

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT
JACKSON COUNTY

Nolan Sharkey,

Plaintiff,

vs.

The Board of Trustees of Southern Illinois
University, a body politic incorporate,
Jesse Cler, Randal Thomas, Donna Manering,
Don Lowery, Roger Herrin, Nick Mehner,
Shirley Portwood, and Marquita Wiley

Defendants.

NO. 13 - CH - 48

CIRCUIT CLERK
JACKSON COUNTY, IL
Erin R. Smith

2013 JUL -8 AM 9:04

FILED 22

**COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF**

Now Comes the Plaintiff, Nolan Sharkey ("Sharkey"), by and through his attorney, Darrell Dunham, and for his Complaint against The Board of Trustees of Southern Illinois University, a body politic incorporate, Jesse Cler, Randal Thomas, Donna Manering, Don Lowery, Roger Herrin, Nick Mehner, Shirley Portwood, and Marquita Wiley, says:

JURISDICTION AND VENUE

1. This Court jurisdiction and venue over this matter in that the actions complained of herein occurred in Jackson County, Illinois;

PARTIES

2. Plaintiff Nolan Sharkey, is a professional student attending Southern Illinois University-Carbondale. Sharkey is in second year of law school;

3. The Defendant, The Board of Trustees of Southern Illinois University, is a body

politic duly promulgated by the State of Illinois, 100 ILCS § 520/1, and it can sue and be sued;

4. Defendant, Jesse Cler, is an undergraduate student attending Southern Illinois University-Carbondale;

5. Defendant, Randal Thomas, is a member of the Board of Trustees of Southern Illinois University. Randal Thomas is being sued in his official capacity only. He is being joined for purposes of obtaining injunctive relief. Randal Thomas is currently serving as Chair of the Board;

6. Defendant, Donna Manering, is a member of the Board of Trustees of Southern Illinois University. Donna Manering is being sued in her official capacity only. She is being joined for purposes of obtaining injunctive relief. Donna Manering is currently serving as Vice Chair of the Board;

7. Defendant, Don Lowery is a member of the Board of Trustees of Southern Illinois University. Don Lowery is being sued in his official capacity only. He is being joined for purposes of obtaining injunctive relief. Don Lowery is currently serving as Chair of the Board. is currently serving as Secretary of the Board;

8. Defendant, Roger Herrin is a member of the Board of Trustees of Southern Illinois University. Roger Herrin is being sued in his official capacity only. He is being joined for purposes of obtaining injunctive relief;

9. Nick Mehner is a member of the Board of Trustees of Southern Illinois University. Nick Mehner is a member of the Board of Trustees of Southern Illinois University. Nick Mehner is being sued in his official capacity only. He is being joined for purposes of obtaining injunctive relief. Nick Mehner an undergraduate student at Southern Illinois University-

Edwardsville. At the time of the filing of this suit it was undetermined whether Nick Mehner would be a voting member of the Board of Trustees;

10. Defendant, Shirley Portwood, is a member of the Board of Trustees of Southern Illinois University. Shirley Portwood is being sued in her official capacity only. She is being joined for purposes of obtaining injunctive relief;

11. Defendant, Marquita Wiley, is a member of the Board of Trustees of Southern Illinois University. Marquita Wiley is being sued in her official capacity only. She is being joined for purposes of obtaining injunctive relief;

FACTS COMMON TO BOTH COUNTS

12. The Board of Trustees for Southern Illinois University is the governing authority for the University, and as such, by operation of law, it establishes the policies and is responsible for the governance of the University;

13. Illinois State Law mandates, pursuant to 110 ILCS 520/2, that there shall be two student members of the Board of Trustees of Southern Illinois University, with one student trustee being determined by election the student bodies for each of the campuses of Southern Illinois University;

14. Pursuant to said statute, the student body of Southern Illinois University-Carbondale promulgated by referendum a certain policy entitled "STUDENT TRUSTEE ELECTION LAWS" which governs the procedures for electing a student trustee to the Board of Trustees, said policy being amended by a duly recognized entity entitled "Undergraduate Student Government" and a separate duly recognized entity entitled "Graduate and Professional Student Council" in

February of 2013, (Ex. A).

15. Said policy establish nomination and election procedures for office of student trustee for Southern Illinois University-Carbondale;

16. On or about March 8, 2013, Plaintiff Sharkey, pursuant to and in compliance with the Student Trustee Elections Procedures (Ex. A) presented to the Office of Student Government nominating petitions containing signatures of over 200 duly qualified students who were authorized to sign said petitions for the purpose of placing Sharkey's name on the student trustee election ballot;

17. Prior thereto, Defendant Cler, submitted nominating petitions to the Office of Student Government, but Cler's petitions contained less than the required number of complete signatures, in that several of signatures submitted lacked the information set forth in Article I-102 of the Student Election Laws, (Ex. A);

18. On or about March 9, 2013, Sharkey duly challenged the placing of Cler's name on the ballot and there was no dispute that Cler's nominating petitions were not in compliance with the Student Trustee Election Procedures;

19. On or about March 20, 2013, said challenge was taken before the Election Commission, which is described and established pursuant to the Student Trustee Election Procedures (Ex. A), and said Commission ruled that Cler's name should not be placed on the ballot for election as Student Trustee;

20. Notwithstanding said decision and notwithstanding the fact that the Office of Dean or Students or Interim Dean of Students has no authority pursuant to either said statute or said procedures, on April 9, 2013, one day before the election was to be held, one Katherine L.

Sermersheim, ruled that Cler's name would be placed on the ballot, (Ex. B);

21. Based upon information sufficient to form a belief, Cler was advised of Sermersheim's decision several days in advance of April 9, 2013;

22. Sermersheim was totally without authority to make any decision with regard to the placing of Cler's name on the ballot, and left Sharkey in a position where he could not adequately prepare for the election;

23. The election was conducted in a manner that was in violation of the Illinois State Law, in that:

- A) Cler's name should not have been placed on the ballot;
- B) Illinois State resources and SIU faculty were used to influence the election, (Ex. C);
- C) Individuals were permitted to vote online, and there were no security measures in place to insure that only eligible students were permitted to vote;
- D) Based upon information sufficient for form a belief, Sharkey alleges that Southern Illinois University Administration actively intervened in the election on behalf of Cler;

24. For the reasons set forth above, Cler prevailed in the election;

25. On or about April 16, 2013, and for the reasons set forth above, the Graduate and Professional Student Council refused to certify the election, further voting that the election was invalid;

26. Pursuant to said Student Trustee Election Policy (Ex. A), the certification of the Graduate and Professional Student Council is a requirement before a student trustee's name can

be submitted to the Board of Trustees as having been duly elected;

27. A meeting has been set by the Board of Trustees for July 11, 2013, and Cler's name has been submitted to the Board of Trustees as a duly elected Student Trustee notwithstanding the fact that his election has not been certified;

28. Sharkey has standing to bring this suit because he was the only duly qualified candidate who was entitled to have his name placed on the Student Trustee ballot;

