

HARVARD LAW REVIEW

# Transition 2023

Final Report  
Volume 137

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# Note from the Transition Co-Chairs

Dear Volume 137,

The *Harvard Law Review* turns 136 years old this April. Since its founding in 1887, the *Law Review* has outlived generations of its editors. It will likely outlast us, but not before we've made our mark on it.

In this year's Transition, our volume voted to:

- expand the [size](#) and alter the [composition](#) of membership;
- continue taking steps toward [editor compensation](#);
- restore and reimagine [officer positions](#);
- strengthen community by developing a [Community Development committee](#);
- increase [social media](#) engagement;
- increase [transparency](#) for prospective editors about *HLR*;
- develop poolwork [feedback](#) systems; and
- promote [continuing education](#) for all editors.

We'd like to thank each and every editor (on both volumes) for their thoughtfulness, creativity, and labor throughout the Transition process — and especially for our own volume's engagement, candor, and patience during the live-vote marathon. Transition is a challenging period, and we are grateful to have been able to experience it with you all.

Finally, a word on how to read this report:

- An executive summary identifies which resolutions passed and which failed.
- A more detailed explanation and vote breakdown of each resolution follows.
- Vote breakdowns follow a yes-no-abstain tally.
- Resolutions that were automatically sent by committee to the live vote (bypassing the online vote) are marked with an **(AUTOLIVE)** tag next to the live-vote tally.
- Resolutions that were sent to the live vote after receiving between 40 and 60 percent (inclusive) at the online vote are marked with the **[Live]** tag by the online-vote tally.
- Resolutions that were amended at the live vote are marked with an **[AMENDED]** tag by the resolution text. Note that the committee vote may not correspond to the exact amended text.

All our best,



# Executive Summary

Here is the top-level summary of the final vote:

- The following **59** resolutions **passed**
  - *Article Submission & Selection*
    - [ART-1: Create a default presumption of scheduling O-Reads during lunch on Mondays](#) (48-4)
    - [ART-2: Set expectations about O-Read attendance and preparation](#) (46-5-1)
    - [ART-4: Publish an internal post-mortem on pieces submitted and published](#) (43-7-2)
    - [ART-5: Publish an excel tracker for articles being seriously considered for publication](#) (36-14-2)
    - [ART-6: Make C-Read notes accessible to the general body](#) (35-9-8)
    - [ART-7: Solicit input from both volumes on article selection via survey](#) (35-16-1)
    - [ART-8: Hold full-body meeting on article selection](#) (33-14-5)
    - [ART-9: Create a new assignment for checking sources/characterization prior to O-Read](#) (40-7-5)
    - [ART-10: Update Book Reviews Chair officer duties](#) (49-3)
    - [ART-11: Improve articles submissions security](#) (50-1-1)
    - [ART-12: Consider naming a standing faculty referee for empirical articles](#) (36-13-3)
  - *Community*
    - [COMM-1: Ensure sufficient number of non-alcohol-centered events sponsored by HLR](#) (36-11-5)
    - [COMM-2: Ensure physical accessibility for all events](#) (49-2-1)
    - [COMM-3: Promote use of pronouns](#) (42-9-1)
    - [COMM/SW&T-4: Hold in-person event, for both volumes, during September](#) (44-5-3)
    - [COMM-5: Encourage lower-volume editor attendance at summer alumni-editor meetings](#) (44-5-3)
    - [COMM-6: Create a Community Development Committee that works to foster ongoing connections between editors through social events and create a more collaborative working environment for all HLR members](#) (40-8-4)
    - [COMM-7: Accelerate timeline for alumni-mentor matching](#) (43-8-1)
    - [COMM-8: Modify shoutouts program to exclude shoutouts for exceptional poolwork in lieu of private feedback system with pool holiday rewards](#) (35-14-3)
    - [COMM-9: Modify selection process for the following “Editor of the Month” categories: Service, Respect, and Community-Building](#) (40-4-8)
    - [COMM-10: Design merch during and for orientation](#) (36-12-4)
  - *Editing & Bluebook*
    - [E&BB-1: Promote Bluebook equity](#) (42-7-3)
    - [E&BB-2: Improve Bluebook operations support](#) (48-1-3)

- [E&BB-3: Implement standard editing procedures and best practices for empirical pieces](#) (47-2-3)
  - [E&BB-4: Continue discussions on Indigenous inclusive citation practices for inclusion in the Bluebook](#) (50-1-1)
  - [E&BB-5: Provide ME with discretion on the allocation of editors to Galleys and Pages](#) (39-12-1)
- *Governance*
  - [GOV-1: Add new officers](#) (41-6-5)
  - [GOV-2: Formalize the intern hiring process](#) (46-4-2)
  - [GOV-3: Codify exceptions to the J-Term residency requirement](#) (49-2-1)
  - [GOV-4: Codify bank day penalties and other punitive measures](#) (44-5-3)
  - [GOV/MEM-5: Codify editor compensation next steps](#) (40-7-5)
  - [GOV-6: Increase transparency of editor position in recruitment process](#) (42-7-3)
  - [GOV-7: Modify election procedures](#) (33-10-9)
- *Membership*
  - [MEM/GOV-2B: Increase the number of 2L editors](#) (32-17-3)
  - [MEM/GOV-3A: Increase the number of transfer editors](#) (38-11-3)
  - [MEM-6: Add a comprehensive overview to the tips packet](#) (41-9-2)
  - [MEM-9: Require additional members to be selected through holistic review](#) (33-15-4)
  - [MEM-10: Increase the value of the subcite in competition scoring](#) (30-19-3)
- *Special Content & Online*
  - [SC&O-1: Change voting system for first stage of foreword selection](#) (38-5-9)
  - [SC&O-2: Codify Foreword Selection memoranda](#) (46-2-4)
  - [SC&O/SW&T-3: Clarify no minimum number of student case comments](#) (51-0-1)
  - [SC&O-4: Consider not soliciting responses for SCOTUS case comments](#) (48-1-3)
  - [SC&O-5: Increase Online Chairs' engagement with editor body](#) (49-1-2)
  - [SC&O/SW&T-6: Consider the Future of the Blog](#)
  - [SC&O-7: Increase social media engagement](#) (40-8-4)
  - [SC&O-8: Look into changing publication process software](#) (44-1-7)
  - [SC&O-9: Codify stats poolwork system](#) (36-10-6)
  - [SC&O-10: Include timeline for November case comments on website](#) (45-4-3)
  - [SC&O-11: Codify faculty case comment selection memoranda](#) (45-5-2)
  - [SC&O-12: Consider holding DEVO Symposium](#) (49-3)
  - [SC&O/ART-13: Fill in Gaps in Legal Scholarship](#) (41-10-1)
  - [SC&O-14: Increase information sharing in Foreword Selection nominations](#) (42-6-4)
- *Student Writing & Training*
  - [SW&T-1: Clarify involuntary dissolution procedure for 4L Notes](#) (52-0-0)
  - [SW&T-3: Limit student empirical writing](#) (30-16-6)
  - [SW&T-4: Prioritize direct poolwork feedback](#) (50-2-0)

- [SW&T-5: Organize brown-bag lunches on legal writing](#) (47-2-3)
  - [SW&T/GOV-6: Email final versions of Subcites, Galleys, and Pages to Poolworkers](#) (45-6-1)
  - [SW&T-7: Create additional resources for student writing, including recorded training and model drafts](#) (47-5-0)
  - [SW&T/ART/GOV-9: Expand continuing education](#) (44-8-0)
- The following **8** resolutions **failed**:
  - [ART-3: Require editors to certify that they have prepared and are casting an informed vote before voting on whether to accept an article](#) (online: 26-22-4) (live: 16-28-8)
  - [MEM-1: Increase the proportion of editors accepted through holistic review](#) (11-36-5)
  - [MEM-4: Make the competition period 5 days](#) (16-31-5)
  - [MEM-5: Provide sample holistic review statements to competition takers](#) (online: 23-23-6) (live: 2-44-6)
  - [MEM-7: Host at least one 1L Fall recruitment event/information session](#) (online: 30-20-2) (live: 5-41-6)
  - [MEM-8: Mandate the holistic review statement for all competition takers](#) (17-30-5)
  - [SW&T-2: Explore a framework for a competitive Notes selection process](#) (3-34-15)
  - [SW&T-8: De-anonymize student Notes](#) (19-30-3)

Please see below for a more detailed explanation of each resolution

## Resolutions by Committee

### Articles Submission & Selection

#### **ART-1: Create a default presumption of scheduling O-Reads during lunch on Mondays**

**ONLINE VOTE:** 48-4 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** While the ABC Chair should schedule O-reads whenever they judge best, there shall be a default presumption that O-reads will occur during the lunch hour on Monday. The ABC Chair shall tell the incoming lower volume to keep their Monday lunch blocks free for O-reads. The ABC Chair may, in their discretion, decide that a different day and time works better than Monday lunches as the default time for O-reads. If the ABC Chair so decides, they shall announce the new default time to the rest of the body so that editors can avoid scheduling conflicts.

**OFFICER(S):** ABC Chair

**DISCUSSION:** If editors know in advance that they should keep a specific block of time free for O-reads, they can avoid scheduling conflicting meetings and attend more often. We chose Monday lunches as a default for two reasons. First, editors will have more time to read O-read materials — and so can prepare more thoroughly — if they have a weekend. Second, faculty reviewers can submit comments on tighter timelines if they have a weekend to read the article and respond. While we think that Monday lunches are a good default, we recognize that some weeks might have multiple O-reads, that the ABC Chair needs flexibility to schedule O-reads sooner for pieces that might get scooped up by other journals, and that unforeseen events might make a different day and time work better. We therefore think this resolution works best as a default that editors can plan around that does not limit the ABC Chair's discretion.

## **ART-2: Set expectations about O-Read attendance and preparation**

**ONLINE VOTE:** 46-5-1 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The ABC Chair shall tell the lower volume expectations about O-read attendance and preparation. While the exact wording of this exhortation shall be up to the ABC Chair, it should note that editors are expected to attend O-reads if they can and to show up prepared. The ABC Chair shall deliver this message at orientation and in the email announcing the first O-read that the incoming volume participates in.

**OFFICER:** ABC Chair

**DISCUSSION:** *HLR* benefits when more editors attend O-reads and when those editors cast informed votes. A better-attended O-read includes more perspectives and increases the legitimacy of the vote to accept or reject an article. Meanwhile, which articles to publish is one of the most important decisions that *HLR* makes, and these decisions have professional consequences for the scholars whose work we accept or reject. The Greenbook reflects this importance: it says that “[i]n order to vote at an O-Read, an editor must have read the Article under consideration.” But only 11 editors (15% of respondents) reported in the transition survey that they always read the full article before voting. And O-read attendance has been a problem in past years. While we considered more tangible incentives, we think that establishing a norm is the least costly and most respectful way of encouraging preparation and attendance. The ABC Chair already says something like this at orientation, but there is so much information coming at editors that it’s hard for this message to get through. This resolution codifies the practice and reiterates the message separately – in the email announcing the first O-read – to reinforce it.

### **ART-3: Require editors to certify that they have prepared and are casting an informed vote before voting on whether to accept an article**

**LIVE VOTE:** 16-28-8 [**Failed**]

**ONLINE VOTE:** 26-22-4 [**Live**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** Non-abstaining voters at O-Reads, both absentee and in-person, shall affirmatively acknowledge they are casting an informed vote by marking a checkbox indicating as such on the voting form. While the ABC Chair maintains discretion over the exact language of the statement accompanying this checkbox, the statement must assert that the respective editor (1) independently prepared for the O-Read—beyond attending the O-Read itself—and (2) is casting an informed vote.

**OFFICER:** ABC Chair

**DISCUSSION:** Like the previous resolution's rationale, *HLR* benefits when editors cast informed votes. While this third proposal's effectiveness relies on editors to answer the voting form honestly and lacks recourse for fraudulent submissions, the mere act of affirmatively verifying both preparation and knowledge plausibly eliminates at least some uninformed votes—improving the quality of *HLR*'s ultimate decision to publish (or not). Indeed, *HLR* previously required that editors agree to such statements on each O-Read voting form, but this procedure was removed at the discretion of Volume 136. Further, the simple act of marking a checkbox will presumably not deter members from attending O-Reads. In other words, this proposal seeks to at least marginally increase the proportion of informed votes at O-Reads without decreasing overall attendance.

## **ART-4: Publish an internal post-mortem on pieces submitted and published**

**ONLINE VOTE:** 43-7-2 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The ABC Chair and Articles Co-Chairs shall publish to the full body at the start of each new volume an internal post-mortem of the pieces *published* in the prior volume. These post-mortems shall be stored in a centralized folder on Sharepoint for editors to access at any time. A record of past years' post-mortems will be kept in this folder as well. This document shall show the scholarship broken down by categories, such as topic area, methodology, ideological orientation, and author demographics, including gender, race, sexual orientation, disability, age, and institutional affiliation. To the extent feasible, the ABC Chair and Articles Co-Chairs shall publish to the full body a similar document reflective of the submissions *received* in the prior submission cycle. Such a document shall export and report the scholarship and author information as filled in by the author in their Salesforce submission.

**OFFICERS:** ABC Chair, Articles Co-Chairs

**DISCUSSION:** Survey responses and some discussions at O-Reads this past semester indicate that editors would benefit from having a centralized database to ascertain the types of work we typically publish, who we publish it from, and how this differs from or is reflective of the submissions we receive writ large. This information will highlight gaps in the diversity of our scholarship, which will allow the volume to provide more informed input at the beginning of each volume on the types of articles they would like to see published. It will also help editors make more informed decisions about the selection of specific articles at O-Read. Finally, this resolution re-affirms and further buttresses the commitment adopted by the body in Transitions for volumes 126, 127, 128, 129, 130, 131, 132, 133, 135 and 136 to advance to O-Read articles reflecting the diversity of legal scholarship and academia. By ensuring the full body access to such statistics, this resolution seeks to provide a mechanism for the full body to hold the ABC Chair and Articles Co-Chairs accountable to these goals.

## **ART-5: Publish an excel tracker for articles being seriously considered for publication**

**ONLINE VOTE:** 36-14-2 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The Articles Committee shall create and make available on Sharepoint an excel tracker with the articles reaching M-read and beyond, links to notes from the meetings, and with at least a subject matter tag.

