



INSTITUTION AS CITIZEN: COLLEGES AND UNIVERSITIES AS ACTORS IN DEFENSE OF STUDENT VOTING RIGHTS

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As citizens in a democracy, one of our most basic responsibilities is to exercise our right to vote. As the vehicle carrying a large portion of our citizens into adulthood, it is a basic responsibility of our higher education institutions to encourage and facilitate widespread participation in the electoral process.1

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1. NAT'L ASS'N OF INDEP. COLLS. & UNIVS., YOUR VOTE, YOUR VOICE: NATIONAL CAMPUS VOTER REGISTRATION PROJECT ORGANIZING HANDBOOK 2004 1 (2004).

INTRODUCTION

Institutions of higher learning have consistently underlined their role in shaping citizens since the founding of the republic. As Charles Elliot, Harvard's long-term president, stated more than a century ago: "At bottom, most of the American institutions of higher education are filled with the democratic spirit. Teachers and students alike are profoundly moved by the desire to serve the democratic community."² Yale University's former President Bart Giamatti said: "I believe that the formation of a basis for how we choose to believe and speak and treat others—how, in short, we choose a civic role for ourselves—is the basic purpose of an education in a democracy."³ But what of the responsibility of higher education institutions? Is their role only to shape future generations of student leaders and charge them with changing the world, or do they have a role as actors in their own right?

The Twenty-Sixth Amendment to the U.S. Constitution, which lowered the voting age nationally to eighteen and outlawed age discrimination in one's access to the ballot,⁴ not only empowered colleges to fulfill the civic roles of which Elliot and Giamatti spoke, but it was also shaped by college student activists and influenced by politicians' hopes and fears concerning students' role in society.⁵ While much writing and popular recounting of the Twenty-Sixth Amendment focuses on complaints, dating back centuries, about the hypocrisy of youth being forced to fight while being denied the right to vote,⁶ there is a more historically nuanced vein of research that situates the fight to lower the

2. Harry C. Boyte & Nancy N. Kari, *Renewing the Democratic Spirit in American Colleges and Universities: Higher Education as Public Work*, in CIVIC RESPONSIBILITY AND HIGHER EDUCATION 37, 37 (Thomas Ehrlich ed., 2000).

3. A. BARTLETT GIAMATTI, *THE UNIVERSITY AND THE PUBLIC INTEREST* 7–8 (1981).

4. U.S. CONST. amend. XXVI.

5. See Boyte & Kari, *supra* note 2, at 47–50, 63; GIAMATTI, *supra* note 3, at 8; Anne Frazier Yowell, *Ratification of the Twenty-Sixth Amendment (May 1973)* (M.A. thesis, Virginia Polytechnic Institute and State University) (on file with author).

6. The contradiction between young Americans fighting and dying in Vietnam and Southeast Asia and their exclusion from decision-making was palpable. See Jennifer Frost, *On Account of Age*, 40 AUSTRALASIAN J. AM. STUD. 49, 58–60 (2021). The pressure for changing voting eligibility became more acute after the military draft age was lowered to eighteen in 1942. *Id.* Republican Senator Arthur Vandenberg and Democratic Congressman Jennings Randolph sponsored a constitutional amendment. *Id.* at 59. The issue became even more prominent in 1954 when President Eisenhower put it front and center in his State of the Union Address, declaring: "For years our citizens between the ages of [eighteen] and [twenty-one] have, in time of peril, been summoned to fight for America. They should participate in the political process that produces this fateful summons." President Dwight D. Eisenhower, Annual Message to the Congress on the State of the Union (Jan. 7, 1954), https://www.eisenhowerlibrary.gov/sites/default/files/file/1954_state_of_the_union.pdf.

voting age within the context of broader efforts to remove barriers to the franchise and democratize society.⁷ As Bromberg put it, “the ultimate expansion of youth access to the franchise is a part of the narrative and immediate aftermath of the Second Reconstruction, and it was a natural extension of the nation’s arc towards democratic inclusion.”⁸

Many supporters of the Twenty-Sixth Amendment believed the polity was better served when youth, including college students, could actively participate in the democratic process.⁹ Senator Barry Goldwater stated that he had “probably visited more colleges and universities in the last decade than anyone in the country,” and he was convinced that “some more idealism will do us all good. It will help remove the crusty, shop-worn reasons why the policies and goals which are promised to voters don’t ever seem to get accomplished. It [will] make us find the positive answers that will put us on the right track.”¹⁰ Representative Kenneth Hechler stated that “confidence placed in young people will awaken them to a new sense of responsibility toward our Nation, and direct their energies and interests toward the constructive task of making democracy work.”¹¹ The Senate Judiciary Committee’s Constitutional Amendments Subcommittee report authored by Senator Birch Bayh spoke of the “dedication and conviction” students brought to the civil rights movement and the “skill and enthusiasm they have infused into the political process.”¹² The report cited Professor Paul Freund of Harvard Law School, who asserted that “the student movement around the world” was

7. Yael Bromberg, *Youth Voting Rights and the Unfulfilled Promise of the Twenty-Sixth Amendment*, 21 U. PA. J. CONST. L. 1105, 1123 (2019).

8. *Id.* As Alexander Keyssar put it, “What occurred in the course of a decade was not only the reenfranchisement of African Americans but the abolition of nearly all remaining limits on the right to vote. Poll taxes, literacy tests, understanding clauses, pauper exclusions, and good character provisions had been swept away.” ALEXANDER KEYSSAR, *THE RIGHT TO VOTE: THE CONTESTED HISTORY OF DEMOCRACY IN THE UNITED STATES* 228 (2009).

9. See Manisha Claire, *How Young Activists Got 18-Year-Olds the Right to Vote in Record Time*, SMITHSONIAN MAG. (Nov. 11, 2020), <https://www.smithsonianmag.com/history/how-young-activists-got-18-year-olds-right-vote-record-time-180976261/>.

10. 117 CONG. REC. 5820 (daily ed. Mar. 10, 1971) (statement of Sen. Barry Goldwater), <https://www.congress.gov/bound-congressional-record/1971/03/10/senate-section>.

11. 114 CONG. REC. 19135 (daily ed. June 27, 1968) (statement of Rep. Kenneth Hechler), <https://www.congress.gov/bound-congressional-record/1968/06/27/house-section?p=0>.

12. STAFF OF S. CONST. AMENDS. SUBCOMM., 92ND CONG., *LOWERING THE VOTING AGE TO 18: A FIFTY-STATE SURVEY OF THE COSTS AND OTHER PROBLEMS OF DUAL-AGE VOTING* 6 (Comm. Print 1971) (statement by Chairman Birch Bayh) [hereinafter *LOWERING THE VOTING AGE TO 18*].

the “herald of an intellectual and moral revolution,” which, if not subverted, could “portend a new enlightenment.”¹³

In deliberations over the lowering of the voting age, speaker after speaker referenced visits to college campuses and expressed both a belief that young voters could reinvigorate American democracy and a corresponding fear that the failure to bring young people into the democratic process would fuel radicalism and contribute to alienation and the protests sweeping college campuses across the country.¹⁴ Senator Bayh’s report, citing the President’s Commission on the Causes and Prevention of Violence, summed it up well, stating: “Lowering the voting age will provide them with a direct, constructive, and democratic channel for making their views felt and for giving them a responsible stake in the future of the nation.”¹⁵

Young Democrats and Young Republicans supported the amendment, which passed the Senate ninety-four to zero and the House 401 to 19.¹⁶ President Nixon, upon the amendment’s ratification in 1971, issued a special statement that spoke in a similar vein, declaring that “America’s new voters, America’s young generation” would bring “moral courage” and “a spirit of high idealism” to the country as it approached its bicentennial.¹⁷

Unfortunately, elected officials and party functionaries across the country took a dimmer view; many undertook a series of legislative and administrative actions and deployed intimidation tactics targeted at one

13. *Id.*

14. Congressman Railsback voiced concern that college students were “being encouraged to try to overthrow the system by the very vocal radical element. They were frustrated because they had no voice in decision-making.” 116 CONG. REC. 20166 (daily ed. June 17, 1970) (statement of Rep. Tom Railsback), <https://www.congress.gov/bound-congressional-record/1970/06/17/house-section?p=0>. Representative John Anderson reflected on the “sense of powerlessness” among college students and the associated “distrust of some of our most basic institutions.” *Id.* at 20163. He asserted, “[w]e will either convince them that the ballot box and the elective process is an effective means of accomplishing change or inevitably they will succumb to the same pressures that have brought the demise of democracy when faith in man’s right to freely choose has begun to fade.” *Id.*

15. LOWERING THE VOTING AGE TO 18, *supra* note 12, at 6 (citing NAT’L COMM’N ON THE CAUSES & PREVENTION OF VIOLENCE, FINAL REPORT OF THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE 225 (1969)).

16. See Zachary Roth, *No Education, No Representation*, BRENNAN CTR. FOR JUST. (Oct. 8, 2020), <https://www.brennancenter.org/our-work/analysis-opinion/no-education-no-representation>.

17. Richard M. Nixon, U.S. President, Remarks at a Ceremony Marking the Certification of the 26th Amendment to the Constitution (July 5, 1971), <https://www.presidency.ucsb.edu/documents/remarks-ceremony-marking-the-certification-the-26th-amendment-the-constitution>.

major group of youth voters: college students.¹⁸ Why target college students? Because, to borrow the robber Willie Sutton's famous pronouncement on banks and money, that's where the youth vote is.¹⁹ No sooner had the Twenty-Sixth Amendment been passed than several states, including New York, Indiana and Texas, approved more restrictive residency requirements aimed at limiting students' voting power due to fears that large concentrations of student voters could swing elections, particularly local elections in college towns.²⁰ As will be discussed in Part II, local officials and boards of elections took a variety of actions to limit student voting power: they changed residency requirements, placed polling sites at distance from campuses, implemented complex address requirements for students living in dormitories, and divided college campuses between multiple election districts, congressional districts, or both.²¹ Candidates and local partisans intimidated students and threatened students with criminal sanctions.²² These actions continue today, as restrictions on youth voting are still a part of broader efforts to disenfranchise Americans.²³

The current wave of voting restrictions sweeping the United States since the "big lie" of the 2020 election includes legislation that impacts, and in some cases specifically targets, college students.²⁴ Montana, for example, passed a quartet of bills that removed student IDs as an acceptable form of voter identification, created expanded residency requirements for voters, and banned voter registration efforts by political committees in some university buildings.²⁵ The number of "strict voter ID" states that now do not accept student identification cards is up to

18. See discussion *infra* Part II.

19. See *Willie Sutton*, FED. BUREAU OF INVESTIGATION, <https://www.fbi.gov/history/famous-cases/willie-sutton> (last visited Sept. 5, 2022) ("When asked why he robbed banks, Sutton simply replied, 'Because that's where the money is.'").

20. Eric S. Fish, *The Twenty-Sixth Amendment Enforcement Power*, 121 YALE L.J. 1168, 1208–09 (2012).

21. See discussion *infra* Part II.

22. See discussion *infra* Part II.

23. See *Block the Vote: How Politicians are Trying to Block Voters from the Ballot Box*, ACLU (Aug. 18, 2021), <https://www.aclu.org/news/civil-liberties/block-the-vote-voter-suppression-in-2020>.

24. *Voting Laws Roundup: February 2022*, BRENNAN CTR. FOR JUST. (Feb. 9, 2022), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2022>.

25. Paul Blumenthal, *Montana Republicans Wage War on Student Voting Ahead of 2022 Elections*, HUFFINGTON POST (Nov. 12, 2021, 6:07 PM), https://www.huffpost.com/entry/montana-student-vote-suppression_n_618ec178e4b0c621c5cce680.

seven, with more legislation on the way.²⁶ New Hampshire has proposed draconian legislation to limit residency as states like Mississippi consider further restrictions for absentee voting.²⁷

These restrictions have real world consequences that run contrary to the democratic promise of the Twenty-Sixth Amendment. While youth voting has increased in recent years, voting among eighteen- to twenty-four-year-olds still lags significantly compared with other age groups, voting at a rate 25% lower than sixty-five- to seventy-four-year-olds (66% vs. 51.4%), and in the 2020 election, there was actually a decrease in first-time voters.²⁸ This disparity is important not only because it means that the younger population's interests are underrepresented in the electoral process and thus democratic decision-making, but because it directly affects the future of young voters.²⁹ As Jared MacDonald and Michael Hanmer argued, "it is clear that one's teen years are critical, in large part because voting decisions are habit forming and therefore set the pattern for later life. When someone makes the decision to vote for the first time, they become far more likely to engage in future elections."³⁰ Conversely, aspiring first-time voters who cannot register or vote are dissuaded and less likely to participate in the future.³¹

The impact is even more profound for students who come from communities that have been historically disenfranchised and who are often targets of voter suppression efforts, as shown by the experiences of students at Historically Black Colleges and Universities ("HBCUs") such

26. Arizona, Iowa, North Dakota, Ohio, South Carolina, Tennessee, and Texas do not accept student ID cards. *Student ID as Voter ID*, CAMPUS VOTE PROJECT, <https://www.campusvoteproject.org/student-id-as-voter-id> (last visited Sept. 5, 2022).

