

November 15, 2019

In re: **Petition for Recall of Election Commissioner**

CHIEF JUSTICE CAI writing for the Council, joined by Associate Justice HERNDON, Associate Justice MUELLER, Associate Justice WANG, and Associate Justice WILLIAMS.

On November 6th, 2019, Constitutional Council received an interpretation request from Vice President of Programming Charlotte Pohl concerning the 2019 Fall elections that took place the day prior. The interpretation request was submitted in the form of a recall petition alleging that Pohl herself was denied the ability to vote in the 2019 Fall elections, and that as a result, Election Commissioner Randal Walker was in direct dereliction of her duties. Constitutional Council has ultimately been tasked with evaluating the validity and integrity of this recall petition.

In investigating this petition, Constitutional Council produced the following timeline for reference (the contents of this timeline were obtained through various testimonies from various parties involved - evidence for all of these events can be found in the attachments to this opinion):

Tuesday, November 5th

12:02 AM - 2019 Fall Elections ballot goes live on WUGO.

12:05 AM - Election Commissioner Randal Walker is notified that voters can select more than 11 candidates for each legislative body.

12:08 AM - Walker updates the ballot to fix this issue - this is the first time the WUGO ballot is updated.

12:09 AM - Vice President of Programming Charlotte Pohl texts Walker informing her about problems with the ballot. Walker indicates that the issues have been fixed, but Pohl is now unable to submit her ballot. Walker suggests that Pohl try again, but Pohl is still unable to vote.

12:52 AM - Walker asks Technology Specialist for Campus Life Will Atchinson if the ArtSci eligibility form has been updated. Atchinson creates the new list and uploads it.

4:56 AM - The ArtSci eligibility list is updated - this is the second time the WUGO ballot is updated.

Wednesday, November 6th

1:28 PM - Pohl submits an interpretation request to Constitutional Council seeking to recall Walker from office due to the handling of 2019 Fall elections.

4:53 PM - Chief Justice of Constitutional Council Eric Cai calls Walker by phone to request that election results not be released until further notice.

4:56 PM - Cai calls Vice President of Public Relations Beth Wiesinger by phone to request that election results not be released until further notice.

6:31 PM - Cai emails Wiesinger, Walker, and Student Union President Tyrin Truong requesting that election results be withheld until further notice by 5 PM on Thursday (November 7th).

9:15 PM - Constitutional Council unanimously rules Pohl's petition as a valid recall petition.

Thursday, November 7th

4:20 PM - Cai emails Walker indicating that a recall petition has been submitted alleging that she is in dereliction of her duties as an officer of Student Union.

4:47 PM - Cai emails Truong, Wiesinger, and Walker indicating that a recall petition regarding the Election Commissioner, the 2019 Fall elections, and the validity of their results has been ruled a valid recall petition. Cai also issues an official writ on behalf of Constitutional Council requesting that the recall petition not be publicly acknowledged and that election results be withheld until 5 PM on Saturday (November 9th) so that Constitutional Council can investigate details regarding the elections.

5:11 PM - Walker emails Atchinson to retrieve data regarding vote submission timestamps.

5:34 PM - Cai reaches out via email to Atchinson to inquire about issues that arose during elections.

~10:00 PM - Walker allows Pohl to manually vote by providing a screenshot of the ballot.

Friday, November 8th

8:53 AM - Walker emails the student body on behalf of the Election Commission releasing the election results along with a press release explaining the decision to do.

10:36 AM - Atchinson sends Cai raw WUGO data for the 2019 Fall Elections. This data consists of two data sets: **ElectionVoterResults** contains usernames and voting timestamps. **ElectionResults** contains submission ID and vote.

2:18 PM - Cai emails Walker regarding inconsistencies between the Election Commission press release and raw voting data.

7:41 PM - Walker confirms that, contrary to the press release from earlier in the day, one individual was able to vote for more candidates than allowed by the Constitution.

Saturday, November 9th

11:00 AM - Pohl testifies in person before Constitutional Council.

Sunday, November 10th

12:00 PM - Constitutional Council approves Pohl's petition for recall and finds Walker in dereliction of her duties.

Before assessing these facts, Constitutional Council was first tasked with determining if Pohl's petition was indeed a valid petition for recall. Article X§3(a) and Article X§3(c) of the Constitution outline the procedure for recall as follows:

This procedure shall be followed by Student Union constituents in order to recall an officer in dereliction of their duties.

...

