

NORTH CAROLINA COURT OF APPEALS

REPUBLICAN NATIONAL
COMMITTEE and NORTH CAROLINA
REPUBLICAN PARTY,

Plaintiffs-Petitioners,

v.

NORTH CAROLINA STATE BOARD
OF ELECTIONS, ALAN HIRSCH,
JEFF CARMON, KEVIN N. LEWIS,
SIOBHAN O'DUFFY MILLEN, STACY
"FOUR" EGGERS IV, in Official
Capacity as Members of NCSBE, and
KAREN BRISON BELL, in Official
Capacity as Executive Director of
NCSBE,

Defendants-Respondents,

DEMOCRATIC NATIONAL
COMMITTEE,

*Defendant-Intervenor-
Respondent,*

AFFIRMATIVE ACTION COALITION,

*Defendant-Intervenor-
Respondent.*

From Wake County
24CV02888-910

**AMICUS CURIAE BRIEF OF PROFESSOR GUNTHER PECK AND
FAIR ELECTIONS CENTER**

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Apple adds support for contactless student ID cards in Wallet, Apple Newsroom (Oct. 2, 2018), <https://www.apple.com/newsroom/2018/10/apple-adds-support-for-contactless-student-id-cards-in-wallet/>..... 13

Apple Pay security and privacy overview, Apple Support, <https://support.apple.com/en-us/101554#:~:text=Apple%20Pay%20uses%20security%20features,to%20protect%20your%20personal%20information> (last visited Sept. 24, 2024)..... 11

Application for approval of University of N.C. at Chapel Hill student and employee photo ID at PDF p. 3, 7, N.C. State Bd. of Elections, State Board Meeting materials (Aug. 20, 2024), https://s3.amazonaws.com/dl.ncsbe.gov/State_Board_Meeting_Docs/2024-08-20/Photo%20ID%20Approval%20Consideration/UNC-CH%20Digital%20Card.pdf..... 10, 11

Monique Delagey, *UNC Charlotte’s Shift to Mobile IDs: What Students Need to Know*, Niner Times (Sept. 2, 2022), https://www.ninertimes.com/news/unc-charlotte-s-shift-to-mobile-ids-what-students-need-to-know/article_244a2b68-2995-11ed-9207-3feb3b79d8b6.html 15

Fed. Hwy. Admin., *Highway Statistics 2021*, Driver Licensing, Table DL-20, U.S. Dep’t of Transp. (Dec. 2022), <https://www.fhwa.dot.gov/policyinformation/statistics/2021/dl20.cfm> 7

Dylan Halper & Melanie Shao, *DukeCard returns to physical IDs to comply with NC voter identification requirement*, The Chronicle (Sept. 9, 2024), <https://www.dukechronicle.com/article/2024/09/duke-university-dukecard-physical-ids-comply-nc-voter-identification-requirement-sustainability-concerns-class-of-2028-2024-elections-registration>..... 14

Lindsay McKenzie, *Samsung expands support for digital student IDs*, EDSCOOP (July 21, 2023), <https://edscoop.com/samsung-expands-support-digital-student-ids/>..... 13

Shannon Osaka, *I'll call an Uber or 911': Why Gen Z doesn't want to drive*, Wash. Post (Feb. 13, 2023), <https://www.washingtonpost.com/climate-solutions/2023/02/13/gen-z-driving-less-uber/>7

Suzanne Rowan Kelleher, *TSA Now Accepts Digital IDs From These 11 States*, Forbes (September 9, 2024), <https://www.forbes.com/sites/suzannerowankelleher/2024/09/09/fl-y-with-a-digital-id-11-states/> 12

Transact Mobile Credential for higher education, Transact, <https://www.transactcampus.com/solutions/campus-id/transact-mobile-credential> (last visited Sept. 24, 2024) 14

Transportation Security Administration, Digital ID Section, *Facial Recognition and Digital Identity Solutions*, <https://www.tsa.gov/digital-id> (last visited Sept. 24, 2024) 12, 13

Univ. of N.C. at Chapel Hill, Fin. and Operations, *Apple Device FAQs and Support*, <https://onecard.unc.edu/mobile-one-card/apple-device-faqs-and-support/> (last visited Sept. 24, 2024).....8

Univ. of N.C. at Chapel Hill, Fin. and Operations, *Mobile One Card*, <https://onecard.unc.edu/mobile-one-card/> (last visited Sept. 24, 2024) 10, 11, 12

Univ. of N.C. at Chapel Hill, Fin. and Operations, *Mobile UNC One Card for Apple Wallet Approved for Voter ID Use*, <https://onecard.unc.edu/news/2024/08/23/mobile-unc-one-card-for-apple-wallet-approved-for-voter-id-use/> (last visited Sept. 24, 2024)8

U.S. Dep't of Homeland Sec., Publications Library Section, *Next Generation Identity: Mobile Driver's License Fact Sheet* (Jan. 31, 2022), <https://www.dhs.gov/science-and-technology/publication/next-generation-identity-mobile-drivers-license-fact-sheet>..... 13

Andrea Vittorio, *Digital ID Cards Spread Across US States With Range of New Uses*, Bloomberg Law (Sept. 13, 2023), <https://news.bloomberglaw.com/privacy-and-data-security/digital-id-cards-spread-across-us-states-with-range-of-new-uses#>..... 12

Professor Gunther Peck and Fair Elections Center respectfully submit this *amicus curiae* brief addressing the harms of prohibiting the use of digital student identification cards for voting in North Carolina, especially in light of the national trend toward the use of digital student identification cards and the enhanced security of digital student identification cards.¹

STATEMENT OF INTEREST OF *AMICI CURIAE*

Professor Gunther Peck is a professor in the Department of History and the Sanford School of Public Policy at Duke University. He has conducted and published research on the voting landscape for college students in North Carolina, including a 2022 article in *The Rutgers Law Review*, entitled “Provisional Ballots, Provisional Rights in a Swing State: Understanding How and Why North Carolina College Students Lose their Right to Vote, 2008-Present.” This year, Professor Peck co-authored a report entitled “The State of Youth Voting Rights at Duke University” (hereinafter, the “Report”) (*See Exhibit A*²). Relying on a research plan approved by Duke University’s Institutional Review Board, the Report analyzed the impacts of the rollout of

¹ No person or entity other than these amici curiae and their counsel, directly or indirectly, either wrote this brief or contributed money for its preparation.

² The Report is also available at <https://bassconnections.duke.edu/sites/bassconnections.duke.edu/files/site-images/The%20State%20of%20Youth%20Voting%20Rights%20at%20Duke%20University.docx>.

the Mobile DukeCard on student voting at Duke during the March 2024 Primary Election through surveys, interviews, and data analysis of election returns in Durham County and across the state. Professor Peck joins this *amicus curiae* brief to explain the voter confusion that his research indicates will follow if the Petitioners' relief is granted.

Fair Elections Center is a national, nonpartisan voting rights and election reform 501(c)(3) organization based in Washington, D.C. Fair Elections Center manages several programs, including the Voting Rights Project, Work Elections Project, and Campus Vote Project. As part of its Campus Vote Project, Fair Elections Center works with universities, community colleges, faculty, students and election officials to reduce barriers to student voting and helps campuses institutionalize reforms that empower students with the information they need to register and vote. Campus Vote Project helps facilitate work between students and campus administrators to foster civic engagement, making Fair Elections Center uniquely situated to provide greater context to the role and purpose of digital student identification cards on today's campuses and their benefits to election security.

ISSUES ADDRESSED

Whether and how prohibiting the use of the University of North Carolina at Chapel Hill ("UNC") Mobile One Card as identification cards for voting during the 2024 General Election would impact voters in North Carolina.

Whether Petitioners' stated security concerns about the use of the UNC Mobile One Card, and other digital identification cards, are credible and substantiated by evidence.

Whether the public interest would be harmed or served by a prohibition on the use of the UNC Mobile One Card and other digital student or employee identification cards.

ARGUMENT

The absence of irreparable harm to Petitioners and the balance of the equities in this case support denying the Petition and Motions for Temporary Stay and Temporary Injunction. First, granting Petitioners' request would lead to significant confusion for UNC voters and elections staff, as demonstrated by Professor Peck's research on voting at Duke University—which also uses digital identification cards—during the recent primary election. In contrast to these demonstrated harms, Petitioners' alleged security concerns and fear of voter fraud are unfounded because digital identification cards are at least as secure as, if not more secure than, physical identification cards. Finally, as more universities—both nationally and within North Carolina—move toward digital identification cards, an extratextual requirement that only physical identification cards can be used as voter photo ID runs counter to the public interest.

I. Granting the Petition and stay would cause confusion among UNC voters and election staff and risk the disenfranchisement of qualified voters.

To see evidence of the harm that UNC students and employees would experience if the Petition is granted, this Court need look no further than the experiences of Duke University students during the March 2024 primary election. During the 2024 Primary Election, Duke University had two forms of student identification – a digital identification card (the “Mobile DukeCard”) and a separate physical ID card (the “Duke Student Voter ID Card”). The Mobile DukeCard, like the UNC Mobile One Card, was a digital ID provided to all Duke University students for student transactions, such as payments around campus and access to university administrative buildings, academic buildings, and residence halls. It, however, was not approved for use as voter photo identification. The Duke Student Voter ID Card could only be used for voting purposes and had to be affirmatively requested and picked up by students by appointment.