**COUNT ONE
DECLARATORY JUDGMENT**

Now Comes the Plaintiff, Nolan Sharkey ("Sharkey"), by and through his attorney, Darrell Dunham, and for Count One of his Complaint against The Board of Trustees of Southern Illinois University, a body politic incorporate, Jesse Cler, Randal Thomas, Donna Manering, Don Lowery, Roger Herrin, Nick Mehner, Shirley Portwood, and Marquita Wiley, says:

29. Sharkey realleges as if fully stated herein the allegations set forth in paragraphs 1 through 28 of this Complaint;

30. A case or controversy exists between Sharkey and Cler in that Sharkey takes the position that Cler did not have the right to have his name placed on the ballot, that his election was illegal and violative of Illinois law, and that he, Sharkey, is the duly elected student trustee, while Cler takes the position that no illegalities have taken place and that he has the right to sit on the Southern Illinois Board of Trustees as the student trustee and is entitled to represent the students of Southern Illinois University;

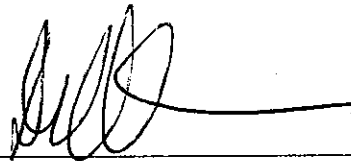
WHEREFORE, Sharkey prays that this Court enter judgment as follows:

A) Declare that Cler's election was void;

- B) Declare Sharkey was the winner of the election and entitled to sit as Student Trustee as the winner of the election;
- C) In the alternative, declare that the election of April 10th and April 11th, 2013, was null and void and that a new election be held in full compliance with the statutes of the State of Illinois and the Student Trustee Election Procedures;
- D) That this Court appoint a special master, to be paid by Southern Illinois University, to monitor any new election that may held for the purpose of preventing election fraud;
- E) Declare any votes made by Cler, after July 1, 2013, while participating in any meetings of the Board of Trustees are void;
- F) For such other relief as this court deems to be equitable and just;

Dated: _____

7/5/13



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**COUNT TWO
INJUNCTIVE RELIEF**

Now Comes the Plaintiff, Nolan Sharkey (“Sharkey”), by and through his attorney, Darrell Dunham, and for Count Two of his Complaint against The Board of Trustees of Southern Illinois University, a body politic incorporate, Jesse Cler, Randal Thomas, Donna Manering, Don

Lowery, Roger Herrin, Nick Mehner, Shirley Portwood, and Marquita Wiley, says:

31. Sharkey realleges as if fully stated herein the allegations set forth in paragraphs 1 through 28 of this Complaint;

32. Sharkey will be irreparably harmed if this Court does not accord him equitable relief, in that:

- A) He will not be permitted to participate and/or vote on matters of extreme importance to the students of Southern Illinois University even though he was the only candidate who was entitled to have his name on the ballot;
- B) Cler's participation as a member of the Board may influence matters of extreme importance to the students of Southern Illinois University notwithstanding the fact that his election was illegal, his election was not certified, and his election was ultra vires;

WHEREFORE, Sharkey seeks the following equitable relief:

- A) That a preliminary injunction be entered, without bond, prohibiting Cler from participating as a member of the Board of Trustees or voting as a member of the Board of Trustees;
- B) That a preliminary injunction be entered, without bond, prohibiting any of the Defendants from permitting Cler to participate as a member of the Board of Trustees or to vote as a member of the Board of Trustees;
- C) That a permanent injunction be entered, without bond, prohibiting Cler from participating as a member of the Board of Trustees or voting as a member of the Board of Trustees;

- D) That a permanent injunction be entered, without bond, prohibiting any of the Defendants from permitting Cler to participate as a member of the Board of Trustees or to vote as a member of the Board of Trustees;
- E) That a judgment be entered awarding Sharkey his costs of suit and for such other relief as may be equitable and just;

Dated:

7/5/13



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Student Trustee Election Laws

Revised Laws Passed by GPSC & USG Spring Semester 2004

PREAMBLE

The Student Trustee Election laws are established to implement the annual selection of the Student Trustee for the Carbondale and Springfield campuses pursuant to Ill. Rev. Stat., 1983, Ch. 144 Par. 652. The method of selection by annual general student body election was chosen by campus-wide referendum in October 1973. The original election laws were adopted in November 1981. These Election Laws supersede all previous election laws and all subsequent amendments and modifications.

ARTICLE I: CANDIDATES

1-101: ELIGIBILITY

– For the purposes of this article, undergraduate status and standing is defined by the Office of Admissions and Records, and graduate status and standing is defined by the Graduate School. Each candidate for the Office of Student Trustee must meet the following requirements:

- A. Each candidate must be at least a half (1/2) time student in the semester during which the election is held.
- B. Each candidate must be in good academic and disciplinary standing in the semester during which the election is held.
- C. Each candidate must have completed one full semester as a student at SIUC immediately prior to the semester during which the election is held.
- D. Each candidate must not hold any elected office in the Undergraduate Student Government or the Graduate and Professional Student Council concurrent with the term of the Student Trustee Office.

1-102: NOMINATION PROCEDURE

– Each candidate for the Office of Student Trustee must submit a petition containing the signatures, printed names, local addresses, and email addresses of 200 students enrolled at the SIU Carbondale and/or Springfield campus(es) in the semester during which the election is held. Email addresses shall be used for verification purposes only.

- A. Petitions will be available at the Student Government offices by noon on the first day of school in March. The availability of petitions shall be advertised to the student body.
- B. Petitions must be submitted in person or addressed to the Trustee Election Commissioner at the Student Government office and must be received by 4:30 p.m. on the last day of school before Spring Break. Petitions submitted after that day will not be considered in the nomination process.
- C. Petitions must be legible and complete. Signatures and information shall be verified by the Trustee Election Commission. A list of certified candidates will be posted and released in accordance with Article 2-102 of these laws.

1-103: CANDIDATE RESPONSIBILITIES

– Each candidate for the Office of Student Trustee has the following responsibilities:

- A. Candidates must abide by the Election Laws at all times prior, during, and after the Student Trustee election. Violations of federal, state, municipal, or university laws or regulations shall be considered violations of these Election Laws. Violations of these Election laws may result in removal from the ballot or disqualification.
- B. Candidates must attend in person or by proxy a campaign meeting to be held during the first week in April. Proxies must be approved by a member of the Trustee Election Commission at least one day prior to the meeting.

Ex. A

ARTICLE II: STUDENT TRUSTEE ELECTION COMMISSION

2-101: APPOINTMENT

– A Student Trustee Election Commission shall be appointed to supervise and conduct the Trustee election in accordance with these laws. The commission shall be composed of three undergraduate and three graduate and/or professional students to be appointed and compensated as follows:

- A. The Presidents of the Undergraduate Student Government and the Graduate and Professional Student Council shall appoint three members of their respective constituencies with said appointments to be approved by majority vote of the respective constituency bodies. Appointments must be made and approved by February 15.
- B. The Election Committee shall meet the third week of February to select a Chair and review the election procedure. The chair shall serve as spokesperson for the commission and no other person shall make any public statement on behalf of the Commission regarding the election.
- C. Each Commission member shall be compensated at the conclusion of the election by their respective constituency bodies. The Assistant Election Commissioners for the Springfield Campus will be compensated by, and at the discretion of, the Student Assembly of the Springfield campus.