The party petitioning for recall must submit a formal request before the Constitutional Council in accordance with its Grievance Policy, and appear before the Council to make their case.

In 2017's *Recall Petition on Four Officers of Student Union*, Constitutional Council established the first criteria regarding Article X§3(a) and the scope of a "dereliction of duties", restricting the latter to duties explicitly delineated in the Constitution or the Statutes. As Associate Justice Broitman and Associate Justice Stolberg write: "to 'preserve and defend the Constitution of the Student Union of Washington University in St. Louis,' we must base our decisions off of the SU Constitution and Statutes." The allegations in the recall petition at hand are clearly confined to the language of the Constitution and Statutes. Article VIII§1(b) of the Constitution states that the Election Commissioner shall "organize and coordinate all elections of Student Union." Article IV§4(a) of the Statutes states that "all constituents are eligible to vote in Student Union elections for executive officers, Senators, Treasury Representatives, constitutional amendments, and referenda issues." Vice President of Programming Pohl's allegation that she was denied the ability to vote, if true, would certainly place Election Commissioner Walker in direct violation of the Constitution and Statutes.

In 2018's *Anonymous Recall Petition*, Constitutional Council further established that anonymous recall petitions could not be in compliance with Article X§3(c) due to the clause's requirement that the petitioner appear before the Council¹. The recall petition at hand is trivially non-anonymous.

¹ The current Council departs slightly from the full decision in *Anonymous Recall Petition* - namely, that "meeting with the petitioner for information gathering purposes" must be the *first* step once the Council has ruled the petition valid. Collecting the necessary information and evidence required to reach a decision in any recall petition is a logistically complicated and time-consuming process. To gate this behind an in-person appearance before the Council, which, as was the case in this petition, must often be scheduled on immediate notice outside of the Council's standard meeting time, adds only obstacles to an already difficult process. At some point throughout the Council's investigation, Pohl provided an extensive, in-person testimony - this, to the current Council, is sufficient to satisfy Article X§3(c) of the Constitution.

Given these facts, Constitutional Council finds Pohl's petition for recall consistent with previous precedent of the Council and observant of Article X§3(a) and Article X§3(c) of the Constitution - consequently, the Council finds Pohl's petition a valid petition for recall.

The Council, then, is tasked with evaluating the facts of the case and either approving or rejecting the petition for recall. In particular, Constitutional Council is tasked with answering the following question:

Did Election Commissioner Randal Walker, under the allegations made in Pohl's petition for recall, act in dereliction of her duties?

It is important to note that Pohl's petition only alleged that Pohl herself was unable to vote in the 2019 Fall elections. The initial petition made no direct claims regarding other circumstances surrounding the elections that will be discussed later in this opinion, such as technical difficulties with the ballot itself, or, trivially, the Election Commission's press release. The Council, however, does not believe that this limits its decision to considerations only of Pohl's inability to vote on the day of the election. To suggest so places a nonsensical investigative burden upon the petitioner that the Constitution otherwise delegates to Constitutional Council. Article VII§1(c) makes this clear enough:

The Justices of the Constitutional Council shall have the power to examine evidence, call available witnesses, authorize the issuance of such writs as it shall require, and make rules necessary and proper for the conduct of its business.

In investigating this case, Constitutional Council collected an extensive amount of information and evidence concerning the events of the 2019 Fall elections, many of which occurred as a result of the recall petition at hand and the corresponding investigation, and *all* of which are inextricably related to Pohl's initial allegation regarding Election Commissioner Walker. As such, the Council finds it well within its jurisdiction, and necessary for an appropriately comprehensive final decision, to take into account all of the information and evidence obtained².

With this in mind, it is undeniable that Walker has violated the Constitution as far as her duties and responsibilities as Election Commissioner are concerned. Article VIII§4(g) of the Constitution states:

All constituents of Student Union may vote for Senators. Each voter may cast as many votes as seats open but may cast only one (1) vote per candidate.

² It must be emphasized that this is not in any way a meaningful expansion of Constitutional Council's jurisdiction. The Council still maintains that any ruling regarding a recall petition must be limited to the scope of the issues brought by the petition. If, for example, the Council had uncovered evidence throughout its investigation indicating that Walker had improperly appointed the Election Commission, it likely would not consider such evidence in its final decision. This is simply the establishment of a reasonable benchmark to allow Constitutional Council to properly carry out its duties.

