elsewhere, we believe that the great state University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone truth can be found.” » Read More Regent Policy Document 14-6: Discrimination, Harassment, and Retaliation Speech Code Category: Harassment Policies Last updated: June 1, 2016 Discriminatory Harassment is a form of discrimination consisting of unwelcome verbal, written, graphic or physical conduct that: Is directed at an individual or group of individuals on the basis of the individual or group of individuals’ actual or perceived protected status, or affiliation or association with person(s) within a protected status (as defined herein above); and is sufficiently severe or pervasive so as to interfere with an individual’s employment, education or academic environment or participation in institution programs or activities and creates a working, learning, program or activity environment that a reasonable person would find intimidating, offensive or hostile To constitute prohibited harassment, the conduct must be both objectively and subjectively harassing in nature. Harassment may include but is not limited to verbal or physical attacks, threats, slurs or derogatory or offensive comments that meet the definition set forth herein. Harassment does not have to be targeted at a particular individual in order to create a harassing environment, nor must the conduct result in a tangible injury to be considered a violation of this policy. Whether the alleged conduct constitutes prohibited harassment depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs and the status of the individuals involved. » Read More Office for Equity and Diversity: Sexual Harassment Information- Hostile Environment Sexual Harassment Speech Code Category: Harassment Policies Last updated: June 1, 2016 Hostile environment sexual harassment occurs when verbal, non-verbal and/or physical conduct is: sexual and/or based on gender, unwelcome, and sufficiently severe and pervasive to interfere with a person’s work/learning/program performance or to create a hostile, intimidating or offensive environment.

## A2 White People PIC

### 1AR – Newark’s PIC

#### First, no solvency and turn – restricting speech will be used against students of color – only the AFF can solve. Friedersdorf 15:

Conor, staff writer at The Atlantic, where he focuses on politics and national affairs. He lives in Venice, California, and is the founding editor of The Best of Journalism, a newsletter devoted to exceptional nonfiction. “Free Speech Is No Diversion” The Atlantic, November 12, 2015. http://www.theatlantic.com/politics/archive/2015/11/race-and-the-anti-free-speech-diversion/415254/ IB

In January of 1987, flyers distributed anonymously at the University of Michigan declared “open season” on black people, referring to them with the most disgusting racial slurs. “Shortly thereafter,” Catherine B. Johnson noted in a law journal article, “a student disc jockey for the campus radio station allowed racist jokes to be told on-air. In response to these incidents, students at the University staged a demonstration to voice their opposition. The rally, however, was interrupted by the display of a Ku Klux Klan uniform dangling out of a nearby dormitory window.” Students in Ann Arbor were understandably upset and outraged by the racist climate created by these events. Administrators decided to respond by implementing a speech code. Thereafter, racist incidents kept occurring on campus at the same rate as before. And before the speech code was struck down 18 months later as a violation of the First Amendment, white students had charged black students with offensive speech in 20 cases. One “resulted in the punishment of a black student for using the term ‘white trash’ in conversation with a white student,” the ACLU later reported, explaining its position that “speech codes don't really serve the interests of persecuted groups. The First Amendment does.”

#### Next, cross-apply Wizner 12 – giving colleges any foothold to prohibit free speech will result in authoritarianism. As long as any form of speech can be restricted, the state will make sure that authority is used in the opposite of the way you want – it’s a view from nowhere that colleges will use the authority the CP grants them in the way they want.

#### No solvency, the CP text just says colleges should implement less discriminatory practice, but doesn’t specify or enforce jack shit – means that colleges will do nothing and the CP is a ruse of solvency.

#### Off the Dickey evidence – just says Towson implemented a code against hate speech, but says nothing about whether it worked. The Friedersdorf evidence says that, empirically, racist incidents don’t decrease, but racist white people being offended by things like every position Newark has ever read will use the speech code against them.

#### Off the Edinna evidence – yes, black students having to deal with racism is bad, but giving colleges the authority to limit their speech is worse because colleges will use that indiscriminately, that’s explained above.

#### Off hooks, a) turn – the CP treats black people like victims by allowing anti-black institutions like colleges to attempt to protect them, when all evidence says that giving them the authority to do that will result in silenced black people and b) this is a double turn with Warren – only an embrace of love can solve – this is a reps disad to the CP’s embrace of violence, their attempt at domination recreates the imposition of negative stereotypes. Black separatist discourse allows the state more power and hurts movements. hooks 04:

bell, American author, feminist, and social activist. The focus of hooks' writing has been the intersectionality of race, capitalism, and gender, and what she describes as their ability to produce and perpetuate systems of oppression and class domination. She has published over 30 books and numerous scholarly articles, appeared in documentary films, and participated in public lectures. Primarily through a postmodern perspective, she has addressed race, class, and gender in education, art, history, sexuality, mass media, and feminism. “We Real Cool: Black Men and Masculinity” Routledge, 2004. IB

Creative alternative ways to live, be, and act will come into being only when there is mass education for critical consciousness—an awakening to the awareness that collectively black male survival requires that they learn to challenge patriarchal notions of manhood, that they claim nonviolence as the only progressive stance to take in a world where all life is threatened by patriarchal imperialist war. If black males were to truly reclaim the legacy of Martin Luther King, Jr. and add to this political platform an awareness of the need to end male domination, they would be able to end the violence that is destroying black male life, minute by minute, day by day. It is no accident that just at the moment in our country’s history when the nonviolent civil rights struggle rooted in a love ethic was successfully working to end discrimination, galvanizing the nation and the world— movements that included a critique of militarism, capitalism, and imperalism—the white-supremacist patriarchal state gave unprecedented positive attention to the black males who were advocating violence. It is no accident that just as Malcolm X was moving away from an anti-white black separatist discourse to global awareness of neo-colonialism, linking anti-racist struggle here at home with freedom struggles everywhere, his voice was silenced by state-supported black-on-black homicide The real agency and power of black liberation struggle was felt when black male leaders dared to turn away from primitive models of patriarchal violence and warfare toward a politics of cultural transformation rooted in love. These radical perspectives and the resistance struggle they put in place led to greater freedom. As powerful alternative visions, spearheaded by charismatic black male leaders who were not ashamed to admit mistakes, who were humble, who were willing to make sacrifices, they represented an absolute threat to the existing status quo. This is the masculinity black males must emulate if they are to survive whole. To end black male violence black males must dare to embrace that revolution of values King writes about in Where Do We Go from Here: “The stability of the world house which is ours will involve a revolution of values to accompany the scientific and freedom revolution energizing the earth. We must rapidly begin the shift from a thing-oriented society to a person-oriented society. When machines and computers, profit motives and property rights are considered more important than people, the giant triplets of racism, materialism, and militarism are incapable of being conquered.” Clearly, King’s vision has proven to be far more radical than the political visions of black power advocates who embraced a militaristic vision of struggle. While King did not live long enough to undergo a conversion to feminist politics that would have enable him to critique his own negative actions toward women and change them, by insisting on the power of a love ethic he was offering a vision that, if realized, would challenge and change patriarchy. Male violence is a central problem in our society. Black male violence simply mirrors the styles and habits of white male violence. It is not unique. What is unique to black male experience is the way in which acting violently often gets both attention and praise from the dominant culture. Even as it is being condemned black male violence is often deified. As Orlando Patterson suggests, as long as white males can deflect attention from their own brutal violence onto black males, black boys and men will receive contradictory messages about what is manly, about what is acceptable. Contrary to the vision of black men who advocated black power, there is no freedom to be found in any dominator model of human relationships. As long as the will to dominate is there, the context for violence is there also. To end our cultural fascination with violence, and our imposition onto men in general and black men in particular who carry the weight of that violence, we must choose a partnership model that posits interbeing as the principle around which to organize family and community. And as Dr. King wisely understood, a love ethic should be the foundation. In love there is no will to violence.

## A2 Heresy PIC

### A2 Jack’s CP

#### Perm do the CP – its justified because the 1NC stole a large portion of the AFF, so I get to steal some of the 1NC. Comes first because reciprocity is the definition of fairness.

#### If I win a risk of a net benefit in this world, then that outweighs because forgiveness means that we go to heaven, sin or nah. Six net benefits –

#### 1] criticizing Christianity is key to meet god’s principles like stopping priests from abusing children or making fun of the lavish nature of the church – these things are consistent with Christianity.

#### 2] TURN – criticizing Christianity is key to refining it and people’s defense of it – this debate proves.

#### 3] TURN – restricting Christian speech ensures hatred against Christianity, link turns the net benefit – remember conservative Christians are the ones who love free speech.

#### 4] criticizing Christianity’s violence and bloody, un-jesuslike history is key to develop a sense of morality when dealing with religion. Remember, the bible says men should always be above women and that raping someone and paying them 20 shekels makes them your wife.

