REPRESENTATIVE BODY OF THE STUDENT COUNCIL OF THE UNIVERSITY OF VIRGINIA

INTERIM REPORT

OF THE

COMMISSION FOR LEGITIMACY, ELECTORAL ACCOUNTABILITY AND REFORM

PRELIMINARY FINDINGS AND RECOMMENDATIONS

VOTING MEMBERS

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LETTER OF TRANSMISSION

To the Representative Body:

In line with the will of the Representative Body, as expressed in FB 26-03, the Commission for Legitimacy, Electoral Accountability and Reform has instructed me to deliver its interim report. Enclosed herein, the Commission has worked to uncover concerns held by members of the public, as well as issues found by members of the Commission in review of our electoral system and climate.

I am grateful for the tireless work by the members of this Commission, and I express my gratitude to the Representative Body, the Second and Third Year Councils, the Fourth Year Trustees, and the University Board of Elections for appointing capable individuals with the desire to improve our institutions. I must further thank the University Board of Elections for their cooperation and openness to reform. It is no small thing to open an organization for critique, and it shows the UBE's commitment to serving the public.

I am eager to deliver the final report of the Commission to the Representative Body at the conclusion of our inquiry. I ask for this Body and stakeholders in the electoral system to provide feedback on this report, that we may fully address all concerns held and issue quality recommendations.

Respectfully submitted,
Lucas A. Addison, *Chair*

FRAMEWORK FOR INQUIRY

The Commission began its work by organizing an initial framework on the investigation of the student electoral system at the University of Virginia, focusing on current electoral and governance practices and the climate of student self-governance. The inquiry was centered around four general topics of interest, divided into narrower questions regarding aspects of student elections. That framework was as follows:

<u>UBE Internal Governance Framework</u>

- What does the UBE Constitution establish, and what does it leave out?
- How does the Board make rules, what constrains rulemaking, and are those constraints sufficient?
- How does the Board preserve institutional memory across one-year terms?
- Is the current composition and appointment of the Board appropriate?
- What practices of the UBE are constitutionally mandated, which are dictated by the Rules and Regulations, and which are conducted through precedent?

<u>Rules and Regulations' Enforcement Process</u>

- What is the full lifecycle of a complaint today?
- What sanctions exist, and can participants predict them in advance?
- Are proceedings and decisions open, reasoned, and reviewable?
- What happens to results while a dispute is pending?
- What recourse do voters (as well as candidates) have when the ballot itself fails them?

<u>Interactions of the UBE with other student self-governance organizations</u>

- What is the UBE's jurisdiction, in practice?
- Where does UBE jurisdiction end and the jurisdictions of elected bodies begin?
- What is the JRB's role in the system, and is it appropriate within the self-governance framework?
- What is the appropriate forum for when the UBE and another organization disagree? Should a process of settling disputes be established?
- Is the current endorsing organizations regime effective and transparent?

<u>Voter Turnout and Public Confidence</u>

- Which aspects of the current electoral system and climate boost student confidence? Which aspects damage confidence?
- Is recent turnout in student elections sufficient?
- What role should the UBE and elected bodies play in encouraging participation in student elections?
- Is the Big Pulse voting software sufficient for current needs? What are potential improvements in election period practices that could boost turnout?
- What is public by default in UBE proceedings, and what is the basis for withholding the rest?
- Is there any "peacetime" mechanism for examining the electoral system?

As the investigatory process unfolded, we noted that some questions were impractical to answer at this time, or were otherwise less important than other questions. As such, we have chosen to reserve some questions for this Commission's final report. In addition, we have considered referring some lingering questions to the UBE and elected bodies to answer following the conclusion of our work. We commit ourselves to fulfilling the charge issued by the Representative Body, but we find that some questions are best left for public discussion and debate.

To fully answer the questions posed, this Commission leveraged publicly available information, our internal expertise, and the knowledge of the UBE's member, Livia Shrednick. We are currently in the process of conducting interviews and forwarding questions to students involved in the electoral system, but we are of the belief that this type of evidence is best utilized in the formation of the recommendations that we have yet to send to the Representative Body. Following the release of this document, we plan to solicit the feedback of the Representative Body and members of the public to supplement our initial findings.

INITIAL FINDINGS

I. Review of the UBE's Creation

In drafting this report, the Commission examined the constitutional history of the University Board of Elections, first beginning nearly twenty-four years ago, following the contentious 2003 Student Council Presidential Election. In that election, concerns were raised related to the procedures that the Student Council had in place for the administration and regulation of elections. Seeing as how that election has largely faded from memory, we have chosen to compile a short brief of that spring.

The election for Student Council President was between four candidates. At the release of results, candidate Daisy Lundy was found to have received the largest share of votes, leading the closest challenger, Ed Hallen, by 2,047 to 1,830. However, this was before taking into account that Lundy was found to have violated campaign regulations and subsequently had 2% of her final total deducted. As the Student Council Election Rules required the winner to win by more than 5% of all ballots cast, the Elections Committee ordered a run-off election. Lundy appealed both decisions to the Student Council Rules and Ethics Board, stating that the vote docking was unreasonable, and that Election Rules should be interpreted as mandating a run-off only if a 5% or smaller difference between the vote totals of the top two candidates when compared to each other exists.

The Rules and Ethics Board rejected both appeals, and the run-off commenced. It did not begin, however, before Lundy was the victim of an act of battery in Poe Alley, and it was revealed that a member of Student Council had inappropriately accessed the election database. Hallen opted to withdraw from the race, resulting in Lundy's victory as Student Council President. The Representative Body, in response to concerns from members of the student body and University administration, voted to form an ad-hoc committee to investigate the events of the election and to recommend changes. Following weeks of discussion and communications with University officials, the Elections Reform Ad Hoc Committee proposed a slate of electoral reforms. Several of those proposals were direct responses to the issues of that election, with the Committee proposing a ban on punitive vote docking, a bar on election officials from serving in elected bodies, and the implementation of Instant Runoff Voting. The chief of those recommendations was the establishment of an independent Board of Elections, which was approved by the student body and the Board of Visitors in the fall of that year.