In the 2019 Fall elections, there were a total of eleven open seats for Senate. Internal investigations conducted within Constitutional Council of the raw voting data provided by Campus Life (Attachment C4) revealed that a constituent was able to vote for twelve total candidates for Senate. Upon this discovery, Constitutional Council reached out to Walker and received confirmation that this was indeed the case (Attachment A5). Regardless of intent or potential impact, this fact alone is a definitive indication that Walker did not perform her duties to the standards explicitly delineated in the Constitution and Statutes in one instance, at the very least.

Constitutional Council does *not* believe, however, that a failure to perform one's duties to the standards explicitly delineated in the Constitution and Statutes sufficiently constitutes a dereliction of duties. If such a harsh standard had a place within Student Union, few officers throughout the history of Student Union would stand undeserving of recall. It is not in the best interests of any constituent, Student Union officer, or Student Union in its entirety, nor is it observant of any of the values of the Constitution and Statutes, to recall an Election Commissioner simply because she updated the WUGO ballot just a couple of minutes too late in the middle of the night to catch a single invalid ballot. All Student Union officers are students first and foremost. All Student Union officers live human lives and make human mistakes. The standards we hold each other to ought to reflect this.

At what point, then, do we draw this line? At what point does misconduct, or even incompetence, become impermissible in the face of the governing documents of Student Union? Had Election Commissioner Walker refused to update the WUGO ballot upon being notified that voters could select more than the maximum number of candidates established by the Constitution, the Council can only assume it would have ruled differently and this opinion would have ended here. If instead, Walker had inexplicably taken her time and updated the ballot well into election day after hundreds of votes had already been cast, or if Walker had dealt with similar technical difficulties in multiple previous elections and was *still* unable to address them before this election, or even if in this particular election, hundreds of constituents were able to vote for more than eleven candidates rather than one, the Council likely would have ruled differently as well. At the end of the day, speculation is speculation, but given additional circumstances - and there are more circumstances - and the fact that this certainly will not be the last petition for recall placed within Constitutional Council's hands, the Council finds it paramount to set a concrete standard for recall: to be found in dereliction of one's duties, an officer *must* demonstrate gross negligence or explicit intent to misperform their duties³. It is with this criterion that the Council evaluates the additional circumstances of this case, and it is with this criterion that the Council finds Election Commissioner Walker in dereliction of her duties.

At 4:47 PM on November 7th, Constitutional Council issued a writ to Election Commissioner Walker requesting that election results be withheld until November 10th *and* that any information indicating that a recall petition was underway not be disclosed (Attachment B2). At

³ This is a criterion the Council deems sufficient for this particular petition for recall. It is *not* meant to be a be-all-end-all exploration into what a "dereliction of duties" *must* entail. For many, this conclusion does little, if anything at all, to clarify the ambiguity surrounding such a phrase. It is the Council's expectation - and the Council's hope - that this criterion will be supplemented, expanded upon, or even reversed in future Constitutional Council cases.

8:53 AM on November 8th, Walker, on behalf of the Election Commission released election results to the student body. In a press release accompanying the election results, the Election Commission stated:

An interpretation request was submitted by said individual to Constitutional Council, based on the aforementioned concerns. The delay in election results being released was due to Constitutional Council suggesting that we not release the results until they investigated these concerns.

While the Council does not wish to set a precedent ruling any action in opposition to a Constitutional Council writ as unconstitutional, it strongly frowns upon the consideration of such a writ as a “suggestion.” The Council has historically kept interpretation requests, including recall petitions, confidential until final decisions are released for self-evident reasons, and requested that election results be withheld so that a proper investigation could be conducted in response to the magnitude of concern that was expressed regarding the election. It is disappointing to see such disregard in some manner on the part of Walker and the Election Commission for both of these requests, especially considering - as the rest of this opinion will discuss - the quality of information within the press release.

The Election Commission’s press release contained two particularly problematic statements. In the first, the claim was made that “no votes were cast for more than 11 candidates during this election.” This, as discussed earlier, is demonstrably false. The Council received confirmation *from* Walker the same day of the press release that one constituent was able to vote for twelve total candidates for Senate. With regards to the second, the Council points to the following pair of statements presented in the press release:

- *As of 12:08 am, only 29 people had cast ballots.*
- *Of these 29 people, none voted for more than 11 Senate or Treasury candidates.*

To address these points, it is necessary to understand how voting data for Student Union elections is stored through WUGO. Constitutional Council has confirmed multiple times with multiple members of Campus Life faculty, through in-person testimony and by email (Attachment C5), that WUGO ballot data is stored in two separate data sets: one data set contains *voter* information, including voter usernames (six-digit numerical codes generated by CampusLabs) and timestamps indicating when they voted, whereas the other data set contains *vote* info, including submission ID’s (seven-digit numerical codes generated by CampusLabs independently from voter usernames) and the content of the vote. In other words, it is impossible to determine for any single individual when they voted *and* what they voted for - the data is specifically structured so that this cannot be done.

