Harvard Law Review

Volume 138: Transition Report
2024-2025

Note from the Chairs

We want to thank everyone for their time, thoughtfulness, and engagement throughout the Transition process. Coming off of a difficult Fall Semester, we were wary of tense feelings. Thankfully, Volume 138 proved those concerns unwarranted. We were so impressed with the patience and grace that each editor extended to their peers throughout all steps of the Transition process.

We also want to thank Volume 137 for setting us up for success. The 3L Officers that took time from their already busy schedules to discuss systemic issues with the Articles, Editing, Online, Solicited Content, Membership, Notes, Community, and Governance committees empowered us to move forward on ambitious Resolutions like converting 1st Subcite to "Substantive Checks," adding an optional 3L Transfer editor spot, restructuring DivComm and WNT, and enforcing new student writing deadlines.

██████ (the Strategy & Oversight Chair) went above and beyond to help us prepare for a successful Transition, and we hope to serve as resources to the future Volume 139 with the same level of dedication to ensure the long-term success of the Harvard Law Review.

With gratitude,

████████████████████

Executive Summary

Resolutions Offered: 73

Resolutions Passed in Online Voting: 49

Resolutions Offered for Live Voting: 22

Resolutions Passed in Live Voting: 15

Total Resolutions Passed: 64

Total Resolutions Failed: 9

Committee	Name	Online Vote	Live Voting?	Live Vote	Pass?
TC	GT. 01 Live Voting Threshold	92%	No		Yes
	GT. 02 Binding Resolutions	83%	No		Yes
	GT. 03 Presence of Upper Volume in Transition Committee Meetings	61%	Yes	68%	Yes
Community	C.01 Create a Presumption Against Knocking	83%	No		Yes
	C.02 Prioritize Informal, Social Community Events	96%	No		Yes
	C.03 Supporting HLR editors from marginalized backgrounds	66.7%	No		Yes
	C.04 Establish a Regular Visions Meeting	53%	Yes	79%	Yes
	C.05 Values Statement	76%	No		Yes
	C.06 Adopting Harvard's Anti-Bullying Policy	72	No		Yes
	C.07 Promoting good faith engagement in all HLR full-body meetings	63%	Yes	82%	Yes
	C.08 In-Person Half-Day Orientation and Reaffirmation of Orientation Goals	81%	No		Yes
	C. 09: Promoting Transparency in HLR Operations and Communications	79%	No		Yes
	C. 10: Affirming a commitment to universal editor compensation	70%	No		Yes
Solicited Content	SC. 01 Pre-solicitation conferral between relevant Chair(s) and President	74	No		Yes
	SC.02 Process for agreement on solicited content	79	No		Yes
	SC.03 Ensuring that the body can engage with and comment on solicited content	78	No		Yes
	SC. 04 Providing the Body with an opportunity to revisit and discuss solicited content of interest	52	Yes	43%	No
	AMENDMENT Change figures from 1/3 to 50%, and "up-or-down" to 2/3 requirement.			67%	Yes

	SC. 05 Increasing lower volume engagement in the Foreword Selection Committee	81	No	■	**Yes**
	SC. 06 Revisit composition of Foreword Selection Committee	46	Yes	15%	**No**
Online	OL.01 Ad-hoc process for additional technical editing rounds	89	No	■	**Yes**
	OL.02 Establishing Overall Online Strategy and Goals	72	No	■	**Yes**
	OL.03 Implementing Online Strategy and Goals	83	No	■	**Yes**
	OL.04 Tweet Bluebook Tips	50	Yes	62%	**Yes**
	OL.05 Codify social media strategy	85	No	■	**Yes**
	OL.06 HLR Fellowship Essay Orientation	96	No	■	**Yes**
Articles	A.01: Improving transparency and accountability in the article submission and selection process	89%	No	■	**Yes**
	A.02: Explain data collection at Orientation	78%	No	■	**Yes**
	A.03 Asynchronous O-Read Pilot	70%	No	■	**Yes**
	A.04 Create an articles "fast track"	85%	No	■	**Yes**
	A.05 Update FAQs on the HLR website	87%	No	■	**Yes**
	A.06 Shorten Rotopool Rubric	92%	No	■	**Yes**
	A.07 Allow four articles committee members to move a piece from M-Read to C-Read	72%	No	■	**Yes**
	A.08 Create multi-article C-Reads	83%	No	■	**Yes**
Bluebook	EB. 01 Replacing First Subcites with "Substantive Checks"	52%	Yes	54%	**Yes**
	EB. 02 Handling Difficult Authors	81%	No	■	**Yes**
	EB. 03: Changes in Form and Substance to the Bluebook to Consider	96%	No	■	**Yes**
	EB. 04: Assessing Additional Features for the Online Bluebook	78%	No	■	**Yes**
	EB. 05: Reaffirming Commitment to Improved Tribal Citations	98%	No	■	**Yes**
	EB. 06 Pilot Program to Shift Substantive Read from EEs to Super-Es	80%	No	■	**Yes**
	EB. 07: Improving Feedback for Poolworkers	87%	No	■	**Yes**
	EB 08: Increasing the Amount of EEs for Volume 138 (cosponsored with Governance)	40%	Yes	25%	**No**
	EB. 09: Implementing Targeted Efforts to Improve Bluebook Equity	79%	No	■	**Yes**

Governance	GOV.01 Refining the Role of the Strategy & Oversight Chair	79%	No		**Yes**
	GOV.02 Creation of the Historian Role	64%	Yes	35%	**No**
	GOV.03 Refining the Role of the Strategy & Oversight Chair - Option 2	65%	Yes	10%	**No**
	GOV.04 Affirm Transparency in Editorial Decisionmaking	90%	No		**Yes**
	GOV.05 Affirm Transparency in Editorial Decisionmaking	68%	No		**Yes**
	GOV.06 Clarifying the Media Policy	83%	No		**Yes**
	GOV.07 Prioritizing Confidentiality	87%	No		**Yes**
	GOV.08 Improving Access to the Disciplinary Committee	70%	No		**Yes**
	GOV.09 Publicizing Members of the Disciplinary Committee	61%	Yes	45%	**No**
	GOV.10 Notetaking	63%	Yes	42%	**No**
	GOV.11 Limiting Censure and Removal to the Disciplinary Committee	65%	Yes	77%	**Yes**
	GOV.11(a) Removal of "Removing" Language			88%	**Yes**
	GOV.11(b) Greenbook Compliance			94%	**Yes**
	GOV.12 Increasing the amount of Executive Editors for Volume 138 by 1	83%	No		**Yes**
Membership	MEM.01 Increase the number of editors that join the lower volume	55.6	No (catchall)		**No**
	A	48%	Yes	46%	**No**
	B	42%	Yes	31%	**No**
	C	24%	No		**No**
	MEM.02 Increase the proportion of editors accepted through an equally weighted combination of grades & competition score	59%	Yes	30%	**No**
	MEM.03 Require additional members to be selected through a combination of competition scores and grades	68%	No		**Yes**
	MEM.04 Affirm good-faith effort to mitigate the risk of the use of artificial intelligence during the Competition	98	No		**Yes**
	MEM.05 Develop a committee dedicated to providing more transparency about and improving the accommodations process	87	No		**Yes**
	MEM.06 Improve outreach to advance HLR's goal of increasing diversity and inclusion in its membership	85	No		**Yes**
	MEM.07 Increase the number of possible transfer editors	44	Yes	80%	**Yes**
Student Writing	SW. 01: Bluebook Proposal	79	No		**Yes**

Proposal	Score	Vote	Percent	Result
SW. 02: Volume Proposal	55	Yes	71%	Yes
AMENDMENT SW.02(a) Volume Proposal Forum Clarification			83%	Yes
AMENDMENT SW.02(b) Ex Ante Revision Amendment			83%	Yes
AMENDMENT SW.02(c) Presumption Amendment			TABLED	No
SW. 03: Notes Deadlines	64.8	Yes	92%	Yes
SW. 04: RT Deadlines	52	Yes	67%	Yes
SW. 05: Expanding and Standardizing P-Read Procedures	81	No		Yes
SW. 06: Eliminate RTs	9	No		No
SW. 07: Moving RTs to Forum	50	Yes	33%	No
SW. 08: Moving RTs to the Online Blog	31	Chair Override = Yes	26%	No
AMENDMENT SW.7-8(a)			33%	No
SW. 09: RT and Notes Dissolution Standard	70	No		Yes
SW. 10: Moving May/June Notes	94	No		Yes

General Transition Resolutions

GT.01 Live Voting Threshold (Passed, 92%)

Text: Per HLR Transition tradition, the live voting threshold for Vol. 138 Transition shall be a simple majority to pass resolutions. In the event that a resolution falls on a 50/50 split, the Chairs will accept a motion for additional discussion before an additional vote is conducted. In the event that the additional vote is tied for a second time, a coin will be flipped by the Transition Chairs.

GT.02 Binding Resolutions (Passed, 83%)

Text: The Resolutions passed at live voting shall be considered to be normatively binding on the future officers of Vol. 138.

GT.03 Presence of Upper Volume in Transition Committee Meetings (Passed, 68%)

Text: For Vol. 139 Transition and all subsequent Transitions, a single member of the upper volume respective committee is required to attend all lower volume committee meetings in a purely advisory, non-voting capacity. This upper volume member may rotate, and may be dismissed by the lower volume chair at any point during the meeting to foster open discussion.

Responsible Officer: SOC

Discussion: Many committees spent lots of time attempting to understand the processes and logic of the upper volume. Not all Committee Chairs from upper volume substantially prepared their lower volume counterparts. This resolution would increase efficiency and reduce the need for lower volume Committee Chairs to carry the additional burden of wrangling recalcitrant upper volume members to share their institutional knowledge and would make that knowledge accessible to all members of the committee. The burden on the upper volume would be minimal, as no Committee met more than 6 times, and as such each member could be assigned to attend a single meeting of the lower volume. It would alleviate the need for the previous upper body Committee Chair to remember and pass on all of the work that the committee did. This resolution would also increase the flow of information from the lower Volume Transition developments to the upper Volume.

Community Resolutions

C.01 Create a Presumption Against Knocking (Passed, 83%)

TEXT: During meetings there will be a presumption against signaling support immediately following someone's statement by making some sort of noise, such as knocking, snapping, clapping, etc. There will also be the same presumption for expressing disagreement.

OFFICERS: President

DISCUSSION: The survey results indicated a consensus in favor of doing away with immediate expressions of support, such as knocking, after someone speaks during a meeting. Some survey responses suggested that these practices have a value in creating an immediate indication of the level of support the statements have. However, this value is outweighed by the effect it can have on ensuring that everyone feels they can speak during meetings.

C.02 Prioritize Informal, Social Community Events (Passed, 96%)

TEXT: Following the selection of and orientation period for Vol. 139, the VP/CDO (and other editors as the VP/CDO may designate) will organize regular opportunities for editors to gather in small and informal settings, for which the purpose is to build community and to get to know one another, rather than to collaborate on HLR work.

OFFICERS: VP/CDO

DISCUSSION: This resolution aims to build and strengthen HLR as a social community. Its goals are twofold. First, it would seek to build HLR community (and communities) outside of editorial structure by encouraging editors to gather socially with others who they would not normally come to know well (e.g., through lunches with randomized groups of editors) and/or to gather based upon shared interests (e.g., similar professional goals, academic pursuits, or recreational/extracurricular interests). This resolution responds to the strong interest for these kinds of activities expressed in the survey. It would focus in particular on gathering early in the academic year in order to ensure that new editors get opportunities to gather socially before and during the HLR "ramp-up" period.

C.03 Supporting HLR editors from marginalized backgrounds

TEXT: There shall be a chair for each affinity group that comprises the Diversity Committee, i.e., BIPOC, LGBTQIA+, first-class, and disability communities. The heads of each affinity group would also chair the Diversity Community. Diversity Committee shall prioritize hosting events and initiatives for each individual affinity group, separate from and in addition to broader Diversity Committee events.

