## Hate Speech CP/K

### CP

#### Counterplan Text: Public colleges and universities should ban hate speech, regardless of whether or not it is constitutionally protected.

#### B. It competes—its mutually exclusive.

#### It is just the myth of the free market—remove barriers and a “market place of ideas” will just magically show up. That fails to account for systemic oppression and marginalization of minorities.

Sean McElwee 13 (researcher and writer based in New York. His work has been featured on Policyshop, Salon, The Atlantic and The Rolling Stone.). “The Case for Censoring Hate Speech”. Huffington Post, 2013. http://www.huffingtonpost.com/sean-mcelwee/hate-speech-online\_b\_3620270.html RC

It’s interesting to note how closely this idea resembles free market fundamentalism: simply get rid of any coercive rules and the “marketplace of ideas” will naturally produce the best result. **Humboldt State University compiled a visual map that charts 150,000 hateful insults aggregated over the course of 11 months** in the U.S. by pairing Google‘s Maps API with a series of the most homophobic, racist and otherwise prejudiced tweets. **The map’s existence draws into question the notion that the “twittersphere” can organically combat hate speech; hate speech is not going to disappear from twitter on its own.** The negative impacts of **hate speech cannot be mitigated by the responses of third-party observers, as hate speech aims at two goals.** First, **it is an attempt to tell bigots** that **they are not alone**. Frank Collins — the neo-Nazi prosecuted in National Socialist Party of America v Skokie (1977) — said, “We want to reach the good people, get the fierce anti-Semites who have to live among the Jews to come out of the woodwork and stand up for themselves.” **The second purpose** of hate speech **is to [and] intimidate the targeted minority, leading them to question whether their dignity and social status is secure.** In many cases, such intimidation is successful. **Consider the number of rapes that go unreported. Could this trend possibly be impacted by Reddit threads like /r/rapingwomen or /r/mensrights**? Could it be due to the harassment women face when they even suggest the possibility they were raped? The rape culture that permeates Facebook, Twitter and the public dialogue must be held at least partially responsible for our larger rape culture. Reddit, for instance, has become a veritable potpourri of hate speech; consider Reddit threads like /r/nazi, /r/killawoman, /r/misogny, /r/killingwomen. My argument is not that these should be taken down because they are offensive, but rather because they amount to the degradation of a class that has been historically oppressed. Imagine a Reddit thread for /r/lynchingblacks or /r/assassinatingthepresident. **We would not argue that we should sit back and wait for this kind of speech be “outspoken” by positive speech, but that it should be entirely banned.** American **free speech** jurisprudence **relies upon the assumption that speech is merely the extension of a thought, and not an action.** If we consider it an action, then saying that we should combat hate speech with more positive speech is an absurd proposition; **the speech has already done the harm, and no amount of support will defray the victim’s impression that they are not truly secure in this society.** We don’t simply tell the victim of a robbery, “Hey, it’s okay, there are lots of other people who aren’t going to rob you.” Similarly, it isn’t incredibly useful to tell someone who has just had their race/gender/sexuality defamed, “There are a lot of other nice people out there.” Those who claim to “defend free speech” when they defend the right to post hate speech online, are in truth backwards. Free speech isn’t an absolute right; no right is weighed in a vacuum. The court has imposed numerous restrictions on speech. Fighting words, libel and child pornography are all banned. Other countries merely go one step further by banning speech intended to intimidate vulnerable groups. The truth is that **such speech does not democratize speech, it monopolizes speech.** Women, LGBTQ individuals and racial or religious **minorities feel intimidated and are left out of the public sphere.** On Reddit, for example, women have left or changed their usernames to be more male-sounding lest they face harassment and intimidation for speaking on Reddit about even the most gender-neutral topics. Even outside of the intentionally offensive sub-reddits (i.e. /r/imgoingtohellforthis) misogyny is pervasive. I encountered this when browsing /r/funny. **Those who try to remove this hate speech have been criticized from left and right.** At Slate, Jillian York writes, “While the campaigners on this issue are to be commended for raising awareness of such awful speech on Facebook’s platform, their proposed solution is ultimately futile and sets a dangerous precedent for special interest groups looking to bring their pet issue to the attention of Facebook’s censors.”