To be clear, the Council does not take issue with the Election Commission’s claim that only twenty-nine individuals had cast ballots as of the first update to the form. This can be done easily enough through an analysis of the voter data set. The Council *does* take issue with the accompanying claim that none of these individuals voted for more than eleven candidates. This is a conclusion that can only be reached by tracing vote content from the vote data set back to timestamps in the voter data set - the only scenario where such a conclusion could have been

reached with any certainty is if the voting data was analyzed *at* 12:08 AM on Tuesday, November 5th, right when the form was updated. When questioned, however, Walker indicated that this conclusion was reached in an emergency Election Commission session on Thursday, November 7th (Attachment A6). The Council has also determined that Walker did not obtain the necessary voting data until Wednesday, November 6th, at the earliest (Attachments A6, C6). Such a statement, then, cannot be a substantive claim - it is incomplete speculation, and, given that Walker updated the ballots correctly, almost necessarily false for the same reason that the first statement is false.

Constitutional Council's findings regarding this second statement do not end here. The Council reached out to Walker multiple times raising concerns about inconsistencies between the storing of WUGO ballot data and the Election Commission's press release (Attachments A1, A3). At no point did Walker adequately resolve these inconsistencies - in fact, Walker did not address the intentional separation of vote data and voter data in any of her responses (Attachments A2, A4). The Council also reached out to Walker *and* the individual members of the Election Commission requesting that a member testify before the Council on behalf of Walker (who was unable to attend the Council's hearings on the 9th and 10th of November) to answer questions regarding the Election Commission's meeting on November 7th. At the time of this decision's release, Constitutional Council has yet to receive any response to these requests (Attachments D1, D2). It is inexplicable, then, how Walker could have been aware of the structure of WUGO ballot data and *still* reach the conclusions listed in the Election Commission's press release. As such, the Council finds that, at best, assuming *full* transparency on Walker's end, Walker fundamentally misunderstood the structure of WUGO ballot data, both in her initial handling of the 2019 Fall elections and in her subsequent handling of the technical issues that arose throughout the day of the election.

As of this point, this opinion has only discussed the troublesome nature of the contents of the Election Commission's press release - perhaps most troubling are the *consequences* of this press release. It is undeniable for reasons discussed in this opinion and for reasons undiscussed (ArtSci eligibility and unsubmitable ballots) that the 2019 Fall elections held on November 5th were improperly conducted. Constitutional Council has already ruled this in *Election Rerun*. Throughout the Council's investigation of election issues and the recall petition at hand, various courses of action to address potentially unjust election results were discussed, from completely rerunning the elections to releasing "absentee" ballots only to individuals who did not vote on November 5th. These courses of actions, crucially, can only be properly taken without public knowledge of previous election results. By *releasing* results, Walker effectively eliminated these options, and any other possible recourse. As Associate Justice Wang writes in *Election Rerun*: "It is disappointing to see the Election Commission's willingness to affirm a flawed election." We can only speculate now the results of a truly fair election.

The Council does not doubt that Walker acted with the best intentions - in various instances, Walker demonstrated clear initiative to maintain the integrity of the 2019 Fall elections in the face of unprecedented issues. All the same, it is irrefutable that Walker deliberately ignored a writ from Constitutional Council in preemptively releasing election results. It is irrefutable that Walker improperly analyzed election data and relayed incomplete and incorrect information to the student body. It is irrefutable that Walker demonstrated a fundamental misunderstanding of

details crucial to Student Union elections. And finally, it is irrefutable that Walker, in departing from the Council's request to withhold election results, blocked potential recourse to her own mishandling of the 2019 Fall elections.

On these grounds, Constitutional Council finds Randal Walker in gross negligence of her duties as the Election Commissioner of Student Union, and approves Vice President of Programming Charlotte Pohl's petition for recall.