In his review of student voting in the March 2024 Primary Election, *see* Exhibit A, Professor Peck and his co-authors found that this dual-ID system led to significant problems for students and election officials alike. The top-line conclusions from Report are alarming:

- 60 out of the 288 Duke students who voted during the March 2024 Primary Election were required to cast a provisional ballot, most often

because of complications with Duke-issued identification cards. This number exceeds the absolute number of Duke students who cast provisional ballots during the 2020 Presidential Election when over 4,000 Duke students voted. Notably, during that election, the photo voter ID requirement was not being enforced because of ongoing litigation.

- Duke students were more likely than other Durham County voters to have their provisional ballots rejected, with 61.7% of Duke provisional ballots rejected compared to only 37% for the county as whole. The most common reason that Duke student provisional ballots were rejected was the failure to provide approved voter photo identification. That occurred with 25 of the 37 provisional ballots that were denied.
- In total, 1 out of 8 Duke students who cast ballots in the March 2024 Primary Election were disenfranchised.

The causes of these impediments to student voting were varied: confusion among students about what ID they needed and how to obtain it; lack of access to the Duke Student Voter ID Card; and inconsistent election administration by poll workers at the early voting site on Duke's campus. Many of the Duke students casting provisional ballots had requested the Duke Student Voter ID Card but could not secure it because the location for pickup was closed. Surveyed students also indicated that the opt-in system for obtaining the approved ID card for voting rather than an opt-out system (under

which students would receive an approved ID card by default unless they affirmatively requested otherwise) was an additional barrier to voting. In sum, the fact that there were two Duke identification cards—a physical identification card solely for voting and a digital identification card for all other purposes—laid a trap for the unwary. That most of the provisional balloting at Duke occurred during early voting—the period when voters have the flexibility to update their registrations and still have their ballots be counted—speaks to the systemic failure caused by a bifurcated system with two student IDs.

Research showed that having two student IDs also created a burden on poll workers, who had to explain to confused student voters why one form of campus ID was valid but not the other. To mitigate the damage and delay that provisional balloting was causing, poll workers were compelled to administer dozens of exemption requests, a process that took roughly an hour in each case. Had turnout not been light in the spring primary, the impact would have left understaffed and overwhelmed poll workers with impossible choices to make: keep the line moving or attend to every voter's right to request an exemption from the photo ID requirement.

The two IDs likewise created a burden on Duke administrators, who labored to issue physical ID cards to students. Despite repeated tabling events and email blasts about where to pick up the special identification card, only 200 of 1200 cards were picked up. Overall, confusion over the two student ID

cards discouraged and alienated key stakeholders at Duke, undermining the stated goal of the new voter ID law: restoring confidence in the vote. To the contrary, Duke's bifurcated ID system not only increased reliance on provisional balloting but weakened young voters' trust in democracy itself at a critical moment in their lives as young citizens.

These challenges experienced by Duke students are compounded by the fact that students are often less likely to possess other forms of acceptable photo identification for voting. For example, increasingly fewer young people are applying for driver's licenses,³ opting instead for cheaper and more accessible methods of transportation such as Uber and Lyft. In 2021, only 60% of 18-year-olds had a driver's license while over 90% of those over the age of 35 had one.⁴ Other permissible ID forms for voting, such as military IDs or state and local government employee IDs, are substantially less common among student populations. Reading an additional physical-card-only restriction on student IDs into the voter photo ID statutes inappropriately bars students at

³ Shannon Osaka, *I'll call an Uber or 911: Why Gen Z doesn't want to drive*, Wash. Post (Feb. 13, 2023),

<https://www.washingtonpost.com/climate-solutions/2023/02/13/gen-z-driving-less-uber/>.

⁴ Fed. Hwy. Admin., *Highway Statistics 2021*, Driver Licensing, Table DL-20, U.S. Dep't of Transp. (Dec. 2022),

<https://www.fhwa.dot.gov/policyinformation/statistics/2021/dl20.cfm>.

schools with digital identification cards from using a form of voter photo ID they are more likely to possess.

If the Petition is granted, UNC students and employees, as well as elections staff, will likely face similar barriers to those observed at Duke earlier this year. Although UNC has announced that students and employees may request a physical One Card to serve as voter photo ID, these cards must be affirmatively sought out by students. This is the same faulty bifurcated system that Duke used ahead of the March 2024 Primary Election. Additionally, these physical identification cards do not include “the chip technology of the standard One Card,” meaning that they presumably will not work for other purposes like building access, library services, printing, and more.⁵ As for those students who previously had a physical One Card but have shifted to a Mobile One Card, their physical cards likewise no longer work for building access or other school uses.⁶ This dual ID approach—with a physical identification card used solely for voting and a digital identification card used for all other purposes—would likely lead to the same voter confusion experienced at Duke in our state’s most

⁵ Univ. of N.C. at Chapel Hill, Fin. and Operations, *Mobile UNC One Card for Apple Wallet Approved for Voter ID Use*, <https://onecard.unc.edu/news/2024/08/23/mobile-unc-one-card-for-apple-wallet-approved-for-voter-id-use/> (last visited Sept. 24, 2024).

⁶ Univ. of N.C. at Chapel Hill, Fin. and Operations, *Apple Device FAQs and Support*, <https://onecard.unc.edu/mobile-one-card/apple-device-faqs-and-support/> (last visited Sept. 24, 2024).

recent election. Such a harm is unjustified, especially given the Petitioner has failed to establish any irreparable harm should their Petition be denied.

II. Digital student identification cards are a safe and secure form of identification, and their use as voter identification does not cause irreparable harm.

Petitioners request that this Court stay the enforcement of the Wake County Superior Court's September 20, 2024 Order allowing the use of digital photo identification as voter identification under the argument that this method of voter identification will "jeopardize[] the validity of the 2024 election and disenfranchise[] voters throughout . . . North Carolina." Petitioners' Pet. for Writ of Supersedeas and Mots. for Temporary Stay and Temporary Inj. at 16. In general, as expressed in their trial motions, Petitioners believe that digital photo identification is highly susceptible to fraud. Mot. for TRO or, in the Alternative, Expedited Prelim. Inj. at ¶ 17, No. 245CV02888-910. This belief is unfounded. In actuality, digital photo identification is reliable and secure. There are significant security protocols in place throughout the production, issuance, and use of UNC Mobile One Cards and digital student identification cards generally. These features are why digital photo identification cards have safely been adopted across the country for use in high security environments, such as elections.

A. Digital photo identification is a safe and secure form of identification.

Student identification cards have become a critical part of how higher education institutions function and ensure the safety of their students, faculty, and staff. What was once merely a method to confirm the cardholder's identity has become a multi-functional technology—digital student identification cards are now commonly used to provide access to restricted buildings and residence halls, track meal plan balances, and complete financial transactions at on- and off-campus businesses, among other things.⁷ Thus, as the functionality of digital student identification cards has increased so has the number of digital security measures to ensure the safety of campus spaces and the integrity of the transactions for which these credentials are used. This heightened protection makes digital identification cards an equally, or even more, secure alternative to physical ID cards.

For example, as described in UNC's application for approval of their digital ID card as a voter ID, UNC Mobile One Cards are issued through and secured by the HID Global system, the same producer that provides the chips used in the university's physical identification cards.⁸ Access to the system

⁷ Univ. of N.C. at Chapel Hill, Fin. and Operations, *Mobile One Card*, <https://onecard.unc.edu/mobile-one-card/> (last visited Sept. 24, 2024).

⁸ Application for approval of University of N.C. at Chapel Hill student and employee photo ID at PDF p. 3, 7, N.C. State Bd. of Elections, State Board Meeting materials (Aug. 20, 2024), https://s3.amazonaws.com/dl.ncsbe.gov/State_Board_Meeting_Docs/2024-08-20/

used to produce these digital identification cards is strictly limited to authorized personnel, and HID is bound by security requirements set forth in its contract with UNC.⁹ Student cardholders may only gain initial access to their digital credential through the GET Mobile application, which is password-protected and secured by multi-factor authentication, before the digital identification card may be added to Apple’s mobile Wallet app.¹⁰ Apple Wallet has its own security features safeguarding the cards it stores. For example, an iPhone user must have a passcode, Face ID, Touch ID, or optic ID enabled to use the Apple Wallet.¹¹ Additionally, according to Apple, Apple Wallet data is secured by “encrypting it when it’s sent over the Internet and storing it in an encrypted format when it’s kept on Apple’s servers,” and it restricts what information is retained by Apple so that transaction data associated with the card remains private between the cardholder and the application developer.¹² Finally, digital student identification cards, such as

Photo%20ID%20Approval%20Consideration/UNC-CH%20Digital%20Card.pdf.

⁹ *Id.*

¹⁰ *Mobile One Card*, *supra* n.6.

