PAPER ON REFERENDUM No. 3

Prepared by the Undergraduate Student Government Senate

April 20, 2022
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Sec. I. Executive Summary

In the Spring 2022 Undergraduate Student Government (USG) elections, Eric Periman ’23 sponsored Referendum No. 3 calling on the University administration to halt usage of Caterpillar machinery and renegotiate or cancel contracts with construction entities who use Caterpillar machinery (see Section II for full language).

Under the provisions of the USG Constitution, with a majority of student votes, Referendum No. 3 passes; however, given the close nature of the vote, and given the appeal\(^{1}\) of an action by the Chief Elections Manager as upheld by the USG Senate (see Section III), the USG will not make a statement on behalf of the student body in favor of or against Referendum No. 3.

Out of the 5215 undergraduate students eligible to vote, 2577 students (49%) participated in the Spring 2022 Election; of them, 1124 students (44%) voted in favor, 1029 students (40%) voted against, and 424 (16%) chose to abstain. Excluding abstentions, then, out of the 2153 students who voted (i.e. selected “Yes” or “No” on their ballot) on Referendum No. 3, 1124 students (52%) voted in favor whereas 1029 students (48%) voted against the referendum. In accordance with the USG Constitution, the referendum has passed by a narrow margin of 95 votes.\(^{2}\)

The purpose of a student-sponsored referendum is to convey to the administration the sentiment of the study body on a call for change. In deliverance of this paper to the administration, through the presentation of facts, the USG seeks to provide context as to how the student body engaged with Referendum No. 3. The sections below present the referendum and details regarding the appeal. No penalty points were assigned to either party during the election period. This paper concludes with an indication of next steps.

Sec. II. Referendum No. 3

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\(^{1}\) The formal appeal sought to overturn the Chief Elections Manager’s “commit[ment] to a representation of the ‘abstain’ option that is inconsistent with his representations communicated before and during the election period.”

\(^{2}\) 95 votes corresponds to 3.7% of the number of students who participated in the election, 4.4% of the number of students who voted, and 1.8% of the total number of students eligible to vote.
The following is the language of Referendum No. 3, as submitted by the official sponsor, Eric Periman ’23.

Given the violent role that Caterpillar machinery has played in the mass demolition of Palestinian homes, the murder of Palestinians and other innocent people, and the promotion of the prison-industrial complex (among other atrocities), the undergraduates call on the Princeton University administration to:

1. Immediately halt usage of all Caterpillar machinery in all ongoing campus construction projects including (but not limited to) the Lake Campus Development Project, the Art Museum construction project, the E-Quad construction project, the construction of New Residential Colleges East and West etc.
2. Renegotiate or cancel contracts with construction entities who make use of Caterpillar machinery.
3. Prohibit Caterpillar machinery from being used in any and all future campus construction projects.
4. Ensure strict oversight and enforcement of this resolution by the University of construction entities who are contracted by the University to carry out University construction projects.

Sec. III. The Appeal

The voting period for the Spring 2022 election commenced on April 11 and closed on April 13.

On April 14, 2022, an appeal was filed to the USG President, Vice President, and Chief Elections Manager. The appeal formally filed by four Senate members was brought before the Senate to overturn the Chief Elections Manager’s “commit[ment] to a representation of the ‘abstain’ option that is inconsistent with his representations communicated before and during the election period.” Upon receiving the appeal, the USG President called a Special Meeting to be hosted on Monday, April 18, 2022. In recognition of Passover and Easter, the USG did not have scheduled its regular Sunday night meeting, and thus, a Special Meeting was called.
On Monday, April 18, 2022 at 5:45 pm, the Undergraduate Student Government (USG) Senate held a Special Meeting to hear the appeal regarding Referendum No. 3 on the Spring 2022 Election ballot. As ordained by Appendix F of the USG Elections handbook, the appeals meeting consisted of a public hearing and a closed Executive Session. During the public portion of the meeting, prior to the Senate’s deliberations, the USG Senate heard statements from the appellees and from the Chief Elections Manager. The Senate also heard statements from the official sponsor of Referendum No. 3, and from the formal designee of the official opposition sponsor of Referendum No. 3.