**OFFICERS:** ABC Chair, Articles Co-Chairs

**DISCUSSION:** Survey responses and editor participation at meetings suggests that editors would benefit from more transparency in the articles pipeline. For example, it would've been useful before O-reads to know what other environmental law pieces are being considered and to have access to those pieces before definitely turning down an environmental law piece up for consideration at O-Read. In general, editors are also interested in keeping track of the subject matter and author diversity of pieces that are making it through our process.

## **ART-6: Make C-Read notes accessible to the general body**

**ONLINE VOTE:** 35-9-8 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The Articles Committee shall make the meeting notes taken at c-read accessible by the general body.

**OFFICERS:** ABC Chair, Articles Co-Chairs

**DISCUSSION:** Currently, the C-Read notes are not available to be seen by the general body, but they contain a lot of useful information about the strengths and weaknesses of an article discussed by people who have the birds-eye view over other submissions. Making C-Read notes available to the general body will aid in decision-making at O-Read. It will also support greater transparency by facilitating greater awareness amongst the general body about the articles selection process.

## **ART-7: Solicit input from both volumes on article selection via survey**

**ONLINE VOTE: 35-16-1 [Passed]**

**COMMITTEE VOTE: 7-0-0**

**TEXT:** By the end of orientation, the ABC Chair, in collaboration with the Articles Chairs, shall distribute a survey to both volumes soliciting input on the types of articles that should be published.

**OFFICERS:** ABC Chair; Articles Chairs

**DISCUSSION:** Both volumes should have an opportunity to provide input on the types of articles they would like to see published. While discretion on the exact questions asked should be left to the discretion of the ABC Chair, the ABC Chair should solicit feedback on considerations including: the subject matter of articles (such as Administrative Law, Constitutional Law, Family Law, etc.), the judicial philosophy animating articles (such as Originalism, Textualism, Purposivism, etc.), the methodology of the articles (such as empirical studies, historical analyses, narrative-oriented perspectives, etc.), and author characteristics (such as school, prior publication history, and author identity and diversity).

## **ART-8: Hold full-body meeting on article selection**

**ONLINE VOTE:** 33-14-5 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** Within two weeks following orientation, the President, in consultation with the ABC Chair and Articles Chairs, shall hold a full-body meeting where members will be given an opportunity to discuss their thoughts on article selection.

**OFFICERS:** President; ABC Chair; Articles Chairs

**DISCUSSION:** The upper and lower volumes should have an opportunity to discuss and establish shared values for the Law Review. The HLR article selection process is unique in that it gives the entire body an opportunity to participate directly. Though O-read gives editors an opportunity to participate regarding specific pieces under consideration, a full body meeting held soon after orientation would give the lower volume an opportunity to help shape the values of the Law Review and the upper volume an opportunity to share advice and lessons learned in terms of article selection. This meeting should be held either during orientation or as soon thereafter as possible so that the discussion can be held before O-reads (or at least a substantial number of O-reads).

## **ART-9: Create a new assignment for checking sources/characterization prior to O-Read**

**ONLINE VOTE:** 40-7-5 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The ABC Chair and the ME(O) may use their discretion to create a special one-day pool assignment that requires a spot check of sources and their characterization in an article prior to its O-Read, if they judge that the article needs more rigorous review in that aspect and there is pool availability for such an assignment. The assignment will consist of a brief memo (1-2 pages) discussing the overall accuracy, relevance, and diversity of sources used by the author based on an arbitrary sample of footnotes from the article, along with any pertinent comments on their characterization. The ABC Chair and the MEO may alternatively task a Lit Reviewer with a similar assignment.

**OFFICERS:** ABC Chair, MEO

**DISCUSSION:** Accurate characterization of and diligent citation to sources constitute core tenets of scholarly integrity. They should thus inform our evaluative criteria for articles selection, along with argumentative rigor, novelty of subject matter, diversity of perspectives, etc. While the rigorous subcite process is intended to refine articles on this front, an ex ante evaluation can help filter out articles that suffer such serious defects in their treatment of sources that they cannot be salvaged by student edits.

Because a meticulous scrutiny of all sources by a single poolworker is obviously implausible, the special assignment will take the form of randomly checking a few of the sources. The assignment need not be mandatory for every article; depending on the ABC Chair's judgment and availability in the pool, the assignment can be created on a discretionary basis. Judgment about an article's special need for source-checking may be informed by the Rotopool, M-Read, C-Read, and other feedback from the Articles Committee.

## **ART-10: Update Book Reviews Chair officer duties**

**ONLINE VOTE:** 49-3 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The ABC chair and Book chair will complete the S-reads for books. The BRC will henceforth be expected to match AE responsibilities unless there is an active P-read, other pressing BR-related work, or an exemption from the ABC or Articles Chairs.

**OFFICERS:** ABC Chair, Book Reviews Chair

**DISCUSSION:** S-reads for book reviews are currently a pool assignment. This past year, the Book Chair and ABC chair have informally been completing the S-reads because it is difficult for a poolworker to complete an entire book in the allotted time. This resolution codifies that practice. While historically the BRC has done half as many M-reads as the AEs and been exempt from screening shifts, recent experience has shown that the BRC can handle more responsibility and thereby ease the workload of the Articles Committee during peak periods.

## **ART-11: Improve articles submissions security**

**ONLINE VOTE: 50-1-1 [Passed]**

**COMMITTEE VOTE: 7-0-0**

**TEXT:** The articles committee will meet with HLR staff as soon as feasible and work with staff to update the security protocols for submission.

**OFFICERS:** ABC Chair, Online ChairS

**DISCUSSION:** Currently, the articles submission process does not screen well for spam or potential viruses. Updating our cybersecurity would require Salesforce administrative work to add additional screening measures to our current submissions process. The Salesforce is currently administered by Jennifer, so any changes would require her assistance and buy-in. As the articles committee currently downloads all submissions on either their personal machines or the Gannett desktops to manually screen out spam, there is a need to improve this process.

## **ART-12: Consider naming a standing faculty referee for empirical articles**

**ONLINE VOTE: 36-13-3 [Passed]**

**COMMITTEE VOTE: 7-0-0**

**TEXT:** The ABC Chair and Articles Chairs shall consider naming one standing faculty referee or several who shall review empirical articles before C-reads. If the article advances to O-reads, the ABC Chair would distribute the empirical report along with other O-read materials. The Online Chairs will consider implementing a comparable process for Forum or Blog pieces.

**OFFICERS:** ABC Chair, Articles Chair, Online Chairs

**DISCUSSION:** Empirical articles can make valuable contributions to legal scholarship. But editors often lack the expertise to evaluate important questions about their validity — for instance, whether the article’s causal design is credible, whether the assumptions of its statistical models are valid, or whether its analytical choices make sense. While we already receive faculty reviews before O-read, the articles committee might understandably be less equipped to judge an empirical piece’s quality. A review at this earlier stage would help. Moreover, faculty reviews before O-read are often cursory. A standing reviewer with an ongoing relationship with *HLR* might feel more invested and more responsible for the quality of empirical pieces that we publish, and thus put more time into their feedback.

While we think a standing empirical referee would have advantages, it also has drawbacks. It might be a lot to ask of an individual faculty member. Having a single professor weigh in could introduce unexpected biases. If a faculty reviewer is not consistently available for giving in-depth review to pieces, it might lead to inconsistent review among different empirical pieces. There might also be concerns arising when the faculty referee(s) submit their own articles to *HLR*, and whether the articles committee would be able to objectively evaluate those articles without considering the fact that they provide support through their role as empirical referee, and how the relationship with the referee might be affected if we do not accept their article submissions.

This resolution therefore suggests the idea of an empirical referee(s) to the relevant officers while leaving the decision to their judgment.

## Community

### **COMM-1: Ensure sufficient number of non-alcohol-centered events sponsored by *HLR***

**ONLINE VOTE:** 36-11-5 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** At least once a month, *HLR* will commit to planning at least one event for which the main purpose is not a party (e.g., movie nights, restaurant outings, game nights, or other similar events). Only events open to everyone in both volumes will satisfy this requirement.

**OFFICERS:** VP-CDO

**DISCUSSION:** This resolution aims to make the *HLR* social community more accessible to editors who do not drink or who prefer socializing in low- or non-alcohol settings. The “half” number need not be precisely followed, but is designed to encourage the planning of non-alcohol events to offset any alcohol-focused events that are planned or that are regular features of the social calendar (e.g. Supra Bowl and Fall Ball).

## **COMM-2: Ensure physical accessibility for all events**

**ONLINE VOTE:** 49-2-1 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** HLR will not host events in spaces that are physically inaccessible. Prior to booking any space, particularly those off campus or in unfamiliar locations, the officers involved in planning the event will ensure the space being used is accessible. This requires not only inquiring about the formal designation of the space as accessible, but also considering practical ease of use and comfort of the space and/or activities. The burden of developing accommodation solutions will lie with the officers planning an event. The officer(s) in charge of an event will proactively and openly communicate details about accessibility and conditions at a space prior to the event. To ensure Gannett's accessibility, the Big 4 will communicate with an accessibility consultant every few years to make sure the building is in full compliance.

**OFFICERS:** All Officers. Particularly relevant for P, VP-CDO, VP-T, ABC Chair & Article Chairs.

**DISCUSSION:** All editors should be able to access any *HLR* events, including off-campus events such as retreat. Ensuring that all spaces are physically accessible is essential to inclusion and community-building and should always be a priority. This resolution aims to ensure that accessibility is considered by default and further integrated into event/activity design and *HLR* traditions, as part of the culture of the journal. In the long term, the VP-CDO should continue developing a more efficient mechanism for ensuring accommodations are made proactively and automatically, without needing prompting or requiring work by individual editors requesting accommodations.

## **COMM-3: Promote use of pronouns**

**ONLINE VOTE:** 42-9-1 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** Officers will make a good-faith effort to encourage use of pronouns. Those leading *HLR* meetings will open the floor to include pronouns in self-introductions for all editors who feel comfortable doing so.

**OFFICERS:** VP-CDO, All Editors

**DISCUSSION:** Very few editors engage in the standard practice of using their pronouns in conversation, nor are introductions in *HLR* spaces typically accompanied by pronouns (particularly after the first few days of orientation). As a result, the burden of ensuring correct pronoun usage typically falls on trans and nonbinary editors. At the same time, pronouns should not be mandatory. For instance, an editor exploring their gender identity might be unsure of their pronouns. An editor could also be unsure as to whether they feel safe being out in *HLR* spaces. This resolution aims to strike a balance by establishing a norm of creating space to share pronouns and encouraging use of and sharing of pronouns for those who feel comfortable doing so.

## **COMM/SW&T-4: Hold in-person event, for both volumes, during September**

**ONLINE VOTE: 44-5-3 [Passed]**

**COMMITTEE VOTE (COMM): 7-0-0**

**COMMITTEE VOTE (SW&T): 7-0-0**

**TEXT:** In early September, *HLR* will hold a second, mandatory, in-person orientation for new editors (in addition to the current July orientation). The September orientation should be designed around three goals:

1. First, to acculturate and welcome new editors to the physical space of Gannett House and to introduce them to staff members;
2. Second, to facilitate connections within the lower volume through community-building exercises and diversity training; and
3. Third, to reinforce and extend the material conveyed in the July orientation, such as through sessions on advanced technical editing and review of common errors and misunderstandings apparent from August poolwork.

The September orientation will be organized under the supervision of the Managing Editor and VP-CDO, and, if COMM-6 passes, in conjunction with the orientation subcommittee of the newly formed Community Development Committee. The July orientation should be recalibrated to focus on training sessions essential for August poolwork.

**DISCUSSION:** In general, while it is logistically necessary for July orientation to be conducted online, there is great value in having additional training in-person. For example, it is easier to absorb material in person and in-person trainings help facilitate community building. This second, in-person orientation can also serve to help refresh junior editors' memories after having done poolwork for one month. Prior volumes have held "poolwork feedback sessions" in the fall, which editors considered to be helpful refreshers. In addition, this past September, Volume 137 hosted an in-person mixer at Gannett to provide incoming editors an opportunity to get to know one another in an informal social setting. The Transition Survey indicated that the event was a success, with countless members of the body citing it as their favorite social event of the semester and indicating that it was crucial to the process of intra-volume bonding. One prominent concern voiced by many members of the body was feeling separated from the upper volume. Ideally, this resolution provides a space for the entire body to congregate and begin the process of welcoming the new body together. An important component of this prospective event is acquainting incoming editors with Gannett, so that they feel comfortable within the space as early as possible. We also hope the event can begin what should be an ongoing discussion about the norms and values that the body hopes to cultivate during the upcoming year on the journal. One possibility is to begin with a Presidential Address followed by a group discussion and then to transition into a more light-hearted social event.

## **COMM-5: Encourage lower-volume editor attendance at summer alumni-editor meetings**

**ONLINE VOTE:** 44-5-3 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** Following the selection of the incoming class of editors, the VP-CDO, funds permitting, may organize informal social gatherings of new editors, returning editors, and alumni in locations where a significant number of new editors are located. The gatherings should, in part, be for the purpose of introducing new editors to the *HLR* community and alumni network.

**OFFICERS:** VP-CDO, All Editors

**DISCUSSION:** We spent a long time discussing the importance of integrating new editors into our community as early as possible. Recognizing the importance of inertia in socialization, we found it appropriate to begin this process in the summer. This is especially important to ensure that *HLR* is not initially perceived as an entity that only assigns work and doesn't provide any communal component. While we currently have summer events meant for editors and alumni, the resolution passed last tradition suggested the events are intended to serve as opportunities for mentoring and networking. Through this new resolution, we hope to expand the purpose of these events to include welcoming the new editors into our community.

**COMM-6: Create a Community Development Committee that works to foster ongoing connections between editors through social events and create a more collaborative working environment for all *HLR* members**

**ONLINE VOTE:** 40-8-4 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The Community Development Committee will work with the VP/CDO to foster an inclusive, accessible environment for *HLR* editors. The Committee will be split into two sub-committees: one responsible for planning social events throughout the year (e.g., issue parties, programming during retreat, etc.) and the other responsible for working with the ME to welcome new editors and plan orientation. In addition to the ME and VP/CDO, at least three members from each volume would join the Committee. Its mandate would include planning more social events throughout the year that are not centered around alcohol and creating a welcome environment for all editors, beginning in orientation. It would also assist with the September in-person Gannett event should COM-4 pass.