#### Autonomy is not why we value free speech, rather it is only instrumentally valuable to promote good discourse, which autonomy ruins.

Owen M. Fiss 86 (Sterling Professor at Yale Law School). “Free Speech and Social Structure”. Yale Law School Legal Scholarship Repository, 1986. http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=2211&context=fss\_papers RC

From this perspective, **the protection of CBS's autonomy** through the no-content-regulation rule **appears as a good. The freedom of CBS to say what it wishes can enrich public debate** (understood generously) **and thus contribute to** the fulfillment of the **democratic aspirations** of the first amendment. The trouble, however, is that **it can work out the other** **way too**, for when CBS adds something to public debate, something is also taken away. **What is said determines what is not said.** **The decision to fill a prime hour of television with Love Boat** necessarily **entails** a decision **not to broadcast a critique of Reagan's foreign policy** or a documentary on one of Lindblom's "grand issues" during the same hour. We can thus see that **the key to fulfilling the** ultimate **purposes of the first amendment is not autonomy**, which has a most uncertain or double-edged relationship to public debate, but rather the actual effect of a broadcast: On the whole does it enrich public debate? **Speech is protected when** (and only when) **it does**, and precisely because it does', **not because it is an exercise of autonomy.** In fact, **autonomy adds nothing and** if need be, **might have to be sacrificed**, to make certain that public debate is sufficiently rich to permit true collective self-determination. What the phrase "the **freedom of speech**" in the first amendment **refers to is a social state of affairs, not the action of an individual** or institution. **The risk posed to freedom of speech by autonomy is not confined to situations when it is exercised** by CBS, or by the other media, but occurs whenever speech takes place under conditions of scarcity, that is, whenever the opportunity for communication is limited. In such situations **one utterance will necessarily displace another.** With the street corner, the element of scarcity tends to be masked; when we think of the street corner **we** ordinarily **assume that every speaker will have** his or **her turn**, and that the attention of the audience is virtually unlimited. Indeed, that is why it is such an appealing story. **But in politics, scarcity is the rule** rather than the exception. The **opportunities for speech tend to be limited**, either by the time or space available for communicating or by our capacity to digest or process information. This is clear and obvious in the case of the mass media, which play a decisive role in determining which issues are debated, and how, but it is true in other contexts as well. In a referendum or election, for example, there is every reason to be concerned with the advertising campaign mounted by the rich or powerful, because the resources at their disposal enable them to fill all the available space for public discourse with their message. Playing Muzak on the public address system of a shopping mall fills the minds of those who congregate there. Or consider the purchase of books by a library, or the design of a school curriculum. The decision to acquire one book or to include one course necessarily entails the exclusion of another.

#### Don’t view this as free speech vs. censorship. Regulations can be used to ultimately enhance free speech. Not all voices are equal in the status quo—this prevents us from hearing all perspectives.

Robert Amdur 99 reviews Owen M. Fiss, “The Irony of Free Speech”. Review by: Robert Amdur, the University of Chicago Press, 1999. RC

As an alternative, Fiss suggests that **we [should] see regulations on speech as furthering free**dom of **speech** itself. This eliminates the need to balance liberty and equality; it transforms the debate into one about how best to protect liberty. On this view, **we value speech ‘‘because it is essential for collective self-determination’’** (p. 3). **We regulate it to foster full and open debate—to insure ‘‘that the public hears all that it should’’** (p. 17). Sometimes **this** end **can be achieved by empowering disadvantaged groups** (giving them more money or bigger megaphones), but matters are not always so simple: **‘‘Sometimes we must lower the voices of some in order to hear the voices of others’’** (p. 18). That, presumably, is what we are doing when we limit the speech rights of ‘‘racists, pornographers, and the rich’’ (p. 17).

