

THE CANDOR PROJECT

Epistemic Accountability and the Constitution: A Framework for Professional Truth Standards in Public Life

American law holds doctors, lawyers, and financial advisors professionally accountable for knowing falsehoods. This paper argues that politicians and licensed broadcasters should be held to the same standard — and that such a framework is constitutionally defensible.

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Introduction

The erosion of epistemic accountability in American public life is fundamentally structural, rooted in a gap in the institutional architecture of American democracy. No institution exists whose function is to ensure that people in positions of public trust pay a meaningful professional cost for stating empirically false things in their official capacities. Historically, American democracy relied on a free press and competitive elections to discipline official falsehood; however, these self-correcting mechanisms have been significantly degraded by social media algorithms, partisan incentives, and the collapse of shared epistemic standards. This degradation has reached a threshold where the existing democratic framework can no longer maintain factual accountability without dedicated structural support. The problem, therefore, is not merely the conduct of individual actors, but an institutional gap that permits the exercise of public authority to be uncoupled from a baseline of evidentiary integrity.

The proposal rests on a principle already embedded in American professional life: high-stakes roles require enforceable standards of conduct. In nearly every other field where decisions carry systemic consequences, truthfulness is a condition of professional fitness. Doctors face license revocation for falsifying patient data; attorneys face disbarment for misrepresenting facts to a court; and financial advisors are sanctioned for providing false information to clients. These are not criminal penalties but professional ones, based on the understanding that certain roles are so essential to the public interest that they cannot be exercised without a commitment to factual accuracy. The current anomaly in American governance is the absence of an equivalent standard for those who wield the most significant public authority. By extending this logic to federal officeholders and licensed broadcasters, the framework does not impose a novel burden; it simply closes a gap in accountability, treating the exercise of public trust as a professional responsibility subject to the same rigorous standards of fitness required in any other high-stakes vocation.

The proposed solution is an integrated, two-track framework designed to address the specific professional obligations of federal officeholders and licensed or public broadcasters. While each track operates on a distinct legal basis and employs a different enforcement architecture, both are made operational through

a single, independent epistemic oversight body. This body is defined by a narrow mandate focused exclusively on the verification of empirically falsifiable claims, employing a methodology derived from established evidentiary standards to ensure its findings are grounded in well-documented records rather than institutional discretion.

This framework acknowledges and addresses the substantial First Amendment questions inherent in any regulation of speech, with a full constitutional analysis detailed in the subsequent section of this document. To earn and maintain institutional confidence, the architecture is guided by four foundational design principles: it is structurally nonpartisan to prevent capture, narrow in scope to protect legitimate political advocacy, transparent in its methodology to allow for public scrutiny and appeal, and modest in its consequences—favoring professional disqualification and transparency conditions over criminal punishment. By adhering to these constraints, the framework provides a rigorous, principled mechanism for restoring epistemic accountability to American public life within the boundaries of existing constitutional doctrine.

Oversight Body Architecture

Without a credible, independent oversight body, the framework's two tracks have no enforcement architecture and the proposal remains theoretical. Consequently, the design of this institution is the primary safeguard against the framework's most significant risks — not an administrative afterthought. A flawed structure would do more than merely fail — it would confirm the concern that any such body inevitably becomes a government instrument for determining official truth. Two specific failure modes must be addressed at the design level: partisan capture, where the body's findings mirror political bias rather than evidentiary rigor, and mandate creep, the gradual erosion of boundaries as the institution expands its reach into contested political or subjective territory. These are not hypothetical concerns, but the predictable pathologies of oversight institutions. The architectural choices detailed in the following sections are deliberate, structural responses designed to ensure the body remains both independent and constrained.

To insulate the oversight body from partisan capture, the framework employs a multi-layered appointment mechanism designed to ensure both functional and perceived independence. Members are appointed to long, staggered

terms—modeled after the Federal Reserve—to prevent any single administration from seating a majority or aligning the body’s composition with a specific electoral cycle. The confirmation process mandates a supermajority across multiple governing bodies, requiring a genuine cross-partisan consensus for every appointee. The body’s governing statute establishes explicit exclusion criteria: active or recent politicians, party officials, major campaign donors, and media executives are strictly ineligible for service. Commissioners are drawn from the academic and expert communities—specifically fields rooted in epistemology, empirical science, law, and journalism—through a transparent nomination process. By codifying these structural safeguards, the framework ensures that the body’s independence is not merely an internal reality, but a visible, foundational feature of its architecture.

