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Rhett Hunt
rhuntness@gmail.com

Brian Ridd
brian.ridd94@gmail.com

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FREE SPEECH ON COLLEGE CAMPUSES: CONSTITUTIONAL RIGHTS IN CONTEXT

Rhett Hunt¹ and Brian Ridd²

“A peaceful march against bigotry...was soon punctuated by tear gas and a scattering of violent skirmishes. Some anti-fascist protesters, wearing black and with their faces covered, chased or beat Trump supporters.”³

“[I] provided medical aid to someone who had been pepper sprayed by a far-right activist.”⁴

“They carried a banner that read ‘This Is War.’”⁵

“Masked protesters began pepper spraying people and used their shields to hit people...”⁶

1 Rhett Hunt is a senior at Brigham Young University majoring in Russian. He would like to thank Jaden Cowley and Talley Timms for their creativity and hard work in editing this article. A special thanks is also due to all those who helped in the writing process in any way.

2 Brian Ridd is a Junior at Brigham Young University majoring in History and minoring in Spanish. He would also like to thank Jaden Cowley and Talley Timms for their time and effort in editing this article. And, a special thanks is also due to all those who helped in the writing process in any way.

3 James Queally ET AL., *Violence by far-left protestors in Berkeley Sparks alarm*, L.A. TIMES (Aug. 28, 2017), <http://www.latimes.com/local/lanow/la-me-ln-berkeley-protests-20170827-story.html>.

4 *Id.*

5 Elena Scheider, *Violence and Berkeley and Freedom of Speech*, N.Y. TIMES (Feb. 3, 2017), <https://www.nytimes.com/2017/02/03/opinion/violence-at-berkeley-and-freedom-of-speech.html>.

6 Queally, *supra* note 3.

*"The Free Speech Movement is dead."*⁷

*"You look like a Nazi'... The black-clad person pepper-sprayed him and hit him on the back with a rod."*⁸

Although this scene may appear to be taken straight from an anarchist's history, these quotes are statements made by live witnesses of the violent protests at the University of California-Berkeley campus in April 2017. Violence and physical altercation were instigated and sustained by members of both far-left and far-right political demonstrators.

Amidst such chaos, many of these student witnesses must have asked themselves, "are riots and violence integral parts of a college education?" Ancillary to the injuries sustained, the property damaged, and the sum of money spent on both repairs and security, free speech was also severely violated. As violence increases on college campuses in response to free speech, so too does the threat to free speech.

Unfortunately, riots, violence, and civil unrest have plagued not just the University of California-Berkeley (UC Berkeley), but several other college campuses across the nation

7 Katy Murphay & Patrick May, *U.C. Berkeley riot tests free speech, incites funding threat from Trump*, MERCURY TIMES (Feb. 3, 2017), <http://www.mercurynews.com/2017/02/03/uc-berkeley-riot-tests-free-speech-incites-funding-threat-from-trump/>. This group continued its statement with these words: "Last night, the Berkeley College Republicans' constitutional right to free speech was silenced by criminals and thugs seeking to cancel Milo Yiannopoulos' tour. Their success is a defeat for civilized society and the free exchange of ideas on college campuses across America."

8 Malini Ramaiyer, *How Violence Undermined the Berkeley Protest*, N.Y. TIMES (Feb. 2, 2017), <https://www.nytimes.com/2017/02/02/opinion/how-violence-undermined-the-berkeley-protest.html>. First person account from Malini Ramaiyer, who was on campus for the riots that took place at UC Berkeley on Feb. 1.

throughout much of 2017.⁹ Many of the riots at UC Berkeley resulted when keynote conservative figures were invited to speak on UC Berkeley's campus. Supporters of these speakers were initially met by peaceful left-wing protestors, but later were opposed by more violent and extreme agitators from organizations such as Antifa and By Any Means Necessary.¹⁰

The first altercations took place on February 1, 2017, when Milo Yiannopoulos, an outspoken advocate of Donald Trump, was scheduled to give a speech at an event near UC Berkeley's campus. Violence quickly ensued, leading to multiple injuries, arrests, and over \$100,000 of damage to buildings and facilities. Over the course of the year, violence was instigated several times at UC Berkeley, such as riots against pro-Trump marches and a scheduled speech given by Ben Shapiro (an unpopular figure among left-wing political supporters).¹¹ On top of the \$100,000 in damages during the Yiannopoulos event,

9 Although our paper will primarily make mention to incidents on UC Berkeley and University of Utah campuses, other recent examples may include University of Wisconsin, Evergreen State College, and Auburn University to name a few.