#### 5] Counterspeech turn – having to defend against criticism and convince non-believers makes their faith stronger, so I link turn the net benefit.

#### 6] TURN – censoring and converting atheists is more likely to lead to violence, thus net less people go to heaven.

#### God doesn’t exist – 8 warrants. Also, your authors are hacks. Christina 12:

Greta, most recent book is The Way of the Heathen: Practicing Atheism in Everyday Life. She blogs at The Orbit. “The Top 10 Reasons I Don't Believe in God” March 30, 2012. http://www.alternet.org/story/154774/the\_top\_10\_reasons\_i\_don't\_believe\_in\_god SA-IB

Yup. If you're arguing that -- you're absolutely right. And the question of whether religion is true or not is important. It's not the main point of this book: if you want more thorough arguments for why God doesn't exist, by me or other writers, check out the Resource Guide at the end of this book. But "Does God exist?" is a valid and relevant question. Here are my Top Ten reasons why the answer is a resounding, "No." 1: The consistent replacement of supernatural explanations of the world with natural ones. When you look at the history of what we know about the world, you see a noticeable pattern. Natural explanations of things have been replacing supernatural explanations of them. Like a steamroller. Why the Sun rises and sets. Where thunder and lightning come from. Why people get sick. Why people look like their parents. How the complexity of life came into being. I could go on and on. All these things were once explained by religion. But as we understood the world better, and learned to observe it more carefully, the explanations based on religion were replaced by ones based on physical cause and effect. Consistently. Thoroughly. Like a steamroller. The number of times that a supernatural explanation of a phenomenon has been replaced by a natural explanation? Thousands upon thousands upon thousands. Now. The number of times that a natural explanation of a phenomenon has been replaced by a supernatural one? The number of times humankind has said, "We used to think (X) was caused by physical cause and effect, but now we understand that it's caused by God, or spirits, or demons, or the soul"? Exactly zero. Sure, people come up with new supernatural "explanations" for stuff all the time. But explanations with evidence? Replicable evidence? Carefully gathered, patiently tested, rigorously reviewed evidence? Internally consistent evidence? Large amounts of it, from many different sources? Again -- exactly zero. Given that this is true, what are the chances that any given phenomenon for which we currently don't have a thorough explanation -- human consciousness, for instance, or the origin of the Universe -- will be best explained by the supernatural? Given this pattern, it's clear that the chances of this are essentially zero. So close to zero that they might as well be zero. And the hypothesis of the supernatural is therefore a hypothesis we can discard. It is a hypothesis we came up with when we didn't understand the world as well as we do now... but that, on more careful examination, has never once been shown to be correct. If I see any solid evidence to support God, or any supernatural explanation of any phenomenon, I'll reconsider my disbelief. Until then, I'll assume that the mind-bogglingly consistent pattern of natural explanations replacing supernatural ones is almost certain to continue. (Oh -- for the sake of brevity, I'm generally going to say "God" in this chapter when I mean "God, or the soul, or metaphysical energy, or any sort of supernatural being or substance." I don't feel like getting into discussions about, "Well, I don't believe in an old man in the clouds with a white beard, but I believe..." It's not just the man in the white beard that I don't believe in. I don't believe in any sort of religion, any sort of soul or spirit or metaphysical guiding force, anything that isn't the physical world and its vast and astonishing manifestations. 2: The inconsistency of world religions. If God (or any other metaphysical being or beings) were real, and people were really perceiving him/ her/ it/ them, why do these perceptions differ so wildly? When different people look at, say, a tree, we more or less agree about what we're looking at: what size it is, what shape, whether it currently has leaves or not and what color those leaves are, etc. We may have disagreements regarding the tree -- what other plants it's most closely related to, where it stands in the evolutionary scheme, should it be cut down to make way for a new sports stadium, etc. But unless one of us is hallucinating or deranged or literally unable to see, we can all agree on the tree's basic existence, and the basic facts about it. This is blatantly not the case for God. Even among people who do believe in God, there is no agreement about what God is, what God does, what God wants from us, how he acts or doesn't act on the world, whether he's a he, whether there's one or more of him, whether he's a personal being or a diffuse metaphysical substance. And this is among smart, thoughtful people. What's more, many smart, thoughtful people don't even think God exists. And if God existed, he'd be a whole lot bigger, a whole lot more powerful, with a whole lot more effect in the world, than a tree. Why is it that we can all see a tree in more or less the same way, but we don't see God in even remotely the same way? The explanation, of course, is that God does not exist. We disagree so radically over what he is because we aren't perceiving anything that's real. We're "perceiving" something we made up; something we were taught to believe; something that the part of our brain that's wired to see pattern and intention, even when none exists, is inclined to see and believe. 3: The weakness of religious arguments, explanations, and apologetics. I have seen a lot of arguments for the existence of God. And they all boil down to one or more of the following: The argument from authority. (Example: "God exists because the Bible says God exists.") The argument from personal experience. (Example: "God exists because I feel in my heart that God exists.") The argument that religion shouldn't have to logically defend its claims. (Example: "God is an entity that cannot be proven by reason or evidence.") Or the redefining of God into an abstract principle... so abstract that it can't be argued against, but also so abstract that it scarcely deserves the name God. (Example: "God is love.") And all these arguments are ridiculously weak. Sacred books and authorities can be mistaken. I have yet to see a sacred book that doesn't have any mistakes. (The Bible, to give just one example, is shot full of them.) And the feelings in people's hearts can definitely be mistaken. They are mistaken, demonstrably so, much of the time. Instinct and intuition play an important part in human understanding and experience... but they should never be treated as the final word on a subject. I mean, if I told you, "The tree in front of my house is 500 feet tall with hot pink leaves," and I offered as a defense, "I know this is true because my mother/ preacher/ sacred book tells me so"... or "I know this is true because I feel it in my heart"... would you take me seriously? Some people do try to prove God's existence by pointing to evidence in the world. But that evidence is inevitably terrible. Pointing to the perfection of the Bible as a historical and prophetic document, for instance... when it so blatantly is nothing of the kind. Or pointing to the fine-tuning of the Universe for life... even though this supposedly perfect fine-tuning is actually pretty crappy, and the conditions that allow for life on Earth have only existed for the tiniest fragment of the Universe's existence and are going to be boiled away by the Sun in about a billion years. Or pointing to the complexity of life and the world and insisting that it must have been designed... when the sciences of biology and geology and such have provided far, far better explanations for what seems, at first glance, like design. As to the argument that "We don't have to show you any reason or evidence, it's unreasonable and intolerant for you to even expect that"... that's conceding the game before you've even begun. It's like saying, "I know I can't make my case -- therefore I'm going to concentrate my arguments on why I don't have to make my case in the first place." It's like a defense lawyer who knows their client is guilty, so they try to get the case thrown out on a technicality. Ditto with the "redefining God out of existence" argument. If what you believe in isn't a supernatural being or substance that has, or at one time had, some sort of effect on the world... well, your philosophy might be an interesting one, but it is not, by any useful definition of the word, religion. Again: If I tried to argue, "The tree in front of my house is 500 feet tall with hot pink leaves -- and the height and color of trees is a question that is best answered with personal faith and feeling, not with reason or evidence"... or, "I know this is true because I am defining '500 feet tall and hot pink' as the essential nature of tree-ness, regardless of its outward appearance"... would you take me seriously? 4: The increasing diminishment of God. This is closely related to #1 (the consistent replacement of supernatural explanations of the world with natural ones). But it's different enough to deserve its own section. When you look at the history of religion, you see that the perceived power of God has been diminishing. As our understanding of the physical world has increased -- and as our ability to test theories and claims has improved -- the domain of God's miracles and interventions, or other supposed supernatural phenomena, has consistently shrunk. Examples: We stopped needing God to explain floods... but we still needed him to explain sickness and health. Then we didn't need him to explain sickness and health... but we still needed him to explain consciousness. Now we're beginning to get a grip on consciousness, so we'll soon need God to explain... what? Or, as writer and blogger Adam Lee so eloquently put it in his Ebon Musings website, "Where the Bible tells us God once shaped worlds out of the void and parted great seas with the power of his word, today his most impressive acts seem to be shaping sticky buns into the likenesses of saints and conferring vaguely-defined warm feelings on his believers' hearts when they attend church." This is what atheists call the "god of the gaps." Whatever gap there is in our understanding of the world, that's what God is supposedly responsible for. Wherever the empty spaces are in our coloring book, that's what gets filled in with the blue crayon called God. But the blue crayon is worn down to a nub. And it's never turned out to be the right color. And over and over again, throughout history, we've had to go to great trouble to scrape the blue crayon out of people's minds and replace it with the right color. Given this pattern, doesn't it seem that we should stop reaching for the blue crayon every time we see an empty space in the coloring book? 5: The fact that religion runs in families. The single strongest factor in determining what religion a person is? It's what religion they were brought up with. By far. Very few people carefully examine all the available religious beliefs -- or even some of those beliefs -- and select the one they think most accurately describes the world. Overwhelmingly, people believe whatever religion they were taught as children. Now, we don't do this with, for instance, science. We don't hold on to the Steady State theory of the Universe, or geocentrism, or the four bodily humours theory of illness, simply because it's what we were taught as children. We believe whatever scientific understanding is best supported by the best available evidence at the time. And if the evidence changes, our understanding changes. (Unless, of course, it's a scientific understanding that our religion teaches is wrong...) Even political opinions don't run in families as stubbornly as religion. Witness the opinion polls that show support of same-sex marriage increasing with each new generation. Political beliefs learned from youth can, and do, break down in the face of the reality that people see every day. And scientific theories do this, all the time, on a regular basis. This is emphatically not the case with religion. Which leads me to the conclusion that religion is not a perception of a real entity. If it were, people wouldn't just believe whatever religion they were taught as children, simply because it was what they were taught as children. The fact that religion runs so firmly in families strongly suggests that it is not a perception of a real phenomenon. It is a dogma, supported and perpetuated by tradition and social pressure -- and in many cases, by fear and intimidation. Not by reality. 