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INTRODUCTION

The legislature separately created each of Indiana's seven public universities, and as part of establishing them, provided for each to be administered by a separate board of trustees with unique requirements relating to the board's composition, selection, and organization. The requirements governing each of these boards are set forth in separate sections of the Indiana Code, which reflect the diverse communities and unique features of each of public university. Recently, HEA 1001 amended one of these code sections—the section relating to Indiana University's board of trustees. Before, Indiana University was the only board of trustees where the law required that some members be directly elected by alumni. Now, the Governor appoints the members of the board and must ensure that at least five of them are alumni.

Plaintiff Justin Vasel alleges that HEA 1001 is unconstitutional special and local legislation because it no longer allows alumni to select trustees through direct elections. But HEA 1001 is not a law that targets a subset of some specified group yet could be made applicable to a larger group. It amends a code section specific to Indiana University's board of trustees. The amendment—and specifically the provision governing direct alumni elections of trustees to the Indiana University board—cannot be made general to all other state schools because no code provision governing state universities has a provision like the one that HEA 1001 is amending.

In any event, this is not a proper case for the extraordinary remedy of a preliminary injunction. An injunction against the Governor would not remedy the harm that Vasel has alleged—being unable to run or vote in an election—because elections were never run by the Governor. As the time for starting an election has

already passed, moreover, an election could not be conducted in an orderly manner consistent with previously applicable legal requirements. A snap election would be unfair, both to candidates who have stopped campaigning and to potential voters. And it is unclear that a rushed election could accomplish anything. With the Governor's appointment of new board members, there is no longer an open seat to be filled through election. The motion for a preliminary injunction should be denied.

BACKGROUND

I. Public Universities in Indiana and Their Boards of Trustees

No two state institutions of higher education in Indiana are the same. Each of the seven public institutions regulated in Title 21 operates with its own mission, culture, and community. Indiana law reflects these differences, as each university is governed by a different article of the Indiana Code. *See* Ind. Code 21-19 (Ball State University); 21-20 (Indiana University); 21-21 (Indiana State University); 21-22 (Ivy Tech Community College); 21-23 (Purdue University); 21-24 (University of Southern Indiana); 21-25 (Vincennes University). These laws reflect the different circumstances under which these state institutions of higher learning were created, and they establish different roles, officers, and liabilities for each university and its board of trustees. These institutions serve different student populations while emphasizing different goals and operating under different frameworks, both internally and according to Indiana law.

Ball State University, based in Muncie, has nearly 20,000 students and focuses on “experiential” or “immersive learning,” including “community-based

projects and complete capstone requirements.”¹ While the university has seven academic colleges,² the most popular majors are Liberal Arts, Psychology, Digital Communication, and Elementary Education.³ Indiana law requires that Ball State be “located and established at Muncie, Indiana.” Ind. Code § 21-19-2-1. Its nine-member board of trustees is entirely appointed by the governor. § 21-19-3-2. The governor is required to appoint only two alumni to the board. *Id.* A search and screen committee provides the governor with a list of at least ten names for the one student seat on the board of trustees, and the governor must choose that member from the list. § 21-19-3-5. All members but the student member serve four-year terms, and the student member serves a two-year term. § 21-19-3-8. All officers are board members, except for the treasurer, who is a non-member appointed by the board. § 21-19-4-1.

Indiana State University (ISU) has worked to “transform the lives of students through a high-quality education infused with experiential learning, community engagement and career-readiness” since 1865.⁴ Over half of Indiana State University’s student undergraduate population are first-generation college students,⁵ and the university provides many resources to help those students navigate the

¹ Ex. 1, The Princeton Review, *Ball State University*, <https://www.princetonreview.com/college/ball-state-university-1023275>.

² Ex. 2, Ball State University, *Colleges and Departments*, <https://www.bsu.edu/academics/collegesanddepartments>.

³ Ex. 3, U.S. News & World Report, *Ball State University Academics*, <https://www.usnews.com/best-colleges/ball-state-university-1786/academics>.

⁴ Ex. 4, Indiana State University, *Mission & Vision*, <https://indianastate.edu/mission-vision>.

⁵ Ex. 5, Indiana State University, *About Indiana State University*, <https://indianastate.edu/about>.

university experience, from application to graduation.⁶ ISU's nine trustees are also all appointed by the governor. Ind. Code § 21-21-3-2. Two members are nominated by the alumni council of the University, *id.*, and a search and screen committee provides ten student names to the governor (who must choose one) for the student seat, § 21-21-3-4. This article also legalized actions of the board of trustees taken before 1989 based on changes in Indiana law. § 21-21-3-0.3. The treasurer of the board is appointed by the board and must post a bond before commencing his or her duties. §§ 21-21-4-3, 21-21-4-4. Further, the board is required to meet every year in July at ISU in Terre Haute. § 21-21-5-1.

The **University of Southern Indiana (USI)**, one of the newer universities in Indiana, was founded in 1965 and currently enrolls about 9,500 students.⁷ While USI offers many majors, its student body regularly focuses on health and science. Some of its most popular majors are Registered Nursing, Health Care Administration, Psychology, Nursing Administration, and Clinical Nursing.⁸ USI offers a dental clinic on its Evansville campus that provides “experiential learning” while also offering healthcare services to the community.⁹ In 2016, “engineering students received a NASA grant to build and deploy the Undergraduate Nano

⁶ Ex. 6, Indiana State University, *First Generation Students*, <https://indianastate.edu/first-gen>.

⁷ Ex. 7, University of Southern Indiana, *About*, <https://www.usi.edu/about>.

⁸ Ex. 8, U.S. News & World Report, *University of Southern Indiana Academics*, <https://www.usnews.com/best-colleges/university-of-southern-indiana-1808/academics>.

⁹ Ex. 9, University of Southern Indiana, *USI Dental Clinic*, <https://www.usi.edu/health/usi-dental-clinic>.

