# CD T/Theory File

## PICs Bad

#### A] Interpretation: If the aff defends the removal of all speech codes that restrict constitutionally protected speech, the negative may not defend the removal of any speech codes the aff removes. To clarify, the neg can’t read PICs.

#### B] Violation: They read a PIC.

#### C] Net benefits:

#### 1] Limits: There are way too many PICs out of different types of speech. They can defend thousands of random different types of speech that have been deemed constitutionally protected. Kills fairness since the aff has to bifurcate their prep between tons of PICs while the neg focuses on one. My interp makes sure that research burdens are drawn on reciprocal lines, since both debaters have to prep for all instances of speech.

#### 2] Ground: I have an absolute burden to defend every single type of free speech prohibition is bad whereas if the neg just proves in one instance a restriction is good they win, which means they get to scoop my entire aff and moot 6 minutes of AC offense by doing almost the same thing. That means the neg gets to select the most desirable slice of offense in the resolution, which proves qualitative ground loss. That’s a voting issue for fairness- we both need equal access to the ballot to win.

## T Any

#### A] Interpretation: The aff must defend that all constitutionally protected speech in all venues ought not be restricted by public colleges or universities. To clarify, they can’t defend removing a specific restriction on speech.

#### B] Violation: You spec [x] speech.

#### C] Net Benefits:

#### **1] Semantic Accuracy:**

#### **A: Specific semantic mechanisms, like almost-test and framer’s intent, prove**

Lallas 17, Jackson, A DEFENSE OF T-ANY, 2017, http://www.theladi.org/blog/2017/2/9/a-defense-of-t-any

Consider these sentences: (1) Did you debate any debaters? (2) Any debater could win that round. In (1) any seems to function as an existential. If you debated at least one debater, you would answer yes to the question. However, (2) operates as a universal – pick any debater and they should be able to win the round. A good rule of thumb for telling **the difference between a universal and existential any is the ‘almost test,’ (See Carlson 1981, and Kadmon and Landman 1993). Almost can only modify universal** determiners (Kadmon and Landman 1993). Consider: (3) Did you debate almost any debaters? (4) Almost any debater could win that round. We see that (3) is incoherent, but (4) still makes sense. (4) now has a smaller scope than (2), as some debaters would not be able to win the round. **Using the almost test, it’s clear that our current topic is an example of the universal any: (5) Public colleges and universities ought not prohibit almost any constitutionally protected speech. Though awkward, this sentence has a clear meaning**. It reads: “With a small amount of exceptions, constitutionally protected speech ought not be prohibited by public colleges and universities.” Since the resolution passes the almost test, we know that it uses any as a universal determiner. This demonstrates that the semantics of the resolution favor a generic reading, as we would intuitively expect. I will note that there is debate about the meaning of a universal any. However, I have not encountered an article advocating for a model allows the affirmative position to be the more accurate reading of the resolution. There is a lot of literature on the semantics of any and some of the articles are 300 + pages long, so it’s possible I missed something. Another semantic justification for the negative position comes from the ‘widening effect’ of any (Kadmon and Landman 1993). Consider this example, slightly modified for clarity from Kadmon and Landman: (6) Owls hunt mice. (7) Any owl hunts mice. Although both sentences are generic, they conclude that (7) rules out exceptions more strongly than (6). (7) applies to more cases than (6) so it is a broader statement. From an intuitive perspective, this happens because the determiner any emphasizes a statement’s generality. Now consider the following sentences: (8) Countries ought to prohibit the production of nuclear power. (9) Countries ought to prohibit any production of nuclear power. (10) In the United States, private ownership of handguns ought to be banned. (11) In the United States, all private ownership of handguns ought to be banned. (12) Public colleges and universities in the United States ought not restrict constitutionally protected speech. (13) Public colleges and universities in the United States ought not restrict any constitutionally protected speech. There are two observations to be made here that support the negative side of T - Any. The first is that (12) and (13) are analogous to the construction of (6) and (7), so the widening effect indicates that (13) applies to a larger quantity. The **second is that the use of any seems to be very deliberate. Our past resolutions (8) and (10) were general statements that omitted universal determiners.**

#### This outweighs a] context- Lallas is specific to the resolution by applying the almost test, other definitions just define any in general. B] Topic lit- Lallas reviews multiple surveys and thus the topic lit as a whole.