10 Natalie Orenstein, *Antifa: What is behind the masks in Berkeley?*, BERKELEYSIDE (Sept. 11, 2017), <http://www.berkeleyside.com/2017/09/11/antifa-behind-masks-berkeley/>. An anti-fascist group that “shares the belief that fascism is burgeoning—and that it must be squashed before it is too late. They reject the idea that discourse and debate can do the job. Instead, they believe far-right voices must be prevented, not just muted, through violence if necessary. Many Antifa members are anarchists, and many are involved in other leftist organizations.” Comments made by Natalie Orenstein, journalist for Berkeleyside and a native of Berkeley, CA.

11 Jocelyn Gecker & Paul Elias, *Berkeley braces for visit from right-wing speaker Ben Shapiro*, USA TODAY (Sept. 13, 2017), <https://www.usatoday.com/story/news/2017/09/13/berkeley-braces-visit-right-wing-speaker-ben-shapiro/664536001/>; Amy B. Wang, *Pro-Trump rally in Berkeley turns violent as protestors clash with president's supporters*, THE WASHINGTON POST (Mar. 5, 2017), https://www.washingtonpost.com/news/post-nation/wp/2017/03/05/pro-trump-rally-in-berkeley-turns-violent-as-protesters-clash-with-the-presidents-supporters/?utm_term=.a9832fa56677.

UC Berkeley spent over \$2,800,000 on security for their “Free Speech Week.”¹² Unfortunately, the event was ultimately canceled. A middle ground must be found between rampant violence and exorbitant spending to ensure safety.

Considering the state of civil unrest which is progressively developing on college campuses throughout the United States, we see that free speech is either misunderstood or disregarded by college students. This threat to free speech is harmful to the quality of higher education and society in America. Therefore, the purpose of this article is to address this issue and develop a possible solution: a nation-wide constitution class in institutes of higher education.

We will begin with a brief background, part I, regarding the issue of free speech on college campuses and examine how the United State Supreme Court has previously ruled on the subject. In part II we will outline our proposed solution to the unrest on college campuses through the implementation of a college course, United States Constitutional Rights in Context. We will also address examples of how this course could be implemented as we examine other federally implemented education laws and programs, as well as explain why it is in the federal government’s best interest to support such a measure instead of increased regulation.

I. BACKGROUND

- 12 Amy Rock, *UC Berkeley Spent \$4 Million on Security for Free Speech Events*, CAMPUS SAFETY MAGAZINE (Feb. 7, 2018), <https://www.campus-safety-magazine.com/university/uc-berkeley-security-free-speech-events/>; Megan Schellong, *Here’s How Much Security Costs When an Incendiary Speaker Comes to Campus*, USA TODAY (Sept. 13, 2017), <http://college.usatoday.com/2017/09/13/heres-how-much-security-costs-when-an-incendiary-speaker-comes-to-campus/>.

A long list of Supreme Court cases, as well as early American history, clearly show that freedom of speech is a vitally important topic in the United States.¹³ There is a multiplicity of Supreme Court rulings relevant to freedom of speech, but we will focus on those pertinent to college campuses. The Supreme Court has ruled that clubs cannot be denied based solely on political affiliation.¹⁴ This shows that promoting political awareness and eliminating bias on college campuses is clearly valued. The Supreme Court has also ruled that when free speech interferes with a school's mission, the school's mission supersedes the right to freedom of speech.¹⁵ With this in mind, it is necessary to understand schools' missions and purposes when understanding the right to freedom of speech on college campuses.

Beginning with Harvard College,¹⁶ emphasis on higher education has been a significant part of the United States' legacy. Throughout the years, higher education facilitated the transition from rural farms to urban lifestyles, provided communities with a strong core of leaders, and even fostered higher standards of

13 David S. Bogen, *The Origins of Freedom of Speech and Press*, 42 MD. L. REV. 429, 430 (1983).

14 *Healy v. James*, 408 U.S. 169 (1972).