6: The physical causes of everything we think of as the soul. The sciences of neurology and neuropsychology are in their infancy. But they are advancing by astonishing leaps and bounds, even as we speak. And what they are finding -- consistently, thoroughly, across the board -- is that, whatever consciousness is, it is inextricably linked to the brain. Everything we think of as the soul -- consciousness, identity, character, free will -- all of that is powerfully affected by physical changes to the brain and body. Changes in the brain result in changes in consciousness... sometimes so drastically, they make a personality unrecognizable. Changes in consciousness can be seen, with magnetic resonance imagery, as changes in the brain. Illness, injury, drugs and medicines, sleep deprivation, etc.... all of these can make changes to the supposed "soul," both subtle and dramatic. And death, of course, is a physical change that renders a person's personality and character, not only unrecognizable, but non-existent. So the obvious conclusion is that consciousness and identity, character and free will, are products of the brain and the body. They're biological processes, governed by laws of physical cause and effect. With any other phenomenon, if we can show that physical forces and actions produce observable effects, we think of that as a physical phenomenon. Why should the "soul" be any different? What's more, the evidence supporting this conclusion comes from rigorously-gathered, carefully-tested, thoroughly cross-checked, double-blinded, placebo- controlled, replicated, peer-reviewed research. The evidence has been gathered, and continues to be gathered, using the gold standard of scientific evidence: methods specifically designed to filter out biases and cognitive errors as much as humanly possible. And it's not just a little research. It's an enormous mountain of research... a mountain that's growing more mountainous every day. The hypothesis of the soul, on the other hand, has not once in all of human history been supported by good, solid scientific evidence. That's pretty surprising when you think about it. For decades, and indeed centuries, most scientists had some sort of religious beliefs, and most of them believed in the soul. So a great deal of early science was dedicated to proving the soul's existence, and discovering and exploring its nature. It wasn't until after decades upon decades of fruitless research in this area that scientists finally gave it up as a bad job, and concluded, almost unanimously, that the reason they hadn't found a soul was that there was no such thing. Are there unanswered questions about consciousness? Absolutely. Tons of them. No reputable neurologist or neuropsychologist would say otherwise. But think again about how the history of human knowledge is the history of supernatural explanations being replaced by natural ones... with relentless consistency, again, and again, and again. There hasn't been a single exception to this pattern. Why would we assume that the soul is going to be that exception? Why would we assume that this gap in our knowledge, alone among all the others, is eventually going to be filled with a supernatural explanation? The historical pattern doesn't support it. And the evidence doesn't support it. The increasingly clear conclusion of the science is that consciousness is a product of the brain. Period. 7: The complete failure of any sort of supernatural phenomenon to stand up to rigorous testing. Not all religious and spiritual beliefs make testable claims. But some of them do. And in the face of actual testing, every one of those claims falls apart like Kleenex in a hurricane. Whether it's the power of prayer, or faith healing, or astrology, or life after death: the same pattern is seen. Whenever religious and supernatural beliefs have made testable claims, and those claims have been tested -- not half-assedly tested, but really tested, using careful, rigorous, double-blind, placebo-controlled, replicated, etc. etc. etc. testing methods -- the claims have consistently fallen apart. Occasionally a scientific study has appeared that claimed to support something supernatural... but more thorough studies have always refuted them. Every time. I'm not going to cite each one of these tests, or even most of them. This chapter is already long as it is. Instead, I'll encourage you to spend a little time on the Committee for Skeptical Inquiry and Skeptical Inquirer websites. You'll see a pattern so consistent it boggles the mind: Claimants insist that Supernatural Claim X is real. Supernatural Claim X is subjected to careful testing, applying the standard scientific methods used in research to screen out bias and fraud. Supernatural Claim X is found to hold about as much water as a sieve. (And claimants, having agreed beforehand that the testing method is valid, afterwards insist that it wasn't fair.) And don't say, "Oh, the testers were biased." That's the great thing about the scientific method. It's designed to screen out bias, as much as is humanly possible. When done right, it will give you the right answer, regardless of the bias of the people doing the testing. And I want to repeat an important point about the supposed anti-religion bias in science. In the early days of science and the scientific method, most scientists did believe in God, and the soul, and the metaphysical. In fact, many early science experiments were attempts to prove the existence of these things, and discover their true natures, and resolve the squabbles about them once and for all. It was only after decades of these experiments failing to turn up anything at all that the scientific community began -- gradually, and very reluctantly -- to give up on the idea. Supernatural claims only hold up under careless, casual examination. They are supported by wishful thinking, and confirmation bias (i.e., our tendency to overemphasize evidence that supports what we believe and to discard evidence that contradicts it), and our poor understanding and instincts when it comes to probability, and our tendency to see pattern and intention even when none exists, and a dozen other forms of cognitive bias and weird human brain wiring. When studied carefully, under conditions specifically designed to screen these things out, the claims vanish like the insubstantial imaginings they are. 8: The slipperiness of religious and spiritual beliefs. Not all religious and spiritual beliefs make testable claims. Many of them have a more "saved if we do, saved if we don't" quality. If things go the believer's way, it's a sign of God's grace and intervention; if they don't, then God moves in mysterious ways, and maybe he has a lesson to teach that we don't understand, and it's not up to us to question his will. No matter what happens, it can be twisted to prove that the belief is right. That is a sure sign of a bad argument. Here's the thing. It is a well-established principle in the philosophy of science that, if a theory can be supported no matter what possible evidence comes down the pike, it is useless. It has no power to explain what's already happened, or to predict what will happen in the future. The theory of gravity, for instance, could be disproven by things suddenly falling up; the theory of evolution could be disproven by finding rabbits in the pre-Cambrian fossil layer. These theories predict that those things won't happen; if they do, the theories go poof. But if your theory of God's existence holds up no matter what happens -- whether your friend with cancer gets better or dies, whether natural disasters strike big sinful cities or small God-fearing towns -- then it's a useless theory, with no power to predict or explain anything. What's more, when atheists challenge theists on their beliefs, the theists' arguments shift and slip around in an annoying "moving the goalposts" way. Hard-line fundamentalists, for instance, will insist on the unchangeable perfect truth of the Bible; but when challenged on its specific historical or scientific errors, they insist that you're not interpreting those passages correctly. (If the book needs interpreting, then how perfect can it be?) And progressive ecumenical believers can be unbelievably slippery about what they do and don't believe. Is God real, or a metaphor? Does God intervene in the world, or doesn't he? Do they even believe in God, or do they just choose to act as if they believe because they find it useful? Debating with a progressive believer is like wrestling with a fish: the arguments aren't very powerful, but they're slippery, and they don't give you anything firm to grab onto. Once again, that's a sure sign of a bad argument. If you can't make your case and then stick by it, or modify it, or let it go... then you don't have a good case. (And if you're making any version of the "Shut up, that's why" argument -- arguing that it's intolerant to question religious beliefs, or that letting go of doubts about faith makes you a better person, or that doubting faith will get you tortured in Hell, or any of the other classic arguments intended to quash debate rather than address it -- that's a sure sign that your argument is in the toilet.) 9: [7:] The failure of religion to improve or clarify over time. Over the years and decades and centuries, our understanding of the physical world has grown and clarified by a ridiculous amount. We understand things about the Universe that we couldn't have imagined a thousand years ago, or a hundred, or even ten. Things that make your mouth gape with astonishment just to think about. And the reason for this is that we came up with an incredibly good method for sorting out good ideas from bad ones. We came up with the scientific method, a self-correcting method for understanding the physical world: a method which -- over time, and with the many fits and starts that accompany any human endeavor -- has done an astonishingly good job of helping us perceive and understand the world, predict it and shape it, in ways we couldn't have imagined in decades and centuries past. And the scientific method itself is self-correcting. Not only has our understanding of the natural world improved dramatically: our method for understanding it is improving as well. Our understanding of the supernatural world? Not so much. Our understanding of the supernatural world is in the same place it's always been: hundreds and indeed thousands of sects, squabbling over which sacred texts and spiritual intuitions are the right ones. We haven't come to any consensus about which religion best understands the supernatural world. We haven't even come up with a method for making that decision. All anyone can do is point to their own sacred text and their own spiritual intuition. And around in the squabbling circle we go. All of which points to religion, not as a perception of a real being or substance, but as an idea we made up and are clinging to. If religion were a perception of a real being or substance, our understanding of it would be sharpening, clarifying, being refined. We'd have better prayer techniques, more accurate prophecies, something. Anything but people squabbling with greater or lesser degrees of rancor, and nothing to back up their belief. 10: [8:] The complete lack of solid evidence for God's existence. This is probably the best argument I have against God's existence: There's no evidence for it. No good evidence, anyway. No evidence that doesn't just amount to opinion and tradition and confirmation bias and all the other stuff I've been talking about. No evidence that doesn't fall apart upon close examination. And in a perfect world, that should have been the only argument I needed. In a perfect world, I shouldn't have had to spend a month and a half collating and summarizing the reasons I don't believe in God, any more than I would have for Zeus or Quetzalcoatl or the Flying Spaghetti Monster. As thousands of atheists before me have pointed out: It is not up to us to prove that God does not exist. It is up to theists to prove that he does. In a comment on my blog, arensb made a point on this topic that was so insightful, I'm still smacking myself on the head for not having thought of it myself. I was writing about how believers get upset at atheists when we reject religion after hearing 876,363 bad arguments for it, and how believers react to this by saying, "But you haven't considered Argument #876,364! How can you be so close-minded?" And arensb said:

## A2 Harassment CP

### 1AR – HW Harassment CP

#### First, the competition is nonsense – clarifying that certain acts constitute sexual harassment does clear up a gray area, making it not constitutionally protected – means the CP is plan plus and the perm shields any link into the disad.

#### Second, their Dower card proves that the competition is silly – actual sexual harassment gets prevented and the highlighted part of the card says:

Benjamin, Assistant Attorney General at Texas Attorney General. “Scylla of Sexual Harassment and the Charybdis of Free Speech: How Public Universities Can Craft Policies to Avoid Liability” Rev. Litig. 31 (2012): 703.

**A university employee accused of sexual harassment stemming from speech conducted in the classroom may raise**, as a defense, that **his or her classroom expression was reasonably related to a legitimate pedagogical interest**. If the employee is able to show by a preponderance of the evidence that his or her classroom expression was reasonably related to a legitimate pedagogical interest, **the committee shall weigh the value of that interest against the harm of the alleged harassment in determining both guilt and punishment.¶**

#### Implications – a) proves that if the speech was protected, under the CP, the employee would be protected b) proves that the CP isn’t a restriction on free speech, just a method to evaluate whether certain acts were actual harassment – which is not protected.

#### Third, double-bind, either a) their CP isn’t competitive because it prohibits speech that isn’t protected like direct request of sex and direct sexual comments, which is exactly what the Dower card says or b) the CP is too broadly defined so it doesn’t solve because sexist institutions like the college get to decide where it applies and links to the AFF. Hudson 02:

David L, expert in First Amendment issues who writes for firstamendmentcenter.org and for other publications. Hudson teaches law and was a scholar at the First Amendment Center. He is the author or co-author of more than 30 books, including several on the U.S. Supreme Court, the Constitution and student rights. He is a First Amendment contributing editor for the American Bar Association’s Preview of United States Supreme Court Cases. “FREE SPEECH ON PUBLIC COLLEGE CAMPUSES Sexual harassment” September 13, 2002. http://www.firstamendmentcenter.org/sexual-harassment SA-IB

Universities must combat sexual harassment, a pervasive problem in society. Polls have indicated that an alarmingly high number of female students have been subjected to some form of harassment during their college years. But universities also represent unique marketplaces of ideas where the thought of silencing educators’ in-class expression sounds downright repressive. After all, the First Amendment should provide for robust discussion in a university classroom setting. First Amendment advocates assert that many university professors chill their own speech in order to avoid saying anything that might offend students. This, the advocates warn, could lead to a sterile learning environment. Public universities have a legal responsibility to prohibit sexual discrimination in education. A federal law known as Title IX requires such action. 1 Title IX provides that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Under Title IX, Congress can withhold federal funds to universities that allow sexual discrimination in the university setting. This duty to prevent sexual discrimination extends to so-called “hostile environment” harassment. The U.S. Department of Education defines hostile environment discrimination as follows: Hostile environment harassment occurs when unwelcome conduct of a sexual nature is so severe, persistent, or pervasive that it affects a student’s ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening or abusive educational environment. — Office of Civil Rights, “Questions and Answers about Sexual Harassment” Harassment law prohibits severe and pervasive harassment that alters the conditions of the workplace or classroom. Professors who create a hostile learning environment can be subject to discipline under a university sexual harassment policy. But, applying a sexual harassment policy to a professor’s in-class speech raises substantial First Amendment concerns. If the teacher’s speech is not directed at a particular student for sexual favors, the First Amendment concerns loom larger. “If the speech is not repetitive, severe and persistent, then generally it should receive protection,” says University of Pennsylvania history professor Alan Charles Kors. Kors’ colleague at the Foundation for Individual Rights in Education, attorney Harvey A. Silverglate, wrote in a 1999 memorandum: “Title VII workplace law and Title IX education law cannot be interpreted so as to allow, much less require an institution of higher learning to curtail speech anywhere on campus, especially in the classroom which is the cauldron of the educational process. Such laws may be applied to genuine harassment, but not to speech cleverly classified as acts of harassment. If these statutes and regulations were in fact interpreted to apply to pure speech, they would thereby be rendered unconstitutional.” Despite arguments that punishing professors for in-class speech violates the First Amendment, several university professors have faced discipline for violating sexual harassment regulations based on their in-class speech. Many of these cases began in the early 1990s, although it took several years before a federal court ruled in the matters. A few examples follow: Silva v. University of New Hampshire In 1992, several students at the University of New Hampshire accused tenured faculty member and writing instructor Donald Silva of sexual harassment in part because of his comments in class. These allegedly included: “Focus is like sex. You seek a target. You zero in on your subject. You move from side to side. You close in on the subject. You bracket the subject and center on it. Focus connects experience and language. You and the subject become one.” “Belly dancing is like jello on a plate with a vibrator under the plate.” Eight students filed written complaints with the university. The school created another section of the class and 26 students transferred from Silva’s class to the other instructor. University officials reprimanded Silva for violating the school’s sexual harassment policy. He filed a grievance that was denied. The university suspended him without pay. At a formal hearing, a panel found that Silva’s comments “contributed to a hostile academic environment.” The university placed Silva on leave without pay for one year and required him to receive counseling before teaching again. After losing his appeals in the university system Silva sued in federal court, contending that his First Amendment rights were violated. A federal district court sided with Silva. The court focused on the fact that some of Silva’s statements, such as the vibrator statement, were not necessarily sexual. The court also emphasized that the university’s sexual-harassment policy did not prohibit nonsexual verbal conduct. “The court finds that Silva’s classroom statements advanced his valid educational objective of conveying certain principles related to the subject matter of his course,” the court wrote. “The record demonstrates that Silva’s classroom statements were made in a professionally appropriate manner as part of a college class lecture.” The court concluded that the university’s sexual harassment policy “as applied to Silva’s classroom speech is not reasonably related to the legitimate pedagogical purpose of providing a congenial academic environment because it employs an impermissibly subjective standard that fails to take into account the nation’s interest in academic freedom.” Legal commentator Lisa Woodward wrote that “the court’s great deference to academic freedom effectively negated the mandates of Title IX.” However, Kors, president of FIRE, disputes this characterization, calling the prosecution of Silva “beyond belief.” Cohen v. San Bernardino Valley College Dean Cohen taught a remedial English class at San Bernardino Valley College. He used a self-described “confrontational teaching style designed to shock his students and make them think and write about confrontational subjects.” In 1992, he read articles to his class that he had published in Hustler and Playboy magazines. He led classroom discussions on topics such as obscenity, cannibalism and consensual sex with children. After a student complained, the university determined that Cohen had violated the school’s sexual harassment policy. The board of trustees ordered Cohen to warn students ahead of time of his “confrontational style,” attend a sexual harassment seminar, and be cognizant of how his teaching style might affect his students. Cohen sued the school, claiming a violation of his First Amendment rights. A federal district court rejected Cohen’s arguments, finding the sexual harassment policy constitutional. On appeal, the 9th U.S. Circuit Court of Appeals reversed, finding that the policy was “simply too vague as applied to Cohen in this case.” The court reasoned: “Cohen’s speech did not fall within the core region of sexual harassment as defined by the Policy. Instead, officials of the College, on an entirely ad hoc basis, applied the Policy’s nebulous outer reaches to punish teaching methods that Cohen had used for many years.”