Ionosphere Temperature Explorer (UNITE) satellite,” which “remained in space for 1,047 days.”¹⁰ Indiana Code article 21-24, which governs USI, includes specific subsections regarding the transfer of property and assets from ISU’s Regional Campus Evansville to the board of USI, as well as the USI board’s responsibility to assume obligations and liabilities for the Evansville campus. Ind. Code §§ 21-24-2.1-2, 21-24-2.1-4, 21-24-2.1-5. This transfer created USI. § 21-24-2-1. Its nine-member Board of Trustees is fully appointed by the governor. § 21-24-3-5. For the required alumni and student members, the alumni council and a search and screen committee provide lists of names to the governor, who is generally required to choose members from those lists. §§ 21-24-3-6, 21-24-3-7.

Not all of Indiana’s universities operate on a single campus. **Purdue University**, for example, is based in West Lafayette, Indiana, with satellite campuses both online and in Indianapolis, Fort Wayne, and Hammond.¹¹ Purdue University is the only public university in Indiana founded with a federal land grant.¹² With a focus in STEM, Purdue’s College of Engineering ranked eighth nationally in the U.S. News & World Report survey for “Best Engineering Schools 2025.”¹³ At the same time, Purdue offers higher education at a great value by, among

¹⁰ Ex. 10, University of Southern Indiana, *40 Cool Things We Love about USI*, <https://www.usi.edu/illuminate/fall-2024/40-cool-things-we-love-about-usi>.

¹¹ Ex. 11, Purdue University, *The Purdue System*, <https://www.purdue.edu/home/about/systemwide-campus>.

¹² Ex. 12, Purdue University, *About Purdue*, <https://www.purdue.edu/caps/training/doctoral-internship/about-purdue.php>.

¹³ Ex. 13, Purdue University, *Purdue’s Undergraduates*, <https://engineering.purdue.edu/Engr/AboutUs/FactsFigures/Rankings/undergraduate>.

other things, freezing tuition and most fees at 2012–2013 levels.¹⁴ Indiana Code article 21-23, which governs Purdue University, recognizes that Purdue is the only Indiana state school created by a federal land grant from Congress. Ind. Code § 21-23-2-1. Because those land grants were intended to create agricultural schools, *id.*, at least two members of the board of trustees must be “involved in agricultural pursuits.” § 21-23-3-5. Purdue’s board of trustees may meet at any date, time, or place that the board agrees on. § 21-23-5-1. The governor “shall appoint ten (10) trustees for Purdue University.” §§ 21-23-3-1, 21-23-3-2. Three members of the board are selected by the alumni association, “in the manner that the Purdue alumni association prescribes.” § 21-23-3-3. Currently, under the Purdue Alumni Association bylaws (not the Indiana Code), the association’s board of directors “serves as the nominating committee for alumni representatives” to the board of trustees, although “other members of the alumni association may also run for the position of alumni trustee as defined in the bylaws.”¹⁵

Vincennes University, Indiana’s oldest public university, was founded in 1801.¹⁶ With two campuses and three additional locations, Vincennes University enrolls nearly 20,000 students.¹⁷ Vincennes University has the largest collaborative

¹⁴ Ex. 14, Purdue University, *Frozen Tuition*, <https://www.purdue.edu/purduemoves/affordability-and-accessibility/frozen-tuition/>.

¹⁵ Ex. 15, Purdue Alumni Association, *Board of Directors and Trustee Elections*, <https://www.purduealumni.org/about/nominations-elections/2025-elections/>.

¹⁶ Ex. 16, Vincennes University, *About VU*, <https://www.vinu.edu/about-vu/index.html>.

¹⁷ *Id.*

robotics training program in the United States.¹⁸ It nationally ranks among the best in the nation and most affordable by Forbes Advisor for VU’s RN to BSN online program.¹⁹ Vincennes also has the number one homeland security bachelor’s program in the nation.²⁰ Vincennes University has a nine-member board of trustees. Ind. Code § 21-25-3-2. The governor must choose at least one alumnus as a member, *id.*, and a search and screen committee aids in choosing a student member, § 21-25-3-3. Vincennes’ board also has four ex officio members—the president of the university and the superintendents of Vincennes Community School Corporation, South Knox School Corporation, and North Knox School Corporation. § 21-25-3-7. The state examiner may inspect the “accounts and financial affairs” of the University. § 21-25-4-3.

Of course, not all state institutions of higher education in Indiana offer 4-year degrees. **Ivy Tech Community College** seeks to serve a different student population. It focuses on offering associate’s degrees and transfer initiatives that help students with an “affordable start” to their bachelor’s degree.²¹ Ivy Tech offers classes at 45 different Indiana locations and online,²² and offers over 70 free credentials for

¹⁸ Ex. 17, Vincennes University, *VU Among Partners in Collaborative Robot Workshops for Rural and Underserved Communities*, <https://www.vinu.edu/news/vu-cobot-workshops-rural-underserved-communities.html>.

¹⁹ Ex. 18, Vincennes University, *Vincennes University*, <https://www.vinu.edu>.

²⁰ *Id.*

²¹ Ex. 19, Ivy Tech Community College, *Special Programs for Students*, <https://www.ivytech.edu/programs/special-programs-for-students/>.

²² Ex. 20, Ivy Tech Community College, *About Ivy Tech*, <https://www.ivytech.edu/about-ivy-tech/>.

high-wage, high-demand jobs through the Next Level Jobs program.²³ Eighty percent of its students graduate with no debt due to Ivy Tech’s competitive pricing.²⁴ As for other state universities, the governor appoints the members of Ivy Tech’s board of trustees. Ind. Code § 21-22-3-1. The board must have membership equal to the number of regions it establishes plus one additional at-large member, but may not exceed fifteen total members. § 21-22-3-3. Each region shall be represented by one trustee, and trustee members must have knowledge or experience in manufacturing, commerce, labor, agriculture, state and regional economic development needs, and Indiana’s educational delivery system. *Id.* No student sits on this board of trustees. Currently, there are fifteen members of the Ivy Tech Board of Trustees.²⁵ Ivy Tech’s treasurer has specifically enumerated duties, including keeping accounts of money received by Ivy Tech, collecting tuition, preparing annual financial statements, and investing funds. § 21-22-4-4.

