

Opinion of the Council

**STUDENT UNION JUDICIAL COUNCIL**

No. 2425–1

**ELIGIBILITY TO HOLD ELECTED OFFICE  
WHILE ABROAD***an* INTERPRETIVE QUESTION

PATRICK HANLEY, AND ERIN COYNE, PETITIONERS

Decided April 20, 2024

PARLIAMENTARIAN THOMAS MUSGRAVE delivered the opinion of the Judicial Council.

Article 1 of the *Constitution of the Undergraduate Student Body of the University of Notre Dame du Lac* (the Constitution) outlines that all elected officials, including those within the Hall Presidents Council, Senate, and Class Councils, as well as executive officers enumerated in Article II, must be “present” throughout the entirety of their term.<sup>1</sup> Additionally, Article IX of the Constitution, which forms the Off-Campus Council and accordingly outlines the term duration for Off-Campus officers, states, “The Off-Campus President shall serve a one-year term beginning on May 1st of the year elected.”<sup>2</sup>

The petitioners in this case are currently studying abroad for the Spring 2024 semester, and are looking to run for Off-Campus Council President and Vice-President for the 2024-2025 term. The Judicial Council President originally judged the petitioners as ineligible for office, stating that the petitioners, while studying abroad, would not be considered “present” for the start of their term beginning on May 1, 2024. Petitioners filed a petition for review on this decision, arguing that his interpretation of the term “present” is too restrictive and contradicts established Student Union practices.

The Judicial Council unanimously finds that students studying abroad at any point during their term are ineligible to hold elected office as outlined in Article 1, 3(b) of the Constitution. Accordingly, the petitioners are ineligible to hold the offices of Off-Campus

---

<sup>1</sup> The Constitution, Art. 1, *General Provisions*, §3(b).

<sup>2</sup> The Constitution, Art. IX, Off-Campus Council, §2(a)(2).

## Opinion of the Council

President and Off-Campus Vice President, as they would begin their terms while abroad.

## I

Petitioners argue that the Judicial Council President’s interpretation of the term “present,” as outlined in Article 1, implies that a candidate must reside on campus throughout the entirety of their term, which would be virtually impossible. They claim that, under this interpretation, anyone planning on going home for the summer or leaving early for Spring Break would be considered ineligible. However, the intent of this provision is not to unreasonably restrict elected officials from seeing their families or engaging in internships, but rather to ensure that officials campaigning for and acting in elected offices can be held directly accountable to their constituents while being connected to relevant University resources.

We do agree that much of this could be done while abroad; however, consider an interpretation of “present” closer to petitioners’ argument, being simply accountable to their constituents and communicative with necessary administrators. Under this interpretation, a Student Body President, Senator, or Class Council Officer could claim “presence” while studying abroad for far more than the 11 days that the petitioners would be abroad during their term—perhaps even an entire semester. This is a clear discrepancy from the intent of the provision, as constituents could be represented by an individual not present on campus, and thus, unlikely to understand the pressing needs of the on-campus body that they serve. This interpretation would also make this provision essentially irrelevant, as “presence” in this manner would be almost impossible to properly define. Additionally, we have historically deemed Senators ineligible to hold office if they are studying abroad at any point during their term.

We see no other viable interpretation for the word “present” rather than not studying abroad; this has been the historical application of the term, and while it could certainly be argued that it is too restrictive on the specific positions of Off-Campus President and Off-Campus Vice President, it is nonetheless a rule that must be followed given its establishment in the Constitution.

Petitioners additionally argue that this interpretation is inconsistent with historical precedent, claiming that there have been “numerous” elected officials, including Executive Officers and Class Council Officers, that served the beginning of their terms abroad. We find a lack of merit in this claim. Petitioners provide evidence that a former FUEL co-director began their term abroad—however, Executive Cabinet directors are appointed rather than elected, and

## Opinion of the Council

“Executive Officers,” as enumerated in Article II, only refer to the Student Body President, Student Body Vice-President, Chief of Staff, Student Union Secretary, and Executive Controller. Additionally, there is no written requirement for other Executive Cabinet directors to be present throughout the entire term in Article IV of the Constitution, which outlines the duties and responsibilities of the role. Hence, a FUEL co-director studying abroad for the beginning of their term is admissible, while an Off-Campus President or Vice-President studying abroad for the beginning of their term is not.

We are not aware of any Class Council Officer or Executive Officer, as outlined in Article II, that began their terms while abroad. If this had occurred, it would have been unconstitutional.

## II

We do sympathize with the petitioners’ claims that they could effectively fulfill their duties as Off-Campus Council President and Vice-President while beginning their term abroad. As they describe, they would only miss 11 days of their 52-week term. However, this concern is ultimately a legislative one rather than a judicial one. A change to the interpretation we offer would only be possible under a constitutional amendment further clarifying eligibility requirements for Off-Campus Council officers.

We can also certainly understand the petitioners’ argument that this ruling unfairly punishes students for studying abroad, especially given the limited time they will not be present during their term. This is also a legislative issue, though, and a change to allow for students studying abroad to hold office would require a constitutional amendment through the Senate.

\* \* \*

The Judicial Council officers unanimously affirm the Judicial Council President’s ruling and find that the petitioners are ineligible to hold the positions of Off-Campus President and Off-Campus Vice-President.

*It is so ordered.*

Hunter Brooke, concurring

## STUDENT UNION JUDICIAL COUNCIL

---

No. 2425-1

---

### UNDERGRADUATE STATUS AND ELIGIBILITY TO HOLD ENUMERATED OFFICE

*an* INTERPRETIVE QUESTION

PRESIDENT HUNTER BROOKE, concurring.

Today, the Judicial Council officers correctly affirm my initial ruling that undergraduate students currently residing abroad are ineligible to hold the positions of Off-Campus President and Vice President.

The Judicial Council is correct in its interpretation of the meaning of the word ‘present’ as a physical, on-campus presence—an interpretation supported by a plain reading of the Constitution, a prudent examination of the intent of the legislature, and a degree of reasoned sense. To expound on the last such point, one must consider what exactly the Constitution requires must be ‘present’ if not the officeholder’s corporeal and physical self: mental presence, perhaps? Spiritual presence? I balk to consider that the legislature included this directive to mandate any such requirement and further consider the Judicial Council wholly unable to determine whether an individual is mentally or spiritually present in their role.

The Council rightly notes that this interpretation of presence as necessarily physical is long-standing and additionally that a deviation from this interpretation may conceivably allow for the development of such concerning situations as a Student Body President being allowed to study abroad.

The Council is further correct in considering that the reliance interest in this case actually runs against the petitioner’s argument: numerous students have refrained from running for office while studying abroad; others still have withdrawn entirely from study abroad opportunities to hold office, even in this current term.

Lastly, the Judicial Council correctly affirms its philosophy of judicial restraint in paying deference to the will of the elected legislature: the Council correctly asserts that any issues found with this regulation must be resolved through legislative—rather than

Hunter Brooke, concurring

judicial—means. As per the petitioner's argument, it may indeed be the case that applying the residency requirement to Off-Campus positions is foolish and overly restrictive. This rule may perhaps prevent bright minds and talent from holding office. As an unelected member of our judiciary, I do not feel qualified to determine whether this rule is for the better or worse.

By siding with the petitioners, the Judicial Council would overturn relatively settled precedent and upend the state of elections within the Student Union. The Council is correct in affirming this traditional interpretation of the meaning of 'presence.'