## T – No Research

### 1NC T – Research

#### Interpretation – the aff may only defend removing restrictions on constitutionally protected speech.

#### Academic freedom is distinct from free speech

Post 16 [(renowned legal scholar and dean of Yale Law School), "Robert C. Post on why speech at universities must be regulated," Brown University News, 11/14/2016] AZ

Post went on to differentiate between freedom of speech and academic freedom, which he argued is crucial to the mission of universities, quoting the 1915 Declaration of Principles on Academic Freedom and Academic Tenure by the American Association of University Professors: “Academic freedom upholds not the absolute freedom of utterance of the individual scholar, but the absolute freedom of thought, of inquiry, of discussion and of teaching, of the academic profession.” He argued that academic dissent is absolutely necessary, but that people must first be literate within the academic discipline in which they are voicing dissent — and then dissent in a way that is intelligible to people who already know the discipline. “Disciplines are committed to progress, which means they must have dissent, but unlike classic principles of freedom of speech, they don’t have only dissent — they have dissent that is constantly evaluated by the rules already existing within the community of knowledge that constitutes the disciplines,” he said. “Disciplines that do not encourage internal criticism risk atrophy and death. But disciplines that do not evaluate according to standards of competence risk disintegration and incoherence. That’s the paradox that any discipline lives in. That’s the paradox that the university lives in.”

#### Academic freedom isn't even 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 & Innovation

Associate Fellow, Centre for Public Law, University of Cambridge, "Academic Freedom, Democracy, and the First Amendment," 2013] AZ

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.

#### Violation – the aff defends academic freedom – hold them to the plan text

#### Standard –

#### First, ground – the aff shifts the basis of debate away from core neg generics toward an entirely different body of literature. Research is conceptually distinct from traditional free speech or protected expression – that's Post. Research is mostly conducted by professors, not students, and is regulated by a completely different set of disciplinary rules – peer review, university guidelines on research ethics, and technical nature – that allow affs to avoid neg prep on donations, hate speech, or critiques of deliberative democracy.

#### Second, limits – classifying research as speech allows the aff to specify a potentially infinite number of plans about the types of research that are good or harmful – explodes neg prep burdens since we have to predict types of research like critical race studies, stem cell research, or climate change denial. Underlimiting also turns clash since the neg has to turn to bad extremist generics instead of engaging the nuance of the aff.

#### Vote on fairness - the judge needs to enforce competitive equity to serve their role of evaluating the winner.

#### Education – the game itself is valuable since it teaches us about the topic and other portable skills that apply outside of debate, which should be preserved to make the game worth playing.

### T Voter

#### 1. Drop the debater:

#### Dropping the argument is severance since it gets rid of the aff advocacy. You have nothing to vote for so drop the argument is the same as drop the debater

#### A new 1AR advocacy forces me to read new 2NR offense the 2AR can make 1 response to and get rid of, and gives the aff 7 minutes to my 6 which lets them auto-win substance

#### It’s the ultimate punishment since the greatest incentive is to win – dropping them is the strongest deterrent against abusive practices, which prevents greater abuse in future rounds even if it over-punishes in this round

#### 2. Competing interps –

#### It sets norms since we find the best practice for debate which checks more abusive practices in the future

#### Reasonability leads to a race to the bottom since people will constantly toe the line and read increasingly abusive arguments

#### Reasonability is arbitrary since we don’t know what is “reasonable,” inviting judge intervention or random unjustified thresholds

#### 3. No RVIs

#### Chills theory – fear of the loss discourages debaters from running theory to check abuse and encourages abuse. Good theory debaters will run abusive positions to bait theory and win the round. That’s specifically true for T – T as a no-risk issue is key to setting norms on the topic and limiting out affs

#### Logic – the aff shouldn't win for being topical

### A2 Wright

#### Wright goes neg – it explicitly differentiates between free speech and academic freedom

That the free speech values of the pursuit of truth and of collective self-development support academic freedom, even apart from the mission and policy statements cited above, should not be surprising.

#### Even though the values match up, that doesn't mean they are legally equivalent – one legal concept can promote another, but that doesn't mean that they're the same.