**OFFICERS:** VP-CDO, All Editors

**DISCUSSION:** Currently, the VP/CDO shoulders most of the responsibility for planning community-building events, save for some one-off efforts by individual editors and socials planned by affinity groups. There is growing concern in the body — and the lower volume in particular — about social events being unwelcoming or inaccessible (particularly because of the prominent role alcohol plays in these events). Moreover, editors have expressed interest in getting to know each other sooner, elevating the role of community building in the orientation process. A Community Development Committee would address both issues, helping make genuine community building both more intentional and integrated into everything we do.

## **COMM-7: Accelerate timeline for alumni-mentor matching**

**ONLINE VOTE:** 43-8-1 [**Passed**]

**COMMITTEE VOTE:** 6-0-1

**TEXT:** The VP-CDO will conduct alumni-mentor matching well before lower volume editors' first semester finals.

**OFFICERS:** VP-CDO

**DISCUSSION:** Many found the alumni panel during orientation to be a helpful and exciting experience. As is now, editors may find alumni through the Box database or Amicus and reach out independently. However, this resolution aims to encourage the earlier creation of a formal alumni-editor bond by the VP/CDO in order to — with the official backing of an *HLR* officer — allow editors earlier access to alumni for *HLR* onboarding and conversation opportunities to help guide the first semester of 2L year. The matching itself would not require significant work on the VP/CDO's part beyond conducting the initial matching and communication to formally connect lower-volume editors with alumni mentors over email. This resolution would also support lower volume editors entering Transition and Elections to garner wisdom and suggestions from editors of years past.

## **COMM-8: Modify shoutouts program to exclude shoutouts for exceptional poolwork in lieu of private feedback system with pool holiday rewards**

**ONLINE VOTE:** 35-14-3 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The shoutouts program (that is, the monthly emails the ME/VP-CDO send out lauding particular editors for exceptional poolwork and officer work) will be modified to contain two categories: (1) shoutouts for building community (open to both volumes); and (2) exemplary officer work (open to upper-volume officers only). Exceptional poolwork will be rewarded via a private feedback system, where exemplary poolworkers may be rewarded with one (1) pool holiday (the ME has ultimate discretion over whether and when to award a given holiday, based on the needs of the pool) . These awards will not be publicized and instead be sent to recipients via a one-on-one email. Finally, this system is to be explained in the first shoutout email of the year to maximize transparency.

**OFFICERS:** VP-CDO, All Editors

**DISCUSSION:** Currently, shoutouts are given for exceptional poolwork, officer work, and community building. The revised shoutouts system would ensure that exceptional leadership, both by officers and in terms of community-building, remains recognized, while reducing the sense of competition that individuals may feel when they first join *HLR*. The private awards for exceptional poolwork incentivizes careful poolwork while avoiding the pitfalls of the shoutout system. Editors/EEs/Super-Es are also encouraged to directly reach out to those they feel did a good job on poolwork, which will likely help with relationship building and prevent the poolwork structure from feeling overly formal.

## **COMM-9: Modify selection process for the following “Editor of the Month” categories: Service, Respect, and Community-Building**

**ONLINE VOTE:** 40-4-8 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The three “Editor of the Month” awards for Service, Respect, and Community-Building will no longer be selected on a peer-to-peer basis. Rather, all editors will be able to nominate candidates based on efforts to (1) improve the journal, (2) foster a culture of respect, and (3) welcome everyone to our community, respectively.

**OFFICERS:** VP-CDO, All Editors

**DISCUSSION:** Currently, these three “Editor of the Month” (EOM) awards are given on a peer-to-peer basis, with the current recipient selecting the next. Besides the self-explanatory award description, the only guidance given is a list of past EOMs in all six categories (including Detail, Effort, and Dedication — which are chosen based on feedback forms). The goal in providing this list is to encourage nominating editors who have not yet received EOMs. Even so, the peer-to-peer process limits the pool of later recipients, as the criteria inherently involves interpersonal familiarity and/or social prominence. Furthermore, any *HLLR* editor can presumably consider efforts to improve the journal, foster respect, and welcome others to the community. By opening the nomination process to all editors, these awards will better reflect community consensus, which is precisely the value these awards are meant to recognize.

## **COMM-10: Design merch during and for orientation**

**ONLINE VOTE:** 36-12-4 [**Passed**]

**COMMITTEE VOTE:** 6-0-1

**TEXT:** The incoming volume will have the opportunity to vote on a piece of apparel, for their volume specifically, that it designs during orientation.

**OFFICERS:** VP-CDO

**DISCUSSION:** Orientation is the first opportunity for the incoming volume to get to know each other. It is also a lot of work for the relevant officers to prepare training, panels, and other Orientation logistics. To empower the lower volume to work together on a light-hearted project and begin making decisions on *HLLR*, it should play a prominent role in selecting a design for an inexpensive piece of merchandise or apparel. At the discretion of the VP-CDO, a committee comprising at least half of the new volume shall convene during Orientation to create different designs. The incoming volume will then vote and select one among the committee's designs for the apparel or merchandise that they will receive at the start of the semester.

## Editing & *Bluebook*

### **E&BB-1: Promote *Bluebook* equity**

**ONLINE VOTE:** 42-7-3 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** Volume 137 *Bluebook* Chairs shall evaluate the ways in which the existing *Bluebook* business fits into HLR's goal of promoting equity within and outside of the organization. To address questions around *Bluebook* equity and the feasibility of alternative business models for the *Bluebook*, the *Bluebook* Chairs and Strategy & Oversight Chair (if the S&O position is created) shall develop a proposal for a multi-phase initiative that aims to:

1. clearly define the equity concerns HLR intends to address via changes to the *Bluebook* business;
2. evaluate how the *Bluebook* business fits into HLR's goal of promoting equity within and outside of the organization;
3. carefully explore the feasibility and implications of alternative operating models for the *Bluebook*; and
4. evaluate alternative avenues for addressing specific equity concerns.

The chairs shall work closely with the *Bluebook* team to outline a proposed plan. Any plan developed should be long term (i.e., a plan that would extend beyond Volume 137) and have multiple phases or intermediary goals. The proposed plan shall be presented to the broader body.

The chairs shall collaborate with the *Bluebook* team to codify efforts that have already been made and findings that have already been gathered regarding operational changes to the *Bluebook* business. Such findings shall be presented to the larger body and preserved in a manner that can be communicated to future HLR editors.

**OFFICER:** *Bluebook* Chairs, Strategy & Oversight Chair

**DISCUSSION:** This resolution intends to encourage continued dialogue on broader equity concerns that the body feels HLR can address and how the *Bluebook* business fits into that vision. This resolution builds on a resolution passed in 2022 (EBB-1) and calls for the *Bluebook* Chairs to take an actionable step towards exploring concerns raised by the body. The process of changing the *Bluebook* business model must be approached carefully given the broad implications of such an action. Thus, this resolution is intended to ensure that this issue is addressed in a careful and structured manner.

## **E&BB-2: Improve *Bluebook* operations support**

**ONLINE VOTE: 48-1-3 [Passed]**

**COMMITTEE VOTE: 7-0-0**

**TEXT:** The Volume 137 *Bluebook* Chairs shall codify various responsibilities related to supporting the *Bluebook* team in managing *Bluebook* operations. The Volume 137 *Bluebook* Chairs shall explore potential avenues for providing additional support to *Bluebook* staff members and ensuring proper maintenance of operations in the event a staff member is absent or on leave.

The Volume 137 *Bluebook* Chairs shall identify mechanisms to involve the *Bluebook* team in the transition process in order to ensure that: (1) the *Bluebook* staff has an opportunity to provide feedback on *Bluebook* related resolutions and (2) editors have an opportunity to obtain the institutional knowledge that the *Bluebook* staff can provide. In Volume 137's "State of the *Bluebook*" Presentation, the *Bluebook* Chairs shall report to the full body on the status of this initiative.

**OFFICER:** *Bluebook* Chairs

**DISCUSSION:** *Bluebook* staff members are central to maintaining the *Bluebook* business. Currently, *Bluebook* Chairs play a critical role in supporting the *Bluebook* team in maintaining business operations. Lack of additional support resources may pose a risk to the *Bluebook* business and limits the amount of flexibility the *Bluebook* staff has in their roles. Sustainability of the *Bluebook* business may require that we obtain additional support, in some capacity, for these roles.

## **E&BB-3: Implement standard editing procedures and best practices for empirical pieces**

**ONLINE VOTE: 47-2-3 [Passed]**

**COMMITTEE VOTE: 7-0-0**

**TEXT:** The text of the Joint Statement on Empirical Legal Scholarship will be posted on the Law Review's website.

In response to our obligations under the Joint Statement and the challenges of publishing empirical work, pieces that contain original empirical analysis will receive specific empirical review at each step of the submission and editing process. The following procedure will be implemented and recorded in the Managing Editor's internal guide.

1. Where feasible, Rotopools of empirical pieces will be done by editors with the empirical skills necessary to provide a cursory evaluation of the quality of the empirical work.
2. M-reads will be performed by AEs with the necessary empirical background, or else supplemented by a separate pool assignment to another editor with the necessary background.
3. Literature reviews and S-reads will be performed by pool workers with the requisite empirical skills. The ME and ABC chair can either give additional time for a single pool worker to perform these tasks, or create multiple assignments. For example, one pool worker could receive a traditional literature review assignment, and another would receive the empirical review assignment.
4. Where feasible, an EE with empirical skills will EE empirical pieces.
5. Pieces with remaining empirical concerns at the subcite stage will be assigned a separate empirical subciter to finalize the analysis.

The Managing Editor will have final discretion to modify the process as necessary in response to the status of particular pieces and the capacity of the pool.

If empirical student writing is accepted, it will be edited according to the principles described above, modified as necessary by the Notes editors and ME. Additionally, all underlying data should be provided by C-read and must be provided by S-read or the piece will be dissolved.

**OFFICERS:** ME

**DISCUSSION:** This resolution intends to reaffirm empirical standards the body has agreed to via the Joint Statement on Empirical Legal Scholarship and outline procedures that may be required to ensure that empirical pieces meet editorial standards. Many of the practices outlined in this resolution have been implemented by the current Managing Editor for pieces submitted by outside

authors. Thus, this resolution also intends to codify existing best practices and establish parallel processes for student writing.

## **E&BB-4: Continue discussions on Indigenous inclusive citation practices for inclusion in the *Bluebook***

**ONLINE VOTE: 50-1-1 [Passed]**

**COMMITTEE VOTE: 7-0-0**

**TEXT:** The Volume 137 *Bluebook* Chairs shall continue discussions with the Law Librarians for Indigenous Inclusive Citation Practices regarding the inclusion of tribal law citations within the *Bluebook*.

The Volume 137 *Bluebook* Chairs shall communicate the following information to the LLIICP at their first meeting:

1. changes to the contents of the *Bluebook* can only be expected to occur when there is a new edition; and
2. because HLR membership changes annually, we cannot guarantee that this initiative will continue across volumes.

The *Bluebook* Chairs shall generate a memorandum to be distributed to the full body in September or October regarding:

1. the scope of tribal law citations in the current *Bluebook*;
2. the requests suggested by the Law Librarians for Indigenous Inclusive Citation Practices;
3. the avenues through which these concerns could be addressed; and
4. proposed recommendations for further steps with a proposed timeline for the incorporation of tribal law citation rules in the next edition of the *Bluebook*.

In Volume 137's "State of the *Bluebook*" Presentation, the *Bluebook* Chairs shall report to the full body on the status of this project.

**OFFICERS:** *Bluebook* Chairs, Strategy & Oversight Chair

**DISCUSSION:** This resolution is based on concerns raised by a petition from the LLIICP about the lack of tribal law citations in the *Bluebook*. LLIICP states that the only references to tribal law in the current *Bluebook* are: (1) a "reference to the Navajo Nation;" (2) a "link to a non-functional 'Oklahoma Native Americans' reporter that ceased publication in 2009 and is not available to any law schools"; and (3) a "note that 'Tribal Court' can be abbreviated to 'Tribal Ct.' along with other generic court names." This is a major gap that has implications for preventing citations to tribal law, lack of uniformity in citing to tribal law, and less engagement with tribal law materials both in legal scholarship and the courts.

While staff and *Bluebook* chairs have had ad hoc conversations with LLICP about this issue, this resolution would formalize and produce a record of that dialogue and get the ball rolling on an initial framework for tribal law citations ahead of the next *Bluebook* edition.

## **E&BB-5: Provide ME with discretion on the allocation of editors to Galleys and Pages**

**ONLINE VOTE:** 39-12-1 [**Passed**]

**COMMITTEE VOTE:** 5-2-0

**TEXT:** The baseline for each Galleys and Pages assignment will no longer be 4 editors for Forum pieces and 3 editors for print pieces. Instead, it will be within the Managing Editor's discretion to assign as many editors or as few editors to a Galleys and Pages assignment depending on the Managing Editor's sense of how much additional attention the piece requires.

**OFFICER:** ME

**DISCUSSION:** This resolution is intended to ensure that more resources can be spent on early-stage editing and substance-focused assignments, including Rotopools and First and Second Subcites, and, if possible, to decrease editors' days in the pool. It is also intended to reflect the fact that although fixing technical errors is an important part of the editing process, it currently makes up a disproportionate share of what we do. Galleys and Pages are the majority of our poolwork, and we treat errors as our responsibility, despite the fact that at other academic publications, errors are the responsibility of the author. While it is important for us to continue to maintain high publishing standards, it may be a better use of editor resources to focus on early-stage editing (i.e., subciting), student writing, or choosing pieces for publication.

# Governance

## GOV-1: Add officers

**LIVE VOTE (AUTOLIVE): 41-6-5 [Passed]**

**COMMITTEE VOTE: 8-0-0**

**TEXT [AMENDED LIVE]:** Volume 137 will add the following four positions: (1) an additional Managing Editor (ME), (2) an additional EE, (3) an additional Notes Editor, and (4) a Strategy & Oversight Chair (SOC). With the addition of an ME, the current ME position would be split into a Managing Editor of Publication (MEP) and a Managing Editor of Operations (MEO). Both positions will retain the title of Managing Editor, be a part of the “Big 5” (former Big 4) and shall be elected during live elections. The MEP would be chair of the masthead, final arbiter of Bluebook and Blackbook, editor of the Blackbook, overseeing bookproofs, contractproofs, coordinating with publisher, and additional miscellaneous editorial things (e.g., testing new software and macros). The MEO would be in charge of daily pool assignments, pool and officer accommodations, pool planning, publication timeline planning, author contracts, orientation, editing colorful books, state of the pool emails and poolworker/officer shoutouts, and feedback on pool/officer work. The SOC position would be reinstated as it existed previously, subject to several clarifications and additions of the position's mandate. See the discussion section for further details. The SOC shall be elected during live elections.