Diversity Committee shall add an additional affinity group for Women, Non-binary, and trans individuals. This affinity group will replace the current Women's, Nonbinary, and Trans Committee as a standalone committee.

OFFICERS: Diversity Community Chairs

DISCUSSION: Affinity spaces are important to recognize the unique needs of editors from diverse backgrounds and to create spaces where editors of similar backgrounds can build community. Diversity Committee already contains affinity groups for members of the BIPOC, LGBTQIA+, first-class, and disability communities. The Greenbook tasks DivComm with offering unique spaces and initiatives for each affinity group. However, the current structure of Diversity Committee makes it difficult to organize events among affinity groups. Affinity groups have no formal leadership, making it easy for affinity group organizations to fall to the wayside of broader Diversity Committee goals. Assigning affinity groups heads will formalize these groups and support the heads to advocate for their respective community members.

Given the restructuring of WNT under Diversity Committee, this resolution would retain two representatives from Diversity Committee for Foreword Selection Committee, absent other resolutions by other Vol. 138 Transition Committees.

C.04 Establish a Regular Visions Meeting (Passed, 79%)

TEXT: The entire HLR body will come together once per year to discuss HLR's mission. The purpose of the meeting would be to introduce the lower volume to HLR's mission, connect over our shared project of publishing the Law Review, and to discuss our collective and individual visions for HLR.

OFFICERS: Big Five, especially those officers who plan Orientation

DISCUSSION: In both routine (e.g. O-Read; Foreword) and non-routine (e.g. Article IV) all-body meetings, we make publication decisions that both reflect and further organizational values, but we do so without having previously come together to discuss our individual and collective visions for the organization. An opportunity to consider (perhaps during late August/early September as a routine part of Orientation, or at the first all-hands meeting) HLR's mission and to hear from our fellow editors on their visions for the organization would create space for us to reflect on what each of us wants HLR to be. This doesn't need to be a big or long meeting to further these goals.

C.05 Values Statement (Passed, 76%)

TEXT: The following statement of HLR's community values will be added to the Greenbook on Page 13, under the heading "Community Expectations": "The values of the Law Review community, which are both related to and distinct from the Law Review's editorial aims, include: integrity, good faith, and transparency in

dealing with all community members; respect for the rights, dignity, and differences of others; and intolerance of harassing or discriminatory conduct."

OFFICERS: Managing Editor of Operations, SOC or VP/CDO

DISCUSSION: This resolution aims to affirm the key values of the HLR community by memorializing them in the Greenbook. Currently, the Greenbook's "Community" section (p.13) contains policies against discrimination and sexual, physical, and other unlawful harassment. It also includes the following statement of community values: "We pride ourselves on our culture of warmth, enthusiasm, collegiality, and respect." This resolution would supplement these currently existing commitments.

C.06 Adopting Harvard's Anti-Bullying Policy (Passed, 72%)

TEXT: Harvard Law Review will update the anti-harassment policy to include Harvard's Anti-Bullying policy as part of Community Expectations. The Greenbook will be updated to summarize HLR's policy against bullying on page 13 and the full text will be included in the appendix.

Text to be added to the Greenbook:

2. Bullying

All editors and staff members have the right to participate in Law Review activities and to interact with their colleagues within a safe, comfortable, and respectful environment. As an institution, the Law Review is committed to maintaining an environment free from bullying, hostile and abusive behavior, and power-based harassment.

In Appendix C ("Policy Against Bullying"), you will find detailed description of our policies. Please read those provisions carefully. It is important to note that all Law Review editors and staff, as affiliates of Harvard Law School, are subject to the Law School's policies regarding bullying.
All Harvard Law Students have access to local support resources, who can receive reports and complaints, direct community members to resources, and provide information on supportive measures. They can be contacted at oeo@law.harvard.edu. Editors are also encouraged to reach out to the President, Managing Editors, or Vice Presidents with any concerns.

Text to be added to Appendix C:

Operating Principle: In General

Compliance with Harvard Law School Policy. — As students of Harvard Law School, editors should always comport themselves consistently with Harvard University and Harvard Law School policies. (See generally https://provost.harvard.edu/files/provo ... licies.pdf)

Operating Principles: Prohibited Conduct

Definition: Bullying, used as a shorthand for hostile and abusive behavior or power-based harassment, is defined here as harmful interpersonal aggression by words or actions that humiliate, degrade, demean, intimidate, or threaten an individual or individuals. For a violation of the Policy to occur, such aggression must be sufficiently severe or pervasive, and objectively offensive, that it creates a work, educational, or living environment that a reasonable person would consider intimidating, hostile, or abusive and denies the individual an equal opportunity to participate in the benefits of the workplace or the institution's programs and activities. Unless sufficiently severe or pervasive, a single act typically would not constitute bullying.

Examples: Bullying may include, but is not limited to, the following behaviors:
- Abusive expression directed at an individual or individuals, such as derogatory remarks, epithets, or ad hominem attacks that are outside the range of commonly accepted expressions of disagreement, disapproval, or critique in an academic community and professional setting that respects free expression. The Policy encompasses abusive expression or ad hominem attacks that are verbal or nonverbal, spoken or written, recorded, visual, or digital, including content posted to online platforms, academic tools, or social media sites. Examples include:
- Performance feedback delivered by yelling, screaming, making threats or gratuitous insults.
- Deliberate and repeated humiliation. This could include actions such as deliberate and repeated shaming of peers on online platforms in response to ideas, beliefs, or opinions shared in the classroom.
- Malicious comments about a person's appearance, lifestyle, family, or culture.
- Unwarranted physical contact or intimidating gestures directed at an individual or individuals. Examples include:
- A physical, verbal, or written act toward another person, which causes them reasonably to fear for their safety or the safety of others. o Invading personal space after being asked to move or step away.
- Conspicuous and unwarranted exclusion or isolation of an individual or individuals, with the intentional effect of harming their reputation in the workplace or learning environment and hindering their learning or work;
- Sabotage or threatened sabotage of the studies, work, or career advancement of an individual or individuals. Examples include:
- Interfering or threatening to interfere with a person's visa status.
- Spreading false or misleading information or malicious rumors.
- Sharing confidential information about another person without a legitimate pedagogical or employment-related purpose.
- Interfering with a person's personal property or work equipment.

- Damaging or destroying a person's work.
- Abuse of authority, such as using inappropriate threats or retaliation in the exercise of authority, supervision, or guidance, or impeding or attempting to impede another person from exercising rights under any of Harvard's policies or procedures.

Retaliation: No editor or staff member shall retaliate against an individual for raising a good-faith allegation, for cooperating in an investigation of such a complaint, for opposing prohibited conduct, for denying or defending oneself against an allegation, or for offering or providing support to an individual who makes or may make a good-faith report of misconduct.

Operating Principles: Reporting complaints of bullying

Reporting Complaints within the Organization. — Any individual wishing to report a violation of this policy should bring such a violation to the attention of the President, Managing Editors, or Vice Presidents. Serious situations brought to the attention of the Managing Editors or Vice Presidents may necessitate the President's involvement.

Confidentiality. — The Association will strive to maintain confidentiality as outlined above in the section on sexual harassment.

OFFICERS: President, Managing Editors, Vice Presidents

DISCUSSION: Harvard Law Review's Anti-Harassment policy is modeled off Harvard University's policies. In March 2023, Harvard put forward new Non-Discrimination and Anti-Bullying policies, which for the first time included policy against bullying. This resolution aligns HLR's policies with Harvard's and helps to make HLR an anti-bullying environment. Additionally, it expands the understanding of harassment and discrimination beyond just unlawful conduct but recognizes other forms of abusive behavior.

C.07 Promoting good faith engagement in all HLR full-body meetings (Passed, 82%)

TEXT: At the beginning of any full-body meeting, any Editor may request that a full "hand" be devoted to affirming good faith discussion, respectful disagreement, and hearing from a diversity of viewpoints.

OFFICERS: All Editors

DISCUSSION: As editors and future advocates, we must be able to respectfully disagree with one another. Good faith engagement is crucial in all-body discussions, including in O-Reads, Foreword Selection, and Article IV meetings. Many editors felt that the tenor of last November's Article IV meeting was improved after a full

"hand" was dedicated at the meeting's outset to the importance of good faith engagement. Thus, should any editor deem it appropriate, this Resolution normalizes and encourages devoting a full "hand" at the outset of all-body meetings to affirming respectful disagreement, good faith engagement, and the importance of diverse perspectives. And ideally—given the reticence of lower volume editors to speak up at early-semester events like O-Reads and Foreword Selection—such a hand will also encourage lower volume editors to make their opinions heard.

C.08 In-Person Half-Day Orientation and Reaffirmation of Orientation Goals (Passed, 81%)

TEXT: Orientation for Vol. 139 will include a half-day September 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 inform the incoming body about the Law Review's governance structure; and
3. Third, to facilitate connections within the lower volume through community-building exercises and diversity training.

The September orientation will be organized under the supervision of the Managing Editor and VP-CDO. The July orientation should be recalibrated to account for this additional orientation time.

OFFICERS: Managing Editor and VP-CDO

DISCUSSION: The survey results indicated that the body felt there were gaps in online orientation on HLR's governance and community. This resolution aims to fill that knowledge gap while fostering community early on.

In general, while it is logistically necessary for July orientation to be focused primarily on technical knowledge, there is great value in having additional training in-person that has a social element. 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 junior editors understand more concretely the institution they are entering.

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 get together and begin the process of welcoming the new body. An important component of this 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 throughout the year.

C.09: Promoting Transparency in HLR Operations and Communications (Passed, 79%)

TEXT: The Law Review makes an affirmative commitment to transparency in its operations and communications. For example, unless files must be kept confidential for security or personal privacy, there will be a presumption that all members of the Law Review will have equal access to Law Review files, including officer descriptions, prior and current volume resolutions, publication calendars, estimated pool days, and other basic information regarding the day-to-day operations of the Law Review. The entire body will be kept "in the know" on developments that affect the Review. The SOC will work to promote transparency by serving as a liaison between different members of the review, including lower volume editors, potentially through town halls or office hours.

OFFICERS: All, including President, Big Five, SOC, and Chairs

DISCUSSION: The Community Committee recognizes that open communication and transparency are not simply individual choices, but rather community norms that arise from a culture of trust. Because we lack informal structures (or regular use of such structures) through which the body is informed of developments that affect the Law Review, information is often shared "through the grapevine," which creates a "telephone" effect and an environment where the most well-connected editors are also the most well-informed. This creates power imbalance on the Review. In order to foster an environment receptive to feedback, productive disagreement, and honest and direct communication, our foundation should be one of openness.

This resolution shares the values of several resolutions proposed by other committees, including a Governance resolution in support of internal confidentiality and an Articles resolution in support of transparency into our articles publication pipeline.

C.10: Affirming a commitment to universal editor compensation (Passed, 70%)

Text: This Resolution calls for HLR leadership to pursue universal editor compensation for all editors, recognizing 1) the inherent value of paying people for their labor and 2) that fair compensation will make HLR accessible and sustainable for all editors, improving HLR's quality for years to come.

Officers: President, VP/T, SOC

Discussion: This semester, the Editor Compensation Committee has been pursuing a need-based editor compensation model. Under this structure, the ten HLR editors experiencing the most financial need (as determined by Harvard's Student Financial Services) would receive a scholarship of $10,000 for successfully completing the write-on competition. While the aim of this model is to attract students of diverse

socioeconomic backgrounds, the limited number of editors may still deter low-income students—especially those not on full financial aid—from applying for Law Review membership. Further, editor compensation should be based on compensating all editors for the inherent value of their labor. Full compensation will improve the quality of HLR's work by making the journal accessible and sustainable for all. While recognizing that any editor compensation effort requires negotiation with and cooperation from the Board of Trustees, this Resolution requires HLR leadership to pursue all financial and legal paths to universal editor compensation.