# Frontlines – DA

## A2 Anti-Semitism DA

### 1AR – AAA

#### Doesn’t violate free speech – not competitive. . Gilreath 1/20:

Shannon, Professor of Law and Professor of Women’s, Gender, and Sexuality Studies at Wake Forest University. He is a nationally recognized expert on equality, sexual minorities and constitutional interpretation and has authored antidiscrimination legislation for jurisdictions across the country. “Freedom of speech and the Anti-Semitism Awareness Act on college campuses” January 20, 2017. The Hill. http://thehill.com/blogs/congress-blog/politics/315195-freedom-of-speech-and-the-anti-semitism-awareness-act-on-college \*\*italics added\*\* SA-IB

In 2004, the U.S. Department of Education’s Office for Civil Rights (“OCR”) committed to investigate claims of anti-Semitism under Title VI of the Civil Rights Act of 1964. Shockingly, despite well-documented incidents in the twelve years since this commitment was made, the OCR has failed to find a single violation of Title VI. One critical problem is that OCR lacks a workable definition of anti-Semitism. Absent such a definition, OCR staff fail, time and again, to recognize anti-Semitism when they see it. As a result, university campuses across the United States are becoming increasingly hostile places for Jewish students. The Anti-Semitism Awareness Act (“AAA”) of 2016 is a bipartisan solution to this definitional problem. Passed by unanimous consent of the Senate on Dec. 1, 2016, the AAA directs the OCR to use the U.S. State Department’s definition of anti-Semitism when evaluating hostile environment complaints under Title VI. The State Department provides a clear definition of anti-Semitism, including helpful examples that will make OCR evaluation of complex complaints easier. Following Senate action, the AAA has been the target of an extraordinary misinformation campaign, with much of the unreliable commentary centering on free speech concerns. It is claimed that the AAA would make anti-Semitic speech—with particular worries apparently centered on anti-Israel rhetoric—illegal or otherwise punishable on college campuses. This claim is absolutely false. For better or worse, the First Amendment to the U.S. Constitution protects “the speech we hate,” including the rankest forms of anti-Semitic speech. The AAA cannot change that, nor does it aim to. In examining whether anti-Semitic activity is “severe, persistent, or pervasive” enough to constitute an actionable hostile environment under Title VI, it is crucial that the OCR be able to recognize anti-Semitism in action. In such cases, speech can be evidence of intent. Consider, for example, the case of a Jewish student being attacked physically by other students. Is this anti-Semitism? Was this attack part of a drunken bar brawl, or was it a pointed attack on a Jewish student, because he is a Jewish student, motivated by discernible anti-Semitic bias? The key, of course, is the intent behind the attack. Was the student singled out for the attack because he is Jewish? Evidence of intent may well lie in what the attackers said at the time of the assault. Did they scream anti-Semitic epithets or otherwise mutter anti-Israel or anti-Zionist language? In such a case, the AAA directs the OCR to consider the State Department’s definition of anti-Semitism in evaluating the assailants’ actions. Speech in such a case is evaluated *not for its point of view*, but rather for *the evidence it provides as to the motive* of the assailant. This kind of inquiry into motive, with speech taken as evidence of intent, is entirely consistent with U.S. Supreme Court precedent and, indeed, with modern hate crimes legislation, like the recently-enacted Shepard-Byrd Act, which was enthusiastically supported by such speech-protective groups as the ACLU. Acts are punished, not mere thoughts, or speech, or belief. The AAA does no more; its supporters aim to do no more. It is critical that college and university campuses remain spaces where Jewish students can learn without fear of anti-Semitic assault or harassment. They have that right. The AAA seeks to protect that right and the right of free speech generally. The AAA is not at cross-purposes with American values of freedom of speech and expression, and it does not violate the First Amendment. It does no more than provide an enforcement mechanism for constitutional federal law. Those of us committed to freedom of speech have no reason to fear it. On the contrary, we encourage the 115th Congress to pass this smart and critically necessary measure immediately. The Department of Education is poised for new leadership and will need to respond to growing anti-Semitism in higher education. Now is the time for Congress to act.

### 1AR – Anti-Semitism DA

#### 1 – the anti-Semitism awareness act of 2017 is coming, its already passed the senate – it doesn’t violate free speech and solves the disad. Gilreath 1/20:

Shannon, Professor of Law and Professor of Women’s, Gender, and Sexuality Studies at Wake Forest University. He is a nationally recognized expert on equality, sexual minorities and constitutional interpretation and has authored antidiscrimination legislation for jurisdictions across the country. “Freedom of speech and the Anti-Semitism Awareness Act on college campuses” January 20, 2017. The Hill. http://thehill.com/blogs/congress-blog/politics/315195-freedom-of-speech-and-the-anti-semitism-awareness-act-on-college \*\*italics added\*\* SA-IB

In 2004, the U.S. Department of Education’s Office for Civil Rights (“OCR”) committed to investigate claims of anti-Semitism under Title VI of the Civil Rights Act of 1964. Shockingly, despite well-documented incidents in the twelve years since this commitment was made, the OCR has failed to find a single violation of Title VI. One critical problem is that OCR lacks a workable definition of anti-Semitism. Absent such a definition, OCR staff fail, time and again, to recognize anti-Semitism when they see it. As a result, university campuses across the United States are becoming increasingly hostile places for Jewish students. The Anti-Semitism Awareness Act (“AAA”) of 2016 is a bipartisan solution to this definitional problem. Passed by unanimous consent of the Senate on Dec. 1, 2016, the AAA directs the OCR to use the U.S. State Department’s definition of anti-Semitism when evaluating hostile environment complaints under Title VI. The State Department provides a clear definition of anti-Semitism, including helpful examples that will make OCR evaluation of complex complaints easier. Following Senate action, the AAA has been the target of an extraordinary misinformation campaign, with much of the unreliable commentary centering on free speech concerns. It is claimed that the AAA would make anti-Semitic speech—with particular worries apparently centered on anti-Israel rhetoric—illegal or otherwise punishable on college campuses. This claim is absolutely false. For better or worse, the First Amendment to the U.S. Constitution protects “the speech we hate,” including the rankest forms of anti-Semitic speech. The AAA cannot change that, nor does it aim to. In examining whether anti-Semitic activity is “severe, persistent, or pervasive” enough to constitute an actionable hostile environment under Title VI, it is crucial that the OCR be able to recognize anti-Semitism in action. In such cases, speech can be evidence of intent. Consider, for example, the case of a Jewish student being attacked physically by other students. Is this anti-Semitism? Was this attack part of a drunken bar brawl, or was it a pointed attack on a Jewish student, because he is a Jewish student, motivated by discernible anti-Semitic bias? The key, of course, is the intent behind the attack. Was the student singled out for the attack because he is Jewish? Evidence of intent may well lie in what the attackers said at the time of the assault. Did they scream anti-Semitic epithets or otherwise mutter anti-Israel or anti-Zionist language? In such a case, the AAA directs the OCR to consider the State Department’s definition of anti-Semitism in evaluating the assailants’ actions. Speech in such a case is evaluated *not for its point of view*, but rather for *the evidence it provides as to the motive* of the assailant. This kind of inquiry into motive, with speech taken as evidence of intent, is entirely consistent with U.S. Supreme Court precedent and, indeed, with modern hate crimes legislation, like the recently-enacted Shepard-Byrd Act, which was enthusiastically supported by such speech-protective groups as the ACLU. Acts are punished, not mere thoughts, or speech, or belief. The AAA does no more; its supporters aim to do no more. It is critical that college and university campuses remain spaces where Jewish students can learn without fear of anti-Semitic assault or harassment. They have that right. The AAA seeks to protect that right and the right of free speech generally. The AAA is not at cross-purposes with American values of freedom of speech and expression, and it does not violate the First Amendment. It does no more than provide an enforcement mechanism for constitutional federal law. Those of us committed to freedom of speech have no reason to fear it. On the contrary, we encourage the 115th Congress to pass this smart and critically necessary measure immediately. The Department of Education is poised for new leadership and will need to respond to growing anti-Semitism in higher education. Now is the time for Congress to act.

