This matter comes before the University Elections Commission (“the Commission”) on the complaints of Petitioner, MAKE MICHIGAN, represented by Rachel Jankowski and Annie Pidgeon, against Respondent, THE TEAM, represented by Sarah Brenner and Laurel Ruza. Petitioner alleges that Respondents violated § B(7)(e)(iii) of the Election Code (“Destruction of Campaign Materials Prohibited”) by pouring water over a Make Michigan chalking advertisement on the Diag on the night of March 18-19, and further obscured the remnants of the same by chalking directly over it with an advertisement for “The Team.”

§ B(7)(e)(iii) of the Election Code states:

iii. Destruction of Campaign Material Prohibited. No candidate may move, obscure, damage, destroy, deface, remove, or alter the campaign material of another candidate or party. A student removing campaign material from her private property is not in violation of this rule.

Respondents argue that Petitioner fails to meet their evidentiary burden to show beyond a reasonable doubt that the violation was committed by a candidate or volunteer of The Team.
I. Review of the Facts

It is clear from the evidence presented by Make Michigan that the person(s) who destroyed Make Michigan’s chalkings in the Diag on the evening of March 18 also made markings advertising The Team.

The Make Michigan chalkings surrounding the Michigan “M” in the Diag went both to the bottom right of the M and to the left of the M. The photographs taken on March 18 demonstrate the following things:

1. At 10:54pm on March 18, 2015, there was a significant amount of water in the area to the bottom right of the “M” where the Make Michigan chalkings had previously been visible;
2. The water was limited to the area to the bottom right of the M and the Make Michigan chalkings to the bottom right of the M were no longer visible;
3. The Make Michigan chalkings to the left of the M were faded and marked over with fresh chalkings advertising The Team;
4. There was no water in the areas to the left of or above the M;
5. There was no precipitation or water visible elsewhere on the Diag;
6. The fresh chalkings advertising The Team were made only above and to the left of the M, and exclusively in dry areas unaffected by the water.

As counsel for The Team pointed out in their arguments at the March 25 hearing, chalk would not mark well over an area that was wet. Contrary to their purpose in arguing this, however, this demonstrates a likely cohesive effort on the part of the person(s) responsible for the water and the person(s) responsible for the chalkings advertising The Team, and in fact that these were likely the same person(s). The dissent questions whether this evidence demonstrates such a cohesive effort beyond a reasonable doubt; we will address this matter below, in Part II.

However, the Commission is unanimous in finding that the evidence showing that there were chalkings advertising The Team placed over faded “Vote for” markings to the left of the M that were a part of the Make Michigan Diag chalkings does demonstrate beyond a reasonable doubt that whoever wrote “The Team” altered Make Michigan campaign materials. The “vote for” which is visible in the March 18 photographs of this portion of the Diag was a part of the Make Michigan chalkings. Therefore, it was their campaign material. It does not matter whether or not the person(s) who wrote “The Team” knew at the time that they wrote it that these were campaign materials because there is no mens rea requirement attached to the rule.
Respondents admit that members of their party were in fact out chalking the Diag area on the evening of March 18, 2015, the evening during which the Make Michigan chalking was destroyed and replaced by chalking reading “The Team”. They also admit that the color of “The Team” chalking is one of the colors of chalk they regularly use.

Since the Commission cannot conclusively determine that the violation was committed by a candidate (instead of by a non-candidate volunteer), we apply the more lenient standard for a violation by a non-candidate under § B(8)(e) of the Election Code. There are three criteria for the Commission to apply for a violation by a non-candidate, listed as points (i)-(iii) in § B(8)(e) of the Election Code: . It is abundantly clear from the photographic evidence that such a violation under § B(7)(e)(iii) of the Election Code was in fact committed, and that § B(8)(e)(i) is therefore met. The Commission is unanimous in this finding.

II. Working “with or at the request of” a candidate or party

The UEC must next determine whether the non-candidate who committed the violation worked “with or at the request of” (emphasis added) a candidate or party; in this case, The Team. § B(8)(e)(ii). For our purposes, it is not necessary that the violator receive a specific or express request to commit an act of destruction from the party or candidate; it is sufficient that the individual is proximately engaged with the party or candidate’s campaign efforts. We conclude that The Team satisfies this requirement.