#### B: Context: “Not” with “any” refers to “no” – thus, the resolution functionally reads “public colleges and universities ought to restrict no constitutionally protected speech.

Dictionary.com,

[http://www.dictionary.com/browse/no](http://www.dictionary.com/browse/noNo: adjective 1. not any:)

**[No: adjective 1. not any:](http://www.dictionary.com/browse/noNo: adjective 1. not any:)**

#### 2] Limits- FIRE lists 170 different speech codes that infringe on due process student rights alone, meaning there’s at least 170 plans you could get a solvency advocate for right then and there, not even counting permutations of plans or non-FIRE plans, many of which will have unconstestable truth value. Nobody could ever prep out such a massive caselist, which kills engagement- **-** their interp requires the neg to bifurcate their prep between tons of aff’s while the aff focuses on just one. That means the 1nc will get destroyed by 1ar frontlines in every debate since the aff has had at least 170 times more prep on it.

Foundation for Individual Rights in Education. ["Case Archive"](http://www.thefire.org/index.php/case/). Retrieved 2008-03-25.

#### 3] Ground: most people think the principle of free speech is good, seeing as we’ve had the bill of rights for 200 years- the entire point of the resolution is whether or not particularly insidious forms of speech justify restriction to outweigh a general rule. That’s proven through the topic lit since most objections are based on instances of bad speech, such as hate speech or sedition. There’s very few instances of speech that people think are bad, meaning that allowing you to spec an aff gives you access to unbeatable affs with inherent truth value, like ‘colleges shouldn’t restrict student’s right to say racism is bad’, which kills fairness since there’s no arguments I can read against them.

#### 4] T version solves- read your aff as an advantage to whole res.

## T Nebel

#### Interpretation- The affirmative must defend that all public colleges and universities should stop restricting constitutionally protected speech. To clarify, you cannot spec a set.

#### Violation-

#### Vote Neg-

#### Textuality – The term “public colleges and universities” in the resolution is a generic bare plural, which means you cannot spec.

Debois 17 [Danny Debois, (TOC Winner, studies at Harvard), “Interpretational Questions,” Victory Briefs, 2017]

First, “public colleges and universities” is a bare plural—i.e. there’s no article or demonstrative in front of public colleges and universities like “the” or “these” indicating which ones the resolution is talk ing about. Bare plurals indicate that the resolution is a generic statement, and consequently, in order to textually affirm, aff advocacies would have to prove why public colleges and universities in general ought not limit constitutionally protected speech, not why certain public colleges and universities should have certain procedures.

#### Limits – there are nearly 1700 colleges in the US which exclodes the caselist. You could defend any college or subset of colleges, giving your 1700! Affs, which is a massive caselist far beyond the trillions that I could never prep for or predict. Solvency advocates don’t check – any random school newspaper about free speech can count as a solvency advocate. This means you can just frontline your aff while I have to prep hundreds of them, which is a irreciprocal burden, especially given you can spec a college that links out of most DA’s. **That’s a voting issue for fairness- limits ensure that I have a legitimate chance to prep and engage your aff.**

#### Ground – speccing a college allows you to cherry pick the most desirable slice of the resolution – obviously some college need to abolish their restrictions more clearly than others do, for a multitude of reasons such as location or level of speech codes. This makes the burden of proof much easier on the aff which kills fairness since we both should have equal access to offense. And side bias doesn’t impact turn- even if neg side bias exists a world where rthe aff gets the top 1 percent of offense is gross overcompensation for 11% skew.

#### Topical version- defend all colleges and read your aff as an advantage. Solves all your offense.

## T – Written

#### A] Interp: Freedom of the press isn’t freedom of speech – one is about the media and the other is individual.

**Wells 13**, Wells, Thomas R. [Assistant Professor of Philosophy, University of Tilburg] “Freedom of the Press is Not the Same as Freedom of Speech.” The Philosopher’s Beard, January 3, 2013.