To prevent mandate creep, the framework’s architecture strictly separates the act of documentation from the power of punishment. The oversight body functions exclusively as a fact-finding entity, producing a legally admissible public record of documented false statements without the authority to impose fines, disqualify officials, or revoke licenses directly. Instead, its findings serve as evidentiary inputs for existing institutions—such as ethics committees or licensing boards—which retain the sole power to initiate consequences. The body’s jurisdiction is limited by governing statute to empirically falsifiable factual claims, with explicit exclusions for opinion, policy judgment, and contested scientific inquiry. The mandate incorporates a transparent, public appeals process that serves as a structural check on the body itself; because a vacated finding constitutes a visible failure of rigor, the body is structurally encouraged to maintain evidentiary discipline.

The framework's structural independence extends beyond appointment design to the body's fiscal architecture, insulating it from the standard levers of political pressure — most notably the power of the purse. To prevent a hostile legislature from effectively defunding through appropriations pressure, the framework establishes a self-sustaining funding mechanism—analogueous to the Federal Reserve’s model—that operates outside the annual congressional appropriations process. Structurally, the body is positioned as an independent, fourth-category institution, detached from the immediate control of the executive, legislative, or judicial branches. While the full realization of this architecture—including constitutionally mandated funding and formal independence—represents a generational goal requiring a constitutional amendment, the current statutory proposal establishes the necessary operational infrastructure and precedent. This

deliberate combination of fiscal autonomy and structural distance ensures that the body remains shielded from short-term political pressures, providing the stability required to earn and maintain institutional confidence.

Ultimately, the oversight body's authority is reputational and procedural rather than punitive; its influence is derived not from the power to coerce, but from the transparency of its process and the documented credibility of its findings. By separating the act of evidentiary verification from the power of enforcement, the framework establishes an overlapping accountability structure where no single institution exerts total control. The oversight body documents, existing institutions adjudicate, and the electorate retains its ultimate authority, ensuring that the concentration of power remains structurally precluded. This design ensures that the body's legitimacy is proportional to its rigor, functioning as one component of a broader democratic architecture rather than a replacement for existing accountability mechanisms. The final guarantor of this legitimacy is the methodology itself—the precise evidentiary standards and reasoning that govern every finding—which the following section addresses in full.

Politician Track

The politician track applies exclusively to federal officials with a clearly defined official capacity whose statements carry significant potential for systemic harm, specifically: the President, the Vice President, Cabinet secretaries, members of Congress, federal judges, and Supreme Court justices. Because these officials exercise the core functions of federal governance—including the appropriation of funds, the confirmation of appointments, and the interpretation of law—their official speech carries a heightened accountability that justifies professional evidentiary standards. By focusing solely on the exercise of official power by the most senior leaders of the three branches of government, the framework ensures that its interventions are both narrow in scope and targeted toward the integrity of democratic governance.

The threshold for covered conduct is defined exclusively by the exercise of official authority — a boundary that mirrors the constitutional distinction established in *Garcetti v. Ceballos*¹, which held that speech made in an official capacity occupies different First Amendment territory than private speech. The framework applies

¹ 547 U.S. 410 (2006). *Garcetti* held that statements made by public employees pursuant to their official duties are not insulated from employer discipline by the First Amendment, as such speech is made in a professional rather than private capacity.

only to statements made by covered officials acting in their formal professional capacity—situations where the speaker is deploying the weight and prestige of their office to inform the public or the government itself. This encompasses floor speeches, committee testimony, official press briefings, State of the Union addresses, and public appearances made in a representative role. By tethering coverage to official capacity, the framework respects the distinction between the individual and the office; consequently, campaign rhetoric, private communications, and personal social media activity remain entirely outside the framework’s jurisdiction. The mandate is limited to empirical assertions, explicitly excluding policy judgments, subjective opinions, and claims within genuinely contested scientific domains. This principled focus ensures that the framework does not regulate the person, but rather the professional discharge of a public trust.

The framework adopts an evidentiary standard of *actual or constructive knowledge*, mandating that a violation occurs only when an official knew a statement was false or possessed information that would have rendered the falsity evident to any reasonable person in their position. This scienter requirement, borrowed from established tort and securities law, ensures the framework penalizes only deliberate or negligent misrepresentation rather than honest errors or good-faith mistakes. As an additional safeguard against subjectivity, the evidentiary record must be unambiguous; the mandate reaches only those claims contradicted by government data, peer-reviewed consensus, or the official’s own prior documented statements. Consequently, the standard explicitly excludes forward-looking campaign promises, inaccurate predictions, and disputed statistical interpretations where the evidence remains mixed or genuinely unsettled. By maintaining this high bar—approximating a *clear and convincing* evidentiary burden—the framework ensures that every finding is grounded in a well-documented factual record, the full technical specifications of which are detailed in the accompanying methodology document.