This second factor tracks closely with the third factor that the violation be committed within the “scope of coordination” with the party or candidate(s), to be discussed in Part III. Additionally, although the dissent contends otherwise, we do not believe that the order in which the Commission must determine the second and third factor is dispositive, and one need not necessarily logically precede the other. We instead

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2 For our purposes, we decline to specify a bright-line standard as to what constitutes “proximate engagement” so as to allow for flexibility in application, but generally hold that it encompasses involvement or participation with a candidate or party in a specific setting and time frame (i.e., on a specific date). An individual who is assisting a party in chalking on a given evening would be proximately engaged, while a passerby who may have passed out flyers with the party a week prior but was not involved in the chalking activities that evening would not be proximately engaged in the activities that evening.

3 To illustrate this point, we raise the hypothetical of a volunteer who, working independently with a candidate, commits a violation during a time such that both the volunteer and candidate are operating independently and outside of the scope of coordination with the party. A finding that a violation was in the scope of coordination in Part III can also be persuasive in determining that a non-candidate was in fact working with the candidate or party in Part II.
conclude that the only factors that must be determined in order are the first (determining whether a violation took place) and fourth (assessment of demerits). Because the second and third elements track closely together, we will examine and apply some similar rules to each.

We analyze this second factor in the context of vicarious liability and the doctrine of *respondeat superior*, and we recall the difference between *frolic* and *detour*, as first defined in *Joel v. Morison*, 172 Eng. Rep. 1338, 1339 (1834). A *detour* occurs when an individual campaign volunteer or candidate makes a minor departure from her assigned or requested duties, and a *frolic* occurs when a major departure is made, and the volunteer or candidate acts on her own and/or for her own benefit, rather than a singular departure from her assigned duties as in a detour. It is well-established under the doctrine of *respondeat superior* that an employee or subordinate is still considered to be working with or for her superior while on a detour. The same is not true for a frolic. For our purposes, we will consider a candidate or volunteer to have met the threshold of working *with* or *at the request of* the party if she is proximately engaged in an activity with the party, such as chalking, and makes a detour during which she commits a violation of the Election Code. For example, if a group of candidates and volunteers are out chalking on a given night, and one or more volunteers, without specific instruction to do so, destroy or deface another party’s chalking in an isolated act or acts, then those individuals would still be participating in the activities with the party, and their violation would be a detour. Thus, the violator would be deemed to still be “working with” the party, and the second element would be satisfied. Contrast this with a scenario where one or more volunteers is out chalking on a given night, and one or more volunteers, without specific instruction to do so, leaves the group for an extended period of time and heads to another part of campus for the purpose of destroying or defacing another party’s chalking there. This latter scenario would constitute a frolic.

In examining whether the Petitioner has proven beyond a reasonable doubt that the non-candidate violator was “working with” The Team in order to satisfy this requirement, we employ the standard of “beyond a reasonable doubt” used in *Keeney v. Garthus*, UEC-2014-W-009, 2 (March 13, 2014) — that which is “sufficient to evoke in a majority of the commissioners an abiding conviction of the respondent’s guilt, such as they would be willing to act upon it in the most significant of their own affairs” — in our analysis below, and similarly in Part III.
In applying these rules to the case at hand, we find sufficient evidence to conclude beyond a reasonable doubt that the non-candidate violators who defaced Make Michigan’s chalking worked with The Team. Respondents admit that volunteers and candidates from The Team were chalking that evening of March 18, when the violations occurred. Even if said non-candidate violators undertook a detour and departed for a short time from the overall legal chalking of the group in order to commit the violations, their violations were committed in the context of working with The Team under the doctrine of respondeat superior, and thus, this second element is satisfied. We believe that the weight of the evidence and the manner in which the violations were carried out indicates that whoever committed these violations was working with The Team.

The dissent questions whether the evidence of a connection between the acts of spilling water on Make Michigan’s chalking and the act of chalking “The Team” demonstrates a cohesive effort beyond a reasonable doubt. We believe that, taken in conjunction with the large “A” chalked over Make Michigan’s “Vote for,” both of these acts amount to evidence beyond a reasonable doubt that the non-candidate violator(s) worked with The Team. Based upon the photographic evidence, we have concluded that the amount of water and the pattern in which it was spilled were not accidental, but that a person or persons intentionally and maliciously planned to destroy that portion of the Make Michigan chalking, and replace it with chalking for The Team.