Senate members deliberated over the appeal, as stated above. The USG Senate upheld the appeal, with 15 votes in favor and 5 votes against (4 abstained).

Below, we include excerpts of statements delivered by the appellees and the Chief Elections Manager during the April 18 meeting, to provide relevant context regarding the appeal. Full remarks can be found in the appendix (Section V).

The following excerpt is from the statement delivered by the Chief Appellee.

“Before and during the campaign period, the CEM clearly communicated to a leader of the opposition campaign that “abstain” votes would be counted towards the total vote count, against which the “yes” votes would be measured and the majority – needed for a referendum to pass – would be calculated. It was based on this representation of the Constitution that the opposition campaigned and students voted. At an activist meeting, based on the CEM’s comments, the opposition leader instructed fellow activists to persuade fellow students to vote no or at least abstain. In public events and in private conversations – as corroborated by dozens of students – the Opposition argued for students to vote no or abstain.”

“Following the election period, the CEM announced a different interpretation of the Constitution and the abstain policy.”
The information on which the opposition campaign and students voted was false. With such a close election – abstain votes were four times the margin between “yes” and “no” votes – it is reasonable to believe that the results of the referendum would have been different if “abstain”s were represented accurately during the election period.”

*The following excerpt is from the statement delivered by the USG Chief Elections Manager.*

“Community members can field questions about election procedures via our official email, where guidance provided constitutes official correspondence. Of course, members of the community may also consult us informally through personal communications. Guidance can be exchanged in this manner, though it is unofficial.

Such was the case here. A community member unaffiliated with the official opposition inquired if abstentions would count towards votes in opposition. I provided a hypothetical pool of ten students split 4-3-3. I observed that there would be a 40% vote in favor. While I did not explicitly indicate that abstentions counted against, my unclear response was construed as such. I misspoke; I take responsibility for this lack of clarity.

This exchange cascaded. Members of the community generally opposed to the referendum suggest that my misstatement profoundly misguided their campaign strategy, believing that a central element of their message was to encourage students to abstain, though you may recall that the explicit “No to Referendum 3” was also a highly visible slogan. These two messages complemented each other. It is not my place to quantify what the magnitude of this confusion may have been, as we do not know exactly how many abstentions were impacted by inconsistent messaging. Any suggestions to that end are merely speculative. For context, I will add that the ballot provided to students did not explicate what an abstention would entail. But I agree the possibility of a significant effect is certainly not beyond imagination. There exists guidance regarding the language in our standing guidance, where “majority vote” excludes abstentions; this documentation is readily available. Further consultation with the USG Parliamentarian has confirmed our subsequent finding; this corrected interpretation is what ultimately matters.”
Sec. IV. Conclusion

Given the outcome of the appeal, which the USG Senate upheld with 15 votes in favor and 5 votes against (4 abstained), the USG will not make a statement on behalf of the student body in favor of or against Referendum No. 3.

Once the USG Senate had voted to uphold the appeal, then Senate members proposed and considered a range of remedies, the first of which was this paper.

The purpose of a student-sponsored referendum is to convey to the administration the sentiment of the student body on a call for change. In deliverance of this paper to the administration, through the presentation of facts, the USG seeks to provide context as to how the student body engaged with Referendum No. 3.

Sec. V. Appendix

a. Appeal filed to the USG President, the USG Vice President, and the Chief Elections Manager on Apr 14, 2022.

We, voting members of the USG Senate, write to appeal the actions of the Chief Elections Manager (CEM) in accordance with our power enumerated in Section 1, Appendix F of Senate Standing Rule 3. Our appeal is based on the rule reversal made by the CEM after the results of Referendum 3 were made available. Certain representations were made by the CEM to the Referendum 3 Opposition campaigners and relevant parties around which the Opposition organized its campaign and students voted.