2-102: DUTIES

– The Trustee Election Commission shall perform the following duties:

- A. Shall prepare nominations petition for distribution at the student government offices. The availability of petitions shall be advertised to the student body. The office of the Dean of Students at the Springfield campus shall be notified of the availability of the petitions.
- B. Shall contact the Office of the Dean of Students at the Springfield campus to request the names of two students to be Assistant Election commissioners for the Springfield campus.
- C. Shall distribute copies of the Trustee election laws and interpretive materials and an election timetable to each candidate with the petitions.
- D. Shall certify each candidate for the compliance with the eligibility requirements of Article 1-101.
- E. Shall verify the authenticity of nomination petitions and post a list of certified candidates and release said list to the press no later than the end of the last day of school in March.
- F. Shall conduct a campaign meeting for certified candidates to review the election procedure and timetable to be held no later than the end of first full week in April.
- G. Shall distribute copies of University regulations regarding display of posters, canvassing, and solicitation to each certified candidate at the campaign meeting.
- H. Shall designate and coordinate the official campaign events such as debates. Such events should be coordinated early and listed on the campaign timetable.
- I. Shall prepare and publicly announce a list of voting areas to be established no later than the **first full week of April**.
- J. Shall supervise the conduct of the campaigns and election to assure compliance with these Election Laws.
- K. Shall recruit poll workers and provide for adequate staffing of all approved voting areas.
- L. Shall prepare an official ballot for the election of Student Trustee.
- M. Shall collect and safeguard the ballots and tabulate the results of the election. The results shall be posted at the Student Government office and shall be released to the press on the day following the election. These results shall be considered unofficial pending ratification by GPSC and USG.
- N. Shall receive and investigate any written charges of violations of these election laws.
- O. Shall submit the official election results signed by each member of the commission to the Undergraduate Student Government and the Graduate and Professional Student Council for ratification in accordance with Article 5 of these laws.

2-103: POWERS

– The Trustee Election Commission shall have the following expressed powers:

~~A. To establish voting areas and appoint poll workers. If feasible, polls should be provided in areas of isolated student populations.~~

A. Provide for creation of, and enrollment of students, in appropriate on-line voting ballots.

- B. To initiate and / or investigate written charges of violations of these election laws. Said charges shall be initiated and adjudicated in accordance with Article 6 of these laws.
- C. To remove a candidate from the ballot or disqualify a candidate for violations of these election laws.

2-104: ASSISTANT ELECTION COMMISSION FOR THE SPRINGFIELD CAMPUS

– The Assistant Election Commission for the Springfield campus shall be an arm of the Election Commission at the Carbondale campus. All of their actions shall be subject to the approval of the Election Commission at Carbondale. They shall have the following duties:

- A. Shall establish not less than one nor more than two polling places on the Springfield campus.
- B. Shall supervise the conduct of the campaign activity at the Springfield campus to assure compliance with these election laws.
- C. Shall supervise election activity at the Springfield campus to assure compliance with these election laws.
- D. Shall recruit poll workers and provide for adequate staffing of all approved voting areas at the Springfield campus.
- E. Shall operate the polls at the Springfield campus only on the same day/days and during the same hours which polls are open at the Carbondale campus.
- F. Shall collect and safeguard all ballots cast at the Springfield campus.
- G. Shall tabulate vote total from Springfield campus, report those totals to the Election Commission as soon as possible and mail all ballots cast at the Springfield campus to the Election Commission within 24 hours of the closing of polls at the Springfield campus.
- H. Shall assist the Election Commission in the receipt and investigate of any charges of violation of the Election laws at the Springfield campus.

ARTICLE 3: CAMPAIGN CONDUCT

3-101: DEFINITIONS

– For all purposes of this article, the following definitions apply:

- A. Nomination period – The period of time, from noon on March 1 and ending at 4:30 the last day of school before Spring Break, during which petitions are distributed.
- B. Campaign Period – Period beginning immediately after the conclusion of the candidate campaign meeting and ending on the final day of the Student Trustee Election.
- C. Advertising – Any public statement initiated by the candidate or his/her campaign staff made for the purpose of soliciting support for the Student Trustee Election, including but not limited to press conferences, display ads, posters, leaflets, and radio and television ads.

3-102: ADVERTISING AND CANVASSING

– Advertising and canvassing is allowed only during the campaign period. Advertising prior to the campaign period shall constitute grounds for removal from the ballot.

- A. All advertising on university property shall be displayed in accordance with the university regulations.
- B. All canvassing on university property shall be done with prior permits in accordance with university regulations.
- C. All participating in advertising or canvassing must abide the Student Code of Conduct.**

3-103: EXPENDITURES

– Total campaign expenditures shall not exceed \$225.00 per candidate. All donations must be recorded by name, address, and amount. All expenditures must be recorded in a detailed manner and should be supported with dated receipts. Said reports must be submitted no later than the day of the election to a member of the Election Commission.

ARTICLE 4: ELECTION CONDUCT

4-101: BALLOTS

– The ballot for Student Trustee Election shall have a separate heading and state the campus (Carbondale or Springfield) at which it is to be used. The order of names appearing on the ballot shall be determined by lottery at the campaign meeting. The ballot for the Trustee election shall be separate from other election ballots.

4-102: POLLS

– A ~~list of approved voting areas~~ **notification of on-line voting** shall be advertised to the student body immediately preceding the election in accordance with Article 2-102.H.

- A. ~~Each polling place shall be staffed with at least two poll workers. A member of the Trustee Election Commission should supervise the set-up and operation of each voting area.~~
- ~~B. No poll worker shall advocate support or opposition to any candidate while on duty. This prohibition shall include ANY FORM OF ADVOCACY whether written or verbal.~~
- C. No advertising or solicitation of voters shall occur within a distance of fifty feet from the poll from all directions.

4-103: OBSERVERS

– Each candidate may have one observer present at each voting area during the operation of the polls. Each candidate may have one observer present during tabulation of the results.

4-104: TABULATION OF BALLOTS

– The Trustee Election Commission shall ~~collect all ballots~~ **meet and officially close on-line voting** and tabulate the results of the election. The commission shall have the authority to discard spoiled ballots. Following computation, the Commission shall perform the following actions:

- A. Prepare a final tally signed by the entire Commission to be presented to the student constituency bodies for ratification in accordance with Article 5 of these laws.
- B. Release the results of the election to the press with qualification that ratification is pending.
- C. The winner of the Student Trustee Election shall be the candidate with the highest amount of votes.

ARTICLE 5: RATIFICATION

5-101: RATIFICATION PROCEDURE

–The results of the Student Trustee Election shall be ratified as follows:

- A. At the first opportunity following the election, the Trustee Election Commission shall present the final tally to the Undergraduate Student Government and the Graduate and Professional Student Council for ratification by majority vote.