**OFFICERS:** (additional) ME, EE, NE, SOC

**DISCUSSION:** Given the addition of four editors to Volume 137, Volume 137 can allocate these additional four editors among four officer positions so that there are 50 officer positions to match Volume 137's 50 editors. The recommendation to add an ME, Super-E, NE, and S&O Chair are explained in more detail below.

**Additional Managing Editor.** There is interest in adding an additional ME because of the high current workload and the disparate responsibilities between operations and publication work. The current ME position requires a weekly commitment of, on average, forty hours each week, but the weekly commitment can exceed seventy to eighty hours. Dividing the ME's position into two MEs would make the responsibilities more manageable and would allow each ME to be more involved in their respective domains. Both MEs should retain the title “Managing Editor.” The Volume 136 and 135 MEs both support splitting the ME position into two MEs. Volume 136 was unable to enact this change at their Transition because the Volume was forced to eliminate two officer positions as the Volume was smaller than the standard volume by two members. According to the current ME, Dasha, an additional ME would have allowed the MEO to assist EEs with pieces that are in difficult technical or substantive shape by helping with Bookgrabs and Subcites. Together the MEO and MEP would have also been able to get an Empirical Committee up and running to plan and implement empirical checks for technical pieces. This was previously done in an ad hoc manner.

Additional Supervising Editor. Volume 136 eliminated a Supervising Editor during their Transition because it had to cut two officer positions. As a result, the Supers this year have been required to do more work than in years past. As anticipated in Volume 136's Transition resolution eliminating a Super position, the ME sent various assignments in the Pool to offset some of this work (like type-ins). But these assignments placed greater strain on the Pool, extended the editing process, and introduced many errors (in substance and in formatting) into the piece.

**Additional Notes Editor.** The Notes Committee saw an increase in student writing this year, and, as a result, Notes Editors have had more work this year than in years past.

**Strategy & Oversight Chair.** Volume 136 eliminated the Strategy & Oversight Chair (SOC) during their Transition because it had to cut two officer positions. The SOC's duties were transferred to the President and VP-T. As before, the SOC will be responsible for overseeing and shepherding the long-term strategic goals of HLR as an institution. This comes with several mandates:

- The SOC shall be responsible for *HLR's* long-term and strategic projects, such as the *HLR* Fellowship(s), editor compensation, and Bluebook equity
- The SOC shall be a general representative of editor's interests. This shall include facilitating anonymous feedback between editors and relevant officers (including the exploration of doubly-anonymous feedback technologies), organizing collective action, and engaging with the Diversity Committee to maintain long-term statistics about HLR and the body such as those contained in the Committee's quality of life survey.
- The SOC shall be responsible for overseeing Transition. See below for more details.

The SOC & Transition. The SOC shall replace the function of the Transition Chairs, and will be responsible for coordinating the lower volume's Transition process. The SOC shall serve as primarily an administrator of Transition to ensure deadlines, meetings, and events are scheduled and executed. However, the SOC may also serve as a source of information, institutional knowledge, and advice. As part of the SOC's Transition duties, they may consider drafting a memo to the lower volume ahead of Transition summarizing ongoing or incomplete resolutions as well as providing substantive and procedural suggestions for the upcoming Transition.

As part of the SOC's Transition-related duties, they will ensure that Transition Resolutions from past volumes are documented and cataloged to reduce redundancy and increase accessibility to institutional knowledge. As such, there should be documentation of the state of each resolution passed in the previous five years. This documentation should be shared with the body and readily available. We recommend that the SOC use the following documentation and categorization:

- Separate the past five years' resolutions into at least two categories:
  - Active Resolutions: Those that remain adhered to by the body of HLR
  - Abandoned Resolutions: Those that are no longer adhered to or have been otherwise superseded
- For those resolutions that are considered Active the SOC should work with the MEO to incorporate them into the relevant color book or otherwise document them.
- For Abandoned resolutions, the SOC should investigate roughly when they were abandoned, the reason for its abandonment, and what, if any, resolution superseded it.

If the SOC, in coordination with the ME of Operations, believes that the creation of a separate colored book or other mechanisms for the codification of HLR resolutions is more appropriate than incorporation into an existing colored book, they shall have the discretion to create a new colored book or venue as they deem appropriate in consultation with other officers.

## **GOV-2: Formalize the intern hiring process**

**ONLINE VOTE:** 46-4-2 [**Passed**]

**COMMITTEE VOTE:** 7-1-0

**TEXT:** The Supervising Chair and Managing Editor of Operations shall oversee Super-E HLR internship hiring for Volume 137. They should utilize input from the other Super-Es and may utilize input from the President. The Supervising Chair and Managing Editor of Operations shall formalize this hiring process for use by future volumes. Such formalization may consist of drafting a template hiring notice; outlining an interview and candidate selection process; streamlining intern onboarding; and clarifying both the goals of the internship program and qualities of ideal candidates, in line with HLR's budget.

**OFFICERS:** Supervising Chair, MEO, President and Super Es.

**DISCUSSION:** There has never been a formalization of the intern hiring process at HLR yet interns provide valuable support to HLR editors. Formalizing hiring will allow for a uniform process that recruits interns that can both benefit from the position (e.g. those with an interest in legal scholarship) and provide a robust, well-rounded program for maximum benefit of the organization.

## **GOV-3: Codify exceptions to the J-Term residency requirement**

**ONLINE VOTE: 49-2-1 [Passed]**

**COMMITTEE VOTE: 8-0-0**

**TEXT:** This committee urges the Managing Editor to provide sample exceptions and exemptions to the J-Term Residency Requirement in the Greenbook. This may include:

1. Listing possible exemptions for editors who cannot be physically present in Cambridge during the weekend of live voting, and,
2. Emphasizing that communication and providing ample notice of absence during J-Term is likely sufficient to avoid a banked day penalty.

**OFFICER(S):** MEO

**DISCUSSION:** In the Transition Survey, many editors voiced frustration at the J-Term residency requirement, and some even expressed that they forwent academically and professionally enriching opportunities due to this requirement. Requiring editors to be physically present during the weekend of live voting may also impose significant financial burdens and travel costs on low-income editors. There is currently very little information in the Greenbook about which exemptions to the J-Term Residency requirement have been recognized in the past, and seemingly no leeway at all for editors who cannot attend live voting. Thus, to increase transparency, the ME should update the Greenbook with examples of acceptable exceptions, such as other professionally enriching opportunities, family circumstances, or financial burden.

## **GOV-4: Codify bank day penalties and other punitive measures**

**ONLINE VOTE: 44-5-3 [Passed]**

**COMMITTEE VOTE: 7-0-1**

**TEXT:** While bank day penalties and other punitive measures may occasionally be necessary, they should be used rarely and only as a last resort if necessary to ensure editor attendance at critical functions or proper functioning of the Review. However, before imposing any punitive measures, the responsible officer should first exhaust any non-punitive options, including individualized conversations with editors and ad hoc exceptions where warranted. Moreover, punitive measures are rarely justified if editors have not been warned in advance about the possibility of penalties.

In general, the Managing Editor of Operations shall have discretion over any punitive measures, subject to the principles articulated above. However, should an editor feel that a penalty is unfair or unreasonable, they may appeal to the other members of the “Big Five,” a group consisting of the President, both Managing Editors, and both Vice Presidents. A majority of that group may then overrule the responsible officer’s decision, but only to reduce or void the penalty. In considering whether to overrule, there should be a strong presumption to defer to the Managing Editor of Operations’ decision unless that decision is clearly unreasonable.

To the extent that this resolution is inconsistent with Resolution GOV-3 concerning attendance during the January Term, including potential penalties for failure to attend in person, that resolution shall supersede this one.

**OFFICERS:** MEO, President

**DISCUSSION:** Bank day penalties and other punitive measures are sometimes used at HLR in order to encourage attendance at certain meetings (e.g., Transition, elections) as well as satisfactory completion of Poolwork. This resolution seeks to accomplish two things. First, it codifies our general view that, while punitive measures may occasionally be necessary, they should be only given as a last resort. Second, currently either the Managing Editor or the President have complete discretion to impose penalties. To avoid the possibility of future abuse, this resolution creates a mechanism to appeal any punitive measure to the Big Five.

## **GOV/MEM-5: Codify editor compensation next steps**

**ONLINE VOTE: 40-7-5 [Passed]**

**COMMITTEE VOTE (GOV): 7-1-0**

**COMMITTEE VOTE (MEM): 5-1-1**

**TEXT:** The *Law Review* shall continue researching the viability of editor compensation, with the intention of holding a vote to amend the Constitution in Spring 2023. To this end—

1. The President, Vice President/Treasurer, and Strategy & Oversight Chair (if reinstated) shall pursue all necessary investigation into the remaining open questions regarding editor compensation, and
2. The editor compensation committee shall be established as a standing committee.

**OFFICERS:** President, VP-T, Strategy & Oversight Chair

**DISCUSSION:** This past year, the *Law Review* has undertaken a concerted effort to investigate the viability and potential implementation of several editor compensation models. Though the editor compensation committee has made great strides, there remain open questions about the legal and financial status of different models. The current Big 4, recognizing the challenges yet to be addressed, delayed any vote to potentially amend the Constitution. This Resolution seeks to continue the *Law Review's* ongoing pursuit of editor compensation, and grant additional time to the relevant officers and compensation committee to finish their work. This added time will ensure that any vote to amend the Constitution will take place in view of the whole set of facts surrounding the differing compensation models. Furthermore, this Resolution seeks to establish the compensation committee as a standing committee, so it may continue research efforts in future years (as needed) and monitor the success of any implemented compensation model.

## **GOV-6: Increase transparency of editor position in recruitment process**

**ONLINE VOTE: 42-7-3 [Passed]**

**COMMITTEE VOTE: 7-1-0**

**TEXT:** The VP-T and VP-CDO are encouraged to provide as much clarity as possible around the mandatory time commitments that being a first year editor. To that end, they shall provide on the HLR website as part of the competition and recruitment materials the dates and approximate time commitment of mandatory commitments for first year editors. This may include:

1. The times and dates of orientation as well as the likely assignments each editor will complete that week
2. The number of assignments and approximation of time that new editors can expect to have in August following orientation
3. The J-term residency expectations and any exceptions that may apply
4. The approximate number of days each month that editors are in the Pool along with the number of hours each week editors spend working on *Law Review* assignments.

**OFFICER(S):** VP-CDO, VP-T

**DISCUSSION:** In the Transition Survey, many editors voiced frustration with the lack of transparency regarding the required and/or in-person commitments for first year editors. Requiring editors to be present for orientation, in the Pool during August, in-person during January, and be in the Pool each month are core to the work of a first-year editor. There is currently little information provided to potential editors during the recruitment process and prior to accepting an offer to join *Harvard Law Review*. Providing this information will ensure that potential editors are given an honest and complete picture regarding the time commitments that being an editor on the Harvard Law Review entails. Additionally, providing these dates and approximate time commitments will help to dissuade any preoccupations that potential editors may have about their ability to be a member of the *Law Review*.

## GOV-7: Modify election procedures

**LIVE VOTE (AUTOLIVE): 33-10-9 [Passed]**

**COMMITTEE VOTE: 7-0-1**

**TEXT:** In order to ensure that elections are as fair and equitable as possible, elections should be modified as such:

- Live elected positions held jointly by more than one person (e.g., co-chairs) should be elected via approval voting instead of a ranked-choice system
- In general, if there are more than four candidates for President, the first round of elimination should normally remove at least two candidates
- Side conversations should be strongly discouraged
- Use of electronic devices should be strongly discouraged unless absolutely necessary

**OFFICERS:** President

**DISCUSSION:** The change to approval voting is designed to remove some oddities associated with the existing ranked-choice voting system for positions with more than one holder. For example, if candidates A and B each receive 25 first-place votes but candidate C receives all 50 second-place votes, candidates A and B would win under our current system, even though every editor wanted candidate C to be one of the two position holders.

The rule about the presidential election is designed to prevent a single person from being the first candidate eliminated. It also can help speed the presidential election.

The final two proposals are designed to focus conversation on whichever editor is presently speaking. While we understand that this is current practice, we also recognize that sometimes they are not abided by and would like to reaffirm their importance to the election process.

# Membership

## **MEM-1: Increase the proportion of editors accepted through holistic review**

**LIVE VOTE (AUTOLIVE): 11-36-5 [Failed]**

**COMMITTEE VOTE: 5-1-1**

**TEXT:** For the 2023 Writing Competition, the ten editor spots (currently, one from each section and three without respect to section) that equally weigh grades and competition scores, commonly known as “grade-on” spots, will now be selected through holistic review. This means these ten spots will be allocated on a consideration of grades, competition scores, and holistic review information. Absent another resolution regarding editor selection breakdown during the 2024 Transition, the editor selection breakdown in 2024 will revert to the 2022 scheme.

**OFFICERS:** President, VP-T, Holistic Review Committee

**DISCUSSION:** No proxies for assessing editor qualifications will ever be perfect. However, grades are often a source of hesitation for potential candidates. Though this resolution does not propose that grades should be entirely eliminated, it will allow grades to be considered holistically as opposed to formulaically, which can lead to arbitrary cutoffs. An additional advantage to this resolution is that it increases the spots for editors selected through holistic review, which supports *HLLR*'s goals of increasing diversity and inclusivity in its membership. Additionally, if the holistic review statement is mandatory for all competition takers (per proposed resolution), then every student taking the competition is eligible for these spots.