On March 28, 2022, the CEM confirmed in written communication with Jared Stone, president of Tigers for Israel (TFI) and a leader in the opposition effort to Referendum 3, that “abstain” votes would be counted towards the total vote count, against which the “yes” votes would be measured and the majority – needed for a referendum to pass – would be calculated (see appendix). The CEM oversees and has final responsibility for each election. Throughout the campaign, including in an in-person conversation on the evening before the voting closed, the CEM repeatedly confirmed this position to Stone and others who had organized in opposition to Referendum 3. The Opposition relied in good faith upon these assurances in conducting their
campaign. In private conversations and public presentations, members of the Opposition group argued for students to vote “abstain.” Jacob Katz, a member of TFI and an activist against Referendum 3, published an op-ed in The Daily Princetonian with arguments that assumed the position expressly made by the CEM, a point Katz made in an official complaint to USG. Students reasonably believed that an “abstain” would be counted for the majority, and many voted based on this information. The final vote tally for Referendum 3 was short of the 50%+1 majority. It included 44% “yes”, 40% “no”, and 16% “abstain”. According to the vote-counting procedures repeatedly outlined by the CEM during the campaign, Referendum 3 failed to pass.

On April 13, 2022, several hours after voting closed and the results were made available, the CEM wrote to Stone to reverse his previous position and share that he was now taking the position that the representations he made were incorrect (see appendix). Instead of counting “abstain” votes, the CEM would now not count them towards the total number of votes against which the “yes” votes would be measured. According to this vote-counting procedure, Referendum 3 would pass.

It is our judgment that the conduct and decision of the CEM are unfair and incorrect.

We recommend that the USG either: a) abide by the representations made by the CEM during the course of the campaign and on the basis of which the campaign was conducted, b) void the referendum, or c) hold a revote with clearly communicated rules and guidelines.

We are also aware that the upcoming Senate meeting, when the appeals procedures would likely take place, is scheduled for Sunday, April 17, Passover and Easter Sunday, presenting an attendance challenge for the Jewish and Christian communities, two communities with an interest in the outcome of this appeal. We request that the appeals procedure be delayed to an amenable time for both communities.

Submitted:
Adam Hoffman, USG Treasurer
Co-signed:
Audrey Zhang, USG Sustainability Chair
Carlisle Imperial, USG Senate Member
Ned Dockery, USG Senate Member

Appendix:

forgive me if i said differently, but in consultation with the parliamentarian, the handbook indicates that abstentions do *not* count against votes in the affirmative

So there simply need to be more yes votes than no for the resolution to pass?

That is correct, w/ the proviso that there is also ≥33% turnout

Can I call you later?

Please call me as soon as possible

I am out of class at 4:20

Can this be discussed via text?

No
b. Transcript of statement made by the Chief Appellee

“My name is Adam Hoffman, I’m the USG treasurer, and I submitted the appeal.

Before and during the campaign period, the CEM clearly communicated to a leader of the opposition campaign that “abstain” votes would be counted towards the total vote count, against which the “yes” votes would be measured and the majority – needed for a referendum to pass – would be calculated. It was based on this representation of the Constitution that the opposition campaigned and students voted. At an activist meeting, based on the CEM’s comments, the opposition leader instructed fellow activists to persuade fellow students to vote no or at least abstain. In public events and in private conversations – as corroborated by dozens of students – the Opposition argued for students to vote no or abstain. The proliferation of the CEM’s comments is not even doubted by the CEM himself.

Following the election period, the CEM announced a different interpretation of the Constitution and the abstain policy.

The information on which the opposition campaign and students voted was false. With such a close election – abstain votes were four times the margin between “yes” and “no” votes – it is reasonable to believe that the results of the referendum would have been different if “abstain”s were represented accurately during the election period.

For this reason, I am appealing actions by the CEM. Specifically, I am appealing that the CEM is now committing to a representation of the “abstain” option that is inconsistent with his representations communicated before and during the election period. We ought to uphold the appeal to affirm that our referendum voting process was unfair and that passing the referendum would be incorrect.

The question of appeal is independent of the remedy, and both of these powers lie with the Senate. I support the appeal because, given the misinformation during the campaign period from the CEM, I do not believe passing this referendum would be reflective of the students’ will. I
urge you to support the appeal and confirm this. As I remedy, I am supportive of a solution that fairly represents the will of the students: right now, it seems that a statement clearly detailing what has occurred as well as the numerical results of the referendum would satisfy this criterion.