15 *Morse v. Frederick*, 551 U.S. 393 (2007). The Supreme Court ruled that the school had the right to overrule the student's free speech in using a banner saying, "Bong Hits for Jesus" because the banner contradicted the school's mission to eliminate illegal drug use.

16 *History*, HARVARD UNIVERSITY, <https://www.harvard.edu/about-harvard/harvard-glance/history> (last visited Dec. 19, 2017).

American society.¹⁷ Although the availability of college degrees has increased, the purpose of higher education has remained the same.¹⁸ Former Dean of Academic Affairs at DeVry College of New York stated, “the primary [mission] of higher education is—and should be—the creation of prepared minds.”¹⁹ The creation of “prepared minds” comes through knowledge. The knowledge gained in school is greatly influenced by the diversity of opinions available during the education process. One technique used to cultivate diversity and foster learning is the age-old Socratic method, a practice which involves challenging values and beliefs. The aim is not for “panic and intimidation” but instead to help students “articulate clearly the values that guide their lives.”²⁰

Surely the growth necessary for higher education cannot be realized without differing views, values, and opinions. A problem with differing opinions, however, is that differing opinions can

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- 17 Michael B. Katz, *The Role of American Colleges in the Nineteenth Century*, 23 HISTORY OF EDUCATION QUARTERLY 215, 215-223 (1983) (reviewing Colin B. Burke, *American Collegiate Populations: A Test of the Traditional View*, <https://www.cambridge.org/core/journals/history-of-education-quarterly/article/div-classtitlethe-role-of-american-colleges-in-the-nineteenth-century-burke-colin-b-american-collegiate-populations-a-test-of-the-traditional-view-new-york-new-york-university-press-1982-373-1x-pp-3500-hall-peter-dobkin-the-organization-of-american-culture-private-institutions-elites-and-the-origins-of-american-nationality-new-york-new-york-university-press-1982-352-pp-3950div/E20ECDE49371F8AA08EC2B9B502449E7> (Feb. 23, 2018).
- 18 Kyla Calvert Mason, *Percentage of Americans with college degrees rises, paying for degrees tops financial challenges*, PBS NEWSHOUR (Apr. 22, 2014, 5:59 PM), <https://www.pbs.org/newshour/education/percentage-americans-college-degrees-rises-paying-degrees-tops-financial-challenges>.
- 19 Andres Fortino, *The Purpose of Higher Education: To Create Prepared Minds*, THE EVOLUTION (June 26, 2012), <https://evollution.com/opinions/the-purpose-of-higher-education-to-create-prepared-minds>.
- 20 *The Socratic Method: What it is and How to Use it in the Classroom*, 13 SPEAKING OF TEACHING (Valarie Ross ed.) (2003), https://web.stanford.edu/dept/CTL/Newsletter/socratic_method.pdf (last visited Feb. 23, 2018).

often lead to disregard freedom speech and to subsequent violence. The recent events on the campus of UC Berkeley would clearly not have happened if all students and faculty held identical opinions.

In years past, some in education attempted to make those on campus hold identical opinions, or at least restrict the minority or opposing views, through speech codes.²¹ Speech codes are regulations put in place at universities that restrict expression that would be constitutionally protected by society at large.²² In the past several years, federal courts have consistently overruled certain speech codes due to restriction of individual rights.²³

One recent large-scale solution proposed in response to unrest on college campuses is a law passed in the Wisconsin state legislature in May 2017 regarding an incident on the University of Wisconsin campus. Assembly Bill 299, also

21 Martin P. Golding, *Free Speech on Campus*, 48-49 (Rowman & Littlefield Publishers, Inc., 2000). Golding discusses different models of speech codes that existed, arguing that while we don't want codes that "prohibit anything that anyone finds offensive" because it would be impossible to enforce and measure (p. 48-49), there is still a need for some regulation. One of the biggest arguments for having speech codes on college campuses was to protect students' first amendment rights on campus. Golding mentions that speech codes around the nation lacked uniformity and "as far as [he is] aware, no academic institution has put restrictive speech code to a vote to see if students feel the need to be protected" (49).