- B. Following ratification the respective constituency body Presidents shall report ratification to the appropriate university officials.
- C. Ratification may not be delegated to any sub-body of either organization, nor may it be performed by executive action.
- D. All charges of violations of these Election Laws must be resolved prior to ratification by the constituency bodies.
- E. Ratification shall take place on or before June 30.

ARTICLE 6: JUDICIAL PROCEDURES

6-101: VIOLATION CHARGES

–Candidate charges alleging a violation of these Election Laws may be initiated by any candidate or by the Commission acting upon information submitted in writing. All charges must be received by the Commission within two school days following the election. The following procedure shall apply to the disposition of charges:

- A. The candidate(s) involved shall be informed of charges and applicable articles of these Election laws.
- B. The Trustee Election Commission shall investigate the charges.
- C. The Trustee Election Commission shall conduct a closed hearing to receive and contemplate evidence of any alleged violation. The candidate(s) involved shall be permitted to attend and speak on their own behalf.
- D. The Trustee Election Commission shall make a ruling on the existence of violation by simple majority vote with the Trustee Election Commissioner presiding over the hearing abstaining from said vote.
- E. Upon a finding of violation, the Commission shall make a ruling on applying a sanction by a simple majority vote with the Trustee Election Commissioner abstaining.
- F. The candidate(s) charged shall be informed of the decision of the Commission and the right to appeal if applicable.

6-102: SANCTION

– In determining whether a sanction is appropriate the Commission shall take into consideration the potential adverse effect on election results, the gravity of the violation and all other relevant circumstances.

- A. If the violation occurs prior to election and a hearing has been conducted in accordance with Article 6-101 of these laws, the Commission shall have the option of:
 1. Ordering the candidate in writing to refrain from further violations under penalty of removal from the ballot, or
 2. Removing the candidate from the ballot prior to the election.
- B. If the violation occurs on election day or a hearing cannot be held before the election, the Commission shall have the power to disqualify the candidate from the election.

6-103: APPEALS

– Only a candidate found in violation and sanctioned may appeal the decision of the Trustee Election Commission. The following procedure shall apply to such appeals:

- A. The charged candidate must submit a written notice of appeal challenging the ruling of the Commission and specifying the grounds for appeal within three school days following the decision of the Commission.
- B. The appeal shall be referred to both the Undergraduate Student Government and the Graduate and Professional Student Council. The Presidents of both organizations shall form an Ad Hoc committee to review the appeal. Committee members shall not be affiliated with any campaign nor with the Trustee Election Commission.

- C. The Ad Hoc Committee shall review the evidence presented and the transcript of the record of the Commission hearing to determine if the Commission's decision is clearly erroneous.
- D. The Ad Hoc Committee shall make a ruling either affirming or reversing the decision of the Trustee Election Commission and notify the charged candidate of that decision.
- E. The decision of the Ad Hoc Committee shall be considered final and binding on the candidate and the Trustee Election Commission pending ratification by the respective constituency bodies.

6-104: VIOLATION CHARGES AGAINST THE ELECTION COMMISSION

– Charges alleging a violation of these Election Laws by the Trustee Election Commission may be initiated by the candidate. All charges must be received within two school day following the election. The following procedure shall apply to the disposition of the charges:

- A. The charges shall be referred to both the Undergraduate Student Government and the Graduate and Professional Student Council. The Presidents of both organizations shall form an Ad Hoc Committee to review the appeal. Committee members shall not be affiliated with any campaign nor with the Trustee Election Commission.
- B. The Ad Hoc Committee shall investigate all charges and determine whether the Trustee Election Commission failed to perform any mandatory duty under these laws.
- C. Upon a finding of violation, the Committee shall consider the gravity of the violation and the potential adverse effects on one or all candidates. The committee shall have the option to either validate or invalidate the election results.
- D. In the event of the invalidation of the election results, a special election shall be held in accordance with Article 7 of these laws.
- E. The decision of the Ad Hoc Committee must take place prior to ratification of the election results by Undergraduate Student Government and the Graduate and Professional Student Council and shall be binding on all parties to the election.

ARTICLE 7: SPECIAL ELECTIONS

7-101: A special election shall be conducted whenever the Student Trustee resigns or is otherwise unable to complete the term of office.

- A. The special election shall be conducted as soon as possible and no later than four weeks after the resignation or date of vacancy.
- B. The special election shall be held in accordance with these laws with the expectation that the Trustee Election Commission shall establish a modified timetable for such election.

ARTICLE 8: AMENDMENT PROCEDURES

8-101: Amendments to these Student Trustee Election Laws must be presented by a committee composed of Undergraduate and Graduate/Professional Students selected by their respective student governments. The amendment must be adopted as follows:

- A. The text of any amendment must be presented in writing to the Undergraduate Student Government and the Graduate and Professional Student Council for distribution to the membership at least five days prior to the meeting at which an amendment is to be brought to a vote.
- B. Both the Undergraduate Student Government and the Graduate and Professional Student Council must approve an amendment before the amendment can become effective. Two-thirds vote of the members in attendance is needed in each body for approval of the proposed amendment.
- C. Such approval may not be delegated to any sub-body of either organization; nor may it be made solely by executive action.

ARTICLE 9: ADOPTION OF STUDENT TRUSTEE LAWS

9-101: These Student Trustee Election Laws must be presented in writing to the Undergraduate Student Government and the Graduate and Professional Student Council at least one regular meeting prior to the meeting at which the election laws will be brought for adoption. The Undergraduate Student Government and the Graduate and Professional Student Council must each approve these Election Laws by at least a two-thirds vote of the members in attendance. Approval of these Election Laws may not be delegated by any sub-body of either organization; nor may they be approved solely by executive action.

MEMORANDUM

TO: Brittany Greathouse
President, Undergraduate Student Government (USG)

Blaine Tisdale
President, Graduate & Professional Student Council (GPSC)

FROM: Katherine L. Sermersheim, Ph.D.
Interim Dean of Students

DATE: April 9, 2013

RE: 2013 Student Trustee Elections

Thank you for meeting with me yesterday morning to discuss the recent difference of opinion between USG & GPSC. The dispute, as I understand it, centers on who should be on the ballot; specifically, whether or not Mr. Jesse Cler's name should be printed on the ballot for this week's Student Trustee election - scheduled for this Wednesday and Thursday, April 10th and 11th.

