

Committee on Elections, Rules and Jurisdiction
Advice on the Jurisdiction of Senate Committees on Academic Personnel Matters
December 13, 2006

Background

A member of the Division has raised questions regarding (1) the use of collegiality as a factor in academic personnel actions and (2) the appeals process for Career Equity Reviews. Because these questions have been raised with three Senate committees – the Committee on Elections, Rules and Jurisdiction (CERJ), the Committee on Academic Personnel Oversight Committee (CAP), and the Committee on Privilege and Tenure (P&T) – jurisdictional questions have arisen. It falls to CERJ to resolve Senate jurisdictional issues, and we do so here. Analysis of the underlying substantive issues is provided separately.

Analysis of Relevant Bylaws

CERJ is the committee charged

To advise the Division, its officers, committees, faculties, and members in all matters of organization, jurisdiction and interpretation of legislation of the Academic Senate and its agencies. (DDB 71(B)(5))

CERJ also has the authority to publish binding

legislative rulings interpreting the Code of the Davis Division of the Academic Senate. Such rulings shall remain in effect until modified by legislative or Regental action. (DDB 71(B)(6))

Typically CERJ provides interpretations of legislation by rendering Advice, and formal Advice of general applicability is published on the CERJ web site (academicsenate.ucdavis.edu/cerj). Such Advice, while not binding, “should nevertheless be considered authoritative” and “suggest[s] the likely outcome should...a Legislative Ruling be requested on the issues involved.” (Systemwide Legislative Ruling 12.93B.)

Therefore, CERJ is the Divisional committee with exclusive jurisdiction to interpret Senate legislation (Bylaws and Regulations), including DDB 42(C) and 45 defining appeals and the process by which they are handled. CERJ is also authorized to resolve jurisdictional questions within the Senate. However, CERJ has no special authority to interpret the Academic Personnel Manual, which is an Administration document.

CAP is empowered,

Subject to the advice, consent, and direction of the Division, to confer with and advise the Chief Campus Officer on all matters of general policy regarding academic personnel. (DDB 42(B)(4))

To develop jointly with each academic department general and broadly delineated standards for advancement pertinent to the various academic disciplines, and to publish and update these standards from time to time. (DDB 42(B)(8))

Policy development – including developing and advising the Administration on any policy on the consideration of collegiality in the personnel process – is therefore within CAP’s exclusive jurisdiction, subject to the following consulting, oversight, and reporting requirements:

To consult regularly with the Executive Council on policy regarding academic personnel. (DDB 42(B)(5))

To report any change in policy enacted since the last report and any policy matter pending before it to the Representative Assembly for review, discussion, and determination by a majority vote at least once each quarter. (DDB 42(B)(6))

To receive and implement within the limits of Senate authority any policy regarding academic personnel adopted by a majority vote of the Representative Assembly or the Division through a mail ballot. (DDB 42(B)(7))

CAP may also advise the Administration regarding its own procedures but, like all Senate committees, it has no authority to waive a Bylaw provision by which it is bound.

P&T is the committee with exclusive jurisdiction to resolve grievances alleging that an individual faculty member’s rights or privileges have been violated:

Divisional Committees on Privilege and Tenure are designated the sole Senate Agencies to hold hearings, and make findings of fact, conclusions, and recommendations on complaints that the privilege or tenure of a Senate member has been violated.... Other Senate agencies may consider and make recommendations about the general conditions out of which complaints arise, but they may not adjudicate individual cases. (Systemwide Legislative Ruling 12.80)

...requests for redress of violations of a Senate member’s rights or privileges may be brought before the Committee on Privilege and Tenure at any time independently of the [CAP] review process (DDB 45(A))

Advice

The Committee on Elections, Rules and Jurisdiction (CERJ) is the Divisional committee with exclusive jurisdiction to interpret Senate legislation, and may do so by issuing Advice or Legislative Rulings.

The Committee on Academic Personnel Oversight Committee (CAP) is the Senate agency with authority to develop and to advise and confer with the Administration on all matters of general academic personnel policy and procedures, consistent with Senate Bylaws (as interpreted, where necessary, by CERJ). CAP’s authority on matters of general policy is subject to consultation with the Executive Council (DDB 42(B)(5)), regular reporting to the Representative Assembly (DDB 42(B)(6)), and consistency with the will of the Division as expressed by the Representative Assembly or by ballot (DDB 42(B)(6-7)).

The Committee on Privilege and Tenure (P&T) is the Senate agency with exclusive jurisdiction to adjudicate individual grievances, consistent with Senate Bylaws (as interpreted, where necessary, by CERJ). P&T alone has the authority to advise the Administration on whether policy has, in a particular case, been implemented in a manner which violates an individual faculty member’s rights, privileges, or tenure. But it does not have jurisdiction to develop, interpret, or determine the validity of Senate policy in general.