#### 2 – non-unique – anti-Semitic speech is on the rise right now on colleges – prefer this card, their uniqueness is SEVEN YEARS OLD. Gilreath 1/20:

Shannon, Professor of Law and Professor of Women’s, Gender, and Sexuality Studies at Wake Forest University. He is a nationally recognized expert on equality, sexual minorities and constitutional interpretation and has authored antidiscrimination legislation for jurisdictions across the country. “Freedom of speech and the Anti-Semitism Awareness Act on college campuses” January 20, 2017. The Hill. http://thehill.com/blogs/congress-blog/politics/315195-freedom-of-speech-and-the-anti-semitism-awareness-act-on-college \*\*italics added\*\* SA-IB

Incidents of anti-Semitism have risen alarmingly over the past two years. According to FBI statistics, there were more hate crimes against Jews in 2015 than against any other religious group. Anti-Jewish assaults rose by more than 50 percent from 2014. Anti-Semitic harassment seems to be acutely problematic on U.S. college campuses, with over half of all Jewish students polled indicating that they’d witnessed or directly experienced acts of anti-Semitism at their colleges or universities. A 2016 study showed a 45 percent increase in campus anti-Semitism. One common tactic is to use criticism of Israel as a tool to target and marginalize Jewish students. While incidents of anti-Semitic harassment and assault are surging, the problem is, sadly, not new.

#### 3 – fighting words doctrine means that speech that would result in violence would be restricted because that speech is not constitutionally protected.

#### 4 – cross-apply calleros, this link turns the disad – counterspeech is empirically effective and fosters better solutions, it involves the community.

#### 5 – cross-apply strossen, censorship EMPOWERS anti-semites and turns them into free-speech martyrs which gives them moral ground, vote aff to deny that.

#### 6 – defining anti-semitism as speech that critiques Israel means that under the disad, saying that “what Israel is doing to Palestine is wrong” would be speech that would be restricted.

## A2 Hate Speech DA

### 1AR – Hate Speech DA

#### NON-UNIQUE AF – we just elected trump and the alt-right doing vocal warm ups – aint no regulations gonna stop the shitstorm that’s coming. Kamp 16:

Karin, multimedia journalist and producer. She has produced content for BillMoyers.com, NOW on PBS and WNYC public radio and worked as a reporter for Swiss Radio International. She also helped launch The Story Exchange, a site dedicated to women's entrepreneurship. “Donald Trump and the Escalation of Hate” June 15, 2016. http://billmoyers.com/story/donald-trump-escalation-hate/ SA-IB

While white supremacists have long been active in America, Republican presidential candidate Donald Trump’s statements against various racial groups seem to be further stoking their fires. “Hate speech and the organizing of white supremacists behind this [Trump] campaign has been astounding,” said Heidi Beirich, the Southern Poverty Law Center’s (SPLC) Intelligence Project Director. “That organizing has led to more hate speech on the web.” Throughout the primary season, Trump has built his brand on divisive language, and his reaction to the June 13 massacre at an Orlando, Florida, nightclub is no exception. On Monday, Trump suggested that all Muslim immigrants posed threats to American security, and reiterated his call for a ban on them. Trump’s position “stokes fear and hatred of Muslims and immigrants at a time when political leaders should be bringing Americans together,” Madihha Ahussain, a lawyer at Muslim Advocates, told BillMoyers.com. “Hateful rhetoric has real, and often violent, consequences for American Muslims, many of whom are also part of the Latino and LGBTQ communities,” she said, adding that there has been an “alarming uptick in crimes” against Muslims or those mistaken to be Muslim. In the four months following the Paris terrorism attacks – the most recent data available – Muslim Advocates, which tracks hate crimes against the community, found 80 incidents of threats, violence and acts of vandalism targeting Muslims. In some of these incidents, the perpetrators invoked Trump. In March, two men were allegedly attacked in Kansas — one Muslim, the other Mexican — by a man who reportedly punched them and said “Trump will take our country from you guys!” Last August, one of two brothers accused of beating a homeless Hispanic man in Boston said he was motivated by Trump’s message on immigration, police said. Even schoolchildren are affected. A recent report from the Southern Poverty Law Center, The Trump Effect: The Impact of the Presidential Campaign on Our Nation’s Schools, found that immigrant and Muslim students in America are experiencing more bullying from their peers.

#### The case solves the impact and turns the disad – Strossen says that counterspeech fights hate speech, but censorship is worse and legitimizes hate speech. Double bind – a) there’s censorship now and I get this turn or b) there’s no censorship so the disad is non-unique.

## A2 Title IX DA

### 1AR – Title IX DA

[0:31]

#### 1 – title IX requires colleges investigate sexual assault, which means that removing speech codes doesn’t link.

#### 2 – trump non-uniques the disad. New 16

Jake New, November 10th, 2016. Jake studied journalism at Indiana University, where he was editor-in-chief of the Indiana Daily Student. “Campus Sexual Assault in a Trump Era”. <https://www.insidehighered.com/news/2016/11/10/trump-and-gop-likely-try-scale-back-title-ix-enforcement-sexual-assault>.

With Donald Trump winning the presidential election on Tuesday -- and with Republicans maintaining control of both the Senate and House of Representatives -- victims and their advocates worry that the White House’s five-year push to combat campus sexual assault may end with President Obama’s tenure. Through detailed guidance documents and investigations at more than 200 institutions, the Obama administration made preventing campus sexual assault a signature issue of its Education Department. The administration's updated interpretation of the federal gender discrimination law Title IX of the Education Amendments of 1972 allowed the White House to sharply increase the enforcement efforts of the Department of Education’s Office for Civil Rights. The intensified focus on campus sexual assault and Title IX prompted an outpouring of complaints and lawsuits against colleges and universities over claims they mishandled reports of sexual violence. Trump, who faces allegations of sexual assault and criticism over his treatment of women, has said little about how he would approach sexual violence on college campuses. While his Democratic opponent, Hillary Clinton, reached out to several victims' organizations during the election, Trump contacted none. His lack of a plan has worried many victims’ advocates, and comments made during the campaign by some of Trump’s surrogates suggesting that, if elected, Trump would scale back Title IX, or even eliminate the Department of Education or the Office of Civil Rights, has caused more concern. Other Transition-Related Coverage How Obama-Trump Transition Could Affect Higher Ed 'This Election Is Catastrophic' Loss of International Students? Outraged by Trump Win, Students Protest At the same time, advocates for students accused of sexual assault are hopeful the new status quo could bolster their attempts to require more due process protections for those students. In an interview with Inside Higher Ed in May, Sam Clovis, the national co-chair and policy director of Trump's campaign, suggested moving the Office for Civil Rights to the Justice Department's civil rights division. At a meeting with urban school superintendents last month, Trump’s New York state co-chairman, Carl Paladino, characterized the Office for Civil Rights as unnecessary, calling it “self-perpetuating, absolute nonsense,” and saying all campus discrimination cases should be handled by U.S. attorneys. “That would be disastrous for survivors and devastating for anyone who cares about their children being able to go to school without fear of violence or harassment or intimidation,” said Dana Bolger, co-founder of Know Your Title IX, a victims’ advocacy group. “The opportunity to learn is a fundamental American value, central to the American dream. We've got to keep supporting OCR if we want that dream to survive for the next generation.” Eliminating the Office for Civil Rights would not be easy, as it was formed through the Department of Education Organization Act in 1979, the same federal law that created the Education Department. While OCR’s handling of Title IX has its share of critics in the House of Representatives and Senate, there has been little indication of either chamber broadly supporting the complete abolition of OCR, even with a Republican majority and president. But if the office remains intact, there’s little chance its level of funding will remain or increase. Many experts on Title IX have predicted that a Trump administration would cut OCR’s budget, effectively limiting the number of investigations it could conduct at a time when the office already struggles to keep pace with the number of cases it has opened. As of last year, it took OCR, on average, 940 days to complete a sexual assault investigation. Currently, the Office for Civil Rights still has 216 open investigations. Ann Franke, a higher education consultant and former campus Title IX official, said she doubts a Trump Education Department would maintain the public list, started by the Obama administration in 2014, of colleges that are under investigation. The investigations that remain open when Trump becomes president will also likely be judged by a different set of standards and rules than cases that were settled during the Obama administration, she said. “I would expect between now and Jan. 20, [the Obama administration's] OCR is going to be working to reach a lot of resolution agreements with a lot of institutions under investigation,” Franke said. “And I suspect institutions will have new leverage in negotiating resolutions over the next couple of months.” In 2011, the Department of Education’s Office for Civil Rights issued a Dear Colleague letter that urged institutions to better investigate and adjudicate cases of campus sexual assault. The letter clarified how the department interprets Title IX, and for the past five years it has been the guiding document for colleges hoping to avoid a federal civil rights investigation into how they handle complaints of sexual violence. Republican lawmakers have argued that the guidance goes farther than just clarifying Title IX. They say the department has illegally expanded the gender discrimination law’s scope -- increasing the liability for institutions dealing with bullying, harassment and sexual violence and relaxing the burden of proof institutions are required to use when adjudicating cases of sexual assault -- without going through proper notice-and-comment procedures. The department maintains the guidance did not create any new laws or policies, however, and serves only to fill in some of the vaguer parts of Title IX in order to help colleges not run afoul of the law.