It is clear beyond a reasonable doubt that the water was spilled in a manner to destroy Make Michigan’s chalking while still allowing “The Team” to be chalked twice. Had the individuals who spilled the water only sought to destroy Make Michigan’s chalking, they would have also poured water over the words “Vote for” immediately to the left (west) of the Diag M. However, they did not; they left the area to the left of the M unscathed. As Respondent admits, pouring water in that area to erase the “Vote for” would effectively render the pavement unchalkable due to the wetness, and whoever chalked “The Team” horizontally using the Diag M as the final “M” in “Team” would thus have been prevented from doing so because of the water interrupting the word (specifically in the area of the “A”). From a chronological perspective, The Team’s chalking was already present when the water spill was still fresh, also indicating an element of temporal proximity. On the evidence, we are convinced that whoever spilled the water to destroy Make Michigan’s chalking did so in such a planned and calculated way so as to eliminate the majority of
Make Michigan’s chalking while still making it operatively possible to use the Diag M in their chalking of the words “The Team.”

It should be noted that transporting such a significant amount of water (shown in the picture) to the center of the Diag requires some planned or organized effort. Likewise, using as much chalk and taking as much time to twice write out the gargantuan letters of “The Team” seen in the evidence would take a significant amount of chalk, and some planning or organized effort. However, our esteemed colleagues in the dissent are still not convinced beyond a reasonable doubt that even if the two acts were committed together (which the dissent at least concedes is likely, and that there is a substantial amount of evidence pointing to Respondent’s guilt), that they were committed by someone from The Team. The dissent argues that anyone can write “The Team” in chalk. But this was no simple chalking performed by a casual passerby. A vertical and horizontal chalking of “The Team” in 3-foot capital letters is a significant undertaking, and clearly required planning and effort. We think the likelihood that a single individual miscreant would singularly undertake to commit such an act slim, and that instead the matching horizontal and vertical chalkings of “The Team” clearly indicate a concerted, organized effort.

The dissent contends that there are other reasonable explanations to our conclusions. We only see two possible alternatives to the Petitioner’s argument that these violations were committed by The Team, and find both of them flatly unconvincing:

- **The theory that the violations could have been committed by a random student, unassociated with any party and disinterested in the outcome of the election:** This theory does not hold water. We find it entirely unlikely that a single student would possess the motivation to undertake such a complicated destruction of Make Michigan’s original chalking, and that they would then somehow become vested enough in the CSG elections to chalk “The Team” in large letters twice on the Diag, a plainly significant undertaking.

- **The theory that the violations could have been committed by a third party participant in the elections to cause mischief:** We likewise find this possibility unconvincing. Due to the unique desirability and visibility of the Diag, any candidate or volunteer willing and motivated enough to violate the Election Code (where they could easily get caught doing so),
and in such an involved and necessarily organized and well-planned fashion, would want to chalk her or her party’s own name and advertisements on the Diag. During oral argument, a Commissioner likewise raised the possibility that the violations were committed by a third party seeking to disqualify The Team. We find this theory equally unconvincing, as anyone attempting to disqualify a party would not limit this attempt to a single violation; they would instead try to “fake” as many violations as possible, or at least enough necessary to accumulate the requisite number of demerits for party disqualification. This one violation does not rise to the threshold for disqualification. Furthermore, they would not engage in such mischief in what is arguably the most public place on the University of Michigan campus. The dissent further conjectures that the incentive for The Team to not commit a violation (for fear of disqualification) is greater than their calculated gain by possessing the Diag M for their chalking. We disagree with this logic in light of past experience indicating candidates’ willingness to take calculated risks with election violations and demerits.\(^4\)

Counsel for Respondents, along with Ms. Laurel Ruza, admit that The Team was out chalking campus on the evening of March 18. That candidates and/or volunteers from The Team would be out chalking in the same proximate area of the Diag around the same time that the pictures of the fresh destruction were taken, and the weight and totality of this evidence, combined with the methodical manner in which the destruction occurred, and the unique nature and desirability of the location of the chalking on the Diag, is too overwhelming for us to accept that such destructive violations are merely coincidental. While Respondent argues that this does not meet the Petitioner’s burden, we HOLD that the weight and totality of this evidence is “sufficient to evoke in [our] majority of the commissioners an abiding conviction of the respondent’s guilt…” *Keeney v. Garthus*, UEC-2014-W-009, 2 (March 13, 2014). In sum, the unique desirability of the Diag M, taken with the evidence presented, foreclose beyond a reasonable doubt in our minds the possibility that anyone other than someone who was working with The Team committed these violations.