II. HEA 1001 and Indiana University

Indiana University’s mission is to “provide broad access to undergraduate and graduate education for students throughout Indiana, the United States, and the world, as well as outstanding academic and cultural programs and student services.”²⁶ Established in 1825,²⁷ Indiana University has two core campuses in

²³ Ex. 21, Ivy Tech Community College, *Next Level Jobs*, <https://www.ivytech.edu/programs/special-programs-for-students/next-level-jobs/>.

²⁴ Ex. 20, *About Ivy Tech*.

²⁵ Ex. 22, Ivy Tech Community College, *State Board of Trustees*, <https://www.ivytech.edu/about-ivy-tech/college-operations/state-board-of-trustees/>.

²⁶ Ex. 23, Indiana University, *About*, <https://www.iu.edu/about/index.html>.

²⁷ Ex. 24, Indiana University, *IU at a Glance*, <https://www.iu.edu/about/glance.html>.

Bloomington and Indianapolis, and five regional campuses in Richmond, Kokomo, Gary, South Bend, and New Albany.²⁸ Today, there are more than 68,000 “degree-seeking undergraduate students” and more than 20,000 “students in graduate and professional programs.”²⁹ Indiana University is home to the Kinsey Institute, although no state appropriations are used to pay for its administration, operation, or programs. Ind. Code § 21-20-6-2.

Before May 2025, Indiana University was the only state institution where members of the alumni association were required, by law, to directly elect members of the board of trustees. Ind. Code §§ 21-20-3-4 to 21-20-3-10 (repealed eff. May 6, 2025). The governor appointed six members of the board, § 21-20-3-2, and the alumni elected three, § 21-20-3-4. Indiana law required the Indiana University librarian to conduct the alumni trustees’ election. § 21-20-3-9. As the Ruth Lilly Dean of University Libraries, Diane Dallis-Comentale previously supervised that process. Ex. 26, Dallis-Comentale Decl. ¶¶ 2–3.

The election process had several steps. Voting took place during the month of June, and Indiana University degree holders could either vote online or via paper ballot. *Id.* ¶ 6. Before the election, any potential candidates were required to collect 200 signatures from alumni to be placed on the ballot by April 1 of the election year. *Id.* ¶ 8. After the University verified those 200 signatures, candidates could begin campaigning through outreach, social media, and websites. *Id.* ¶ 9. While the library

²⁸ Ex. 25, Indiana University, *IU Locations*, <https://www.iu.edu/about/locations.html>.

²⁹ Ex. 24, *IU at a Glance*.

itself did not send out any communications to voters regarding the election, the Indiana University Alumni Association would communicate to voters regarding election deadlines. *Id.* ¶ 7. Alumni participation in the elections has varied greatly, but in the last ten years it has not exceeded 3% of eligible alumni voters. *Id.* ¶¶ 10–11. In 2024, there were 790,333 living alumni, but in 2023, for example, only 10,435 alumni (less than 1.5% of eligible voters) participated in the election. *Id.* Even in years with high turnout, an alumni trustee might win a seat on the Board with the votes of fewer than half a percent of the alumni population. For example, in 2024, nearly 20,000 alumni voted. *Id.* ¶ 11. But the winner (of a field of 12 candidates) only received 3,830 votes.³⁰

Prior to the enactment of HEA 1001, the Dean of Libraries had begun the process for the 2025 Indiana University alumni trustee election. Dallis-Comentale Decl. ¶ 17. Six candidates—including Justin Vasel, the plaintiff in this case—had received the requisite 200 signatures. *Id.* ¶¶ 17–18. The library had not yet finalized or printed any of the paper ballots or mailed any of them to eligible voters. *Id.* ¶ 19. Further, employees at the Indiana University Contact Center had not yet been trained to handle election questions that arise during the month of June, nor had the technical requirements for the voting system been completed. *Id.*

On May 6, 2025, the Governor signed HEA 1001 into law, which, among other things, repealed Indiana Code §§ 21-20-3-4 to 21-20-3-11, the provisions governing

³⁰ Ex. 27, Indiana University, *Trustee Election Results*, <https://alumni.iu.edu/news/trustee-election-results-2024.html>.

Indiana University alumni's direct elections to the board of trustees. Now, no Indiana law requires that any members of the Indiana University board of trustees be directly elected by the alumni. HEA 1001 also added a new requirement that, instead of three elected alumni seats, the governor must instead appoint five alumni to the Board of Trustees. Ind. Code § 21-20-3-2. After HEA 1001 became law, the Dean cancelled the upcoming election. Ex. 28, E-mail from Diane Dallis-Comentale, Ruth Lilly Dean of University Libraries, to Justin Vasel (May 7, 2025, 8:52 AM), Vasel_Pltf_00057. While Vasel continued to campaign after the election was cancelled, Ex. 29, Vasel Dep. 21:13–22, he does not know whether other candidates have done the same, *id.* at 22:3–7.

On June 2, 2025, the Governor announced that he had appointed four members of the Indiana University Board of Trustees pursuant to HEA 1001.³¹ These appointments are effective immediately and will continue until each board member's term expires.³²

III. This Case

On May 7, 2025, the day after the Governor signed HEA 1001 into law, Justin Vasel filed this lawsuit against the Governor. Compl. 1. He alleged that Sections 253 to 266 of HEA 1001 violate Article 4, Section 23 of the Indiana Constitution, which

³¹ Ex. 30, Press Release, Gov. Mike Braun, Governor Braun Makes Appointments to IU Board of Trustees, Various Boards and Commissions (June 2, 2025), https://events.in.gov/event/release-governor-braun-makes-appointments-to-iu-board-of-trustees-various-boards-and-commissions?utm_campaign=widget&utm_medium=widget&utm_source=State+of+Indiana

³² *Id.*

addresses special and local legislation. *Id.* at 7–8 (¶ 33). On the same day, Vasel moved for a preliminary injunction “enjoining Sections 253 through 266 of HEA 1001, Indiana Code §§ 21-20-3-2 through 21-20-2-13 (eff. May 6, 2025), so that the election scheduled to begin on June 1, 2025 for a member of the Indiana University Board of Trustees may take place and so the winner of the election may begin their term on July 1, 2025.” Mot. for Prelim. Inj. 2; *see* Mem. in Supp. of Mot. for Prelim. Inj. (“Mem.”) 15.