As we have been charged by the Representative Body with examining the student electoral system and issuing recommendations, we find it reasonable to assert ourselves as the successor of the Elections Reform Ad Hoc Committee. With that assertion, we also find it reasonable to examine the success of the Committee's recommendations. To do so, we have examined each of the issues that the Committee and University administrators brought forward, and have paired them with the institutional features within the UBE that were created to solve those issues.

The first issue we considered was that of punitive vote docking. Article IV, Section C of the Constitution of the UBE expressly prohibits punitive vote docking[1], largely due to concerns raised in 2003 that such a penalty was both undemocratic and ripe for abuse. Although we have brought forward our concerns about the lack of penalties available to the UBE in enforcing its Rules, we find the prohibition on punitive vote docking to have been appropriate and effective.

The second issue considered was that of conflicts of interests by election officials. In the 2003 election, the severity of the punishments imposed by the Elections Committee on Lundy, coupled with inappropriate accessing of the election database, led the Elections Reform Ad Hoc Committee to identify conflicts of interest as an area that needed to be addressed. Subsections 3 through 5 of Article III, Section C of the UBE Constitution does so[2], as it places restrictions on members from serving in organizations that could lend the appearance of bias. In reviewing the instances of the UBE's history, we have found no evidence that this mechanism has failed, nor have we seen any broader patterns of bias within the organization.

The third issue considered was the implementation of Instant Runoff Voting (IRV). Prior to 2003, election regulations dictated that a candidate must receive at least 50% of the total in order to win the contest, resulting in time consuming run-off elections that usually resulted in lower participation than the first contest. Without such a provision, the former first-past-the-post system elections were conducted under could result in elections where winners of a contest could not have an absolute majority of those voting. With neither option being ideal to solve the problems of the other, IRV addresses both concerns. As the name implies, the system allows for runoff elections to happen instantaneously, eliminating the need for a second

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[1] Article IV, Section C: "Election Rules and Procedures shall not include punitive vote-docking mechanisms that nullify individual votes."

[2] Article III restricts individuals from serving as leadership in endorsing organizations, holding or seeking elected office overseen by the UBE, or involvement in student elections. We see these restrictions as broad in a manner that suits the nature of the UBE.

election period. Since the implementation of IRV in the spring of 2004, there have only been two elections where more than one ballot has been necessary. As neither of which were spurred by the final results of the election, we find IRV to be successful.

The final issue considered was that of the independent Board of Elections. As the implementation of the Board required major self-governance organizations to cede pieces of their authority to an unelected body, it is important to fully investigate the necessity of that body. As it relates to the second issue's concern of conflicts of interest, we find the creation of an independent elections authority to be paramount to maintaining impartiality. In terms of Student Council Elections prior to the UBE's creation, elections were administered by a committee under the oversight of the Vice President for Organizations and the Representative Body, all of which being elected officials. Although accountability is a crucial part of the democratic process, the level of authority granted to oversight was ripe for abuse. Separately, elections as a whole were coordinated by individual self-governance organizations, leaving a confusing level of decentralization. The centralization of elections into an independent Board of Elections appointed by outgoing leaders in self-governance organizations brought a consistent process for voting overseen by a Board selected by individuals who would not benefit from their appointments. Considering all of the following, we affirm the Representative Body's 2003 move to create the University Board of Elections. In addition, we firmly rebuff any recommendations that could decentralize the electoral system at the University of Virginia.

II. Issues Identified Are Institutional Rather Than Individual

A commonality identified with the majority of issues presented is that they are symptoms of governance and electoral frameworks and policies, rather than the actions of any individuals or specific governing bodies. We cannot say that any individuals are blameless in regards to intentional or unintentional defects; indeed, we note several instances where decision makers could have selected more preferable actions. However, we view these more as symptoms of the frameworks in which these individuals or groups have made their decisions, and choose to focus on those frameworks.

In review of these frameworks, we have noted governing documents within the UBE to be of concern. Compared to the constitutions and bylaws of other governing bodies at the University, the Constitution and Rules and Regulations of the UBE have been found to be lacking. In supporting what few guarantees the Constitution grants to candidates and students, the Rules and Regulations are less thorough and make some aspects of the process unclear. We have chosen to elaborate on these instances in later sections of this Report, but have

come to the conclusion that any meaningful change in the electoral system begins with thorough reviews of the UBE's governing documents and, if necessary, amendments of those documents.

For all of the foregoing reasons, the changes we propose in this document are institutional in nature, and we commit ourselves to continuing down that track in the final recommendations, which we have now begun work on.

III. The UBE Is A Precedent-Driven Body

Some of the largest organizations in student self-governance have created thorough written frameworks for their practices and procedures. The Honor Committee, for example, maintains a set of Bylaws forty-seven pages long, with those Bylaws ordaining the Honor Committee's organization, administrative procedures, trial procedures, records management, and other structural components integral to the Honor Committee's operations. Given that the Honor Committee is an Agency of the University, we find it quite sensible that the minutiae of governance is clearly laid out in the Committee's Bylaws. Student Council, which functions as an Special Status Organization, has a similarly dense set of Bylaws that lay out the skeleton of its operations and procedures.