As an addendum, I want to be perfectly clear about what the appeal is not: this is not an attack on the character of the CEM. My words should not be misconstrued as an attack on the CEM, a person I trust to be honest and of goodwill. While I believe that our current circumstance has risen out of an honest mistake that does not mean that the mistake is above remedy. An appeal of the referendum process is the best and only way for USG to support student voices and reflect student will.”

c. Transcript of statement made by Co-Signer #1 of the Appeal

“Good evening everyone,

Allow me to be clear and concise with my statement tonight. I co-signed the discussed appeal because I believe that the communications from the Chief Elections Manager leading up to the voting period were misleading and impacted the integrity of the campaigning and voting process. Despite the fact that the miscommunication was unintentional, it may very well have had an influence on the results of the election, which in the case of this very narrow result, could have a decisive effect. As such, I wish to overturn the Chief Elections Manager’s reversal of his representation/interpretation, which has caused confusion, and thereby, a lack of a fair campaigning and voting process. I am fully aware of the fact that the Chief Elections Manager’s most recent decision regarding the counting of votes is constitutionally consistent. Nonetheless, I implore the members of the senate to see that the reversal of a communicated position, which was understood to be accurate throughout the campaigning and voting period, results in a flawed election.
Therefore, I second Adam and Audrey in that I propose that the USG supports a reconciliation paper in order to remedy the aforementioned issue.”

d. Transcript of statement made by Co-Signer #2 of the Appeal

Available upon request.

e. Transcript of statement made by Co-Signer #3 of the Appeal

Hello everyone, I’m Audrey Zhang, the USG Sustainability Committee Chair, and I hope you are all doing well.

I first want to make clear that I have signed on to this appeal because I have heard that there was some miscommunication during the election process regarding Referendum 3, and I felt it was important to address this. I am not doing this because I think we should blame the CEM—I feel our CEM is a great person and that we should discuss this situation at hand together. We are one team, after all, and the best way forward is to communicate with each other.

That being said, sometime after I signed the appeal, Mayu Takeuchi brought up a possible way to address our circumstances. We could potentially create a reconciliation paper, which, if I am remembering correctly, gives our election results to administrators without saying whether the referendum passed or not.

I feel this is a good solution for us because this issue has divided our campus, and this environment is not healthy for any of us. Especially as finals and large project deadlines come up, and as we address the importance of mental health on our campus, I think the best move for us now is to share the data we have collected as is.

I understand that this situation is complex, and I am not well-versed enough on this topic to say much more, but I do hope that you will consider my words. I truly hope that we can all live healthy lives together, do things that bring us joy, and dive deep into our studies to discover new
things. Our college years will fly by, and life is short, so creating as many positive memories during our precious time here is my wish for all of us.

\[ \text{f. Transcript of defense statement made by USG Chief Elections Manager} \]

This is my sixth cycle as an Elections Manager and my fourth as Chief; I have handled numerous candidate and referendum elections before, resolving disputes without incident. I mention this to emphasize that I have experience with our election process. Election fairness and integrity have always been my primary goal.

I serve voluntarily and decouple my persuasions from my official work. Like many on campus, I have been educating myself on the issues underlying RQ3 in the past weeks but do not have any conflicts of interest. I am not, nor have I ever been, affiliated with groups involved in dissociation of any kind. I have nothing to lose or gain from the outcome of the proposition before us. I am a neutral facilitator.

Community members can field questions about election procedures via our official email, where guidance provided constitutes official correspondence. Of course, members of the community may also consult us informally through personal communications. Guidance can be exchanged in this manner, though it is unofficial.

Such was the case here. A community member unaffiliated with the official opposition inquired if abstentions would count towards votes in opposition. I provided a hypothetical pool of ten students split 4-3-3. I observed that there would be a 40% vote in favor. While I did not explicitly indicate that abstentions counted against, my unclear response was construed as such. I misspoke; I take responsibility for this lack of clarity.

This exchange cascaded. Members of the community generally opposed to the referendum suggest that my misstatement profoundly misguided their campaign strategy, believing that a central element of their message was to encourage students to abstain, though you may recall that the explicit “No to Referendum 3” was also a highly visible slogan. These two messages
complemented each other. It is not my place to quantify what the magnitude of this confusion may have been, as we do not know exactly how many abstentions were impacted by inconsistent messaging. Any suggestions to that end are merely speculative. For context, I will add that the ballot provided to students did not explicate what an abstention would entail. But I agree the possibility of a significant effect is certainly not beyond imagination. There exists guidance regarding the language in our standing guidance, where “majority vote” excludes abstentions; this documentation is readily available. Further consultation with the USG Parliamentarian has confirmed our subsequent finding; this corrected interpretation is what ultimately matters.