27. Travis Waldron, *New Hampshire GOP Takes Aim at an Influential Voting Bloc: College Kids*, HUFFINGTON POST (Mar. 9, 2021), https://www.huffpost.com/entry/new-hampshire-republicans-college-student-voting-rights_n_60468289c5b69197db28eba2.

28. Voter turnout was highest among those ages sixty-five to seventy-four at 76% while the percentage was lowest among those ages eighteen to twenty-four at 51.4%. *2020 Presidential Election Voting and Registration Tables Now Available*, U.S. CENSUS BUREAU (Apr. 29, 2021), <https://www.census.gov/newsroom/press-releases/2021/2020-presidential-election-voting-and-registration-tables-now-available.html>. For more information on the decline in first-time voters, see *A Drop in the Number of First Time Voters*, TARGETSMART (Aug. 18, 2021), <https://insights.targetsmart.com/a-drop-in-the-number-of-first-time-voters.html>.

29. JARED A. McDONALD & MICHAEL J. HANMER, UNDERSTANDING AND CONFRONTING BARRIERS TO YOUTH VOTING IN AMERICA 5 (2019), <https://cdce.umd.edu/sites/cdce.umd.edu/files/McDonald%20and%20Hanmer%20Barriers%20to%20Youth%20Voting.pdf>.

30. *Id.* (citation omitted); see generally Alan S. Gerber et al., *Voting May Be Habit-Forming: Evidence From a Randomized Field Experiment*, 47 AM. J. POL. SCI. 540 (2003).

31. See generally *Ensuring the Rights of College Students to Vote: Hearing Before the H. Comm. on H. Admin.*, 110th Cong. (2008).

as Prairie View A&M University and North Carolina A&T State University.³² Higher education now includes large percentages of BIPOC, first-generation, disabled, and low-income students who may be more readily influenced by vote suppression efforts. For instance, first-generation students—regardless of race—were significantly less likely to vote compared to students with at least one college-educated parent.³³ While older generations typically blame low youth turnout on apathy and disinterest, Patrick Troy shows that “ever-changing obstacles” to youth voting, including student voting, play an even more important role.³⁴ This situation puts institutions on the front line of challenging localized efforts to interrupt the democratic process and to encourage more participation of students.

This paper will focus on the role of colleges and universities in promoting youth voting and fending off threats to the youth franchise, examining two primary questions. First, can and should colleges and universities as corporate entities play a role in realizing the democratic promise of the Twenty-Sixth Amendment, and if so, how? And second, how does our conception of the role of colleges and universities in society shape our understanding of their role in student voting? We argue that colleges and universities can and should be important civic actors in protecting and promoting student voting rights and that institutions acting as engaged citizens might protect other important rights. In doing so, we will draw on a body of literature that focuses on colleges and universities as civic actors, or what we call “institutions as citizens.” Given the manifold challenges to the most sacred of democratic rights, and their unique position vis-à-vis the 15.9 million students enrolled in colleges across the country,³⁵ we argue that higher education institutions have an obligation to act as what Joseph Kahne and Joel Westheimer call “justice-oriented citizens,” or those who call “explicit attention to matters

32. John Harris, *Prairie View A&M at the Forefront Fighting Against Voter Suppression*, ANDSCAPE (Oct. 29, 2020), <https://andscape.com/features/prairie-view-am-at-the-forefront-fighting-against-voter-suppression/>; *The Walk of Political Engagement at PVAMU*, PRAIRIE VIEW A&M UNIV. (Mar. 31, 2017), <https://www.pvamu.edu/1876/2017/03/31/the-walk-of-political-engagement-at-pvamu/>.

33. Matthew J. Mayhew et al., *Want the Youth Vote? Some College Students are Still Up for Grabs in November*, CONVERSATION (Sept. 23, 2020, 8:32 AM), <https://theconversation.com/want-the-youth-vote-some-college-students-are-still-up-for-grabs-in-november-146072>.

34. Patrick J. Troy, *No Place to Call Home: A Current Perspective on the Troubling Disenfranchisement of College Voters*, 22 WASH. U. J. L. & POL'Y 591, 592 (2006).

35. *Undergraduate Enrollment*, NAT'L CTR. FOR EDUC. STAT. (May 2022), <https://nces.ed.gov/programs/coe/indicator/cha#:~:text=In%20fall%202019%2C%20total%20undergraduate,million%20to%2016.6%20million%20students>.

of injustice and to the importance of pursuing social justice [goals].”³⁶ It is time for college leaders to have their actions meet their rhetoric.

The paper is informed by our experience addressing the rights of student voters for nearly a quarter century at Bard College, where both authors work. In this time, we have worked extensively with student groups and state and national voting advocacy organizations. We have appeared before the local town board and the county legislature and met with elected representatives to advocate for legislation that would make voting easier for college students. We have served as poll workers and poll watchers. We have been litigants in lawsuits against the local board of elections and threatened with arrest. We bring a wealth of hands-on experience and a strong belief both in the idealism and capacity of students and the role of colleges as civic actors.

The paper will be divided into four parts. In the first part, we review the literature on the role of colleges and universities in society and in democratic development, focusing on the notion of institution as citizen. In the second part, we explain why it is important to focus on colleges and universities when discussing the Twenty-Sixth Amendment. The third part looks at our experience at Bard College and includes recommendations for universities and colleges based on Bard College’s own action plan. Finally, we consider how that understanding can be applied to the defense of the Twenty-Sixth Amendment.

I. THE ENGAGED UNIVERSITY: INSTITUTION AS CITIZEN

When educators in the United States speak of the link between higher education and democracy, they normally refer to what can be called the “student as citizen” approach. This approach emphasizes the role of colleges and universities in cultivating democratic values and the capacity to be active and informed citizens in their students.³⁷ This notion has resonated since the founding of the republic and is what Elliot and Giamatti referenced when they spoke of the link between universities and civic life.³⁸ Martha Nussbaum, who has been perhaps the most vocal current advocate of the “student as citizen” view, asserts that “liberal

36. Joel Westheimer & Joseph Kahne, *What Kind of Citizen? The Politics of Educating for Democracy*, 41 AM. EDUC. RSCH. J. 237, 238, 242 (2004) (alteration in original).

37. David Mathews, *Higher Education as a Democratic Movement?*, in HIGHER EDUCATION EXCHANGE 79, 79–80 (David W. Brown & Deborah Witte eds., 2015).

38. Former Yale President Bart Giamatti echoed this sentiment, stating that, “Every classroom is an act of making citizens in the realm of that room, and every room is a figure for the larger community.” GIAMATTI, *supra* note 3, at 137.

education [is] higher education that cultivates the whole human being for the functions of citizenship and life in general.”³⁹

This paper focuses on a different and less considered notion called the “institution as citizen,” which is part of the broader literature on the engaged university that emerged in the late 1980s and 1990s.⁴⁰ The writers who emphasized the engaged university moved beyond the traditional curriculum and classroom to view colleges or universities as civic actors in their own right.⁴¹ As Lee Benson, Ira Harkavy, and John Puckett argue in *Dewey’s Dream*, “[t]o become part of the solution, higher [education institutions] must give full-hearted, full-minded devotion to the painfully difficult task of transforming themselves into socially responsible *civic universities and colleges*.”⁴² In the United States, the charge to reconceptualize the role of academic institutions was led by Ernest Boyer’s “scholarship of engagement,” which sought to connect “the rich resources of the university to our most pressing social, civic, and ethical problems.”⁴³

This emphasis was part of a pushback against the rising neoliberal tide that saw the growing commodification of higher education, with market-based, consumer-driven and careerist expectations increasingly expressed by politicians, university leaders, and students alike.⁴⁴ It was also an implicit acknowledgement of often extreme wealth that many universities had accumulated and the harsh juxtaposition between universities and the communities in which they are situated, particularly in urban contexts.⁴⁵

The explicit emphasis of colleges and universities as civic actors in their own right moves beyond a rejection of commercialization of higher education and promotion of neo-liberal values and instead focuses on an expanded conception of the link between higher education and

39. MARTHA NUSSBAUM, CULTIVATING HUMANITY AND WORLD CITIZENSHIP 37, 38 (2007), <https://web.archive.org/web/20220505194648/http://forum.mit.edu/wp-content/uploads/2017/05/ff0709s.pdf> (alteration in original).

40. Nancy L. Thomas, *The College and University as Citizen*, in CIVIC RESPONSIBILITY AND HIGHER EDUCATION, *supra* note 2, at 63.

41. *See, e.g., id.* at 63–65.

42. LEE BENSON ET AL., DEWEY’S DREAM: UNIVERSITIES AND DEMOCRACIES IN AN AGE OF EDUCATION REFORM 84 (2007) (alteration in original).

43. Margaret Brabant & Donald Braid, *The Devil is in the Details: Defining Civic Engagement*, 13 J. HIGHER EDUC. OUTREACH & ENGAGEMENT 59, 62 (2009).

44. William M. Sullivan, *Institutional Identity and Social Responsibility in Higher Education*, in CIVIC RESPONSIBILITY AND HIGHER EDUCATION, *supra* note 2, at 23–24; DEREK BOK, UNIVERSITIES IN THE MARKETPLACE: THE COMMERCIALIZATION OF HIGHER EDUCATION 12–14 (2003).

45. Sullivan, *supra* note 44, at 33; Ira Harkavy et al., *Universities Must Help Shape the Post-Covid-19 World*, in HIGHER EDUCATION’S RESPONSE TO THE COVID-19 PANDEMIC 21, 23 (2021).

democracy. As William Sullivan put it, the university should serve “some larger public purpose as a citizen within civil society rather than simply a self-aggrandizing creature of the market.”⁴⁶ In this context, an academic institution as a corporate entity commits itself to finding ways to use resources, be they organizational, human (students, faculty, or administrators), financial (direct funding or a commitment to fundraising), or reputational (through name recognition, accreditation, or both), to promote civic engagement and protect core democratic principles.⁴⁷ This view was no doubt influenced by the growing literature from Central and Eastern Europe, including thinkers turned political actors like Adam Michnik and Vaclav Havel, who emphasized (and at times idealized) the importance of a vibrant civil society as a critical element of democracy and pivotal counterweight to the power of the authoritarian state.⁴⁸

This more expansive view of the role of universities in civic life found expression in a number of local and national initiatives, such as Project Pericles and Campus Compact.⁴⁹ The latter’s “Declaration on the Civic Responsibility of Higher Education” challenged higher education “to re-examine its public purposes and its commitments to the democratic ideal,” and urged university leaders to “help[] catalyze and lead a national movement to reinvigorate the public purposes and civic mission of higher education.”⁵⁰ The statement concluded, “[w]e believe that now and through the next century, our institutions must be vital agents and architects of a flourishing democracy.”⁵¹

Even then, there was a sense that some of the engagement efforts avoided the more explicitly political elements of civic engagement.

46. William M. Sullivan, *The University as Citizen: Institutional Identity and Social Responsibility*, 16 CIVIC ARTS REV. 1, 6 (2003), <https://digitalcommons.unomaha.edu/cgi/viewcontent.cgi?article=1040&context=slcehighered>.

47. Ira Harkavy & Matthew Hartley, *Integrating a Commitment to the Public Good into the Institutional Fabric: Further Lessons from the Field*, 16 J. HIGHER EDUC. OUTREACH & ENGAGEMENT 17, 17 (2012).

48. JOHN KEANE, DEMOCRACY AND CIVIL SOCIETY 23 (1988); Gideon Baker, *Civil Society and Democratisation Theory: An Inter-Regional Comparison* 23–25 (1998) (Ph.D. thesis, University of Leeds), http://etheses.whiterose.ac.uk/497/1/uk_bl_ethos_391245.pdf; see generally VACLAV HAVEL, THE POWER OF THE POWERLESS: CITIZENS AGAINST THE STATE IN CENTRAL-EASTERN EUROPE (John Keane, ed., 2009).