Freedom of the press is not the same as freedom of speech Freedom of the press is often conflated with freedom of speech, a conceptual error that leads to excessive deference to media corporations. Properly understood, [T]he freedom of the press requires that mass-media corporations be free from government control, but not that they be free from regulation in the public interest. Whether or not the press supports rather than impedes individuals' freedom of expression, public reasoning, and the accountability of politicians depends on how the media market is set up and policed. Freedom of speech is a concept that pertains to individuals and is almost inseparable from respecting freedom of thought (see Mill, On Liberty). Just as every individual should be permitted to think controversial thoughts that many people find disagreeable or offensive (against the existence of god, say), so they should be allowed to say them. Its justification has two components. First, the intrinsic value of freedom of expression to the speakers, who get to share their opinions and ideas with others. Second, the indirect benefits that a diversity of opinions produces for society at large: ideas and arguments can be publicly tested and improved, with the results available for all. Freedom of the press is quite a different kind of thing, since it pertains to a certain group of corporations (mass-media companies), rather than individuals. The key difference is that because corporations are not people their speech can have no intrinsic value[.] (pace Justice Kennedy's majority opinion in Citizens United). Corporations, unlike individuals, are not sophisticated enough agents to have thoughts of their own that they burn to express to others, and so they cannot suffer from censorship as people do. Indeed, because corporations lack moral agency generally, their 'moral' rights can only be justified on utilitarian grounds: recognising corporate personality and property rights is a legal wheeze that makes the capitalist order function more efficiently, rather than a recognition of some underlying intrinsic moral claim. (For corporations to gain real moral rights, they would have to be designed in such a way that they can conduct morally sophisticated reasoning and give themselves a moral law. But that's a subject for another post.)

#### B] Violation: They defend journalism, which is press, not speech.

#### C] Net Benefits:

#### 1] Legal Precision- freedom of speech means literal speech

**Volokh 12** summarizes [Eugene Volokh (Gary T. Schwartz Professor of Law, UCLA School of Law), FREEDOM FOR THE PRESS AS AN INDUSTRY, OR FOR THE PRESS AS A TECHNOLOGY? FROM THE FRAMING TO TODAY, University of Pennsylvania Law Review, 2012]

The **freedom of the press**-as-technology, of course, **was not seen as redundant of** the **freedom of speech**.56 St. George Tucker, for instance, discussed the **freedom of speech** asfocusing on the spoken word andthe **freedom of the press** as focusing **on the printed**: The best speech cannot be heard, by any great number of persons. The best speech may be misunderstood, misrepresented, and imperfectly remembered by those who are present. To all the rest of mankind, it is, as if it had never been. The best speech must also be short for the inves- tigation of any subject of an intricate nature, or even a plain one, if it be of more than ordinary length. The best speech then must be altogether inadequate to the due exercise of the censorial power, by the people. The only adequate supplementary aid for these defects, is the absolute freedom of the press. **57 [at the Debates of the Constitutional Convention].** Likewise, **George Hay**, who later became a U.S. Attorney and a federal judge, **wrote in 1799 that** “**freedom of speech** **means**, in the construc- tion of the Constitution, the privilege of **speaking** any thing without control” **and** “the words freedom of the **press**, which form a part of the same sentence, **mean** the privilege of **printing** any thing without control.”58 Massachusetts Attorney General James Sullivan (1801) sim- ilarly treated “the freedom of speech” as referring to “utter[ing], in words spoken,” and “the freedom of the press” as referring to “print[ing] and publish[ing].”59 And **these sources captured an understanding** that was **broadly expressed during** the **surrounding decades**. Bishop Thomas Hayter, writing in 1754, described the “Liberty of the Press” as applying the traditionally recognized “Use and Liberty of Speech” to “Printing,” an activity that Hayter described as “only a more extensive and improved Kind of Speech.”60 Hayter’s work was known and quoted in Revolu- tionary-era America.61