Solicited Content Resolutions

SC.01 Pre-solicitation conferral between relevant Chair(s) and President (Passed, 74%)

TEXT: Prior to soliciting any content for publication, the relevant Chair(s) and the President must confer and agree–either formally or informally–on the author and topic of the prospective piece of solicited content.

OFFICERS: Online Chairs, Supreme Court Chairs, Book Review Chair, other editors seeking solicited content, and the President.

DISCUSSION: Many Chairs have a practice of informing the President before soliciting content from outside authors, but this is neither codified nor a longstanding practice. This resolution seeks to codify the practice of discussing content solicitations with the President. The method by which Chairs confer with the President is up to the discretion of the Chairs. For example, a text message or email between stakeholders could be sufficient; it would be insufficient to place a proposed solicitation into a spreadsheet without informing all relevant parties.

SC.02 Process for agreement on solicited content (Passed, 79%)

TEXT: If, after discussions between the President and relevant Chairs regarding a potential solicitation, the President, Chair(s), or any member of the Body disagree with the decision of the President and/or Chair(s), the mechanism to revisit that decision is through existing constitutional processes.

OFFICER(S): Online Chairs, Supreme Court Chairs, Book Review Chair, other editors seeking solicited content, and the President.

DISCUSSION: The President and relevant chairs agree on the vast majority of decisions to solicit content. Our preference is that they discuss and come to a consensus about the path forward. In rare cases where there might be disagreement, we want to affirm the availability of processes that already exist to resolve those potential disagreements.

SC.03 Ensuring that the body can engage with and comment on solicited content (Passed, 78%)

TEXT: All Chair(s) that solicit content must provide the entire Body with a meaningful opportunity to read and comment on a full draft of the solicited content. Content can be shared with the full body through Slack or email. The responsible Chair(s) should synthesize and pass along relevant feedback to the author as part of the ongoing editorial process.

OFFICER(S): Online Chairs, Supreme Court Chairs, Book Review Chair, other editors seeking solicited content, and the President.

DISCUSSION: Given clear survey results indicating a desire to ensure opportunities to engage with solicited content prior to publication, this resolution is aimed at mandating full body engagement with HLR's solicited content. This resolution applies the process binding the Online Chairs – to share drafts of content with the full body via #OnlineFriends or email – to all chairs that solicit content. This sets a strong standard and intention for body-wide conversations around the role of solicited content on HLR to continue past Transition.

A "meaningful opportunity to read and comment on a full draft" might vary across types of solicited content. For example, 48 hours may be sufficient for Blog pieces, while five days may be needed for book reviews or other longer-form pieces. The relevant Chair(s) have discretion to determine what this standard will look like for their content.

SC.04 Providing the Body with an opportunity to revisit and discuss solicited content of interest (Failed, 43%)

TEXT: During or after the required notice and comment period outlined in [Draft Resolution #3], ⅓ of the Body may call for a full-body up-or-down vote on whether to proceed with the solicited content. The up-or-down vote will follow an O-read style format.

OFFICER(S): Online Chairs, Supreme Court Chairs, Book Review Chair, other editors seeking solicited content, and the President.

DISCUSSION: While we want to maintain the discretion of the respective Chairs to solicit content, published solicited content ultimately reflects the judgment and work of the entire law review body. To that end, the full body should have the ability to express input over our decisions to publish solicited content when needed. A vote can be called for in various ways. For example, ⅓ of Editors may inform the President of their decision to call for a vote through email or in writing. We believe an O-read style discussion and vote would provide a mechanism for the body to voice their opinion similar to the Articles process.

TC Note: An amendment was offered to this Resolution during Live Voting to raise the thresholds (1/3 to 50%, and "up-or-down" to 2/3 requirement) in the text. We voted on the Amendment first, which passed with 67% of the vote. We then voted on the Amended Resolution, which failed.

SC.05 Increasing lower volume engagement in the Foreword Selection Committee (Passed, 81%)

TEXT: Two lower volume members will sit on the Foreword Selection Committee. Lower volume members will volunteer to be considered. The MEO will choose two members at random from the volunteers. The MEO will give the members appropriate pool credit for their time spent on the committee.

OFFICER(S): MEO.

DISCUSSION: Many on the survey voiced a desire to have the lower volume be represented in the foreword selection process. This would help with increasing transparency of the process for the lower volume. Too, given that the Foreword is the first publication produced, in part, by the lower volume, it's important that representatives from that volume have a meaningful role in the nomination and selection process.

SC.06 Revisit composition of Foreword Selection Committee (Failed, 15%)

TEXT: The VP/CDO will be added to the Foreword Selection Committee. WNT and DivComm representatives will be removed from the Foreword Selection Committee.

OFFICER(S): Supreme Court Chairs, President, VP/CDO.

DISCUSSION: Currently, the WNT and DivComm representatives on the Foreword Selection Committee are officers internally selected by the members of those affinity groups. The survey results indicated both concern about the WNT and DivComm representatives' role in the Foreword Selection Committee and an interest in having an advocate for underrepresented perspectives in the finalist selection process. The VP/CDO is elected to serve a community-building function and to represent the importance of diversity in our community. This resolution proposes to include the VP/CDO, who will serve as an advocate for underrepresented perspectives, in the Foreword finalist selection process as an elected representative of the body.

Online Resolutions

OL.01 Ad-hoc process for additional technical editing rounds (Passed, 89%)

TEXT: If an HLR editor tasked with supervising a Forum or Blog piece is deeply concerned that the draft will still contain serious factual, substantive, or technical issues by the EE-read stage upon initial review, they may flag their concerns to the Supervising Chair and Managing Editor(s). At subcite / CEFC, the supervising editor will leave a comment on the first page of the assignment indicating that this piece has been flagged as potentially requiring additional attention. While the poolworker should continue as if there will not be an additional round of editing, they are encouraged to fill out a Google form (linked in the comment) if they feel that the piece requires an additional round of editing. Poolworkers will be asked to identify the scope of issues (e.g., serious lack of citation, inability to verify claims / find missing sources, etc.), note the time spent on the assignment, and recommend a future course of action (e.g., additional subcite of entire section, tracking down certain sources, special assignment for certain subset).

The supervising editor will collate form responses along with poolwork and recommend a course of action (if any) to the Supervising Chair and Managing Editors. Subject to agreement or modification by the relevant officers, ad-hoc assignments for the Forum and Blog will enter the pool to aid in necessary cases.

OFFICERS: Online Chairs / Supervising Editors, Managing Editors, Supervising Chair

DISCUSSION: Forum and Blog pieces have fewer rounds of technical editing, which successfully lessens the workload on editors and streamlines publication of timely pieces. However, some pieces are not in strong technical shape upon submission, which can require Super-Es and poolworkers to devote significantly more time than allotted for substantive / technical editing. Instituting this process for such fringe cases enables us to target specific pieces (or even sections of pieces) that require extra attention and proactively work to distribute the poolwork evenly and sustainably. Ideally, this process is used sparingly to avoid situations where individuals are pulling all-nighters at any point and to add some more structure around a process that already takes place on a more ad-hoc basis anyway. Creating extra pool assignments for a piece under this process would remain at the discretion of the Managing Editor(s), who can determine if there is sufficient pool capacity to add special assignments for the piece.

OL.02 Establishing Overall Online Strategy and Goals (Passed, 72%)

TEXT: The online chairs should conduct online operations with the following goals in mind, and should ensure that these strategic objectives are pursued or protected in any and all online editorial and administrative decisions:

Engaging with a broad audience: While our print publication highlights topics and styles of writing aimed towards legal scholars, judges, and practicing lawyers—the Blog and Forum may uplift topics and styles of writing that, while ultimately about the law, are designed to engage with audiences outside of our print publication's normal reach, including journalists, activists, and scholars in related fields.

Publicizing live debate: The Online publications should be a space to make ongoing debates on legal issues and developments live and visible to our readers in real time—highlighting arguments in direct response to our print articles, in direct response to other HLR Online published material, or in direct response to other arguments floating in the legal space.

Responding to developments: Online should leverage its faster publication timelines and lack of print-schedule constraints to publish articles that respond to developments in the law that are not conducive to the print timeline.

Maintaining quality of writing and analysis: In pursuing the above goals, HLR's online publications should not accept lesser writing quality or support than that typically expected of HLR by its readers, even if the support may take different forms or types given different styles of writing.

OFFICERS: Online Chairs

DISCUSSION: During the Article IV meeting last fall, there was notable disagreement and often lack of clarity on (1) what the particular contribution of the Blog and the Forum are to HLR as a whole and (2) whether that contribution calls for different styles of writing, topics of writing, and levels of substantive or technical overview. This resolution seeks to clarify both what makes our Online forums unique and what those forums are particularly aimed at that our print version is not suited for.

OL.03 Implementing Online Strategy and Goals (Passed, 83%)

TEXT: In order to achieve these goals, the online chairs should, within the first month of their tenure, and among other things:

Set clear provisional goals on how much content is planned for online publication that year, to be shared with the general body

Distinguish between the different branches of HLR's online platform (Blog and Forum) as it concerns types of content, accepted versus solicited content, flexibility in length and citation requirements, and role in overarching online strategy

Explore ways to visually distinguish the Blog, Forum, and Harvard Law Review Print on our online platform in order to highlight differences in style of writing and intended audience

Keep the body informed of online pieces in the pipeline and progress on the above goals with a monthly "State of Online" email

Exercise their editorial discretion consistent with the above named principles

OFFICERS: Online Chairs, Strategy & Oversight Chair, President

DISCUSSION: This resolution seeks to implement the four strategies enumerated in OLN-02. Within 30 days of election, the Online Chairs should convene with the President and SOC to propose a strategic vision for HLR's online presence for Volume 138, with the Online Chairs to later communicate high-level provisional goals to the full body in an initial "State of the Online" update. The Online Chairs are encouraged to confer with the SOC prior to this meeting as a source of additional support in drafting the overarching online strategy.

In pursuit of these goals, the Online Chairs will also update the White Book to reflect the primary goal(s) of each online platform and specify the HLR platform(s) on which different types of non-Print pieces will be published (Blog, Forum, or both). Non-Print pieces include, but are not limited to, Responses, Essays, Commentaries, Book Reviews, Fellowship Essays, Recent Things, and Tributes.

OL.04 Tweet Bluebook Tips (Passed, 62%)

TEXT: The HLR Twitter account should semi-regularly tweet out Bluebook tips.

OFFICERS: Online Chairs

DISCUSSION: This resolution could help increase social media engagement as more people may choose to follow the HLR Twitter account in order to get the tips. It may also help with equity concerns related to the Bluebook by providing clarifications on common questions.

OL.05 Codify social media strategy

TEXT: The Online Chairs should collaborate with the Big Five to decide when social media activity should resume and subsequently publicize that plan to the body. The Online Chairs should work with the Strategy & Oversight Chair to develop a plan regarding who manages the Twitter account, what sort of content the account should engage with, and how often the account should engage in activity. The plan should also consider if HLR may want to join any other social media platforms and whether the HLR Linkedin should be used more strategically.

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

DISCUSSION: Since October, the HLR Twitter account has completely stopped posting due to concerns of harassment. This resolution is designed to help start building up that Twitter presence again and ensure there is a plan moving forward to increase our social media activity. The plan need not be extremely specific or involved, as long as it is helping to strategically push our content. Among other things, the Online Chairs should consider engaging with legal academics online (through a retweet and/or a like) when they tweet about being published in HLR (or otherwise engaging with HLR content), tweeting about HLR pieces when they are published, and other activities.

OL.06 HLR Fellowship Essay Orientation (Passed, 96%)

TEXT: The Strategy & Oversight Chair will provide an orientation and related materials to HLR Fellows with information about parameters, editorial standards, process, and general guidance on Fellowship essays to be published in the Forum.