#### Wright concedes that the courts have no consistent precedent on whether academic freedom is protected – the whole article is prescriptive, not descriptive about the state of jurisprudence

Beyond the strands of supportive rhetoric, however, lies much current controversy and uncertainty. One court has observed that "'[a]cademic freedom' is a term that is often used, but little explained, by federal courts." Academic freedom is largely unanalyzed, undefined,6 and unguided by principled application, leading to its inconsistent and skeptical or questioned invocation. Thus, the relationship between academic freedom and the First Amendment is typically left unclear. Could any teachers ever have special academic freedom claims that are not subsumed under general First Amendment doctrine? If university administrations and boards of trustees themselves have academic freedom claims of any sort do those claims fall equally within the logic of freedom of speech? Assuming that only public universities are bound to respect First and Fourteenth Amendment free speech rights, does the logic of academic freedom nonetheless suggest any guidance for private universities? The existence of the First Amendment itself has not yet brought clarity regarding the degree, if any, to which a college professor's or other public school teacher's classroom speech is protected explicitly, in academic freedom terms or not, under the First Amendment.

### 2NR – Overview

#### Our interpretation is that research is distinct from constitutionally protected speech – that's Post. The aff violates by defending academic freedom by professors at universities.

#### The impact is ground – research draws on a different body of literature than traditional neg generics. Hate speech DAs, endowments, and critiques of free speech require the aff to defend free speech or protests by students. Professors are subject to different rules – they don't pay tuition, aren't accountable to disciplinary rules like students are, and have different incentives for publication.

#### The legal distinction is magnified by Weinstein. Academic freedom isn't a legally entrenched norm, it's just a societal practice that evolved over time. That escapes neg offense on the legal obligation of the aff, such as the Courts CP or the Title IX DA.

#### The lack of solid neg ground results in shallow debates that lack nuance and can't engage the specifics of the aff. That turns their clash offense

### 2NR No Research – Evidence

#### Academic freedom distinguished from "constitutionally protected speech"

Hudson 10 [David Hudson (First Amendment contributing editor for the American Bar Association’s Preview of United States Supreme Court Cases, teaches First Amendment classes at Nashville School of Law and Vanderbilt University Law School), First Amendment Center, 2/4/2010] AZ

Some experts emphasize the duty to prevent sexual harassment and discrimination. “Sexually harassing behavior is not tolerated in the workplace, and it should not have to be tolerated in the classroom,” writes legal commentator Woodward. Similarly, George Mason University law professor Jon Gould warns that often the balance has swung too far in favor of university professors. He writes: “Unlike employment cases, courts often seem to balance faculty and student conduct with concerns for ‘academic freedom,’ in the process dismissing collegiate claims that would go forward in the workplace.” Gould adds that “academic freedom has the potential to become a defense that prohibits the prosecution of cases that deny women equal treatment in the university setting.” He contends that “academic freedom has been interpreted too broadly, becoming essentially a defense for courts — and perhaps collegiate administrators — who do not want the difficult but essential task of distinguishing constitutionally protected speech from harassment.” “Academic freedom is about education,” Gould writes. “When hostile behavior gets in the way of the educational process, academic freedom must give way to equal opportunity.” “What is needed is a clear test for evaluating the free speech rights of teachers in the classroom in situations where that speech collides with the students’ rights and the universities’ responsibilities,” Woodward writes.

#### Research & academic freedom are distinct from freedom of speech

Post 16 [(renowned legal scholar and dean of Yale Law School), "Robert C. Post on why speech at universities must be regulated," Brown University News, 11/14/2016] AZ

“There are different kinds of freedoms that are related to the two different kinds of missions of a modern university — research on the one hand, teaching on the other,” he said. “But in either case, these freedoms are conceptually distinct from the kind of freedom of speech that derives from the political arena, where all are equal and all have to exist for the end of self-governance. The university is not about self-governance. The university is about the attainment of education and the attainment of knowledge.” To frame his argument, Post first defined three basic rules governing freedom of speech as outlined in the First Amendment to the U.S. Constitution and defined by the Supreme Court: first, the state can’t tell a speaker that they have to speak about any particular content; second, there are no true or false opinions and all ideas are equal; and third, the state cannot compel a person to speak. He then defined the mission of most universities as being primarily two things — research, or the discovery and advancement of knowledge; and teaching, the conveying of knowledge. In order to advance these two goals, he said, universities cannot and should not follow these three basic rules of freedom of speech. Research, Post said, is ultimately based in the notion that not everyone has equal knowledge of a given topic and that expert knowledge is created through disciplinary study. “When we are talking about university research and expanding knowledge, it is resting on a disciplinary hierarchy, which is exactly opposite of the democratic equality on which freedom of speech rests,” he said.