The ultimate consequence for a documented pattern of violations is professional disqualification, not criminal punishment. Rather than imposing fines or imprisonment, the mechanism stipulates that an official who meets a defined threshold of documented violations becomes ineligible to hold federal office—a consequence structurally analogous to the disbarment of an attorney or the license revocation of a physician. To ensure the mechanism remains a tool of institutional integrity rather than a political weapon, disqualification is triggered only by a sustained pattern of misrepresentation over a defined period, rather

than any single finding. The oversight body does not disqualify officials directly; its findings serve as the evidentiary basis for proceedings initiated through established channels, such as congressional ethics committees or electoral authorities. By framing truthfulness as a prerequisite for professional eligibility, the framework asserts that public office is not a site of unfettered personal expression, but a licensed position of public trust subject to the same standards of professional fitness required in any other high-stakes vocation.

To insulate against weaponization, the framework incorporates a suite of structural due process protections designed to ensure procedural integrity. Before any finding is finalized, an official must receive formal notice detailing the specific allegation and the evidentiary basis, followed by a mandatory period to submit a formal response for the public record. Any adverse finding remains subject to a transparent appeals process before an independent appellate body, with grounds for review including factual error, methodological deviation, or procedural violations. These protections are reinforced by full transparency: every allegation, response, and appellate ruling is published in full, subjecting the oversight body's reasoning to continuous public scrutiny. This architecture does not merely protect the rights of the official; it creates a powerful institutional incentive for rigor, as any finding that fails to survive a well-reasoned response or a public appeal serves as a direct and visible indictment of the body's own evidentiary standards.

The framework's scope is deliberate and bounded by a unifying principle: both tracks target roles that are specifically constituted to shape public understanding through the exercise of state-conferred authority. Federal officeholders exercise power granted by the public through democratic process; licensed broadcasters operate on publicly owned spectrum under federal license. It is this combination — public trust, institutional power over the information environment, and a formal privilege derived from the state — that provides the constitutional and normative basis for accountability. Other contexts in which deception causes serious harm, such as law enforcement interrogation, implicate separate constitutional doctrines, distinct reform traditions, and different institutional designs. The Candor framework does not reach them, not because those harms are less significant, but because the legal architecture, coalition requirements, and institutional capacity required to address them responsibly are categorically different. Scope discipline is not a limitation of ambition; it is a precondition for credibility.

Media Track

The media track’s scope of coverage is not uniform, but rather calibrated to the specific legal and fiscal relationship between an outlet and the public. Coverage is organized into three distinct tiers, each with a specific legal and institutional basis for intervention. For public broadcasters such as NPR and PBS, the framework’s standards are a condition of federal funding—an extension of the long-standing principle that the government may attach conditions to public grants. Licensed broadcasters operating on the FCC-managed electromagnetic spectrum are subject to procedural requirements, such as standardized correction policies and opinion labeling, as a condition of their privilege to use a scarce public resource. Finally, for all other outlets—including digital publications and print media—the framework applies only to disclosure requirements regarding ownership, funding, and corporate political contributions. By tailoring its reach in this manner, the framework ensures that its interventions remain proportional in regulatory reach: it applies the most modest regulatory tools necessary for each category rather than a one-size-fits-all model that would be difficult to defend uniformly.

For public broadcasters, the framework institutes three procedural conditions as a prerequisite for federal funding: the maintenance of binding editorial standards, the publication of standardized correction policies, and the clear labeling of opinion versus news content. Rather than creating an unprecedented category of regulatory oversight, this intervention systematizes existing statutory requirements currently administered through the Corporation for Public Broadcasting. These conditions are designed to regulate transparency and process rather than substantive content. For example, the editorial standards mandate requires outlets to publicly codify their criteria for source verification and news judgment, while the correction policies ensure a permanent, accessible record of identified factual errors. Similarly, labeling requirements do not restrict what may be said, but merely ensure that audiences can distinguish analysis from reporting. By focusing on these procedural benchmarks, the framework ensures that public funding supports an infrastructure of accountability without infringing upon the editorial independence of the outlets themselves.

For licensed broadcasters, the framework mandates two of the procedural requirements applied to the public tier: standardized correction policies and clear opinion labeling. These requirements are instituted as conditions of the FCC broadcast license—the government-conferred privilege to utilize the public

electromagnetic spectrum. This approach extends existing public interest obligations — such as emergency alerts and local programming mandates — by adding transparency requirements to an established regulatory framework. The intervention is grounded in the scarcity of the spectrum itself; because the spectrum is a scarce public resource, the government mediates access through licensing, justifying conditions that ensure the privilege serves the public interest. Notably, the framework is more modest here than in the public tier, omitting the requirement for binding editorial standards. This distinction is a deliberate acknowledgment of the framework’s limits, recognizing that while public funding supports a mandate for public editorial benchmarks, a licensing relationship is better served by the less intrusive focus on procedural transparency and opinion labeling.