#### 3 – aff is best middle ground – harassment policy that links to the aff is overturned, but good harassment policy is kept, which means no link and link turn. Hudson 02:

David L, expert in First Amendment issues who writes for firstamendmentcenter.org and for other publications. Hudson teaches law and was a scholar at the First Amendment Center. He is the author or co-author of more than 30 books, including several on the U.S. Supreme Court, the Constitution and student rights. He is a First Amendment contributing editor for the American Bar Association’s Preview of United States Supreme Court Cases. “FREE SPEECH ON PUBLIC COLLEGE CAMPUSES Sexual harassment” September 13, 2002. http://www.firstamendmentcenter.org/sexual-harassment SA-IB

Universities must combat sexual harassment, a pervasive problem in society. Polls have indicated that an alarmingly high number of female students have been subjected to some form of harassment during their college years. But universities also represent unique marketplaces of ideas where the thought of silencing educators’ in-class expression sounds downright repressive. After all, the First Amendment should provide for robust discussion in a university classroom setting. First Amendment advocates assert that many university professors chill their own speech in order to avoid saying anything that might offend students. This, the advocates warn, could lead to a sterile learning environment. Public universities have a legal responsibility to prohibit sexual discrimination in education. A federal law known as Title IX requires such action. 1 Title IX provides that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Under Title IX, Congress can withhold federal funds to universities that allow sexual discrimination in the university setting. This duty to prevent sexual discrimination extends to so-called “hostile environment” harassment. The U.S. Department of Education defines hostile environment discrimination as follows: Hostile environment harassment occurs when unwelcome conduct of a sexual nature is so severe, persistent, or pervasive that it affects a student’s ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening or abusive educational environment. — Office of Civil Rights, “Questions and Answers about Sexual Harassment” Harassment law prohibits severe and pervasive harassment that alters the conditions of the workplace or classroom. Professors who create a hostile learning environment can be subject to discipline under a university sexual harassment policy. But, applying a sexual harassment policy to a professor’s in-class speech raises substantial First Amendment concerns. If the teacher’s speech is not directed at a particular student for sexual favors, the First Amendment concerns loom larger. “If the speech is not repetitive, severe and persistent, then generally it should receive protection,” says University of Pennsylvania history professor Alan Charles Kors. Kors’ colleague at the Foundation for Individual Rights in Education, attorney Harvey A. Silverglate, wrote in a 1999 memorandum: “Title VII workplace law and Title IX education law cannot be interpreted so as to allow, much less require an institution of higher learning to curtail speech anywhere on campus, especially in the classroom which is the cauldron of the educational process. Such laws may be applied to genuine harassment, but not to speech cleverly classified as acts of harassment. If these statutes and regulations were in fact interpreted to apply to pure speech, they would thereby be rendered unconstitutional.” Despite arguments that punishing professors for in-class speech violates the First Amendment, several university professors have faced discipline for violating sexual harassment regulations based on their in-class speech. Many of these cases began in the early 1990s, although it took several years before a federal court ruled in the matters. A few examples follow: Silva v. University of New Hampshire In 1992, several students at the University of New Hampshire accused tenured faculty member and writing instructor Donald Silva of sexual harassment in part because of his comments in class. These allegedly included: “Focus is like sex. You seek a target. You zero in on your subject. You move from side to side. You close in on the subject. You bracket the subject and center on it. Focus connects experience and language. You and the subject become one.” “Belly dancing is like jello on a plate with a vibrator under the plate.” Eight students filed written complaints with the university. The school created another section of the class and 26 students transferred from Silva’s class to the other instructor. University officials reprimanded Silva for violating the school’s sexual harassment policy. He filed a grievance that was denied. The university suspended him without pay. At a formal hearing, a panel found that Silva’s comments “contributed to a hostile academic environment.” The university placed Silva on leave without pay for one year and required him to receive counseling before teaching again. After losing his appeals in the university system Silva sued in federal court, contending that his First Amendment rights were violated. A federal district court sided with Silva. The court focused on the fact that some of Silva’s statements, such as the vibrator statement, were not necessarily sexual. The court also emphasized that the university’s sexual-harassment policy did not prohibit nonsexual verbal conduct. “The court finds that Silva’s classroom statements advanced his valid educational objective of conveying certain principles related to the subject matter of his course,” the court wrote. “The record demonstrates that Silva’s classroom statements were made in a professionally appropriate manner as part of a college class lecture.” The court concluded that the university’s sexual harassment policy “as applied to Silva’s classroom speech is not reasonably related to the legitimate pedagogical purpose of providing a congenial academic environment because it employs an impermissibly subjective standard that fails to take into account the nation’s interest in academic freedom.” Legal commentator Lisa Woodward wrote that “the court’s great deference to academic freedom effectively negated the mandates of Title IX.” However, Kors, president of FIRE, disputes this characterization, calling the prosecution of Silva “beyond belief.” Cohen v. San Bernardino Valley College Dean Cohen taught a remedial English class at San Bernardino Valley College. He used a self-described “confrontational teaching style designed to shock his students and make them think and write about confrontational subjects.” In 1992, he read articles to his class that he had published in Hustler and Playboy magazines. He led classroom discussions on topics such as obscenity, cannibalism and consensual sex with children. After a student complained, the university determined that Cohen had violated the school’s sexual harassment policy. The board of trustees ordered Cohen to warn students ahead of time of his “confrontational style,” attend a sexual harassment seminar, and be cognizant of how his teaching style might affect his students. Cohen sued the school, claiming a violation of his First Amendment rights. A federal district court rejected Cohen’s arguments, finding the sexual harassment policy constitutional. On appeal, the 9th U.S. Circuit Court of Appeals reversed, finding that the policy was “simply too vague as applied to Cohen in this case.” The court reasoned: “Cohen’s speech did not fall within the core region of sexual harassment as defined by the Policy. Instead, officials of the College, on an entirely ad hoc basis, applied the Policy’s nebulous outer reaches to punish teaching methods that Cohen had used for many years.”

### A2 Funding Impact

#### 1 – federal funding high now. Pew 15:

Pew [Polling and information organization] “Federal and State Funding of Higher Education.” July 2015.

**The federal government is the nation’s largest student lender; it issued $103 billion in loans in 2013.** States, by contrast, provided only $840 million in loans that year, less than 1 percent of the federal amount. Although they must be paid back with interest, federal loans allow students to borrow at lower rates than are available in the private market. **Federal loans grew 376 percent between 1990 and 2013 in real terms**, compared with enrollment growth of 60 percent. These figures represent the volume, rather than the cost, of those loans. The federal government also supports higher education through the tax code. In 2013, it provided $31 billion in tax credits, deductions, exemptions, and exclusions to  offset costs, essentially equal to the $31 billion it spent for Pell Grants. Because these expenditures allow taxpayers to reduce their income taxes, they reduce federal revenue and are similar to direct government spending. **The value of federal tax expenditures for higher education is $29 billion larger than it was in 1990 in real terms**.  Much of the growth coincided with the creation of the American Opportunity Tax Credit (formerly Hope Tax Credit) in 1997 (effective 1998) and its expansion and renaming in 2009. Between 1990 and 2013, the number of FTE students grew by 60 percent.

#### 2 – so many alt causes

### A2 Harassment Impact

#### 1 – title IX is inefficient and not enforced. Thomas 11:

Thomas, Katie [Contributor, The New York Times] “Review Shows Title IX Is Not Significantly Enforced.” The New York Times. July 2011.

In 1998, the University of Southern California was accused of denying its female students a fair chance at participating in sports. **Thirteen years later**, the federal agency charged with investigating sex discrimination in schools has not completed its inquiry of U.S.C. In 2008, the same federal agency, the Office for Civil Rights, came across evidence that Ball State University in Indiana was losing a disproportionate number of women’s coaches. But the agency opted to let Ball State investigate itself. After a two-week inquiry, during which Ball State failed to interview a single coach, the university concluded that there was no evidence that any of the coaches had been unfairly treated or let go. The federal law known as **Title IX** — requiring schools at all levels across the country **to** offer girls and women equal access to athletics — has produced a wealth of progress since it was enacted almost four decades ago. Almost no one disputes that. But scores of **schools**, **year in and year out**, **still fail to abide by the law.** For those schools, **almost no one disputes this**: **There is little chance their shortcomings will ever be investigated**, **and** even if they are, **few will be meaningfully punished.** According to a review by The New York Times, the Office for Civil Rights allows cases of suspected discrimination to drag on for years, long after the affected athletes have graduated. The office — whose staff of 600 full-time employees at its Washington headquarters and 12 regional offices must juggle a variety of cases, including those for disability, age and race discrimination — routinely asks schools to investigate themselves and to develop their own plans for fixing problems. Not surprisingly, the process can lead to further delays and little change.