The UBE, in contrast, has a much slimmer set of bylaws, called the Rules and Regulations. The Rules and Regulations, in a much more general sense, create a framework for the administration of elections, but are largely focused around electoral regulations. In reviewing the Rules and Regulations, the Commission noticed an absence of an internal structure for the Board's operations. The only mention of any delegation of authority from the full Board is to the Rules Committee, the composition and procedures of which are also absent from the Rules and Regulations. When inquiring on the structure of the UBE, it was noted that the UBE divides itself into four committees: the Rules, Elections, Marketing, and Candidates Committees. The Rules Committee is charged with the enforcement of the Rules and Regulations, the Elections Committee is tasked with the actual administration of elections and cooperation with BigPulse, the Marketing Committee is charged with making voters aware of the UBE and ongoing elections, and the Candidates Committee is charged with ensuring eligibility and communicating with those seeking elected office. In discussion with Miss Shrednick, and in reviewing the historical record, it was also implied that the Chair of the UBE holds some form of delegated authority.

Considering that the aforementioned delegated powers are nowhere to be found in written documents available to the full public, we find the current structure of the UBE to be extremely reliant upon

precedent, rather than formal action of the full Board. As the authority to administer and regulate elections granted by the student body and the Board of Visitors is vested in the full Board, we find it necessary for the UBE to formally endow its components and individual members with the authorities they have been informally wielding. Doing so will clarify the UBE's internal processes and make those processes visible to the public. The latter point could aid in remedying allegations of opacity within the UBE.

We turn now to the more specific aspects of the Rules and Regulations: their effects on the regular practices of the UBE. We inquired with Miss Shrednick for the general division of responsibilities, as well as the practices and procedures of the UBE. From that process, we have concluded that the majority of the UBE's practices and procedures are precedent-based, rather than formal practices approved by the UBE assembled. Although this sort of management would likely be sufficient for less consequential organizations, it is inadequate for a body with the influence and impact that the UBE holds. We find trust from the public and due process for accused candidates and organizations to be elements at risk from a body administered through precedent. The latter element is especially concerning, given that the Constitution of the UBE guarantees due process. An organization conducted largely through precedent, the actions of which are largely at the discretion of its members, creates a concern about procedural due process.

We also raise the risk to institutional memory that a precedent-driven body raises. In our conversations with Miss Shrednick, the Commission learned that practices and procedures within the UBE are largely transmitted through transition documents and the training of new members. Although these measures may be sufficient in regular transitions of the Board's membership, it is not difficult to fathom that they may not be as successful in more chaotic transitions. Indeed, hypotheticals need not be raised, as institutional memory has already been a problem in the UBE's history. In the UBE's 2024 Elections Analysis Report, former UBE Chair Zach Lederer communicated that the organization had suffered substantial losses in institutional memory, with all members of the UBE (other than the Chair) being new to the organization. He expressed that this was "an ongoing and multi-year process that, when coupled with the UBE's supportive role to institutions of student self-governance, has resulted in a retreat from prominence in University life." We find the potential of a future loss of institutional memory, presumably yielding similar effects, to be unacceptable to sensible governance. As such, we offer a more suitable alternative.

The Commission formally recommends that the University Board of Elections revises its Rules and Regulations to incorporate the

precedent necessary to run its internal operations. Additions could include sections regarding the structures and authorities of the UBE's committees, consistent processes on the administration of elections, a Code of Ethics, confidentiality requirements, and procedures that sufficiently dictate the Rules Resolution & Enforcement process. On the final point, we encourage the UBE to look at the trial processes of the Honor Committee or University Judiciary Committee, or the more comparable process for Contracted Independent Organizations (CIOs) appealing their status to Student Council's Representative Body. These processes are much more thorough and have been found to sufficiently protect due process. We also recommend that the UBE publish any internal documents dictating practices and procedures that are not within public view, as they could improve public confidence in its operations.

IV. 2026 Public Comment Period Insufficient

On September 1, 2026, the University Board of Elections, pursuant to its Rules and Regulations, opened a period of public comment on its 2026-2027 Proposed Rules and Regulations ("Proposed Rules"). This period ended at midnight on September 8th. Although the Commission appreciates the effort by the UBE to incorporate the opinions of the student body in revising its Proposed Rules, we must note that the Rules and Regulations mandate a two week period for public comment. The public comment period for the Proposed Rules lasted one week. The Commission also notes that the Proposed Rules were taken out of public view for a brief period on September 8th, which interrupted the one week period the Board stated the rules would be open for review. The Commission advises that the UBE strive to adhere to the two week period mandated by its Rules and Regulations.

V. Definition of Rules Violation Is Vague, Could Be Difficult To Enforce

In examination of the Rules and Regulations, the Commission has found the UBE's definition of what constitutes a violation of the Rules and Regulations is both vague and underdeveloped. In making this determination, the Commission chose to examine other self-governance organizations. The Honor Committee and the University Judiciary Committee both provide specific definitions of what constitutes violations of their respective codes, with violations of the Honor Code being clearly defined in Honor's Bylaws[3] and violations of the Standards of Conduct (as adopted by the Board of Visitors) being clearly defined in University policy.

[3] For example, the definition of the offense of lying is stated to be "the misrepresentation of one or more facts in order to gain a benefit or harm another person, where the actor knows or should know that the misrepresentation will be relied upon by another person."

In comparison, the Rules and Regulations of the UBE, for the most part, appropriately define what constitutes a minor rules violation. Indeed, listing out offenses considered to be minor violations accounts for a large part of the Rules and Regulations[4]. The Rules and Regulations are deficient, however, in describing what offenses constitute a major rules violation[5]. The definition stands as "behaviors which are coercive, harassing, or otherwise substantially undermine the integrity of the elections process." It is vague in such a manner that it undermines the enforceability of the Rules and Regulations, especially if the UBE investigates a candidate for an offense not listed as an example.

Not only are the examples of what constitute a major rules violation small in number, but they are small in description. Unlike minor rules violations, which have detailed definitions of the examples listed, no examples listed in the major rules violation section ("bribery, tampering with opponents' campaign materials, threats of violence, providing intentionally false information to UBE, and the misuse of SAF funding") are properly defined. In a similar manner to the consequences of a vague definition of what offenses constitute a major rules violation could bring in enforceability, a vague definition of any of these offenses could make them subject to interpretation, an issue raised in the 2003 Election.