The details surrounding the issue as reviewed in our meeting yesterday are as follows:

- Jesse Cler meets the official Board of Trustees requirements for eligibility to run for the office;
- The Student Trustee Laws, a joint document created by USG and GPSC to direct the student trustee election, has been guiding this process;
- Currently, both entities, USG and GPSC, disagree on the interpretation of their joint document as it relates to several areas of this year's election (i.e.: the number of signatures on a candidate's petition; the integrity of the process in reviewing petitions prior to being vetted by the Election Commission; inconsistencies in which sections of the Election Laws are viewed as sacred);
- The Election Commission, jointly appointed by USG and GPSC, has been tasked with the challenge of interpreting language in the 2013 document that is neither clear nor consistent;
- While malicious intent is not alleged with actions either taken or not taken, passionate and strong differences of opinions exist among involved parties;

Ex B

- The University is responsible for ensuring that a campus-wide election to identify a student trustee occurs:
 - The Board of Trustee document, Section 2. Members of the Board: Appointment, states: *Each student shall be chosen by the respective campuses of Southern Illinois University at Carbondale and at Edwardsville. The method of choosing these student members shall be by campus-wide student election, and any student designated by the Governor to be a voting student member shall be one of the students chosen by this method.*
- According to Roberts Rules of Order, write-in candidates should be allowed; they are a 'right' of elections held via the written ballot method;
- And, USG and GPSC are at an impasse and unable to agree on a resolution to this current conflict; both constituency bodies voted unanimously in favor of solutions that are in direct contradiction of one another.

Considering that this year's election will take place tomorrow, and that the students of this University are entitled to cast a vote in a fair and equitable election process, I am compelled to make the decision in the absence of a mutually agreed upon solution from your groups. As stated in yesterday's discussion, I cannot emphasize enough that it is my preference this situation would be resolved by your two constituency bodies without administrative intervention. I, however, have a responsibility to the student community at-large to ensure they have a voice in selecting their next student trustee.

Therefore, after considering the above review, coupled with the official Board of Trustee documents which guide this process, I am directing those responsible for the ballot of Student Trustee to include Jesse Cler as a candidate in the 2013 Student Trustee election; his name should be printed on the electronic ballot. Additionally, the ballot must include a provision for write-in candidates.

CC: Bethany Wendler, Coordinator, Student Involvement & Leadership Development
 Margaret Sullivan, Election Commission Chair
 Jesse Cler, Student Trustee Candidate
 Nolan Sharkey, Student Trustee Candidate

3. The Defendant, The Board of Trustees of Southern Illinois University, is a body politic duly promulgated by the State of Illinois, 100 ILCS § 520/1, and it can sue and be sued;

4. Defendant, Jesse Cler, is an undergraduate student attending Southern Illinois University-Carbondale;

5. Defendant, Randal Thomas, is a member of the Board of Trustees of Southern Illinois University. Randal Thomas is being sued in his official capacity only. He is being joined for purposes of obtaining injunctive relief. Randal Thomas is currently serving as Chair of the Board;

6. Defendant, Donna Manering, is a member of the Board of Trustees of Southern Illinois University. Donna Manering is being sued in her official capacity only. She is being joined for purposes of obtaining injunctive relief. Donna Manering is currently serving as Vice Chair of the Board;

7. Defendant, Don Lowery is a member of the Board of Trustees of Southern Illinois University. Don Lowery is being sued in his official capacity only. He is being joined for purposes of obtaining injunctive relief. Don Lowery is currently serving as Chair of the Board. is currently serving as Secretary of the Board;

8. Defendant, Roger Herrin is a member of the Board of Trustees of Southern Illinois University. Roger Herrin is being sued in his official capacity only. He is being joined for purposes of obtaining injunctive relief;

9. Nick Mehner is a member of the Board of Trustees of Southern Illinois University. Nick Mehner is a member of the Board of Trustees of Southern Illinois University. Nick Mehner is being sued in his official capacity only. He is being joined for purposes of obtaining

injunctive relief. Nick Mehner an undergraduate student at Southern Illinois University-Edwardsville. At the time of the filing of this suit it was undetermined whether Nick Mehner would be a voting member of the Board of Trustees;

10. Defendant, Shirley Portwood, is a member of the Board of Trustees of Southern Illinois University. Shirley Portwood is being sued in her official capacity only. She is being joined for purposes of obtaining injunctive relief;

11. Defendant, Marquita Wiley, is a member of the Board of Trustees of Southern Illinois University. Marquita Wiley is being sued in her official capacity only. She is being joined for purposes of obtaining injunctive relief;

12. The Board of Trustees for Southern Illinois University is the governing authority for the University, and as such, by operation of law, it establishes the policies and is responsible for the governance of the University;

13. Illinois State Law mandates, pursuant to 110 ILCS 520/2, that there shall be two student members of the Board of Trustees of Southern Illinois University, with one student trustee being determined by election the student bodies for each of the campuses of Southern Illinois University;

14. Pursuant to said statute, the student body of Southern Illinois University-Carbondale promulgated by referendum a certain policy entitled "STUDENT TRUSTEE ELECTION LAWS" which governs the procedures for electing a student trustee to the Board of Trustees, said policy being amended by a duly recognized entity entitled "Undergraduate Student Government" and a separate duly recognized entity entitled "Graduate and Professional Student Council" in February of 2013, (Ex. A).

15. Said policy establish nomination and election procedures for office of student trustee for Southern Illinois University-Carbondale;

16. On or about March 8, 2013, Plaintiff Sharkey, pursuant to and in compliance with the Student Trustee Elections Procedures (Ex. A) presented to the Office of Student Government nominating petitions containing signatures of over 200 duly qualified students who were authorized to sign said petitions for the purpose of placing Sharkey's name on the student trustee election ballot;

17. Prior thereto, Defendant Cler, submitted nominating petitions to the Office of Student Government, but Cler's petitions contained less than the required number of complete signatures, in that several of signatures submitted lacked the information set forth in Article I-102 of the Student Election Laws, (Ex. A);

18. On or about March 9, 2013, Sharkey duly challenged the placing of Cler's name on the ballot and there was no dispute that Cler's nominating petitions were not in compliance with the Student Trustee Election Procedures;

19. On or about March 20, 2013, said challenge was taken before the Election Commission, which is described and established pursuant to the Student Trustee Election Procedures (Ex. A), and said Commission ruled that Cler's name should not be placed on the ballot for election as Student Trustee;

20. Notwithstanding said decision and notwithstanding the fact that the Office of Dean or Students or Interim Dean of Students has no authority pursuant to either said statute or said procedures, on April 9, 2013, one day before the election was to be held, one Katherine L. Sermersheim, ruled that Cler's name would be placed on the ballot, (Ex. B);

21. Based upon information sufficient to form a belief, Cler was advised of Sermersheim's decision several days in advance of April 9, 2013;

22. Sermersheim was totally without authority to make any decision with regard to the placing of Cler's name on the ballot, and left Sharkey in a position where he could not adequately prepare for the election;

23. The election was conducted in a manner that was in violation of the Illinois State Law, in that:

- A) Cler's name should not have been placed on the ballot;
- B) Illinois State resources and SIU faculty were used to influence the election, (Ex. C);
- C) Individuals were permitted to vote online, and there were no security measures in place to insure that only eligible students were permitted to vote;
- D) Based upon information sufficient for form a belief, Sharkey alleges that Southern Illinois University Administration actively intervened in the election on behalf of Cler;

