



**To:** Bobby Zitzmann, Senator for the Class of 2019

**Cc:** Eamon Vahidi, Elections Commissioner  
American University Student Government  
Alex Behle, Secretary of the Student Government

**From:** Brian Fu, Chair of the Judicial Board

**Subject:** Advisory Opinion 14.001

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On March 20<sup>th</sup>, 2019, the Chair of the Judicial Board received an advisory inquiry from Bobby Zitzmann, Senator for the Class of 2019. The inquiry related to a hypothetical situation in which, during the election season, the option for “none of these candidates” was the winner of an election. There were two parts of the inquiry: a question of whether the Election Commission Policy Board has the authority to decertify an election simply on the basis of the situation in which the “none of these candidates” were to be the winner. The second inquiry related to whether or not the option of “none of these candidates” impacted the results of a race “except to qualify or disqualify write-in candidates.”

With regards to the first question of decertification, the Chair agrees with the Inquirer that it would be a violation of the Governing Documents and the Elections Policy Book for either the Elections Commission Policy Board or the Undergraduate Senate to decertify an election simply based on the situation in which the “none of these candidates” gains the most votes. This is because the only way the Policy Board or the Senate could know to do this would be for the results of the election to be known before the certification process was complete, a clear violation of the election rules. Therefore, there is no grounds for decertification simply on the basis of the aforementioned situation.

The second question, regarding the influence of the option of “none of these candidates” in elections, the Constitution is clear that, specifically for Senate races, “those receiving the most votes from each constituency shall be considered elected and assume a seat in the Undergraduate Senate...” This makes it clear that those receiving the most votes shall assume seats, making no mention of any situation in which this would not apply. However, the “none of these candidates” option plays a more significant role in other elections than the Inquirer argued. Because the “none of these options” counts towards the vote totals, then it is a logical conclusion that it is to

be counted as an option just as any other candidate. Therefore, should the option be the winner in a race, none of the candidates, including the one with the most votes, would be seated and the position would be considered vacant. According to the Constitution, special elections are only required for vacancies in the Presidency and the Vice Presidency. Therefore, in any circumstance involving those offices whereas the “none of these candidates” option wins, the Elections Commissioner would be required to hold a special election in the type and manner prescribed in the Governing Documents. As for any other race other than for the Presidency, the Vice Presidency, or the Undergraduate Senate, the office will be temporarily assumed and eventually filled in the manner prescribed in the Governing Documents.

Regarding the second question and special elections, the Inquirer did reference the election system in the state of Nevada in which they too use a “none of these candidates” option, but if that option were to win, then the next highest vote-getting candidate would assume the office. While this option may seem more convenient, there is nothing officially established in the Governing Documents that would support such a system.

In accordance with the Judicial Register, this Opinion may not be appealed, but parties may seek a binding decision regarding the matter.

It is so ordered on this 22nd day of March, 2019.

Signed,

A handwritten signature in cursive script that reads "Brian Fu".

**Brian Fu**  
Chair of the Judicial Board  
American University Student Government