Although we have little issue with the definition of what constitutes a minor rules violation, we do take issue with the enforcement of such. Unlike major rules violations, where the sole sanction allowed is disqualification, disqualification is only merited in the case of "repeated" minor rules violations. This term is unreasonably broad in nature, and does not grant the UBE any deterrent sanctions in the case of significant minor rules violations that do not merit disqualification.

In all of the points mentioned, we chose to examine the electoral regulations of two peer institutions: the University of North Carolina at Chapel Hill (UNC) and the College of William & Mary. UNC's electoral rules are contained within Title II of the Joint Code of Student Government, titled "The Board of Elections and Election Regulations". Chapter 9 dictates the definition of what conduct

[4] Article IV, Section 2.B.II: "Examples of minor rules violations include improper signage, improper chalking, or the lack of a "paid for by" attribution." All examples presented are well defined earlier in the Rules and Regulations. Considering that the words "examples" and "include" are used to describe minor rules violations, however, we find that other offenses not properly defined could also be counted under this definition.

[5] Article IV, Section 2.B.I "Major rules violations are those in which the accused has engaged in behaviors which are coercive, harassing, or otherwise substantially undermine the integrity of the elections process. Examples of major violations include bribery, tampering with opponents' campaign materials, threats of violence, providing intentionally false information to UBE, and the misuse of SAF funding."

constitutes violations of election rules, and Chapter 10 provides for the enforcement of election rules. We have found Chapter 9 to properly define all violations of election rules, leaving prohibited conduct clear to candidates and the public, Chapter 10 lays out the process for enforcement of rules, creates a point system for offenses, and how accruing points allow sanctions in the form of campaign finance restrictions and disqualification. We find these chapters (and the electoral code overall) to be more thorough than the Rules and Regulations. At William & Mary, electoral rules are contained in Sections 6 and 7 of Title 6, Chapter 2 of the Student Assembly Code. Section 6 defines three classes of violations, with each violation being clearly defined within those classes. In Section 7, we find the process of imposing sanctions to be weaker than those of the University and UNC, but the guidelines for sanctioning are clearly defined.

In the cases of both UNC and William & Mary, prohibited conduct is clearly defined, and candidates can reasonably anticipate sanctions for violations of electoral rules. Such systems make for a consistently applied code with a credible system of deterrence. When weighing those systems against our own, we find ours lacking. We believe that the current Rules and Regulations are not sufficient in providing a clear and consistently applied system of sanctioning candidates. It is the judgment of the Commission that candidates are entitled to clear definitions of prohibited conduct, and should be able to reasonably anticipate sanctions for prohibited conduct.

VI. Single Sanction for Candidates Limits UBE's Discretion to Enforce Electoral Rules

In continuing off the point of the Rules and Regulations' insufficiency in defining violations, we find the Rules and Regulations limit the authority of the UBE to act in circumstances where violations do not merit disqualification. As it stands, the sole sanction for candidates found to have violated the Rules and Regulations is disqualification. The bar for disqualification is quite high, with considering such a move only coming in "the event of repeated minor rules violations or a major one-time rules violation". Section 2 of Article IV dictates that the Rules Committee must attempt to issue "intermediate penalties commensurate with the severity of the offense," but such penalties are not defined. Other than an assurance that the UBE will attempt to resolve disputes through mediation rather than sanctions, the only sanctioning authority the UBE has granted the Rules Committee is disqualification.

In examining the UBE's system, we look to the Honor Committee's transition from the single sanction to the multi sanction system in 2023. Several proponents of the multi sanction system supported the move because of beliefs that it gave the Honor Committee more

options and allowed for proportional sanctions to be issued in the case of "lesser" offenses. In a similar manner, we see the UBE's single sanction system as limiting the Rules Committee's authority and limiting the proportionality of issuing sanctions. Limitations on the Rules Committee and a lack of proportional sanctions for minor offenses may undermine the credibility of enforcement, which subsequently undermines the authority of the UBE. Creating a system where more penalties are available to the Rules Committee will lend credibility to the Rules and Regulations' enforcement regime.

VII. Endorsing Organizations Framework's Enforcement Regime Was Insufficient, Needs Further Examination

An issue raised with the UBE's Endorsing Organizations framework before the UBE's introduction of the Proposed Rules was the lack of sanctions for Endorsing Organizations. Previously, the Rules and Regulations dictated a series of regulations applying to the organizations that chose to participate within the Endorsing Organization framework. The issue with this system, however, was that there was no specific method to sanction organizations in violation of the Rules and Regulations other than some sort of bar from participation[6].

Although this Commission is careful to abide by the parameters set by the Representative Body in the review of the 2026 Student Council Presidential Election, we do find a necessity to cite previous circumstances as an example of this system. We have identified a curiosity in the complaint raised in the aftermath of the election: a claim was levelled against the Inter Fraternity Council (IFC), an Endorsing Organization, despite the fact that a remedy involving the IFC would be without a guideline or previous precedent supporting the decision. Although disqualification of a candidate was permitted, the path to sanction the source of the alleged offense was unclear.

The UBE, presumably in addressing this procedural shortcoming, included a sanctioning provision in the Proposed Rules. Under this provision, the Rules Committee would be granted the authority to suspend Endorsing Organizations up to a year for violations of the Rules and Regulations. We find this to be an excellent first step, not only to resolve one issue raised, but also to look inwards on potential reform measures. In furthering this measure and supporting public transparency, we believe that the UBE should inform the public when

[6] Article III, Section 6(G) of the UBE Constitution: "Endorsing Organizations that fail to fully comply with their agreement to report expenditures and abide by other Elections Rules may be referred to the appropriate University bodies. The UBE also may take action it deems appropriate, including but not limited to barring an organization from the publication of future endorsements in the UBE materials and the loss of other incentives related to future endorsements." We found this language to be vague in a manner that mirrors the single sanction mentioned in Section VI of this report.

these sanctioning authorities are used. We recommend that the UBE report on when they choose to sanction an Endorsing Organization and issue the relevant opinions accordingly.