24. For the reasons set forth above, Cler prevailed in the election;

25. On or about April 16, 2013, and for the reasons set forth above, the Graduate and Professional Student Council refused to certify the election, further voting that the election was invalid;

26. Pursuant to said Student Trustee Election Policy (Ex. A), the certification of the Graduate and Professional Student Council is a requirement before a student trustee's name can be submitted to the Board of Trustees as having been duly elected;

27. A meeting has been set by the Board of Trustees for July 11, 2013, and Cler's name has been submitted to the Board of Trustees as a duly elected Student Trustee notwithstanding the fact that his election has not been certified;

28. Sharkey has standing to bring this suit because he was the only duly qualified candidate who was entitled to have his name placed on the Student Trustee ballot;

29. Sharkey will be irreparably harmed if this Court does not accord him equitable relief, in that:

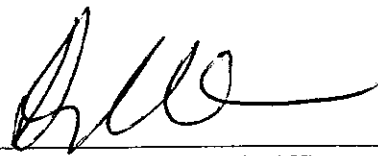
- A) He will not be permitted to participate and/or vote on matters of extreme importance to the students of Southern Illinois University even though he was the only candidate who was entitled to have his name on the ballot;
- B) Cler's participation as a member of the Board may influence matters of extreme importance to the students of Southern Illinois University notwithstanding the fact that his election was illegal, his election was not certified, and his election was ultra vires;

WHEREFORE, Sharkey seeks entry of a Preliminary Injunction as follows, without bond, as follows:

- A) Prohibiting Cler from participating as a member of the Board of Trustees or voting as a member of the Board of Trustees during the pendency of this Suit;
- B) Prohibiting any of the Defendants from permitting Cler to participate as a member of the Board of Trustees or to vote as a member of the Board of Trustees, during the pendency of this suit;

Dated: _____

7/5/13



Darrell Dunham, Plaintiff's Attorney
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Student Trustee Election Laws

Revised Laws Passed by GPSC & USG Spring Semester 2004

PREAMBLE

The Student Trustee Election laws are established to implement the annual selection of the Student Trustee for the Carbondale and Springfield campuses pursuant to Ill. Rev. Stat., 1983, Ch. 144 Par. 652. The method of selection by annual general student body election was chosen by campus-wide referendum in October 1973. The original election laws were adopted in November 1981. These Election Laws supersede all previous election laws and all subsequent amendments and modifications.

ARTICLE I: CANDIDATES

1-101: ELIGIBILITY

-- For the purposes of this article, undergraduate status and standing is defined by the Office of Admissions and Records, and graduate status and standing is defined by the Graduate School. Each candidate for the Office of Student Trustee must meet the following requirements:

- A. Each candidate must be at least a half (1/2) time student in the semester during which the election is held.
- B. Each candidate must be in good academic and disciplinary standing in the semester during which the election is held.
- C. Each candidate must have completed one full semester as a student at SIUC immediately prior to the semester during which the election is held.
- D. Each candidate must not hold any elected office in the Undergraduate Student Government or the Graduate and Professional Student Council concurrent with the term of the Student Trustee Office.

1-102: NOMINATION PROCEDURE

-- Each candidate for the Office of Student Trustee must submit a petition containing the signatures, printed names, local addresses, and email addresses of 200 students enrolled at the SIU Carbondale and/or Springfield campus(es) in the semester during which the election is held. Email addresses shall be used for verification purposes only.

- A. Petitions will be available at the Student Government offices by noon on the first day of school in March. The availability of petitions shall be advertised to the student body.
- B. Petitions must be submitted in person or addressed to the Trustee Election Commissioner at the Student Government office and must be received by 4:30 p.m. on the last day of school before Spring Break. Petitions submitted after that day will not be considered in the nomination process.
- C. Petitions must be legible and complete. Signatures and information shall be verified by the Trustee Election Commission. A list of certified candidates will be posted and released in accordance with Article 2-102 of these laws.

1-103: CANDIDATE RESPONSIBILITIES

-- Each candidate for the Office of Student Trustee has the following responsibilities:

- A. Candidates must abide by the Election Laws at all times prior, during, and after the Student Trustee election. Violations of federal, state, municipal, or university laws or regulations shall be considered violations of these Election Laws. Violations of these Election laws may result in removal from the ballot or disqualification.
- B. Candidates must attend in person or by proxy a campaign meeting to be held during the first week in April. Proxies must be approved by a member of the Trustee Election Commission at least one day prior to the meeting.

Ex. A

ARTICLE II: STUDENT TRUSTEE ELECTION COMMISSION

2-101: APPOINTMENT

– A Student Trustee Election Commission shall be appointed to supervise and conduct the Trustee election in accordance with these laws. The commission shall be composed of three undergraduate and three graduate and/or professional students to be appointed and compensated as follows:

- A. The Presidents of the Undergraduate Student Government and the Graduate and Professional Student Council shall appoint three members of their respective constituencies with said appointments to be approved by majority vote of the respective constituency bodies. Appointments must be made and approved by February 15.
- B. The Election Committee shall meet the third week of February to select a Chair and review the election procedure. The chair shall serve as spokesperson for the commission and no other person shall make any public statement on behalf of the Commission regarding the election.
- C. Each Commission member shall be compensated at the conclusion of the election by their respective constituency bodies. The Assistant Election Commissioners for the Springfield Campus will be compensated by, and at the discretion of, the Student Assembly of the Springfield campus.

2-102: DUTIES

– The Trustee Election Commission shall perform the following duties:

- A. Shall prepare nomination petition for distribution at the student government offices. The availability of petitions shall be advertised to the student body. The office of the Dean of Students at the Springfield campus shall be notified of the availability of the petitions.
- B. Shall contact the Office of the Dean of Students at the Springfield campus to request the names of two students to be Assistant Election commissioners for the Springfield campus.
- C. Shall distribute copies of the Trustee election laws and interpretive materials and an election timetable to each candidate with the petitions.
- D. Shall certify each candidate for the compliance with the eligibility requirements of Article 1-101.
- E. Shall verify the authenticity of nomination petitions and post a list of certified candidates and release said list to the press no later than the end of the last day of school in March.
- F. Shall conduct a campaign meeting for certified candidates to review the election procedure and timetable to be held no later than the end of first full week in April.
- G. Shall distribute copies of University regulations regarding display of posters, canvassing, and solicitation to each certified candidate at the campaign meeting.
- H. Shall designate and coordinate the official campaign events such as debates. Such events should be coordinated early and listed on the campaign timetable.
- I. Shall prepare and publicly announce a list of voting areas to be established no later than the **first full week of April**.
- J. Shall supervise the conduct of the campaigns and election to assure compliance with these Election Laws.
- K. Shall recruit poll workers and provide for adequate staffing of all approved voting areas.
- L. Shall prepare an official ballot for the election of Student Trustee.
- M. Shall collect and safeguard the ballots and tabulate the results of the election. The results shall be posted at the Student Government office and shall be released to the press on the day following the election. These results shall be considered unofficial pending ratification by GPSC and USG.
- N. Shall receive and investigate any written charges of violations of these election laws.
- O. Shall submit the official election results signed by each member of the commission to the Undergraduate Student Government and the Graduate and Professional Student Council for ratification in accordance with Article 5 of these laws.