The Council must now proceed with the procedures outlined for recall. Article X§3(d) of the Constitution states the following in the case that Constitutional Council approves a petition for recall:

- 1. Constitutional Council shall proceed by taking the petition to the executive officers of the affected organization within ten (10) business days.*
 - i. In the case that all officers of the affected organization hold equal office or if there is just one executive, the petition will be taken to the entire group, as in the case of Senate and Treasury.*

A strict reading of this clause would have the Council bringing this petition to the Election Commission. Simply put, this does not make sense - the recall of a Student Union officer should not be placed in the hands of a body appointed by that officer. Given the importance of elections throughout all entities of Student Union, the Council finds compelling reason to treat the entirety of Student Union as the "affected organization" in this petition. As such, Constitutional Council calls upon the executive officers of the Student Union as defined in Article V§1 of the Constitution (the "President, Vice President of Administration, Vice President of Finance, Vice President of Programming, and Vice President of Public Relations") to issue a final verdict.

The Council voted 5-0. There was no dissent.

Attachment A: Walker Testimony

A1:

Some questions regarding elections Inbox Elections Judicial

Chief Justice <judicial@su.wustl.edu> Nov 8, 2019, 10:55 AM (5 days ago) ☆ ↶ ⋮
to Election

Hey Randal,

Hope things are going well! I just had some questions regarding elections this week - I'm mainly looking to piece together a comprehensive timeline that I can bring to Con Council.

1) Election Commission's press release from this morning indicated that the individual who could not vote was "given the opportunity to vote and eventually cast a ballot." What exactly did this entail?

I've also been in contact with Will Alchinson a bit, and there's some clarifications I wanted to make regarding the info that he gave me.

2a) According to Will, individuals with pending unsubmitted ballots, they can delete these submissions in the "Pending Election Submissions" section, and restart the voting process. Were you aware that individuals could do this, and if so, did you inform affected individuals that they could indeed vote by simply deleting their current submission?

2b) It's my understanding from discussions with Will and other individuals in Campus Life that the WUGO ballot is designed to separate voter data from vote data, so that votes cannot be traced back to an individual. As of now, I believe there are two sets of data: a set containing voter ID info and the timestamp of their vote, and a second set containing the vote itself and a submission ID. Is this the data that you and the rest of election commission had to work with, and if so, how did you use this data to obtain the statistics in the press release from this morning?

3) Also, to make sure I have things clear from your end, can you give me a rough timeline of who you reached out to for help in addressing the issues with the ballot, and when?

That should be all for now! Sorry for bombarding you with so many questions - don't feel pressured to respond to this before a certain time today. Let me know if you need me to clarify anything.

Best,
Eric Cai
Chief Justice, Constitutional Council
Washington University in St. Louis
Office Hours
T, Th 10:00-11:30 A.M.

A2:

Randal Walker Nov 8, 2019, 12:35 PM (5 days ago) ☆ ↶ ⋮
to me

Hello Eric,

I am going to answer these in the number order that I received them.

1) The person who told me that they could not vote was sent a text around 10 pm on November 7th. I told them to try deleting their ballot and try it again, but that didn't work. So they suggested that I screenshot a ballot and text it to them and they would send me the names. I collected their answers through text and added them to the overall results.

2a) I was already aware of this but Will reiterated that people could delete submissions if they did not finish and start again. It the first piece of advice to the person who could not vote.

2b) We used this data to calculate who all had voted before these issues were fixed at 12:08am. We also used to see if those who had voted between 12:00 am and 12:08 am had voted for more than 11 candidates, which we discovered there were no invalid submissions.

3) I was made aware of the issue that more than 11 people could be selected in the legislative race at 12:05 am. This was something I could fix and it was fixed by 12:08 am. I know it was fixed because I had another voter on the phone, whom I instructed to delete their current submission and try it again, which resulted in a valid submission.

Hopefully this provides some clarity.

Best, Regards,
Randal

A3:

 **Chief Justice** <judicial@su.wustl.edu> Nov 8, 2019, 2:18 PM (5 days ago) ☆ ↶ ⋮
to Election ▾
Hey Randal,

Sorry to bother you again - I've got some clarifications/updates that I want to run by you regarding the details of the elections.

- 1) You mentioned in your earlier email that Charlotte texted you on the 7th. The 7th was Thursday, two days after the election - just to make sure, was this a typo, or did Charlotte wait 2 days to reach out to you?
- 2) What was the exact procedure you used to conclude that none of the 29 ballots submitted before the updates voted for more than 11 candidates in either legislative body? It has been reiterated multiple times to me that it should not be possible to connect a voter's timestamp to what they voted for due to how the WUGO data is stored.
- 3) Related to the first question, when Election Commission confirmed that there were no votes for more than 11 candidates in either legislative body during the election, did Election Commission look specifically at the 29 ballots from before the updates, the entirety of the voting data as a whole? I asked Will to send me the voting data, and from my analysis, there are multiple ballots with more than 11 selected candidates for Senate or Treasury.