VIII. Student Council "Term of Office" Yields Rigid Transition System

As the Representative Body has given us the mandate of investigating and evaluating "structural provisions governing leadership transitions," the Commission has reviewed the 2026 Student Council transition process ("the transition"). As a consequence of the long lasting dispute over the 2026 Student Council Presidential Election, the Executive Board of Student Council chose to extend the terms of outgoing Officers and Representatives[7]. Although the scope of the dispute was limited to the office of Student Council President, the delay applied to all elected offices on Student Council. This had a significant impact on Council at large, with the Representative Body's consideration of the appointments of branch chiefs and approval of the summer budget being delayed until a special session in June.

We have learned, through both public statements of members of the Executive Board at the time and constitutional interpretation, that the issue lies in the phrase "term of office"[8]. As this phrase implies one unified term of office, the Executive Board cannot delay the transition in one office without delaying the transition in all offices. We find this to be too rigid of a provision, one that could cause issues in future election disputes. We further find that leaving the Representative Body, a body elected independently of the President, Vice President for Administration, and Vice President for Organizations, dependent upon the executive for its transition timeline raises questions regarding the independence of Student Council's legislature. We commit ourselves to exploring the latter point more thoroughly in the final report.

At the current moment, we do hope to bring one suggested change for the consideration of the Representative Body. The Commission formally recommends that the Representative Body amend the Constitution to replace all mentions of the phrase "term of office" with "terms of office", or any appropriate phrase that achieves the task of

[7] Although Student Council often interprets "Executive Board" to mean the President, Chair of the Representative Body, Vice President for Administration, Vice President for Organizations, Chief of Support and Access Services, Chief of Cabinet, Director of University Relations, and Director of Coalition Engagement assembled, there is no constitutional basis for the inclusion of the latter four officers. The Spring decision was made by the first four officers.

[8] Article III, Section 3(A) of the Student Council Constitution: "The term of office for Officers and Representatives shall begin between thirty and sixty days after the end of spring elections at the discretion of the outgoing executive board."

decoupling the terms of all Officers and Representatives on Student Council from one another.

IX. Current Nature of Witness Cooperation Yields Issues with Enforcement

While discussing potential reforms to the investigation process, Miss Shrednick noted that the UBE has had an issue with compelling cooperation. After further review of this matter by the Commission as a whole, it seems that this is an issue that merits our consideration. In circumstances where members of the public may have testimony or evidence pertinent to an election dispute, their participation in any investigation is entirely discretionary. Of all of the issues we have identified, we find this one to be a matter not easily solved. Indeed, we readily admit that public universities cannot force the testimony of students in disciplinary proceedings. However, we do find a need to encourage the cooperation of witnesses in investigations.

X. Insufficient Ballot Review Procedures May Exist

One of the defining hallmarks of measuring the success of the administration of an election is the successful creation of the ballot. In guaranteeing free and fair elections, an electoral board must ensure that the ballot is accessible and free from error. We have found, as of recent, that the latter component has been inconsistent. In the last five elections administered by the UBE, substantial errors have affected ballots in two.

The first case was that of the 2024 New Student Elections. Following the commencement of the voting period, it was reported to the UBE that several candidates had inadvertently been excluded from the ballot in several races. By the time the issue was discovered, hundreds of students had already cast their ballots. This forced the UBE to reissue the ballot later that evening. However, it was later discovered that the UBE had mistakenly used the "first-past-the-post" system instead of the IRV scheme mandated by the Rules and Regulations. This second error forced the UBE to organize the first run-off election since 2003, when the UBE implemented IRV to prevent the need for run-off elections. At the conclusion of the election cycle, then-UBE Chair Zach Lederer took responsibility on behalf of the UBE, stating that there were "no excuses to justify what occurred." In the same letter, he assured that procedural errors were being fixed and that no future errors would occur[9].

[9] "Errors in procedure during NSE resulted in a runoff for four of the seven positions on the NSE ballot. The UBE takes full responsibility and can assure the University community that these setbacks will not occur in the future. The UBE has worked tirelessly to rectify gaps in our processes while restoring faith in elections at the University. These efforts are detailed in this document."

The second case occurred during the 2026 College Council Presidential Election. During that election, the UBE mistakenly placed a candidate who had failed to acquire the twenty-five required signatures on the ballot. When notified several hours following the opening of the voting period, the UBE moved to disqualify the candidate and amend the ballot accordingly. As the ballot utilized IRV, the UBE chose to proceed with the other candidates ranked on the ballot of those who selected the disqualified candidate. We find that this disruption was not as significant as the 2024 error, but was a substantive error nonetheless.

The 2024 error demonstrates a failure by the UBE to place all qualified candidates on the ballot and utilize the method of voting dictated by the Rules and Regulations, while the 2026 error brings concerns as to whether or not the qualifications of candidates are being properly vetted. We find both instances to represent significant failures by the UBE to properly assemble the ballot. It is the opinion of the Commission that the UBE could introduce more thorough checks on both candidates and ballots. We resolve ourselves to bring forward a more specific proposal in our final report to the Representative Body.