¹¹ *Apple Pay security and privacy overview*, Apple Support, <https://support.apple.com/en-us/101554#:~:text=Apple%20Pay%20uses%20security%20features,to%20protect%20your%20personal%20information> (last visited Sept. 24, 2024).

¹² *Id.*

UNC's Mobile One Card, can be instantly and remotely revoked, increasing fraud protection in case of the loss or theft of the device.¹³

B. Digital photo identification is safely and widely used across the country.

Further, the security and reliability of digital photo identification cards is demonstrated by national and state trends toward their widespread adoption, often in lieu of providing physical ID cards at all.¹⁴ Digital photo identification has been adopted in high security environments, such as TSA airport security checkpoints.¹⁵ Nearly 80 million Americans are now eligible to drive, buy age-restricted products (like alcohol and tobacco), or board aircraft using a digital photo identification card.¹⁶ Further, the Department of Homeland Security accepts the use of digital photo identification cards,¹⁷ such

¹³ *Mobile One Card*, *supra* n.6.

¹⁴ For years, digital cards have also been safely and securely implemented in other sectors, such as alternatives to physical credit cards, car keys, hotel keys, and boarding passes.

¹⁵ Transportation Security Administration, Digital ID Section, *Facial Recognition and Digital Identity Solutions*, <https://www.tsa.gov/digital-id> (last visited Sept. 25, 2024).

¹⁶ Suzanne Rowan Kelleher, *TSA Now Accepts Digital IDs From These 11 States*, *Forbes* (September 9, 2024), <https://www.forbes.com/sites/suzannerowankelleher/2024/09/09/fly-with-a-digital-id-11-states/>; Andrea Vittorio, *Digital ID Cards Spread Across US States With Range of New Uses*, *Bloomberg Law* (Sept. 13, 2023), <https://news.bloomberglaw.com/privacy-and-data-security/digital-id-cards-spread-across-us-states-with-range-of-new-uses#>.

¹⁷ The REAL ID Modernization Act (2020) clarified that the REAL ID Act applies to state-issued mobile/digital driver's licenses and mobile/digital

as a Mobile Driver’s License (mDL), which according to the Department “is an early front-runner, consisting of standardized technologies and processes that enable a digital-identity ecosystem that replicates and potentially improves upon physical identity credentials.”¹⁸

In accord with this national trend, large and growing numbers of colleges and universities, both nationally and in North Carolina, have begun issuing digital identification cards. In 2018, Apple launched support for digital student ID cards in their digital Wallet app for students at Duke University, the University of Alabama, and the University of Oklahoma.¹⁹ In 2023, Samsung launched support for digital student ID cards at 68 universities across the U.S.²⁰ Today, Transact, just one of several providers of student identification cards in the U.S., has issued over 1.8 million digital credentials for students

identification cards (collectively “mDLs”). Transportation Security Administration, *supra* n.15.

¹⁸ U.S. Dep’t of Homeland Sec., Publications Library Section, *Next Generation Identity: Mobile Driver’s License Fact Sheet* (Jan. 31, 2022), <https://www.dhs.gov/science-and-technology/publication/next-generation-identity-mobile-drivers-license-fact-sheet>.

¹⁹ *Apple adds support for contactless student ID cards in Wallet*, Apple Newsroom (Oct. 2, 2018), <https://www.apple.com/newsroom/2018/10/apple-adds-support-for-contactless-student-id-cards-in-wallet/>.

²⁰ Lindsay McKenzie, *Samsung expands support for digital student IDs*, EDSCOOP (July 21, 2023), <https://edscoop.com/samsung-expands-support-digital-student-ids/>.

across more than 130 institutions.²¹ In addition to security concerns, higher education institutions have cited a variety of reasons for preferring digital identification cards. For example, when deciding to issue digital credentials to all first-year students in 2023, Duke cited the environmental impact as a driving factor, with university officials reasoning that digital credentials “reduce the impact of plastic badges, printers, ink, storage and handling on our environment.”²² The switch to digital ID cards was estimated to “save[] 5.2 tons of plastic cards from being discarded and is 93-98% more energy-efficient” than offering physical ID cards.²³

* * * * *

Widespread adoption in addition to strict safety and security protocols and mechanisms associated with digital identification cards make clear that there is no greater potential for fraud associated with voter identification than there was before the State Board of Elections approved UNC’s Mobile One Card for voting. For all the reasons discussed above, there is no fraud risk

²¹ *Transact Mobile Credential for higher education*, Transact, <https://www.transactcampus.com/solutions/campus-id/transact-mobile-credential> (last visited Sept. 24, 2024).

²² Dylan Halper & Melanie Shao, *DukeCard returns to physical IDs to comply with NC voter identification requirement*, The Chronicle (Sept. 9, 2024), <https://www.dukechronicle.com/article/2024/09/duke-university-dukecard-physical-ids-comply-nc-voter-identification-requirement-sustainability-concerns-class-of-2028-2024-elections-registration>.

²³ *Id.*

associated with the use of digital photo identification cards. Thus, Petitioners are not at risk of suffering irreparable harm if the Wake County Superior Court's September 20, 2024, Order remains in force during the election. And therefore, this Court should reject the writ of supersedeas.

III. Accepting Petitioners' arguments runs counter to the public interest.

Consistent with the national trend, in addition to UNC Chapel Hill, several North Carolina schools have already adopted digital identification cards, and more are expected to follow. As already discussed, Duke University uses digital ID cards. At UNC Charlotte, students do not receive a physical ID card unless they affirmatively request one—and they may not realize the need for that physical ID card until they show up to their polling place to vote.²⁴

At this point, neither UNC Charlotte nor Duke has obtained approval for those digital ID cards to be used for voting, as they do not yet include printed expiration dates and, therefore, do not yet satisfy N.C.G.S. §§ 163-166.17 and 163-166.18. But if the voter photo ID statutes are deemed to categorically prohibit approval of digital identification cards—despite the absence of any such restriction from the statutory text—none of these schools would be able

²⁴ Monique Delagey, *UNC Charlotte's Shift to Mobile IDs: What Students Need to Know*, Niner Times (Sept. 2, 2022), https://www.ninertimes.com/news/unc-charlotte-s-shift-to-mobile-ids-what-students-need-to-know/article_244a2b68-2995-11ed-9207-3feb3b79d8b6.html.

to obtain approval in the future. This will force schools to make a choice: either forego the benefits of digital ID cards (as described herein) or adopt digital ID cards and, in so doing, subject their students and employees to confusion and potential disenfranchisement in voting. Schools like UNC that have designed or modified their digital identification cards to adhere to the requirements set out in N.C.G.S. §§ 163-166.17 and 163-166.18 should not be forced to make that choice.

CONCLUSION

The Petition for Writ of Supersedeas and Motions for Temporary Stay and Temporary Injunction should be denied, given the absence of irreparable harm if they are denied and the serious risks of harm to students, employees, and elections workers if they are granted.

Respectfully submitted, this the 25th day of September 2024.

/s/ Jeffrey Loperfido

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N.C.R. App. P. 33(b) Certification: I certify that all of the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

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**Pro Hac Vice Applications Forthcoming*

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 28(j) of the North Carolina Rules of Appellate Procedure, the undersigned counsel for Amici Curiae certifies that the foregoing brief, which is prepared using a proportional font, contains fewer than 3,750 words (excluding cover, index, table of authorities, caption, signature blocks, certificate of service, and this certificate of compliance) as reported by the word-processing software.

This the 25th day of September 2024.

/s/ Jeffrey Loperfido

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was e-filed and served upon the parties listed below via e-mail, addressed as follows:

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This the 25th day of September, 2024.

/s/ Jeffrey Loperfido

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Exhibit A

The State of Youth Voting Rights at Duke University, June 2024

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The youth vote is undeniably influential, possessing the power to flip swing states, to reshape political landscapes, and to serve as a catalyst for societal change. North Carolina ranks among the top ten states where young people can significantly influence electoral outcomes, with eligible youth voters comprising 21% of the population. However, the right for students to vote in this state is currently being threatened. Provisional ballots are supposed to be the failsafe for voters experiencing any difficulties with their voter registrations, giving poll workers the opportunity to verify the voters' registration status. But increasingly provisional ballots are depriving voters of their right to vote, as most are rejected without explanation. Unfortunately, that disenfranchisement is coming to Duke's campus. In the March 5, 2024 primary, out of 2,927 students registered to vote at Duke, only 288 students voted. Additionally, 60 out of those 288 students voted provisionally, with 61.7% of those provisional ballots thrown out. To put this in perspective, 1 out of 8 Duke students had their vote thrown out, making Duke's throw rate nearly twice that of the Durham County average and 10% greater than the average for all of North Carolina. Given that the absolute number of students that cast a provisional ballot in the primary is *five times higher* than it was in the 2020 general election, this indicates an unprecedented level of student voter disenfranchisement at Duke. This worrisome development can be attributed to new provisions under two related laws: S.B. 824, the new law requiring photo ID to vote, and S.B. 747 which restricts the forms of ID accepted for voter registration during

early voting, has compounded by challenges associated with the Duke Voter ID Card and inconsistent election administration. These laws place new voter identification restrictions on student voters, a vulnerable voter class that most frequently utilizes early voting in the electoral process, commonly lacks appropriate in-state identification, and typically needs to change their mailing address year to year.