The third and broadest tier of the media track applies a set of disclosure requirements to all outlets, regardless of their licensing or funding status. Modeled on established sunshine laws, this intervention mandates the public disclosure of corporate ownership, funding sources, and political contributions made by parent companies. These requirements address the critical information asymmetry that currently prevents audiences from identifying potential conflicts of interest; knowing who exerts ultimate editorial control or which financial dependencies may influence coverage allows the public to evaluate source credibility more effectively. This represents the most modest intervention in the framework, imposing a minimal administrative burden without restricting editorial content or conditioning any government privilege. Importantly, these requirements are not designed as accuracy mandates; they are transparency interventions that address the structural conditions—such as opaque funding and hidden political alignments—that often precede the dissemination of false information.

Across all three tiers, enforcement maintains a deliberately more modest posture than the politician track, integrated into existing regulatory structures in recognition of the press’s distinct legal and institutional status. For public and licensed broadcasters, compliance is monitored through established channels—the Corporation for Public Broadcasting’s oversight process and the FCC’s periodic license renewal reviews, respectively. Non-compliance with procedural conditions does not trigger automatic revocation; rather, it creates a formal record that informs funding decisions or renewal proceedings. Similarly, disclosure requirements are enforced through financial penalties modeled on standard sunshine laws. While the oversight body documents false statements by

media outlets using the same rigorous methodology applied to officials, these findings serve as evidentiary inputs for these external reviews rather than as triggers for a disqualification mechanism. This intentional asymmetry ensures that while media entities are held to standardized transparency and procedural benchmarks, the enforcement architecture remains deferential to the robust protections essential to an independent press.

Methodology

The ultimate defense against the "who decides" objection is not found in the composition of a nonpartisan body, but in the rigor of the methodology it is bound to apply. Critics correctly identify the central epistemological risk: any apparatus empowered to adjudicate contested questions of truth can be manipulated if its definitions of falsity are elastic or subjective. Therefore, this methodology is not a supplementary appendix, but the load-bearing intellectual core upon which the framework's legitimacy and constitutional defensibility depend. Its primary function is to draw a principled, transparent line between contested political discourse and empirically falsifiable claims supported by an unambiguous evidentiary record. By deriving its standards from established evidentiary practices rather than unprecedented criteria, the framework ensures that findings are the result of a reproducible process rather than institutional whim. The goal is a methodology so precise that its application can be consistently defended, specifically appealed, and shielded from the pervasive charge of partisan selectivity.

To be reviewable, a claim must simultaneously satisfy two rigorous criteria: it must be empirically falsifiable and contradicted by an unambiguous evidentiary record. A statement is considered empirically falsifiable only if it asserts a specific, verifiable fact—such as a statistical rate or the existence of a documented event—that can be confirmed or refuted by objective evidence. An evidentiary record is unambiguous only when the claim is contradicted by evidence that is not subject to serious dispute among relevant experts, such as peer-reviewed scientific consensus or official government records. By requiring both conditions, the methodology creates a double-filter that explicitly excludes opinion, value judgments, and policy assessments, which fall outside the category of empirically falsifiable claims. This boundary also cordons off forward-looking predictions, rhetorical hyperbole, and statements of intent, as well as any scientific or empirical claims where the expert community remains genuinely divided. This

definitional precision ensures the oversight body remains tethered to well-documented facts rather than venturing into the interpretation of political or philosophical discourse.

The framework adopts an evidentiary threshold approximating "clear and convincing" evidence, a standard applied symmetrically across both the politician and media tracks to preclude partisan weaponization. To satisfy this burden, a finding must be grounded in one of four authoritative categories: peer-reviewed scientific or empirical research, official government data, the speaker's own prior documented statements, or an established historical record verified by multiple independent sources. The methodology explicitly rejects insufficient inputs such as non-replicated studies, contested interpretations of ambiguous data, or partisan advocacy findings lacking independent corroboration. By modeling this process on the peer-review tradition, the framework adopts the most widely accepted mechanism for distinguishing substantiated claims from conjecture. This rigorous, high-bar approach ensures that the oversight body functions through evidentiary rigor rather than discretionary judgment, grounding every finding in a record that is both transparent and well-documented.

The appeals process serves as the primary institutional check on the oversight body's authority. Primary standing to appeal is granted to the official or media outlet subject to a finding, though any party with a direct interest in the outcome—such as an ethics committee initiating a disqualification proceeding—may also challenge a ruling. Appeals are confined to three specific grounds: factual error in the underlying evidence, methodological deviation from established standards, or procedural violations of due process protections. These challenges must be filed within a defined sixty-day window and are adjudicated by an independent appellate body whose structural insulation mirrors that of the primary oversight body. To prevent institutional overreach, every appeal and its final outcome are published in full, ensuring that a vacated finding serves as a visible indictment of the oversight body's rigor. This architecture creates a powerful systemic incentive for the body to issue only those findings that can survive public, high-stakes scrutiny.