2-103: POWERS

– The Trustee Election Commission shall have the following expressed powers:

~~A. To establish voting areas and appoint poll workers. If feasible, polls should be provided in areas of isolated student populations.~~

A. Provide for creation of, and enrollment of students, in appropriate on-line voting ballots.

- B. To initiate and / or investigate written charges of violations of these election laws. Said charges shall be initiated and adjudicated in accordance with Article 6 of these laws.
- C. To remove a candidate from the ballot or disqualify a candidate for violations of these election laws.

2-104: ASSISTANT ELECTION COMMISSION FOR THE SPRINGFIELD CAMPUS

– The Assistant Election Commission for the Springfield campus shall be an arm of the Election Commission at the Carbondale campus. All of their actions shall be subject to the approval of the Election Commission at Carbondale. They shall have the following duties:

- A. Shall establish not less than one nor more than two polling places on the Springfield campus.
- B. Shall supervise the conduct of the campaign activity at the Springfield campus to assure compliance with these election laws.
- C. Shall supervise election activity at the Springfield campus to assure compliance with these election laws.
- D. Shall recruit poll workers and provide for adequate staffing of all approved voting areas at the Springfield campus.
- E. Shall operate the polls at the Springfield campus only on the same day/days and during the same hours which polls are open at the Carbondale campus.
- F. Shall collect and safeguard all ballots cast at the Springfield campus.
- G. Shall tabulate vote total from Springfield campus, report those totals to the Election Commission as soon as possible and mail all ballots cast at the Springfield campus to the Election Commission within 24 hours of the closing of polls at the Springfield campus.
- H. Shall assist the Election Commission in the receipt and investigate of any charges of violation of the Election laws at the Springfield campus.

ARTICLE 3: CAMPAIGN CONDUCT

3-101: DEFINITIONS

– For all purposes of this article, the following definitions apply:

- A. Nomination period – The period of time, from noon on March 1 and ending at 4:30 the last day of school before Spring Break, during which petitions are distributed.
- B. Campaign Period – Period beginning immediately after the conclusion of the candidate campaign meeting and ending on the final day of the Student Trustee Election.
- C. Advertising – Any public statement initiated by the candidate or his/her campaign staff made for the purpose of soliciting support for the Student Trustee Election, including but not limited to press conferences, display ads, posters, leaflets, and radio and television ads.

3-102: ADVERTISING AND CANVASSING

– Advertising and canvassing is allowed only during the campaign period. Advertising prior to the campaign period shall constitute grounds for removal from the ballot.

- A. All advertising on university property shall be displayed in accordance with the university regulations.
- B. All canvassing on university property shall be done with prior permits in accordance with university regulations.
- C. All participating in advertising or canvassing must abide the Student Code of Conduct.**

3-103: EXPENDITURES

– Total campaign expenditures shall not exceed \$225.00 per candidate. All donations must be recorded by name, address, and amount. All expenditures must be recorded in a detailed manner and should be supported with dated receipts. Said reports must be submitted no later than the day of the election to a member of the Election Commission.

ARTICLE 4: ELECTION CONDUCT

4-101: BALLOTS

– The ballot for Student Trustee Election shall have a separate heading and state the campus (Carbondale or Springfield) at which it is to be used. The order of names appearing on the ballot shall be determined by lottery at the campaign meeting. The ballot for the Trustee election shall be separate from other election ballots.

4-102: POLLS

– A list of approved voting areas **notification of on-line voting** shall be advertised to the student body immediately preceding the election in accordance with Article 2-102.H.

A. ~~Each polling place shall be staffed with at least two poll workers. A member of the Trustee Election Commission should supervise the set-up and operation of each voting area.~~

~~B. No poll worker shall advocate support or opposition to any candidate while on duty. This prohibition shall include ANY FORM OF ADVOCACY whether written or verbal.~~

C. No advertising or solicitation of voters shall occur within a distance of fifty feet from the poll from all directions.

4-103: OBSERVERS

– Each candidate may have one observer present at each voting area during the operation of the polls. Each candidate may have one observer present during tabulation of the results.

4-104: TABULATION OF BALLOTS

– The Trustee Election Commission shall ~~collect all ballots meet and officially close on-line voting and~~ tabulate the results of the election. The commission shall have the authority to discard spoiled ballots. Following computation, the Commission shall perform the following actions:

- A. Prepare a final tally signed by the entire Commission to be presented to the student constituency bodies for ratification in accordance with Article 5 of these laws.
- B. Release the results of the election to the press with qualification that ratification is pending.
- C. The winner of the Student Trustee Election shall be the candidate with the highest amount of votes.

ARTICLE 5: RATIFICATION

5-101: RATIFICATION PROCEDURE

–The results of the Student Trustee Election shall be ratified as follows:

- A. At the first opportunity following the election, the Trustee Election Commission shall present the final tally to the Undergraduate Student Government and the Graduate and Professional Student Council for ratification by majority vote.

- B. Following ratification the respective constituency body Presidents shall report ratification to the appropriate university officials.
- C. Ratification may not be delegated to any sub-body of either organization, nor may it be performed by executive action.
- D. All charges of violations of these Election Laws must be resolved prior to ratification by the constituency bodies.
- E. Ratification shall take place on or before June 30.

ARTICLE 6: JUDICIAL PROCEDURES

6-101: VIOLATION CHARGES

–Candidate charges alleging a violation of these Election Laws may be initiated by any candidate or by the Commission acting upon information submitted in writing. All charges must be received by the Commission within two school days following the election. The following procedure shall apply to the disposition of charges:

- A. The candidate(s) involved shall be informed of charges and applicable articles of these Election laws.
- B. The Trustee Election Commission shall investigate the charges.
- C. The Trustee Election Commission shall conduct a closed hearing to receive and contemplate evidence of any alleged violation. The candidate(s) involved shall be permitted to attend and speak on their own behalf.
- D. The Trustee Election Commission shall make a ruling on the existence of violation by simple majority vote with the Trustee Election Commissioner presiding over the hearing abstaining from said vote.
- E. Upon a finding of violation, the Commission shall make a ruling on applying a sanction by a simple majority vote with the Trustee Election Commissioner abstaining.
- F. The candidate(s) charged shall be informed of the decision of the Commission and the right to appeal if applicable.

6-102: SANCTION

– In determining whether a sanction is appropriate the Commission shall take into consideration the potential adverse effect on election results, the gravity of the violation and all other relevant circumstances.

- A. If the violation occurs prior to election and a hearing has been conducted in accordance with Article 6-101 of these laws, the Commission shall have the option of:
 1. Ordering the candidate in writing to refrain from further violations under penalty of removal from the ballot, or
 2. Removing the candidate from the ballot prior to the election.
- B. If the violation occurs on election day or a hearing cannot be held before the election, the Commission shall have the power to disqualify the candidate from the election.