## MEM-2/GOV-2A/2B: Increase the number of 2L editors

**LIVE VOTE (AUTOLIVE): 32-17-3 [Passed 2B]**

- 2A (+2): 40-9-3
- 2C (+6): 22-27-3
- 2D (+8): 10-39-3
- 2E (+10): 3-46-3
- Decrease (-2): 7-42-3

**COMMITTEE VOTE: 7-0-0**

**TEXT:** Going forward, HLR will increase the number of editors who join HLR as 2Ls from 100 (50 per volume) to:

- If [Resolution 2A] passes, the total number will be at least 104 editors (52 per volume).
- **If [Resolution 2B] passes, the total number will be at least 108 editors (54 per volume).**
- If [Resolution 2C] passes, the total number will be at least 112 editors (56 per volume).
- If [Resolution 2D] passes, the total number will be at least 116 editors (58 per volume).
- If [Resolution 2E] passes, the total number will be 120 editors (60 per volume).
- If none of the above pass, the total number will remain at 100 editors (50 per volume).

When considering these resolutions, please vote affirmatively for all increases in editors up to the maximum number you would feel comfortable adding. For example, if an editor wants to add 112 editors (56 per volume), they would vote affirmatively for [Resolutions 2A, 2B, and 2C].

**OFFICERS:** President, VP-T, VP-CDO, ME [note: Subject to change based on other resolutions]

**DISCUSSION:** *HLR* currently has 102 editors when both Volumes are fully staffed:

- 50 members in the senior Volume who joined as 2Ls last year,
- 50 members in the junior Volume who joined as 2Ls this year, and
- 2 additional transfer members in the junior Volume who joined as 3Ls.

Because each incoming HLS class is approximately 560 students, HLR currently invites only 8.9% of 1L students to become editors. Meanwhile, YLJ has [128] total editors, and SLR has [123] total editors. This amounts to over 30% of the 1L class at Yale Law and approximately 36% of 1Ls at Stanford Law being offered spots on each school's flagship journal.

Therefore, unlike Harvard, Yale and Stanford appear to be a) distributing the career and community benefits of their flagship journals to a larger share of the student population and b) subdividing the journal workload among a larger number of people. This resolution proposes to make HLR's membership closer to that of its peer journals and, in turn, share the benefits of the Law Review with a greater share of HLS students and establish a more reasonable workload for editors.

By adding more editors, this resolution – if successful – will likely increase student writing and associated pool work. Transition voters should also consider that such student writing may require additional Notes Editors and/or changes to the Officer structure more generally to support this incremental work.

Note, there is a separate resolution to add additional transfer students.

### **MEM/GOV-2A**

**TEXT:** Going forward, HLR will have a total membership of at least 104 editors (52 per volume) who joined as 2Ls. This resolution will take two years to fully implement the total membership of 104 editors. Therefore, in the year immediately following this resolution (2023-2024) there shall be 2 more lower-volume editors (52 Vol. 138 and 50 Vol. 137), and two years from the passage of the resolution (2024-2025) there shall be 52 Vol. 139 and 52 Vol. 138.

### **MEM/GOV-2B**

**TEXT:** Going forward, HLR will have a total membership of at least 108 editors (54 per volume) who joined as 2Ls. This resolution will take two years to fully implement the total membership of 108 editors. Therefore, in the year immediately following this resolution (2023-2024) there shall be 4 more lower-volume editors (54 Vol. 138 and 50 Vol. 137), and two years from the passage of the resolution (2024-2025) there shall be 54 Vol. 139 and 54 Vol. 138.

### **MEM-2C**

**TEXT:** Going forward, HLR will have a total membership of at least 112 editors (56 per volume) who joined as 2Ls. This resolution will take two years to fully implement the total membership of 112 editors. Therefore, in the year immediately following this resolution (2023-2024) there shall be 6 more lower-volume editors (56 Vol. 138 and 50 Vol. 137), and two years from the passage of the resolution (2024-2025) there shall be 56 Vol. 139 and 56 Vol. 138.

### **MEM-2D**

**TEXT:** Going forward, HLR will have a total membership of at least 116 editors (58 per volume) who joined as 2Ls. This resolution will take two years to fully implement the total membership of 116 editors. Therefore, in the year immediately following this resolution (2023-2024) there shall be 8 more lower-volume editors (58 Vol. 138 and 50 Vol. 137), and two years from the passage of the resolution (2024-2025) there shall be 58 Vol. 139 and 58 Vol. 138.

### **MEM-2E**

**TEXT:** Going forward, HLR will have a total membership of 120 editors (60 per volume) who joined as 2Ls. This resolution will take two years to fully implement the total membership of 120 editors. Therefore, in the year immediately following this resolution (2023-2024) there shall be 10 more lower-volume editors (60 Vol. 138 and 50 Vol. 137), and two years from the passage of the resolution (2024-2025) there shall be 60 Vol. 139 and 60 Vol. 138.

## **MEM-3/GOV-3A: Increase the number of transfer editors**

**LIVE VOTE (AUTOLIVE): 38-11-3 [Passed 3A]**

- **3B: 22-27-3**

**COMMITTEE VOTE: 7-0-0**

**TEXT [AMENDED LIVE]:** Going forward, the lower volume of HLR will be no fewer than 53 editors and no more than 56 editors (of which, up to 3 can be transfer editors and 53 editors will always join as 2Ls).

This resolution will take two years to fully implement the total membership:

- If 0 of the lower volume are transfers for two years in a row, this will lead to 106 editors total (53 in the upper volume and 53 in the lower volume).
- If 1 of the lower volume are transfers for two years in a row, this will lead to 107 editors total (53 in the upper volume and 54 in the lower volume).
- If 2 of the lower volume are transfers for two years in a row, this will lead to 108 editors total (53 in the upper volume and 55 in the lower volume).
- If 3 of the lower volume are transfers for two years in a row, this will lead to 109 editors total (53 in the upper volume and 56 in the lower volume).

**OFFICER(S):** President, VP-T, VP-CDO, ME [note: Subject to change based on other resolutions]

**DISCUSSION:** In light of the passage MEM-2, editors may consider allocating the spots that were just added to HLR to transfer students, as opposed to adding additional transfer-only positions on top of those positions added by MEM-2.

## **MEM-4: Make the competition period 5 days**

**ONLINE VOTE: 16-31-5 [Failed]**

**COMMITTEE VOTE: 5-1-1**

**TEXT:** Competition takers shall have 5 days to complete the writing competition, beginning the Sunday after 1L spring finals end and concluding the following Friday at 12PM.

**OFFICERS:** VP-T

**DISCUSSION:** The writing competition is a daunting task. After the gauntlet of 1L and spring finals, the prospect of having just one day of break before a full six-day endeavor likely deters some would-be competition takers. Five full days remains a substantial endeavor, and appropriately resembles a difficult week-long work project.

N.B: This resolution does not include a mandate to decrease the amount of work in the competition. The committee considered and rejected a resolution about mandating decreased work in the write-on, on the basis of wanting competition takers to have enough substance in the competition to differentiate themselves. The final length of the competition will remain up to the discretion of the VP-T.

## **MEM-5: Provide sample holistic review statements to competition takers**

**LIVE VOTE:** 2-44-6 [**Failed**]

**ONLINE VOTE:** 23-23-6 [**Live**]

**COMMITTEE VOTE:** 5-1-1

**TEXT:** The competition tips packet shall include a selection of holistic review statements covering a wide range of potential topics on which competition takers may write.

**OFFICERS:** VP-T

**DISCUSSION:** To maximize the number of students who feel comfortable and encouraged to write a holistic review statement, we should provide examples of statements that show the range of appropriate topics. This would also help advance the Volume 136 Transition resolution of expanding the number of topics referenced in the statement prompt.

## **MEM-6: Add a comprehensive overview to the tips packet**

**ONLINE VOTE:** 41-9-2 [**Passed**]

**COMMITTEE VOTE:** 5-0-2

**TEXT:** The competition tips packet shall include a brief overview of the main strategies and rules for writing the competition.

**OFFICERS:** VP-T

**DISCUSSION:** The tips packet is usually nearly 100 pages. This length could scare off potential competition takers, or send the message that the rules of the competition are highly complicated. This resolution proposes to include an abbreviated summary of the primary tips for each section, and a basic overview of the rules for submission, grading, and acceptance. Having this 5-pager will make the competition more inclusive and will help dispel the notion (a remnant of historically having to pick up the 1,000+ page competition packet) that every part of the competition involves a nonsensical amount of reading.

## **MEM-7: Host at least one 1L Fall recruitment event/information session**

**LIVE VOTE:** 5-41-6 [**Failed**]

**ONLINE VOTE:** 30-20-2 [**Live**]

**COMMITTEE VOTE:** 5-1-1

**TEXT:** At some point in Fall semester, *HLR* will host at least one informational session about the Writing Competition for all 1Ls.

**OFFICER(S):** VP-CDO

**DISCUSSION:** 1Ls are susceptible to misinformation about what *Law Review* membership entails and requires. Such misinformation may discourage candidates who might have been extended an offer to join the *Law Review* from ever participating in the Writing Competition. It would be beneficial to ensure that 1Ls are privy to accurate insights, and do not allow *HLR* myths to prematurely curtail their interest in becoming an editor.

Since this resolution is passed in the winter of 2023, the first 1L Fall session would be hosted in Fall 2023, for the incoming Volume 139. This resolution may involve some coordination with the BSA and *HLAB* recruitment timelines, if we aim to still start recruiting all in conjunction.

## **MEM-8: Mandate the holistic review statement for all competition takers**

**ONLINE VOTE:** 17-30-5 [**Failed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** Require all competition takers to submit the (currently optional) holistic review statement.

**OFFICERS:** VP-T

**DISCUSSION:** Currently, more than half of students, but not all, submit a holistic review statement. Mandating the holistic review statement will help the holistic review committee solicit more information for decision-making, and also capture students who might count themselves out of holistic review because they think they don't qualify or have the right characteristics. This mandate will also remove the burden of deciding whether to submit a holistic review statement from competition takers.

Given the short length of the holistic review statement (less than 200 words), we don't expect this resolution will drastically change the work of the holistic review committee or of competition takers.

## **MEM-9: Require additional members to be selected through holistic review**

**ONLINE VOTE:** 33-15-4 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** For the 2023 Writing Competition, the additional editor spots created through the Volume 137 Transition will be allocated through holistic review.

**OFFICERS:** President, Holistic Review Committee

**DISCUSSION:** This resolution will allow the additional editor spots added during Transition to be filled through an evaluation process that considers the maximal amount of information. An additional benefit of this resolution is that it will allow *HLR* to advance its goals of increasing diversity and inclusion in its membership.

If the body does not pass a resolution on how to allocate additional editor spots, the allocation will be left to the discretion of the President and VP-T.

## **MEM-10: Increase the value of the subcite in competition scoring**

**ONLINE VOTE: 30-19-3 [Passed]**

**COMMITTEE VOTE: 6-0-1**

**TEXT:** Beginning with the 2023 Writing Competition, the subcite portion of the competition will be worth 50% of the competition score and the case comment portion of the competition will be worth 50%.

**OFFICERS: VP-T**

**DISCUSSION:** Currently, the subcite is worth 40% and the case comment is worth 60% of the write-on score. When evaluating the case comments, graders receive a packet of eight case comments and are required to rank them in order. Each case comment is part of multiple packets and is assessed by multiple graders. Though this procedure is designed to help improve consistency in case comment grading, it does not entirely standardize the grading process. The subcite, on the other hand, is assessed against a standardized answer key and has the capacity to be more consistently graded. Additionally, editors answered that the “ability to be detail-oriented and careful” is the most important skill that the write-on competition should test for. Since the subcite portion of the competition is designed to test this skill, and represents a large part of the work editors are required to complete in the pool, this portion of the competition should be given greater weight.

## Special Content & Online

### SC&O-1: Change voting system for first stage of foreword selection

ONLINE VOTE: 38-5-9 [Passed]

COMMITTEE VOTE: 7-0-0

**TEXT:** The top four Foreword Selection nominees shall be chosen through Single Transferable Vote, using the Droop quota as a threshold and the Gregory method to redistribute surplus votes. The Supreme Court Chairs will ensure the body receives an explanation of how STV works prior to Foreword selection.

**OFFICER(S):** Supreme Court Chairs

**DISCUSSION:** Single Transferable Vote (STV) is a voting system that seeks to achieve proportionality in a multi-winner election system. This method of voting is used in national parliamentary elections in [Australia](#) and [Ireland](#), city elections here in [Cambridge](#), and is the system of choice for [FairVote](#) and the [Electoral Reform Society](#), nonpartisan electoral reform organizations which advocate for Ranked Choice Voting (RCV) in elections in the US and UK respectively.

Below is a summary of the system, courtesy of FairVote:

Under ranked choice voting, voters rank candidates in order of choice. They mark their favorite candidate as first choice and then indicate their second and additional back-up choices in order of choice. Voters may rank as many candidates as they want, knowing that indicating a later choice candidate will never hurt a more preferred candidate.

To find out who wins, votes are counted in a series of rounds to ensure that as few votes as possible are wasted. Each round, one of two things happens: either a winning candidate is identified and elected, in which case the votes they received in excess of what they needed to win transfer to their next choices; or the candidate in last place is eliminated, in which case votes for that candidate transfer to their next choices. Additional rounds take place until each seat is filled.

First, we need to know how many votes are enough to guarantee victory, which we call the election threshold. That threshold is the number of votes that mathematically guarantees that the candidate cannot lose. For example, if three candidates will be elected, the threshold is 25% of votes. That's because if one candidate has more than 25% of the vote, it is impossible for three other candidates to get more votes than them (because that would add up to more than 100% of votes). If four candidates will be elected, the threshold is 20% of votes. If five candidates will be elected, it is about 17% of votes.

[Though there are technically different ways of calculating this election threshold, the Droop quota is the most commonly used method. The formula is as follows: # of votes required to win a seat = (total number of votes cast/[# of vacant seats + 1]) + 1. For example, for the purposes of selecting

the top 4 Foreword Selection nominees, with 100 editors voting, the quota would be:  $(100/[4+1]) + 1 = 21$ .]