#### Hate speech poses a direct threat to the oppressed. Banning it is necessary to promote inclusiveness.

Jared Taylor summarizes Waldron, 12, Why We Should Ban “Hate Speech”, American Renaissance, summarizing Jeremy Waldron, The Harm in Hate Speech, Harvard University Press, 2012, 292 pp., 26.95. 8/24/12, <http://www.amren.com/features/2012/08/why-we-should-ban-hate-speech/> \*\*Note – Taylor does not agree with but is summarizing Waldron’s position

First-Amendment guarantees of free speech are a cherished part of the American tradition and set us apart from virtually every other country. They are not without critics, however, and the free speech guarantees under sharpest attack are those that protect so-called “hate speech.” Jeremy Waldron, an academic originally from New Zealand, has written a whole book explaining why “hate speech” does not deserve protection—and Harvard University Press has published it. Prof. Waldron teaches law and philosophy at New York University Law School, is a professor of social and political theory at Oxford, and is an adjunct professor at Victoria University in New Zealand. Perhaps his foreign origins influence his view of the First Amendment. In this book, Professor Waldron makes just one argument for banning “hate speech.” It is not a good argument, and if this is the best the opponents of free speech can do, the First Amendment should be secure. However, in the current atmosphere of “anti-racism,” any argument against “hate speech” could influence policy, so let us understand his argument as best we can. First, Professor Waldron declares that “we are diverse in our ethnicity, our race, our appearance, and our religions, and we are embarked on a grand experiment of living and working together despite these sorts of differences.” Western societies are determined to let in every sort of person imaginable and make them feel respected and equal in every way. “Inclusiveness” is something “that our society sponsors and that it is committed to.” Therefore, what would we make of a “hate speech” billboard that said: “Muslims and 9/11! Don’t serve them, don’t speak to them, and don’t let them in”? Or one with a picture of Muslim children that said “They are all called Osama”? Or posters that say such things as “Muslims out,” “No blacks allowed,” or “All blacks should be sent back to Africa”? Professor Waldron writes that it is all very well for law professors and white people to say that this is the price we pay for free expression, but we must imagine what it must be like for the Muslim or black who must explain these messages to his children. “Can their lives be led, can their children be brought up, can their hopes be maintained and their worst fears dispelled, in a social environment polluted by these materials?” Professor Waldron insists that a “sense of security in the space we all inhabit is a public good,” like pretty beaches or clean air, and is so precious that the law should require everyone to maintain it: Hate speech undermines this public good . . . . It does this not only by intimating discrimination and violence, but by reawakening living nightmares of what this society was like . . . . [I]t creates something like an environmental threat to social peace, a sort of slow-acting poison, accumulating here and there, word by word, so that eventually it becomes harder and less natural for even the good-hearted members of the society to play their part in maintaining this public good. Professor Waldron tells us that the purpose of “hate speech” is to try to set up a “rival public good” in which it is considered fine to beat up and drive out minorities.

### Cap Stuff

#### The aff naively relies on court interpretation of what constitutes constitutionally protected free speech—this ignores how the state and capitalism have bonded, using free speech as a means to prop up the free market.

Owen M. Fiss 86 (Sterling Professor at Yale Law School). “Free Speech and Social Structure”. Yale Law School Legal Scholarship Repository, 1986. http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=2211&context=fss\_papers RC

These cases presented the Court with extremely difficult issues, perhaps the most difficult of all first amendment issues, and thus one would fairly predict divisions. One could also predict some false turns. What startled me, however, was the pattern of decisions: **Capitalism almost always won. The Court decided that a statute that granted access to the print media to those who wished to present differing views was invalid**; that the FCC did not have to grant access to the electronic media for editorial advertisements; that the political expenditures of the wealthy could not be curbed; and that the owners of the large shopping centers and malls that constitute the civic centers of suburban America need not provide access to pamphleteers. **Democracy promises collective self-determination-a freedom to the people to decide their own fate-and presupposes a debate on public issues that is** (to use Justice Brennan's now classic formula) "**uninhibited, robust, and wide-open."** 12 **The free speech decisions of the seventies, however, seemed to impoverish, rather than enrich public debate and thus threatened one of the essential preconditions for an effective democracy. And they seemed to do so in a rather systematic way**.