I place great emphasis on precedent, and so I hope to explain the impact of your decision on future elections. An honest mistake was made; that is the first error. For the Senate to then contradict standing guidance would be a second error, and two wrongs do not make a right. Of greater personal concern is the precedent this creates, in which representations by Election Managers take precedence over binding guidance, and where the Senate overrides binding guidance at the behest of campaign groups.

The Constitution and Handbook must always guide our work. You have the option to overturn my decision, but the standard of review clearly states that you must not overturn my subsequent finding that abstentions do not constitute votes if you merely believe you “would have done differently.” We are not here to establish long-lasting precedents, nor should you entertain reasonable but mistaken interpretations, even if it is just for this one time. Any remedies pursued must be in line with the Constitution as it currently stands; any long-term changes must be made through the processes prescribed therein.

I would be remiss if I did not address tensions in the community, as this referendum touches upon sensitive questions of identity and dignity. Perhaps our community has been so taken aback by this referendum because we are not accustomed to tackling important but divisive questions on a large scale; we have grown used to instinctual agreement. Nevertheless, the Senate must note that despite disagreements, both sides have made compelling, good-faith arguments in support of their cause; preliminary results show significant portions of the student body identifying with either side of this issue.
Certified results must give fair representation to student voices with an eye toward reconciliation. The spirit of the elections process in general and advisory referenda in particular is to solicit student perspectives on controversial issues. As with any referendum, it would be mistaken to view the student body as an ideological monolith. Despite a mistake in the execution of a referendum election, there have still been opportunities for vigorous discussion and productive dialogue. We leave this process with an image of a divided but thoughtful student body. Thus, we have fulfilled the fundamental mission of the advisory referendum process.

The safety of my peers of all affinities is a top priority. I know that people are hurting. I share in your anguish. Unfortunately, some have leveraged this to delegitimize the hard work of both sides. Individuals unfamiliar with our processes have also insinuated suspect conduct or worse, launching unfair attacks which have cast aspersions upon me and my colleagues’ integrity. These could not be farther from the truth. Needless attacks have given me pause and concern for my personal safety. I am grateful for those here today who have extended me their grace, and I thank the administration for its care—Dr. Cepin, Dean Dunne, Dean Olin, and President Eisgruber in particular.

I am also aware there are colleagues here who have concerns about my abilities as CEM. I hope that my experience and intentions will compel you to see otherwise. I understand your sentiments, and it distresses me to consider what has led to them. Likewise, I know that all stakeholders are sensitive to the vicissitudes of public opinion. This has been an unpleasant process to watch, but continuing to rake each other over the coals will not do anybody any good. Personally, this process has built character, albeit painfully. I therefore ask for your support as I work with you to articulate what has happened and to continue our important work.

I have detailed my experience not to provide you with anticipation of what is to come, nor do I seek your validation about harassment that is, without question, wrong. What I do wish to demonstrate is that there is scrutiny, both welcome and unwelcome, over USG. The Senate has the power to offer solutions, but there are bound to be those who cry foul. You must be at peace with your decision, both as individuals and as a collective, putting aside expedience and pursuing
constructive solutions. Unfortunate as the consequences of my honest mistake have been, though, I am convinced that correcting myself and adhering to standing guidance is a constitutional solution. Ultimately, I stand by my convictions, for I believe them to be fair.

I maintain the integrity of our process and those who participate in it. Imperfect humans run our elections; we have moments where we falter. Events in recent weeks not foreign to USG’s past speak to this. But it is precisely this humanity that also enables us to seek consensus, upholding the ideals of open dialogue and respect upon which we learn and live. The heart can be cold and the mind unyielding, but I am reminded of the words of W. S. Merwin, a poet who, like us, went to Princeton, albeit many years ago:

where we have come with our age
our knowledge such as it is
and our hopes such as they are
invisible before us
untouched and still possible

Like Merwin, at this difficult juncture, there is nothing I pray for more than open hearts and minds, for clarity and for humanity, for resolution and for healing.