Previously, S.B. 824 had been blocked by both a trial court and the state supreme court as the law was expected to disproportionately enact barriers to voting against African American voters. On April 28, 2023, however, the North Carolina Supreme Court reversed its decision in *Holmes v. Moore*, which restored the state’s voter ID law. This law requires voters to show an acceptable photo ID when they vote in person. A list of acceptable IDs is provided in the figure below.

WHAT PHOTO ID CAN I USE?

Any of the following that is **unexpired or expired for one year or less:**

- North Carolina Driver's License
- U.S. Passport Book/U.S. Passport Card
- State ID from NCDMV ("non-operator ID")
- NC Voter Photo ID card, issued by a county board of elections
- College/university student ID approved by State Board of Elections
- Charter school employee ID approved by State Board of Elections
- State/local government employee ID approved by State Board of Elections
- Driver's license/non-driver ID from another state, D.C. or U.S. territory (*only if voter registered in NC within 90 days of election*)

Any of the following, **regardless of whether the ID contains an expiration or issuance date:**

- Military or veteran ID card issued by the U.S. government
- Tribal enrollment card issued by a State or federally recognized tribe
- ID card issued by a U.S. government agency or the State of NC for a public assistance program

NOTE: Voters ages 65+ may use an expired ID if it was unexpired on their 65th birthday.

Fig. 1: List of acceptable Photo IDs as shown in a North Carolina State Board of Elections (NCSBE) Graphic

In instances where voters fail to present an acceptable ID, they can either make use of an ID Exemption Form while casting a provisional ballot or cast a provisional ballot and subsequently present their photo ID to the county board of elections office by a particular deadline which depends on the election at hand. Exceptions to the photo ID mandate are permissible under specific circumstances, including encountering impediments such as transportation limitations, loss or theft of ID, disability or illness, family obligations, among others. Additional exceptions encompass religious objections to photography or being a victim of a natural disaster within hundred days of Election Day. In cases where registered voters are unable to provide a photo ID but request an ID exemption form, the county board of elections is mandated to count their ballot assuming they have been able to provide the correct forms of ID for voter registration. Voters who complete the ID Exemption form also have the opportunity to present an acceptable form of photo ID for voting or one for voter registration before the county canvass occurs after the election.

Passed in October of 2023, S.B. 747 makes numerous changes to election law administration, including changing the requirements needed to register to vote during the same-day registration early voting period. When registering during early voting citizens must provide a HAVA document (NC driver's license, photo ID, utility bill, paycheck) that displays the individual's current name and address and an acceptable photo ID that matches the requirements in S.B. 824. For Duke students that live on-campus, the Duke Office of Government Relations provides a list to polling places that has every student that lives on campus. Students then provide their acceptable photo ID and the poll worker cross-checks the ID with the list. If the individual does not produce a photo ID with an

address that matches the address on their HAVA document, then the voter is forced to vote provisionally. To remedy the provisional ballot, the voter may either return to the county board with a photo ID and proof of residence document displaying the same address or two different copies of a current proof of residence document with the same address.

Additionally, the law establishes a new provision whereby citizens who choose to use same-day registration must vote provisionally until the individual's NC license number or social security number can be verified. The law also makes it easier for poll workers to expunge a voter's registration. Citizens must have their address verified via the USPS delivering a single piece of mail to the voter's listed address. But if the mailing address is undeliverable – for example because the voter listed a dormitory address that does not receive mail -- the citizen's registration is struck from the rolls after just one notification. This portion of the law is currently temporarily blocked while the State of North Carolina navigates litigation, but if fully implemented could have disastrous effects on the right to vote for unhoused and transient populations, including students.

This report highlights the detrimental effects these new and little researched laws have had on student voting rights at Duke specifically. In addition, this report provides greater clarity on the processes of registration and voting, as well as how and why unprecedented numbers of Duke students had their ballots rejected. We conclude by providing concrete suggestions for how Duke can better protect student voting rights and empower their students to be informed and engaged citizens.

Methodology

In order to fully and accurately answer the questions proposed in this report, we used surveys, interviews, and data analysis of election returns in Durham County and across the state in the spring primary of 2024. To begin this work, we proposed a research plan to Duke University's Institutional Review Board (IRB). This included the survey and interview questions to be administered, recruitment guidelines, and any benefits or harms that were anticipated. Our IRB protocol also considered the fact Duke students would be researching other Duke students. Consequently, we worked especially hard to eliminate any peer coercion in the way we designed our surveys and implemented the interviews. This included allowing just one follow-up communication with our targeted student audiences, or two contacts in total, for each possible participant. In addition, we decided to remove all identifying information from students in the final report as to protect the privacy of the students we interviewed.

With IRB approval secured, we were able to begin our research. Importantly, we were not interested in who students voted for or which parties they voted with. Rather we wanted to know whether they were able to vote and their experiences in doing so. To investigate this, four research teams each tackled one aspect of the research: students who voted provisionally, students who requested a Duke Student Voter ID, students who did not vote, and students who voted successfully. While each team's research strategy differed slightly to meet their unique needs, either surveys, interviews, or a combination of both were used across all teams.

By utilizing data retrieved from the North Carolina State Board of Elections, the provisional team first cross-referenced a file of all provisional voters in Durham County

with the Duke University registry. This allowed them to compile a list of 60 Duke students who voted provisionally. The team then sent a combination of emails and/or texts (with a limit of two contacts) to schedule phone interviews, using a set of IRB-approved questions (Appendix 1). In total, 15 interviews were scheduled and 12 were ultimately used for the team's analysis.

Due to administrative challenges within Duke University, the team investigating the Duke Student Voter ID was unable to access the list of Duke students who had applied for a Duke student voter ID card. We had hoped to send a survey out to these students to learn how students had heard about the Duke card and more important what they thought it meant for their voting plan and whether they had experienced difficulty picking up the card before the primary. Unfortunately, we were unable to have access to the list. We later learned that members of Duke Votes similarly did not have access to the list of ID-requestees, an exclusion that hindered their ability to notify and inform these Duke students about securing access to the cards they applied for. Most of the cards, we learned, were never picked up by the students who needed them. Because we could not survey the students, we pivoted away from sending out a survey and instead interviewed students that we knew had secured the Duke photo ID card as well as members of Duke Votes who had been involved in implementing the student photo ID card. With a set list of questions, seven interviews were conducted and used for the team's analysis (Appendix 2). The team investigating students who did not vote in this election first produced a list of Duke students who were registered to vote but did not do so. This was done using the Durham Voter History Record and the Durham Voter Registration Record from the North

Carolina Board of Elections' public data. Duke students were identified from the Voter Registration by searching for voters with a West or East campus registration address. Each voter has a corresponding voter ID, so every registered Duke student's voter ID was cross listed against the list of all Durham residents who voted in the 2024 primaries. Following the creation of this list, the team sent a survey out to the 2,767 Duke students who were registered to vote but did not do so in the 2024 primary (Appendix 3). With the two IRB-approved contacts and a short timeline of just under two weeks, the team received 98 responses to base their analysis upon.

Finally, the team investigating the Duke students who voted successfully consulted data from the North Carolina State Board of Elections to build their list of subjects. They identified 241 Duke students who cast ballots that were counted and emailed a survey to them (Appendix 4). This team also asked these students if they would be willing to participate in a follow-up interview, in addition to the survey. At the conclusion of the study, the team received 64 responses and interviewed 6 students. Across these four teams, a mixture of open-ended and multiple choice questions were used for the surveys and interviews. We tried not to ask too many open-ended questions in order to not overwhelm participants and to get consistent and accurate quantitative data. Emails to recruit students to participate highlighted the voluntary and consensual nature of the study and informed every potential survey respondent and interviewee of their rights. While the large-scale purpose of the study was explained (voting patterns of Duke students), it was critical that this research remain nonpartisan, as all partisan information from the North Carolina State Board of Elections was immediately deleted and disregarded from our lists of Duke

students. Nor did we investigate respondents' partisan loyalties or who they may have voted for in the recent primary. Our focus was solely on students' understanding of the voting process and the new ID requirements.

Because this research was developed during the Spring 2024 in an undergraduate class at the Sanford School of Public Policy taught by Professor Gunther Peck, "PPS 307: Democracy: Crisis and Opportunity," our timeframe for the project was especially tight. All research was conceived and conducted after the conclusion and certification of the March primary and before the end of the spring semester. Yet despite this tight timeline and our strict compliance with IRB protocols, survey response rates from Duke students were quite high. Had it not been the end of the semester, we believe that the response rates to our surveys would have been even higher had students not been in the midst of preparing for finals and end-of-year projects.

Provisional Ballots

We began our analysis of provisional voting at Duke University by determining the rate of rejection of provisional ballots cast in the March 5, 2024 election, which was 52% for the entire state of North Carolina and 37% for Durham County. At Duke, out of 60 provisional voters, 21 ballots were fully approved, two ballots were partially approved, and 37 ballots were ultimately not counted. That amounted to a shocking 61.7% of provisional ballots cast by Duke students being thrown out, a rate exceeding both the state and county averages.