And Oxford Dictionary concurs, it defines speech as [New Oxford American Dictionary, “speech”]

**the expression of** or the ability to express **thoughts and feelings by articulate sounds**

**Prefer my evidence:**

**A. It’s directly comparative between different things protected by the first amendment, which is necessary on T standards in order to understand what words mean holistically.**

**B. It garners interpretative legitimacy directly be citing and quoting the Constitutional Convention and their procedurals, which means it’s the best analysis of the terms of the constitution. That comes first- this is a legal topic therefore the most accurate interpretation will be one that is derived from law, so it’s most likely debaters will use that to prep.**

#### 2] Limits- Your interp explodes the topic lit to all things defended by the 1st amendment- there are multiple categories, including press based rights, religion, and state protections, all of which can come with dozens of different affs, putting the case list into the hundreds. This also is especially bad for limits in the context of the speech v s press distinction since there are a lot of different regulations for press that don’t exist for speech like slander law, meaning the prep necessary to engage these positions would also be a totally different strand of lit. Kills fairness – limits are key to making sure it’s possible for me to prep and predict your aff ahead of time.

## T – Spec Conpro

#### Interpretation: The affirmative must either specify a specific test in the 1AC to clarify what counts as conpro speech in their world or explicitly answer "yes" or "no" in CX if asked if they will be removing restrictions on certain types of speech. To clarify, this means you cannot say "I'll defend normal means, you have to read links that say something is conpro"

#### Violation:

#### Vote Neg:

#### Ground - What is constitutionally protected is open-ended absent aff clarification of what constitutionally protected speech means, either in CX or in the aff. Every neg DA requires the neg win the restrictions work/offense debate and the link argument that their disad is constitutionally protected speech. If the aff doens't concede links in CX or spec in the aff, then it's a 2-1 structural skew to access any DA for the neg, because winning the speech is not conpro is terminal defense to any neg arg. Thus the aff should be willing to spec in CX to ensure reciprocal access to ground for the neg – that’s k2 fairness since equal access to args is key to equal access to the ballot.

## T – Conpro

### 1NC Shell

#### Interpretation: The affirmative can only get rid of speech restrictions if those speech restrictions are on something that is constitutionally protected.

#### Violation:

#### This means that \_\_ is NOT constitutionally protected speech. This means the affirmative does not defend the resolution as written, since they get rid of a restriction on something that is not constitutionally protected. The resolution says they have to get rid of a restriction on something that is.

#### Vote Neg:

#### Textuality – My interpretation is key to understanding the wording of the topic- the topic says that if speech is constitutionally protected, then it should not be restricted. Your plan ignores the constitutionality plank altogether by saying even if a form of speech is not constitutionally protected, then it should be restricted. That clearly does not fall into the subset of what the resolution is asking for- it’s like proving that my shoes are green when asked whether or not my socks are.

#### Limits- Aff at least doubles the possible caselist by including not only consitutioanlly protected speech but also speech that isn’t constitutionally protected. This means obscenity, slander, speech zones are all added as possible options. Not to mention the thousands of smaller court rulings that are less known. And since these types of speech aren’t constitutionally protected, no neg author will write about them since restrictions on these types of speech are allowed already, killing ground.

#### D. Voters: Vote on fairness. Debate is a competitive activity governed by rules. You can’t evaluate who did better debating if the round is structurally skewed, so fairness is a gateway to substantive debate. Jurisdiction is a constraint on fairness and education—absent a topical advocacy, it becomes impossible to affirm the resolution since you are endorsing something else which is a reason to negate since it means that something that isn’t the resolution is good. Education, my interp is real world and promotes good education, the aff’s is designed for abuse at the expense of knowledge.

#### Drop the debater on T: 1. Drop the arg is severance—lets you read new arguments in the 1AR and connect the plan to whole res which is a complete restart. 2. I had to spend time reading T-dropping the arg gives you a huge time trade-off which incentivizes sketchy affs.