49. See *Overview*, PROJECT PERICLES, <https://www.projectpericles.org/overview.html> (last visited Sept. 5, 2022); *Who We Are*, CAMPUS COMPACT, <https://compact.org/who-we-are/> (last visited Sept. 5, 2022).

50. Thomas Ehrlich et al., *Presidents’ Declaration on the Civic Responsibility of Higher Education*, CAMPUS COMPACT (Mar. 23, 2009), <https://compact.org/resources-for-presidents-declaration-on-the-civic-responsibility-of-higher-education/>.

51. *Id.*

Participants at a 2008 meeting convened by the Kettering Foundation noted that, “[w]ith only a few exceptions . . . institutional (and national) efforts do not explicitly link the work of engagement to our democracy.”⁵² What emerged, they lamented, is a “remarkably apolitical ‘civic’ engagement.”⁵³ One participant noted: “We need a movement that puts the question of the democratic purpose of higher education on the table.”⁵⁴

Our conception of institution as citizen and our view of the role of colleges and universities in realizing the unrealized democratic potential of the Twenty-Sixth Amendment are shaped by Kahne and Westheimer who, in their article *Educating the “Good” Citizen*, focus on three types of citizen: “personally responsible,” “participatory,” and “justice-oriented.”⁵⁵ The personally responsible citizen emphasizes duty, honesty, integrity, self-discipline, and hard work.⁵⁶ The focus is on the individual and how a citizen acts responsibly in her community by working, paying taxes, and obeying laws.⁵⁷ The participatory citizen “actively participate[s] in the civic affairs and the social life of the community at local, state, and national levels.”⁵⁸ She is an engaged member of community organizations and develops strategies to work with the partners in civil society and government to accomplish collective tasks.⁵⁹ She emphasizes developing relationships, common understandings, and trust that reinforces a collective commitment to solve social problems and improve society.⁶⁰ The justice-oriented citizen takes things a step further and critically assesses social, political and economic structures and “calls explicit attention to matters of injustice and to the importance of pursuing social justice.”⁶¹

52. JOHN SALTMARSH ET AL., DEMOCRATIC ENGAGEMENT WHITE PAPER 5 (2009), https://repository.upenn.edu/cgi/viewcontent.cgi?article=1252&context=gse_pubs.

53. *Id.*

54. *Id.* The movement also extended far beyond the United States: in 2005, twenty-nine university presidents, rectors, and vice chancellors from twenty-three countries issued the Talloires Declaration that called for “strengthening the civic role and social responsibility of our institutions” and committed the signatories to “expand civic engagement and social responsibility programs in an ethical manner, through teaching, research and public service.” *Talloires Declaration On the Civic Roles and Social Responsibilities of Higher Education*, TALLOIRES NETWORK OF ENGAGED UNIVS. (Sept. 17, 2005), <https://talloiresnetwork.tufts.edu/who-we-are/talloires-declaration>.

55. Joel Westheimer & Joseph Kahne, *Educating the “Good” Citizen: Political Choices and Pedagogical Goals*, 37 PS: POL. SCI. & POL. 241, 242–43 (2004).

56. *See id.* at 242.

57. *Id.*

58. *Id.* at 243.

59. *See id.*

60. *See id.*

61. *Id.*

In our experience, colleges and universities too often play the role of a personally responsible citizen, and passive ones at that.⁶² The conception of institution as citizen and the push for universities to be important civic actors demands more. Institutions as citizens should not only fulfill minimal duties, such as making a “good faith effort” to register students to vote,⁶³ but also be more participatory and, ideally, justice-oriented by using institutional resources to aggressively pursue student registration, actively defend student voting rights, and mobilize to effect change in laws and practices that protect vulnerable student communities while promoting the same democratic principles they purport to uphold. They should view their actions as fitting within the broader landscape of the fight to preserve voting rights and democracy more broadly from the rising tide of authoritarianism.

II. COLLEGES AND THE TWENTY-SIXTH AMENDMENT

Why should those interested in the realization of the Twenty-Sixth Amendment devote attention to colleges and universities as civic actors or otherwise when the amendment focuses only on age and makes no mention of students or higher education institutions?⁶⁴

The first reason to focus on colleges is that the experience of colleges and college students informed the decision-making of political leaders during the debates on lowering the voting age. As already stated, the protests that swept the country, particularly on college campuses, played an important role in shaping the need for the amendment.⁶⁵ As Seth Blumenthal put it after the tragedy at Kent State University in 1970, “America . . . needed a steam valve. All the sides saw ways in which [the youth vote] would be beneficial and work’ for them.”⁶⁶

62. See, e.g., Members of Ivy League Votes, *Student Voting Is Not Where It Should Be*, INSIDE HIGHER ED (Jan. 3, 2022), <https://www.insidehighered.com/views/2022/01/03/college-students-face-many-unnecessary-obstacles-voting-opinion> (explaining how students and administrators have interacted on barriers to voting).

63. As required by 20 U.S.C. § 1094(a)(23)(A).

64. See U.S. CONST. amend. XXVI.

65. See *supra* notes 14–15 and accompanying text.

66. Claire, *supra* note 9. The congressional debate on the issue of lowering the voting age was replete with references to the shock that congresspeople and White House staffers felt when they visited college campuses and witnessed student alienation and antagonism. Congressman Robert Leggett even noted that universities where students are excluded from governance have had “significantly greater incidence of violence than in those universities where the students have an effective means to communicate their viewpoints to those who make policy.” 117 CONG. REC. 7550 (daily ed. Mar. 23, 1971), <https://www.govinfo.gov/content/pkg/GPO-CRECB-1971-pt6/pdf/GPO-CRECB-1971-pt6-5-2.pdf>.

Education itself was also an important consideration. One major argument against lowering the voting age was that youth were not sufficiently mature to participate in the democratic process.⁶⁷ However, proponents of changing the voting age countered this data by pointing to the rapid expansion of education, particularly higher education.⁶⁸ As Patterson pointed out, in 1940, only one third of Americans over twenty-five had attended school after eighth grade and only 5% had graduated from college or university; by 1970, nearly 50% of eighteen-year-olds attended an institution of higher learning, a figure comparable to today.⁶⁹ This change was cited by both Senator Edward Kennedy and President Richard Nixon, the latter of whom advocated for lowering the voting age not because “18-year-olds are old enough to fight,” but because “they are smart enough to vote. They are more socially conscious, more politically aware, and much better educated than their parents were at age 18.”⁷⁰

Substantive opposition to the Twenty-Sixth Amendment focused largely on the impact of student voting in college towns. This opposition was stated repeatedly throughout Congressional hearings, with the specter of students running roughshod over town governments. During the final debate on the Twenty-Sixth Amendment, Congressman Robert Michel summed up the view succinctly:

My principal concern with this particular measure is one that has to do with permitting 18-year-olds to vote, for instance, in local and municipal elections in college towns For goodness sakes, we could have these transients actually controlling the elections,

67. Jenny Diamond Cheng, *Uncovering the Twenty-Sixth Amendment* (2008) (Ph.D. dissertation, University of Michigan), https://deepblue.lib.umich.edu/bitstream/handle/2027.42/58431/jdiamond_1.pdf?sequence=1.

68. *Id.* at 62–68.

69. *Id.* at 65 n.173 (citing James T. Patterson, *GRAND EXPECTATIONS: THE UNITED STATES, 1945-1974* 67, 70 (1996)); see also Erin Duffin, *Share of Adult Population Enrolled in College or Other Higher Education in the United States from 1970 to 2019, by Age Group*, STATISTA (Sept. 12, 2022), <https://www.statista.com/statistics/236093/higher-education-enrollment-rates-by-age-group-us/#:~:text=Of%20those%20aged%20%20to%20%2021%20years%20of,percent%20were%20enrolled%20in%20higher%20education%20in%202019> (“For those aged 18 to 19, 48.2 percent were enrolled in higher education in 2019.”).

70. Richard Nixon, U.S. President, *Remarks on the NBC Radio Network: Today's Youth: The Great Generation* (Oct. 16, 1968), <https://www.presidency.ucsb.edu/documents/remarks-the-nbc-radio-network-todays-youth-the-great-generation>; Cheng, *supra* note 67, at 671.

voting city councils and mayors in or own of office in a town in which they have a dominant voice.⁷¹

This view was echoed in state legislatures during the ratification process.⁷²

Congressman Michel's objections foreshadowed the second major reason why colleges and college students are important to study: almost immediately after the passage of the Twenty-Sixth Amendment, college campuses and college students became the epicenter of many of efforts to abridge the right to vote on the basis of age.⁷³

The actions were so widespread that it is impossible to provide a comprehensive list, but it is important to underline that formal restrictions and very public threats were not restricted to red or blue states. As Yael Bromberg highlights in her introduction to this issue, college students are discriminated against in a variety of ways.⁷⁴ Their registrations are challenged through selectively-applied residency requirements and questionnaires.⁷⁵ They are threatened by public officials, including district attorneys, with loss of scholarship and dependency status.⁷⁶ They are harassed at poll sites by hostile poll watchers.⁷⁷ They are denied poll sites on campus, forced to vote at great distance in unfamiliar places, and their campuses are gerrymandered into multiple voting districts, congressional districts, or both, creating a cumbersome process where they have to re-register when they move dormitories.⁷⁸ Discriminatory practices are applied in red and blue states, and particularly at HBCUs.⁷⁹

71. 117 CONG. REC. 7538 (daily ed. Mar. 23, 1971), <https://www.govinfo.gov/content/pkg/GPO-CRECB-1971-pt6/pdf/GPO-CRECB-1971-pt6-5-2.pdf>.

72. See Fish, *supra* note 20, at 1203–08.

73. See *id.* at 1208–10.

74. See Yael Bromberg, *The Future Is Unwritten: Reclaiming the Twenty-Sixth Amendment*, 74 RUTGERS U. L. REV. 1671, 1694–1709 (2022); Greta Anderson, *Tug-of-War Over Students' Votes*, INSIDE HIGHER ED (Nov. 12, 2019), <https://www.insidehighered.com/news/2019/11/12/students-across-country-faced-voting-barriers-election-day>; Bradford Arick, *Voting in ND Could Mean Repercussions for Students with Scholarships*, VALLEY NEWS LIVE (Oct. 18, 2016, 5:04 PM), <https://www.valleynewslive.com/content/news/Voting-in-ND-could-mean-repercussions-for-students-with-scholarships-397503321.html> (warning parents of potential repercussions).

75. Bromberg, *supra* note 74, at 1692.

76. Arick, *supra* note 74.

77. Anderson, *supra* note 74.

78. See Bromberg, *supra* note 7, at 1115.

79. See generally *Ensuring the Rights of College Students to Vote: Hearing Before the Comm. on H. Admin.*, 110th Cong. (2008); Bromberg, *supra* note 7, at 1107–50; Ryan D'Ercole, *Fighting a New Wave of Voter Suppression: Securing College Students' Right to*

The consequences of these decisions lead to the third major reason why it is important to look at colleges: the vast majority of litigation concerning the Twenty-Sixth Amendment, including the only Supreme Court decision, *Symm v. United States* in 1979, explicitly focuses on the rights of college student voters (in the case of *Symm*, on a supplementary questionnaire for student voters at Prairie View A&M University), and usually involve student litigants.⁸⁰ As Eric Fish and others have pointed out, the Twenty-Sixth Amendment did not simply lower the voting age to eighteen, but it stated that the right to vote “shall not be denied *or abridged*.”⁸¹ This language opened up the potential for numerous claims.⁸² Unfortunately, *Symm* did not end the debate, and seemingly in every election, college students are embroiled in new controversies over their right to vote in the jurisdiction where they attend school.⁸³ Patrick Troy argues that the litigation falls into three categories of alleged behavior: voter intimidation,⁸⁴ restrictive residency requirements,⁸⁵ and

Vote Through the Twenty-Sixth Amendment's Enforcement Clause, 78 WASH & LEE L. REV. 1659, 1670 (2022); Troy, *supra* note 34, at 607–09; Jonathan Becker, *Colleges Should Promote and Defend Student Voting*, HUFFINGTON POST (Aug. 12, 2016), https://www.huffpost.com/entry/american-colleges-should-promote-and-defend-student_b_57ae185fe4b0ae60ff026711.

80. The decision in *Symm* focused squarely on the rights of student voters and affirmed that the Twenty-Sixth Amendment rendered unconstitutional a residency questionnaire given to college students and saw it as a part of “a more pervasive pattern of conduct” to limit student voter registration from college campus addresses, and that treat young registrants differently than other voters. *United States v. Texas*, 445 F. Supp. 1245, 1248 (S.D. Tex. 1978), *aff'd sub nom. Symm v. United States*, 439 U.S. 1105 (1979).