ARGUMENT

Vasel’s motion for a preliminary injunction should be denied. A preliminary injunction “is an extraordinary equitable remedy that should be granted with caution.” *Willow Haven on 106th St., LLC v. Nagireddy*, 252 N.E.3d 418, 422 (Ind. 2025). And courts are even more reluctant to grant a mandatory injunction that compels action. *See City of Gary v. Majestic Star Casino*, 905 N.E.2d 1076, 1082 (Ind. Ct. App. 2009), *trans. denied*. To obtain a preliminary injunction, a plaintiff must show (1) he “ha[s] a reasonable likelihood of success at trial”; (2) he “will suffer irreparable harm without an injunction” because “[his] remedies at law are inadequate”; (3) the harm to the plaintiff without injunction outweighs the injunction’s harm to the defendant; and (4) “issuing the injunction will not disserve the public interest.” *Willow Haven*, 252 N.E.3d at 422.

Vasel has not satisfied the four requirements for a preliminary injunction here. As a threshold matter, this Court lacks jurisdiction to grant the requested injunction because Vasel lacks standing. Vasel’s claimed injury is that he cannot run or vote in

an alumni election, but the Governor has never conducted alumni elections and is not the cause of his purported injury. On the merits, Vasel has not shown that he is likely to succeed on his special-legislation claim. The law is not special because it applies generally to all Indiana University board members and the board's operations throughout the State. Even if it were a special law, HEA 1001 is justified. The law could not be "made [more] general" because the governing body of each public university is unique to that institution. Even Vasel admits that there is no other public university whose alumni could elect board members directly.

Even if Vasel could succeed on the merits, a preliminary injunction would not prevent his alleged injury. An injunction against the Governor would not reinstate the election he wishes to vote and run in. And whatever the result here, the balance of harms and public interest cut against a preliminary injunction now. Any election could not be completed under the previously applicable laws, nor could it proceed fairly, given that the election was cancelled so would have to proceed on a different timeline. An injunction requiring an election would create confusion.

I. This Court Lacks Jurisdiction To Grant the Injunction Requested

To invoke this Court's authority, Vasel must have standing. *See Solarize Ind., Inc. v. S. Ind. Gas & Elec. Co.*, 182 N.E.3d 212, 215 (Ind. 2022). "Standing is a threshold issue" in every case; "if it is lacking, the court cannot consider the merits of the claim." *Id.* To have standing to seek prospective relief like a preliminary injunction, a plaintiff must demonstrate he is "in immediate danger of suffering a direct injury as a result of the complained-of conduct." *Red Lobster Rests. LLC v.*

Fricke, 234 N.E.3d 159, 167 (Ind. 2024). Or put slightly differently, the alleged injury must be “personal, direct, and . . . imminent.” *Morales v. Rust*, 228 N.E.3d 1025, 1033 (Ind. 2024). “The direct injury required for standing is ‘an injury resulting directly from a particular cause, without any intervening causes.’” *Franciscan All., Inc. v. City of Hammond*, 212 N.E.3d 1270, 1274 (Ind. Ct. App. 2023) (quoting *Solarize Ind., Inc.*, 182 N.E.3d at 220)).

Vasel’s asserted injury—“depriv[ation] of any opportunity to win the election to be a trustee” and “the loss of the ability to vote in an election,” Mem. at 13—is not traceable to any actions that the Governor can take under HEA 1001. HEA 1001 authorizes the Governor to “appoint[]” and to “remove and replace” members of the Indiana University board of trustees. Ind. Code §§ 21-20-3-2, 21-20-3-2.5. But it does not direct the Governor to cancel alumni elections. The person who canceled the election slated for June 2025 was the Dean of Libraries, not the Governor. Ex. 28. So the injury that Vasel asserts does not “result[] directly” from the complained-of conduct of the only defendant in this case. *Franciscan All., Inc.*, 212 N.E.3d at 1274.

That the Governor did not cause Vasel’s asserted injury becomes especially apparent considering his request for a preliminary injunction allowing the “election scheduled to begin on June 1, 2025” to “take place.” Mot. for Prelim. Inj. 2. Even before HEA 1001’s enactment, the Governor had no role in the election process. Ind. Code §§ 21-20-3-4 to 21-20-3-11 (2024). State law directed the “university librarian”—not the Governor—to “conduct the elections to select the three (3) alumni members of the board of trustees.” § 21-20-3-9 (2024). Suing the Governor over HEA 1001 cannot

afford Vasel the opportunity to run as a candidate or vote for himself because the Governor has never had a role in the election process.

II. Vasel Cannot Show a Likelihood of Success on the Merits Because HEA 1001 Is Not Unconstitutional Special Legislation

Even if Vasel had standing to bring this lawsuit, he is unlikely to succeed on the merits of his claim that HEA 1001 violates Article 4, Section 23 of the Indiana Constitution. HEA 1001, like all state laws, stands “clothed with the presumption of constitutionality until clearly overcome by a contrary showing.” *Dvorak v. City of Bloomington*, 796 N.E.2d 236, 238 (Ind. 2003) (quoting *Boehm v. Town of St. John*, 675 N.E.2d 318, 321 (Ind. 1996)). Even in special-legislation challenges, courts are “bound to throw the benefit of the doubt in favor of the constitutionality of the law.” *State v. Buncich*, 51 N.E.3d 136, 143 (Ind. 2016) (quotation omitted). Vasel has not overcome that presumption.

A. HEA 1001 is not special legislation

Article 4, Section 23 requires that in all cases “where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.” Ind. Const. art. IV, § 23. This provision effectively “prohibits special laws which grant privileges to a few people that are not available to others.” *Alpha Psi Chapter of Pi Kappa Phi Fraternity, Inc. v. Auditor of Monroe Cnty.*, 849 N.E.2d 1131, 1133 (Ind. 2006). To determine whether a law comports with Article 4, Section 23, a court must start by asking “whether a law is special or general.” *Id.* at 1136. “[A] statute is ‘general’ if it applies ‘to all persons or places of a specified class throughout the state.’” *Id.* (quoting *Mun. City of South Bend v. Kimsey*, 781 N.E.2d 683, 689 (Ind.

2003)). But it is special when it “singles out a group smaller than the previously specified class to receive unique privileges.” *Id.* at 1137.