Robert M. O'Neil, *Free Speech in the College Community*, 11-26 (Bloomington: Indiana Univ. Press, 1997). O'Neil wrote about the problems regarding speech codes, giving several cases showing why they were not productive.

22 *Spotlight on Speech Codes 2017*, FOUNDATION FOR INDIVIDUAL RIGHTS IN EDUCATION, [HTTPS://WWW.THEFIRE.ORG/SPOTLIGHT-ON-SPEECH-CODES-2017](https://www.thefire.org/spotlight-on-speech-codes-2017) (Feb. 23, 2018). This is an article by the Foundation for Individual Rights in Education (FIRE). FIRE gives a brief history of speech codes and how they came about. This article also details an annual rating the organization does regarding how well each university in the nation with their free speech policies. They report that in the last nine years, the percentage of schools that have received a "red light" rating has dropped from 79% to 33.9%.

23 *Id.*

known as the Campus Free Speech Act, was proposed as tensions rose between liberal and conservative groups of students as conservative speaker Ben Shapiro presented—though the incident was not as violent as the one at UC Berkeley.²⁴

Wisconsin legislature quickly passed the bill with seven key purposes, that in general were meant to protect free speech on campus.²⁵ They also sought to protect the speech by asking students to report any other student that may have infringed upon their right to freedom of speech or misused freedom of speech in a way that could be deemed derogatory, accusing, or qualified as hate speech; the reported student would receive varying punishments.²⁶ Although these consequences provide incentive to not infringe on others' rights, they also create an environment of fear, as well as restrict individual rights protected under the first Amendment. Regulation that restricts free speech with the intent of promoting free speech is an obvious contradiction. Clearly, regulation and punishment enforced by university officials is not the way to promote open-mindedness and free speech, and is reminiscent of old campus speech codes. These situations encourage us to propose a class that could teach behaviors rather than promoting regulation that inspires fear.

24 Lillian Price & Jason Stein, *Wisconsin Assembly passes campus free speech bill*, JOURNAL SENTINEL (June 21, 2017), [HTTPS://WWW.JSON-LINE.COM/STORY/NEWS/2017/06/21/WISCONSIN-ASSEMBLY-TAKING-UP-CAMPUS-FREE-SPEECH-BILL/403267001](https://www.jsonline.com/story/news/2017/06/21/wisconsin-assembly-taking-up-campus-free-speech-bill/403267001).

25 H.R. 299, 2017 Gen. Assemb., 2017-2018 Sess. (Wis. 2017) <http://docs.legis.wisconsin.gov/2017/related/proposals/ab299>. This is the actual bill 299 that was passed by the Wisconsin State Legislature along with an analysis that is provided at the beginning by the Legislative Reference Bureau that reviewed the bill and its purposes and discussed whether it was justified—and if it would achieve what they wanted it to.

26 *Id.* The first time a student is reported, they are given a warning with a couple days of suspension. If charged twice, the student will be suspended for a full semester of school. A third charge would see the student expelled from the University of Wisconsin; Price, *supra* note 24.

II. EXPLORING THE ISSUE

A. A Problem of Constitutional Ignorance

Considering the importance of the right to freedom of speech in America, it may seem unlikely that college students could misunderstand or object to this right. As seen in the examples of civil unrest mentioned above, however, there is both misunderstanding and objection. According to multiple surveys, students' ignorance or misunderstanding of basic constitutional rights is increasing.²⁷

This was evidenced at the University of Utah in fall of 2017. On September 27, 2017, student protestors gathered outside the university's Behavioral Sciences Auditorium to demonstrate their objection to guest-speaker, Ben Shapiro. In an interview with ABC news, Sean Taylor, a student at the University of Utah and a leader of the anti-Shapiro student movement, stated, "I don't think [Shapiro] should speak." When asked whether he believed such a notion was unconstitutional, he startlingly answered, "I don't care" and "I don't think [the US