\(^4\) As an example of a similar situation where candidates took a calculated risk with Diag chalking, we refer to *Tylus v. Mirante et al.*, UEC-2012-W-003 (March 21, 2012). In that case, the MForward party and one of its executive candidates took the calculated risk of altering the youMICH party’s Diag chalking. The ensuing demerits from Tylus’s successful complaint were not sufficient to disqualify either Mirante or MForward from the election, yet they arguably benefitted from the visibility of their illicit chalking alterations on the Diag.
III. Scope of Coordination

Next, the Commission must determine whether the alleged violation occurred within the “scope of coordination.” The scope of coordination, according to § B(8)(e)(iii) of the Election Code, is defined as “what the candidate or party requested the non-candidate to contribute to the campaign.” Id. However, we believe that a plain reading of this definition is insufficient, and believe that the scope of coordination must not be limited to specific or express requests made by a party to a candidate or volunteer. Rather, it must also take into consideration those interactions, non-verbal cues, and behavior occurring in the context of a party activity or event. To limit this meaning only to specific or express requests would render the language so narrow as to severely impinge upon its applicability, and would create myriad opportunities for candidates and parties to exploit loopholes in order to skirt this language. Under this interpretation, we must conclude that the violations alleged by the Petitioner occurred within the scope of coordination with The Team.

In keeping with the doctrine of respondeat superior articulated above, we hold that candidates and volunteers who are proximately engaged in an activity with the party are acting in this scope of coordination with the party, even when they are on detour. § B(8)(e) of the Election Code states that “Candidates and parties are responsible for educating their volunteers about the Election Code and the Campaign Rules.” We note that candidates are already required to (1) attend a candidates’ meeting at the beginning of the campaign period and (2) sign a Candidate Oath stipulating that they have read and understand the Election Code and campaign rules. To avoid redundancy, we therefore interpret the candidates’ and parties’ responsibility to educate their volunteers, as found in § B(8)(e), to entail something different and additional: as more than simply giving volunteers one-time notice, and instead as continuous and dynamic. Just as an academic education is more than a one-time endeavor, and is instead a life-long pursuit, we read this requirement to mean that candidates’ and parties’ “education” of their volunteers as to the Election Code should be ongoing and dynamic. In short, a simple notification at the beginning of the campaign period by a party to its volunteers is not sufficient to meet this requirement. Instead, parties and candidates are responsible for educating their volunteers in the context of many different scenarios that may arise during the course of a campaign.
As part of this education, parties have a duty to inform and reasonably supervise their candidates and volunteers when they are participating in party activities that may arise during the course of a campaign.

While we would demur from establishing a bright-line standard of supervision, a party that fails to educate and supervise its candidates as to possible violations of the Election Code assumes full responsibility under the doctrine of respondeat superior for any violations committed by such volunteers while they are proximately engaged in the activities sponsored or requested by the party. This would not be true, however, and a party would not bear such liability, if they clearly and explicitly reminded their candidates as to the relevant provisions of the Election Code and supervised them to ensure compliance. As an example, if Party Chair Jane Doe instructed Volunteer John Doe to go chalk the Diag, and did not remind or otherwise educate him to not destroy other parties’ materials, then John’s actions are all within the scope of coordination while he chalks the Diag that evening. If Jane educated him as to the Election Code, and in some way reminded or reasonably supervised John, and he still committed a violation, then that violation would clearly be outside of the scope of coordination, because it would fall outside of John’s chalking duties as prescribed by Jane.

Again, we stop short of prescribing situation-specific methods by which party chairs and candidates must exercise this duty to supervise, and instead leave it to them to reasonably ensure that candidates and volunteers are educated as to the Election Code and comply with it while they are acting in the scope of coordination.

In this case, it is not necessary for the Commission to determine, or even to agree, upon what the scope of coordination was, or what its extent may have been, but instead, to simply find that the alleged violations took place within the scope of coordination with The Team. We also recall that the education requirement is not simply a good-faith request in the Election Code, and that it is instead a requirement upon parties to ensure candidate and volunteer compliance. We find that Make Michigan satisfies their burden of proof on this element.