6-103: APPEALS

– Only a candidate found in violation and sanctioned may appeal the decision of the Trustee Election Commission. The following procedure shall apply to such appeals:

- A. The charged candidate must submit a written notice of appeal challenging the ruling of the Commission and specifying the grounds for appeal within three school days following the decision of the Commission.
- B. The appeal shall be referred to both the Undergraduate Student Government and the Graduate and Professional Student Council. The Presidents of both organizations shall form an Ad Hoc committee to review the appeal. Committee members shall not be affiliated with any campaign nor with the Trustee Election Commission.

- C. The Ad Hoc Committee shall review the evidence presented and the transcript of the record of the Commission hearing to determine if the Commission's decision is clearly erroneous.
- D. The Ad Hoc Committee shall make a ruling either affirming or reversing the decision of the Trustee Election Commission and notify the charged candidate of that decision.
- E. The decision of the Ad Hoc Committee shall be considered final and binding on the candidate and the Trustee Election Commission pending ratification by the respective constituency bodies.

6-104: **VIOLATION CHARGES AGAINST THE ELECTION COMMISSION**

– Charges alleging a violation of these Election Laws by the Trustee Election Commission may be initiated by the candidate. All charges must be received within two school day following the election. The following procedure shall apply to the disposition of the charges:

- A. The charges shall be referred to both the Undergraduate Student Government and the Graduate and Professional Student Council. The Presidents of both organizations shall form an Ad Hoc Committee to review the appeal. Committee members shall not be affiliated with any campaign nor with the Trustee Election Commission.
- B. The Ad Hoc Committee shall investigate all charges and determine whether the Trustee Election Commission failed to perform any mandatory duty under these laws.
- C. Upon a finding of violation, the Committee shall consider the gravity of the violation and the potential adverse effects on one or all candidates. The committee shall have the option to either validate or invalidate the election results.
- D. In the event of the invalidation of the election results, a special election shall be held in accordance with Article 7 of these laws.
- E. The decision of the Ad Hoc Committee must take place prior to ratification of the election results by Undergraduate Student Government and the Graduate and Professional Student Council and shall be binding on all parties to the election.

ARTICLE 7: SPECIAL ELECTIONS

7-101: A special election shall be conducted whenever the Student Trustee resigns or is otherwise unable to complete the term of office.

- A. The special election shall be conducted as soon as possible and no later than four weeks after the resignation or date of vacancy.
- B. The special election shall be held in accordance with these laws with the expectation that the Trustee Election Commission shall establish a modified timetable for such election.

ARTICLE 8: AMENDMENT PROCEDURES

8-101: Amendments to these Student Trustee Election Laws must be presented by a committee composed of Undergraduate and Graduate/Professional Students selected by their respective student governments. The amendment must be adopted as follows:

- A. The text of any amendment must be presented in writing to the Undergraduate Student Government and the Graduate and Professional Student Council for distribution to the membership at least five days prior to the meeting at which an amendment is to be brought to a vote.
- B. Both the Undergraduate Student Government and the Graduate and Professional Student Council must approve an amendment before the amendment can become effective. Two-thirds vote of the members in attendance is needed in each body for approval of the proposed amendment.
- C. Such approval may not be delegated to any sub-body of either organization; nor may it be made solely by executive action.

ARTICLE 9: ADOPTION OF STUDENT TRUSTEE LAWS

9-101: These Student Trustee Election Laws must be presented in writing to the Undergraduate Student Government and the Graduate and Professional Student Council at least one regular meeting prior to the meeting at which the election laws will be brought for adoption. The Undergraduate Student Government and the Graduate and Professional Student Council must each approve these Election Laws by at least a two-thirds vote of the members in attendance. Approval of these Election Laws may not be delegated by any sub-body of either organization; nor may they be approved solely by executive action.

MEMORANDUM

TO: Brittany Greathouse
President, Undergraduate Student Government (USG)

Blaine Tisdale
President, Graduate & Professional Student Council (GPSC)

FROM: Katherine L. Sermersheim, Ph.D.
Interim Dean of Students

DATE: April 9, 2013

RE: 2013 Student Trustee Elections

Thank you for meeting with me yesterday morning to discuss the recent difference of opinion between USG & GPSC. The dispute, as I understand it, centers on who should be on the ballot; specifically, whether or not Mr. Jesse Cler's name should be printed on the ballot for this week's Student Trustee election - scheduled for this Wednesday and Thursday, April 10th and 11th.

The details surrounding the issue as reviewed in our meeting yesterday are as follows:

- Jesse Cler meets the official Board of Trustees requirements for eligibility to run for the office;
- The Student Trustee Laws, a joint document created by USG and GPSC to direct the student trustee election, has been guiding this process;
- Currently, both entities, USG and GPSC, disagree on the interpretation of their joint document as it relates to several areas of this year's election (i.e.: the number of signatures on a candidate's petition; the integrity of the process in reviewing petitions prior to being vetted by the Election Commission; inconsistencies in which sections of the Election Laws are viewed as sacred);
- The Election Commission, jointly appointed by USG and GPSC, has been tasked with the challenge of interpreting language in the 2013 document that is neither clear nor consistent;
- While malicious intent is not alleged with actions either taken or not taken, passionate and strong differences of opinions exist among involved parties;

EX B

- The University is responsible for ensuring that a campus-wide election to identify a student trustee occurs:
 - The Board of Trustee document, Section 2. Members of the Board: Appointment states: *Each student shall be chosen by the respective campuses of Southern Illinois University at Carbondale and at Edwardsville. The method of choosing these student members shall be by campus-wide student election, and any student designated by the Governor to be a voting student member shall be one of the students chosen by this method.*
- According to Roberts Rules of Order, write-in candidates should be allowed; they are a 'right' of elections held via the written ballot method;
- And, USG and GPSC are at an impasse and unable to agree on a resolution to this current conflict; both constituency bodies voted unanimously in favor of solutions that are in direct contradiction of one another.

Considering that this year's election will take place tomorrow, and that the students of this University are entitled to cast a vote in a fair and equitable election process, I am compelled to make the decision in the absence of a mutually agreed upon solution from your groups. As stated in yesterday's discussion, I cannot emphasize enough that it is my preference this situation would be resolved by your two constituency bodies without administrative intervention. I, however, have a responsibility to the student community at-large to ensure they have a voice in selecting their next student trustee.

Therefore, after considering the above review, coupled with the official Board of Trustee documents which guide this process, I am directing those responsible for the ballot of Student Trustee to include Jesse Cler as a candidate in the 2013 Student Trustee election; his name should be printed on the electronic ballot. Additionally, the ballot must include a provision for write-in candidates.

CC: Bethany Wendler, Coordinator, Student Involvement & Leadership Development
 Margaret Sullivan, Election Commission Chair
 Jesse Cler, Student Trustee Candidate
 Nolan Sharkey, Student Trustee Candidate

