

EFFECTS TOPICALITY, ALL OVER AGAIN...

by

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When a judge looks at a plan how will she know it's a plan "to significantly increase academic achievement in secondary schools"? The question is not an easy one, mainly because the topic framers have once again preferred a grammatical construction of the resolution which seems to mandate so-called "effects" topicality. That is, by requiring the affirmative to "establish a policy to significantly increase academic achievement," as opposed to simply requiring the affirmative to "increase academic achievement," the committee appears to permit affirmatives the option of defending policies which would not *directly* increase achievement, but which only have the *effect* of doing so.

Such constructions have become a regular feature of the high school topics debated in the last decade, and at least two points can be made in defense of the committee's choices. First, high school debates simply have not been plagued by effects topicality arguments when such constructions have been chosen. Despite annually strenuous conversation on the issue at the major summer programs, the circuit has been able to handle apparently problematic resolutions of this type without much difficulty. And second, we could say the topic committee has preferred a lesser evil, since forcing affirmatives to actually implement "increases in academic achievement" would impose a perhaps impossible burden on plan topicality. Arguably the only certain way to fiat an academic achievement increase would be to implement a definitional change, such as artificially adding 100 points to every student's SAT score or watering down course requirements. Merits of such plans are difficult to locate.

And so, once again, teams will debate a topic that permits affirmatives to create policies having the effect (direct or indirect) of increasing achievement. That is what affirmatives mean when they say the resolution "mandates effects," a common catchphrase response to effects topicality violations. But to say the resolution requires effects is not to say that all effectually topical cases should be allowed. For example, to pick an extreme case, we know that children

are unlikely to academically achieve when they are dead. Such an argument (and who can deny it?) justifies any plan that reduces infant mortality or decreases nuclear war risks. We know that poor children perform less competently on standardized exams. Does this make any pro-economic growth plan a "policy to ...increase academic achievement?" But if the answer is yes, we've created an open-ended resolution.

Now a reasonable response is to point to the resolution's modifier for the word "policy." That is, the worse effects abuses might be preventable since the affirmative is only allowed to implement an "education policy." And it is true one definition of the phrase says education policies are those which directly connect to the actual operation of school buildings. But the "education" modification does not entirely solve the problem. Many borderline topical cases involve the operation of school buildings (some run this summer included a ban on mandatory asbestos removal and requirements that school building security be improved). There are also, of course, many seemingly topical cases that have nothing to do with the daily operation of school buildings. And if one prefers policies enjoying contextual support, she will quickly find many proposals quite extraneous to our normal sense of achievement policies which are defended as educationally pertinent, since it is politically popular to defend new programs as done on behalf of "our kids' kids."

What we need is a test, a bright line standard, which can be held up against the plan text to determine if it is reasonably (and directly) a policy to increase achievement. It'd be great if the test were plan-based (that is, a test satisfied simply by looking to see if the plan possesses certain features), since that would get judges out of having to look at solvency evidence to determine topicality (a procedure almost everyone opposes, since it gets us into the ugly business of "mixing burdens," a test the affirmative is usually destined to fail, since casting any doubt on solvency makes the plan only "probabilistically topical"). And it would also be good to devise a *reasonable* test:

one providing some latitude to affirmative (after all, the topic "mandates" effects) while still ridding us of the most absurdly indirect achievement policies.

Here's the problem:

All the potential tests suffer from major shortcomings.

Candidate 1: Does the plan announce itself as an academic achievement policy? This test has a major virtue: all a judge has to do is look at the plan and see if the magic language appears. It has a major drawback: any idiot can find a way to plant the resolution in the plan text, and given this, suddenly all plans are topical. Example: "We support establishment of the following education policy to significantly increase academic achievement: Congress will immediately ratify the Comprehensive Test Ban Treaty...." You see the problem.

Candidate 2: Does the case claim only academic achievement advantages? Here is an apparently bright line test. While not plan centered, some find it reasonable to conclude a plan is an academic achievement program when the only benefits claimed on its behalf are attainment related.

A drawback of this idea is we end up rather distorting our routinely understood conceptions of topicality by embracing case-based standards. Many problems arise from doing so, only partly revealed by these questions: (a) Imagine the negative wins a case turn to one of the academic achievement advantages. Does this make the case anti-topical? (b) Imagine the affirmative wins their original education-related advantages, but the debate finally comes down to their success at winning a Clinton turn. Does the fact that their biggest "advantage" is now extraneous to academic achievement mean they lose on topicality? (c) Do we have any justifiable basis for denying the affirmative the right to defend advantages which directly stem from topical action even if they have nothing specific to do with academic achievement goals?

Candidate 3: Does someone else say this is a plan to increase academic achievement? This test has more advocates, some of whom are willing to impose quite strict evidentiary requirements on affirmatives. In

fact this may be the most popularly supported effects topicality test of all. Earlier this summer I heard Dr. Scott Deatherage (coach of the 1998 and 1999 N.D.T. Champions, from Northwestern University) defend the standard, I'm not sure how seriously, that to be topical an affirmative has to have expert evidence saying plan establishment would increase achievement test scores by a significant amount. This is truly strict standard, since if we really knew how to increase scores significantly by enacting federal policy someone would have gotten elected President for their brilliance in thinking it up. Educational consultants get paid big money defending programs that promise even slight test score improvement -- delivering on such promises is very difficult.

