



IOWA STATE UNIVERSITY

STUDENT GOVERNMENT

Office of the Election Commission

electioncommission@iastate.edu

To: Senators of Student Government

From: Election Commission at Iowa State University

Date: January 26th, 2022

Subject: Statement on Senate Bill 2021-3-001 Y

The Election Commission is in favor of Senate Bill 2021-3-001 Y and encourages the Senate to approve the proposed bylaw changes. The bylaw changes within the bill would solve issues that the Election Commission has encountered within the violations process over the last election cycle which saw the introduction of the Attorney General position to Student Government and changes to the violation procedures. Senate Bill 2021-3-001 Y focuses on three areas of improvement which are as follows; transferring the Election Commission Violation Procedures currently held in the Rules of the Court to the Election Commission Constitution, allowing the Election Commission more flexibility to hold a violation hearing with less than 48-hours notice, and allows the ability for both the Election Commissioner and Vice Commissioner to jointly investigate election violations with the Attorney General.

Violation Procedure Transfer:

The procedures that dictate the Election Commission violation process are currently held within the Rules of the Court which can only be amended by the Supreme Court of Student Government. Because of this, the Election Commission is unable to propose amendments to change its own violation procedures. Additionally, the Supreme Court and the Election Commission procedures are distinct from one another with minimal overlap of shared procedures. It is our belief that the violation procedures would be better suited to be placed within the organization's governing document, the Election Commission Constitution.

Emergency Violation Hearing:

From time to time, the Election Commission encounters situations in which the need for a violation hearing to be called within less than 48-hours is necessary. With both the approval of the plaintiff and the respondent agreeing to waive their rights to a 48-hour notice of a violation hearing, the Election Commission can respond swiftly to situations that are time sensitive or in the event respected parties seek a resolution to the alleged violation in an expedited manner.



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Joint Investigatory Powers:

Management of Liability & Institutional Knowledge

The Election Commission is responsible for conducting and administering Student Government elections, the organization is therefore responsible for managing liability of events and activities that take place under its jurisdiction according to the policies set forth by Student Engagement. To ensure that the Election Commission is able to properly oversee and manage liability in accordance with university policy, Election Commission leadership and advisors need to be acutely aware of incidents that occur during the election cycle including knowledge of possible breaches of university policy, and be able to respond to such incidents in an expeditious and efficient manner. Additionally, activities of the election cycle requires the Election Commission to navigate a large and complex array of university policies such as those overseen by ISU Trademark, ISU Event Management, ISU Risk Management Office, Campus Organization Accounting, ISU Informational Technology Department, ISU Department of Residence and Student Engagement. Members of the Election Commission, in addition to being experts in Student Government election law, have deep institutional knowledge and experience working with university policy that cannot be replicated by a single individual. Allowing the Election Commissioner and Vice Commissioner to jointly investigate election violations with the Attorney General are necessary to ensure that the Election Commission fulfills its responsibility in the management of liability. Lastly, allowing the Election Commissioner and Vice Commissioner the ability to investigate, makes certain that investigations of alleged election violations would have the depth of knowledge needed to properly evaluate complaints and help to provide a thorough understanding of the incident.

Injunctions & Reduction of Damage

In cases in which the Election Commission becomes aware of potential violations of election law, the Election Commissioner, Vice Commissioner and Violations Committee have the authority to issue injunctions to cease specific actions of a campaign. This authority is used to prevent potential violations from continuing to occur while the matter is being investigated. Injunctions are utilized to reduce potential damage inflicted on the integrity of the election process. To best reduce potential damage caused by election violations, the Election Commission must be aware of potential violations in a timely manner, and have sufficient knowledge of the situation to properly warrant an issuance of an injunction. Having the Election Commissioner and Vice Commissioner jointly investigate election violations in collaboration with the Attorney



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General, would ensure that the Election Commission is able to make informed decisions on the utilization of injunctions.

Violation Process Safeguards

The Election Commission violation process has procedural safeguards to ensure that the roles of Election Commissioner and Vice Commissioner do not improperly influence the decisions of Election Commission members throughout the violations process. The Election Commissioner does not have speaking privileges or voting power within the violations process. The Vice Commissioner will also be required to relinquish the duties of the chair for the duration of a case in the event they must present findings of the investigatory report during a violation hearing. When investigating an election complaint jointly with the Attorney General, the Election Commissioner and Vice Commissioner will only be allowed to seek and gather information from relevant parties and to authenticate the accuracy of such information. The Election Commissioner and Vice Commissioner will not be allowed to draw conclusions based upon the information gathered through the investigation within the formal report, which is provided to all members of the Commission in addition to the plaintiff and respondent prior to the scheduled violation hearing, nor be able to provide an opinion on the actions the Commission should undertake regarding the violation complaint during the violation hearing. The purpose of the Election Commissioner or Vice Commissioner presenting the findings laid out in the investigatory report at the beginning of the violation hearing in the event the Attorney General is not available, is to provide the necessary background of the case to the public that is currently being seen before the body. Additionally, the violation process does not contain a cross examination process.

Case Weightload & Scheduling of Hearings

The caseload of the Election Commission from year to year is highly variable, in 2019 the Election Commission oversaw fourteen violation hearings over the course of the four week election cycle, while in 2020 it saw only four during the same period. In years where the caseload of violation complaints are substantial, it would be challenging for the Attorney General to provide adequate time and resources in investigating multiple cases at one time. Having the Election Commissioner and Vice Commissioner be available to assist would ensure that violation complaints are investigated and processed in a timely manner. Last year, the time between the submission of a violation complaint and a violation hearing grew substantially longer (1-2 weeks) than the traditional 48-hour standard due to the limited availability of the Attorney General to meet when the Election Commission would have enough members to establish a



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quorum. An important ability of the Election Commissioner is being able to issue injunctions in certain situations. In some cases, the damage caused by a potential violation increases drastically as time passes. Oftentimes, the effects of an ongoing potential violation cannot be reversed, making it crucial that the Election Commissioner have the ability to issue an immediate injunction, effectively halting the acts that have potentially breached Election Law. Additionally, an injunction can only be resolved by holding a violation hearing. The duration of the injunction is greatly extended when a violation cannot be held due to scheduling conflicts between the Attorney General and the Election Commission. This creates an inconvenience for both the candidate in question and the Election Commission as injunctions are best to be resolved in a timely manner. Providing the Election Commissioner and Vice Commissioner the ability to present findings of the investigation in the event that the Attorney General is unavailable over an extended period ensures that injunctions, and all cases for that matter, are resolved in a timely manner. However, in all hearings, the Attorney General would continue to be the preferred authority to present a case.

The Election Commission encourages the Senate to adopt the proposed bylaw changes to improve the current violation process.

Respectfully,

Ross Opie, Election Commissioner

Dawson Scmitt, Vice-Commissioner

Chase Krug, Election Commission Treasurer

Anmol Pandya, Election Commission Secretary

Ahillan Kumar, Debate Committee Chairperson

Cody Neeper-Burris, Public Relations Committee Chairperson

Clare Muckler, Member

Greenlee Dahle, Member

Yumi Altansukh, Member

Alex Almquist, Member

Blake Van Der Kamp, Member