81. U.S. CONST. amend. XXVI, § 1 (emphasis added).

82. Fish spelled out the consequences: “Consider all the policies that may abridge the right to vote on the basis of age: locating polling places away from colleges, requiring registrants to have drivers’ licenses, splitting a college campus between two legislative districts, etc.” Fish, *supra* note 20, at 1181. Many state court decisions underline the interpretation that the Twenty-Sixth Amendment forbade the abridgement of rights. This position was perhaps best articulated in a New Jersey Supreme Court’s 1971 ruling on the case *Worden v. Mercer County Board of Elections*, which supported student-plaintiff Thomas Worden from Trenton State College: “The goal [of the Twenty-Sixth Amendment] was not merely to empower voting by our youths but was affirmatively to encourage their voting, through the elimination of unnecessary burdens and barriers, so that their vigor and idealism could be brought within rather than remain outside lawfully constituted institutions.” *Worden v. Mercer Cnty. Bd. of Elections*, 294 A.2d 233, 243 (N.J. 1972).

83. See, e.g., *Williams v. Salerno*, 792 F.2d 323, 325 (2d Cir. 1986); *Auerbach v. Rettaliata*, 765 F.2d 350, 351–52 (2d Cir. 1985); *Levy v. Scranton*, 780 F. Supp. 897, 898 (N.D.N.Y. 1991); *Wray v. Monroe Cnty. Bd. of Elections*, 595 F. Supp. 1028, 1029 (W.D.N.Y. 1984).

84. See, e.g., Troy, *supra* note 34, at 599 n.46 (citing *Scolaro v. D.C. Bd. of Elections & Ethics*, 691 A.2d 77 (D.C. 1997)).

85. See, e.g., *id.* at 599 n.47 (citing *Alami v. City of Williamsburg*, No. CL010296-00 (Va. Cir. Ct. Mar. 2, 2004)); see also *Students Fight for Right to Register [sic] to Vote*, HERALD-TIMES (Aug. 28, 2004, 1:00 AM),

discrimination,⁸⁶ to which we might add an overlapping fourth that focuses on limiting access through inaccessible polling sites.⁸⁷

Finally, it is important to note that the federal government has explicitly involved colleges in the electoral process. The Higher Education Amendments of 1998 brought colleges into the voter registration process by including a mandate that requires higher education institutions to make a “good faith effort to distribute a mail voter registration form . . . to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students at the institution” during years in which there are federal or gubernatorial elections.⁸⁸ This reform followed the National Voter Registration Act of 1993 (NVRA) which, in Section 7, allowed states to name state colleges, universities, and community colleges as designated voter registration agencies.⁸⁹

In spite of the fact that colleges and college students played such a central role in the consideration of the Twenty-Sixth Amendment, efforts to limit the impact of the amendment and subsequent litigation over such limitations and the role of colleges as institutional actors in the fight to uphold student voting rights are rarely addressed.⁹⁰ When the issue of lowering the voting age was discussed and debated in Washington, there was plenty of talk of attitudes on college campuses and student protesters, but colleges as institutions, and particularly institutional leadership (defined as presidents, provosts, vice presidents, and deans),

<https://www.heraldtimesonline.com/story/news/2004/08/28/students-fight-for-right-to-register-to-vote/48441051/> (discussing Serene Alami’s lawsuit against the City of Williamsburg); Press Release, ACLU VA, William & Mary Students Allowed to Register to Vote; Case Dismissed (Oct. 14, 2004), <https://acluva.org/en/press-releases/william-mary-students-allowed-register-vote-case-dismissed> (announcing that the District Court ruled in Alami’s favor, allowing her to register to vote in Williamsburg, Virginia).

86. See, e.g., Troy, *supra* note 34, at 599 n.48 (citing Att’y Gen. Greg Abbott, Opinion Letter on Residency Requirements for Voting in an Election in Texas (RQ-0157-GA) (Feb. 4, 2004), <https://www.texasattorneygeneral.gov/sites/default/files/opinion-files/opinion/2004/ga0141.pdf>).

87. See *id.* at 615; Anderson v. Noth [sic] Carolina State Bd. of Elections, No. 14CVS12648, 2014 WL 6771270, at *1 (N.C. Super. Ct. Oct. 13, 2014); *In re Bard Coll. v. Dutchess Cnty. Bd. of Elections*, 198 A.D.3d 1014, 1017 (N.Y. App. Div. 2021).

88. Higher Education Amendments of 1998, Pub. L. No. 105-244, § 489, 112 Stat. 1581, 1750–51. The Help America Vote Act of 2002, which was passed following the disastrous 2000 election, created a special program to encourage student participation as poll workers or assistants, foster student interest in the elections process, and encourage state and local governments to use students as poll workers. Help America Vote Act of 2002, 52 U.S.C. §§ 20901–21145; *Help America Vote College Program*, U.S. ELECTION ASSISTANCE COMM’N, https://www.eac.gov/payments_and_grants/help_america_vote_college_program (last visited Sept. 5, 2022).

89. National Voter Registration Act of 1993, 52 U.S.C. §§ 20501–20511.

90. Claire, *supra* note 9.

were hardly mentioned.⁹¹ The dense Congressional Record of the Senate and House debates on the days the Twenty-Sixth Amendment was passed in 1971 contains references only to William McGill, President of Columbia University, and Richard W. Lyman, President of Stanford University, both of whom were cited in reference to violence on college campuses and not about the substance of the amendment.⁹² The same is true of Frost's recent book "*Let Us Vote!": Youth Vote and the [Twenty-Sixth] Amendment*, in which college and university leadership is mentioned in passing and only in reference to campus protests.⁹³

Those who write about the jurisprudence of the Twenty-Sixth Amendment, an area that is generally under-conceptualized, often do not differentiate between college students and other youth voters and rarely address colleges as institutions, focusing instead on broader legal issues like other forms of age-based discrimination or the enforcement power of Congress. Like the congressional testimony, the role of college leadership is rarely mentioned: a survey of five of the most important law review articles on the Twenty-Sixth Amendment over the past fifteen years reveals only two mentions of college leadership (presidents, vice presidents, provosts and deans) and only in reference to Bard College.⁹⁴ This absence speaks loudly. In the late 1960s and early 1970s, college leaders appear to have been more concerned about student protests than youth voting.⁹⁵ Today, they are too often passive as they witness efforts to disenfranchise those whom they are meant to educate as citizens. One might speculate that this passivity has a variety of roots: because they are comfortable as personally responsible citizens; because they believe that colleges should be neutral and should not engage with political issues; because they do not want to alienate the local community in which their institution is situated and upon which they depend for services; or

91. Claire, *supra* note 9.

92. 117 CONG. REC. 5746 (daily ed. Mar. 10, 1971), <https://www.congress.gov/bound-congressional-record/1971/03/10/senate-section>; 117 CONG. REC. 7547, 7561 (daily ed. Mar. 23, 1971), <https://www.govinfo.gov/content/pkg/GPO-CRECB-1971-pt6/pdf/GPO-CRECB-1971-pt6-5-2.pdf>.

93. See JENNIFER FROST, "LET US VOTE!": YOUTH VOTING RIGHTS AND THE 26TH AMENDMENT 93 (2022).

94. The five articles include: D'Ercole, *supra* note 79, at 1688–89; Bromberg, *supra* note 7, at 1145; Fish, *supra* note 20, at 1881; Jenny Diamond Cheng, *Voting Rights for Millennials: Breathing New Life into the Twenty-Sixth Amendment*, 67 SYRACUSE L. REV. 653, 653–77 (2017); Richard G. Niemi et al., *Where Can College Students Vote? A Legal and Empirical Perspective*, 8 ELECTION L.J.: RULES, POL., & POL'Y 327, 327–48 (2009).

95. Christopher Allen Huff, *Student Movements of the 1960s*, NEW GA. ENCYCLOPEDIA (July 13, 2020), <https://www.georgiaencyclopedia.org/articles/history-archaeology/student-movements-of-the-1960s/>.

because they are fearful that if they take a stand they could lose the support of trustees or, in the case of public universities, state funds.

Most other writing on youth voting focuses on turnout or grassroots activism led by youth, including students, who work in tandem with rights and advocacy organizations like Common Cause, the ACLU, and the NAACP.⁹⁶ The writing that focuses on the role of universities as institutions tends to be brief how-to guides, which often focus on one area, such as voter registration, and neither cover the gamut of potential institutional engagement, particularly the active defense of student rights, nor situate that engagement within the broader literature on the role of colleges and universities within contemporary society.⁹⁷ As we transition to explore our understanding of the role of colleges and universities in defending the most basic of democratic rights, we first turn to our experience at Bard College.

III. BARD COLLEGE AS JUSTICE-ORIENTED CITIZEN

At the time that the Higher Education Amendments of 1998 mandated that colleges make good faith efforts to register students, Bard College, located in rural New York two hours north of New York City, began to grapple systematically with voting issues. While concerns over disenfranchisement had been raised at least since the early 1980s, it ebbed and flowed with student interest and never rose to become an institutional priority. Bard had only episodically been engaged in student voter registration efforts and understood very little about the student voter experience.⁹⁸ What we learned, and what was revealed as we attempted to promote registration, was a deeply entrenched, systemic bias that prevented students from successfully registering.⁹⁹ Student

96. See, e.g., *Out-of-State Students Can Now Vote in New York City*, ACLU (Oct. 6, 2000), <https://www.aclu.org/press-releases/out-state-students-can-now-vote-new-york-city>.

97. See, e.g., CMTY. COLL. OF PHILA., VOTER FRIENDLY CAMPUS DESIGNATION PROGRAM DEMOCRATIC ENGAGEMENT ACTION PLAN 7–10 (2022), <https://allinchallenge.org/wp-content/uploads/Community-College-of-Philadelphia.pdf>; TENN. STATE UNIV., CAMPUS ACTION PLAN 1 (2020), <https://allinchallenge.org/wp-content/uploads/Tennessee-State-University-Action-Plan-2020.pdf>; BROWN UNIV., BROWN IVY LEAGUE CHALLENGE ACTION PLAN 3–4 (2020), <https://allinchallenge.org/wp-content/uploads/Brown-University-Action-Plan-2020.pdf>; STONY BROOK UNIV., OUR COMMITMENT TO DEMOCRACY: 2020 EDITION 10–12, 24 (2020), <https://allinchallenge.org/wp-content/uploads/Stony-Brook-University-Action-Plan-2020-1.pdf>.

98. Letter from William L. Paroli, Sr., Comm'r of Elections, Dutchess Cnty., to Voter Registration Applicant (Apr. 19, 1999), <https://cce.bard.edu/community/election/files/Residence-Questionnaire.pdf>; Muni Citrin, *Questionnaire Incites Controversy*, 7 BARD OBSERVER 7, 7 (1996), <https://digitalcommons.bard.edu/cgi/viewcontent.cgi?article=1443&context=observer>.

99. See Citrin, *supra* note 98, at 7.

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voters were identified by their address and sent voter questionnaires asking questions such as:

- To what extent do your parents contribute to your support? All or nearly all; More than Half; Less than half; None.
- Where do you expect to be during winter and summer vacations?
- If you have a bank account, give name and address of bank and provide account information.
- Address on your last income tax return.¹⁰⁰

The few student voters who did attempt to vote at a polling place were often asked for IDs regardless of New York's status as a no-ID state.¹⁰¹ Intrepid students traveled to Poughkeepsie, a city forty-five minutes away from campus, to present their case to a judge who often denied student voters' access to the ballot.¹⁰²

Student Activists for Voting Equality, an effort first initiated by students and faculty that was supported by the Bard administration and the New York Civil Liberties Union ("NYCLU"), challenged the practice, resulting in the convening of a special task force of the county legislature to review the voting rights issue.¹⁰³ The task force rejected the use of the questionnaire and determined that "one of the unique distinguishing marks of an American citizen is the Constitutionally guaranteed right to vote. We feel this is *the* single most important cornerstone of our democracy" thus the county should "encourage use of the voting franchise [by] students."¹⁰⁴ That did not resolve the issue: the Republican Election Commissioner refused to accept the view of the committee, and it was only after he was removed from office after being convicted of an unrelated felony that a new commissioner was appointed and the right of students across the county to vote was recognized.¹⁰⁵

100. *Id.*

101. Based on author's own observations.

102. *See generally* Decision and Order on Motion for Leave to Reargue and Renew, Matter of Goodman Found. v. Dutchess Cnty. Bd. of Elections, No. 52737/20 (Oct. 23, 2020) (NYSCEF No. 44).