HEA 1001 is a general law that applies to “all persons . . . of a specified class throughout the state.” *Id.* at 1136. The specified class to which the law applies is Indiana University’s governing body, and as relevant here, it requires all nine members of the board of trustees to be appointed by the Governor. Ind. Code §§ 21-20-3-2. HEA 1001 does not provide for a different selection process for different members of the board, and it does not operate differently in different parts of the State. Moreover, even if one considers the specified class to be board members previously directedly elected by alumni, the law is still general. HEA 1001 does not single out a “group smaller” for “unique privileges.” *Alpha Psi*, 849 N.E.2d at 1137. HEA 1001 provides that all seats held by alumni are filled by the Governor. *See* §§ 21-20-3-2, 21-20-3-2.5. And the same analysis holds again if one defines the specified class as the alumni of Indiana University who were able to elect board members. HEA 1001 does not single out “group smaller” for “unique” treatment, say, by permitting only some alumni to vote. It applies uniformly.

Vasel seeks to redefine the “specified class” as all “public universities” or all “alumni” of “public universities.” Mem. 10. But those groups are not “the smallest relevant class.” *Alpha Psi*, 849 N.E.2d at 1136. Just as riverboat casinos are not part of the same class as every type of gambling institution, *Ind. Gaming Comm’n v. Moseley*, 643 N.E.2d 296, 301 (Ind. 1994), and “fraternities and sororities” are not part of the same class as other student organizations, *Alpha Psi*, 849 N.E.2d at 1136,

neither are all governing bodies of public universities part of the same specified class. Each was formed separately with a distinct governing body. *See* Ind. Code 21-19 (Ball State University); 21-20 (Indiana University); 21-21 (Indiana State University); 21-22 (Ivy Tech Community College); 21-23 (Purdue University); 21-24 (University of Southern Indiana); 21-25 (Vincennes University). They are not part of the same class.

That makes sense. The reason that the law regularly treats the board of “Indiana University” as the specified class is that the regulated actions occur only at Indiana University. *See, e.g.*, Ind. Code § 21-31-2-4 (governing how the Indiana University board of trustees may possess real and personal property); § 21-20-4-1 (governing officers of board of trustees); § 16-23.5-4-3 (governing hospitals that are a part of Indiana University); § 21-47-2-1 (requiring Indiana University to choose the state geologist and for her to be regarded as a member of the faculty of Indiana University). The law cannot be made more “general.” Ind. Const. art. IV, § 23. Yet each law directed at Indiana University’s board of trustees is a “general law . . . of uniform operation throughout the State” because it applies to all the actions of that board and its selection across the State. Treating the “specified class” as all public university boards would mean that all boards must be lumped together, despite longstanding differences in their creation, composition, authority, and obligations.

Even Vasel concedes that Indiana University’s board of trustees is “unique” in at least one respect. Mem. 11. He acknowledges that, prior to HEA 1001, Indiana University was the only public university in Indiana with board seats filled through “direct elections by alumni.” *Id.* Vasel attempts to explain away the unique treatment

by saying that “these direct elections have apparently been allowed since 1891.” *Id.* But that pedigree only reinforces that there is no other “specified class” on which a law addressing the direct alumni election process at Indiana University, or the selection of board members who filled those seats, could operate. The legislature has already “defined by statute” the “smallest relevant class.” *Alpha Psi*, 849 N.E.2d at 1136. Adopting his view of what constitutes special legislation would unduly “limit the General Assembly’s ability to draw distinctions between broad classes of regulated persons.” *City of Fishers v. Netflix, Inc.*, No. 24A-PL-1657, slip op. at 24 (Ind. Ct. App. May 30, 2025).

B. Even if HEA 1001 were a special law, it is constitutional

Even if a law is “special”—meaning that it applies to a subset of the specified class—the law still can be constitutional. A special law “complies with Article 4, Section 23 when an affected class’s unique characteristics justify the differential treatment the law provides to that class.” *City of Hammond v. Herman & Kittle Props., Inc.*, 119 N.E.3d 70, 84 (Ind. 2019), *reh’g denied*. That is a “low bar.” *Id.* The “challenging party must negate ‘every conceivable basis which might have supported the classification.’” *Kimsey*, 781 N.E.2d at 694 (quoting *Am. Legion Post #113 v. State*, 656 N.E.2d 1190, 1192 (Ind. 1995)). If there is a “link between the class’s unique characteristics and the legislative fix,” the law must stand. *City of Hammond*, 119 N.E.3d at 84; *see Buncich*, 51 N.E.3d at 142 (collecting examples of links).

HEA 1001 clears the “low bar” for permissible special legislation. To create each public university in Indiana, the General Assembly enacted legislation specific

to the institution to establish it, set up its governing body, and to specify its leadership. *See* Ind. Code 21-19 (Ball State University); 21-20 (Indiana University); 21-21 (Indiana State University); 21-22 (Ivy Tech Community College); 21-23 (Purdue University); 21-24 (University of Southern Indiana); 21-25 (Vincennes University). Indiana law has always arranged the boards of trustees for each state institution of higher learning differently because each university was established separately as a public institution at different times and under different circumstances. No two public universities in Indiana were formed the same way, have the exact same characteristics, or have the same governing structure.

Different requirements for different boards reflect that each university has unique circumstances, population, mission, goals, challenges, and alumni community. For example, state law addresses Vincennes University's mission of helping local high school students attend university by including the superintendents of local public high schools on the Board of Trustees. Ind. Code § 21-25-3-7. Similarly, state law provides for board members of Ivy Tech Community College, which oversees 45 campuses around the State, to have up to 15 regional members. § 21-22-3-3. It would be illogical (if not impossible) to impose that same regional requirement on a school like Indiana State University, which only has one campus.