The State Board of Elections provisional file also lists why each provisional ballot was issued and, in some instances, additional rationale if the ballot was ultimately accepted. For Duke students, the most common reason for a ballot being rejected was “ID Not Provided - No Exception Form/Return With ID.” This was the case for 24 of the 37 Duke voters whose provisional ballots were not counted, or roughly 65%. In fact, of 39 Duke students who voted provisionally under the listed reason of “ID Not Provided,” just six (15.4%) completed an ID Exception Form. Of these six voters, all but one exception was accepted. This high approval rate (83.3%) suggests that some of the 24 “ID Not Provided” ballots that were ultimately not counted might have been accepted had the ID Exception Form been completed.

Overall, the data indicates that provisional ballots cast by Duke students were thrown out at a rate disproportionate to the Durham County and North Carolina averages, with the primary issue being the acquisition and use of an acceptable form of photo ID. While this data provides a macroscopic view of Duke provisional voter outcomes, to truly gauge the extent of student experiences with North Carolina’s recent voting laws, we sought to augment our findings through 15 interviews with provisional Duke student voters.

We identified the two most common pathways by which Duke students cast provisional ballots. The most common, which applied to five students, was failure to show a proper photo ID. Of these voters, three noted that they were unaware of the new photo ID requirements, as well as the option to request a Duke Student Voter ID. Two were aware of the Duke Student Voter ID but had not gotten around to registering or picking one up. All five had successfully registered to vote at the correct address prior to voting, and based on

NCBOE guidelines, these students should have been able to utilize the ID Exception Form to have their provisional ballots resolved at the polls, as their residency was not in question. Per the language readily available on the NCBOE website, “All voters will be allowed to vote with or without a photo ID. If a voter cannot show photo ID when voting in person, they can still vote by filling out an ID Exception Form.” However, amongst these students, none were presented with this option by poll workers, and their votes were not counted.

The second most common provisional voting pathway applied to four interviewees, all on-campus residents with North Carolina driver’s licenses, who attempted to update their NC voter registration at the polls from their home counties to the Duke University campus precinct during the early voting period. On updating a voter registration during early voting, the NCBOE website states that students only need to provide a document “with the student’s name and on-campus housing address” or “a valid student photo identification card” if the institution provides the Board of Elections with a list of on-campus residents. However, when attempting to prove their on-campus residencies, these voters were met with a different list of acceptable documents and associated guidelines that were not available on the NCBOE website. These guidelines include a point specifically addressing students attending private colleges or universities, stating that in proving residency with a university-issued document containing an on-campus address, these students will *also* need to present an “approved photo ID from that institution” (i.e., Duke Student Voter ID), not just “a valid” student photo ID (Figure 2).

This form was not presented to any Duke students during the first ten days of early voting at the Karsh early voting site. Members of our team had traveled to the County Board of Elections and specifically asked whether a Duke ID would be sufficient proof of residence during early voting to register and were informed by officials that yes the Duke Student ID would count. During the first week of early voting, several Duke students in fact showed their regular Duke IDs and were able to use them to register to vote and then offered additional photo IDs such as passports to satisfy the new photo ID requirement. Starting on the last Friday of early voting, however, poll workers at Karsh produced the following statement that enabled them to refuse accepting Duke IDs as proof of residence for voter registration. Most of the provisional ballots cast by Duke students occurred in the final two days of early voting as a result of this new voter registration policy, unknown to any Duke students, Duke administrators, or to members of Duke Votes.

ACCEPTABLE IDENTIFICATION FOR PROOF OF RESIDENCE

Documents that may be issued by a private or a governmental entity:

- Utility bill (including mobile service providers)
- Bank statement
- Paycheck

Documents issued by any federal, state, or local governmental agency or subdivision showing name and current address of the applicant:

- drivers license or ID card issued by North Carolina or another state
- a citizenship document issued by the U.S. Department of Homeland Security or U.S. Citizenship and Immigration Services
- property tax statement issued by a governmental agency
- vehicle registration issued by a governmental agency
- government check, including any Social Security, employment, pension, benefit, or reimbursement check from any government entity
- government invoice, statement, or receipt
- public housing identification card, lease, or rental statement
- public educational institution documents, including any student card, transcript, tuition statement, invoice, or receipt issued by any public educational institution
- government insurance plan card, drug discount card, or drug prescription issued by a government care facility (including military and veterans' facilities)
- discharge certificates, pardons, or other government documents issued in connection with the resolution of a criminal case, indictment, sentence, or other matter
- public transportation authority cards, invoices, receipts, or correspondence
- public assistance or disability agency documents
- documents issued by any government shelter or temporary/transitional housing facility
- drug prescription issued by a government doctor or other governmental health care provider

The above list of government documents merely contains examples and is not exhaustive. Documents that are not listed above are acceptable provided they include the registrant's current name and residence address and meet the definition of a HAVA document in G.S. § 163-82.6B(e). Documents issued by an official entity of a recognized tribe are government documents.

Documents Issued by Colleges and Universities

- Students may also provide proof of residence by presenting any document from a college or university that contains the student's current name and residential address. Acceptable documents may be issued by either public or private educational institutions and include an invoice, transcript, correspondence, or a print-out or screenshot from any college or university source displaying the student's name and residential address (e.g., online student portals for registration, tuition, or housing). Such documents are acceptable whether the student's address is an on-campus or off-campus residence.
 - If a student presents a document from a private college or university as proof of residence, they must also present an approved photo ID from that institution.
 - Students attending public educational institutions may present any acceptable photo ID.

In order to be considered "current," the document must be unexpired, if it has an expiration date. **If the document does not have an expiration date, the issuance date must be within six months of the date it is presented to the election official.** An end date for a pay period or billing period is not an expiration date. To determine whether such a document is current, refer to its issuance date. In the absence of an issuance date or expiration date, for a document to be considered current, there must be other time-based indicators on the document showing that it is current.

You can provide either the original document or a copy of that document in paper or electronic format, including by showing the document on a cell phone.

Fig. 2: Acceptable identification for proof of residence available to Karsh Alumni Center poll workers during the Spring 2024 primary election early voting period

When recounting this experience with inconsistent poll worker behavior, Anna noted, “I had talked previously [the day before voting] to the Board of Elections and thought that I had all of the correct information and correct documents that I would need to vote. The information being told to me at Karsh was different from the information being told to me verbally, over the phone, by the BOE, and on the BOE website, so I was confused as to how I was to gain access to this information before going to the polls.” The student then went on to mention that they “had anecdotally heard from other peers that they were able to register with just their Duke student ID, their mobile card, or even by just saying [to the poll worker] that they lived on Duke’s campus.” Even as the poll workers went back and forth throughout this process, one suggesting that they might be able to prove this voter’s residency by directly referencing the Duke-provided list of on-campus residents and accepting the voter’s NC license as photo ID, Anna was ultimately required to vote provisionally. On a separate occasion, another student expressed similar shock when they were presented with this proof of residency guideline stating, “I didn’t know any of that before, and because we had to go through so many documents, it took a really long time.” In response, the student left the polling site but was encouraged to return by a friend. Despite bringing their North Carolina driver’s license, Duke student ID, and transcripts with their on-campus address to the polling site, this student was also required to vote provisionally.

As the window to request a Duke Student Voter ID had passed – and there was no opportunity to pick up said cards as they were available only one day during the last week of early voting -- there was no other mechanism for these Duke students to prove their

residency. As a last ditch effort to retain their voting rights, several of the Duke students who were offered provisional ballots asked to fill out an ID Exemption Form, a provision allowed under the current law that enables citizens without transportation or other barriers to securing an acceptable photo ID. None of the Duke students were offered the exemption by poll workers, but only knew of it because they had done their homework and understood that it was a hard won failsafe to minimize potential harms associated with the new photo ID requirement. However, the ID Exemption Form can only be used to address challenges that occur during voting, not during voter registration. Because Duke's regular ID no longer counted as proof of residence, all of these provisional ballots and the exemptions that sought to secure them were rejected. Anna, an author on a seminal student voter rights publication, found her own provisional ballot discarded.

Some of the Duke students whose ID no longer counted were instructed by poll workers to return to the polling site with a passport (an approved ID), another was instructed to return to the Board of Elections with the correct photo ID, while still another was given no alternative to cure their provisional ballot. This pattern, while indicative of inconsistent election administration, nonetheless suggests that poll workers generally recognized the central problem of Duke's voter ID problem at hand. In the case of the two voters instructed to return to the polling site with their passports when voting on election day, returning with an approved ID with limited time left in the voting period implied a likely impediment to voting and thus could have implicated the ID Exception Form. What is unclear, however, is why poll workers were not instructed to offer the ID Exception Form in addition to suggesting that the voter present an approved ID.

When we asked Duke students who cast provisional ballots if they had checked on the status of their ballots following the election, only three out of the fourteen student provisional voters surveyed had done so (21.4%), underscoring the ways in which North Carolina's new voting administration creates the risk and harm of voter disenfranchisement without explicit acknowledgement of that fact to affected voters. That harm suggests how voter disenfranchisement and voter discouragement work hand in hand. Throughout the provisional voting process, numerous students expressed pessimism about their voting experiences. One student noted, "The whole process was unexpected and really frustrating...I was really frustrated that it was so confusing," while another mentioned, "Somebody that came with us decided it wasn't worth the hassle and didn't vote at all."