#### Free speech advantages the capitalist elites, corporations dominate public deliberation.

Owen M. Fiss 2 (Sterling Professor at Yale Law School). “Free Speech and Social Structure”. Yale Law School Legal Scholarship Repository, 1986. http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=2211&context=fss\_papers RC

The fear I have about the **distortion of public debate** under a regime of autonomy is not in any way tied to capitalism. It **arises whenever social power is distributed unequally**: Capitalism just happens to be one among many social systems that distribute power unequally. I also think it wrong, even in a capitalist context, to reduce social power to economic power, and to attribute the skew of public debate wholly to economic factors; bureaucratic structures, personalities, social cleavages, and cultural norms all have a role to play in shaping the character of public debate. But I think it fair to say that **in a capitalist society,** the protection of **autonomy will** on the whole **produce a public debate** that is **dominated by those who are economically powerful. The market**-even one that operates smoothly and efficiently-**does not assure that all relevant views will be heard, but only those that are advocated by the rich**, by those who can borrow from others, **or by those who can put together a product that will attract sufficient advertisers or subscribers to sustain the enterprise** .CBS is not a monopoly, and competes with a few other networks (and less powerful media) for the public's attention. The fact that CBS's managers are (to some indeterminate degree) governed by market considerations does not in any way lessen the risk that the protection of autonomy-staying the hand of the policeman-will not produce the kind of debate presupposed by democratic theory. The market is itself a structure of constraint that tends to channel, guide and shape how that autonomy will be exercised. From the perspective of a free and open debate, the choice between Love Boat and Fantasy Island is trivial. In this respect, CBS and the rest of the broadcast media illustrate, by example, not exception, the condition of all media in a capitalist society. True, CBS and the other networks operate under a license from the government or under conditions of spectrum scarcity. But the dangers I speak of are not confined to such cases, for **distortions of public debate arise from social, rather than legal or technical factors. Individuals might be "free" to start a newspaper in a way that they are not "free" to start a TV statio**n, because in the latter case they need both capital and government approval, while for the newspaper they need only capital. **But that fact will not close the gap between autonomy and public debate; it will not guarantee that under autonomy principles the public will hear all that it must.** Licensing may distort the market in some special way, but even the market dreamt of by economists will leave its imprint on public debate, not only on issues that directly affect the continued existence of the market, but on a much wider range of issues (though with such issues it is often difficult to predict the shape and direction of the skew). **No wonder we tend to identify the Free Speech Tradition with the protection of "the marketplace of ideas.”**

#### The aff treats private individuals as distinct from public discourse—that re-entrenches the ideology of capitalism as it ignores the broader social context that we are situated in.

Owen M. Fiss 3 (Sterling Professor at Yale Law School). “Free Speech and Social Structure”. Yale Law School Legal Scholarship Repository, 1986. http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=2211&context=fss\_papers RC

A shift from the street corner to CBS compels us to recognize the hybrid character of major social institutions; **it begins to break down some of the dichotomies between public and private presupposed by classical liberalism. It also renders pointless the classificatory game of deciding whether CBS is "really" private or "really" public**, for the shift invites a reevaluation of the stereotypical roles portrayed in the Tradition's little drama. **No longer can we identify the policeman with evil and the citizen with good. The state of affairs protected by the first amendment can just as easily be threatened by a private citizen as by an agency of the state.** A corporation operating on private capital can be as much a threat to the richness of public debate as a government agency, for each is subject to constraints that limit what it says or what it will allow others to say. **The state has a monopoly on the legitimate use of violence, but this peculiar kind of power is not needed to curb and restrict public debate.** A program manager need not arrest someone (lawfully or otherwise) to have this effect, but only choose one program over another, and although that choice is not wholly free, but constrained by the market, that does not limit the threat that it poses to the integrity of public debate. Rather, it is the source of the problem. **All the so-called private media operate within the same structure of constraint, the market, which tends to restrict and confine the issues that are publicly aired.**

#### The role of the ballot is to reject neoliberal and capitalist modes of production.

#### Capitalism causes inevitable crises, inequality, and dehumanization.

#### McClaren 13

Peter McClaren. Professor of Education, UCLA. “Critical Pedagogy Against Capitalist Schooling.” <http://www.globaleducationmagazine.com/critical-pedagogy-againstcapitalist-schooling-socialist-alternative-interview-peter-mclaren/>. Accessed 4/26/14.