Before HEA 1001, Indiana law permitted the alumni of just one state university, Indiana University, to elect members of their university's board of trustees directly. Mem. 11. Now, the law has been amended so that alumni of Indiana University are no longer granted a privilege that is "not available" to the alumni of

every other state institution of higher education. *See Alpha Psi*, 849 N.E.2d at 1133. Vasel acknowledges as much, agreeing that “prior to the change in the law Indiana University *was* unique in that it provided a process for direct elections by alumni as opposed to selection through designation by alumni associations as is statutorily required in the other universities.” Mem. 11. But Vasel offers no explanation for why this original election-based statutory scheme was justified in the first place. If he is correct that Indiana University’s board is in no way unique, then there is no “unique characteristic[]” in its makeup or governance that would “justify” allowing alumni to elect board members directly. *Alpha Psi*, 849 N.E.2d at 1138.

But of course Indiana University—which is “recognized as the university of the state,” Ind. Code § 21-20-2-1—is unique with respect to its establishment and governing body. Indiana University was formed as a separate public educational institution with the “board of trustees” as its “body politic.” § 21-20-2-2. Necessarily, then, requirements relating to this body politic cannot be made generally applicable to the separately established state institutions. As a separately formed and established body politic tasked with running a particular university, Indiana University’s board of trustees has “relevant traits” that “are distinctive such that the law’s application elsewhere has no effect.” *Kimsey*, 781 N.E.2d at 692.³³

³³ None of this is to say that the constitutionality of HEA 1001 rises or falls with Vasel’s argument regarding the Governor’s observation regarding Indiana University’s curriculum. *Contra* Mem. 12 n.4. In evaluating a law’s constitutionality, a court must examine “every conceivable basis which might have supported the classification.” *Kimsey*, 781 N.E.2d at 694 (quoting *Am. Legion Post #113*, 656 N.E.2d at 1192). But the Governor’s remarks do reflect one larger truth—no public university in Indiana is identical to every other institution of higher education. Indiana

The structure of HEA 1001 reinforces it is not unconstitutional special legislation. Indiana’s Constitution only bars special laws when “a general law can be made applicable.” *Alpha Psi*, 849 N.E.2d at 1137. But HEA 1001 does not “single[] out a group smaller than the previously specified class to receive unique privileges.” *Id.* Rather, it amends an existing law that applies to Indiana University’s board of trustees and Indiana University’s board of trustees alone. The challenged sections of

University, for example, is the largest university in Indiana, with over 14,000 more students than the next largest school, Purdue, and over twice as many faculty members. Ex. 31, Indianapolis Business Journal, *Largest Indiana Colleges and Universities (2024)*, <https://www.ibj.com/data/?d/120/largest-indiana-colleges-and-universities>. And it is not a land-grant institution like Purdue. Rather, Indiana University focuses on liberal arts, with its College of Arts and Sciences at its flagship campus covering over 80 majors. Ex. 32, Indiana University Bloomington, *Schools*, <https://bloomington.iu.edu/academics/schools.html>. It created the world’s first school of philanthropy and the nation’s first school of informatics. Ex. 23, *About IU*.

The school is not a stranger to controversy either. In 1947, Alfred Kinsey founded the “Institute for Sex Research” at Indiana University, Ex. 33, Kinsey Institute, *Learn Our History*, <https://kinseyinstitute.org/about/history/index.php>, which receives no state funding, Ind. Code § 21-20-6-2. Indiana University was ranked 243 out of 251 schools in FIRE’s 2025 College Free Speech Rankings. Ex. 34, FIRE, *Indiana University – Bloomington*, <https://www.thefire.org/colleges/indiana-university-bloomington/free-speech-rankings>. In March of 2025, Indiana University received a letter from the U.S. Department of Education’s Office of Civil Rights “warning them of potential enforcement actions if they do not fulfill their obligations under Title VI of the Civil Rights Act to protect Jewish students on campus, including uninterrupted access to campus facilities and educational opportunities.” Ex. 35, Press Release, U.S. Dep’t of Educ., U.S. Department of Education’s Office for Civil Rights Sends Letters to 60 Universities Under Investigation for Antisemitic Discrimination and Harassment (Mar. 10, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-educations-office-civil-rights-sends-letters-60-universities-under-investigation-antisemitic-discrimination-and-harassment>.

Indiana University, like every university in Indiana, has unique areas of emphasis, strengths, weaknesses, cultures, and challenges that require different legislative responses. The legislature is entitled to determine that effective governance for Indiana University may require empowering the gpublicovernor to select all trustees.

HEA 1001 cannot be made generally applicable to every state university because they strike out sections of law that previously governed only the board of trustees at one school—Indiana University. For example, Vasel has challenged HEA 1001 Section 256. That provision repeals Indiana Code § 21-20-3-4, which provided that “[t]hree (3) members of the board of trustees shall be elected by the alumni of Indiana University under this chapter.” The General Assembly could not make a law *striking* Indiana Code § 21-30-3-4 more generally applicable because that statutory provision and the direct election process it created did not exist elsewhere.

The challenged provisions of HEA 1001 are much like the law that the Supreme Court upheld in *State v. Hoovler*, 668 N.E.2d 1229 (Ind. 1996). In that case, the challenged law provided additional funding to Tippecanoe County and only Tippecanoe County. *Id.* at 1235. But the law was permissible special legislation because only Tippecanoe County had a Superfund site requiring additional funding. *Id.*; see *Williams v. State*, 724 N.E.2d 1070, 1086 (Ind. 2000) (similar funding statute for Lake County magistrates). That meant no general law could apply to all counties. So too here. Only Indiana University had a statutory process for electing an alumni member of a board of trustees, so any law addressing that process must necessarily apply only to Indiana University.

Alpha Psi does not support Vasel but rather shows how HEA 1001 is a proper exercise of the General Assembly’s authority. *Contra* Mem. 10. In that case, before the challenged law was passed, Indiana taxed all land-owning fraternities and sororities the same way. 849 N.E.2d at 1137. But then the challenged law attempted

to carve out three property-owning Indiana University fraternities for special tax treatment because they had missed a generally applicable deadline. *Id.* That rendered the law special legislation because it “single[d] out a group smaller than the previously specified class” and there was no reason not to “giv[e] the same retroactive application to all property-owning” sororities and fraternities. *Id.* But Indiana law has never specified a class of all “public universities’ boards of trustees.” *See* Ind. Code 21-19 (Ball State University); 21-20 (Indiana University); 21-21 (Indiana State University); 21-22 (Ivy Tech Community College); 21-23 (Purdue University); 21-24 (University of Southern Indiana); 21-25 (Vincennes University). And the challenged provisions of HEA 1001 do not single out a smaller group of Indiana University alumni. They treat all Indiana University alumni in the same way.