#### Academic freedom is separate

Levinson 7 [Rachel Levinson (senior counsel), "Academic Freedom and the First Amendment," American Association of University Professors, 2007] AZ

The First Amendment generally restricts the right of a public institution—including a public college or university—to regulate expression on all sorts of topics and in all sorts of settings. Academic freedom, on the other hand, addresses rights within the educational contexts of teaching, learning, and research both in and outside the classroom—for individuals at private as well as at public institutions. This outline aims to give an overview of the protections afforded by academic freedom and the First Amendment, as well as some guidance on the areas in which they do not overlap or where courts have been equivocal or undecided on how far their protections extend.2 Because the First Amendment applies only to governmental actors, this outline focuses primarily on public institutions.

#### Prefer – their evidence doesn't even account for the distinction between First Amendment protections and academic freedom, so ours is more legally precise.

#### Academic freedom isn't included by the First Amendment

Brandt 6 [Elizabeth Barker Brandt (Professor of Law, University of Idaho), "The Crumbling Academic Freedom Consensus and the Threat of U.S. Anti-terrorism Policy," Forum on Public Policy, Summer 2006] AZ

Certainly academic freedom is rooted in many of the same values that inform the First Amendment – those of free association, freedom of thought and inquiry and freedom of speech. Broad generalizations regarding the importance of free thought to free societies, such as Frankfurter’s statements in Sweeezy, seem undebatable on their face. Despite this apparent relationship, however, there are both structural and theoretical limitations on the promise of the First Amendment as a bulwark against incursions on academic freedom. Structurally, the First Amendment can only reach governmental incursions on academic freedom. Sweezy, Keyishian and Whitehall all involved attempts by state government to interfere with academic speech. Yet core academic freedom principles dictate that individual faculty must be free to pursue research and teaching subject only to ethical obligations and institutional decision regarding programs of study.51 Because a constitutional claim requires some action by a state actor, the First Amendment would not be implicated directly where a private university takes disciplinary action against a faculty member based on the person’s speech52 and yet, such action would raise academic freedom issues. Moreover, the striking failure of the Court to extend it’s reasoning in the years since Sweeezy, Keyishian and Whitehall, may indicate that the reach of those decisions is limited. They might be characterized as more a product of their times than the beginnings of a constitutionally based theory of academic freedom. All three cases arose out of the sweeping and often clumsy attempts of states to reach and regulate perceived subversive activity during the Cold War. Given this context it may be that the cases really only stand for the limited proposition that the state may not use universities as a weapon in an overbroad and ill-defined fishing expedition. Frankfurter hints at such a theory when he focuses on the institutional needs of a university to make its own decisions about the nature and scope of academic inquiry.53 The constitutional protection of academic freedom may not extend beyond this situation to interference by state supported universities and schools into the academic freedom of their faculties. It is also not clear what sorts of governmental purposes would support regulations that interfere with academic freedom. Frankfurter’s opinion in Sweezy and the majority opinions in Keyishian and Whitehall each focus on the weakness of the government’s purpose. In Sweezy, Frankfurter reasoned that Sweezy’s academic freedom rights could not be “encroached upon on the basis of so meagre [sic] a countervailing interest of the State as may be argumentatively found in the remote, shadowy threat to the security of New Hampshire . . . .”54 Writing for the majority in Keyishian, Douglas concluded that “the very intricacy of the plan and the uncertainty as to the scope of its proscriptions make it a highly efficient in terrorem mechanism”55 The majority in Whitehall concluded: “[p]recision and clarity are not present. Rather we find an over breadth that makes possible oppressive or capricious application as regimes change.”56