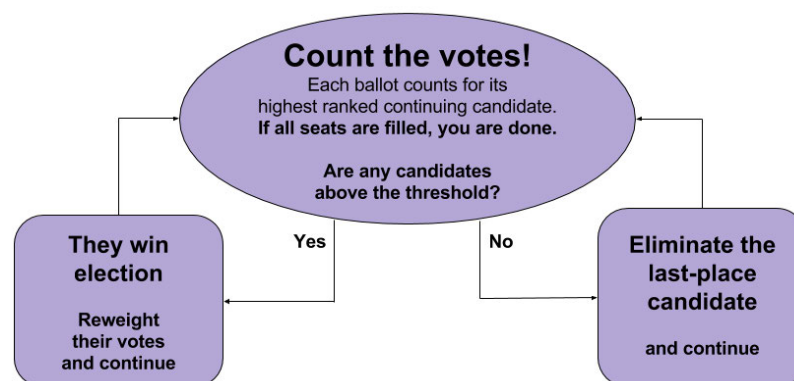
Initially, every vote counts for its first choice only. If enough candidates have more votes than the threshold to win so that every seat is filled, then those candidates win and the vote counting is over. Otherwise, votes are counted in rounds as follows:

If any candidates have more votes than the election threshold, they are elected. The number of votes they received in excess of the threshold then are added to the totals of continuing candidates. This works by adding a fraction of each vote for the elected candidate to the totals of the candidate ranked next. For example, if a candidate has 10% more votes than the election threshold, every one of their voters will have 10% of their vote count for their next choice. That way, voters aren't punished for honestly ranking a very popular candidate first.

[There are likewise different methods of reallocating surplus votes, but the one which best achieves proportionality is the [Gregory method](#), which transfers all votes at a fractional value as described above. So, if the votes cast for the winning candidate is 28 — 7 above our example quota of 21 — all of those ballots are transferred at a value of .25 (7/28). These fractions of votes will then be transferred to their voters' next preference and will hold this value until they are used up or become part of another surplus and are split into smaller fractions. (The other option would be to randomly select 21 ballots to reallocate, but these may be unrepresentative, especially in a small sample size like ours. The tradeoff to achieve better proportionality is a more mathematical tabulation, trading actual votes for fractions.)]

If no candidate has more votes than the election threshold, the candidate with the fewest votes is eliminated. When a voter's top choice is eliminated, their vote instantly counts for their next choice. That way, voters aren't punished for honestly ranking their favorite candidate first, even if that candidate cannot win.

The process of counting surplus votes and eliminating last-place candidates repeats until all seats are filled. Here is a flowchart that summarizes the process:



The top four Foreword Selection nominees are currently selected through Instant Runoff Voting (IRV). IRV and STV are very similar, but the former is used for single-winner elections, while the latter, with its additional rules outlined above, is designed to achieve optimal proportionality in multiple-winner elections. Because it is designed for single-winner elections, IRV does not utilize a

quota system and only starts from the bottom, so to speak, eliminating the candidate with the fewest votes and moving on to voters' next choice. Applying IRV to our multi-winner system can result in undesirable outcomes. Take the following example:

Candidates A, B, and C are running in an election with two winners. Of the 99 total votes cast, 90 ballots list A first and B second, while 9 ballots list C first and A or B second.

Applying STV, Candidate A would cross the threshold of 34 votes ( $\lceil 99/(2+1) \rceil + 1 = 34$ ) winning the first seat and the surplus votes would then be redistributed. Each of the 90 second-choice votes in support of Candidate B is redistributed at a value of .57 ( $(90-34)/99 = .57$ ). After the first reallocation of surplus, B has 51.3 votes ( $90 * .57 = 51.3$ ), exceeding the threshold and securing the second seat.

Using IRV, however, we begin by eliminating the candidate with the lowest number of votes. Since Candidate B received no votes, they are eliminated. That leaves Candidate A and C winning the two seats, despite 90 ballots listing B as their second choice. The 90 second-choice votes for B are wasted, and C wins with the minority support of 10 voters.

This is an extreme scenario, but it shows how using a single-winner system in a multi-winner election can lead to nonproportional election outcomes. According to FairVote, STV “minimizes wasted votes and the impact of tactical voting, allows voters to have more choices, and encourages positive campaigning and coalition-building. It upholds both the principle of majority rule and of fair representation of those in the minority.” Since the first round of Foreword Selection voting results in four winners, we should use the system that is designed to achieve proportional representation in those four winners.

This resolution comes after discussions with voting expert and Tufts Professor Moon Duchin as well as independent research into different voting systems, and relies on the professional assessments of electoral freeform organizations. For more information, please see this short [video](#) explaining the system, FairVote's [example scenario](#), and an outline of [Scotland's rules](#), which utilize the above methods. One note is that, while votes can be counted by hand using this method, the Supreme Court Chairs may want to find an STV calculator to speed up the process.

## **SC&O-2: Codify Foreword Selection memoranda**

**ONLINE VOTE:** 46-2-4 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The Supreme Court Chairs, in consultation with other members of the Foreword Selection Committee, shall prepare a memorandum discussing the rationale for selecting the eight foreword nominees. They shall disclose as much information as is consistent with maintaining the confidentiality of the Committee's deliberations.

**OFFICER(S):** Supreme Court Chairs

**DISCUSSION:** The Supreme Court Chairs' practice of circulating a memo discussing the rationale for nominee selection is neither codified nor a longstanding practice. This resolution seeks to codify that practice, requiring the chairs to circulate such a memo, but providing them with some level of discretion about what to disclose in order to encourage free exchange of ideas at committee deliberations.

### **SC&O/SW&T-3: Clarify no minimum number of student case comments**

**ONLINE VOTE:** 51-0-1 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**COMMITTEE VOTE:** 6-1-0

**TEXT:** The Supreme Court Chairs shall decide how many student case comments to publish in the Supreme Court Issue. This resolution merely clarifies that the Issue need not contain a minimum or set number of case comments; it does not otherwise change the process of selecting, editing, and publishing such responses.

**OFFICER(S):** Supreme Court Chairs

**DISCUSSION:** The Supreme Court Issue has traditionally contained 17 student-written case comments. As a result, even if fewer than 17 editors are interested in writing Supreme Court case comments, the Supreme Court Chairs may feel obligated to recruit additional editors to write case comments. This resolution clarifies that the Supreme Court Issue need not include 17 student-written case comments. It does not set a minimum or maximum number of student-written Supreme Court case comments.

## **SC&O-4: Consider not soliciting responses for SCOTUS case comments**

**ONLINE VOTE:** 48-1-3 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The Supreme Court Chairs shall decide whether to solicit *Forum* responses to Supreme Court case comments. This resolution merely clarifies that such responses need not be solicited; it does not otherwise change the process of soliciting, editing, and publishing such responses.

**OFFICER(S):** Supreme Court Chairs

**DISCUSSION:** Currently, the timeline of the Supreme Court Term and the Supreme Court issue makes writing and editing responses to Supreme Court case comments difficult: response writers are writing responses to case comments that are already on a tight timeline given the short amount of time between the end of the Supreme Court Term and the publication of the Supreme Court issue. Further, because these responses are solicited (rather than accepted following the submission of a relatively finished article), the Supreme Court Chairs have little control over their content, and they often turn out to be case comments of their own (rather than true responses to the print case comments). This resolution would clarify that these responses need not be solicited, while leaving discretion for the Supreme Court Chairs to solicit such responses should they wish to do so.

## **SC&O-5: Increase Online Chairs' engagement with editor body**

**ONLINE VOTE:** 49-1-2 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The Online Chairs shall look for opportunities to increase editor engagement with and input on the Review's online platforms, including Forum, Blog, social media, and other potential avenues for public engagement and discourse. This can be done both through sharing information with the body and creating avenues for communication such as office hours, monthly digests, and increased slack use. The Online Chairs will specifically also make active efforts to make available opportunities for feedback on Online content via #onlinefriends and the general body.

**OFFICER(S):** Online Chairs

**DISCUSSION:** Given clear survey results indicating a lack of understanding of both Forum and Blog, despite their enormous potential, this resolution is aimed at encouraging wider body engagement with *HLR's* online forums. Their future is in flux at present, particularly with the new website design, and so continued editor involvement will be essential. The Special Content & Online Committee recommends leaving the method of engagement to the discretion of the new Chairs but setting a strong standard and intention for body-wide conversations around the role of *HLR* online to continue past Transition.

## SC&O/SW&T-6: Consider the Future of the Blog

**LIVE VOTE (AUTOLIVE): 37-13-2 [Passed]**

**COMMITTEE VOTE (SC&O): 7-0-0**

**COMMITTEE VOTE (SW&T): 5-1-1**

**TEXT:** The Strategy & Oversight Chair will work with the Online Chairs to develop a plan for the future of the HLR Blog, and any other adjacent forms of non-traditional engagement with legal scholarship, in light of the discussion below of the Blog's history and original purposes.

Regarding online student writing, the Strategy & Oversight Chair and Online Chairs will, in coordination with the Managing Editors and the President, (1) reassess the procedure outlined in the Whitebook for Online Recent Things; (2) solicit notice and comment from the editor body on amendments to that process; (3) implement the new proposed process; and (4) codify the new process in the Whitebook. These actions will be completed before the end of the Spring Semester of 2023. As part of this process, the officers will consider expanding the scope of potential blog posts beyond the "RT" format. Officers will also consider requiring student authors to submit their piece to a faculty member for feedback before publication on the Blog. The Strategy & Oversight Chair, working with the Online Chairs, will also write a memo to the body considering the possibilities and potential consequences of the following two changes, neither of which will be implemented without a vote from Volume 137: (1) implementing a default policy or option of attribution for student-authored Blog pieces; (2) opening up HLR blog posts to HLS students who are not editors of HLR.

Volume 138 is also strongly encouraged to add a third or fourth online-dedicated position(s). Specifically, Volume 138 should consider returning to the old system (see discussion below) of having a Blog Chair, Forum Chair, and two online editors. The online editors would be focused on soliciting Forum/Articles content in a similar way that the Articles committee does. These Online editors would also take on other online-specific duties (managing the website, running social media, thinking about other creative forms of special content, etc.). The current system of involving Super-Es (supervising Forum pieces) and Notes editors (B-reading student Blog pieces) would also be maintained.

**OFFICER(S):** Online Chairs, Strategy & Oversight Chair, ME, President

**DISCUSSION:** The HLR Blog was [initiated](#) in 2017 with four key goals. One was to have greater responsiveness to current conversations in the legal community. Instead of waiting 6 months to publish something through a thorough, extensively footnoted and bluebooked process, the blog "gives us the institutional capacity to weigh in on current legal issues in an authoritative way" and "[p]rofessors would be able to write short, hyperlinked pieces much faster and start conversations with each other." Second, we could reach broader audiences through a more accessible format. "They will be less intimidating in both length and style, which will encourage a broader readership." Third, we could publish a more diverse set of authors—including practitioners who don't have the time to put together an extensively footnoted piece but have meaningful ideas to contribute to legal scholarship. Fourth, given our name, we would attract excellent pieces, providing a known and trusted platform for a certain form of legal discussion.

By 2018, a year after the Blog was started, Blog posts were already generating “hundreds or thousands of views.” That same year, Vol. 132 [sought](#) to encourage the Blog Chair to pursue vigorous experimentation with the Blog’s content “to see what kind of content does and does not work for us.” Editors that year were also captivated by the idea of using the Blog to “[provide](#) useful legal context for headline news.” As one editor noted, “I often find myself wishing that news coverage of serious issue[s] engaged more deeply with the legal frameworks in which the news is embedded. ... One example that comes to mind is an analysis of statutes of limitations in sexual assault cases, within the context of the #MeToo movement. I imagine that an intelligent person on the street would be curious about why, despite the flood of damning evidence emerging about abusive powerful men, none seem to be at risk of prosecution. We could provide a valuable service by diving more deeply into the legal undercurrents of stories that people are already reading and talking about.”

Other editors have historically focused on the Blog’s ability to pursue a more diverse range of content. A resolution from 2020 states that the Blog should “include historically less covered areas of law such as family, tax, intellectual property, corporate, torts, labor and employment, property, trusts/estate, and environmental. It should also cover more state court cases and legislation. Additionally, the Blog should also consider expanded content such as interviews with authors and reflective pieces.”

Some of the ideas for the Blog’s content predate the Blog itself. In the transition of 2014, editors began discussing the possibility of “[Mini-RTs](#)”: “a substantially shorter version of an RT, with much more emphasis on reporting than analysis. It would be responsive to truly recent developments. The idea would be to answer the questions ‘what just happened’ or ‘what was just decided’ in a more legally sophisticated manner than you would get from, say, the New York Times. Basically, something like what SCOTUSblog does for just-released SCOTUS opinions, but with a broader scope.” It doesn’t seem like these mini-RTs were ever created; but the Forum continued to experiment with blog-length short-form content, which it called “[Commentaries](#),” before such content was eventually migrated to the Blog and the “mini-RTs” idea was implemented.

From 2017-2019, the Blog and Forum were jointly-run by [four officers](#): a Forum Chair, Forum EE (who also ran HLR’s social media), a Forum Super-E, and a Blog Chair. In 2019, these positions were remodeled into two online chairs and two online editors—together, the “Online Committee.” Then, in 2021, Volume 135’s GOV-1/SC&O-1 resolution stripped this Online Committee down to just two online chairs. One might guess this was an intentional attempt to take HLR away from focusing on online content. In fact, it was quite the opposite. The resolution also increased the number of Notes Editor and Super-E positions by one each, with the idea that Forum and Blog pieces would be edited by regular Notes Editors and Super-Es. “It is believed,” the resolution explains, “that this change will increase efficiency and *better integrate HLR’s online presence into the HLR organization as a whole*” (emphasis added).

Volume 135 also passed a resolution increasing pool days allotted for online pieces from 1 to 2 in order to encourage more student writing. Per the Whitebook, “[e]ach week, the Managing Editor will circulate a list of topics from which editors can choose to write an Online RT. Editors in the Pool that week can request an Online RT by emailing the ME,” and then the editor will receive two days of pool credit for their RT. If, as an editor, “you spot a ‘thing’ that you would like to write about but that has not been included on an email yet,” you are instructed to “please email the Online Co-Chair

with the thing and what you'd likely say on it by Sunday at 5pm. You will likely be able to write on it for the following week, depending on Pool space.”

In contrast to this history, for Volume 137, the blog has become effectively non-existent. Only one student on either volume has published a piece on the Blog thus far this academic year. During the same time, the Blog has been a host of 0 outside author pieces. Moreover, for this year as well as the previous one, the codified whitebook provisions to assign Online RTs as pool assignments have been ignored, despite no resolutions changing this process. And in the annual transition survey, only a single editor from Volume 137 indicated that they are “familiar...with the HLR Blog’s function, content, and structure.”