27 Survey, *Constitution Day*, AMERICAN COUNCIL OF TRUSTEES AND ALUMNI (Aug. 2015), https://www.goacta.org/images/download/Constitution_Day_Survey.pdf. According to surveys conducted in 2015 and 2016, constitutional knowledge is decreasing. In 2015 a national study done by OmniWeb, a service of GfK Custom Research North America, found that only 45.9% of college students were capable of correctly identifying the Bill of Rights as a series of constitutional amendments; *2016 U.S. Constitution Survey Results*, OAK HILL PUBLISHING, https://www.constitutionfacts.com/2016_constitution_day_survey (last visited Dec. 19, 2017); *Free Expression on Campus: A Survey of U.S. College Students and U.S. Adults*, KNIGHT FOUNDATION (2016), https://www.knightfoundation.org/media/uploads/publication_pdfs/FreeSpeech_campus.pdf. 69% of college students agreed that speech which is intentionally offensive ought to be prohibited by college administration. Such consensus demonstrates a clear lack of understanding concerning basic freedom of speech rights.

Constitution is], like, a relevant document right now.”²⁸ Strikingly, the foundational document of the United States government is now referred to as *irrelevant*. As evidenced by the multitude protesting Ben Shapiro at the University of Utah, it is unlikely that Taylor is the only student with this opinion.

Since visiting right-wing speakers lead to riots among left-wing thinkers, and vice versa, an obvious suggestion would be for institutes to stop inviting speakers who hold controversial opinions. As a result, however, students would only encounter speakers who support the institute’s majority opinion. This, of course, ignores the necessary conflict of opinions that leads to a well-rounded education. If riots can be prevented through reasonable means, like a class on the U.S. Constitution, it is *not* reasonable to limit educational opportunities. By clearly defining what student’s rights are and how they operate, students will understand the necessity of the Constitution. They will also understand why violence and riots are not reasonable approaches to conflicts of opinions.

B. U.S. Constitutional Rights in Context

There are, of course, obstacles to the implementation of a constitutional rights course. Who will teach the class? What will the workload be? Will there be standardized tests? For whom will it be required? Although we do not have the answers to all possible questions, we hope that this section will be beneficial in understanding the structure and function of the course. First and foremost, the course name itself gives

28 Nikita Vladimirov, VIDEO: ANTI-SHAPIRO STUDENT: CONSTITUTION NOT RELEVANT, CAMPUS REFORM (2017), <https://www.campusreform.org/?ID=10025> (last visited Dec 19, 2017).

Emily Anderson, U STUDENTS CALL ON ADMINISTRATION TO CANCEL BEN SHAPIRO EVENT – DAILY UTAH CHRONICLE, DAILY UTAH CHRONICLE (2017), <http://dailyutahchronicle.com/2017/09/13/u-students-call-administration-cancel-ben-shapiro-event/> (last visited Dec 19, 2017). Students also made other controversial statements about the Ben Shapiro visit.

insight into the function: US Constitutional Rights in Context (USCRC). This course will focus on and adapt to Supreme Court interpretations of rights; similarly, it will discuss how each interpretation applies to current social situations. Special emphasis will be placed on particularly pertinent issues: free speech, the right to bear arms, unreasonable search and seizure, etc.

Most institutions of higher education have general education requirements which include: United States history, individual state history, or both.²⁹ Many of these institutes require multiple credit hours, often as many as six, to fulfill one requirement.³⁰ We intend USCRC to only supplement and not replace any of the courses required by institutes of higher education across America. As such, two credit hours will suffice. The primary purpose of the course is to help students understand and respect personal rights and is to be included in freshman core education.

As an example of implementation, Brigham Young University's required American Heritage course provides useful insight into the inner workings of USCRC. During each of the two semes-

29 *The Value of General Education*, BRIGHAM YOUNG UNIVERSITY, [HTTP://GE.BYU.EDU/VALUE-OF-GENERAL-EDUCATION](http://ge.byu.edu/value-of-general-education) (last visited Dec 19, 2017). From Brigham Young University's foundational documents regarding general education: "Within the Aims of a BYU Education, the objective of BYU's General Education Program is to prepare students with a broad, integrated foundation of knowledge, skills and cultural understanding which supports and enhances major education and facilitates the ability and desire for lifelong learning and service. In an environment which blends the spiritual and the secular, general education courses should improve the student's ability to think clearly, communicate effectively, and act wisely."