The practical application of the methodology is best demonstrated through cases where the evidentiary record is well-documented and unambiguous, regardless of political affiliation. For instance, the claim that "if you like your health care plan, you can keep it" was a specific assertion made in an official capacity regarding the Affordable Care Act; because the known effects of the legislation at the time of the

statement directly contradicted this assertion, it qualifies as an empirical misrepresentation. Similarly, President Trump's claim in an official White House briefing that hydroxychloroquine was "100% effective" against COVID-19 — made despite FDA guidance and peer-reviewed studies directly contradicting this assertion — would trigger a finding. To illustrate the methodology's limits, a politician's assertion that a proposed tax cut "will create millions of jobs" would not qualify for review — this is a forward-looking prediction rather than a verifiable statement of fact, and falls into the category of protected political speech the double-filter is specifically designed to exclude. Equally, a politician's claim that a particular immigration policy "will increase crime" would not qualify; because the relationship between immigration and crime rates is a subject of genuine and ongoing empirical dispute among researchers, the evidentiary record does not meet the unambiguous threshold the methodology requires.

First Amendment

Politician Track

*United States v. Alvarez*² established that the First Amendment protects false statements of fact, and that any framework touching political speech must therefore clear a high constitutional bar. And rightly so. Political speech should receive the fullest protection of the First Amendment when applied to private citizens, and even political candidates. However, speech made by officials *in their official capacity* occupies different constitutional territory.

Xavier Alvarez was a private citizen and local water district board member who falsely claimed at a public meeting that he'd received the Medal of Honor. He was prosecuted criminally under the Stolen Valor Act of 2005³ which prohibited falsely claiming to have been awarded military decorations, including the Medal of Honor. The Supreme Court struck down the law 6-3, with Kennedy's plurality (4 justices) applying strict scrutiny, and Breyer's concurrence (2 justices) applying intermediate scrutiny but specifically flagging that professional and

² 567 U.S. 709 (2012). *Alvarez* held that the First Amendment protects knowingly false speech absent a showing of legally cognizable harm, with no majority endorsing criminal punishment as a permissible remedy outside narrow historical categories.

³ Stolen Valor Act of 2005, Pub. L. No. 109-437, 120 Stat. 3266 (2006) (codified as amended at 18 U.S.C. § 704). The Act broadened federal authority to criminalize false representations regarding the receipt of military decorations, including the Medal of Honor.

fiduciary contexts are different. Critics will cite Alvarez as a categorical bar to this framework. It is not. No majority held that false speech is immune from all consequences; only from criminal punishment in this context.

The professional speech doctrine asserts that speech made in a professional capacity, as a condition of licensure or public role, receives reduced First Amendment protection. *Garcetti v. Ceballos*¹ held that government employees speaking in their official capacity are not speaking as private citizens and can be regulated accordingly. While it's true that elected federal officials aren't employees of the state, due to the very public nature of elections and governance they are the clearest possible case of professional speech. They hold their office as a public trust, not a private right.

Members of the federal government are currently subject to statutory obligations concerning ethical conduct, transparent financial reporting, and mandatory recusal procedures. These are conditions of holding office, not criminal prohibitions. The framework's disqualification mechanism is structurally analogous: it treats truthfulness as a prerequisite for professional eligibility rather than a criminal restriction on speech. It establishes a professional benchmark, providing for the removal of individuals who consistently fail to uphold those standards.

The most significant constitutional objection involves the "chilling effect" doctrine, positing that even civil repercussions inhibit legitimate political discourse. However, this framework is strictly limited to cases involving an unambiguous evidentiary record.⁴ By explicitly excluding subjective opinions, policy judgments, and contested scientific claims—while providing meaningful appellate rights and full transparency requirements—the proposal ensures full due process before any adverse findings.

The framework doesn't ask the First Amendment to do something it has never done. It asks courts to recognize that public officeholders in their official capacities are not private citizens, that professional disqualification is not

⁴ The methodology is published as a companion document rather than integrated into this white paper by design. The evidentiary standards governing what qualifies as a reviewable claim, the burden of proof, the appeals process, and worked examples of statements that do and do not qualify require a level of technical precision that would overwhelm the constitutional and policy analysis presented here. The two documents are intended to be read together: the white paper establishes the legal architecture; the methodology document operationalizes it. Critically, the constitutional defensibility of the framework depends on the rigor of that methodology, and the project treats it as a co-equal deliverable rather than a supplementary one.

criminal punishment, and that a narrowly mandated, procedurally rigorous accountability mechanism is not a government ministry of truth. The constitutional question is not whether false speech can be punished. It cannot. The question is whether professional fitness standards for public office can include a commitment to factual accuracy. The answer, under existing doctrine, is yes.