Volume 135 had a laudable vision of integrating the editing of online content into the work of other officers and thus making our online content a more central aspect of everyone’s work in HLR. This seems to have been successful for the Forum. But for the Blog, Volume 135’s GOV-1/SC&O-1 resolution seems to have had an opposite effect. Without a dedicated group of editors committed to the Blog, and with many editors feeling sufficiently overworked by the tasks of their position, the Blog’s significance has, regrettably, become a bit lost.

There is one significant pending change to the Blog: the new website. It will host Blog content alongside Forum and Print pieces, using color-coding and the “Blog” header to indicate which pieces belong to which medium. This could supply more fluidity between HLR’s Print, Forum and Blog content, such that readers of Print and Forum pieces might be more likely to also come across Blog pieces, and vice versa.

Ultimately, the goals set out by the 2017 transition resolution are just as relevant today as they were then. The Blog can play an important role in (1) explaining diverse legal developments to a broad audience and providing a [useful medium](#) for student writing and feedback through student “mini-RTs” and (2) encouraging work by younger legal scholars, practitioners, and academics in interdisciplinary fields to broaden the scope of legal discussion in a more accessible format. Given that both of these goals may require more capacity on HLR to implement without overworking the editor body, the Online Chairs should consider taking implemental steps to the extent feasible with the capacity of our volume, and otherwise prepare a strategy for future volumes to consider utilizing the Blog to its fullest potential.

## SC&O-7: Increase social media engagement

**ONLINE VOTE:** 40-8-4 [**Passed**]

**COMMITTEE VOTE:** 6-1-0

**TEXT:** The Online Chairs, in collaboration with the Strategy & Oversight Chair should one be elected, will create a social media strategy that focuses on creating increased engagement online. They will develop this strategy in consultation #onlinefriends and the *HLR* membership. As part of this strategy, the Online Chairs may plan to retweet relevant mentions by law professors that *HLR* is publishing. The Online Chairs may delegate the responsibility of monitoring Twitter mentions to an undergraduate intern. Additionally, the Online Chairs may plan to schedule a few tweets every day for a week after a volume is published rather than tweeting about all new content on the same day.

**OFFICER(S):** Online Chairs

**DISCUSSION:** Of the 55 responses to the transition survey question asking whether the Online Chairs should create a social media strategy, 43 people responded in the affirmative. This resolution expresses the body's desire to have a more robust online presence. Many want a Twitter account that engages with legal academics online (even with just a retweet) and that strategically pushes out content to maximize online engagement.

## **SC&O-8: Look into changing publication process software**

**ONLINE VOTE:** 44-1-7 [**Passed**]

**COMMITTEE VOTE:** 6-0-1

**TEXT:** The Strategy & Oversight Chair, in collaboration with the Executive Editors and in discussion with Jennifer Heath, will consider the feasibility of changing the publication process to move away from using Microsoft Word and instead switch to another platform such as In-Design.

**OFFICER(S):** Strategy & Oversight Chair, Executive Editors

**DISCUSSION:** Many other journals have moved away from using Microsoft Word, and the HLR Macros we use to convert to galleys are very clunky and cost officers significant time.

## **SC&O-9: Codify stats poolwork system**

**ONLINE VOTE:** 36-10-6 [**Passed**]

**COMMITTEE VOTE:** 6-1-0

**TEXT:** The Managing Editor of Operations, in consultation with the SCOTUS Co-Chairs, shall create a pool system for work on the annual Supreme Court Statistics section in the November issue.

**OFFICER(S):** MEO, SCOTUS Co-Chairs

**DISCUSSION:** Statistics work for Volume 136's SCOTUS issue was assigned on a largely ad hoc basis, asking Poolworkers who were interested in volunteering for statistics-related work and with one SCOTUS Co-Chair overseeing the Statistics section. Given the particularly tight timeline of the November issue, the formalization of a pool system for statistics work, with ample room for discretion on the part of the Managing Editor of Operations, may be beneficial in streamlining the assignment of this work and reduce the SCOTUS Chairs' administrative workload.

## **SC&O-10: Include timeline for November case comments on website**

**ONLINE VOTE:** 45-4-3 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The Supreme Court Chairs, in consultation with the Online Chairs, will consider adding additional language on the submissions page of the *HLR* website that explains the selection timeline and content of outside author case comments.

**OFFICER(S):** Supreme Court Chairs, Online Chairs

**DISCUSSION:** Though our outside author case comments are solicited, many faculty members submit pitches to *HLR* regardless knowing that we select case comments for each November issue. Often, these pitches come after the case comments have already been selected. Though we believe a formal pitch system would be inadvisable, increasing transparency about the timeline for case comment selection would allow these pitches to come in earlier in order to give the SCOTUS Chairs a better sense of possible case comment topics and interests in advance of author selection.

## **SC&O-11: Codify faculty case comment selection memoranda**

**ONLINE VOTE:** 45-5-2 [**Passed**]

**COMMITTEE VOTE:** 6-1-0

**TEXT:** The Supreme Court Chairs should prepare a memorandum addressed to the body, which discusses their rationale for selecting the volume's November issue faculty case comments.

**OFFICER(S):** Supreme Court Chairs

**DISCUSSION:** This resolution seeks to codify a practice undertaken by the Volume 136 chairs to circulate a memorandum discussing the reasons for selecting the faculty case comments.

## SC&O-12: Consider holding DEVO Symposium

**ONLINE VOTE:** 49-3 [Passed]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The President, in consultation with the relevant officers, may consider organizing public events, likely in the form of lunch talks, for authors of Law Review articles to present their work and for others (likely HLS professors and Forum respondents) to act as discussants.

In the Spring of 2023, the DEVO Chair may, in consultation with the DEVO Chair of Vol. 136 and DEVO Authors of Vol. 136, consider organizing a public event on this year's DEVO topic (Labor and Employment), where several Labor and Employment faculty and/or practitioners would be invited to speak about developments in labor and employment law with the students' DEVOs as a starting point for discussion.

The Supreme Court chairs may also similarly consider organizing public event(s) related to the Supreme Court issue.

**OFFICER(s):** DEVO Chair

**DISCUSSION:** For the vast majority of years from 2006 to the present, the SC&O committee has passed a resolution empowering officers to create a Spring Forum, where *HLS*'s outside authors are invited to publicly speak about their work, and/or a Supreme Court Forum, or some other kind of Forum where *HLS*'s scholarship can be discussed in a public Forum. It is only in the past few years that resolutions authorizing these events have not been passed, likely because of COVID-19. This resolution thus seeks to return to the status quo before the pandemic.

The first paragraph of this resolution is copied exactly from the text of [SCO-15](#) in 2015. That resolution is accompanied by the following discussion, which we also endorse:

“One issue we often discuss is the Law Review’s disconnect from the HLS community at large, relative to other student organizations. To address this concern, we could hold public events where authors of recent Law Review content present their work and then enter discussion with respondents and with the audience. The book talks that the library hosts when an HLS professor publishes a new book could serve as a model. We could arrange for a faculty respondent or panel and, if feasible, invite the scholar who is responding to the article on the Forum. The possibly advantages of events like this -- engaging the community and showcasing our scholarship -- outweigh any drawbacks. Such events would take relatively little work to organize, requiring only that we invite speakers, reserve a classroom, order food, and publicize. The often-packed houses for library lunch talks should temper any fear that students would be uninterested in academic talks. And the President can be selective, only holding 1-2 such events per year, holding them in small rooms, and only holding them for professors or topics who it thinks will be of particular interest to the student body.”

A DEVO-themed event would be particularly useful for a few reasons. First, whereas other pieces are not necessarily connected by a unifying theme, the DEVO by default will center the discussion

around a single theme. Second, given that the DEVO topic was selected by the previous volume, it is a topic that has already been chosen by half of the membership, and thus our membership would likely support it as a topic that deserves more scholarly attention. Third, it is an opportunity to highlight some of our student authors, and in so doing continue to encourage our volume (and, given that this is a public forum, some editors who may join *HLR* next year) to write notes or DEVO chapters for *HLR* in the future. Fourth, since we don't think a DEVO-based Forum has been held in recent memory, it would serve as an experiment that could be replicated in future years or become a tradition if it ends up being successful—and if it doesn't go as well, the next volume can choose to abandon it.

## SC&O/ART-13: Fill in Gaps in Legal Scholarship

**ONLINE VOTE:** 41-10-1 [Passed]

**COMMITTEE VOTE (SC&O):** 6-0-1

**COMMITTEE VOTE (ART):** 7-0-0

**TEXT:** The ABC Chair, Articles Chairs and Online Chairs will do their best to fill gaps in the content that we publish in print, on the Forum, and on the HLR Blog. These gaps might include areas of scholarship that we do not publish as frequently, or which do not receive as much attention; areas of scholarship that lack institutional support, particularly at HLS; work by practitioners and scholars in interdisciplinary fields; and scholars with diverse viewpoints and contributions. The Online Chairs will also consider opportunities to collaborate with other HLS groups that work in the domains of these gaps, for example by putting together a collaborative online symposia on a topic that an HLS group is working on but does not currently have a platform to produce such a symposia on its own.

**OFFICER(s):** Online Chairs, ABC Chair, Articles Chairs

**DISCUSSION:** The first aspect of this resolution is fairly straightforward, and seeks to re-express a value that many editors—including the Online Chairs and those on the Articles Committee—have already embraced.

With regards to the proposal for the Online Chairs to consider collaboration with other HLS groups, a few examples may highlight the purpose behind the resolution. One example is that the Native American Law Students Association (NALSA) has proposed the creation of a journal on Native American Law at HLS, but the HLS administration has thus far not supported the creation of such a journal. Until such a journal is created, the Online Chairs could think about ways to provide a platform for the promotion of Native American scholarship in collaboration with NALSA. Another example is the demand expressed in a letter by over 800 HLS students for HLS to hire a full-time reproductive rights professor, to create a reproductive rights clinic, and to put together a reproductive justice curriculum. Until these demands are met, the Online Chairs could consider ways of partially filling in this gap by promoting reproductive rights scholarship and thereby emphasizing the importance of further engagement with the subject at HLS and in legal academia in general.

## **SC&O-14: Increase information sharing in Foreword Selection nominations**

**ONLINE VOTE:** 42-6-4 [**Passed**]

**COMMITTEE VOTE:** 6-1-0

**TEXT:** The Supreme Court Chairs shall create meaningful opportunities for structured engagement and information sharing in the Foreword Selection nomination process. This may take the form of a meeting for editors to propose and discuss potential nominees, a reference bank of editors' proposed nominees and why they think they should be nominated, or other opportunities to expand editor engagement and knowledge in the nomination process.

**OFFICER(s):** Supreme Court Chairs

**DISCUSSION:** The Foreword Selection nomination process can be burdensome for editors. Many of us are not apprised of the state of legal scholarship or aware of the universe of potential authors from which to select nominees. Many editors found the sharing of scholar names and biographies in affinity slack groups useful ahead of submitting nominations. Accordingly, the Supreme Court Chairs should create opportunities for this kind of knowledge sharing within the body so editors can make more informed nominations.

# Student Writing & Training

## SW&T-1: Clarify involuntary dissolution procedure for 4L Notes

ONLINE VOTE: 52-0-0 [Passed]

COMMITTEE VOTE: 7-0-0

**TEXT:** At any stage of the editing process for a 4L Note, if the P-Reader or the Notes Chairs determine that the author has not complied with the standards, responsibilities, and rules set out in *Brownbook*, they will give notice to the author of the areas of required improvement and remind the author that good faith compliance with the *Brownbook* is mandatory. If the author does not timely cure, or if the author fails to comply with the *Brownbook* on multiple occasions, the Note may be involuntarily dissolved by agreement of the P-Reader, Notes Chairs, President, and Managing Editor. There will be no presumption of publication applied in the author's favor.

**OFFICER(S):** ME, NCs

**DISCUSSION:** Inadequate engagement by 4Ls in the Notes process featured prominently in officer feedback. For instance, some 4Ls in the past have not Bluebooked their citations, failed to complete bookgrabs or subcites, or simply turned in their class paper and made minimal effort to address substantive comments. In each case, the burden falls on 2L and 3L editors to bring the piece up to publishable quality. Although expectations for 4L authors are laid out in the *Brownbook* (*see* p. 50; *see also* pp. 47–49), they are not effectively enforced.

This resolution aims to accomplish three things. First, it clarifies the procedure for involuntary dissolution by agreement of certain officers (*see Brownbook*, p. 13). Agreement of the President, ME, Notes Chairs, and P-Reader aligns with current practice. Second, it eliminates the informal presumption that 4L Notes will be published. Although this presumption may be appropriate for other types of student writing (given that one of the selling points of *HLLR* is the opportunity to publish, and accommodating for the fact that editors may be new to this kind of writing), the costs of this presumption for 4L authors (i.e., less engagement) appear to outweigh the benefits. Third, it puts 4L authors on notice of the potential for dissolution while giving current editors a clearer route to invoking this remedy.

## **SW&T-2: Explore a framework for a competitive Notes selection process**

**LIVE VOTE (AUTOLIVE): 3-34-15 [Failed]**

**COMMITTEE VOTE: 5-2-0**

**TEXT:** It shall be the responsibility of the Notes Committee and interested editors to explore a transition to a competitive selection process where the body chooses a limited amount of Notes to publish per issue. The Committee will look at the pros and cons of transitioning to such a process, how selection would occur, what kind of discretion the Committee will have, an appeals process that members can turn to if their piece is not accepted, and look into if the competitive selection process should be open to non-HLR members.

**OFFICER(S):** NCs, interested members

**DISCUSSION:** This idea came up through discussions with the current Notes Chairs. Strengthening editorial standards and dissolution procedures may be difficult to enforce in real life. Due to the wide variety of Notes that are written, it will be difficult to give specific guidance on what people should strive for in a general manual like the *Brownbook*. Moreover, a competitive selection process may create better interpersonal dynamics. Dissolution “takes” something that editors have been told they are entitled to and may lead to more friction because of that. A competitive selection process promises nothing and incentivizes editors to put their best ideas and work forward. A rejection based on competitive selection may feel less personal than a dissolution and can lessen the strain on notes editors.