While well-meaningprogressive educators might be willing to criticize the manner in which humans are turned into dead objects that Marxists refer to as fetishized commodities, they are often loathe to consider the fact that within capitalist society, all value originates in the sphere of production and that one of the primary roles of schools is to serve as agents or functionaries of capital. Furthermore, they fail to understand thateducation is more reproductive of an exploitative social order than a constitutive challenge to it precisely because it rests on the foundations of capitalist exchange value. Reading Marx and Freire may not alchemize us into revolutionaries capable of transcending capitalism but ignoring what they had to say about transforming education in the context of class struggle would be a huge loss to our efforts. Much of my work has tried to demonstrate that many liberal progressive educational reforms are embedded in a larger retrograde, opportunistic and banalizing politics that situates itself a culture of liberal compassion and a polyglot cosmopolitanism that does more to impede educational transformation than advance it. Revolutionary critical pedagogy is a mode of social knowing that inquires into what is not said, into the silences and the suppressed or the missing, in order to un-conceal operations of economic and political power underlying the concrete details and representations of our lives. It reveals how the abstract logic of the exploitation of the division of labor informs all the practices of culture and society. Materialist critiquedisrupts that which represents itself as natural and thus as inevitable and explains how it is materially produced. Critique, in other words, enables us to explainhow social differences—gender, race, sexuality, and class—have been systematically produced and continue to operate within regimes of exploitation—namely within the international division of labor in global capitalism, sothatwe can fight to change them. Thus, apedagogy of critique is about the production of transformative knowledges. It is not about liberty as the freedom of desire, because this liberty, this freedom of desire, is acquired at the expense of the poverty of others. A pedagogy of critique does not situate itself in the space of the self, or in the space of desire, or in the space of liberation, but in the site of collectivity, need and emancipation To sum up, teachers need to supportsustainablealternatives to neoliberal capitalism with its emphasis on economic growth; protect nature’s resources for future generations; protect ecosystems and help support biodiversity; support a community based economics, and a grassroots democracy that includes participatory and direct forms, embody anti-racist, anti-ableist, anti-sexist, and anti-homophobic pedagogies that respect diversity and work from a post-patriarchal perspective.

#### This is uniquely key in colleges. Academic structures have been vertically integrated into the machine of capital. Abstract theorizing directly fuels capitalist accumulation by attempting to explain away the clear and present nature of exploitation.

Edgardo Lander 02, Prof. of Sociology and Latin American studies at the Venezuelan Central University in Caracas, “Eurocentrism, Modern Knowledges, and the “Natural” Order of Global Capital, Nepantla: Views from South”