XI. Interpretation of Elected Bodies' Constitutions Unclear, No Certification for Referenda, No Venue for Disputes

Several instances have emerged where the UBE has disagreed with elected bodies on the interpretation of the constitutions of the latter. The first instance occurred in 2006, when a proposed amendment to the Honor Committee's Constitution, known as the Consensus Clause, was being debated. The Consensus Clause would have required an absolute majority of the student body (rather than the majority of voters casting a ballot) to amend the Constitution. Many detractors from the proposal pointed to the UBE's most recently reported voter turnout standing at 32% as evidence that the Consensus Clause would make future constitutional changes near impossible[10]. Supporters of the proposal, including some members of the Honor Committee, disagreed with the 32% figure, stating that the UBE's definition of voter turnout was incorrect and that turnout was actually at 42%. Although the issue was mooted by the failure of the proposal, the question of whose judgment is superior when interpreting the Honor Constitution's electoral provisions remains. At the time, it was assumed that the UBE, granted the power to regulate Honor Committee elections[11], held that authority.

[10] The Consensus Clause's main purpose was to ensure popular campaigns could not easily change the structure of the Honor system, with the main goal being the preservation of the single sanction. Proposals to ratify the Consensus Clause failed in 2005 and 2006.

[11] Article IV, Section 6 of the Honor Committee Constitution: "The University Board of Elections or its successor body shall have the power to regulate Honor Committee elections."

This assumption is challenged, however, by an earlier precedent. In the Spring 2004 election, the first administered by the UBE, members of Student Council sparred over whether or not an amendment to its Constitution received the requisite number of votes needed for ratification. Student Council's Constitution dictated that the favorable vote of "two-thirds of those voting" in the election was necessary. Some members of Council believed that this meant two-thirds of those voting on the referendum itself, while others contended that two-thirds of all participants in the election at large (some of whom did not cast a vote in the referendum) were necessary. The curiosity comes not in the dispute, but in the UBE's response to the dispute. When interviewed by the Cavalier Daily, the Chair of the UBE, Brian Cook, stated that the UBE was responsible for reporting the results of the election, not interpreting the Constitution[12]. Not only does it lead us to wonder what the extent of the UBE's regulatory authority is, but it also brings forward a crucial discovery: the UBE *reports* the results of elections, but does not certify those results. Other constitutions do not grant this authority to elected bodies. Although this is not necessarily as much of an issue for candidates, as there is no minimum number of voters needed in elections for offices, the requirements for referendums are much more nuanced.

This leads the Commission to conclude that, at current, proposed amendments to constitutions are ratified by informal concurrence of the entities involved. Considering the nature of constitutions of Agencies and Special Status Organizations as legal documents, we deem a lack of formal certification as highly problematic. In finding a solution to this matter, we find ourselves standing in contrast to the past precedent set in the 2004 dispute. We recommend the UBE create a constitutional framework for certifying the results of referendums.

We also find issue with the underlying concern that is a lack of venue to properly litigate disputes between the UBE and elected bodies, as well as a lack of a clear venue to challenge results in disputes relating to governing constitutions. The current nature of solving disputes, although currently stable, could result in a constitutional crisis if informal mediation fails. The concept of giving the authority of interpreting the electoral provisions of an elected body's constitution to the UBE is problematic, as it would cede an impressive amount of authority to a body not configured to render such interpretations. However, we also find the concept of giving that authority to elected bodies to be problematic, especially if that elected body cannot render

[12] "In reporting the results to Student Council, we are making absolutely no judgments in how to interpret Student Council's constitution. That is a matter for Student Council's Rules and Ethics Board."

an impartial opinion on the matter. Both of these lead the Commission to determine that adjudication by a third party would be the most sensible option. We resolve ourselves to issuing a formal proposal on this subject in our final report to the Representative Body.

XII. Judicial Review Board's Presence in Student Election Disputes Should Be Examined

The Commission has reviewed the status of the Judicial Review Board (JRB) in the UBE's appellate process. As this is a subject that members of the public, the Chair of the UBE, and members of this Commission have raised, we found it necessary to render an opinion. The JRB occupies a strange place in the appellate process, largely because of its composition: it is a body controlled by University administration. The JRB, originally created for the University Judiciary Committee, is an appellate body whose members are appointed by the Vice President and Chief Student Affairs Officer (VPSA). The JRB was granted appellate authority following the creation of the UBE in 2003. Although the specific reason for the JRB's inclusion is unknown, we believe it to be a result of the VPSA and Dean of Students aiding in drafting the UBE's Constitution[13].

Regardless of the cause, the UBE has expressed the opinion, both in public[14] and in our discussions, that a body outside of student self-governance should not be handling the internal decisions of self-governance. The Commission will consider this perspective in the final report. Although we note the presence of the JRB in the University Judiciary Committee's appellate process as widely accepted, one uniform standard need not apply for all of self-governance. We view the nature of appeals in student elections to be fundamentally different from appeals in the Honor Committee or University Judiciary Committee. Sanctions issued in those bodies affect interests that could bring liability to the University if cases were improperly handled[15]. We cannot say that interests with proportional significance exist in student elections, which leads us to believe that University administration does not have as much of an interest in election disputes. Regardless, we believe that there should be an option to appeal to an entity outside of the UBE. The

[13] Following the 2003 Student Council Presidential Election, the VPSA and Dean of Students were appointed to the Elections Reform Ad Hoc Committee, which produced the UBE's Constitution. The VPSA, Patricia M. Lampkin, independently commissioned an audit on the election, which yielded a set of recommendations similar to the Ad Hoc Committee's. We are attempting to obtain the results of the VPSA's audit.

[14] In an interview with the Cavalier Daily, UBE Chair Ella Gilmore stated, "[T]he integrity of student self-governance calls for students themselves to manage U.Va.'s student elections."

[15] We point to cases filed by students in federal court, some of the most notable being *Smith v. Rector & Visitors of the Univ. of Virginia* and *Henson v. Honor Comm. of U. Va.*

Commission resolves itself to explore a proposal on alternative appellate methods in its Final Report.