Thanks,
Eric Cai
Chief Justice, Constitutional Council
Washington University in St. Louis
Office Hours
T, Th 10:00-11:30 A.M.

A4:

 **Randal Walker** Nov 8, 2019, 6:50 PM (5 days ago) ☆ ↶ ⋮
to me ▾

- 1) She told me on the 5th that she was unable to vote so while the results were delayed I had to figure out how to allow her to submit a vote.
- 2) When you look at the time stamps, it was assumed that data between 0:00 and 1:00 equaled 12:00am and 1:00 so we counted from there.
- 3) We looked at ballots the 29 ballots that had been assumed to be between 0:00 and 0:30.

—
Randal Walker: Election Commissioner

A5:

 **Chief Justice** <judicial@su.wustl.edu> Nov 8, 2019, 7:33 PM (5 days ago) ☆ ↶ ⋮
to Randal ▾
Hey Randal,

No worries - I went back through my query on the vote data and it turns out I made a mistake. I actually only have one vote submission with more than 11 selected candidates for Senate. The vote ID is **4086441**, and from what I can see, this individual voted for everyone except for Aaron Arora and Rohan Rai, which would put them at 12 out of the 14 Senate candidates (excluding write-in).

My understanding is that if the cell is blank, then they did not vote for the corresponding candidate - if the cell contains the candidates' statement, then they voted for the candidate. If this is wrong, please let me know!

Also, sorry for being so nitpicky about this, but I'm still a bit unsure as to what you mean by: "We looked at the 29 ballots that had been assumed to be between 0:00 and 0:30." What exactly is meant by "assumed" here? How were you able to determine that the 29 ballots you examined were indeed submitted before 12:30 AM?

Thanks,
Eric Cai
Chief Justice, Constitutional Council
Washington University in St. Louis
Office Hours
T, Th 10:00-11:30 A.M.

xxx

 **Randal Walker** Nov 8, 2019, 7:41 PM (5 days ago) ☆ ↶ ⋮
to me ▾
Hello Eric,

That is correct, you're fine. We must've missed that one ballot. And furthermore, the way the time stamps go, they're from 0:00 to 24:00. So our reasoning process is 0:00 is 12am while "10:10" is 10:10 am and "15:13" would be 3:13 pm.

Best Regards,

A6:



Chief Justice <judicial@su.wustl.edu>
to Election ▾

Sat, Nov 9, 5:10 PM (4 days ago) ☆ ↶ ⋮

Hey Randal,

Sorry again for being so annoying with these emails...I've been running around all day and I just realized I forgot to send you some questions I had written down.

1) At what points throughout the week did you reach out to Will Atchinson?

2) The Election Commission press release statement about none of the 29 individuals voting for more than 11 candidates - just to be clear, was this conclusion reached during Election Commission's emergency meeting on Thursday?

Ok I promise that's actually it for now - just a heads up, Con Council will probably be releasing decision by tomorrow afternoon, so if it's not too much trouble, please try to get a response in by noon tomorrow.

Thanks! Again, I apologize for the inconvenience, and I appreciate the cooperation!

Best,
Eric Cai
Chief Justice, Constitutional Council
Washington University in St. Louis
Office Hours
T, Th 10:00-11:30 A.M.



Randal Walker
to me ▾

Sat, Nov 9, 9:22 PM (4 days ago) ☆ ↶ ⋮

1) I reached out to him Wednesday to find out how to get the ballot reports.

2) Yes, we came to this conclusion at the emergency meeting.

Attachment B: Constitutional Council Writs

B1:

 **Chief Justice** <judicial@su.wustl.edu>
to Student, Election, VicePresidentOf, Peggy ▾ Wed, Nov 6, 6:31 PM (7 days ago) ☆ ↶ ⋮

Hey everyone!

I know I've already reached out to you all, but I wanted to send this email as a confirmation. For the time being, please **do not release** the results of the elections this Tuesday to the student body. I know how much strain this puts on the three of you as officers in outward-facing positions, and I sincerely apologize for the inconvenience that this puts you in - unfortunately, I cannot provide further details at this moment. I'm currently working to move this forward as quickly as possible, and I will be able to update you all within 24 hours (let's say by 5 PM tomorrow).