The Duke Voter ID

Student frustration and confusion over what types of IDs were acceptable was not only caused by poll workers providing varied information, but also challenges associated with the newly instated Duke Voter Identification Cards. Out of the 18 D1 universities in North Carolina, both public and private, Duke University was the only school during the spring primary whose student ID did not count as a voter ID. As a result, Duke University students were in a unique position to suffer from voter disenfranchisement. Meanwhile, all other students in peer D1 institutions were granted the civil right to use their student ID in the voting process. Our research analyzed what problems and challenges the Duke administration and student groups faced in implementing the Duke Voter ID Card and what students wished could be done to make it more accessible to Duke student voters.

First, it is important to understand the reason why it was necessary to create a Duke Voter ID. The changes in North Carolina's legislation as a result of S.B. 747 and S.B. 824 requires voters to present a valid photo ID in order to register and vote. The North Carolina State Board of Elections has established a vetting mechanism for endorsing student and public employee IDs for electoral purposes, and maintains a roster of sanctioned IDs. It stipulates that it shall approve the student identification cards issued by UNC constituent institutions, community colleges, or eligible private postsecondary institutions for voting identification purposes if specific criteria for the card are met by the institution.

In the process to approve the Duke Card as a valid student ID, Duke responded to the North Carolina Board of Elections' list of approved IDs by submitting an application for the digital Duke Card. However, it was found that mobile IDs were not approved, and the Duke Card lacked an expiration date. However, rather than simply adding an expiration date to the Duke Card to model peer institutions, the Duke administration decided to make a separate Duke Student Voting ID that contained an expiration date. The process of obtaining a Duke Voter ID Card involved filling out a survey accessed via a QR code. Once the survey was completed, students received an email notifying them that their card was ready for pickup. However, despite efforts to communicate through various channels, including social media, emails, and posters, many students remained uninformed about where and when to pick up the card. The mention of the Duke Student ID Card was embedded in emails from Student Affairs or Duke Student Government rather than prioritized in the subject line, lending itself to being disregarded. Students' propensity to overlook emails, with many ending up in spam folders, compounded the issue.

Furthermore, informing students about the process for obtaining a Duke Voter ID Card primarily relied on tabling at the Bryan Center Plaza (BC Plaza) led by the student-led Duke Votes. However, with only a few pickup days and specific hours, students with conflicting class schedules found it difficult to accommodate. Students have voiced frustration at the limited reach of these campaigns on “something so important.”

Messaging challenges about the Student Voter ID were compounded by the enduring fact that Duke was requiring its students to have *two* forms of ID to be a civically engaged full time student: one for voting, and the other for all other student access needs: checking out books in the library, gaining entrance into their dorms, and the like. That requirement generated information bottlenecks and inevitable confusion about how, where, and when to exercise their constitutional voting rights. In many instances, students found themselves learning about the Duke Voter ID only at the polling site and subsequently requesting a card so they could be in compliance before early voting ended. However, the last day to request a Duke Voter ID was February 25th, which was almost a week before early voting ended. One student, despite registering to vote during orientation week, was surprised to find out during the early voting period that they were actually “not registered.” We were unable to discern what had happened to their particular registration. Some Duke students had their registrations rejected because they had listed “undeliverable” mailing addresses. In the past, such errors were fixable during early voting. But because of the new ID requirement, these students could not prove their residence, despite having valid digital student IDs. Students mentioned their friends who went through similar experiences stating that their friend “filled the first bubble and then ... they [said]

‘you are supposed to have a Duke Voter ID Card or passport.’” Such confusions, occasioned by having two forms of student IDs, resulted in the disenfranchisement of multiple Duke students.

Duke students consistently expressed the wish to transition the Duke Voter ID process from an opt-in to an opt-out system to streamline the process and ensure broader participation. One student described the benefits of an opt-out rather than the opt-in process which is the current policy: “Then you don't have to worry [about], ‘Oh, I missed the deadline, I have to wait or I won’t be able to vote at all,’” they mentioned. The combination of limited information dissemination, confusion surrounding registration status, and a general lack of awareness all contributed to many students' sense of confusion and disengagement from the voting process. In addition, many freshmen also expressed frustration over the absence of a physical ID associated with Duke University. For some, obtaining the Duke Voter ID Card serves as a means to address this need rather than solely for voting purposes. They view it as a tangible representation of their affiliation with the university, providing convenience in situations where physical identification is required, such as for student discounts. Virtually all students interviewed in our research articulated a desire for a broader Duke student ID card that all students would receive without completing a separate application process.

In collaboration with Duke Student Affairs, another student initiated an experiment to implement an opt-out process. They distributed 30 cards to first-year students as part of a trial run. Subsequently, they worked with Duke Votes to provide training to Resident Assistants on voter registration and the voter ID card process. This included distributing

informational materials and conducting meetings with the Vice Provost and Student Affairs leaders for undergraduate education to address issues related to voter ID cards. The initiative proved successful, resulting in a plan to distribute voter ID cards to all first-year students starting in August 2024 when they moved in to East Campus of Duke.

This approach, starting with first-year students, would serve as a crucial first step in overcoming the initial hurdles associated with voter registration and request processes upon arriving on campus. Students believe that implementing an opt-out system for the Duke Voter ID Card, supported by the involvement of RAs, has the potential to significantly increase student awareness and participation. This model would serve as a catalyst for broader policy changes aimed at enhancing voter engagement and accessibility within the Duke University community. Overall, Duke students expressed a keen desire for improvements in the Duke Voter ID process to mirror their peer D1 institutions. Given the significance of these ID cards, administrative supervision is required for their creation and distribution. Despite worries about student apathy, logistical barriers such as lack of access to the right ID or transportation to polling sites on election day represent some of the biggest challenges to successful student voting. Students hope that with the collaboration of the administration, Duke can protect the civic right to vote which has been damaged due to changing laws and an ineffective student ID.

Reasons for Low Youth Voter Participation

The Duke voter ID is one reason for low student turnout in the recent primary, but there were other barriers that stopped Duke students from voting during the recent primary. In

North Carolina, only 5% of eligible youth voted in the 2024 primary. At Duke, only about 8.6% of registered students voted in the primary, which leaves 91.4% of registered students not showing up to the polls. In order to learn the reasons why these students didn't vote, a survey was sent by email to the 2,767 students, which resulted in 90 student responses. After analyzing the data and looking at student responses, we were able to draw some preliminary conclusions. We looked at two factors in our survey: the reasons why registered students didn't vote and whether or not they got a Duke Voter ID. The reasons why students didn't vote were divided into four categories: time and/or transportation, lack of information or misinformation, apathy, and the idea that their vote doesn't matter.

Reasons Registered Duke Students did not Vote in 2024 Primaries

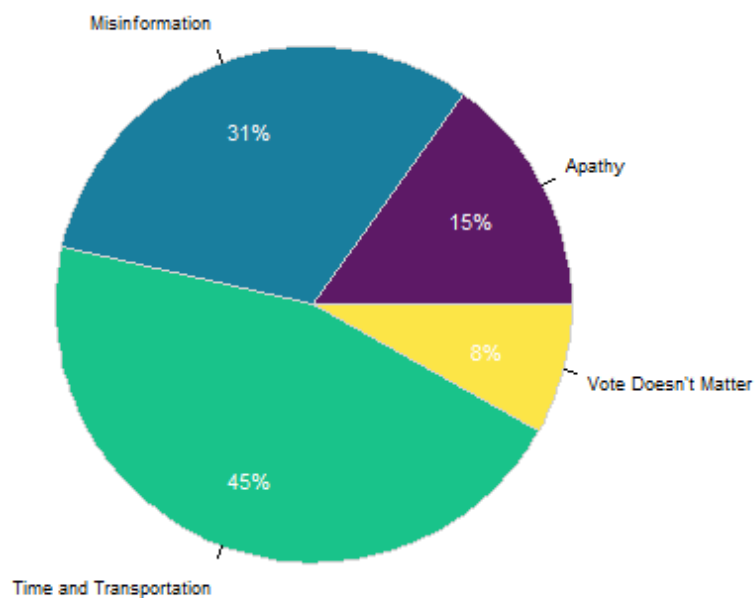


Fig. 3: Pie chart noting the different reasons registered Duke students did not vote in the 2024 Primaries

As seen in Figure 3, 42.5% of students who were registered but didn't vote said that it was because of time and transportation. Lack of information and misinformation was the second most popular reason, which led 31.5% of registered students to not vote. The third most common response with only 15.1% of respondents was apathy towards voting and another 8.2% feeling that their vote would not change the outcome.