103. BARD COLL., REPORT ON STUDENT VOTING QUESTIONS 1 (2000), <https://cce.bard.edu/community/election/files/report-on-student-voting.pdf>.

104. *Id.* at 3.

105. *See* Jonathan Becker, *Polling Station on Campus?*, 2008 OBSERVER (SPECIAL ISSUE) 17-18, <https://digitalcommons.bard.edu/cgi/viewcontent.cgi?article=1489&context=observer>; Ben Silverbush, *Dutchess Legislature Supports Voting Rights*, MISCELLANY NEWS (Apr. 14,

But the story did not end there. Since then, there have been repeated attacks on the student franchise and student voting rights have been the subject of numerous conflicts. Election commissioners have implemented address requirements that apply to students but not others in similar residence facilities (like nursing homes), purged voting rolls, accepted egregiously inaccurate Americans with Disabilities Act evaluations of polling sites, and made repeated false claims about electioneering.¹⁰⁶ An election commissioner insisted for years that Bard College students vote at a small church a mile and a half from campus that is neither near public transportation nor is handicap accessible—despite the fact that Bard students constitute a significant majority of voters in the district, and Bard has offered use of its spacious and accessible campus facilities.¹⁰⁷ This commissioner told one judge that “college students being vocal about political issues’ is a reason to prohibit voting on campus, as if docility and disengagement are key criteria for political participation.”¹⁰⁸ Perhaps the low point of the saga occurred when the same commissioner insisted that voting remain at the church instead of moving to Bard’s campus during the 2020 election, despite the fact that church officials notified the board of elections that the small church building was unsafe due to the risk of COVID-19 transmission and asked that it not be used, a request he rejected.¹⁰⁹

Bard’s senior leadership, including the board of trustees and the president, was faced with a choice: it could sit back passively and obey the board of elections and thus encourage students to mobilize on their

2000), <https://news.hrvh.org/veridian/?a=d&d=vcmisc20000414-01.2.5&srpos=2&e=-----en-20--1--txt-txIN----->.

106. See, e.g., Letter from Leon Botstein, Pres., Bard Coll., et al., to Enft Couns., N.Y. State Bd. of Elections (Aug. 15, 2022), <https://tools.bard.edu/wwwmedia/files/8850342/99/Complaint%20to%20State%20BOE%20August%2015,%202022.pdf>; Becker, *supra* note 105, at 17; Jonathan Becker, *NY State Can Help Overcome Voter Suppression of College Students*, WAMC NE. PUB. RADIO (Jan. 27, 2022, 3:52 PM), <https://www.wamc.org/commentary-opinion/2022-01-27/ny-state-can-help-overcome-voter-suppression-of-college-students>; Bard Center for Civic Engagement, *The Fight for a Polling Place at Bard College | Lawsuit Press Conference October 22, 2020*, YOUTUBE (Oct. 22, 2020), <https://www.youtube.com/watch?v=ZFp2C8bU7S0>; Bard FP, *Bard Administrators Clash with Poll Officials*, YOUTUBE (Nov. 9, 2012), <https://www.youtube.com/watch?v=5dsyLJAEWZo>; Najwa Jamal, *Even Blue States Suppress Student Voters*, NATION (Mar. 2, 2021), <https://www.thenation.com/article/politics/voter-suppression-new-york/>.

107. *Court Orders Red Hook Polling Site Moved to Bard Campus*, POUGHKEEPSIE J. (Oct. 24, 2020, 11:51 AM), <https://www.poughkeepsiejournal.com/story/news/local/2020/10/24/red-hook-district-5-polling-site-move-bard-court-rules/6019230002/>.

108. Becker, *supra* note 106.

109. *Id.*

own or vigorously defend student voting rights and advocate for systemic change. It has chosen the path of the justice-oriented citizen and pursued a twenty-five-year effort to defend rights in the court of public opinion, in state and federal court, and in the town, county, and state legislature. This effort has required institutional commitment in terms of human and financial resources to implement robust registration efforts, absentee ballot support, voter education, the monitoring of poll sites, and sophisticated legal strategies for pre- and post-election conflicts. The institution has decided to put its own reputation on the line: lawsuits have included the college, its long-term President Leon Botstein, its Vice President for Civic Engagement Erin Cannan, and students as litigants. In all, Bard and its students, who are now represented by a group Election@Bard that is under the auspices of Bard's Center for Civic Engagement, have won a lawsuit on the state level concerning the counting of affidavit ballots, two state lawsuits (as well as appeals) on a polling site on campus, and one federal lawsuit concerning the use of a street address instead of a dormitory room, which resulted in a court-ordered consent decree fixing the street address on campus.¹¹⁰ Bard and its students achieved these successes by allying with community partners like The Andrew Goodman Foundation and the New York Civil Liberties Union that provided pro bono lawyers.¹¹¹ Additionally, the Center for Civic Engagement and Election@Bard joined a coalition, including groups like GenVote, Common Cause, and New York Public Interest Research Group, to successfully advocate for a new state law

110. *Fight for a Polling Site on Bard's Campus: A Timeline of Appeals, Rulings, and Media Coverage*, BARD CCE, <https://cce.bard.edu/community/election/voting-rights/> (last visited Sept. 5, 2022) [hereinafter *Voting Rights*]; *New York Appeals Court Unanimously Affirms Bard Campus Polling Site*, BARD CCE (Oct. 29, 2021), <https://cce.bard.edu/news/ny-appeals-court-unanimously-affirms-bard-campus-polling-site-for-tuesday-vote-2021-10-29>; Petition to the Supreme Court of the State of New York County of Dutchess at 6–7, *Conti v. Knapp*, No. 0009054/2009 (N.Y. Sup. Ct. Nov. 12, 2009); Complaint at 1–2, *Pitcher v. Dutchess County Bd. of Elections*, No. 12CV08017 (S.D.N.Y. 2012) (No. 2012 WL 5363741). See Verified Petition at 23, *Bard Coll. v. Dutchess Cnty. Bd. of Elections*, No. 5277/21 (July 15, 2021); Decision, Order and Judgment at 3–4, *Bard Coll. v. Dutchess Cnty. Bd. of Elections*, No. 5277/21 (Sept. 24, 2021), *aff'd*, 198 A.D.3d 1014 (N.Y. App. Div. 2021); Decision and Order on Motion for Leave to Reargue and Renew at 5–6, *Goodman Found. v. Dutchess Cnty. Bd. of Elections*, No. 52737/20 (N.Y. Sup. Ct. Oct. 23, 2020) (denying relief requested); Settlement Order, *Goodman Found. v. Dutchess Cnty. Bd. of Elections*, No. 52737/20 (N.Y. Sup. Ct. Oct. 30, 2020); Stipulation of Settlement and Consent Decree at 2–4, *Pitcher v. Haight*, No. 12-CV-8017 (S.D.N.Y. 2013).

111. *New Legislation Will Bring Polling Places to New York College Campuses*, THE ANDREW GOODMAN FOUND. (Apr. 9, 2022), <https://andrewgoodman.org/news-list/new-legislation-will-bring-polling-places-to-new-york-college-campuses/>; *College Students Sue Dutchess County to Remove Barrier to Student Voting in Presidential Election*, NYCLU (Nov. 1, 2012), <https://www.nyclu.org/en/press-releases/college-students-sue-dutchess-county-remove-barrier-student-voting-presidential>.

mandating polling places on college campuses in New York State with more than 300 registered voters.¹¹² While student groups might have been able to ally with some of the community partners, the continuity provided by the institution over a quarter century has proven decisive. The common thread is the institutional leadership's commitment to a justice-oriented approach that has helped realize the vision of the Twenty-Sixth Amendment.

IV. COLLEGES AND UNIVERSITIES AND THE TWENTY-SIXTH AMENDMENT

We have already stated that colleges and universities, as corporate entities, should serve as civic actors and help to realize the democratic promise of the Twenty-Sixth Amendment.¹¹³ In this section, we outline steps institutions can make to move toward a more justice-oriented approach to voting rights. We argue that institutions need to expand (or create) strategic voter action plans for elections. These plans should go beyond good faith efforts for voter registration as mandated by federal law, and incorporate specific mechanisms to actively protect voting rights and interrupt attempts at disenfranchisement. Colleges and universities should move from being passive actors typified by the “personally responsible” citizen to being “participatory” and, ideally, “justice-oriented” and engaged institutional citizens.¹¹⁴

To best prepare campus teams, institutions should develop established plans, and in this section, we make recommendations on how to build a plan based on Bard's experience. Bard's Election@Bard plan, which has been guided by the work of the authors, has evolved using the structure and feedback of the ALL IN Campus Challenge that includes: (1) mechanisms for engaging leadership; (2) plans to integrate voter protection language into existing communication, including for college leaders to speak annually in support of student voter rights and to speak out publicly against efforts to disenfranchise students; (3) systems to monitor registration and student voter outcomes; (4) strategies to support litigation and legal interventions when necessary; and (5) advocacy efforts to promote legislative solutions to long-term problems.¹¹⁵

112. *New Legislation Will Bring Polling Places to New York College Campuses*, *supra* note 111.

113. *See supra* notes 45–51 and accompanying text.

114. *See Westheimer & Kahne, supra* note 55.

115. ALL IN's Democracy Challenge helps campuses better coordinate student engagement and encourages institutions to center democratic participation as a core value through the development of action plans. Under the Center for Civic Engagement's supervision (directed by the authors), Election@Bard has participated in the Democracy Challenge for four years and expanded the action plan based on annual feedback from ALL

A. Planning

Since the Higher Education Amendments of 1998, institutions have been required to facilitate voter registration in one form or another.¹¹⁶ Aligned with this mandate is an increasing call for institutions to examine their role in shaping student's social or civic identity.¹¹⁷ Community organizations and nonprofits that support institutional planning, tracking, engagement, and management of the student voting process have grown in the last decade to support these expanding institutional efforts.¹¹⁸ Many institutions have developed sophisticated voting plans with the help of initiatives, such as the ALL IN Campus Democracy Challenge,¹¹⁹ that provide resources and feedback to formalize campus mechanisms that facilitate and encourage voter registration, engagement and turnout, and expand civic learning.¹²⁰ Organizations like ALL IN emerged to support institutions after a report issued by the U.S. Department of Education's National Task Force on Civic Learning and Democratic Engagement in 2012 outlined an action plan to "reclaim higher education's civic mission, encouraging them to make civic learning and engagement more pervasive on their campuses."¹²¹

IN. See generally ELECTION@BARD, BARD COLLEGE'S ALL IN CAMPUS DEMOCRACY CHALLENGE ACTION PLAN (2022). We have received permission from both ALL IN and Election@Bard to adapt and reproduce portions of this action plan to offer recommendations based on Bard's experience throughout Part IV of this article. E-mail from Jennifer Domagal-Goldman, Exec. Dir., ALL IN Campus Democracy Challenge, to Yael Bromberg, Principal, Bromberg Law LLC; Jonathan Becker, Prof. of Pol. Stud., Vice President for Acad. Aff., Dir. of the Ctr. for Civic Engagement, Bard College; Erin Cannan, Vice President for Civic Engagement, Bard College (Dec. 11, 2022, 18:11 EST) (on file with author); E-mail from Election@Bard Team to Sarah Calderone, Editor-in-Chief, Rutgers Univ. L. Rev.; Jonathan Becker, Prof. of Pol. Stud., Vice President for Acad. Aff., Dir. of the Ctr. for Civic Engagement, Bard College; Erin Cannan, Vice President for Civic Engagement, Bard College (Dec. 7, 2022, 14:20 EST) (on file with author).

116. 20 U.S.C. § 1094(a).

117. See, e.g., Elizabeth Bennion & David Nickerson, *I Will Register and Vote, If You Teach Me How: A Field Experiment Testing Voter Registration in College Classrooms*, 49 PS: POL. SCI. & POL. 867, 867, 870 (2016).

118. See, e.g., *About Us*, STUDENTS LEARN STUDENTS VOTE COAL., <https://slsvcoalition.org/about/> (last visited Sept. 5, 2022).

119. See ALL IN CAMPUS DEMOCRACY CHALLENGE, <https://allinchallenge.org/> (last visited Sept. 5, 2022).

120. *Id.*

121. See *Our History*, ALL IN CAMPUS DEMOCRACY CHALLENGE, <https://allinchallenge.org/about/our-history/> (last visited Sept. 5, 2022); see generally THE CIVIC LEARNING & DEMOCRATIC ENGAGEMENT NAT'L TASK FORCE, A CRUCIBLE MOMENT: COLLEGE LEARNING AND DEMOCRACY'S FUTURE (2011), <https://www2.ed.gov/rschstat/research/pubs/college-learning-democracys-future/crucible-moment.pdf>.