Nor does *City of Hammond* change the analysis here. *Contra* Mem. 10–11. In that case, the challenged law authorized the “cities of Bloomington and West Lafayette” to “charge local landlords” greater fees to register rental properties than landlords in other cities. *City of Hammond*, 119 N.E.3d at 73. The Supreme Court rejected the argument that the rental populations in Bloomington and West Lafayette were unique because those cities contained more student renters, explaining that other cities also have many student renters. *See id.* at 85–86. Again, the circumstances here are different. Before HEA 1001, no other alumni of public universities could elect members of their boards of trustees directly. So there was no other alumni population for which HEA 1001 could have changed the direct election

process. Because “the general law” cannot “be made applicable,” HEA 1001 is unlike the law challenged in *City of Hammond*. *Id.* at 87.

The regularly low turnout in Indiana University alumni elections sets them apart from other selection methods as well. Indiana University has around 790,000 living graduates eligible to vote in each trustee election. Dallis-Comentale Decl. ¶ 10. For the past 10 elections, turnout has ranged from 6,425 (in 2016) to 20,380 (in 2021) votes. *Id.* ¶ 11. So, in some elections, less than one percent of the eligible alumni cast a vote, and even in the election with the highest turnout, fewer than three percent of alumni voted for a candidate for the board of trustees. Given the lack of alumni participation in electing a member of the board of trustees, it makes sense to excise this unique treatment for Indiana University alumni and allow the board of Indiana University to be chosen more like every other public university in the State.

III. A Preliminary Injunction Would Not Prevent the Asserted Irreparable Harm

Even if Vasel had some likelihood of success on the merits, he cannot satisfy the other requirements for a preliminary injunction. The party seeking a preliminary injunction must “demonstrate that certain and irreparable injury would result if the injunction were denied.” *Warriner Invs., LLC v. Dynasty Homeowners Ass’n, Inc.*, 189 N.E.3d 1119, 1126 (Ind. Ct. App. 2022). That requirement reflects that a preliminary injunction’s function “is to prevent harm to the moving party that could not be corrected by a final judgment.” *Crossmann Cmities., Inc. v. Dean*, 767 N.E.2d 1035, 1042 (Ind. Ct. App. 2002). But Vasel cannot demonstrate an injunction against the Governor would prevent his alleged injury—the inability to stand for election or vote.

Although Vasel seeks an injunction “enjoining Sections 253 through 266 of HEA 1001,” Mot. for Prelim. Inj. 2, injunctions are party-specific remedies. “[U]nder traditional equitable principles, no court may lawfully enjoin the world at large or purport to enjoin challenged laws themselves.” *Whole Woman’s Health v. Jackson*, 595 U.S. 30, 44 (2021) (internal quotation marks and citations omitted). Indiana Trial Rule 65(D) reflects those constraints. It specifies that injunctions are “binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them.” Ind. Trial R. 65(D). And the only party that Vasel has sued is the Governor. Thus, any lawful preliminary injunction Court could at most bind the Governor.

As explained above, however, an injunction against the Governor would not remedy Vasel’s asserted injury. The Governor was not responsible for conducting elections before HEA 1001’s enactment. The “university librarian” was. Ind. Code § 21-20-3-9 (2024); *see* Dallis-Comentale Decl. ¶¶ 3, 12. And the person who canceled the alumni election slated for June 2025 was the Dean of Libraries, not the Governor. Ex. 28. Thus, an injunction against the Governor would not restore to Vasel the “opportunity to win the election” or the “ability to vote in an election.” Mem. 13. The Indiana University librarian would be under no obligation to hold an election if a preliminary injunction issued against the Governor.

Nor would Indiana University be able to hold an election at this point. The Governor has now removed the three alumni-elected members of the Indiana University board of trustees and replaced them with new members who serve for

specified terms. Ex. 30; *see also* Ind. Code §§ 21-20-3-2.5(b); 21-20-3-12. There are now no seats on the board of trustees that will be empty on July 1, 2025 that could be filled by election. Vasel has not requested for any members of the Indiana University board of trustees to be removed—nor could he. *See Walton v. House of Representatives of Okla.*, 265 U.S. 487, 490 (1924) (“A court of equity has no jurisdiction over the appointment and removal of public officers”); *White v. Berry*, 171 U.S. 366, 377 (1898) (“[A] court of equity will not, by injunction, restrain an executive officer from making a wrongful removal of a subordinate appointee, nor restrain the appointment of another.”).

Vasel argues that he should be excused from showing how a preliminary injunction will prevent irreparable harm and from meeting any other requirement for a preliminary injunction. Mem. 12–13. But the Supreme Court has squarely held that, if a “movant fails to prove any of the[four] requirements” for a preliminary injunction, the injunction must be denied. *Apple Glen Crossing, LLC v. Trademark Retail, Inc.*, 784 N.E.2d 484, 487–88 (Ind. 2003). The Supreme Court has only endorsed the principle that a legal violation inflicts per se harm where *the State* is seeking an injunction against conduct that is clearly “against the public interest.” *Ind. Fam. & Soc. Servs. Admin. v. Walgreen Co.*, 769 N.E.2d 158, 162 & n.3 (Ind. 2002). *Private* litigants cannot invoke the rule unless the alleged violation of law is “clear and uncontested.” *Individual Members of the Med. Licensing Bd. of Ind. v. Anonymous Plaintiff 1*, 233 N.E.3d 416, 456 (Ind. Ct. App. 2024), *trans. denied*. The State “vigorously contest[s]” that any violation of law has occurred. *Id.* at 457.

IV. The Balance of Harms and Public Interest Cut Against an Injunction

The balance of harms and public interest weigh decisively against a preliminary injunction as well. Any injunction against the Governor would “clearly inflict[] irreparable harm” on the State. *Abbott v. Perez*, 585 U.S. 579, 602 n.17 (2018); *cf. Holcomb v. Bray*, 187 N.E.3d 1268, 1286 (Ind. 2022) (recognizing the governor suffers harm when prevented from carrying out his constitutional obligations). “[A]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.” *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers) (quoting *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977) (Rehnquist, J., in chambers)). And the public interest likewise suffers injury when a court enjoins the operation of laws enacted by the people’s representatives. Generally, the State’s interest and public’s interest “merge.” *Nken v. Holder*, 556 U.S. 418, 435 (2009).