OFFICERS: Strategy & Oversight Chair (SOC)

DISCUSSION: Fellowship essays have required highly variable amounts of officer and poolworker editing. It is not clear that every Fellow has an initial understanding of HLR's editorial process and the work required to edit initial drafts–an orientation at the outset of the fellowship to clearly communicate relevant HLR practices along with general best practices for the Fellowship essay may be an effective way to mitigate this situation. As the officer leading the HLR Fellowship, the SOC is best primed to take this on, and can consult with the Managing Editors and Online Chairs about the relevant materials to include. The SOC will also work with the Bluebook Chairs to extend free Bluebook copies or online Bluebook subscriptions for one year to the Fellowship recipients as necessary.

Articles Resolutions

ART.01 Improving transparency and accountability in the article submission and selection process (Passed, 89%)

TEXT: Establish a set of standard operating procedures documenting the stages of Articles from their submission to publication, the governance mechanisms involved at each step, and a tracker which communicates where each submission is in the process. These procedures will be twofold:

1) <u>Develop an article selection tracker</u>: The Articles Committee will institute a tracker to document updates at each point in the article selection process for 100% of articles that reach the Rotopool stage, available to the body via Sharepoint.
   - The Transition Survey results revealed that there is widespread confusion among both volumes regarding how articles are selected, as well as concern regarding the level of discretion exercised by the ABC and Articles Chairs. By updating the progression of each article in a tracker, we can ensure there is sufficient transparency around which articles are accepted and why.

2) <u>State of the Articles</u>: The Articles Chairs will publish a monthly "State of the Articles" with data on how many articles HLR received, which were accepted, and why articles from O-Read onwards advanced or did not advance.
   - This resolution is designed to target concerns around transparency and accountability in the article selection process. At the end of each month, the Articles Chairs will provide an update to the full body on which articles were selected and why.

OFFICER(S): ABC Chair; Articles Chairs, Big 5

DISCUSSION:
The Articles Committee is the funnel through which legal scholarship enters our pages. As such, it is important to ensure that the processes for soliciting content and reviewing submissions both have integrity (i.e., a common set of baseline criteria to review content against) and can ensure trust amongst our membership. This resolution proposes documenting each step of the governance process from the point at which a piece is received until it reaches its end state (e.g., publication, dissolution), the decision makers at each point, and also contemplates potential pitfalls in the process. This living document should be made available to the body, and is owned by the Articles Committee. As the same process governs content submitted for the *Forum*, the Articles Committee will coordinate with the Online Chairs to track these submissions as well. The final document shall be approved by the Big 5. Further, the Articles Committee shall create a dashboard (e.g., spreadsheet tracker) to monitor the status of all submissions, where they are in the process, and if they fail, a detailed explanation for why they did.

*TC Note: The Committee Chair amended the Resolution on the recommendation of the Transition Chairs to remove the SOC as an implementing officer for this resolution.

ART.02 Explain data collection at Orientation (Passed, 78%)

TEXT: Update Articles Orientation to explain how diversity metrics collected from submitting authors are used in the articles selection process.

OFFICER(S): ABC Chair; Articles Chairs

DISCUSSION:
Survey results indicate there is some confusion among the body about how diversity metrics are used. While Vol. 138's Orientation looked at the results collected from this data, the slideshow did not fully address how precisely that data is used. For example, some helpful questions to answer include: When does the Articles Committee see it? Are there formal rules around what stage in the process such information should be considered? What types of articles is this information most useful for evaluating? This could also be an opportunity to discuss the history and legal basis for collecting such information so that editors have more clarity on this process.

ART.03 Asynchronous O-Read Pilot (Passed, 70%)

TEXT: The Articles Chairs and the ABC Chair shall be empowered to pilot an asynchronous O-Read – over an online forum (e.g. Slack thread) over a few days. A piece would be "open for O-Read" as soon as it passes C-Read, with additional materials such as literature review and faculty reviews being announced and shared as they become ready. At the end of the O-Read period, there will be a designated time window during which editors can vote.

The implementation and timing will be left to the discretion of the aforementioned officers but may include holding O-Reads on the discussion board or other online messaging/discussion platforms. Should this Pilot be implemented, the Articles Chairs, ABC Chair, and Big 5 can together discuss the potential for future implementation of asynchronous O-Reads.

OFFICER(S): ABC Chair; Articles Chairs

DISCUSSION:
Our current O-Read process attempts to strike a balance between expediency and accessibility. Because of the fast pace of the articles process, the ability to implement an asynchronous O-Read could be beneficial in instances where HLR is competing against exploding offers.

Low O-Read attendance has been a chronic issue in the Articles process. In addition, O-Read discussions often fail to engage with important substance or to cover all important topics with equal spotlight. The time pressure also tends to cut short conversations that deserve more time.

An asynchronous O-Read would address these problems by (i) allowing interested editors to participate, regardless of their schedule; (ii) fostering substantive discussions by giving contributors more time to support and formulate their opinions; and (iii) divorcing the content of the O-Read discussion from in-person dynamics and pressures. To ensure sufficient participation, the Articles Committee could send out a sign-up sheet for editors to commit to making at least one post on the designated forum.

ART.04 Create an articles "fast track" (Passed, 85%)

TEXT: In addition to the current articles process, the articles leadership team would oversee a "fast track" for a subset of article submissions. This track would permit a small number of submissions to move more quickly from screening to *live* O-Read. The articles selected for the "fast track" would be those that are both especially strong and particularly likely to be taken by other schools before they can undergo our full process and make it to O-Read consideration.

The Articles Chairs and ABC Chair, in consultation with the Big 5 and the Volume 137 articles committee, would be responsible for crafting a pilot fast track model prior to February 1, 2024 (the official start of articles season).[1] Any fast track to O-Read would still include (1) at least one in-depth substantive read and memo, including a preliminary literature review; (2) review by the full articles committee; and (3) solicitation of faculty reviews.

OFFICER(S): ABC Chair; Articles Chairs

DISCUSSION: Articles season is a race. It is a race our structure is designed to lose.

The Problems
1) <u>Losing the Best Pieces</u>
All other leading journals move more quickly than HLR; no one else, for example, has as many stages of review, or an O-Read. Even many top journals (*e.g.*, *CLR*) have only two stages of review: one screening by AEs, then one C-Read. Even if everything goes *perfectly*, the fastest we can accept a piece is 16 days after submission. By comparison, *CLR* can accept a piece in about three days.[2]

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[1] One example fast track might look like this:

As Articles Chairs and the ABC Chair reviewed AE screening scores, they could move a few pieces onto a "fast track" list, which would be viewable by the body on Sharepoint.

Once on the fast track, pieces would be subject to four stages of review, which would take about 7 days to complete:
1) The piece would be given to an AE for one substantive read. This read would combine a literature review, M-Read, and rotopool, and would be a three- or four-day assignment. (If the AE's review reveals unexpected faults, the piece would be put back onto the normal timeline, or rejected.)
2) Next, the ABC Chair would request faculty reviews.
3) The piece would also be scheduled for C-Read (such that faculty reviews would be solicited prior to C-Read, and some reviews may have been received by C-Read).
4) Finally, if the piece is "yes" voted at C-Read, it would move to a *live* (not asynchronous) O-Read (hopefully within one to two days, given that faculty reviews will mostly be collected).

[2] This is an example of the fastest possible timeline, under perfect conditions:
- "Dream Piece" is submitted on February 1.
- AE screening of pieces submitted on February 1 is due by 2 PM the following day, on February 2.
- Between 2 PM and 5 PM on February 2, the Articles Chairs review screening scores for the prior day. They see the Dream Piece and put it in the Pool for a Rotopool.
- The Rotopool is assigned out the night of February 2. It comes back by 2 PM on February 4.

On top of that, other than *YLJ* and *SLR*, nearly all leading journals offer "exploding offers." Authors are frequently given just 24 or 48 hours to decide whether to accept an offer of publication from a strong journal that is slightly lower ranked than *HLR*. In most cases, they will feel incredible pressure to accept that offer. Few law professors (a naturally risk-averse bunch) will relinquish a guaranteed strong offer to gamble that an *HLR* O-Read will go their way. Thus, in many cases, authors will accept a slightly lower-ranked journal's offer, even if they are close to getting to an O-Read and have a strong chance of passing O-Read.

There are strong reasons to avoid a process quite as fast as those of some other top journals. We value a more deliberative process, and it makes sense to keep checks in place to ensure that each piece is given an in-depth review, is subject to faculty feedback, and is reviewed by the full articles committee and full body. However, it is possible to design a system with fewer unnecessary delays that still achieves those goals, and that can be completed in a shorter amount of time — around seven to ten days, rather than sixteen to twenty.

   2)   Inefficiency and Strain
The "racing" problem also creates a strain on the Articles and Pool system.

The Articles Committee often loses pieces on which we have already expended substantial effort and Pool hours. (We may write a Roto, an M-Read, and a Lit Review, collect faculty reviews, and hold a C-Read, only to see the piece slip from our hands a few days before an O-Read.) We then must continue searching for Articles much later into the season than other comparable journals, putting continuous strain on both the committee and the pool (and requiring the body to attend an unsustainable number of O-Reads for relatively weaker pieces).

Additionally, where pool capacity is limited, our system quickly breaks down. For example, there is often limited Pool capacity in February because of the sizable amount of May and June student writing. However,

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- Between 2 PM and 5 PM on February 4, the Articles Chairs read the Rotopool and see the glowing review. They designate the piece for an M-Read. The M-Read goes out the night of February 4.
- The M-Read is due by 2 PM on February 8.
- On the night of February 8, the Articles Chairs see that the M-Read got a "strong yes" to C-Read. They schedule a C-Read for the piece for lunch on February 11 (giving members of the committee just over 48 hours to read the piece, Rotopool, and M-Read).
- The piece is voted "yes" at C-read on February 11.
- The night of February 11, the Articles team sends the Lit Review into the Pool. It is due at 2 PM on February 15.
- In the meantime, the ABC Chair solicits faculty reviews for the piece. She gives faculty five days to read the piece and email back responses.
- The ABC Chair receives back the faculty reviews and sends them out to the body on the night of February 16.
- The O-Read occurs during the afternoon or evening of the next day, on February 17, and the piece is accepted.

Notably, this timeline assumes that the Articles leadership is fully ready to perform their roles on February 1, despite being elected about two days earlier. It also assumes unlimited pool space; that all assignments are completed on time; that the AEs have no other pre-existing M-Read assignments; that there are no scheduling obstacles that delay C-Read or O-Read; that there are no other articles also competing for priority scheduling; and that enough faculty respond on time. One or more of those assumptions often proves faulty.

the Articles system also demands that dozens of Rotopools go out at the beginning of February, as the vast majority of article submissions come in during early February.[3]

The Solution
Creating a "fast track" system can help the Articles Team simultaneously address these multiple problems — and can do so without entirely discarding our slower process, which also has its advantages.

1) Feasibility

It is possible to effectively select pieces for a "fast track." Articles that are likely to be very popular and be scooped up are often relatively identifiable. They might get a 5/5 score at screening, because they have an especially groundbreaking thesis and are beautifully written and well-structured; they are often by scholars whose work is likely to be eagerly reviewed by our peer schools — such as a very popular scholar who publishes less frequently, or a younger, up and coming author whose work is in demand; they might also write on a topic that is relatively undercovered and on which there are relatively fewer strong pieces (such as private law topics). Under these sorts of conditions, other journals are likely to try to quickly snap up these pieces before we can get to them. This smaller subset of articles would be subject to the fast-track.