ALL IN's rating and feedback system for campus planning helps improve voter turnout and engagement. Institutions that have participated in the planning and feedback process in multiple election cycles have seen improvement in their plans' scores and in overall voter turnout.¹²² Turnout is measured using data collected from the Institute for Democracy and Higher Education's National Study of Learning, Voting, and Engagement ("NSLVE"), which tracks students' aggregate voter registration and turnout rates.¹²³ It is clear that planning improves an institution's ability to facilitate voter turnout and engagement. Less is known about experiences of individual voters, particularly those who fail to register or vote successfully. This information is critical because such data can help identify systemic problems that impact student voters. It stands then that expanding the scope of planning to incorporate mechanisms to monitor and track individual voter outcomes can help institutions coordinate responses that protect voter rights and allow students to have their votes counted.

ALL IN's recommendations and its rubric for rating campus plans focus on participatory elements, such as improving voter registration, voter education, voter turnout and year-round civic learning as part of curricula and co-curricular programming.¹²⁴ These reflect an appropriate shift from passive, personally responsible approaches, to more active, participatory approaches.¹²⁵ Based on Bard College's own action plan and experience, we propose expanding the rubric to better reflect a more justice-oriented approach by including more explicit steps to protect and expand student voting rights consistent with the spirit of the Twenty-Sixth Amendment.

In order to take the more justice-oriented approach, institutions should pose the following questions: How are voter registration processes tracked? At what rate are voter registration forms rejected and for what reason? What is the experience of students at polling sites during early voting or on Election Day? Do students have to travel far from campus? Are polling sites accessible by public transportation and are they

122. ALL IN CAMPUS DEMOCRACY CHALLENGE, 2020 CAMPUS ACTION PLAN REPORT 4–5 (2021), <https://allinchallenge.org/wp-content/uploads/2020-ALL-IN-Campus-Action-Plan-Report.pdf>.

123. STUDENTS LEARN STUDENTS VOTE COAL., STRENGTHENING AMERICAN DEMOCRACY 22 (3d ed. 2021), https://allinchallenge.org/wp-content/uploads/StrengtheningAmericanDemocracyGuide_VOL3.pdf.

124. STUDENTS LEARN STUDENTS VOTE COAL., DEMOCRATIC ENGAGEMENT ACTION PLAN RUBRIC 1–2 (2021), https://allinchallenge.org/wp-content/uploads/StrengtheningAmericanDemocracy_Rubric.pdf.

125. See Westheimer & Kahne, *supra* note 55.

handicap accessible? Are students turned away by poll workers or forced to vote via provisional ballot (a vote normally cast on paper and not on a machine and reviewed later for eligibility) due to concerns about IDs or for other reasons? Do student voters know what their rights are if they are challenged? Are student absentee ballots or mail-in forms counted or challenged? Have students been disproportionately purged from the rolls or otherwise made inactive? If so, for what reason?

To shift institutions to a justice-oriented perspective, including the defense of student voting rights and expansion of the franchise, we believe that changes should take place in five broad fields: leadership engagement, communication strategies, monitoring, legal strategies, and advocacy.

B. Leadership Engagement

As Nancy Thomas put it in her article *Institution as Citizen*, “when institutional leaders at the very top are involved with a community, the result can be transformational, externally and internally.”¹²⁶ Moving institutions to a justice-oriented framework requires a commitment from senior leadership.¹²⁷ University leaders were largely silent or absent from the debate about the Twenty-Sixth Amendment. The same holds true today.

In our experience, institutional engagement at the most senior level has been key in fighting ongoing attempts to disenfranchise student voters. Why explicitly plan to include institutional leaders, presidents, and senior administrators in planning? For a variety of reasons. Senior leaders are empowered to represent the institution. They have unique stature and positions of authority from which they can serve as advocates and mobilizers. They command critical institutional resources, both financial and human. They also represent continuity, a critical issue when it comes to defending voting rights when they are encroached by local actors. Students are critical actors, but because there is turnover of student leadership every few years, and because student interest often rises and falls with the election cycle, engagement is not always uniform and knowledge may not always be transferred from one generation to the next. The best institutional leaders will work extensively with student and faculty groups as well as outside actors to empower, inspire, and protect.

126. Thomas, *supra* note 40, at 76.

127. Ajay Nair & Corlisse Thomas, *A Social Justice Approach to Building Community in Higher Education Today*, INSIGHT INTO DIVERSITY (Jan. 2, 2018), <https://www.insightintodiversity.com/a-social-justice-approach-to-building-community-in-higher-education-today/>.

To take a justice-oriented approach, campus leaders should consider the following. First, they should include references to supporting student voting rights in their regular campus-wide communications concerning registration and voting. Second, leaders should be prepared to make clear statements of solidarity with students and to intervene if efforts to disenfranchise students are uncovered. Leaders should be willing to promote the view that students not only have the right to vote where they live, work, and study but that many students in our ultra-mobile society should vote locally because they consider that community home and deserve to be treated no differently from other local citizens. There are many arguments that they can bring to bear. Students often engage more than most citizens by working with local governments to address social needs, volunteering in schools and community organizations, working locally, and participating in community events. Colleges encourage students to contribute to their local communities and in so doing develop common interests.¹²⁸ Third, leaders should be prepared to call on boards of trustees to reinforce the message. For example, early in Bard's long fight for student voting rights, the Bard College Board of Trustees passed a resolution in January 2000 supporting "the rights of students at Bard" and other area colleges to vote "where they live and study" and calling upon the Dutchess County Board of Elections to "change any of its practices that impinge upon the rights of students to vote."¹²⁹ Fourth, campus leaders should make a public commitment to provide resources, including funding, to support voter engagement and voter protection efforts that include campus teams responsible for the expansion of voter engagement action plans. This commitment should include specific steps to apply resources to fund programs to protect students from suppression efforts, ranging from providing institutionally-sponsored transportation to polling places to providing forms of identification that comply with ever tightening state-imposed requirements. For example, campus leaders

128. Becker, *supra* note 79. Gordon and O'Loughlin wrote:

Yet, using their political power in the service of self-interest as students is not the only or even necessarily the primary outcome. Instead, the expansion of local participation may also lead students to come to grips with the larger public interest of the local community. As students participate with other citizens, they are more likely to discern common interests rather than dwell merely on their individual concerns. As such, they may develop more of a "stake" in their local communities, viewing their neighborhoods less as a means to a degree and more as an end in itself [sic].

MICHAEL O'LOUGHLIN & CHASE GORDON, *DEMOCRACY AND COLLEGE STUDENT VOTING* 4–5 (4th ed. 2012).

129. BARD COLL., BOARD OF TRUSTEES RESOLUTION 1 (2000); *see* Becker, *supra* note 79.

can issue individualized bills for utilities, as Oberlin College did to meet Ohio state proof-of-residency requirements, or altering student identity cards by inserting address information or implementing expiration dates.¹³⁰ Where institutions are eligible to host polling places, they should commit to easily accessible and centrally located facilities, even when it means some inconvenience for other campus activities.¹³¹ Finally, leaders should create policies that encourage and make room for faculty, staff, and students to participate in voter registration and election day processes as part of action teams as poll watchers or poll workers. Carnegie Mellon University President Farnam Jahanian, for example, spelled out policies for faculty, staff and students to volunteer at the polls on election day, a critical issue particularly during COVID-19.¹³² This work can activate participation while reinforcing access to the franchise itself.

C. Communication Strategies

Many institutional voter engagement plans incorporate communication strategies geared to voter engagement.¹³³ We recommend expanding those plans to include a platform that explicitly articulates the institution's position in supporting and protecting students' right to vote.

The primary goal of a communication strategy is educating students about the voter registration and election processes. Most ALL IN plans have comprehensive strategies aimed at educating students about the what, why, and how of voter registration and voting.¹³⁴ Identifying a team focused primarily on voter enrollment and engagement is critical to most campus plans.¹³⁵ However, to take a justice-oriented approach, communication strategies should involve messaging about the expansion and improvement of voter access for students and the institution's

130. *Ensuring the Rights of College Students to Vote: Hearing Before the Comm. on H. Admin.*, 110th Cong. 29 (2008) (statement of Marvin Krislov, President, Oberlin College).

131. For example, when Duke administrators agreed to move the early polling site to a more distant part of campus, voting rates went down and students complained. *Students Blame Duke Early Voting Site for Lower Turnout*, WRAL.COM (Nov. 4, 2016, 6:43 PM), <https://www.wral.com/students-blame-duke-early-voting-site-for-lower-turnout/16197884/>.

132. Farnam Jahanian, *Messages from the President*, CARNEGIE MELLON UNIV. (Sept. 22, 2020), <https://www.cmu.edu/leadership/president/campus-comms/2020/2020-09-22.html>.

133. See *Action Plan Examples*, ALL IN CAMPUS DEMOCRACY CHALLENGE, <https://allinchallenge.org/resources/action-plan-examples/> (last visited Dec. 20, 2022).

134. For information on ALL IN's Planning Resources, see STUDENTS LEARN STUDENTS VOTE COAL., *supra* note 123, at 5–9.

135. See *id.* at 6.

position about students' right to vote, including from senior leadership, campus election teams, and institutional partners. In the case where students are targets of disenfranchisement efforts on the state and local level, the institutional leadership should coordinate with campus teams to speak out against these efforts. Regularly highlighting an institution's position and bringing to light any attempts to disenfranchise voters can not only offer moral support to students impacted and signal to faculty and community allies that their work is supported, but it can also help create a public record of the issues that are involved which can in turn help with litigation. This position moves the institution from being a passive voice simply encouraging students to register and vote to taking an active stand to protect their rights.

Communication strategies organized in advance can help institutions determine when and how to speak out (if necessary), taking into consideration the very localized challenges that are faced by voters in the region. In the case of Bard College, ongoing external communications have included campus-wide emails calling for campus action, public statements and presentations at local government meetings, op-eds in local papers and comments on public radio, press releases and news conferences, and public statements of support made by community partners.¹³⁶ This record of public communications dates back to 1999 and details the coordinated efforts of students, faculty, staff, administrators, and local and state partners in actively challenging ongoing attempts to disenfranchise student voters.¹³⁷ Finally, communications should be tracked and made publicly available. They can provide continuity of institutional knowledge and be used as teaching tools, thus creating a virtuous circle where institutions embody and realize the values of a justice-oriented citizenship that most institutions encourage students to learn and be.

D. Monitoring

Monitoring allows institutions to anticipate challenges, prepare responses, and avoid election-day problems that can be corrosive to long-term youth participation. There are three major areas of monitoring often unaddressed in planning: voter registration outcomes, election day voting outcomes, and poll-site tracking.¹³⁸ Each allows institutional teams to determine how voter mechanisms are working.¹³⁹ Monitoring can help

136. For access to Bard College's communications, public statements, and articles, see *Voting Rights*, *supra* note 110.

137. *Voting Rights*, *supra* note 110.

138. See *supra* Part IV.

139. See *supra* Part IV.

teams troubleshoot gaps in student voter engagement and knowledge and identify any efforts to disenfranchise student voters. Disenfranchisement can come in many forms and can sometimes be the result of misunderstandings by local officials.¹⁴⁰ Monitoring practices can help determine how campus teams should respond.

1. Monitoring Voter Registration

Monitoring begins at voter registration. While colleges are obliged to register voters, we advocate for proactive efforts, including mechanisms to make voter registration part of mandatory processes like orientation, course registration, housing lotteries, or student billing, analogous to motor-voter law where every student is actively encouraged to register. This process is more than a good faith effort for voter registration, placing the onus on students to decline, and helps monitoring teams better track which student voters are registering. Where appropriate, campuses can agree to serve as a designated voter registration agency per NVRA.¹⁴¹ Systematically organized voter registrations allow institutions to provide clear information on appropriate addresses for on-campus voters and to harmonize official voting addresses with student mailing addresses, which should be coordinated with local election officials.

It is also important that institutionally-sponsored voter registration teams track student voter registration forms after they have been submitted to boards of elections. This tracking allows them to identify problems at two critical times: prior to the end of registration and prior to election day. Early monitoring can allow students to correct clerical errors, like misspelled names, or be alerted when they have been made inactive for some reason. It is often the practice of the local board of elections to send postcards meant to confirm registrations.¹⁴² If these are returned to the board of elections for some reason, due to incorrectly recorded addresses or misspelled names for instance, then voters are made inactive. If monitoring teams can help students prior to registration deadlines, then students can either re-register prior to the deadline or, at least in New York, cast a provisional (“affidavit”) ballot

140. See generally Troy, *supra* note 34.

141. For more information on the National Voter Registration Act, see *The National Voter Registration Act of 1993 (NVRA)*, U.S. DEPT OF JUST., <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra> (last visited Sept. 5, 2022).