Media Track

The First Amendment’s press protections, rooted in the Press Clause and reinforced by *Near v. Minnesota*⁵ and *New York Times Co. v. Sullivan*⁶, establish the media as a vital structural check on state power. Consequently, the judiciary remains highly skeptical of any government mechanism that might exert even indirect editorial control. The framework intentionally avoids content mandates in favor of two established, court-sanctioned mechanisms — the unconstitutional conditions doctrine for broadcasters and disclosure requirements for all outlets — each operating on the premise that transparency and process conditions are constitutionally distinct from content regulation. The legal weight of these arguments varies, and the subsection addresses each honestly.

Under the unconstitutional conditions doctrine, the government may attach conditions on benefits it provides without such actions constituting censorship, provided those conditions do not coerce the surrender of constitutional rights. This principle is historically established in broadcast regulation, where the Federal Communications Commission (FCC) consistently mandates public interest obligations as a condition of licensing — a nexus courts have found constitutionally coherent precisely because the public interest rationale for granting licenses is inseparable from the conditions attached to them. In *Red Lion Broadcasting Co. v. FCC*⁷, the Supreme Court held that because broadcasters utilize the electromagnetic spectrum—a scarce public resource—they are subject to public interest obligations including content-related requirements that would

⁵ 283 U.S. 697 (1931). *Near* established the constitutional doctrine against prior restraint, holding that the government generally may not enjoin or censor publications in advance even on grounds of falsity or public harm.

⁶ 376 U.S. 254 (1964). *Sullivan* held that public officials may not recover damages for defamatory falsehoods unless they prove actual malice — that is, knowledge of falsity or reckless disregard for the truth — establishing the constitutional floor for press freedom to report on government without fear of ruinous liability.

⁷ 395 U.S. 367 (1969). *Red Lion* held that the FCC may impose public interest obligations on broadcast licensees, including content-related requirements, because spectrum scarcity justifies regulatory conditions that would be unconstitutional if applied to print media.

be unconstitutional if applied to the press. Despite persistent criticism and the Court's notable silence on reaffirming it, *Red Lion* has not been overruled and remains the controlling precedent for broadcast regulation.

Both public and licensed broadcasters are covered by the unconstitutional conditions doctrine through distinct but related mechanisms. Public broadcasters receive federal funding through the Corporation for Public Broadcasting as a government benefit, which attaches conditions as a matter of constitutional structure, not as a concession. Editorial standards, mandatory correction policies, and opinion and news labeling are a direct application of the doctrine. Federal funding for National Public Radio (NPR) and the Public Broadcasting Service (PBS) is currently contingent upon statutory conditions; this framework merely standardizes and extends those existing requirements rather than establishing an unprecedented category of regulatory oversight. For licensed broadcasters, an FCC license represents a government-conferred privilege to utilize the public electromagnetic spectrum; consequently, requiring standardized correction policies and opinion labeling as licensing conditions is structurally analogous to existing public interest obligations. Critically, neither intervention mandates direct content regulation; rather, both govern transparency and procedural requirements without restricting the substantive speech of broadcasters. Critics may contend that transparency mandates function as de facto content regulation if they disproportionately burden specific viewpoints. This framework acknowledges that concern but addresses it through narrow tailoring: the proposed conditions represent the least restrictive means necessary to fulfill the public interest rationale inherent in broadcast licensing.

The final component of the media track, and perhaps the most legally defensible, involves disclosure requirements applicable to all outlets. Grounded in the precedent established by *Buckley v. Valeo*⁸ and reaffirmed in *Citizens United v. FEC*⁹, these mandates serve a substantial government interest in ensuring an informed public by providing "sunlight"¹⁰ rather than imposing restriction.

⁸ 424 U.S. 1 (1976). *Buckley* established that disclosure requirements survive First Amendment scrutiny when they serve a substantial government interest and do not impose burdens so severe as to constitute a barrier to speech or association.

⁹ 558 U.S. 310 (2010). Despite striking down limits on independent expenditures, *Citizens United* upheld disclaimer and disclosure requirements 8-1, with the majority reasoning that transparency allows the electorate to make informed decisions — including whether elected officials are beholden to outside interests.

¹⁰ Louis D. Brandeis, *Other People's Money and How the Bankers Use It* 92 (Frederick A. Stokes Co. 1914) ("Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.").

Modeled on existing sunshine laws, this intervention targets corporate ownership, funding sources, and political contributions by parent companies to expose potential conflicts of interest. While disclosure does not directly regulate the accuracy of substantive claims, the constitutional threshold for disclosure requirements is substantially lower than for content regulation, which is precisely why this is the most defensible tool in the media track. By prioritizing transparency over content mandates, the framework empowers the audience to weigh source credibility without constraining the speaker's editorial freedom.