30 *General Education Requirements*, UNIVERSITY OF WASH., <https://www.washington.edu/uaa/advising/academic-planning/general-education-requirements/overview> (last visited Dec 19, 2017); *General Education Requirements*, UNIVERSITY OF WIS. SYSTEM, <https://flex.wisconsin.edu/getting-started/general-education-requirements> (last visited Dec 19, 2017); *General Education*, BRIGHAM YOUNG UNIVERSITY, [HTTPS://CATALOG.BYU.EDU/ABOUT-BYU/GENERAL-EDUCATION](https://catalog.byu.edu/about-byu/general-education) (last visited Dec 19, 2017); *Current Core Requirements*, UNIVERSITY OF TEX. AT AUSTIN, <https://ugs.utexas.edu/core/requirements/current> (last visited Dec 19, 2017).

ters in which the class is offered, two professors teach separate sections of American Heritage. The classes range from 260 to 700 students, depending on the size of the lecture hall. Each year, approximately 5,000 students take American Heritage.³¹ American Heritage is implemented according to anticipated learning outcomes. USCRC coursework will also be catered to learning objectives.³² In order to standardize the course across the United States, each student will be required to take a standardized exam that covers the course material. This test could be designed by state governments, so long as learning outcomes are met.

Since we propose that USCRC be federally mandated, funding is a significant problem. Funding and other similar concerns will be addressed in the following section. Overall funding such as FAFSA, received by private and public universities, will depend on each institute's implementation of USCRC.

C. The Federal Government in Education

As we discuss the role of the federal government in implementing USCRC, we must acknowledge that the federal government has been involved in education for years through implementing programs and providing funding. Some of these programs and laws are sex education, No Child Left Behind (NCLB), Race to the Top (RTTT), and Title IX. As we hope for fed-

31 About BYU, BRIGHAM YOUNG UNIVERSITY, <https://news.byu.edu/about> (last visited Dec 19, 2017). BYU's current undergraduate enrollment is about 30,000 people with approximately 5,000 consisting of new freshmen. For institutes of higher education that average significantly more, or fewer, new freshmen, the number of professors and average number of students in each class would vary.

32 American Heritage heavily emphasizes "partisan paragraphs," which are essays submitted every week. As written in the syllabus for American Heritage: "The 'Partisan Paragraph' assignment asks you to write a weekly paragraph analyzing a pundit who holds political views that you oppose." Similarly, USCRC requires students to write reflection essays about constitutional rights and crucial court cases. This will ensure that students not only know their constitutional rights, but are able to understand how they apply to their lives.

eral backing for USCRC, we will highlight certain aspects of existing federal programs that are analogous to our proposed class.

The first comparison we can draw between federal education programs and our proposed course is the implementation of sex education courses. Sex education (commonly referred to as “sex ed”) is a program enforced primarily in elementary to high school about sexual abstinence and contraception. Sex ed is applied in elementary to high schools because these topics are relevant to teenagers undergoing puberty, sexual maturation, and hormone changes.³³

The subject matter of USCRC must also be catered to the relevant issues and social understanding of the students—constitutional issues, especially free speech, become relevant to students as they move from high school to universities. Many college students are exposed to different demographics and

33 Joyce C. Abma & Gladys M. Martinez, Div. of Vital Statistics, *Sexual Activity and Contraceptive Use Among Teenagers in the United States, 2011–2015*, Nat'l Health Statistics Rep. (June 22, 2017), <https://www.cdc.gov/nchs/data/nhsr/nhsr104.pdf>. According to the National Health Statistics Reports, of females and males between the ages of 15-19 42.4 and 44.2 percent, respectively engaged in sexual intercourse in the U.S. Based on this study, and a similar study reported by the Guttmacher Institute, it is most effective to teach sex ed to elementary to high school aged youth; *American Adolescents' Sources of Sexual Health Information*, Guttmacher Inst. (Dec. 2017), <https://www.guttmacher.org/fact-sheet/facts-american-teens-sources-information-about-sex#2>.

political opinions that starkly contrast with their own.³⁴ Although USCRC is applicable to both high school and college students, it is more reasonable to establish USCRC in universities.