## SW&T-3: Limit student empirical writing

ONLINE VOTE: 30-16-6 [Passed]

COMMITTEE VOTE: 4-3-0

**TEXT:** Editors, including 4Ls, are presumptively disallowed from submitting pieces that entail significant empirical analysis. Pieces that incorporate relatively simple calculations (i.e., that could be verified by an editor with minimal to no empirical expertise) will continue to be permitted.

The *Brownbook* should correspondingly be amended to include language substantially similar to the following:

Student-written (including 4L) pieces that entail significant empirical analysis are generally not viable. However, pieces may and often do incorporate easily verifiable Excel calculations, such as summary statistics and pivot tables. Please consult your Notes Editor or the Notes Chairs as early as possible if you are thinking about including an empirical element in your piece.

**OFFICER(S):** ME, NCs

**DISCUSSION:** This resolution responds to a number of concerns raised with respect to student empirical writing, raised in the Big 4 memo, on the discussion board, and through offline conversations. Those concerns included:

- There may not be enough editors with the necessary skills and qualifications needed to validate empirical pieces. Availability of such editors varies from year to year. Moreover, “empirical analysis” can mean a lot of things — an editor who is comfortable with regressions might be less so with Python code — and the particular method chosen by a student author may not be in every empirical editor’s wheelhouse.
- Empirical pieces are resource-intensive and create significant logistical challenges. For instance, an empirical Note this past year required ten additional days of Poolwork — work that might only be assignable to qualified editors, whose Pool schedules might not align with publication deadlines. This problem may be exacerbated by the following:
  - Even qualified authors who are undertaking empirical legal scholarship for the first time tend to underestimate the time demands, resulting in delays. For instance, authors must create thorough internal technical documentation, in addition to the externally publishable written piece, for others to be able to effectively check their work.
  - Editing & Bluebook is considering a resolution that would devote more resources to review of outside-author empirical pieces, for instance recommending that Rotopools, M-Reads, literature reviews, and S-Reads of such articles be done by empirical editors, and further recommending that empirical editors be involved at the Subcite and EE stages. This will likely reduce the amount of empirical-editor time

available to support student pieces.

- Robust empirical analysis usually requires more pages than student authors have, even for Notes.

Some editors expressed concern about the necessity of a categorical restriction over student empirical writing, as opposed to (1) more rigorous requirements for student authors, effectively offloading some of the work to them and their faculty advisers; or (2) case-by-case determination of the viability of a proposal. These proposals may mitigate some of the above issues, though the most significant ones are structural and largely not susceptible to individual determinations or incremental improvements. For instance, requiring the author to obtain additional faculty input may increase confidence in methodological soundness, but we could not necessarily rely on faculty sign-off to condense *HLR*'s editing process, since we are ultimately responsible for the editorial integrity of the content we publish. In particular, the details of the empirical analysis, which the faculty member is unlikely to have reviewed in depth, would still need to be scrutinized. Thus, the Poolwork and editor-capacity restraints remain binding.

That said, the final resolution incorporates editors' concerns by softening the language from a categorical restriction to a strong presumption. It encourages student authors interested in an empirical project to consult with their Notes Editor and the Notes Chairs; there is, informally, discretion built into the decision to green-light an idea as well as in defining what analysis qualifies as "easily verifiable." It also clarifies that more limited empirical analyses (which do not raise the above issues to the same degree) are unaffected. This resolution ultimately seeks to balance editorial integrity and practical realities with the importance of the opportunity to publish and the goal of supporting student writing as widely as possible.

## SW&T-4: Prioritize direct poolwork feedback

ONLINE VOTE: 50-2-0 [Passed]

COMMITTEE VOTE: 7-0-0

**TEXT:** It shall be the responsibility of all officers to facilitate the continuing education of junior editors. Throughout the year, all officers should consider ways to offer direct feedback to junior editors on their Poolwork. This might include:

- Sending personal Slack messages of gratitude, recognizing an editor's exceptional Poolwork or attention to detail (the ME might also conduct this outreach based on information received in the Poolwork feedback form);
- Sending emails to editors that are responsive to the "SUPER-E"- or "EE"-tagged comments and questions they leave in Subcites, Pages, and Galleys;
- Sending emails to editors to clarify misunderstandings regarding the *Bluebook* or *Blackbook*; and
- Sending small group emails to editors summarizing common errors that were found in the assignment.

**OFFICER(S):** ME, All Officers

**DISCUSSION:** Over half of the editors who responded to the transition survey indicated they were unsatisfied with feedback on Poolwork. While it is time-consuming for officers to provide personalized feedback, there are significant benefits to both the editor receiving feedback and to the journal. Positive feedback positively reinforces good work and habits. When editors feel as though their work is recognized and that they are positively contributing to the journal, they will have better morale and will be encouraged to continue contributing. Meanwhile, informative and clarifying feedback helps editors learn from their mistakes. This saves officers time in the long run by correcting any misunderstandings editors may have about the *Bluebook* or the *Blackbook*.

## **SW&T-5: Organize brown-bag lunches on legal writing**

**ONLINE VOTE:** 47-2-3 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** For the personal enrichment of *HLR* editors interested in improving their writing, the VP/CDO will consider organizing optional brown-bag lunches or teas or interactive workshops with HLS professors, professors who are publishing with *HLR*, judges, and other practitioners. Topics of discussion might include:

- What makes a good law review article?
- What recommendations does the speaker have for legal writing?
- What is the speaker's drafting process?
- What is their editing process?
- How would they recommend editors improve their writing?
- What research is the speaker working on?
- How does the speaker go about finding a topic to write on?

**OFFICER(S):** VP-CDO

**DISCUSSION:** Editors are never trained on academic legal writing or what makes a good law review article. Additionally, outside of specific student writing opportunities, additional opportunities do not exist for editors to learn about how to improve their own personal writing. Indeed, editors spend most of their time on technical editing assignments. This optional enrichment opportunity would help facilitate writing improvement for editors and help editors critique articles we review for publication.

## **SW&T/GOV-6: Email final versions of Subcites, Galleys, and Pages to Poolworkers**

**ONLINE VOTE: 45-6-1 [Passed]**

**COMMITTEE VOTE (SW&T): 5-1-1**

**COMMITTEE VOTE (GOV): 7-1-0**

**TEXT:** In the interest of increasing Pool feedback and continuing-education opportunities for junior editors, Super-Es and EEs shall email the final version of Subcites, Galleys, and Pages (i.e., the copy sent to the author) to all editors who worked on the assignment. To decrease the administrative burden on EEs for identifying all appropriate editors, the Galleys/Pages submission Google form shall be updated to require editors to provide their Harvard email address so that EEs can filter for the emails of editors associated with each author and assignment. The Managing Editor shall ensure that Super-Es and EEs build this habit, and shall train junior editors to expect to review their work.

**OFFICER(S):** ME, Supervising Chair

**DISCUSSION:** During the 2020 Transition, Volumes 133 and 134 passed Resolution SWT-9, which required that Super-Es and EEs “BCC Editors on subcite, galleys, and pages emails to outside authors” in order to provide Editors with feedback on their Poolwork. According to Volume 135’s SWT-3 resolution, “Resolution SWT-9 proved difficult to implement and enforce, in part due to the administrative burden that identifying and BCCing all appropriate Editors imposed.”

Instead, Volume 135 passed their Pool feedback resolution, which involved Super-Es and EEs uploading the final subcite, galley, or page version to Box in a “Documents to Author” folder. Volume 135 thought that this would allow interested editors to compare the edits they suggested with those forwarded to the author. This comparison is intended to provide editors with an opportunity to identify overlooked and misidentified errors during the subcite, galleys, and pages process.

Junior editors are often too busy with Poolwork to remember to review their old assignments. Emailing the final versions directly to editors will provide a “nudge” to editors and remind them to review their work. Furthermore, receiving an email directly loops junior editors into the process and would make them feel less like a cog in a machine, churning through work only to be sent into an abyss.

## **SW&T-7: Create additional resources for student writing, including recorded training and model drafts**

**ONLINE VOTE:** 47-5-0 [**Passed**]

**COMMITTEE VOTE:** 7-0-0

**TEXT:** The Notes Committee will create additional resources for student writing that builds upon existing guidelines in the *Brownbook*. The materials shall include, but are not limited to: (1) at least one recorded training for student writing, designed to replace live training presented by the Notes Chairs during Orientation; (2) examples of drafts that meet writing-quality standards at each major stage of the writing process, including annotated explanations of why the example succeeds; and (3) updated guidance in the *Brownbook*, including more specific guidance on how to decide upon RT topics, contacting professors, and other common concerns. The Notes Chairs, at their discretion, may create discrete training materials for each type of student writing.

**OFFICER(S):** NCs

**DISCUSSION:** Currently, new student authors feel that they do not have enough guidance at the beginning stages of the writing process to write a successful draft that meets *HLLR* standards. Current guidance is limited to a live presentation during orientation, guidelines in the *Brownbook* and questions directed towards Notes Editors. This has resulted in haphazard efforts by new authors that require more work for both NEs and the writers than necessary if additional guidance and examples were provided from the start.

This resolution aims to accomplish two things. First, it seeks to address editors' concerns that additional, robust training and resources should be made available to student authors in order to clarify the existing general guidelines set forth by the *Brownbook*. Second, it seeks to remedy current inequities in the student writing calendar, where the live orientation training benefits authors with earlier deadlines, and accrued experience over the year benefits authors with later deadlines.

These additional resources will ensure that all authors have clear guidance and examples of writing standards that they can access at-will, thus decreasing the burden upon Notes Editors who must provide basic guidelines to authors who are unclear about expectations at various stages of the writing process.

## SW&T-8: De-anonymize student Notes

**LIVE VOTE (AUTOLIVE): 19-30-3 [Failed]**

**COMMITTEE VOTE: 6-1-0**

**TEXT:** Beginning with Volume 137, student Notes will be attributed to the author by default. Student authors can request anonymity. Whether the anonymity exception is granted will be determined on a case-by-case basis by the Notes Chairs. The Notes Chairs' decision can be appealed to the President. The President will then have the final say. Student authors asking for anonymity will not be asked to provide physical documentation in support of their concerns, nor will the Notes Editors (or, in the case of an appeal, the President) question or otherwise attempt to assess the credibility of the student author requesting anonymity. If anonymity is granted, the author will be listed as "An Editor of the *Harvard Law Review*," so as not to give the false impression that the Law Review is making a unified statement in a way that is distinct from signed pieces.

**OFFICER(S):** NCs, President

**DISCUSSION:** Most editors who weighed in on the discussion board favored de-anonymizing all student writing. One editor proposed an incremental approach that would first de-anonymize Notes and DEVO Chapters, but not case comments. Both proposals have merit.

One editor highlighted the potential equity concerns about de-anonymization, but ultimately felt those concerns were outweighed by two things: first, that concerns about serious personal harm could be mitigated through a policy of selective anonymization at the discretion of the Notes Committee or another decision-maker; and second, that *HLLR* should strive to create a culture that actively helps and encourages those who are interested in writing, produce a piece of writing they are proud to attach their name to.

Another editor raised a stereotype-threat concern whereby editors who are underrepresented in legal scholarship would be more hesitant to publish a piece with their name attached. This is why the current text of the resolution does not list the reasons why an author may be granted anonymity. While it would be possible to specify the reasons that a piece can be anonymized, unforeseen circumstances frequently arise and there is value in not hamstringing future volumes' anonymizing decisions.

## **SW&T/ART/GOV-9: Expand continuing education**

**ONLINE VOTE: 44-8-0 [Passed]**

**COMMITTEE VOTE (SW&T): 7-0-0**

**COMMITTEE VOTE (GOV): 7-1-0**

**TEXT:** The Managing Editor should continue to prioritize, encourage, and facilitate the continuing education of junior editors. Below is a suggested phased plan of training, subject to the ME's discretion.

### **1. July/August**

During Orientation, each new editor will be assigned an EE or Super-E. The EE or Super-E will review the junior editor's work, including at least one Subcite and one Galley or Pages, and organize a Zoom call to offer feedback on each assignment. The EE or Super-E should communicate that they are available for future Pool-related feedback through the junior editor's first semester.

Following Volume 136's approach, a similar protocol should be adopted for Rotopools, again depending on Pool and officer capacity. The ABC Chair will assign each new editor an "Articles Friend." After the junior editor submits their first Rotopool, the ABC Chair will forward it to their assigned Articles Friend, who will then organize at least two meetings with the Junior Editor to provide feedback and answer any questions. The Articles Friend may also discuss other Articles-related work with the junior editor, such as performing an S-Read or preparing for an O-Read. For example, the Articles Friend may offer reminders and encouragements about participating in an upcoming O-Read, share discussion questions or reactions to the O-Read article, etc. The Articles Friend shall also be available throughout the semester for any Articles-related questions.

### **2. September**

During the month of September, the Managing Editor should organize technical-editing officer hours in Gannett. During these office hours, officers will be available to answer questions as the lower volume conducts Poolwork. So as not to burden officers, the lower volume should be encouraged to ask each other questions before asking officers.

### **3. October**

Toward the beginning of October, the Managing Editor should organize, or cause to be organized, a global Poolwork feedback session for all editors. This training will review common errors found in Poolwork and clarify common questions.

### **4. General Resources**

The ME should develop additional training resources as they see fit. For example, the ME might consider providing a weekly *Bluebook* tip to editors, included in the weekly "Coordination Corner" emails. The ME could also organize a committee of EEs and Super-Es to compile a *Bluebook* cheat sheet of frequent but obscure rules and a comment repository (a list of pre-written comments for

common errors).

**OFFICER(S):** ME, Super-Es, EEs, ABC Chair

**DISCUSSION:** In the Governance survey, over half of the editors who responded were unsatisfied with feedback on Poolwork. Despite past committee resolutions to provide a final version of edits to Poolworkers, survey feedback indicates that Poolworkers are not receiving an adequate amount of feedback. In the Student Writing and Training survey, almost 50 editors voted to create a *Bluebook* “cheat sheet” of frequent but obscure rules and to receive a final copy of the edits compiled by the Super-E/EE. Almost 40 editors voted to create a common repository of pre-written comments for common errors. Some editors indicated they would have taken advantage of in-person office hours for technical training. These office hours would have the added benefit of helping facilitate community among the lower volume and between the volumes. Finally, prior volumes have held “Poolwork feedback sessions” in the fall, which editors considered to be helpful refreshers.