Now this might be a virtue of the test, not a drawback. There is a set of proposals whose proponents claim test score improvements will follow implementation, and while there aren't many (presumably they would include proposals to shrink class size, emphasize instruction in the so-called "basics," implement meaningful testing, require teacher certification, and other mainstream ideas), a limited case list would result. Notice also how this test gets the affirmative out of the "mixing burdens" problem: A judge may conclude (based on detailed solvency attacks) that the plan would actually suppress test scores. But this fact doesn't make the case nontopical, so long as the affirmative has reasonable evidence from *someone* saying it is their idea of an "education policy" to improve achievement.

But there are real drawbacks here as well. Do we really want to straitjacket affirmatives into having to defend quantifiable federally mandated test score increases when few if any serious policy players defend such proposals, given the serious disadvantages? Even the President, who possesses a keen interest in educational improvement, does not advocate anything more likely to increase scores than putting some additional strings on Title I ESEA funds, most of which proposals fail the topicality test by having the federal government provide probabilistic incentives to the *states* to improve educational outcomes.

There are some general difficulties with the contextuality standard as well. The main terms in the resolution, especially the phrase "education policy," do not well align with the main terms of art in the educational policy literature. And when they do (as in the case of "academic achievement") vanishingly few authors advocate *federal* ac-

tion as the agent of establishment. Of course, sometimes these phrases appear out of thin air, coincidentally chosen by this or that policy advocate as a way to defend his or her wacky idea for fixing schools. Does the process of linguistic happenstance really produce the best case list? It might, but only under circumstances where the topic committee is especially careful to produce topics that employ the main terminology of the relevant literatures.

Candidate 4: The "vacuum test." Several years ago I devised what is now called by some the "vacuum test" as a topicality argument on a foreign policy topic which was also written to permit effects cases. After many years of use, and having generated a decent amount of controversy (if not outright opposition), I will readily concede its drawbacks. But in my view the test works about as well as any alternatives and in fact has some specific virtues.

When debaters defend a vacuum test, they are asking the judge to perform a sort of thought experiment relevant to the plan. To illustrate the use of the test, I want to use an example from last year's Russia topic (for reasons I'll provide just a bit later). As a test for determining whether a plan changed America's foreign policy "toward Russia" or not, some defended a vacuum test that said: "Imagine there is no country called Russia in the world. In such a world, would this plan be a good idea?" If the judge concludes the plan is still desirable (or, to use a tougher test, decides the plan "makes sense in a world without Russia"), then the plan fails and is judged too indirectly topical to pass. If the plan is made incoherent or obviously enjoys no benefits in such a world, then it "passes," and is topical.

Such a test has some considerable benefits. It creates a rather bright line -- one can look at the plan and perform the thought experiment without necessarily perusing every solvency card. On last year's topic, for instance, one could easily decide that a plan to assist in the cleanup of lake Baikal passed. After all, it would be incoherent to imagine passing a plan to clean up a lake if the country it was part of did not even exist (implying the lake wasn't around either). The test often has the virtue of being easily explainable. And while not wholly plan-based (after all, one still has to bring some outside knowledge to bear in making one's decision), the test certainly is plan-centered. Often the test can be defended as producing a reasonably broad case list, one that easily precludes (on this topic) the anti-war and pro-

growth cases while still permitting curricular mandates, testing modifications, and even changes to such programs as the JROC or "conflict resolution" model programs.

I introduced the test by reference to last year's topic because this year's wording complicates use of a "vacuum test" considerably, and in one particularly troublesome way: In devising a test for this education topic, how is it we imagine the world has been changed? Do we imagine a world without "secondary schools," a world without "academic achievement," or a world without "education policies"? How you answer the question produces quite divergent case lists. Perhaps the inclusion of the term "education policy" argues for a vacuum test which imagines a world without secondary schools (given the definition I cited earlier). Imposing such a test preserves many of the mainstream cases but does get rid of many others, like support for Head Start and universal school-aged breakfast programs.

There are other objections to vacuum tests: (a) One might say the test effectively kills any beneficial plan proposal, since in those cases one can often say the plan would "make sense" or be "desirable" even in a world of no schools. The school breakfast case gets to this gray area: On the one hand, school lunches are served in school buildings, which implies the plan passes the vacuum test. But on the other, giving school-aged children price-reduced meals is a wonderful idea whether there are school buildings or not, or whether academic achievement exists or not. (b) The case list which results may be as much skewed as the one produced by the more common "contextual support" effects standard. The vacuum test privileges programs which the plan explicitly runs in school buildings, even if they have nothing to do with academic achievement. For example, the plan to ban the mandated removal of asbestos passes. But a sex education mandate arguably fails (people should learn how to use condoms whether there are school buildings or not), even though that seems more obviously relevant to academic achievement than asbestos containment.

Other merits and drawbacks can be offered as with each of the topicality tests. I would simply offer these quick pieces of advice in thinking through effects topicality this year. First, think through early on how you intend to defend your own plan and attack egregiously nontopical cases

given the usual reluctance of judges on the national circuit to draw the effects noose too tightly. Second, settle on a test you feel comfortable defending which meets the criteria I mentioned earlier, and develop fully your rhetoric in defense of such a test (think through, for example, what cases meet and don't meet it). Finally, regardless of the test you choose, articulate it fully. Too often standards like the "vacuum test" are tossed out without explanation. Under such circumstances, where the affirmative answer may extend no further than three words

"5 -- Passes vacuum test",

it's no wonder judges are reluctant to resolve the issue in your favor.

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