2) Precedent

A fast track system is not entirely unprecedented. To the contrary, this past February the Articles leadership was forced to create a partial, ad hoc "fast track" process because there was no pool capacity for Rotopools for most of February. As a result, we created the "Motopool," an assignment that combined the Rotopool and M-Read into one larger assignment for the AEs.[4] Thus, many of the pieces that we accepted for publication in Volume 137 were "Motopooled" and never read by a pool editor. Rather than an ad hoc system created during the pressures of peak articles season, we ought to create a more systematic fast-track system that helps address many of the flaws in our articles process

3) Transparency

Because the fast track list could be made public, this system would also increase transparency into the Articles process. As it stands, the Articles Chairs already internally prioritize articles constantly. A fast track system makes public and tangible which pieces are betting prioritized, subject to more open review.

ART.05 Update FAQs on the HLR website (Passed, 87%)

TEXT: ABC Chair will, at the close of spring articles season, work with the prior ABC Chair and Articles chairs to update HLR's submissions page to address frequently asked questions and challenges in the submission process, with a focus on making information more accessible for early career and non-T14 scholars.

OFFICER(S): ABC Chair; Articles Chairs

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[3] Most other journals start accepting on February 1, so most authors submit to all journals in February, including *HLR.*
[4] If you see an AE, hug an AE; they worked so hard last spring!

DISCUSSION:
The survey results indicated that editors want HLR to actively encourage submissions from professors and practitioners outside of T-14 schools, earlier in their careers, or outside academia entirely. This would be a preliminary step and avoid some of the logistical challenges of other suggestions.

ART.06 Shorten Rotopool Rubric (Passed, 92%)

TEXT: The "Rotopool" rubric (the part after the synopsis and summary) should be further revised and consolidated, to make the Rotopool more useful for the quick review of articles needed by Articles Chairs to decide which pieces should proceed to a later stage.
  - Analysis factors will be reworded as yes or no questions. Editors will be asked to answer with at most a paragraph
  - The articles committee will eliminate factors by combining ones that currently overlap including: quality of research & breadth of research; contribution to the field & originality; and subject matter and impact.

OFFICER(S): ABC Chair; Articles Chairs

DISCUSSION: The primary role of a Rotopool is to filter. Given the limited time allotted, they are necessarily a very surface read. To ensure a more standardized review process that is more useful for the articles teams, the ABC Chair and Articles Chairs, in consultation with the Big 5, should further refine and develop a "rubric" version of the Rotopool. The goals would be two-fold: (1) simplify the assignment, lessening the strain on the poolworker; (2) standardize review, to make smoother the Articles Chairs' one-day (or less) turnaround on review.

Furthermore, this would align with the body's perspective – 49.4% of responses to the Transition Survey agreed that we should shorten the Rotopool assignment.

ART.07 Allow four articles committee members to move a piece from M-Read to C-Read (Passed, 72%)

TEXT: If the Articles Chairs decline to move an article to C-read, four members of the Articles Committee may motion for a vote on that article.

OFFICER(S): Articles Chairs

DISCUSSION:
It is possible that the Articles Chairs may hold up a piece that the body would approve. This resolution aims to reduce that chokepoint. Consensus of four articles committee members would demonstrate sufficient opposition to the Articles Chairs' decision to not move the piece forward. Four members is also less than the six threshold needed to pass at C-Read.

ART.08 Create multi-article C-Reads (Passed, 83%)

TEXT: Empower the articles leadership to explore creation of "multi-article" C-Reads. Unlike the existing one-off C-Read model, here multiple articles would be considered at single, longer reads. C-Reads would now be two or three hours long (rather than one hour), and participants would debate the comparative advantages of four or five pieces at once.

This would be a pilot, authorizing the team to try out this model if they wish. The Articles Leadership would remain empowered to schedule one-off C-Reads where necessary (particularly to avoid delays that could result in potentially losing a piece).

OFFICER(S): ABC Chair; Articles Chairs

DISCUSSION: The articles process currently allows no clear mechanism for articles editors to compare articles against one another. Each AE will know of pieces they have screened and M-Read; AEs may be keeping track on Salesforce; and the Articles Leadership will have a general sense of what else is in the pipeline. But actual comparative discussion does not occur in a structured manner.

To try to select for the strongest pieces and encourage more meaningful discussion, C-Reads should be comparative, multi-article discussions. These discussions would make participation by non-committee members more meaningful. C-Reads would also be somewhat less frequent, potentially helping to reduce burnout in the Articles team during rush seasons.

Bluebook and Editing Resolutions

EB.01 Replacing First Subcites with "Substantive Checks" (Passed, 54%)

TEXT: Beginning after Medical Match, First Subcite for all <u>print</u> pieces shall be renamed "Substantive Check." Second Subcite will accordingly be renamed "Subcite" but otherwise remain unchanged. The primary purpose of Substantive Check is to verify and highlight sources to ensure accurate characterization and adequate support. Substantive Checkers should supply pincites and correct signals if necessary. Comments on clarity and style will also remain appropriate. Substantive Check shall *not* include technical editing (i.e., Bluebooking and Blackbooking). The incoming MEP has the discretion to implement this policy as a test after transition, then expand as necessary. The incoming MEP and Supervising Chair shall revise the *Whitebook* and other documents to reflect these changes to the editing process and detail additional instructions as necessary.

OFFICER: MEP, Supervising Chair

DISCUSSION: EEs have noticed a significant number of support and characterization errors remaining even after two subcites. This resolution is intended to focus poolworkers' efforts on substantive editing so that EEs have more bandwidth to deal with technical editing during EE-Read. Renaming First Subcite to "Substantive Check" and removing the technical editing component will indicate to poolworkers—especially new poolworkers—the importance of carefully verifying support and characterization at this stage. Although fixing technical errors is an important part of the editing process, it currently makes up a disproportionate share of the editing process. Technical editing will still occur at the Subcite, Super-E pre-edit, EE-Read, Galleys, Pages, and Bookproofs. As such, we should not expect removing technical editing from the first stage of the editing process to meaningfully increase the number of technical errors that make it to print.

*TC Note: An amendment was offered to this Resolution during Live Voting to change the phrase "Fact Check" to "Substantive Check" to reflect the work that HLR does. We are not asserting "Facts"– rather, we are asserting that sources say what the authors claim they say. We voted on the Amendment first, and it passed by unanimous consent. We then voted on the Resolution with the amended language, which also passed.

EB.02 Handling Difficult Authors (Passed, 81%)

TEXT: Volume 136 faced some difficult outside authors who repeatedly missed deadlines and failed to respond to support and characterization issues. Moving forward, the Big 5 shall take a stronger stance in dissolving outside-author pieces or threatening dissolution when authors are not sufficiently cooperative.

OFFICER: Big 5

DISCUSSION: Two recent pieces, *Medical Disobedience* and *The Executive Power of Removal*, had serious issues which required significant Masthead attention above and beyond the usual editing process. The *Law*

Review should be more willing to dissolve outside-author pieces when their noncooperation burdens the Masthead.

EB.03 Changes in Form and Substance to the *Bluebook* to Consider (Passed, 96%)

TEXT: The *Bluebook* Chairs shall take into consideration the following suggestions as Vol. 138 works on the re-release:

A.   For proposed substantive changes to the *Bluebook*.
1.   Clarify rules regarding citation of international sources.
2.   Clarify Rule 18 regarding citation of online sources.
3.   Clarify rules regarding administrative agency decisions.
4.   Clarify rules regarding citation of state statutes.
B.   For the form of the Online Bluebook:
1.   Assess feasibility of a "pop-out" box for Table T6.
2.   Improved search functionality.
C.   To the extent necessary:
1.   Assess feasibility of a removable "card" for Table T6 in the physical Bluebook.

OFFICER: *Bluebook* Chairs

DISCUSSION: These are compiled from suggestions given by the body. As we move into a re-release year, it is important for the *Bluebook* Chairs to take into account feedback from the body about what aspects of the current version need updating.

EB.04 Assessing Additional Features for the Online *Bluebook* (Passed, 78%)

COMMITTEE VOTE: 6-0-0

TEXT: The *Bluebook* Chair is encouraged to assess the feasibility of the following additional features to the online *Bluebook*, if necessary by consulting with a software developer or other technical expert.

- *Bluebook* App: The *Bluebook* Chair is encouraged to assess the long-term feasibility of a *Bluebook* mobile application.
- Citation Generators: The *Bluebook* Chair is encouraged to assess (1) whether, in the long-term, it is possible or desirable to develop a citation generator within the *Bluebook*; and/or (2) liaise with Lexis and Westlaw to improve citation generators currently labeling *Bluebook* Citations as "Standard" citations. The Chair should assess not only whether improving the citation generator is possible, but whether there is potential revenue in charging Lexis/Westlaw for use of the "*Bluebook*" name.

OFFICER: *Bluebook* Chair

DISCUSSION: These additional features were suggested by the body. The idea for Lexis/Westlaw liaising was brought up in committee discussions as a response to the potential undesirability of a citation generator in the *Bluebook* itself. Many people using the *Bluebook* begin with Lexis/Westlaw-generated citations, and it may be useful to think about how the process of citation generation can be placed in conversation with the *Bluebook*, or at least correctly labeled as *Bluebook*-style citations. Concerns with this proposal are binding the *Bluebook* chairs to non-crucial commitments during the re-release year.

EB.05 Reaffirming Commitment to Improved Tribal Citations (Passed, 98%)

TEXT: The Volume 138 *Bluebook* Chairs shall continue discussions with the Law Librarians for Indigenous Inclusive Citation Practices (LLIICP) regarding the inclusion of tribal law citations within the *Bluebook*. The Chairs shall work with LLIICP to ensure that the new *Bluebook* edition features expanded tribal law citation practices and guidelines.

OFFICER: *Bluebook* Chairs

DISCUSSION: Over the past year, the Volume 137 *Bluebook* Chairs have worked with LLIICP to incorporate into the *Bluebook* more guidance on tribal law citations. Per last year's resolution on tribal law citations (E&BB-4), the *Bluebook* Chairs were directed to communicate to LLIICP that "because HLR membership changes annually, we cannot guarantee that this initiative will continue across volumes." The *Bluebook* Chairs have communicated to the Committee that LLIICP has had some concerns about the durability of our partnership given *HLR* turnover. This resolution simply reaffirms our commitment to continuing the work of the Volume 137 *Bluebook* Chairs on tribal law citations, which will assure LLIICP of our partnership as we move towards releasing the next edition of the *Bluebook*.

EB.06 Pilot Program to Shift Substantive Read from EEs to Super-Es (Passed, 80%)

TEXT: The MEO, MEP, and Supervising Chair shall work together to design and implement a pilot program for one Volume 138 Forum piece that shifts the final substantive read of a piece — currently EE-Read — from the EE to the Super-E. The goals of this pilot program shall be to (1) evaluate whether shifting responsibility for final substantive review of a piece from EEs to Super-Es is viable and (2) determine what changes in staffing would be necessary to implement this change across the board.

While the MEO, MEP, and Supervising Chair shall have discretion to structure the pilot program, it shall conform to the following requirements:

1. The Super-E on the piece shall have final responsibility for all substantive edits, including:
   a. Identifying propositions that require, but lack, support, and working with authors to add support
   b. Addressing characterization errors
   c. Verifying pincites
   d. Verifying the accuracy of quotations
   e. Ensuring "quoting," "citing," and other weight of authority parentheticals are properly included
2. The Super-E shall confirm that all sources are authoritative
3. The EE on the piece will only address technical edits (i.e., technical *Bluebook* and *Blackbook* errors)

After the pilot, the MEO, MEP, and Supervising Chair shall compile a follow-up memo to share with the body that includes their recommendation as to whether the pilot program should be broadly adopted.