Respondents contend that they satisfy the requirement to educate their volunteers and candidates under § B(8)(e) of the Election Code, and fulfill their duty to supervise, by virtue of a document submitted by

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5 We leave the appropriate level of supervision up to each party and its managers/chairs, so long as it is sufficient to protect against campaign violations, as they understand best the conditions on the campaign trail and the context of various campaign-related activities and events.
Ms. Ruza at the hearing. We find that with only this static document presented as evidence, The Team has not educated and supervised its candidates and volunteers sufficiently to relieve the party of liability under the doctrine of *respondeat superior* and its duty to supervise. This is because the party has failed to clearly define in this document, in an effective manner, the types of activities that are acceptably coordinated within the context of party activities and campaigning. The document’s reference to not erasing chalk is unclear and appears to refer to chalkboards in classrooms, not sidewalks. While the language “interact with” could be clearer and more authoritative, it is not for the UEC to determine what specific sufficiency standards apply here except to determine whether the scope of coordination element is satisfied. By failing to specifically and completely address and prevent the issue of destruction of campaign materials (specifically outdoor chalkings) with this document, the Team has also failed to remove itself from the scope of coordination with candidates who might engage in Election Code violations while proximately engaged with The Team, whether they are on a *detour* or not. If a party or candidate instructs her candidates or volunteers to go chalk, and fails to educate and reasonably supervise its candidates and volunteers as to what is permissible under the Election Code, then any of the volunteer’s actions or violations, even if committed on detour, are within the scope of coordination, and therefore this element is satisfied. We conclude that this happened with The Team in this case.

IV. Assessment of Demerits

The Commission FINDS that there are no extenuating circumstances that justify exercise of the authority conferred by § B(8)(b)(iii) of the Election Code. Furthermore, the Commission notes that, unlike in the case of a candidate, it is required to issue *full demerits* for violations committed by a non-candidate, per § B(7)(e)(iii) of the Election Code. Because The Team’s destruction of Make Michigan’s chalking is a major violation, the Commission must order 3-4 demerits per violation. Keeping both this requirement and the “full demerits” requirement in mind, we therefore conclude that the issuance of four (4) demerits to The Team is appropriate in these circumstances.

We therefore find the Respondent, THE TEAM, to be GUILTY of a violation of § B(7)(e)(iii) of the Election Code.
It is therefore ORDERED that four (4) demerits be assessed against Respondent THE TEAM. Respondent’s demerits totaling less than ten, the party’s candidates remain eligible for election.

It is so ordered.

Director BECKER\(^6\) delivers an opinion, dissenting in part and in the judgment, in which Commissioner GEORGE joins.

We concur with the majority as to Part I, dissent from their judgment as to Part II and do not reach the questions they address in Parts III and IV. We would instead hold that the evidence brought by Make Michigan does not prove beyond a reasonable doubt that the person(s) who violated § B(7)(e)(iii) of the Election Code “worked with or at the request of” The Team. As such, we reach neither the question of whether the perpetrators were acting within the “scope of coordination,” nor the meaning of the requirement that “the UEC must assess full demerits.”

I. Facts

While we concur with the majority as to Part I and substantially adopt their statement of the facts, we write separately to address the first question in this case – whether a non-candidate violated the Election Code – more narrowly.

We agree that the pattern of chalk markings and water destruction does demonstrate, to some extent, a cohesive effort on the part of the person(s) who destroyed the Make Michigan campaign materials and the person(s) who wrote “The Team.” We find it unnecessary, however, to hold that this evidence demonstrates beyond a reasonable doubt that a violation was committed because there is even more persuasive evidence in this case.

The evidence showing that there were chalkings advertising The Team placed over faded markings that were a part of the Make Michigan Diag chalkings does demonstrate beyond a reasonable doubt that whoever wrote “The Team” altered Make Michigan campaign materials. The “vote for” which is visible in

\(^6\) Director BECKER delivers this opinion \textit{ex officio}. Of the dissenters, only Commissioner GEORGE’s vote is counted for purposes of the Commission’s judgment in this case.
the March 18 photographs of this portion of the Diag was a part of the Make Michigan chalkings. Therefore, it was their campaign material. It does not matter whether or not the person(s) who wrote “The Team” knew at the time that they wrote it that these were campaign materials because there is no mens rea requirement attached to the rule.

Therefore, we concur in Part I of the majority’s opinion and find that the evidence presented by the petitioner proves beyond a reasonable doubt that non-Candidates did commit a violation of the Election Code.