Title IX of the Educational Amendments of 1972 the nation by the federal government and could serve as a model for USCRC.³⁵ It is enforced by the Office of Civil Rights, under the Department of Education, to ensure that all schools that receive federal funding follow laws of equal opportunity for all sexes in learning and activities.³⁶ Title IX, which is maintained in primary and secondary education, provides an example of how a federally run program can function at a university level and how we could implement USCRC in the university setting.³⁷

34 Sam Stebbins & Thomas C. Frohlich, 11 states least likely to legalize marijuana, USA Today (Jan. 4, 2016, 9:11AM), <https://www.usatoday.com/story/money/business/2016/01/04/24-7-wallst-legalize-marijuana/78077366>. Consider, for example, a college student from Alabama, which, according to USA Today, is the least likely state to legalize recreational marijuana. If this student moves to Colorado or Washington for higher education, he or she will invariably encounter views, habits, and opinions significantly different from his or her own. The purpose of our suggested course is to prevent violent conflict over differing opinions. These conflicts have a higher likelihood of occurring in colleges and universities than in high schools. We propose teaching respect and understanding of constitutional rights in colleges and universities because college students encounter differing opinions more than high school students do. Moreover, according to the Department of Education, the number of out-of-state freshmen has doubled since 1986; Nick Strayer, The Great Out-of-State Migration: Where Students Go, N.Y. Times (Aug. 26, 2016), <https://www.nytimes.com/interactive/2016/08/26/us/college-student-migration.html>.

35 34 C.F.R. §106 (1975). https://www.ecfr.gov/cgi-bin/text-idx?SID=e8ff8575b8631186baeaf43ea06b2e6b&mc=true&tpl=/ecfrbrowse/Title34/34cfr106_main_02.tpl. This website is a condensed summary of the OCR's duties in monitoring the funding, as well as a summary of the point of the statute.

36 *Id.*

37 See 34 C.F.R., *Supra* note 35. Off. for Civil Rights, U.S. Dep't of Educ., Title IX Resource Guide (Apr. 2015).

Two other examples of federal government funding come from No Child Left Behind Act (2001)³⁸ and Race to the Top Program (2009).³⁹ Like sex education, these programs were implemented in primary education, but they provide successful examples of federally backed programs that led to growth as they forced schools to comply with certain standards. We hope for the same success with federal support of USCRC.

D. Government and Institutional Incentive and Funding

Not only is it in the federal government's best interest to mandate USCRC because it encourages a constitutionally aware populace, but it is also in each institute's best interest to fund these programs because it will make uni-

38 Off. of Elementary and Secondary Educ., U.S. Dep't of Educ., No Child Left Behind: A Desktop Reference (2002); No Child Left Behind Act, Off. of Superintendent of Public Instruction (Jan. 27, 2011), <http://www.k12.wa.us/esea/NCLB.aspx>. According to the act, "the purpose of this title is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments." The act establishes how to meet expectations, disperse and use funding, and administer the program—all of this is upheld through standardized testing.

39 Judith Lohman, Comparing No Child Left Behind and Race To The Top, Off. of Legis. Research, Conn. Gen. Assemb. (June 4, 2010), <https://www.cga.ct.gov/2010/rpt/2010-R-0235.htm>. While NCLB takes a mandatory approach that requires schools to abide by the guidelines to receive funding, through RTTT Congress allotted \$4.35 billion in grants to offer as incentive to schools for their performance; U.S. Dep't of Educ., Race to the Top Program Executive Summary (Nov. 2009); 34 C.F.R. §200 (July, 2002), <https://www.ecfr.gov/cgi-bin/text-idx?SID=c56c0bd41714c5374326a8dfd0a10140&mc=true&node=pt34.1.200&rgn=div5#sp34.1.200.a>.

versities safer and will subsequently save them money.⁴⁰

The U.S. Government actively encourages civic activity. The U.S. Government holds the position the “one of the most important rights of American citizens is the franchise—the right to vote.”⁴¹ The U.S. Government actively encourages people to vote, even when located overseas. Through the Federal Voting Assistance Program (FVAP), citizens overseas can exercise their right to vote.⁴² The resources expended for these programs are in no way wasted considering they encourage people to exercise civil rights and promote a responsible citizenry. Like the resources used to enable people to vote, the resources expended for USCRC would encourage civil responsibility and would not be wasted.