The survey asked follow up questions to try and get to the bottom of why students chose the reasons that they did. For time and transportation, all of the survey responses expressed frustration with an inability to find time to vote amidst busy class, work, and extracurricular commitments during a weekday. In response to "how did transportation affect your ability to vote," many students responded that there was a lack of coordinated transportation efforts on campus that required students to have to find an independent ride to the polls. This is especially acute on election day when students need to travel off campus either to Precinct 2, the Watts elementary school, or to Precinct 5, the more inaccessible Patterson Recreation Center behind the VA hospital. Neither are connected to any public transportation networks. If you do not own a car and are walking from the heart of west campus, it is a 30-minute walk to the Patterson Recreation Center.

In terms of misinformation or a lack of information in general, students indicated that they felt as if they didn't know enough information about candidates and that there was no clear source of unbiased candidate information on campus. Students also expressed frustration with this lack of information as it caused them to miss voting. A student reported that they went to Karsh Alumni Center to vote on election day because they were unaware that it was only an early voting site. While the Chronicle does report such information, not everyone

regularly reads the Chronicle. Some student responses suggested a streamlined voting information hub or email list that shares Chronicle articles and necessary information on voting. At Duke, all undergraduate students move at least once from East to West Campus during their Duke tenure and potentially more. Students must update their registration with each move; however, according to survey responses many are unaware of this and end up at the wrong precinct on election day and have to cast provisional ballots.

Students who suggested that apathy was the reason for not voting also noted that they were deeply concerned about the state of our democracy. Their responses suggested something other than apathy was at work, but rather a belief that our political system was inherently flawed and would be extremely difficult to fix. This was somewhat unexpected as there is often a strong media depiction of youth voters and Generation Z not caring about politics and wanting to be uninvolved. However, this study showed that even those describing apathy as their justification for not voting were also critiquing the particular ways the political system was functioning. Rather than apathy, students highlighted systemic limitations like lack of time and transportation, ID and registration hurdles, and inadequate or poor information about voting.

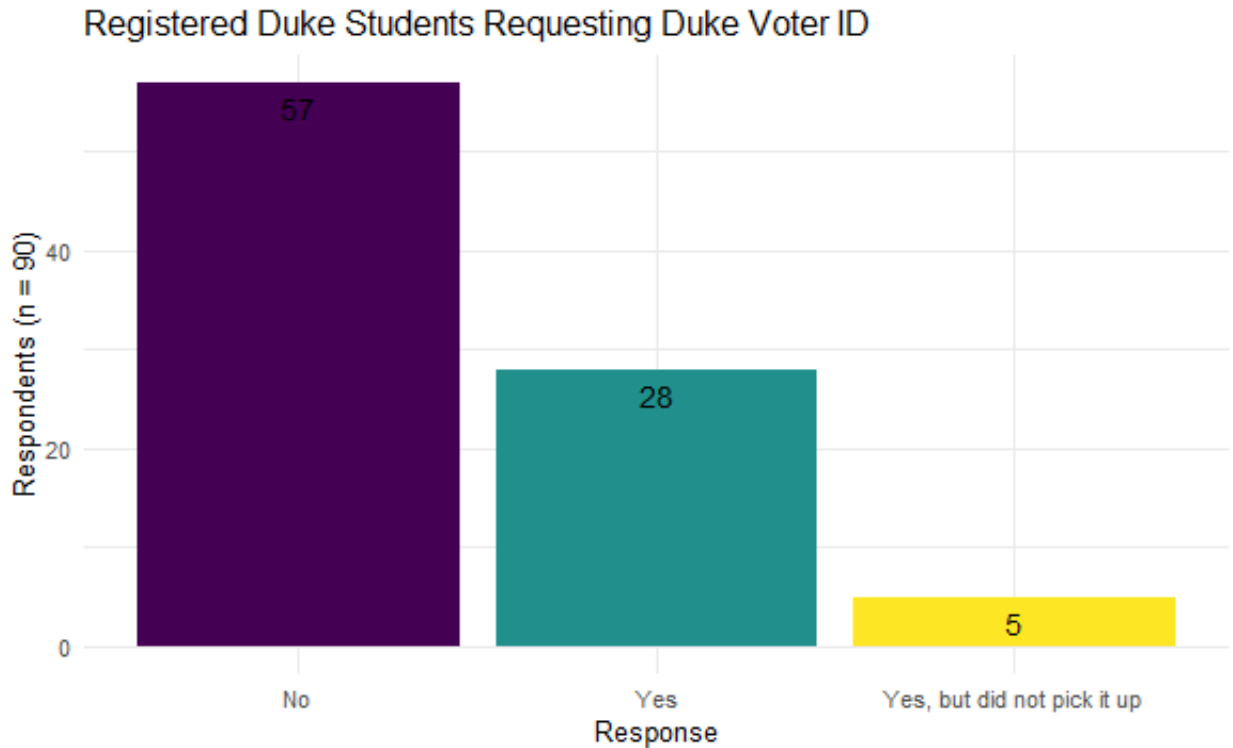


Fig. 4: Bar chart showing # of registered Duke students who also requested a Duke Voter ID

We wanted to further understand how the Duke Voter ID impacted logistical and information barriers to voting. As seen in Figure 4, when asking already registered Duke students if they had requested a Duke Voter ID, we found that 63.33% of survey respondents did not request a Duke voter ID. Just 31.11% requested and picked one up, while 5% reported requesting a voter ID but ultimately not picking it up. Students expressed that the Duke Voter ID should have been better publicized because many students were not aware of the new regulations or how to request and pick up an ID until after the primary election. Furthermore, students suggested that the University automatically provide voter IDs for all students and distribute them in conjunction with other mandatory material like room keys at the beginning of the year. From all of the student responses that we gained

through the survey we saw that even though they did not vote, students were still able to articulate a vision for what they believe successful voting at Duke could look like.

Successful Voting

Despite these challenges, some Duke students and early voters did seem to know about the new ID rules and had the resources to cast a valid ballot. In the following section, we want to examine what experiences, traits, and resources enabled Duke students to vote successfully. For the purpose of this study, “successful” is defined simply as having an individual's ballot be partially or fully counted in the primary election. There are several factors that help students successfully cast their ballot and get their votes counted.

However, we found that students who engaged with email announcements and Instagram posts from Duke Votes were consistently at an advantage in ensuring their votes would be counted. Tabling by Duke Votes, class visitations with presentations about how to vote, personal political involvement, and having friends who are politically involved, also significantly impacted the likelihood of a Duke student's vote being counted. The early voting site at Karsh Alumni Center, which is on the C1 bus path from West Campus to East Campus, made it convenient for students to vote on their way to or from their dorms.

Students wanted access to more information about candidates and clearer instructions on the voter ID process. By researching what common resources help Duke students vote successfully, we were able to gain insight into how this might become a stronger norm.

We emailed only those Duke students who cast ballots that were counted. Sixty five students responded to the survey, a 27% response rate in total. Some of the success

stories revealed substantial barriers to voting, however. Based on the survey of 65 responses, 43 students said they voted early, where 22 said they voted on election day, and only 7 successful students had issues voting, while 58 did not. This data does not include people who received provisional ballots.

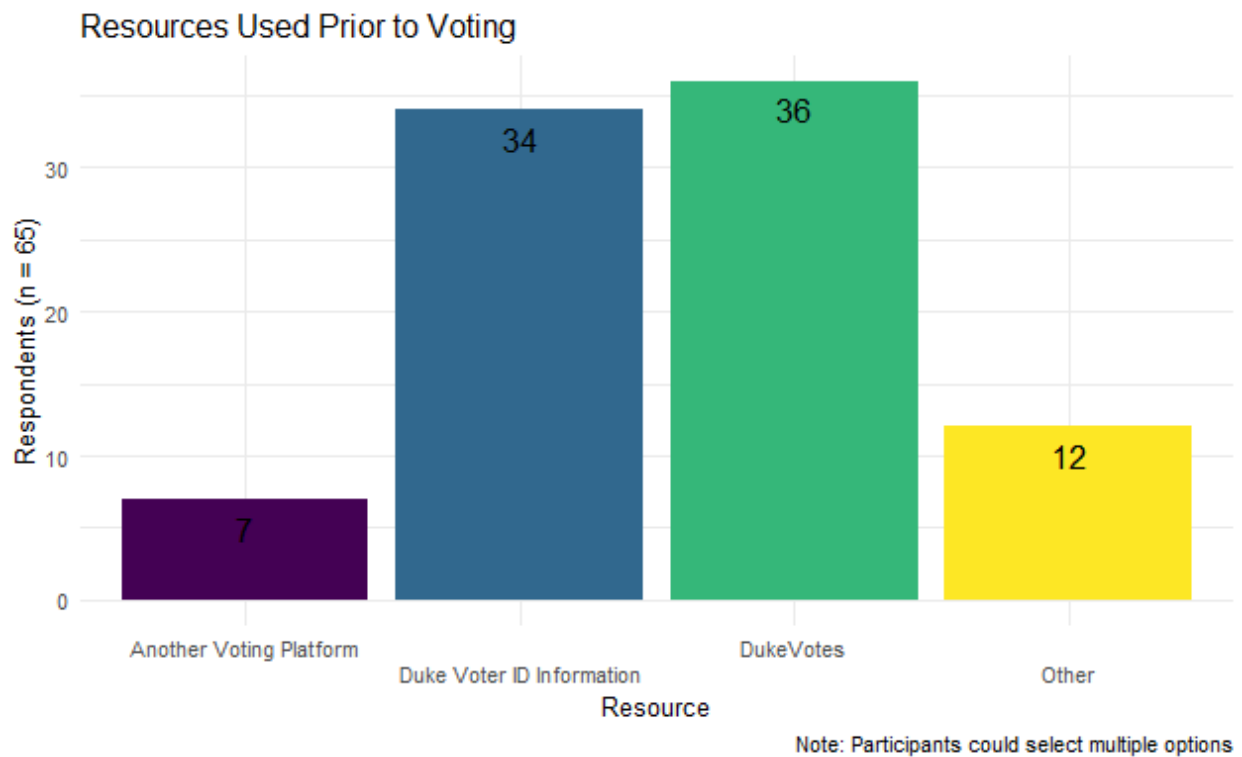


Fig. 5: Bar chart showing the resources used by students prior to voting

Duke students who voted attributed their success to Duke Votes and to the Duke Voter ID information. That linkage exemplifies the hard work of Duke Votes in shouldering the primary burden for voter mobilization and education even without the list of those students who had registered for the card. At the same time, voting rights should not be contingent on membership in a student club, however trusted and inclusive. Students found out about the Duke Voter ID through email the most, then social media platforms, and a few found