What is not clear beyond a reasonable doubt from the evidence presented by the petitioner is who these non-candidates were and what their purpose was. The chalkings do read “The Team.” However, when asked whether or not it would make more sense for a third party, such as DAAP, to make it appear that The Team had committed an infraction, than it would for The Team to knowingly incur penalties\(^7\), the petitioner responded, “DAAP may have.”

II. Legal Standard

It is not necessary for us to decide what level of coordination or knowledge on the part of the party is required to find that the non-Candidate(s) “worked with or at the request of” The Team. We find that there is reasonable doubt as to whether the non-Candidate(s) in question meant to further The Team’s objectives at all.

We apply the same standard for reasonable doubt used by the majority: that which is “sufficient to evoke in a majority of the commissioners an abiding conviction of the respondent’s guilt, such as they would be willing to act upon it in the most significant of their own affairs.” Keeney v. Garthus, UEC-2014-W-009, 2 (March 13, 2014).

Anyone can write “The Team” in chalk. It is true that The Team and their volunteers have the most incentive to do so. However, it is also true that doing so in this context – by destroying Make Michigan

\(^7\) That The Team and their volunteers knew that these actions would amount to a violation and potentially even disqualification is clear based on the evidence they submitted to the UEC at the March 25 hearing. The Team submitted an internal document entitled “How Not to Be Disqualified” including recommendations such as ((insert relevant parts here))).
materials – would remove any incentive they might have, given their proven knowledge that such an act could result in disqualification.

Given the importance and centrality of the Diag and the M where the violation occurred, the incentive for The Team not to commit a violation is greater because there is no chance that it would not be noticed by The Team’s opponents. Similarly, it increases the incentive of a third party to frame The Team in this area.

This reasonable alternative explanation that a third party desired to make it look as thought The Team had committed a violation, which was not disputed by the petitioner, is the basis for our contention that there is reasonable doubt as to whether the violators “worked with or at the request of” The Team.

The majority calls our alternative theory “unconvincing.” But it does not have to be “convincing” to each of the commissioners. It need to rise to the level of reasonable doubt such as the Commissioners, in the most important of their own affairs, would not rely on it being untrue.

Although we acknowledge the significant amount of evidence of respondent’s guilt, our assessment of that evidence does not rise to “an abiding conviction” thereof such that we “would be willing to act upon it in the most significant of [our] own affairs.” Id.

We would not hold that a party may escape liability under the “worked with or at the request of” standard simply by demonstrating that they and their volunteers know the rules. Rather, given the insufficiency of the evidence presented by the petitioner on the question of whether the violators here worked with The Team, the party’s knowledge of the rules and attempts to educate their volunteers informs the reasonableness of the alternative explanation offered here.

III. Questions Not Reached

Whether a non-Candidate “worked with or at the request of” a candidate or party is a preliminary question to that of whether the violation occurred “within the ‘scope of the coordination’” with such candidate or party. This is clear based on the order in which the UEC is meant to determine these questions and on the plain language of the two standards as set forth by the rule.
When a petitioner alleges that the person(s) in violation of the Election Code are non-candidates, the UEC’s determination must proceed as directed in § B(7)(e) of the Election Code.

a. **Violations by a non-Candidate.** Candidates and parties are responsible for educating their volunteers about the Election Code and the Campaign Rules.

i. The UEC must first determine if the non-candidate violated the Election Code.

ii. The UEC must determine if the non-candidate worked with or at the request of a candidate or party.

iii. The UEC must determine if the Election Code violation occurred within the "scope of the coordination." The "scope of the coordination" shall be defined as what the candidate or party requested the non-candidate to contribute to the campaign.

iv. If the UEC finds that all three factors set forth above were met, the UEC must assess full demerits against the respective candidate(s) or party that coordinated with the non-candidate.

The rule sets out an order in which the UEC must make the determinations. This is clear on the face of the statute. § B(7)(e)(i) states that the Commission “must first determine” (emphasis added) whether a violation was committed. This language sets up the sequential order in which the UEC must address the three factors that appear in this rule. The “worked with or at the request of” factor occurs before the “scope of the coordination” factor, indicating the former must be decided before the latter.

Additionally, it is clear based on the language of each factor that the “worked with or at the request of” factor is a preliminary determination to “scope of the coordination.” If there is no coordination, there can be no scope thereof. Therefore, we cannot reach the questions the majority addresses in Parts III or IV of its opinion.