XIII. No Mechanism Exists to Ensure UBE Compliance with Constitution, Rules and Regulations

The Commission has noted concerns related to the adherence of certain actions by the UBE to its Constitution and Rules and Regulations. Specifically, concerns have been raised regarding the UBE's decision to eliminate the constitutionally-mandated JRB from its appellate structure, and its move to limit the public comment period to one week. Setting aside the merits of those arguments, the Commission has explored what actions exist to ensure the adherence of the UBE to its Constitution and Rules and Regulation. In terms of a decision of the full Board during an election dispute, an avenue to attempt an appeal to the JRB may exist[16]. We were more curious, however, if there were a way to ensure the UBE's compliance to the Constitution and Rules and Regulations *outside* of election disputes. For instance, the Commission posed the question of whether a member of the UBE could seek enforcement of the Rules and Regulations' requirement for a two-week public comment period.

Following a review of the UBE's governing documents and conversations with the Vice Chair for Rules and Administration, the Commission has determined that no such actions are available to students, other than the UBE's self restraint. Absent such restraint, the UBE could violate its own governing documents without any recourse within self-governance. We must note a nuclear option, one that lies outside of self-governance. As the Constitution and Rules and Regulations of the UBE, by technicality, exist as University regulations, University administrators and the Board of Visitors would be capable of ensuring compliance. It is the opinion of the Commission that such an occurrence would be entirely antithetical to student self-governance. If the review of procedures in an election dispute could interfere with the integrity of self-governance, as implied by the Chair of the UBE in her comments to the Cavalier Daily[17], commands from University administrators would go leaps and bounds beyond that standard. We believe this issue necessitates a method by which students may ensure enforcement of a Constitution imposed upon the UBE by the student body. The Commission resolves itself to recommend a proposal on this subject in its Final Report.

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[16] Under the Proposed Rules, the avenue to seek an appeal to the Judicial Review Board has been eliminated. We believe that one could attempt an appeal regardless, which would settle the status of the JRB in the appellate process. We do, however, recognize the inherent issues in an administrative panel overruling the rules set by the UBE.

[17] Refer to #14.

XIV. Endorsing Organizations Framework May Not Yield Desired Participation, Creates Compliance Gap

Some concerns have been raised to the Commission regarding the efficacy of the existing Endorsing Organizations framework. In discussion with members of Endorsing Organizations prior to the formation of the Commission, some members stated that there is not sufficient incentive to submit to the UBE's oversight. The Commission notes that the main incentive for participating in the Endorsing Organizations framework is the appearance of the EO's endorsement on the ballot. However, the importance of this incentive has been questioned, particularly when CIOs and SSOs can leverage their own internal mechanisms to communicate their endorsements to members. In contrast to submitting to the jurisdiction of the UBE, organizations outside of the Endorsing Organizations framework are free to conduct themselves as they please, as long as they remain compliant with public law and University policy. Some organizations outside of the framework, for example, chose to privately issue informal endorsements to candidates without the interview process mandated to Endorsing Organizations. These actions were not in violation of the Rules and Regulations and University policy at all.

This not only applies to organizational conduct, but also with candidate contact with organizations. Under the current Rules and Regulations, candidates are prohibited from becoming involved with the endorsing processes of any Endorsing Organization. No such prohibition applies to informal endorsements. This means that a candidate could openly solicit the endorsement of an organization, and even seek for other candidates to be excluded from due consideration, without violating any electoral rules. We use this example not to seek suppression of free speech by organizations, but to demonstrate that any organization's executive board could issue an endorsement in a manner inconsistent with a meritocratic endorsing system, spend an unlimited and unaccounted amount of funds on a candidate's campaign, or inappropriately influence voter behavior.

Regardless of the potential violation by an organization, it is the position of the Commission that ensuring proper conduct by organizations during elections is within the interest of the UBE and student body. As such, it would be reasonable for the UBE and the University to work to incorporate more organizations into the Endorsing Organizations framework.

XV. Voter Turnout Still Insufficient, Elected Bodies Should Work to Increase Participation in Student Elections

It is the opinion of the Commission that voter turnout in student elections should be higher, a distinction fitting for an institution that

prides itself on student participation in self-governance. Although the University community can look at turnout in the 2026 Student Council Presidential Election more than doubling since the 2025 Election as a sign of hope, that increase was from 12% of the student body to 25%. Prior to the 2026 New Student Elections, we anticipated that this was solely due to the controversies regarding President Ryan's resignation and replacement and a contentious Student Council Presidential Election. However, the 2026 New Student Elections saw a 48% turnout for First Year Council President, a continued increase from previous cycles. Although a sample unrepresentative of the University's electorate as a whole, we see this as a great encouragement for self-governance.

Given that turnout still lingers below 50%, questions regarding participation remain. We believe that a lack of participation in student elections could, and currently do, bring questions to the legitimacy of self-governance. Very few groups on Grounds, however, have seemed to work to resolve this issue. The UBE, although not formally tasked with improving turnout, has done a great deal to publicize elections and incentivize participation. The UBE has used social media, tabling, and collaborations with the Honor Committee to boost turnout, some of which was reflected in the spring. The Commission sees this work as a great starting place for the UBE, and a model for other self-governance organizations. With the exception of the Honor Committee, elected bodies themselves have not done much to ensure participation in student elections. We recommend that the UBE extend its opportunities with the Honor Committee to other organizations, and that all elected bodies make a conscious effort to encourage participation. The Commission resolves itself to further explore potential solutions.

XVI. Student-Facing Technologies Lacking

As the quality of web technologies have continued to increase, many groups across Grounds have attempted to innovate in the way they interact with students. The Representative Body, for example, has created its HoosConcerned platform. Though still in progress, its creators aim to bring efficiency and a more pleasant experience to student-facing interactions. At present, we believe that there may be some room for the UBE to catch up. Technologies that the UBE utilizes in student-facing interactions are often lacking in functionality and should be reviewed. The UBE's website is somewhat unorganized, with results from the Spring 2026 election season being hard to access and results from the Fall 2025 election season inaccessible.