The media track operates on narrower legal terrain than the politician track, and the framework is designed accordingly. This asymmetry is a feature, not a deficiency; by favoring transparency over direct accountability, the proposal recognizes the distinct protections afforded to the press and avoids the pitfalls of regulatory overreach. Ultimately, the media track does not seek to adjudicate truth, but rather to strengthen the information ecosystem so that the free press's self-correcting mechanisms may function more effectively. The constitutional tools available are real, they are established, and the interventions proposed stay within their boundaries — leaving the press free to do its work while ensuring the public has the information necessary to evaluate it.

Congressional Authority and the Qualifications Clauses

The framework's most significant structural constitutional question is not whether it violates the First Amendment, but whether Congress has the authority to enact it at all — specifically, whether a statutory disqualification mechanism for members of Congress conflicts with the qualifications clauses of Article I.

Article I, Sections 2 and 3 of the Constitution enumerate the qualifications for House and Senate membership: age, citizenship, and residency. In *Powell v. McCormack*¹¹, the Supreme Court held that Congress may not exclude a duly elected member by adding qualifications beyond those specified in the text. *U.S. Term Limits, Inc. v. Thornton*¹² reaffirmed and extended this principle, holding that states likewise cannot impose additional qualifications. The combined force

¹¹ 395 U.S. 486 (1969). *Powell* held that the House of Representatives lacked constitutional authority to exclude a duly elected member by imposing qualifications beyond the age, citizenship, and residency requirements enumerated in Article I, Section 2, establishing that the qualifications clauses are exclusive and not subject to congressional augmentation.

¹² 514 U.S. 779 (1995). *Thornton* extended *Powell* to hold that states likewise may not impose additional qualifications for congressional membership beyond those specified in Article I, reaffirming the principle that the constitutional qualifications are the exclusive criteria for eligibility to serve in Congress.

of these precedents raises a direct question: does a congressional statute that renders a member of Congress ineligible to serve upon a documented pattern of false official statements constitute an impermissible addition to the constitutional qualifications?

There are two credible responses to this objection, and the framework relies on both.

The first is structural: the disqualification mechanism does not add a new qualification for *becoming* a member of Congress in the sense *Powell* and *Thornton* addressed. Those cases concerned eligibility to stand for election or be seated after election — the threshold conditions of entry. This framework operates differently. It conditions the *continued exercise* of official duties on compliance with a professional conduct standard, analogous to existing ethics statutes, financial disclosure requirements, and recusal obligations that Congress has long imposed on its own members without constitutional challenge.¹³ The distinction between entry qualifications and ongoing professional conduct standards is not merely semantic; it is the distinction between who may hold office and how office must be conducted. Congress routinely legislates the latter.

The second is that the disqualification mechanism need not — and in its near-term statutory form, does not — directly remove a member of Congress. The oversight body produces findings. Those findings feed into congressional ethics proceedings, which have their own established constitutional basis under Article I, Section 5's grant of authority to each chamber to discipline and expel its members.¹⁴ Under this architecture, the oversight body is an evidentiary input; the constitutional actor making the actual disqualification decision is Congress itself, acting under its own Article I authority. This threading of the needle preserves constitutional structure while creating meaningful accountability.

¹³ See, e.g., the Ethics in Government Act of 1978, Pub. L. No. 95-521, 92 Stat. 1824 (codified as amended in scattered sections of 5 U.S.C.); 18 U.S.C. § 208 (conflict of interest recusal requirements). Congress has long imposed conduct obligations on its own members and federal officers — including mandatory financial disclosure, recusal requirements, and gift prohibitions — without those statutes being challenged as impermissible additions to the constitutional qualifications for office. The professional conduct / entry qualification distinction has functioned as a stable doctrinal boundary in practice even without definitive Supreme Court resolution.

¹⁴ U.S. Const. art. I, § 5, cl. 2. Each chamber of Congress has independent constitutional authority to "punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member." This provision has been consistently interpreted to grant each chamber broad authority over the conduct of its members, providing the constitutional basis for congressional ethics proceedings that the oversight body's findings would inform.

The harder version of the problem concerns the President, Vice President, Cabinet officials, and federal judges — officials whose removal is governed by the impeachment and removal process of Article II and who are not subject to Article I's qualifications clauses in the same way. For these officials, the framework's near-term statutory mechanism is best understood as a formal evidentiary record that informs impeachment proceedings, Senate confirmation of successors, or electoral accountability — rather than as a self-executing removal mechanism. The framework does not claim congressional authority to unilaterally remove Article II officers through statute; it claims authority to establish the evidentiary infrastructure that makes accountability through existing constitutional mechanisms more rigorous and more transparent.