OFFICERS: MEO, MEP, Supervising Chair

DISCUSSION: Currently, EEs conduct a full substantive review at EE-Read that is the equivalent of a third subcite. EEs often find many substantive errors at EE-Read, demonstrating a need for this substantive check. However, it strains EE bandwidth and pulls substantive editing into a phase of the editing process designed to focus on identifying and correcting technical errors. One approach to resolving this pain point in our editing process is to shift the post-subcite substantive check to Super-Es. Under this model, EEs would not be responsible for substantive accuracy and ideally would not need to open most sources. Super-Es do not currently have the bandwidth to conduct a full substantive read, and making this change would likely require reallocating the number of Super-Es and EEs. This would substantially modify how *HLR* operates, but could resolve what the Masthead has identified as a significant snag in our editing process. Accordingly, this resolution calls for a pilot program to test the approach, after which Volume 139 can decide if it should be implemented more broadly.

EB.07 Improving Feedback for Poolworkers (Passed, 87%)

TEXT: The Strategy & Oversight Chair shall work with Super-Es and EEs to aggregate feedback to provide to poolworkers. This feedback shall take the forms of (1) general, regular feedback and (2) individual, ad hoc feedback.

1. *General Feedback*: The Strategy & Oversight Chair will work with Super-Es and EEs to send compiled edits (i.e., the document they send to the author) to the poolworkers who worked on a subcite/Galleys/Pages. At a monthly cadence, the Strategy & Oversight Chair will survey Super-Es and EEs to identify common errors in poolwork, which will then be shared with the body.
2. *Individual Feedback*: As Super-Es and EEs feel that it is appropriate or necessary, they shall share feedback about individual poolwork mistakes with the Strategy & Oversight Chair, who will share

them with the relevant poolworkers. For example, if a bad characterization error makes it to EE-Read, the EE would share the error and recommended fix with the Strategy & Oversight Chair, who would then provide this feedback to the editors who subcited the piece. Individual feedback should be framed constructively, in a way that alerts poolworkers to mistakes they have made and helps them learn how to avoid them moving forward.

OFFICERS: Strategy & Oversight Chair, Super-Es, EEs

DISCUSSION: This resolution aims to balance the importance of poolwork feedback with the burden it places on officers. In the Transition survey, many people mentioned that the compiled edits they received after working on Galleys, Pages, and subcite assignments was particularly useful. This feedback is also a fairly low lift for EEs and Super-Es. The first part of this resolution aims to ensure that editors consistently receive this feedback. In the survey, a number of editors also mentioned that they find individualized feedback particularly useful but recognized that such feedback is an added responsibility for EEs and Super-Es. Identifying common errors in poolwork and sharing those with the body is designed to be a middle ground that provides poolworkers more detailed feedback while not over-taxing EEs and Super-Es. Lastly, the Masthead has said that they often catch significant substantive errors at EE-Read, and it would be helpful to have a mechanism to provide feedback on those errors to the poolworkers who missed them. Part two of this resolution creates a mechanism to provide this kind of individualized feedback. The committee believes that the Strategy & Oversight Chair is best situated to act as a clearinghouse for feedback, but if the Strategy & Oversight Chair role is split or materially changed, the Big 5 shall determine the appropriate officer to manage feedback.

EB.08 Increasing the Amount of EEs for Volume 138 (cosponsored with Governance) (Failed, 25%)

TEXT: Increase the amount of EEs for Volume 138. There are currently 9 EEs on Volume 137. This resolution adds two more EEs, increasing the amount to 11.

OFFICERS: EEs

DISCUSSION: EEs have noticed a significant number of support and characterization errors remaining even after two subcites. Although the Editing & Bluebook Committee have offered a resolution that introduces a pilot program to shift the responsibility of characterization to Super-Es, that does not immediately address the current burden on EEs and if acted on would not come into effect until Volume 139.

EB.09 Implementing Targeted Efforts to Improve *Bluebook* Equity (Passed, 79%)

TEXT: The *Bluebook* Chairs shall take the following steps to increase access for people who otherwise would not be able to afford or access the *Bluebook*:

1. Explore opportunities to provide free access to the *Bluebook* to incarcerated individuals. This could include promoting online access and working with our printer to print copies without spiral bindings — which are sometimes prohibited in prisons and jails — that can then be distributed to prison libraries for free.
2. Send a survey to the body to solicit ideas for organizations that *HLR* could partner with to provide free or reduced cost online subscriptions or physical copies to people or organizations who would otherwise not be able to access the *Bluebook*. Based on survey results and/or additional research, identify and reach out to potential partners.

While implementing this resolution, the Bluebook Chairs shall coordinate with *Bluebook* staff and the Vice President/Treasurer to ensure that steps being taken to promote *Bluebook* equity are financially viable.

In the next State of the *Bluebook* meeting, the *Bluebook* Chairs shall provide an update to the body on steps they have taken to increase *Bluebook* access for incarcerated people and identify additional opportunities to promote *Bluebook* equity.

OFFICERS: *Bluebook* Chairs

DISCUSSION: This resolution intends to identify and pursue actionable steps that *HLR* can take to make access to the *Bluebook* more equitable, building on resolutions passed in 2022 (E&BB-1) and 2023 (E&BB-1). Judi, Denis, and various editors have extensively researched the possibility of changing the *Bluebook* pricing model and have concluded that making the *Bluebook* free or substantially cheaper for law students is not financially viable. However, there are opportunities to provide targeted access to people that would otherwise not be able to access the *Bluebook*. Providing free *Bluebook* copies to prison libraries and directly to incarcerated people is one program that has been successful in past years. *HLR* should build on this success by exploring opportunities to provided incarcerated people access to the online *Bluebook* and identify other high-impact opportunities to provide free or reduced-cost copies of the *Bluebook* to people who otherwise would note be able to afford or access a copy.

*TC Note: The Committee Chair amended the Resolution on the recommendation of the Transition Chairs to remove the SOC as an implementing officer for this resolution.

Governance Resolutions

GOV.01 Refining the Role of the Strategy & Oversight Chair (Passed, 79%)

TEXT:

The Strategy & Oversight Chair (SOC) shall:

1) be responsible for HLR's long-term and strategic projects,

2) coordinate and manage the HLR Fellowship, and

3) serve as an administrator of the lower volume's transition process to ensure deadlines, meetings, and events are scheduled and executed.

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 and potential constitutional amendments as well as providing substantive and procedural suggestions for the upcoming Transition.

In addition, the SOC can also be appointed to take on discrete, temporary responsibilities by a majority-vote of the Big 5 to address certain ad-hoc situations, such as correcting pool assignment and workflow issues, presiding over an Article IV meeting, or avoiding potential conflicts of interest.

OFFICER(S): Strategy & Oversight Chair

DISCUSSION:
Although the Strategy and Oversight Chair's role has been amorphous in the past, the position handles a number of key long-term initiatives and provides valuable contributions to the body. This resolution seeks to refine the SOC's responsibility for long-term projects. This resolution does not contemplate the SOC being tasked with leading specific initiatives that may be better served by voluntary contributions, such as the Editor Compensation Committee.

GOV.02 Creation of the Historian Role (Failed, 35%)

TEXT: Volume 138 shall create the officer role of the Historian. The Historian should strive to serve as a source of information, institutional knowledge, and advice. Examples of this include

engaging with the Diversity Committee to maintain long-term statistics about HLR and the body,documenting the state of each active or abandoned resolution passed in the previous five years, seeking out and retaining officer manuals that are passed down informally, and developing separate colorful books or other mechanisms as they deem appropriate in consultation with other officers. As yearly workload allows, the Historian shall also be authority on parliamentary procedures including meeting norms and Roberts Rules. The Historian may also lead or co-lead meetings if requested by original meeting conveners.

OFFICER(S): Historian
DISCUSSION: The Governance Committee recognizes a problem with retaining information year over year and seeks to resolve this issue by creating a position that is tasked with retaining information over the long history of the Review. Furthermore, the Committee understands that there are a large number of long-term historical projects that could be sufficient for a full officer role.

GOV.03 Refining the Role of the Strategy & Oversight Chair - Option 2 (Failed, 10%)

TEXT: In their focus on strategic projects, the SOC should strive to serve as a source of information, institutional knowledge, and advice. Actions to this effect could include documenting the state of each active or abandoned resolution passed in the previous five years, seeking out and retaining officer manuals that are passed down informally, and developing separate colorful books or other mechanisms as they deem appropriate in consultation with other officers.

OFFICER(S): Strategy & Oversight Chair

DISCUSSION: This resolution is proposed so that if there is no Historian role created, some of those responsibilities would fall on the Strategy & Oversight Chair.

GOV.04 Affirm Transparency in Editorial Decisionmaking   (Passed, 90%)

TEXT: This resolution seeks to affirm that the President and the Big 5 should be committed to transparency where feasible in editorial decisionmaking.

OFFICER(S): President, Managing Editor of Operations, Managing Editor of Publication, Vice President / Treasurer, Vice President of Community, Diversity and Outreach

DISCUSSION: This resolution is simply an affirmation in the spirit of transparency.

GOV.05 Affirm Transparency in Editorial Decisionmaking   (Passed, 68%)

TEXT: When the president is considering declining to publish a piece, the President should commit to convening the Big 5 to vote on whether or not the Review should proceed with

publication. If two of the four remaining members of the Big 5 so elects, the decision will go to the body in the format of an O-Read. This resolution recognizes that such processes will rarely be invoked.

OFFICER(S): President, Managing Editor of Operations, Managing Editor of Publication, Vice President / Treasurer, Vice President of Community, Diversity and Outreach

DISCUSSION: The Committee felt the need to address the situation we dealt with in the fall head-on. Committee's understanding that there is technically no formal guarantee of publication in our contracts, and therefore aimed to focus more on internal sentiments of transparency and community in this resolution.

GOV.06 Clarifying the Media Policy

TEXT: An additional sentence will be added to the section of the Greenbook titled "Public Statements and Communication with the Press"; This sentence will state the following:

"Notwithstanding the above, confidential matters that are internal to the Review should not be discussed with the press. This prohibition applies to personal opinions when the expression of such opinions involve the disclosure of confidential information. Whether or not a matter is confidential should be informed by the text and spirit of the "Confidentiality" section of the Greenbook and can be determined on a case-by-case basis by a majority of the President, Managing Editor of Operations, Managing Editor of Publication, Vice President / Treasurer and Vice President of Community, Diversity and Outreach."

OFFICER(S): President, Managing Editor of Operations, Managing Editor of Publication, Vice President / Treasurer, Vice President of Community, Diversity and Outreach

DISCUSSION: Many have expressed concern or confusion regarding the Media Policy. As it stands, the HLR Media policy focuses on when editors can express a personal viewpoint, but does not address the content of such expressions. This resolution seeks to clarify that confidential matters should not be discussed with the media, even though the expression of a personal viewpoint.

GOV.07 Prioritizing Confidentiality (Passed, 87%)

TEXT: The Review seeks to ensure that editors can speak freely and honestly with their colleagues when conducting the work of the Review. Any statements made or incidents that occurred as part of internal matters of the Review are presumed to be confidential. Internal matters include formal and informal deliberations amongst editors and include, but are not limited to, disciplinary proceedings, O-Reads, C-Reads, Article IV meetings, Foreword

Selection, Transition, and Elections. Confidential matters should not be discussed with anyone who is not a member of the Review. If you have any questions about this policy, please ask the President.

OFFICER(S): Managing Editor of Operations

DISCUSSION: Many editors have expressed confusion about what confidentiality means in the HLR context. This resolution seeks to clarify that most matters internal to the Review are confidential, provides examples, and promotes a general spirit of confidentiality.

GOV.08 Improving Access to the Disciplinary Committee (Passed, 70%)

TEXT: This resolution seeks to reaffirm the Review's commitment to resolving conflicts informally, but recognizes that there are instances where informal resolution is not desirable or feasible. Additionally, there may be instances where editor conduct or breaches of Review policy need to be addressed but may not rise to the level of convening the Disciplinary Committee. Thus, the VP/CDO, in consultation with the President, should serve public representation of the Disciplinary Committee and should be available to guide affected members in determining the best method to resolve a conflict within the Review, whether it be through informal or formal means. For avoidance of doubt, this resolution does not give the VP/CDO control or discretion over handling potential disciplinary proceedings.