Apologies again for the inconvenience - I appreciate your cooperation. Best,
Eric Cai
Chief Justice, Constitutional Council
Washington University in St. Louis
Office Hours
T, Th 10:00-11:30 A.M.

B2:

 **Chief Justice** <judicial@su.wustl.edu>
to Student, Election, VicePresidentOf, Peggy ▾ Thu, Nov 7, 4:47 PM (6 days ago) ☆ ↶ ⋮

Hey everyone!

Sorry for cutting it so close to the deadline I gave you all yesterday - I had an exam today and I thought I'd be able to get this out before then. Here's the update: a recall petition was submitted this Wednesday regarding the Election Commissioner, this week's elections, and the validity of their results.

Con Council voted last night that the recall petition was a valid petition, which means Con Council is now tasked with evaluating the facts of the case. In accordance with Con Council's Grievance Policy, we will be holding hearings this weekend, and given your status as parties involved in this case, I'd like to extend the three of you an opportunity to answer any questions we may have and make any clarifications you may want to make on your end. This hearing will take place starting at 10:00 A.M. this Sunday in DUC 245 - please let me know if you will not be available at that time to answer questions.

As for election results - I hate to sound alarmist, and it goes without saying that I want to avoid this outcome at all costs, but after a good deal of consideration, I, along with some others involved in this process, believe there is a non-trivial chance that Con Council may be required to nullify election results. As such, I'm going to request that election results remain withheld until Saturday afternoon for now. Con Council will be holding an emergency session this Saturday morning as well, so I'll have another update regarding election results then (let's say 5 PM Saturday). Again, I sincerely apologize for the strain this places on you all as officers in outward-facing positions.

It is unclear right now whether Con Council is required to keep recall petitions confidential beyond involved parties after we have ruled them as valid recall petitions - to be safe, I'm also going to request that the three of you do not disclose any information indicating that a recall petition is currently underway. With that said, if external sources ask about information regarding election results, I'd (tentatively) suggest keeping it at: "Constitutional Council has issued a writ to withhold election results in order to investigate potential issues with this week's election."

OK that's all for now - let me know if you have any questions or concerns! Many thanks for your cooperation!

Best,
Eric Cai
Chief Justice, Constitutional Council
Washington University in St. Louis

Attachment C: Campus Life Testimony

C1:

 **Chief Justice** <judicial@su.wustl.edu> Thu, Nov 7, 5:34 PM (6 days ago) ☆ ↶ ⋮
to will.atkinson +

Hello Will,

Hope things are going well! My name is Eric Cai - I'm the Chief Justice of the Constitutional Council of Student Union, and we're currently in the process of investigating some issues that came up regarding this week's elections. I've been speaking with Peggy, and she indicated that you might be able to answer some questions I had regarding details of the elections.

As of now, my understanding is that the online ballot was updated shortly after it was first made available, which resulted in some individuals who had already voted not having their votes counted. Can you help clarify why the ballot was updated, and what caused individuals to not be able to vote afterwards?

Thanks!
Eric Cai
Chief Justice, Constitutional Council
Washington University in St. Louis
Office Hours
T, Th 10:00-11:30 A.M.

C2:

 **Atkinson, Will** Nov 7, 2019, 5:58 PM (6 days ago) ☆ ↶ ⋮
to me +

Good evening Eric,

I'm happy to answer any questions I can for you.
The ballot was indeed updated after the election had opened, twice.
The first time I do not know the reasons for, but it happened at roughly 1 am.
The second time was because the ArtSci ballot was preventing eligible undergrads from voting. The eligibility list was updated at 4:58 am on the 5th.

The first edit changed questions in the ballots, which would cause any in-progress voting submissions to be unsubmittable.
The reason for this is architectural. WUGO will not allow any submissions for an out-of-date form, and editing a form after submissions are collected may result in lost data.
While a user had an unsubmittable in-progress vote, they could delete the vote by going to their [Pending Election Submissions](#), deleting the pending submission, then starting the voting process over. Any users who were effected by this and have not already deleted their application should still see the pending submission here.

Please let me know if you have any other questions.

William Atkinson

C3:

 **Chief Justice** <judicial@su.wustl.edu> Nov 7, 2019, 6:34 PM (6 days ago) ☆ ↶ ⋮
to Will +

Hey Will,

Thanks so much for the response! This clears things up a lot. Something else I wanted to ask you - throughout election night (and into the morning I suppose), did Randal or anyone else from Student Union reach out to you for help in dealing with this issue, or was this something you learned about afterwards?