Moreover, each individual institution will greatly benefit from the implementation of USCRC. The funds allotted to USCRC would deter violence and damages the result because of riots and other conflicts on college campuses. As noted in our introduction, the UC Berkeley spent over \$2,800,000 on

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- 40 Alexander v. City of Round Rock, 16-50839 U.S. 1, 2-16 (5th Cir. 2017). Some people argue that in some situations, it is not in the government’s best interest for citizens to know their rights, such as during a “Terry stop” (A brief detention by a police officer on reasonable suspicion that a person has been involved in criminal activity). Police officers can be aggravated when drivers are audacious enough to invoke their constitutional rights. In the case of *Alexander v. City of Round Rock*, Lionel Alexander was beaten to the ground and arrested for claiming that his constitutional rights allowed him not to answer the police officer’s questions. Had Lionel been ignorant of his constitutional rights, he would not have referenced his constitutional right to remain silent. Subsequently, the police officer would not have acted aggressively.
- 41 Elections & Voting, The White House, <https://www.whitehouse.gov/about-the-white-house/elections-voting> (last visited Dec 15, 2017).
- 42 About FVAP, Federal Voting Assistance Program, <https://www.fvap.gov/info/about> (last visited Dec 15, 2017).

security detail alone during visits of conservative thinkers.⁴³ UC Berkeley could have used these funds on other initiatives had there not been a threat of violence and destruction of property. Although the extent to which USCRC prevents violence and destruction of property depends on each individual person, if educating college students can reduce violence and damage on college campuses, USCRC is worth the cost.

We openly acknowledge that there is no guarantee USCRC will completely dissolve the issue of free speech conflicts on college campuses.⁴⁴ However, in line again with the sex education analogy, USCRC will exist for the benefit of those who want to take advantage of it. Because this course will promote the principles for which the Constitution of the United States stands, no effort is wasted when the result is a respectful and educated populace.

III. CONCLUSION

Riots and civil unrest in response to freedom of speech disputes are a growing issue on college and university campuses across the United States. Not only does the resulting violence lead to significant destruction and injuries, it also inflicts immeasurable damage to free speech culture in the U.S. In addition, further limits freedom of speech. Because differing opinions are essential in cultivating learning within institutes of higher education, as free speech deteriorates on college campuses, so does higher education itself. In response to this growing problem, we

43 Amy Rock, *UC Berkeley Spent \$4 Million on Security for Free Speech Events*, CAMPUS SAFETY MAGAZINE (Feb. 7, 2018), <https://www.campus-safety-magazine.com/university/uc-berkeley-security-free-speech-events/>; Megan Schellong, *Here's How Much Security Costs When an Incendiary Speaker Comes to Campus*, USA TODAY (Sept. 13, 2017), <http://college.usatoday.com/2017/09/13/heres-how-much-security-costs-when-an-incendiary-speaker-comes-to-campus>.

44 In another comparison, the Declaration of Independence did not guarantee independence from the King; it encouraged a collective effort for revolution and the forming of a new nation. USCRC will not guarantee domestic peace across American colleges and universities, but it will encourage a collective effort for tolerance and respect.

have presented a solution: instill in every college student an understanding of, and respect for, the United States Constitution and the rights guaranteed therein. Our USCRC class will strive to do just that. Federally mandated, this program will not only begin the process of dissolving bigotry and hate speech on college campuses, but will also save colleges and universities hundreds of thousands of dollars by avoiding the need for security detail at speeches that may cause civil unrest. Using examples of NCLB, RTTT, and Title IX in America, it is obvious that not only have such federally mandated programs been implemented in the past, but they have also served to solve significant social problems. It is clear that without educating the U.S. populace, free speech and, very possibly, the Bill of Rights itself could be in danger of falling into irrelevancy. United States Constitutional Rights in Context is a decisive step toward constitutional civility in America.