out about it from a website, or a friend. Many students had their own unique ways of obtaining this information that specifically pertains to them. Overall, the sentiment was that more students needed to know about the Duke Voter ID and the process of getting an ID needed to be more reliable and “user-friendly.” Students were also interested in getting more non-partisan information about local and statewide candidates. Drawing back to our research question, getting students better access to vote is step one and next comes getting students all the information to make an even more knowledgeable choice.

Additionally, making it more known that Karsh is an early voting center rather than an election day polling site would benefit students in their early voting endeavors. These quantitative and qualitative survey questions gave us a lot of insight into what students were experiencing while voting. Even though these students successfully voted, they still ran into an abundant number of issues and roadblocks. We had the chance to talk with a Junior, Miranda. Miranda is an out-of-state student and registered to vote when arriving at Duke’s campus freshman year. Miranda and one of her friends went to vote together on election day, where she ran into some issues. Miranda came to the voting location with her out-of-state driver’s license but did not have a Duke Voter Card and was offered a provisional ballot. The poll workers explained to her that she could come back with her passport, so that is exactly what Miranda did. She had heard there was something she needed to vote for this year, but didn’t know it was the Duke Voter ID. However, her friend showed their out-of-state ID and was provided a real ballot. This inconsistency was confusing, but ultimately she got her vote counted.

Miranda shared with us her timeline that day. To get to the voting location she drove 10 minutes, spent about 25 minutes trying to figure out how she could vote before driving the 10 minutes back to get her passport. She then went back to actually vote. Miranda said this all took her about an hour to figure out and get the resources she needed before returning to vote. Miranda expressed that if she was any less inclined to vote, she wouldn't have come back. And if she did not have a car, the journey would have taken much longer. She did not know she needed a special Duke Voter ID. Despite the fact Duke Votes and others had been trying to spread the word, she said she must have been in the wrong place at the wrong time. She said she is not usually out of the loop on this stuff, but she had no idea what was happening. Miranda attributed her successful vote to three main aspects, all of which she says were luck. She had a luscious amount of time on election day, she had a car with her on campus that she was using, and she had her passport nearby. Despite having her ballot successfully counted, Miranda said the experience did not make her look forward to voting again. Her faith that "this is the US, you show up with your ID and you can vote" had been challenged because of the confusions generated by having multiple student IDs. Ultimately, our research demonstrates that despite protections created by the 26th Amendment, college students experience numerous challenges that weaken their voting rights. There were 251 students who were "successful voters," yet 22 of them received provisional ballots when voting. These were not easy ballots. Additionally, we found that despite the remarkable work of Duke Votes, successful voting was contingent on knowing people within Duke Votes. Voting successfully should not be akin to membership

in a student club. Information and encouragement about voting should also come from the University so that it reaches as many people as possible.

Final Recommendations:

Duke University did not create the challenging current legal context for young citizens trying to vote in North Carolina, nor are they responsible for the confusing and inconsistent poll worker behavior that we documented when it comes to accepting Duke student IDs. Due to the unforeseen consequences of the passage of SB 824 coinciding with Duke's green initiative to transition to digital cards, the university found itself in a challenging position last summer. In response, Duke acted swiftly to create the Duke Voter ID card as a solution to ensure student voting rights were protected. That said, Duke bears direct responsibility for much of the provisional balloting that occurred during the recent primary at Karsh Alumni Center. There were two problems. The first was limited access to the Duke photo ID cards. Duke students were unable to pick up their IDs in a timely fashion when they most needed them. At a key moment during early voting, the Duke cards were completely unavailable to Duke students. There was also a failure to explain clearly what work the photo ID accomplished. Some thought it secured their voter registration. Others thought the card gave them discounts on university merchandise. Providing all entering freshmen with physical Duke Voter ID cards would be a good step. But why stop with the entering class? We firmly believe that *all students at Duke* have the same fundamental rights to vote. Those rights are not contingent upon someone's year of study nor on their ability to find time to pick up a voter ID during limited hours. Duke's commitment to

empowering its students to be active participants in our democracy is laudable, but without universal access to the required Duke photo ID card by all of Duke's graduate, undergraduate, and professional students, student voting rights at Duke will be compromised. The burden for accessing these cards can not fall on students individually but is a collective institutional responsibility.

To protect Duke students' right to vote, then, we strongly recommend implementing an opt-out system for the Duke Voter ID Card. While our peer institutions, such as UNC and NC State, have the convenience of using their student ID for both voting and everyday activities, we must contend with the separate Duke Voter ID. To ensure that every student has easy access to this essential voting resource, we propose that the Duke Voter ID Card be distributed to all students as part of their welcome package for freshmen and during move-in check-in for upperclassmen living on campus. For off-campus students, the card should be made available through a designated pickup location or the Duke Card office. Students who plan to vote in their home state or who are non-citizens can easily opt out by simply not using the card as it does not grant a student voter registration but simply the ability to do so if they are a U.S. citizen. This is exactly the case for our peers at UNC-Chapel Hill, NC State, and NC Central. It is important to note that there is no need for concern regarding voter fraud, as students must provide either a Social Security number (for citizens) or a North Carolina ID when registering to vote. By implementing this opt-out system, Duke University can streamline the process of distributing the Duke Voter ID Card, ensuring that every student has the opportunity to exercise their fundamental right to vote without undue burden.

To strengthen student voting initiatives, the Duke administration should also utilize official university communication channels, such as emails, brochures, posters, and social media posts, to disseminate crucial information about voter registration deadlines to minimize the likelihood of casting a provisional ballot. This should include advertising the photo ID exemption form as an alternative if voters are not offered it at the polls, ensuring that students are aware of their options in case they encounter any issues with voter identification. Additionally, the university should emphasize pre-registering to vote before the deadline to reduce proof of residency barriers, as this can significantly streamline the voting process for students. Duke should also communicate with students that Karsh is only an early voting location and not a polling place on Election Day.

While it is appreciated that Duke lets students and student organizations take the lead in organizing campus efforts, in the case of student voting, more help from the administration is needed. Duke Votes has already done a phenomenal job in their advocacy, but as students who have their own busy schedules and academic duties, it can be hard for the organization to reach their full potential and deal with outside forces that might not take students seriously. In fact, our research found that direct university communication was pivotal in ensuring students had access to the information they needed to vote successfully. Listening to Duke students voting stories demonstrates that their voices can and do improve decision making processes about elections and produce the most effective civic engagement. Students are the best experts on how to have their voices count and why voting matters to them.

In the past, Duke administrators have collaborated with Duke students beautifully and it is one reason why Duke students have not faced as many systemic barriers to voting as their peers across North Carolina. But without immediate attention to the new barriers Duke students face in registering to vote during early voting, we are concerned that Duke will compromise its commitment to its students' voting rights. To summarize, there are now significant barriers Duke students face when registering to vote and when exercising their right to vote, including confusion around voter ID requirements, lack of accessible information, and high rates of provisional balloting. To address these issues, we recommend an opt-out system for Duke Voter ID cards, greater support for student organizations like Duke Votes, streamlined voter registration, and improved communication about candidates and voting procedures. It is Duke's moral and legal obligation under HAVA to ensure that their student citizens have an unabridged right to vote. Creating an ID that is not fully accessible to all potential Duke voters risks turning the alleged cure into a barrier that deprives students of their constitutionally-vested voting rights. Having two forms of Duke ID -one for voting and another for entering their dorms and using the library – created inevitable confusion and headaches not only for Duke students, but also for Duke administrators and local poll workers who have to explain how and why one kind of ID works and another does not to the young citizens who want to cast their first ballots as citizens. The best solution in the long term would be for Duke's digital ID to count as proof of residence and as the photo ID for voting, eliminating unnecessary confusion, building trust in our democratic process, increasing the efficiency of the voting process, and minimizing provisional balloting.