142. *How to Get a Voter Registration Card*, USA.GOV, <https://www.usa.gov/voter-registration-card> (last visited Sept. 5, 2022) (“When you register to vote or change your registration, you will be sent a voter registration card.”).

that should in principle count and formally reinstate students for future elections.¹⁴³

In order to effectively monitor registration, teams should provide mechanisms for students to report if their registrations have been rejected and ask students to check their registrations with publicly available state and county databases and inform the institutional team if they have problems. Teams can also make Freedom of Information Law (“FOIL”) requests for lists of registered voters to compare them with forms collected in registration campaigns. When possible, teams should try to reach voters whose forms were rejected before registration deadlines to correct any difficulties. Tracking reasons given for those rejections can help inform future practices to ensure that forms are completed accurately.

If students who should otherwise be registered are not on the rolls after registration deadlines have passed, then monitoring teams can more quickly determine if an organized effort to suppress student voting is underway and determine how to respond. This situation happened in Dutchess County in 2012 when the Board of Elections suddenly rejected registrations that did not include dorm room numbers.¹⁴⁴ Students were reinstated only after a federal lawsuit filed by the NYCLU on behalf of the students.¹⁴⁵

2. Monitoring Election Day Voting

Election Day can be fraught for any voter; however, students, especially students who have been marginalized,¹⁴⁶ can struggle to successfully cast a ballot. To ensure that rights of student voters are preserved, colleges need an extensive election day strategy and must plan for follow-up, which involves monitoring and responding in real time to challenges to student voters. This strategy can include planning for actions that are necessary to preserve voters’ rights. A variety of difficulties can emerge: clerical errors, like the misspelling of a name, can lead to a voter being sent away; uninformed and poorly trained poll workers can ask for the wrong type of identification or request ID when it is not required; hostile poll watchers can intimidate student voters by

143. *FAQs*, BD. OF ELECTIONS IN THE CITY OF N.Y., <https://vote.nyc/page/faqs> (last visited Sept. 5, 2022).

144. *College Students Sue Dutchess County to Remove Barrier to Student Voting in Presidential Election*, *supra* note 111.

145. *Id.*; *Voting Rights*, *supra* note 110.

146. For more on impact of voter suppression efforts on marginalized communities, see *Block the Vote: How Politicians are Trying to Block Voters from the Ballot Box*, *supra* note 23.

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challenging them with or without reason; and election day court decisions by local judges can disrupt the voting process. Mobilizing multiple action teams to manage a variety of interventions on Election Day should be coordinated. For two decades, Bard has:

- encouraged students, faculty, and administrators to serve as poll workers and poll watchers at polling sites where students vote;
- trained non-partisan monitoring teams to track student experiences at polling sites;
- educated voters on election day processes including voter ID requirements and what to expect at the poll tutorial;
- provided non-partisan election information directing students to information on candidates and other ballot items;
- managed a centralized call-in (and now text-based) hotline to advise students of their rights when challenged in real time;
- deployed information teams to distribute electronic communications and be available at relevant locations around campus to remind students of requirements vis-à-vis identification, what to do if challenged, and provide sample ballots for students to review prior to arriving at a polling site;
- partnered with community organizations to provide support if challenged, including volunteers with legal expertise; and
- provided transportation to and from polling sites as well as transportation for voters who need to affirm their right to vote in front of a judge.

The presence of advocates on Election Day accomplishes a few goals. First, it reinforces the institutional commitment to student voters and acts as a visible indicator that the institution is not only facilitating the process of voting but protecting voter rights. Second, the process of voting becomes an educational experience as students learn how to vote and what their rights are in the case that they are challenged. Students are often confused by the voting process, even if they are not a first-time voter. Even with campus teams deployed, much of the work of the monitoring teams on election day at Bard have focused on voter

education. We have seen many students confused about where to go to vote, assuming they can show up at any polling location to vote or to fill out same day registration forms when New York State is not a same day registration state.¹⁴⁷ These teams are able to educate and help ensure that students are aware of how the voting process works. Troubleshooting registration issues that include identifying students who may not have been appropriately registered or who did not submit a registration form can be a powerful tool in reaching future voters.¹⁴⁸

It is critical that monitoring teams be unaffiliated and explicitly available to protect voter rights and be unconnected to any student club or organizing efforts on behalf of a specific candidate or party. Institutional initiatives must be non-partisan and solely focused on youth voting rights and access to polls.

3. Monitoring Poll Site Assignments

Poll-site selection, which takes place many months before elections,¹⁴⁹ can be shrouded in secrecy and lead to decisions that do not serve voters. Moreover, selections can be difficult to challenge if there is no public record raising concerns about the compliance of locations with state and federal law on issues such as accessibility of polling places, public transportation, and compliance with the Americans with Disabilities Act.¹⁵⁰ Monitoring can also expose proposals to divide campuses into multiple polling districts or, as we saw with North Carolina A&T University, congressional districts.¹⁵¹ This aspect is particularly important because in locations like New York, a tremendous amount of latitude is given to boards of elections over polling places, and changes in locations of polling sites require agreements of two

147. *Same Day Voter Registration*, NAT'L CONF. OF STATE LEGISLATURES (June 13, 2022), <https://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx>.

148. Other Election Day supports that can encourage participation and help election day monitoring teams include: the promotion of a campus-wide holiday, the implementation of allowances for faculty, students and staff to vote, and the creation of policies excusing students, faculty, and staff from other responsibilities when they serve as election as poll workers or volunteers.

149. See U.S. ELECTION ASSISTANCE COMM'N, 9 TIPS TO MANAGE THE VOTING PROCESS BETTER 2-3 (2014), [https://www.eac.gov/sites/default/files/eac_assets/1/28/ManageTheVotingProcessBetter\[4\]-Compliant.pdf](https://www.eac.gov/sites/default/files/eac_assets/1/28/ManageTheVotingProcessBetter[4]-Compliant.pdf).

150. See *id.* (listing compliance requirements for poll sites).

151. North Carolina A&T has since been redistricted to be covered by only one district. See Lauren Mitchell, *A Look into Gerrymandering Across the Carolinas*, A&T REG. (Mar. 3, 2020), <https://ncatregister.com/16919/the-yard/a-look-into-gerrymandering-across-the-carolinas/>.

commissioners, one Democrat and one Republican.¹⁵² Thus, a decision to place a polling site at an inaccessible location or to divide a campus into multiple polling sites can reverberate for years to come. Where possible, institutions should advocate for polling sites to be situated on campus in a central location that is easily identifiable and accessible to students. Campus or student centers where students frequently pass through are most appropriate.

E. Legal Strategies

The processes of elections in the United States are increasingly under attack. Many officials determined to suppress student voting have acted with impunity, making the protection of student voting rights a form of Whack-A-Mole. The twenty-year battle at Bard, and the even longer battle at Prairie View A&M University, suggest that when student voters get one victory, determined officials shift efforts.¹⁵³ In our case, an appointed official has the support of the local party and a taxpayer funded legal team. There are few disincentives to act badly. Over the course of twenty years, different attempts and types of limitations have required constant vigilance and institutional intervention. Questionnaires are eliminated only to have new (and discriminatory) address requirements enforced; once those are removed, the voter rolls are purged; then once voters are reinstated, efforts are made to ensure that all student voting, both early and on election day, is situated at locations that are the least convenient in terms of access.¹⁵⁴

This backdrop leads us to perhaps our most controversial recommendation for institutions to act as justice-oriented citizens: we believe institutions must be prepared to support and participate in litigation on behalf of student voting rights. The recommendation does not come lightly. We understand that there are many complicated and localized challenges to this kind of intervention. It is the case, though, that decisions about voting are often made by poll workers, local judges, and election officials who ignore the Twenty-Sixth Amendment and students' right to vote where they live at college, and that without institutional support, many ongoing voter suppression efforts will likely succeed.

The need for institutional intervention is both practical and symbolic. It is practical because the university has resources, material and human, to achieve salutary results. Successful litigation can depend on the

152. N.Y. ELEC. LAW § 4-104 (LexisNexis 2022).

153. See *supra* note 32 and accompanying text.

154. See *Voting Rights, supra* note 110.

recommended early monitoring activities so that there is enough time to intervene when rights are threatened. The systematic gathering of information over years and decades, the creation of a public record through correspondence, and the implementation resources to support a legal team or to find pro-bono lawyers willing to help require sustained organizing. In some cases, even voting rights advocacy organizations are so stretched that they will participate in litigation only if they believe that they can recover court costs, as is often associated with federal cases, therefore institutional involvement becomes even more important.¹⁵⁵ Institutional action is an important catalyst for students: when Bard used institutional resources in 2009 to sue to ensure the votes of a dozen students who had been illegitimately and unjustly challenged by poll watchers to vote via affidavit ballots, the institutional actions sent a message to all students that voting rights are important and worth protecting.¹⁵⁶ It is more than just part of their education; it is part of the development of their civic identity.

Similarly, the college's participation in the lawsuit can provide the incentive that students need to become student litigants. The fact that Bard's President and Vice President for Civic Engagement served as co-litigants in two major recent lawsuits over the location of a polling place on campus¹⁵⁷ was confidence-building for potential student and staff litigants. On a higher plane, it is the binding of word and deed, the idea

155. In 2012, for example, when the NYCLU took a case to a district court on behalf of students from Bard, Marist, and the Culinary Institute of America to stop discriminatory practices concerning student addresses, they were awarded counsel fees of more than \$37,000. The NYCLU declined, however, to take up a state case a few years later concerning poll sites on college campuses, which would have been far more difficult to win and for which they would be ineligible for such fees. *See generally* Complaint, *Pitcher v. Dutchess County Bd. of Elections*, 2012 WL 5363741 (S.D.N.Y. 2012) (No. 12CV08017); *see also* *College Students Sue Dutchess County to Remove Barrier to Student Voting in Presidential Election*, *supra* note 111.

156. Campus plans primarily focus on voter registration and voter turnout. Addressing challenges to access can be difficult, expensive, politically charged, and difficult to track. For example, when Bard officials were alerted in 2009 that students were being challenged by a poll watcher for residency and being required to cast affidavit ballots, the college deployed a legal team to challenge a judge's decision that impacted all of Dutchess County's college students. Although confusion about Vassar College's districting and residency led to the ruling, the impact was felt across the county. The decision was overturned later on election day, but close to twenty students were required to vote by affidavit. A state supreme court justice, replying to a petition filed by lawyers supported by Bard, ruled two days later that all affidavit ballots be counted. *See* Petition to the Supreme Court of the State of New York County of Dutchess at 6–7, *Conti v. Knapp*, No. 0009054/2009 (N.Y. Sup. Ct. Nov. 12, 2009); Patricia Doxsey Freeman, *Bard Students Unhappy with Voting Hassle*, DAILY FREEMAN (July 22, 2021, 5:21 AM), <https://www.dailyfreeman.com/2009/11/20/bard-students-unhappy-with-voting-hassle-with-video/>.

157. *See* sources cited *supra* note 155 and accompanying text.

that students should not just do as an institution says, but as a justice-oriented institution does. As Brenda Gourley argued, “We know that the values held by societies, institutions, and individuals are demonstrated most powerfully through their actions rather than their words.”¹⁵⁸

F. Advocacy

A final area where institutions are uniquely situated to have an impact is in the area of advocating for student voting rights. Within the context of lobbying laws, members of an institution’s leadership and faculty can play a role in advocating for and against practices and proposed laws that may positively or negatively impact student access to the polls. As stated above, Bard groups, including its leadership, its Center for Civic Engagement, and students voting rights groups, were very much involved in successful efforts to pass New York legislation that assigns polling sites to campuses with 300 or more registered New York voters.¹⁵⁹ Senior administrators at Bard discussed the bill with a number of assemblymembers and senators and wrote articles in favor of the bill and other legislative action that would achieve similar ends.¹⁶⁰ Students and administrators reached out to other campuses to raise awareness and encourage other campuses to advocate for the passing of the bill.¹⁶¹ Not only does this work teach students about legislation, but it also represents the kind of role institutions can play beyond election day.