OFFICER(S): President, VP/Treasurer, VP/CO, Managing Editor

DISCUSSION: There are a wide range of views of enforcement of Greenbook/HLR policy. Members want the Greenbook to be strongly enforced, though many were in favor of more informal approaches. Many members were not even aware that HLR has a Disciplinary Committee. This resolution seeks to strike a balance by formally identifying the VP/CDO as an officer to go to if an editor is trying to decide how to address a conflict or how to address another editor's actions in HLR. Thus, there is not a lower bar for punitive enforcement, but identifying the VP/CDO may make editors feel more in control by having a designated officer to help make them aware of their options. This resolution in no way seeks to give the VP/CDO any disciplinary authority.

GOV.09 Publicizing Members of the Disciplinary Committee (Failed, 45%)

TEXT: The members of the Disciplinary Committee will be selected by a random lottery conducted by the President and the Committee's membership will be made public every year. Any editor selected in the random lottery will have the ability to decline.

OFFICER(S): President

DISCUSSION: Making the members of the Disciplinary Committee known to all editors can help promote better access to the Committee, or other conflict-resolution opportunities.

GOV.10 Notetaking (Failed, 42%)

TEXT: In general, this resolution promoted improved note creation and retention during and after officer meetings. When feasible, officers should consider designating a notetaker to create, retain, and distribute notes. Conceivably, this could be one of the officers but in a more official capacity.

OFFICER(S):

DISCUSSION: This would help avoid situations where multiple conflicting versions of events are provided to the body.

GOV.11 Limiting Censure to the Disciplinary Committee (Passed, 77%)

TEXT: This resolution recognizes that public requests to censure editors are harmful to the Review's sense of community. As such, requests for the censure of editors, other than the Big 5, should be addressed exclusively by the Disciplinary Committee, consistent with the Disciplinary Committee's existing abilities to resolve disciplinary matters as outlined in the Greenbook. Such matters are presumed to be highly confidential. For the avoidance of doubt, proposals to censure editors should not be addressed in Article IV meetings.

OFFICER(S):

DISCUSSION: This resolution is intended to limit censure and removal requests to the Disciplinary Committee for editors not in the Big 5, but does not intend to limit, control, or promote any specific censure or removal proceedings for the Big 5.

AMENDMENTS:
GOV.11(a): Removing "Removal Language" (Passed, 88%)
DISCUSSION: The HLR Constitution requires a ¾ vote of all editors to remove an editor. This Resolution is currently unconstitutional and would require a constitutional amendment to effectuate. Please consider removing the "removal" language and limiting the resolution to censure only in order to ensure it is actionable.

GOV.11(b): Greenbook Compliance (Passed, 94%)
DISCUSSION: This resolution is intended to limit censure and removal requests to the Disciplinary Committee for editors not in the Big 5, but does not intend to limit, control, or promote any specific censure or removal proceedings for the Big 5.

GOV.12 Increasing the amount of Executive Editors for Volume 138 by 1 (Passed, 83%)

TEXT: The number of Executive Editors should increase by one, bringing the total number to 10.

OFFICER(S): Executive Editors

DISCUSSION: This resolution seeks to reduce the workload of the Executive Editors by increasing the number of Executive Editors by 1, leaving one officer position open to be allocated elsewhere.

Membership Resolutions

MEM.01 Increase the number of editors that join the lower volume. (Catchall)

Text: Going forward, HLR will increase the number of editors that join HLR's lower volume from 54 to:
- If [Resolution 1A] passes, the number will be 55.
- If [Resolution 1B] passes, the number will be 56.
- If [Resolution 1C] passes, the number will be 58.
- If none of the above pass, the number will remain 54.

When considering these resolutions, please vote affirmatively for all increases in editors up to the maximum number you would feel comfortable adding.

Officers: President, VP-T, VP-CDO, ME

Discussion: Because each incoming HLS class is approximately 560 students, *HLR* currently invites only about 9.6% of 1L students to become editors — a much smaller percentage in comparison to the number of spots offered at peer journals such as *YLJ* and *SLR*. This resolution proposes to make HLR's membership closer to that of its peer journals, which would share the career and community benefits of the Law Review with more HLS students and subdivide the journal workload among more editors. Note that this proposal would potentially increase Poolwork for student writing.

MEM.01A (Failed, 46%)

Text: Going forward, HLR will increase the number of editors who join HLR's lower volume to 55. This resolution will take two years to fully implement a total membership of 110 editors.

MEM.01B (Failed, 31%)

Text: Going forward, HLR will increase the number of editors who join HLR's lower volume to 56. This resolution will take two years to fully implement a total membership of 112 editors.

MEM.01C (Failed, 24%)

Text: Going forward, HLR will increase the number of editors who join HLR's lower volume to 58. This resolution will take two years to fully implement a total membership of 116 editors.

MEM.02 Increase the proportion of editors accepted through an equally weighted combination of grades and competition scores (Failed, 30%)

Text: Going forward, 4 of the 24 editor spots currently selected through holistic review will instead be selected based only on an equally weighted combination of grades and competition scores. There will now be 14 editor spots selected based on an equally weighted combination of grades and competition scores (commonly known as "grade-on" spots): one from each 1L section, and seven selected from any section.

Officers: President, VP-T

Discussion: Based on data from the Transition Survey, there seemed to be a strong interest within the body for increasing the number of editors selected through grade-on. While no system for editor selection will ever be perfect, equally weighting candidates' grades and competition scores can help to alleviate some of the stress of the competition and reward those candidates who excelled in their 1L courses. Furthermore, moving these spots from holistic review — as opposed to removing write-on only slots — ensures that there will still be the same number of slots for which 1L grades are not considered at all, hopefully alleviating worries that it is not even worth pursuing *HLR* membership if one does not have stellar 1L grades. Note that this proposal would reduce the possible number of spots for which incoming 2L transfers are eligible.

Additionally, moving these slots to grade-on could help to alleviate some of the concerns regarding the lack of transparency of the holistic review process. Editors consistently voiced that they do not understand exactly how the holistic review process operates. While this opacity is perhaps necessary to ensure confidentiality, having more editors selected through grades and competition scores alone should hopefully remedy some of these concerns.

MEM.03 Require additional members to be selected through a combination of competition scores and grades. (Passed, 68%)

Text: In the event the body elects to increase the number of editors joining the lower volume, any additional members will be selected based on an equally weighted combination of their competition scores and grades.

Officers: President, VP-T

Discussion: Currently, ten editors are selected based on an equally weighted combination of competition scores and first-year grades (commonly known as "grade-on"). This resolution will allow additional editor spots added during Transition to be filled through grade-on, which involves more transparency than holistic review. It also addresses increased support among the body, based on the Transition survey, for

increasing the number of editors selected based on grade-on. Note that this proposal would reduce the proportion of spots for which incoming 2L transfers are eligible.

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.04 Affirm good-faith effort to mitigate the risk of the use of artificial intelligence during the Competition (Passed, 98%)

Text: Instruct the VP/T — in coordination with the President — to consider the issue of artificial intelligence, develop a plan or policy to combat its use during the writing competition, and promulgate the same to students in advance of their taking the writing competition. Instruct the President to engage in a dialogue with the *Stanford Law Review* and the *Yale Law Journal* (and any other law reviews they deem appropriate) on the subject of artificial intelligence use in both the writing competition and the broader work of our respective publications.

Officers: President, VP/T (and associated competition writing committees).

Discussion: The use of artificial intelligence during the writing competition may make it more difficult to accurately evaluate writing competition-takers' ability to do the work of an *HLR* editor. This resolution would require the VP/T, in coordination with the President, to engage in a good-faith effort to mitigate the risk of the use of artificial intelligence during the writing competition. This resolution would result in a written plan or policy (which can be as broad or narrow as the VP/T deems appropriate to effectuate the goals of this resolution) that is disseminated to competition-takers in advance of their taking the competition. The VP/T may draw from HLS's policies regarding artificial intelligence in exams.

There are significant concerns that artificial intelligence may be used to summarize the vast amounts of written material provided to competition-takers — and that risk is compounded by the pay-for-capacity model adopted by leading artificial intelligence providers like ChatGPT-Plus™. The use of artificial intelligence would therefore jeopardize HLR's ability to select editors based on their own work and would provide those with financial means the ability to boost their advantage compared to students who do not pay for ChatGPT-Plus™.

This resolution would also direct the President to discuss with other peer law reviews two points. First, how (or if) they plan to combat the use of artificial intelligence in their competitions. Second, how (or if) they plan to use artificial intelligence in their day-to-day operations (*e.g.*, automating or assisting with day-to-day operations).

MEM.05 Develop a committee dedicated to providing more transparency about and improving the accommodations process (Passed, 87%)

Text: The VP-CDO will create a committee, including one member from DivComm, that will gather data about the accommodations process and propose improvements. The committee will also propose improvements to the way in which HLR communicates information to applicants about the accommodations process. The committee will produce a short memo with findings and recommendations.

Officers: VP-CDO

Discussion: Because HLR is an independent organization, writing competition accommodations do not run through the Dean of Students. Instead, HLR runs its own process. This resolution would help us gather more data on our process to determine whether there are clear areas in which that process could be improved.

MEM.06 Improve outreach to advance *HLR*'s goal of increasing diversity and inclusion in its membership (Passed, 85%)

Text: The VP-CDO, with input from HLR editors and the President, will develop and implement a plan for increased outreach to affinity groups, such as the Disabled Law Students Association, and to 2L/3L transfer students. This outreach plan should include, but need not be limited to:
- establishment of an *HLR* listserv on the Harvard Law School website that can provide updates and information to current and potential transfer students;
- scheduling virtual coffee chats on Zoom for transfer students;
- holding accommodations office hours or sessions during which students can receive additional information and ask questions about accommodations for the Competition.

Officers: VP-CDO, President

Discussion: Past outreach about *HLR* fails to fully reach certain underrepresented groups. For example, editors have expressed concerns that disabled law students and 2L/3L transfer students have felt disadvantaged in the process. Disabled students may have concerns about accommodations, especially because the week of the Competition can take a physical toll on competition-takers. Additionally, 2L/3L transfer students may feel that they are missing out on in-person opportunities to glean information on the Competition through coffee chats and other events. To remedy these problems, this resolution proposes efforts to hold additional meetings for *HLR* editors to engage with and provide information to groups like disabled law students and 2L/3L transfer students. The Membership Committee also recognizes that other groups may have also experienced less outreach in the past and that increasing outreach beyond the two explicitly named groups in this resolution will also be important moving forward.

MEM.07 Increase the number of possible transfer editors (Passed, 80%)

Text: Going forward, the lower volume of HLR will be no fewer than 54 editors, of which up to 4 can be transfer editors and 50 will always join as 2Ls.

Officers: President, VP-T, VP-CDO, ME, Holistic Review Committee

Discussion: This resolution would increase the current cap of three 3L transfer students, established last year, by one possible editor. This resolution does not <u>require</u> increasing the number of rising 3L transfers accepted, but would allow *HLR* to accept up to four such editors. *HLR* may choose to accept anywhere from zero to four 3L transfers.

Student Writing Resolutions

SW.01 Bluebook Proposal (Passed, 79%)

Text: If a 4L Note author requests online access to the Bluebook, the Bluebook Chairs will provide a one-year subscription. If the Notes Chairs identify a 4L Note author who is making a genuine effort but struggling technically due to a lack of Bluebook access, the Bluebook and Notes Chairs will coordinate to provide a subscription.

Officer(s): Notes Chairs, Bluebook Chairs

Discussion: This one should be straightforward. 4L Notes have a reputation for poor technical quality, and many editors find them difficult to subcite. It seems likely that lack of access to the online Bluebook is a significant cause of the problem. The Notes Chairs indicated that "4Ls do not have access to Bluebook online and that shows in their Notes." Identifying and rectifying other sources of 4L sloppiness is a worthwhile endeavor, but the easiest way to begin fixing the problem is to provide the Bluebook upon request. The cost of a few Bluebook subscriptions is easily worth the hours of pool labor which would otherwise be spent fixing slapdash citations.