The full resolution of the congressional authority question — particularly as applied to members of Congress — likely requires a constitutional amendment to be placed beyond legal challenge. This is consistent with the project's long-arc goal. The near-term statutory proposal is designed to be as constitutionally durable as possible within existing doctrine, while the amendment project secures the architecture against future challenge. The project does not paper over this tension; it treats it as one of the central problems the amendment is designed to solve.

Synthesis

The framework's two tracks are not disparate experiments, but rather twin expressions of a single, coherent constitutional theory: the professional speech doctrine. This principle establishes that speech performed within a professional capacity—as a condition of a government-granted license or an official public role—occupies a distinct legal category with reduced First Amendment protection. By synthesizing the employer-regulation logic of *Garcetti v. Ceballos*, 547 U.S. 410, with the public-interest mandates of *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, the framework demonstrates a consistent pattern. In both instances, the government is not regulating speech *qua* speech; it is attaching professional standards to a privilege it has granted. Whether the privilege is the exercise of federal office or the utilization of public spectrum, the state retains the authority to condition that benefit on a baseline of professional fitness. This unified theory ensures that the framework does not function as a novel restriction on private expression, but as a condition of professional fitness for public roles.

The most serious structural objection to this framework is the "who decides" question—the concern that any oversight body will risk becoming a "ministry of truth." The framework's answer is architectural: the oversight body does not adjudicate contested questions of truth, but rather applies a rigorous methodology derived from established evidentiary standards to claims where the factual record is unambiguous. This process is structurally analogous to peer review or judicial fact-finding; both systems rely on human judgment operating within strict procedural constraints and both are widely accepted as legitimate precisely because their conclusions are constrained by procedure rather than ideology. Ultimately, the constitutional defensibility of this model rests upon the rigor of the accompanying methodology document, which ensures that the oversight mechanism remains a tool of evidentiary verification rather than an instrument of ideological control.

Unlike the statute struck down in *United States v. Alvarez*, this framework criminalizes no speech and imposes no penal consequences. Nor does it seek to revive the Fairness Doctrine through content-based mandates, or bypass the "actual malice" standard of *New York Times Co. v. Sullivan* by imposing liability for press coverage of public officials. It targets neither the substance of opinion nor the breadth of editorial discretion; rather, it enforces professional standards of conduct and transparency. By avoiding criminal sanctions and viewpoint-based restrictions, the framework remains a mechanism for professional fitness rather than an instrument of government censorship.

This affirmative constitutional vision maintains that the Constitution's core accountability principles—separation of powers, the conditions of public trust, and the structural role of the press as a check on state power—provide robust support for a framework that conditions public office and broadcast privilege on professional truthfulness. The First Amendment was never intended to grant officials immunity from the professional consequences of systemic falsehoods; rather, it functions best when public institutions and licensed broadcasters are held to the very standards that sustain an informed electorate. Far from infringing upon protected expression, this framework fulfills the constitutional design by ensuring that those who exercise state-conferred authority do so within the bounds of evidentiary integrity.

Conclusion

The United States already recognizes that high-stakes professional roles require enforceable standards of factual accuracy—a principle that forms the undisputed foundation of every professional licensing regime in American life. This framework simply applies that same logic to federal officeholders and licensed broadcasters, whose capacity for systemic harm through official falsehood far exceeds that of any traditionally licensed professional. The proposed extension is not a radical departure from democratic norms, but a necessary correction of the current anomaly where public office remains the only high-consequence vocation exempt from a baseline of evidentiary accountability.

This framework is not a "ministry of truth," nor is it a mechanism for the criminalization of speech. It does not empower the state to adjudicate contested political questions or punish dissent; instead, it employs a rigorous, published methodology to identify only those claims where the well-documented record is unambiguous. Because the oversight body possesses no authority to fine, imprison, or unilaterally remove an official from office, its power is reputational and procedural. The structural safeguards of the appointment process and appellate review ensure that the framework cannot be weaponized as a partisan instrument. By tying influence to transparency and evidentiary credibility, the architecture ensures that any consequence flows directly from the official's own documented failure to uphold the standards of their professional role.

The full realization of this architecture—a constitutionally established, independently funded oversight body—is a generational project that requires a measured, long-term commitment to institutional-building. Rather than an immediate policy shift, the near-term work includes establishing a proof of concept through an accountability tracker, an advisory council, and rigorous public documentation, all of which are designed to build the institutional credibility the larger project requires. The ultimate goal is not to win a transient political argument, but to construct a durable institution worthy of the structural crisis it is designed to resolve. The central question is not whether public officials should be held accountable for well-documented falsehoods, but whether American democracy is willing to build the institution that makes that accountability real.