In addition, we must point to the website through which most students interact with the UBE: its voting platform. Following

repeated errors on a platform hosted by the University's Information Technology Services[18], the UBE entered into a contract with BigPulse, a company hosting an online voting system, in 2014. An innovation from the previous system, we believe that the BigPulse system has served University-wide elections well. At the same time, we must note that BigPulse's user interface (UI) has remained largely unchanged since its inception. Nearly all members of the Commission agreed in deliberations that, compared to other sample voting platforms viewed online, BigPulse's UI is outdated. Although this system is functional in the way that it allows students to cast ballots, we recommend that the UBE review potential alternatives.

XVII. Current Handling of FERPA & VFOIA Responsibilities Problematic, Comprehensive Framework Needed

The duelling issues of public disclosure laws and educational privacy exemptions have been repeatedly raised to the Commission throughout its inquiry. The 2026 Student Council Presidential Election raised concerns as to how the UBE currently handles its responsibilities to students and the public under the Virginia Freedom of Information Act (VFOIA) and the Family Educational Rights and Privacy Act (FERPA). During a hearing regarding that dispute, several members of the public attempted to access the hearing, with one of them citing VFOIA as justification to be permitted entry. Then-UBE Chair Abigail Nickelson denied that group entry, stating that the hearing was to remain sealed under FERPA. The UBE then published an opinion following, containing information discussed within the hearing. Following the first appeal to the JRB, the opinion and order issued by JRB Chair Jill Rockwell were also published.

However, the opinions of the retrial by the UBE, as well as that of the final appeal to the JRB, were all sealed under advice from University counsel. An important issue has arisen as a result. If Miss Nickelson's initial judgment that the hearing was to be sealed under FERPA was correct, the decisions to publish the initial opinions of the UBE and JRB seem to be dubious. It does not seem that the UBE has developed a procedure for handling its responsibilities under VFOIA and FERPA, other than invoking categorical exemptions under the authority of the latter. We find such categorical exemptions to be at odds with the UBE's status as a public body operating with the delegated powers of the Board of Visitors. We recommend that the UBE consult with University counsel to develop a comprehensive framework for handling such matters.

[18] In 2009, a glitch preventing students from selecting multiple choices in a referendum resulted in the UBE directing students to vote in a poll on Student Council's website. In 2010, a system error resulted in 80 student votes being lost and a pause in the voting period. In 2012, another error forced the UBE to extend the voting period by another day. Finally, in 2013, a 40% turnout burdened the voting platform to the point that the release of results was significantly delayed.

SUMMARY OF FINDINGS & RECOMMENDATIONS

The Commission finds as follows:

1. We affirm the Representative Body's creation of the University Board of Elections and do not recommend any changes that affect the UBE's independence.
2. Most issues currently existing in the electoral process seem to be symptoms of institutional design, rather than persistent errors by individuals or organizations.
3. The UBE is too reliant upon precedent for most aspects of its operation. The Commission formally recommends that the University Board of Elections revises its Rules and Regulations to incorporate the precedent necessary to run its internal operations.
4. The Commission advises that the UBE strive to adhere to the two week period mandated by its Rules and Regulations.
5. We believe that the current Rules and Regulations are not sufficient in providing a clear and consistently applied system of sanctioning candidates.
6. We view the UBE's single sanction system as limiting the Rules Committee's authority and limiting the proportionality of issuing sanctions.
7. The enforcement mechanisms upholding the UBE's Endorsing Organizations framework was previously insufficient. Although remedied in part, we recommend further refinement. We further recommend that the UBE report on when they choose to sanction an Endorsing Organization and issue the relevant opinions accordingly.
8. The Commission formally recommends that the Representative Body amend the Constitution to replace all mentions of the phrase "term of office" with "terms of office", or any appropriate phrase that achieves the task of decoupling the terms of all Officers and Representatives on Student Council from one another.
9. We find a need to encourage the cooperation of third-party witnesses in investigations by the Rules Committee.
10. We find the 2024 New Student Elections & 2026 College Council Presidential Election to represent significant failures by the UBE to properly assemble the ballot. It is the opinion of the Commission that the UBE could introduce more thorough checks on both candidates and ballots.
11. We recommend the UBE create a constitutional framework for certifying the results of referendums.
12. We find a lack of venue to properly litigate disputes between the UBE and elected bodies, as well as a lack of a clear venue

to challenge results in disputes relating to governing constitutions.

13. We believe that the presence of the Judicial Review Board, an entity under the direction of Student Affairs, in student elections should be reexamined.
14. We have determined that no actions are available to students to ensure the UBE complies with its Constitution and Rules and Regulations, other than the UBE's self restraint.
15. We find that it would be reasonable for the UBE and the University to work to incorporate more organizations into the Endorsing Organizations framework, or otherwise bring them under the UBE's jurisdiction.
16. It is the opinion of the Commission that voter turnout in student elections should be higher, a distinction fitting for an institution that prides itself on student participation in self-governance. We recommend that the UBE extend opportunities to boost voter turnout to other organizations, and that all elected bodies make a conscious effort to encourage participation.
17. We believe that the UBE could improve student-facing technologies. We recommend examining potential alternatives to the UBE's current partnership with BigPulse.
18. We recommend that the UBE consult with University counsel to develop a comprehensive framework for handling its responsibilities under FERPA and VFOIA.

We have chosen to reserve the bulk of our recommendations, as well as some of our findings, for our Final Report to the Representative Body. We believe that offering critiques to our electoral system is unproductive if we cannot offer sufficient reforms. As such, we endeavor to provide detailed proposals that could be implemented by the University Board of Elections and elected bodies.

It is our hope that this report is acceptable to the Representative Body, the University Board of Elections, and members of the University community. We are welcome to answer any questions as to how these recommendations could be implemented, as well as elaboration on any individual findings. We would also like to encourage members of the University community to submit feedback to the Commission for use within our Final Report.

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