Other advocacy efforts can include efforts to mobilize neighboring institutions on issues of common interest and state alliances of colleges and universities to join efforts. A future area of advocacy might feature the creation of a national alliance of college presidents, similar to the Presidents’ Alliance on Higher Education and Immigration,¹⁶² that is dedicated to protecting student voting rights that could help elevate and amplify the work of individual institutions. Institutional alliances dedicated to student voter rights could be a powerful force in commenting on congressional efforts to reinforce the franchise. Some college administrators and faculty participated in hearings in support of the Student VOTER Act of 2008 to designate colleges and universities that

158. Brenda M. Gourley, *Higher Education as a Force for Societal Change in the Twenty-First Century*, in HIGHER EDUCATION AND CIVIC ENGAGEMENT 31, 32 (Lorraine McIlrath et al. eds., 2012).

159. See *supra* note 112.

160. See *supra* note 112.

161. See *supra* note 112.

162. The Presidents’ Alliance is an “alliance of American college and university leaders dedicated to increasing public understanding of how immigration policies and practices impact our students, campuses and communities.” *Home*, PRESIDENTS’ ALL. ON HIGHER EDUC. & IMMIGR., <https://www.presidentsalliance.org/> (last visited Sept. 5, 2022).

receive federal funds as voter registration agencies.¹⁶³ A national coalition of university leaders could be a powerful addition to the collective voices who are speaking on behalf of student voter rights.

G. Limits of Institutional Engagement

The two authors of this article recognize that we are writing from a position of privilege. We work at a private institution that views itself as acting for the public good, and we do so with a board of trustees which has embraced this role and the importance of the defense of students' right to vote. University leadership is complex. Not all boards are supportive, and leaders who represent public institutions, which are dependent on states for funding, are vulnerable professionally and institutionally if they alienate decisionmakers. The problem is even more acute as activist legislatures take it upon themselves to impose limits on voting and as a growing number of Americans reject the value of broad participation in American democracy.¹⁶⁴ Even administrators who are generally supportive of student engagement often cannot actively work to advocate and protect voter rights for fear of endangering certain funding, which places added pressure on under-resourced institutions and programs.¹⁶⁵ These are very real concerns, shared by many institutions, that need to be acknowledged and must be addressed sensitively.

We recognize that what we are discussing is an expansive vision based on a conception of a justice-oriented citizen. But we also realize that institutions' limp actions often do not match their soaring rhetoric, even when they are less vulnerable than state institutions in locations where voter suppression is on the rise. Short of a full deployment of institutional resources described here, institutions can implement elements of these plans, monitoring activities, advocating where possible, and directing students to resources and people who can support their own efforts, including the Fair Election Center, The Andrew Goodman Foundation, or other entities supporting student voting rights.

163. *See generally Ensuring the Rights of College Students to Vote: Hearing Before the Comm. on H. Admin.*, 110th Cong. 3–4 (2008) (statement of Robert A. Brady, Chairman, Committee on House Administration).

164. *Republicans and Democrats Move Further Apart in Views of Voting Access*, PEW RSCH. CTR. (Apr. 22, 2021), <https://www.pewresearch.org/politics/2021/04/22/republicans-and-democrats-move-further-apart-in-views-of-voting-access/>.

165. CAMPUS VOTE PROJECT, HBCU LEGACY INITIATIVE'S INSIGHTS BRIEF 11, 13 (2022), https://www.campusvoteproject.org/_files/ugd/85cfb4_4e5f01534fe54d4fbedc3900c69ab8d.pdf.

V. REFLECTIONS AND CONCLUSION

University leaders did not distinguish themselves in the run-up to the passage of the Twenty-Sixth Amendment and have not done so as it has come under assault in the years since. The amendment passed because the United States was going through a special moment of democratic inclusiveness born from the civil rights movement that swept away long-held voting restrictions.¹⁶⁶ A youth-led social movement from below fueled by student organizations like Let Us Vote impelled leaders who were driven by optimism, fear, and a good dose of inevitability to produce a change that was long coming.¹⁶⁷

Students and advocacy organizations, like the NAACP, the ACLU and its state affiliates, and The Andrew Goodman Foundation, have led the charge, working with motivated student groups and sometimes interested faculty and mid-level administrators to defend voting rights.¹⁶⁸ The student leaders at Prairie View A&M University, led by people such as Priscilla Barbour,¹⁶⁹ are a model of perseverance. There, the fight for student voting rights, forged out of decades of defense against an ongoing assault by Waller County, has become part of the DNA of student government.¹⁷⁰ But such instances are rare and even then, the actions were dependent upon student leadership.¹⁷¹ The Prairie View students have fought the fight, at least until recently, without the active support of the university leadership: the senior administration may not have blocked efforts to address voting rights issues, but they did not embrace the student cause and were extremely cautious about their public positions.¹⁷²

This is not uncommon. For example, when Campus Vote Project's HBCU Legacy Initiative conducted interviews with students to identify

166. *Voting Rights: A Short History*, CARNEGIE CORP. OF N.Y. (Nov. 18, 2019), <https://www.carnegie.org/our-work/article/voting-rights-timeline/>.

167. *Id.*

168. *See, e.g., Voting Rights Groups Call on Election Officials to Act Now Ahead of Primaries and General Election*, THE ANDREW GOODMAN FOUND. (Mar. 18, 2020), <https://andrewgoodman.org/news-list/voting-rights-groups-call-on-election-officials-to-act-now-ahead-of-primaries-and-general-election/>.

169. Interview with Priscilla Barbour, Student Leader (Feb. 7, 2022).

170. *See id.*; *see also* Alexa Ura, Texas' Oldest Black University Was Built on a Former Plantation. Its Students Still Fight a Legacy of Voter Suppression., TEX. TRIBUNE (Feb. 25, 2021), <https://www.texastribune.org/2021/02/25/waller-county-texas-voter-suppression/>.

171. Barbour indicated that the administration at Prairie View during the time of her participation in the fight for voting rights was largely passive. They recognized the importance of the issue and did not oppose it but, there was "no proactive engagement." *Id.* As she put it, "All student-led efforts were truly student led and students had to see them through from start to finish." *Id.*

172. *Id.*

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barriers to voting, they referenced a lack of support from administrators, particularly senior administrators.¹⁷³ Students described administrators as supportive to a point, but also identified

[a] tension between the two parties in the process of increasing voter engagement on HBCU campuses. Causes for this tension can range from a lack of resources that the administration has to support the students, to the fear of endangering certain funding streams Regardless of its origin, this tension creates a barrier to student work and voter engagement on many HBCU campuses.¹⁷⁴

Similarly, in a recent open letter from a student-advocacy group called Ivy League Votes in *Inside Higher Ed*, students wrote:

Many of us have met with administrators only to be told that it is not their job to make voting easier and that, rather, the onus should be on students to make it to the ballot box. Indeed, administrators have told us it is actually beneficial for students to face barriers to voting while we are in college so that we get used to the barriers we will face after graduation.¹⁷⁵

In his recent essay, former Macalester College President Brian Rosenberg spoke of general dilemmas facing universities, pointing out that

while the university generally refrains from taking a position on social and political issues, sometimes it does not The university might want to stay out of politics, but politics is coming for the university, and every leader, every institution will need to decide whether neutrality—in this deeply polarized time—is even a realistic choice.¹⁷⁶

173. See CAMPUS VOTE PROJECT, *supra* note 165, at 7, 13.

174. CAMPUS VOTE PROJECT, HBCU ROUNDTABLE INSIGHTS BRIEF 8 (2020), https://www.campusvoteproject.org/_files/ugd/85cfb4_2f373a62ef504166a30fe53b8c2788cd.pdf.

175. Members of Ivy League Votes, *supra* note 62.

176. Brian Rosenberg, *Should Universities take Political Stands?*, CHRON. OF HIGHER EDUC. (Mar. 31, 2022), <https://www.chronicle.com/article/should-universities-take-political-stands>.

A key to deciding whether moving from a position of “neutrality” is the “relevance to the mission of the university.”¹⁷⁷ And herein lies the answer: if higher education institutions believe in a civic mission of the university, then they should engage as civic actors to defend the most fundamental of civic rights, the right to vote. This need is particularly acute as assaults on voting rights spread across the country. While one might imagine that a case could be made for a sort of neutrality by university leadership as it concerns voting legislation writ large, it is difficult to imagine a university taking seriously its civic mission while it stands back and watches the rights of its students impinged or grossly violated.¹⁷⁸ Institutions and institutional leaders need to act as more than bystanders or the personally responsible citizens that Kahne and Westheimer so aptly described.¹⁷⁹ Instead, they should be participatory and ideally justice-oriented citizens who use the tools at their disposal not only to embrace good faith registration efforts but to struggle to defend student voting rights. Just as leaders teach students in their loftiest moments of inspiration that they should live their lives as agents of positive change, they too should demonstrate the courage of their conviction by deed as well as word.

A shift in recent years is noticeable. Critical transformations in the discussion and debate about the role of institutions as civic actors have evolved since the ratification of the Twenty-Sixth Amendment. More college and university leaders have publicly affirmed their institution’s belief in voting as an important element of citizenship and speak to the right of students to vote where they may legally do so, whether locally or otherwise. Important efforts like Harvard’s Harvard Votes Challenge and “Pledge to 100%” or the University of Wisconsin’s Badgers Vote Coalition¹⁸⁰ galvanize institutional resources on behalf of student voting.

177. *Id.*

178. Rosenberg also wrote:

It is also possible, however, to hide behind the guise of neutrality when the absence of action is in fact very clearly “a position.” . . . If one believes that the purpose of higher education is not limited to “teaching and research” but also includes preparation for “public participation in democracy and civic life”—a common though not universally held view—then the university must consider how and when, as in institution of great privilege and influence, it models that participation.

Rosenberg, *supra* note 176.

179. Kahne & Westheimer, *supra* note 55, at 242.

180. Lawrence Bacow & Rebecca Blank, *Colleges and Universities Should Encourage Student Voting*, INSIDE HIGHER ED (Sept. 21, 2020), <https://www.insidehighered.com/views/2020/09/21/two-leaders-urge-colleges-encourage-student-voting-opinion>. Harvard President Lawrence Bacow said:

Wesleyan President Michael Roth recently issued a broad call to action, stating: “College presidents should make our voices heard; we should be consistent advocates for democratic practice, regardless of party affiliation.”¹⁸¹ Membership-based organizations like the American Council on Education have joined other national organizations to stand in solidarity with student voters and have activated community resources to facilitate the process of registration and civic education.¹⁸²

We recognize that there may be limits on institutions, particularly those that depend upon state funding. But even then, there is a space between quiet acquiescence and a solo charge into enemy lines. It is critical that leaders at least partially take up the fight on its merits, because if they do not do so when rights of their own students are under assault, the legitimacy of the link between higher education and citizenship will be called into question, and the role of higher education in society will decline.¹⁸³ When leaders of higher education institutions

At Harvard University, we are helping to ensure that our undergraduate, graduate and professional students are voter-ready by promoting registration, engagement and turnout through the Harvard Votes Challenge. Our goal is to reach 100 percent participation among eligible members of the university community. We’re deploying resources across our schools to generate grassroots support for our effort—from points of contact with members of a universitywide steering team to tool kits and trainings for students, faculty and staff that have taken our “Pledge to 100%.” In conjunction, we empower all members of the university community, whether they are eligible to vote or not, to elevate and celebrate voting among their friends and families, because the outcomes of elections at every level affect all of us.

Id.

181. Michael Roth, *Higher Education Must Stand up for Voting Rights*, INSIDE HIGHER ED (Apr. 13, 2021), <https://www.insidehighered.com/views/2021/04/13/colleges-should-combat-efforts-disenfranchise-voters-opinion>. Roth continued:

Many corporate CEOs have already weighed in on the importance of protecting voting rights, and higher education leaders must also publicly insist that civic preparedness and protecting the franchise are dimensions of our duty as educators. We often say that education is a public good. Now is the time for us to expand our civic-preparedness programs and to defend voting rights as a crucial facet of a more just America.

Id.

182. *Statement on Voting Rights by Higher Education Organizations*, AM. COUNCIL ON EDUC. (Apr. 13, 2021), <https://www.acenet.edu/News-Room/Pages/Statement-Voting-Rights.aspx>.

183. Ehrlich wrote:

Unless . . . institutions can not only promise but also deliver something more than job training, their role in society will decline. That “something more” must include, as Dewey taught us, a focused concern on the civic responsibility of colleges and

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look away, and when they fail to defend the very values they purport to support and represent, they diminish the democratic promise of the Twenty-Sixth Amendment, the links between education and democratic citizenship, and the democratic prospects of the country as a whole.

universities, to and within their communities, and on the civic capacities of the students whom they are educating.

THOMAS EHRLICH, *Preface*, in *CIVIC RESPONSIBILITY AND HIGHER EDUCATION*, *supra* note 2, at v.