In theory, this proposal could incentivize the writing of 4L notes, thus contributing to the ongoing surfeit of student writing. But we doubt that would occur in practice. Writing, or even beginning to write, a 4L note just to save $40 on a Bluebook subscription is simply unreasonable.

SW.02 Volume Proposal (Passed, 71%)

Text: The Articles Chairs, SCOTUS Chairs, Book Review Chair, and Notes Chairs will collaborate to ensure the *Review* publishes more non-student writing than student writing over the course of Volume 138. Each Chair will periodically assess how many pages they plan to publish. If the Notes Chairs anticipate that the projected pages of student writing will exceed the cumulative page count devoted to non-student writing, they will ask RT authors to move their pieces online. As an inducement, the author of an RT moved online will be allowed to publish with their name attached to the piece.

If an insufficient number of RT authors agree to move online, the Notes Chairs will involuntarily move the necessary number of pieces to the Forum. Authors moved involuntarily will also be able to publish with their names attached.

Officer(s): NCs, Articles Chairs, President

Discussion: Eric noted in his memorandum to the body that "tough choices around prioritization are unavoidable." Because the *Review* is already operating at or beyond the upper limits of its capacity, publication decisions are effectively zero-sum. The publication of one piece of writing functionally necessitates the non-publication of another piece.

Student writing accounted for 46% of the pages in Volume 136. If trends persist, more than 50% of the coming volume will be devoted to student writing. Student writers provide fresh and exciting perspectives on legal issues, but we respectfully submit that the line should be drawn somewhere. The *Review* exists to publish the best legal scholarship. All things equal, the best, most useful, and most generative writing is not produced by students. Moreover, the least effective student writing (RTs) can be shaved while leaving Notes and Supreme Court Case Comments intact. Does anyone really think 10 RTs are as useful as one Article?

The proposed 50% cap is reasonable and administrable. Student writing did not cross the 50% threshold in 136 and may not in our volume either. And while it is true enough that we cannot predict the length of articles with perfect accuracy, the Notes and Articles chairs can certainly make predictions and monitor volumes. If and when an additional piece of student writing would likely push us beyond the 50% standard, we simply move an RT online.

SW.02(a) Volume Proposal (Forum Clarification Amendment) (Passed, 83%)

This amendment clarifies that RTs "moved online" will be moved to the forum, not the blog.

SW.02(b) Volume Proposal (Ex Ante Revision Amendment) (Passed, 83%)

Instead of assessing projected page counts periodically over the course of the volume, the Articles Chairs, SCOTUS Chairs, Book Review Chair, President, MEO, MEP, and Notes Chairs will set a single ex ante page limitation on student writing.

To do this, the officers referenced above will make a single initial projection as to the total length of the volume in pages. They will then limit student writing to no more than 50% of that page count. Excess RTs will be moved to the forum as necessary.

SW.02(c) Volume Proposal (Presumption Amendment) (Tabled during Live Voting)

In the alternative, the officers mentioned in SW 02 will attempt to limit student writing to no more than 50% of the volume's total page count. Without adopting a hard cap on student writing, the relevant officers will make a good faith effort to limit print RTs such that the total volume of student writing does not exceed the total volume of non-student writing.

SW.03 Notes Deadlines (Passed, 92%)

Text: All prospective Note authors must provide a draft of their Note prior to securing a publication slot.

Further, the Notes Chairs will adopt one of the two following proposals for the timing of initial submissions:

1. Publication slots will be assigned according to two deadlines: a primary deadline in late August and a secondary deadline in late September. Drafts submitted for the primary deadline will be assigned to publication months first; drafts submitted for the secondary deadline will fill remaining gaps. Any draft submitted after the deadlines will not be guaranteed publication in the requested year.
2. Publication slots will be assigned according to a single deadline in late August. Drafts which are not submitted in time for this deadline will not be guaranteed publication in the requested year.

Officer(s): Notes Chairs

Discussion: The Notes Chairs struggle to evenly distribute Notes throughout the publication months due to uncertain rates of dissolution. Roughly half of all notes dissolve, but it is impossible to know which Notes will dissolve in the current system. Some months have high rates of dissolution, resulting in few publications in a given month, while others have anomalously low rates of dissolution resulting in a workload far beyond capacity. In order to reduce the uncertainty, this resolution will require all prospective Note authors to submit a draft prior to securing a publication month. The Notes Chairs indicated that very few Notes dissolve post-draft. So requiring that drafts be submitted earlier should greatly increase certainty and even the distribution of work for the pool.

SW.04 RT Deadlines (Passed, 67%)

Text: The Notes Chairs will reorganize the RT deadlines, frontloading all stages before subcites.

Officer(s): Notes Chairs

Discussion: While RT dissolution rates are low, it is hard to predict if and when an RT will dissolve. When RTs dissolve, it is almost exclusively prior to the first subcite. By frontloading deadlines prior to the first subcite, the proposal serves predictability and balances poolwork across months.

SW.05 Expanding and Standardizing P-Read Procedures (Passed, 81%)

Text: The Notes Chairs and other regular P-Readers will develop a standard procedure that P-Readers must follow for P-Reads and the accompanying memos. The standardized format will reflect NCs/Big Five–determined feasibility and best P-Read practices, as well as student writer–contributed feedback. The standardized format for P-Reads will be codified in the *Whitebook*.

The Notes Chairs will also expand the class of editors authorized to complete P-Reads of student writing. All upper-volume editors will be eligible. And, to the extent possible, P-Readers and pieces will be matched on the basis of subject matter.

Officer(s): Notes Chairs, Big Five

Discussion: The current volume of P-Reads has suffocated the Notes Chairs, and current P-Readers of student writing have expressed that the workload presently associated with P-Reads is unsustainable. Still worse, the unsustainable burdens on P-Readers show in the quality of their work; many editors expressed dissatisfaction with the P-Reads they received.

Historically, Presidents have distributed P-Reads of student writing throughout the body. And the survey suggests that student authors found A-reads much more helpful than P-reads. The body is more than capable of providing substantive evaluations of pieces immediately pre-subcite.

Some members have raised that P-Reads vary widely in both their quality and format. While the *Whitebook* outlines A-Read memo procedures and formats, there is no equivalent guidance for P-Read memos. Each P-Reader takes a different style; results vary. Standardizing procedures is all the more important given the expansion of the class of editors authorized to complete P-reads. Moreover, even if the number of P-Readers remains the same, standardizing the P-Read benefits every student writer receiving feedback and equalizes the type of feedback received at this stage.

SW.06 Eliminate RTs (Failed, 9%)

Text: We will no longer publish RTs. Currently scheduled RTs will still be published, but HLR will not publish any additional RTs.

Officer(s): N/A

Discussion: As mentioned in the Volume Proposal above, the *Review* is currently operating at capacity and must make "tough choices around prioritization." RTs are rarely cited and consume huge amounts of pool labor. Moreover, from discussion with the current Notes Chairs, RTs are the primary source of burnout and dissatisfaction among Notes editors.

The following set of resolutions (4 including this one) are a variety of ways that we might reduce the burden associated with student writing, specifically via changes to RTs. These proposals reflect an underlying belief that if student writing must be reduced, it is better to do so via changes to RTs than Notes.

This first proposal is the simplest but also most extreme. The argument in favor is that less extreme measures, such as moving RTs to the forum or online, will either (1) not reduce burdens on the *Review* significantly (if we maintain our substantive editing standards) or (2) will reduce burdens only by sacrificing the substantive feedback that makes an RT worthwhile.

Students would still have the opportunity to write a SCOTUS comment or Note. Indeed, eliminating RTs may improve the quality of these remaining types of student writing.

SW.07 Moving RTs to Forum (Failed, 33%)

Text: RTs will be published only in the Forum.

Officer(s): Notes Chairs, Online Chairs

Discussion: [First, see general discussion paragraph above relating to this series of resolutions related to RTs]. Moving RTs to the Forum would reduce – at least, to some extent – the editing burden, since Forum pieces go through an abridged editing process. And removing RTs from the pages will free space for other content. On the other hand, RT writers will lose some of the substantive feedback that they currently receive from the writing process.

SW.08 Moving RTs to the Online Blog (Failed, 26%)

Text: RTs will all be published in the blog.

Officer(s): Notes Editors, Online Chairs

Discussion: [First, see general discussion paragraph above relating to this series of resolutions related to RTs]. Moving RTs to the Online Blog would significantly reduce the editing burden associated with RTs, since blog pieces do not use footnotes and go through an abridged editing process. Even more than moving RTs to the Forum, this will change the substantive experience of writing an RT and the feedback that a writer will receive. On the other hand, it would make a bigger impact in terms of decreasing burdens associated with RTs and could allow for even more timely publication of RTs — which, by nature, are meant to be *recent* things.

SW.07-08(a) Amendment (Failed, 33%)

Text: RTs will remain in print and be published through the abridged Forum editing process. RTs will go through one Subcite and Galleys before Bookproofs.

Officers: Notes Chairs, MEP

Discussion: This amendment is a compromise. Half of Volume 138 would like to see RTs remain in print. The other half are willing to move them to the Forum to reduce the editing burden. Under this amended resolution, print editorial standards will still be enforced. The Notes Chairs retain their ability to dissolve an RT that has significant issues. In practice, it may work like this: if an EE is concerned with the amount of characterization and support issues (the most labor-intensive part of EE-read) in an RT after it has already gone through Subcite, then they may recommend action be taken by the Notes Chairs or in a less egregious case recommend a Second Subcite before resuming their EE-read.

SW.09 RT and Notes Dissolution Standard (Passed, 70%)

Text: The Notes Chairs will develop a standardized process for the dissolution of RTs and Notes. (1) Failure to adhere to appropriate deadlines without appropriately communicating an explanation shall be

grounds for involuntary dissolution. (2) Egregious failure to comply with significant feedback provided by editors shall be grounds for dissolution. Additionally, (3) a piece can be dissolved if multiple editors (ex. A-Reader, P-Reader, assigned NE) flag it as substantially below standards.

The body of editors with discretion to dissolve a piece shall consist of the two Notes Chairs, the Notes editor assigned to the piece, and the MEO, acting by majority vote.

Officer(s): MEO, Notes Chairs, all editors

Discussion: Notes editors have repeatedly expressed that they are powerless to intervene, even when an author ignores deadlines and feedback without explanation or produces noticeably substandard work.

This produces three problems, all serious: First, major errors are corrected far too late in the process or not at all, straining EEs and the pool. Second, missed deadlines and poor performances waste time Notes editors do not have. Third, Notes editors are demoralized and disrespected; at present, Notes editors are the only HLR officers entirely deprived of editorial discretion.

Additionally, the lack of process makes Notes Chairs uncomfortable dissolving pieces and makes dissolutions which do occur appear capricious and unfair. The quality of student writing cannot improve when every piece of substantive feedback is treated as precatory. The only solution to these concerns is a fixed and reliable process for dissolving student pieces.

SW.10. Moving May/June Notes (Passed, 94%)

Text: Due to a lack of pool capacity, authors formerly scheduled to publish May and June Notes have already been involuntarily pushed from their months. This resolution would guarantee future publication for these Notes in the earliest practicable month.

Officer(s): Notes Chairs, MEO

Discussion: Eric and Worthy indicated to the Notes Chairs that it is literally impossible — not difficult, impossible — to publish all the Notes scheduled for May and June. As a result, a random selection of May and June Note authors were involuntarily removed from these months. These editors did nothing wrong; if anything, their Notes appear to be in good shape. And they reasonably relied on the general presumption of publication, working through their breaks to produce high quality work. If we do not schedule future publication, we are, in effect, involuntarily dissolving their Notes without having provided notice.