The naturalization of these processes of free circulation of investment and trade, as criteria that dictate the terms under which all societies on the planet necessarily must be organized, is explicitly supported by the expertise of those who speak in the name of specialized knowledges, in this case of economic science (a knowledge in the singular): It is widely recognized by economists and trade experts that the WTO system contributes to development. (WTO 1999b, 7) The economic case for an open trading system based upon multilaterally agreed rules is simple enough and rests largely on commercial common sense. But it is also supported by evidence: the experience of world trade and economic growth since the Second World War. (8) Economists agree that the greatest gains go to the country that slashes its own trade barriers. Readiness to open up to foreign suppliers of consumer goods and of inputs to production improves choices as well as competition in price and services offered. Protection that gives special favours to one sector or another of the economy distorts the way a country uses its productive resources. Removal or reduction of distortions allows resources to be used more efficiently. (WTO 1999a, 5) Another manifestation of the “naturalization”/depoliticization of the issues at stake in international economic relations is the tendency to turn disagreements into technical issues that can be resolved in an “objective” and “impartial” manner by the relevant specialists. The Multilateral Agreement on Investment establishes that regulations (including environmental or health-related regulations) that can be considered polemical from the point of view of their scientific justification may be submitted to a body of scientific experts for consideration (OECD 1998, 66). Similar practices are established in WTO agreements. A separate agreement on food safety and animal and plant health standards (sanitary and phytosanitary measures) sets out the basic rules. It allows countries to set their own standards. (WTO 1999b, 19) Member countries are encouraged to use international standards, guidelines and recommendations where they exist. However, members may use measures which result in higher standards if there is scientific justification. (ibid.) What in these texts appears to be the simple application of objective scientific criteria in reality relates to extremely complex and controversial matters. This is the type of situation that arises when, whether on the basis of scientific evidence (on which consensus may or may not exist) or based on specific preferences on the part of the population, standards are established that regulate, limit, or block the use of a certain product or technological process. This can be seen in the heated debate surrounding foods derived from genetically modified plants and animals. One well-known case illustrating the application of WTO standards is the U.S. lawsuit involving the European Union’s ban on the sale—in E.U. territory—of beef treated with growth hormones. The WTO ruled in favor of the United States, categorizing this ban as an unfair, protectionist practice that went against free trade, forcing the European Union to either allow the importation of these products or face severe sanctions, in spite of the opposition of a great majority of the continent’s population. The opinion of a few experts, chosen by the WTO authorities dealing with conflict resolution, thus overruled the democratically expressed wishes of the people of the European Union. In this case it was determined that the fear of consuming beef treated with growth hormones lacked scientific basis; inside the new world order defined by the WTO, this preference was not one for which people could legitimately opt. The majority of the ethical and political confrontations having to do with techno-scientific matters do not have a univocal scientific solution, and differences of opinion and interpretation can continue indefinitely (Nelkin 1977, 1984). Generally, the issues at stake cannot be resolved solely on the basis of experts’ opinions. People are being denied the sovereign right to found their decisions on ethical choices or on particular cultural contexts. This is an example of the growing authoritarianism of the global capitalist order, exposing the population to the potentially harmful effects of certain techno-scientific processes against its expressed will, merely because “specialists” consider that their opposition is based on nothing more than prejudice. These are not issues that depend on the existence or absence of consensus in the scientific community. In any case, as Hans Jonas (1984, 118) argues, human capacity to wield power over nature is always greater than the predictability of this power’s long-range effects, which, in case of doubt, calls for an ethics of responsibility.7 This ethical choice is denied when it is assumed that, to make this type of decision it suffices to take into account the opinions of experts and the rights of investors (Lander 1994). Beyond the internal controversies within Western, techno-scientific communities lies the fact that in the thousands of conflicts occurring in the world today between the interests of transnational capital and those of rural or indigenous people concerning the use of the environment, there is generally also a conflict in the parties’ views of the cosmos, an antagonism between different knowledge systems and different ways of conceiving the relationships between culture and nature. Nevertheless—and this is a perfect expression of the continual functioning of colonial mechanisms—in the new global capital order only one form of knowledge is recognized: Western scientific knowledge. From this discourse of knowledge the criteria and procedures are established by which all controversies are decided.

## Solvency Util

#### Counterplan Text: The administrators of public colleges and universities should get rid of all speech codes except for speech codes that restrict hate speech.

Uelmen 90 [Gerald F. Uelmen, dean of Santa Clara University School of Law and a fellow of the Center for Applied Ethics., Campus Hate Speech Codes, A pro-con discussion of speech codes and free speech, Nov 15, 1990, https://www.scu.edu/character/resources/campus-hate-speech-codes/]

At Emory University, certain conduct that is permissible off campus is not allowed on campus. Specifically, some **speech and behaviors are prohibited in Emory's version** **of** what are derogatorily labeled "politically correct" codes but are more commonly known as **hate speech codes**. Emory's code begins with its definition of banned behavior.