#### 2 – counterspeech solves back, that’s Calleros 95 – the community can engage in protest or lectures or workshops, which is better than title IX.

#### 3 – cross-apply Strossen, you force survivors to go the institution for help, when the institution most likely doesn’t care.

## A2 Dropouts DA

### 1AR – Droupouts DA

## A2 Endownments DA

### 1AR – Endownments DA

#### So many alt causes to the disad, one of them being limitation of free speech, which means I get a link turn. Hartocollis 8/4:

Anemona, writer for the New York Times. “College Students Protest, Alumni’s Fondness Fades and Checks Shrink” August 4, 2016 http://www.nytimes.com/2016/08/05/us/college-protests-alumni-donations.html?\_r=0 SA-IB

Scott MacConnell cherishes the memory of his years at Amherst College, where he discovered his future métier as a theatrical designer. But protests on campus over cultural and racial sensitivities last year soured his feelings. Now Mr. MacConnell, who graduated in 1960, is expressing his discontent through his wallet. In June, he cut the college out of his will. “As an alumnus of the college, I feel that I have been lied to, patronized and basically dismissed as an old, white bigot who is insensitive to the needs and feelings of the current college community,” Mr. MacConnell, 77, wrote in a letter to the college’s alumni fund in December, when he first warned that he was reducing his support to the college to a token $5. A backlash from alumni is an unexpected aftershock of the campus disruptions of the last academic year. Although fund-raisers are still gauging the extent of the effect on philanthropy, some colleges — particularly small, elite liberal arts institutions — have reported a decline in donations, accompanied by a laundry list of g5. Alumni from a range of generations say they are baffled by today’s college culture. Among their laments: Students are too wrapped up in racial and identity politics. They are allowed to take too many frivolous courses. They have repudiated the heroes and traditions of the past by judging them by today’s standards rather than in the context of their times. Fraternities are being unfairly maligned, and men are being demonized by sexual assault investigations. And university administrations have been too meek in addressing protesters whose messages have seemed to fly in the face of free speech. Scott C. Johnston, who graduated from Yale in 1982, said he was on campus last fall when activists tried to shut down a free speech conference, “because apparently they missed irony class that day.” He recalled the Yale student who was videotaped screaming at a professor, Nicholas Christakis, that he had failed “to create a place of comfort and home” for students in his capacity as the head of a residential college. A rally at New Haven Superior Court demanding justice for Corey Menafee, an African-American dining hall worker at Yale’s Calhoun College who was charged with breaking a window pane that depicted black slaves carrying cotton. Credit Peter Hvizdak/New Haven Register, via Associated Press “I don’t think anything has damaged Yale’s brand quite like that,” said Mr. Johnston, a founder of an internet start-up and a former hedge fund manager. “This is not your daddy’s liberalism.” “The worst part,” he continued, “is that campus administrators are wilting before the activists like flowers.” Yale College’s alumni fund was flat between this year and last, according to Karen Peart, a university spokeswoman. Among about 35 small, selective liberal arts colleges belonging to the fund-raising organization Staff, or Sharing the Annual Fund Fundamentals, that recently reported their initial annual fund results for the 2016 fiscal year, 29 percent were behind 2015 in dollars, and 64 percent were behind in donors, according to a steering committee member, Scott Kleinheksel of Claremont McKenna College in California. His school, which was also the site of protests, had a decline in donor participation but a rise in giving. At Amherst, the amount of money given by alumni dropped 6.5 percent for the fiscal year that ended June 30, and participation in the alumni fund dropped 1.9 percentage points, to 50.6 percent, the lowest participation rate since 1975, when the college began admitting women, according to the college. The amount raised from big donors decreased significantly. Some of the decline was because of a falloff after two large reunion gifts last year, according to Pete Mackey, a spokesman for Amherst. At Princeton, where protesters unsuccessfully demanded the removal of Woodrow Wilson’s name from university buildings and programs, undergraduate alumni donations dropped 6.6 percent from a record high the year before, and participation dropped 1.9 percentage points, according to the university’s website. A Princeton spokesman, John Cramer, said there was no evidence the drop was connected to campus protests.

## A2 I-Law DA

### 1AR – I-law DA

#### We just elected Trump – he’s bringing back Korematsu for Muslims and Mexicans – our human rights cred is trash.

#### Non-unique – hate speech is already going to happen, its just a question of whether the other side engages and whether we can criticize the government.

#### Our shitty domestic surveillance record, police brutality, private prisons, and the death penalty are crushing our cred. Sanchez-Moreno 15:

Maria, co-director of the U.S. program at Human Rights Watch. “Hold the US accountable on human rights” May 11, 2015. http://america.aljazeera.com/opinions/2015/5/holding-the-us-accountable-on-human-rights.html

The United States has its second universal periodic review (UPR) before the United Nations Human Rights Council in Geneva on Monday. Countries will be able to ask the U.S. questions and make recommendations about its implementation of human rights commitments made during its first review, which took place in 2010, as well as about other issues of concern. At the top of the list should be Washington’s failure to hold accountable those responsible for the systematic torture carried out by the Central Intelligence Agency in the global “war on terrorism.” Five years ago, the U.S. accepted a UPR recommendation from Denmark to “take measures to eradicate” and “thoroughly investigate” all forms of torture and abuse by military or civilian personnel within its jurisdiction. But the only investigation into CIA torture conducted by the U.S. Department of Justice was limited in scope and closed in 2012 with no charges filed. Nor does it seem to have met basic standards of credibility or thoroughness; investigators apparently never bothered to interview key witnesses of the abuse: the detainees. The U.S. has finally begun to tell the truth about what happened: the December 2014 release of a partially redacted summary of a detailed U.S. Senate Intelligence Committee report that describes, in harrowing detail, many of the acts of torture to which CIA officials subjected detainees. Yet the full 6,700-page report remains classified, and Barack Obama’s administration has expressed no interest in appointing a special prosecutor and opening new investigations. Countries that have succeeded in bringing to justice those responsible for atrocities should take the lead in pressing the U.S. to act. Indefinite detention at Guantánamo Bay remains another outstanding concern. The administration has reiterated its commitment to close the facility and has gradually transferred some detainees to other countries. But 122 men remain locked up in the detention center because of congressional restrictions on transfers and apparent foot dragging by the Department of Defense. These men have no clear prospect of release or a fair trial under military commissions, which are fundamentally flawed. Among other problems, they allow the use of evidence obtained by coercion, fail to protect attorney-client privilege and use rules that block the defense from obtaining information essential to the case, including about the CIA’s treatment of the detainees on trial while they were in its custody. Nearly two years since Snowden’s first disclosures, neither the White House nor Congress has yet to impose meaningful limits on the NSA's mass surveillance programs. Serious and longstanding human rights problems also plague the U.S. criminal justice system, including poor prison conditions, disproportionately harsh sentencing, the death penalty and abusive police practices. As the protests in many U.S. cities over the deaths of African-Americans Michael Brown, Eric Garner, Walter Scott, Freddie Gray and others show, there is strong and understandable public concern over police brutality and racial discrimination in the U.S. criminal justice system. Other governments should press the U.S. to clean up these blots on its record. Countries should also call the U.S. out on abuses in its immigration system, notably its recent decision to detain immigrant families with children who are apprehended crossing the border. The administration admits the detentions are aimed at deterring other migrants, many of whom are fleeing persecution at home. But international law bars all detention of children for immigration purposes, which is profoundly harmful to their development. The large-scale U.S. surveillance programs revealed by National Security Agency whistleblower Edward Snowden raise further concerns. Nearly two years since his first disclosures, neither the White House nor Congress has yet to impose meaningful limits on these programs, which affect potentially millions of people inside and outside the U.S. Even a very modest bill to impose some constraints on domestic surveillance, the USA Freedom Act, faces strong opposition from legislators who support the programs. In this context, it is ever more critical that concerned governments join others, like those of Brazil and Germany, that have been pressing the U.S. to reform. The U.S. has put a lot of effort into strengthening the U.N. Human Rights Council and making the UPR a useful process when it comes to dealing with other countries. It has also made a point of setting a good example, by engaging in extensive consultation with nongovernmental organizations and other stakeholders in the run-up to its review. But the U.S. will risk undermining these efforts if it fails to fulfill its own human rights commitments.