To the extent that an injunction would have the effect of requiring elections, the injunction would sow chaos and confusion. As explained above, there is no open seat on the Indiana University Board of Trustees that will be vacant on July 1, 2025 to be filled by election, and the person who previously had responsibility for conducting alumni elections is not a party to this litigation. What impact an injunction would have is at best uncertain. And even if the injunction resulted in elections being held, an injunction issued without the benefit of full briefing and argument on the merits would risk that a member of the board of trustees is improperly seated, which would affect not just the Governor but all members of the Indiana University community. An injunction would inflict costs on Indiana

University, too. It would have to create and print ballots, train employees for the election, and manage the logistics of holding an election, Dallis-Comentale Decl. ¶ 19—all of which would be to no end if litigation ends in the State’s favor.

An injunction forcing alumni board elections to occur on short notice would harm the State’s and public’s interest in election integrity. Whenever a position of public trust is elected, “states have a robust ‘interest in having orderly, fair, and honest elections.’” *Morales v. Rust*, 228 N.E.3d 1025, 1043 (Ind. 2024) (quoting *Storer v. Brown*, 415 U.S. 724, 732 (1974)). For elections to “be fair and honest,” “order, rather than chaos” must “accompany the [electoral] process.” *Storer*, 415 U.S. at 730. But a preliminary injunction attempting to force an election would only invite chaos.

Further, any alumni election for 2025 could not be held in accordance with the previously applicable laws. Before HEA 1001, Indiana law required the university librarian to mail a list of all candidates to each alumnus before June 1. Ind. Code § 21-20-3-7(b) (2024). That mailing has not occurred. Dallis-Comentale Decl. ¶ 19. Indiana law also required printed absentee ballots to be available to alumni, beginning on May 1. Ind. Code § 21-20-3-9 (2024). But the printed ballots needed to conduct an election are not available. Dallis-Comentale Decl. ¶ 19. The process of creating paper ballots “was put on hold” when HEA 1001 was enacted and the election was canceled. *Id.*

Nor could an election proceed fairly. Under the prior version of the statute, alumni would know who was running for election by at least June 1. Ind. Code § 21-20-3-7(b) (2024). That would provide candidates several weeks to campaign between

the publication of the list of candidates and the election itself, which was to occur “on the secular day immediately preceding July 1.” Ind. Code § 21-20-3-8 (2024). Alumni voters would have that entire time to consider candidates’ pitches, discuss candidates among themselves, and make their decision. But the time for starting the election will have already come and gone by the time any injunction can issue.

Forcing an election to occur on a different, or expedited, timeline would risk harm to candidates and voters alike. Although Vassel has not stopped campaigning, Ex. 29, Vassel Dep. 21:13–22, he does not know whether the other five candidates for the seat have done the same, *id.* at 22:3–7. And it appears that at least some have indeed stopped their campaigns. *See* Ex. 36, Mark Land for IU Trustee, Facebook (June 1, 2025), <https://www.facebook.com/people/Mark-Land-For-IU-Trustee/61574678104204/> (noting that Mark Land’s run for trustee was “short-lived”); Ex. 37, Mike Lancioni for IU Trustee, Facebook, <https://www.facebook.com/profile.php?id=61573511951510> (link to page no longer active). A snap election would not afford them “equitable treatment.” Dallis-Comentale Decl. ¶ 19. And it is anyone’s guess as to whether potential voters who have been informed that the election was canceled have been paying attention to what any candidates have been saying. Restarting the election on a moment’s notice would “deprive” other candidates “of a fair chance to win the election” because their campaigns have either been interrupted or completely ended. *Kim v. Hanlon*, 99 F.4th 140, 159 (3d Cir. 2024).

Even if an election could be held before the (previously applicable) statutory deadline, the type of haphazard, rushed campaign that would result would not be in

the public interest. As courts have long recognized, “[c]ourt orders affecting elections . . . can themselves result in voter confusion and consequent incentive to remain away from the polls.” *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006) (per curiam). That is precisely why the U.S. Supreme Court has “repeatedly emphasized” that courts “should ordinarily not alter the election rules on the eve of an election.” *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 589 U.S. 423, 424 (2020). Indiana University alumni trustee elections already suffered from marginal turnout, so last-minute changes to that process will only make the results less meaningful as any expression of alumni will. Granting Vasel a preliminary injunction here would not permit a fair, orderly contest. Rather, it would lead to the worst type of election—an unfair one.

V. Any Relief Should Be Limited

Although the appropriate course of action here would be to refrain from issuing a preliminary injunction, the scope of relief that Vasel requests raises additional concerns. Vasel seeks an injunction regarding all of Sections 253 through 266 of HEA 1001. But several of those provisions have nothing to do with the election of trustees by alumni and Vasel’s purported harms. For example, Section 264, Ind. Code § 21-20-3-11.5, now bars any non-student member of the board of trustees from being an employee of Indiana University, and Section 265 amends Indiana Code § 21-20-3-2 to limit each member of the board to three terms as a board member. Entering a preliminary injunction with respect to anything but the provisions governing alumni elections would offend the principle that an injunction “should be narrowly tailored,

so that its scope is never ‘more extensive than is reasonably necessary to protect the interests of the party in whose favor it is granted.’” *Boczar v. Meridian St. Found.*, 749 N.E.2d 87, 94 (Ind. Ct. App. 2001) (quoting *Day v. Ryan*, 560 N.E.2d 77, 83 (Ind. Ct. App. 1990)); *see* Ind. Code § 1-1-1-8(a)–(b).

CONCLUSION

This Court should deny Vasel’s motion for preliminary injunction.

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CERTIFICATE OF FILING AND SERVICE

I certify that on June 2, 2025, I electronically filed the foregoing document using the Indiana E-filing System (“IEFS”). I also certify that on June 2, 2025, the foregoing document was served upon the following persons using the IEFS:

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