**Discriminatory harassment includes conduct** (oral, written, graphic or physical) **directed against any person** or, group of persons **because of their** race, color, national origin, religion, sex, sexual orientation, age, disability, or veteran's **status and that has the purpose or reasonably foreseeable effect of creating an** offensive, demeaning, intimidating, or **hostile environment for that person** or group of persons.

#### It competes- hate speech is constitutionally protected.

Volokh 15 [Eugene Volokh, Law Professor at UCLA, “No, there’s no “hate speech” exception to the First Amendment,” The Washington Post, May 7, 2015, <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/05/07/no-theres-no-hate-speech-exception-to-the-first-amendment/?utm_term=.9e1ed85e9262>]

I keep hearing about a supposed “hate speech” exception to the First Amendment, or statements such as, “This isn’t free speech, it’s hate speech,” or “When does free speech stop and hate speech begin?” But there is no hate speech exception to the First Amendment. Hateful ideas (whatever exactly that might mean) are just as protected under the First Amendment as other ideas. One is as free to condemn Islam — or Muslims, or Jews, or blacks, or whites, or illegal aliens, or native-born citizens — as one is to condemn capitalism or Socialism or Democrats or Republicans. To be sure, there are some kinds of speech that are unprotected by the First Amendment. But those narrow exceptions have nothing to do with “hate speech” in any conventionally used sense of the term. For instance, there is an exception for “fighting words” — face-to-face personal insults addressed to a specific person, of the sort that are likely to start an immediate fight. But this exception isn’t limited to racial or religious insults, nor does it cover all racially or religiously offensive statements. Indeed, when the City of St. Paul tried to specifically punish bigoted fighting words, the Supreme Court held that this selective prohibition was unconstitutional (R.A.V. v. City of St. Paul (1992)), even though a broad ban on all fighting words would indeed be permissible.

#### Speech code restrictions can be effective at stopping bigots and preventing oppression.

Hodulik 90, Particia, University of Wisconsin-Madison. Senior System Legal Counsel, University of Wisconsin System Administration, “Racist Speech on Campus.” *Wayne Law Review, 1990-1991*

A further concern expressed about the adoption of speech rules was that they would be used to repress the speech of the very groups they were meant to protect. Referring to historical civil rights abuses involving members of racial minorities, opponents of discriminatory speech rules have argued that such regulations can too easily be used against minorities expressing unpopular opi- nions.5 5 There is, however, nothing in the experiences with Wis- consin's rule to show that this has occurred in practice. Although three complaints were brought against minority group members or females, only one was found to be within the scope of the rule. In contrast, white males were named as the alleged violators in fifteen of the complaints filed under the rule.5 6 In the ten cases in which discipline was imposed, nine of the students disciplined were white males, and one was a white female. In all ten, the person harassed was female or a minority group member. Thus, the fear of abusing the rule to the detriment of those intended to be protected has proved unfounded in the cases at Wisconsin.

#### Bans are key to effective argumentation and preserving the goals of a community- ask yourself- is there real value to using the N-word in a conversation?

Uelmen 90 [Gerald F. Uelmen, dean of Santa Clara University School of Law and a fellow of the Center for Applied Ethics., Campus Hate Speech Codes, A pro-con discussion of speech codes and free speech, Nov 15, 1990, https://www.scu.edu/character/resources/campus-hate-speech-codes/]

In addition to minimizing harm, hate speech codes result in other benefits. **The university is ideally a forum where views are debated using rational argumentation**; part of a student's education is learning how to derive and rationally defend an opinion. The **hate speech that codes target, in contrast, is not presented rationally or used to provoke debate. In fact, hate speech often intends to provoke violence. Hate speech** codes emphasize the need to support convictions with facts and reasoning **while protecting the rights of potential victims.**

As a society we reason that it is in the best interest of the greatest number of citizens to sometimes restrict speech when it conflicts with the primary purpose of an event. A theater owner, for example, has a right to remove a heckler when the heckler's behavior conflicts with the primary purpose of staging a play - to entertain an audience. Therefore, **if the primary purpose of an academic institution is to educate students, and hate speech obstructs the educational process by reducing students' abilities to learn, then it is permissible to extend protection from hate speech to students on college or university campuses.**

**Allowing hate speech causes minority students to drop out- kills more civic engagement.**

**A.D.L. 13**. [Anti-Defamation League]. “Responding to Bigotry and Intergroup Strife on Campus: Guide for College and University Administrators.” *Defamation League*.