#### Competing interps: 1. Reasonability causes a race to the bottom where we read increasingly unfair practices that minimally fit the brightline- we should set the best norms. 2. Collapses- you use offense-defense to determine reasonability being good which concedes the authority of competing interps- saying reasonability is reasonable is circular. 3. Reasonability makes no sense on T- you’re either topical or you’re not, you can’t be 87% topical.

#### No RVIs: 1. Illogical- being topical doesn’t mean you should win, it’s just a burden- otherwise the aff would win for meeting the burden of inherency. 2. Topical clash- once theory is initiated we never go back to substance because its unnecessary so no one engages in the topic. 3. Chilling effect- debaters will be scared to read theory for fear of losing to a prepped out counter interp, proliferating abuse.

### Violation – Journalism

#### Restrictions on student journalism are constitutionally protected – Hosty v Carter shows that campuses are allowed under law to have editorial constraints.

**SMU Law Library** (http://library.law.smu.edu/Collections/Ellen-K~-~-Solender-Institute/Case-Summaries/Hosty-v-Carter)

Student journalists of **the university newspaper**, the Innovator, **sued the Governors State University**. The student journalists, Margaret Hosty, Jeni Porche and Steven Barba brought suit **after Dean Patricia Carter halted printing of the student newspaper** **until a school official approved the** student newspaper's **contents**. The Innovator, had published news stories and editorials critical of the administration. Dean Carter's directive was issued despite a university policy that said the student newspaper staff "will determine content and format of their respective publications without censorship or advance approval." The student editors at Governors State University in Illinois filed suit against school administrators and the Illinois Attorney General's office, arguing that their First Amendment rights were no greater than those of teenagers in high school. The federal district court handed down a decision on April 10, 2003, that offered strong support for college press freedom. The state's chief lawyer, Illinois Attorney General Madigan, argued that Dean Carter’s action was qualified, citing Hazelwood School District v. Kuhlmeier, 484 U.S. 260 (1998). The court rejected Dean Carter’s argument holding that Hazelwood was not the appropriate standard for censorship of college student media and pointing to the more than three decades of law providing strong First Amendment protection to the college student press. Illinois Attorney General Madigan filed a petition on behalf of Patricia Carter for a rehearing en banc before the federal appeals court**. On June 25, 2003, a seven-majority of an 11-judge panel granted that petition and vacated the three-judge panel's decision and handed down a judgment in support of the university. In weighing the rights of collegiate press, the Seventh Circuit wrote, "Hazelwood provides our starting point." The seven-judge majority stated that, "there is no sharp difference between high school and college newspapers." Reasoning that the same considerations that justify editorial control over high school publications might extend to colleges, the Seventh Circuit suggested that "Hazelwood's framework applies to subsidized student newspapers at college** as well as elementary and secondary schools."

### Violation – Academic Freedom

#### Academic freedom isn't a constitutionally protected right – it's merely a societal norm designed to promote the common good.

Weinstein 13 James Weinstein (Dan Cracchiolo Chair in Constitutional Law at Arizona State University, Faculty Fellow, Center for Law, Science and Innovation  
Associate Fellow, Centre for Public Law, University of Cambridge, "Academic Freedom, Democracy, and the First Amendment," 2013   
The signal contribution that the modern American university has made to the progress of society cannot be seriously doubted. Among other measures, this enormous contribution is confirmed by the impressive number of Nobel Prizes that have been awarded to faculty at American Universities.177 Nor can there be any reasonable doubt that **academic freedom has been integral to the creation and dissemination of the knowledge upon which the progress of society depends**. But **what is open to question is whether it is either appropriate or necessary for the judiciary to vigorously protect academic freedom as constitutional norm**. The burden of this paper has been to suggest that the judiciary should have only a modest role in that enterprise. This is because **academic freedom has never been conceived as a true individual right but rather as a means of promoting “the common good.”** Under our Constitution, it is emphatically the province the political branches government, not the judiciary, to effectuate the common good by balancing competing and often incommensurate general welfare concerns.

#### Err heavily neg on this issue since Perry 16 doesn’t use the phrase “constitutional speech” or even mention the Constitution. The aff is extra T- they are garnering offense form something that is not the res.