Thanks,
Eric Cai
Chief Justice, Constitutional Council
Washington University in St. Louis
Office Hours
T, Th 10:00-11:30 A.M.

 **Atkinson, Will** Nov 7, 2019, 6:50 PM (6 days ago) ☆ ↶ ⋮
to me +

Eric,

It is important to note that I was out sick all of Tuesday.
Randal asked me if the ArtSci eligibility list was updated on Tuesday morning at 12:52, and I created a new eligibility list and uploaded it, which was the mentioned second edit of the ballots. I was cc'd in an email at about 7 pm about contacting WUGO's vendor to ask them about reported submission problems. I was debriefed on Wednesday morning.

C4:

 **Atchinson, Will** to me ▾ 📧 Fri, Nov 8, 10:36 AM (5 days ago) ☆

Username and Timestamp in ElectionVoterResults.
Submission Number and vote in ElectionResults

William Atchinson

C5:

 **Chief Justice** <judicial@su.wustl.edu> to Will ▾ Sat, Nov 9, 3:58 PM (4 days ago) ☆ ↩ ⋮

Hey Will,

One more quick clarification - are the 6-digit voter usernames and the submission ID's both hashed?

Thanks,
Eric Cai
Chief Justice, Constitutional Council
Washington University in St. Louis
Office Hours
T, Th 10:00-11:30 A.M.

 **Atchinson, Will** to me ▾ Sun, Nov 10, 6:25 AM (3 days ago) ☆ ↩ ⋮

The 6 digit voter usernames and the submission IDs are probably not hashed per se (CampusLabs did not tell me the way they get the SUBID), but they are irrelevant to each other and are designed not to be traced back.

William Atchinson
Technology Specialist for Campus Life | Washington University in St. Louis

C6:

 **Chief Justice** <judicial@su.wustl.edu> to Will ▾ Sat, Nov 9, 3:12 PM (6 days ago) ☆ ↩ ⋮

Hey Will,

Hope things are going well! Sorry to bother with another question - this should be quick. From the info I have right now, Randal reached out to you at 12:52 AM on Tuesday to ask about the ArtSci eligibility forms, and again at 5:11 PM on Thursday to get vote timestamps.

Were there any other times that Randal contacted you about elections?

Thanks,
Eric Cai
Chief Justice, Constitutional Council
Washington University in St. Louis
Office Hours
T, Th 10:00-11:30 A.M.

 **Atchinson, Will** to me ▾ Sun, Nov 10, 6:24 AM (5 days ago) ☆ ↩ ⋮

On Wednesday the 6th at 3:20pm, Randal contacted me about questions regarding the election reports. There were no other times between the two times you mentioned.

William Atchinson
Technology Specialist for Campus Life | Washington University in St. Louis

Attachment D: Miscellaneous

D1:

Sent 6 days ago. Follow up? Dismiss

Testifying tomorrow Inbox x Judicial x Print Share

 **Chief Justice** <judicial@su.wustl.edu> Sat, Nov 9, 2:53 PM (6 days ago) Star Reply More
to Election ▾

Hey Randal,

Hope your weekend has been going well! Since you won't be on campus tomorrow, could you reach out to election commission and see if anyone on the commission would be willing to testify at Con Council's meeting tomorrow? I've got some clarifications I'd like to make about Election Commission's meeting on Thursday, and it's been a lot more convenient to have these done in person.

We'll be meeting 10 AM - 12 PM in DUC 245.

Thanks,
Eric Cai
Chief Justice, Constitutional Council
Washington University in St. Louis
Office Hours
T, Th 10:00-11:30 A.M.

D2:

Testifying for Constitutional Council

 Cai, Eric Sat 11/9/2019 5:50 PM Like Reply Reply All Forward More
Walker, Randal; Griffin, Jamel; Jackson, Destiny; Sims, Richard; Stevermer, Olivia ✓

Hello Election Commission!

My name's Eric Cai, and I am the Chief Justice of Constitutional Council. As you all know, Constitutional Council is currently in the process of investigating some concerns regarding elections this past week. I was wondering if any of you would be able to swing by Con Council's meeting tomorrow to help answer a couple of questions we had regarding Election Commission's meeting this past Thursday - should be pretty quick!

Con Council will be meeting from 10 AM to 12 PM tomorrow in DUC 245 - please let me know if you'd be available at any point during that time. Also, I tried to search these emails using the names on the press release from Friday morning - I couldn't find Samuel Mendelhall's email, so please extend this offer to him as well!

Thanks,
Eric