University and college officials need to demonstrate to all how the **institution's interests are at stake when minority students fear assault or insult, leading to demoralization and high dropout rates.** Even though many existing speech codes have failed in court, campus **administrators should not be prevented or inhibited to act and speak out against racist, sexist, homophobic or anti-Semitic expression. Campus administrators should not tolerate or accept abusive discourse without a vigorous response. Those who misuse their freedom of expression to offend, demean or insult members of the academic community need to comprehend that their words are unacceptable** in a civilized atmosphere, whether or not they are protected by the First Amendment.

#### Minorities want hate speech restrictions and are demanding that colleges comply to make college safer for them.

**Fang 16** Fang, Marina [Contributor, The Huffington Post] “Most College Students Want Free Speech on Campuses – But Not When It’s Hate Speech.” Huffington Post. April 2016.

But students understand the limitations of free speech policies, especially with regard to discriminatory and offensive rhetoric. In recent months**, many students of color have called on their college administrators to more fully address racism on campuses**, arguing that their campuses do not promote openness and diversity**.** “Students do appear to distinguish controversial views from what they see as hate speech — and they believe colleges should be allowed to establish policies restricting language and certain behavior that are intentionally offensive to certain groups,” the survey’s organizers wrote. Yet about 54 percent of students said that “the climate on campus prevents some people from saying what they believe because others might find it offensive.” Gallup, in collaboration with the Knight Foundation and the Newseum Institute, surveyed 3,000 students between the ages of 18 and 24 attending four-year colleges and universities in the United States. Amid a wave of incidents involving free speech and protests on college campuses, the survey’s organizers sought to gather students’ opinions about the First Amendment. **The survey noted that race plays a particular role in college students’ perceptions of First Amendment freedoms. For example, only 39 percent of the black students in the survey reported feeling less confident in the right to peacefully assemble, compared to 70 percent of white students.**

#### Outweighs- listening to the demands of the oppressed is key- it’s incoherent for white people to make decisions about how to solve black oppression.

**Friere 68** [PEDAGOGY OF THE OPPRESSED Paulo Freire. 1968.]

It is essential for **the oppressed** to realize that when they accept the struggle for humanization they also accept, from that moment, their total responsibility for the struggle. They **must realize that they are fighting not merely for freedom from hunger, but for freedom to create and to construct, to wonder and to ven­ ture. Such freedom requires that the individual be active** and responsible, not a slave or a well-fed cog in the machine. . . . It is not enough that men are not slaves; if social conditions further the existence of automatons, the result will not be love of life, but love of death. The oppressed, who have been shaped by the death-affirming cli­ mate of oppression, must find through their struggle the way to life- affirming humanization, which does not lie *simply* in having more to eat (although it does involve having more to eat and cannot fail to include this aspect). The oppressed have been destroyed precisely because their situation has reduced them to things. In order to regain their humanity they must cease to be things and fight as men and women. This is a radical requirement. They cannot enter the struggle as objects in order *later* to become human beings. The struggle begins with men's recognition that they have been destroyed. **Propaganda, management, manipulation—all arms of domination—cannot be the instruments of their rehumanization. The only effective instrument is a humanizing pedagogy in which the revolutionary leadership establishes a permanent relationship of dialogue with the oppressed. In a humanizing pedagogy the method ceases to be an instrument by which the teachers (in this instance, the revolutionary leadership) can manipulate the students (in this instance, the oppressed), because it expresses the consciousness of the students themselves.**