

Faculty Conferring on Personnel Actions

November 7, 2008

The following is informal advice from the Committee on Elections, Rules and Jurisdiction regarding a question about whether department members have the right to confer among themselves before voting on personnel matters.

Academic Senate Bylaw 55 spells out departmental voting rights in the cases of appointment, promotion, and advancement in rank, but it makes no reference to any activities prior to voting. Section 55(B)(7) states that "the actual method of voting shall be determined by the eligible voters," but it is not clear that prior conferring is a part of the "method of voting." Davis Division Bylaws make no reference to voting on the personnel cases covered by ASB 55.

The Academic Personnel Manual describes administration policies in these matters. Section APM-220 contains systemwide rules governing appointments, merit increases, and promotions. Section 220-80 concerns "Recommendations and Review: General Procedures." Clause c. states that "Each campus shall develop its own guidelines and checklists to instruct chairs about their duties and responsibilities in connection with personnel reviews. The chair has an obligation to consider the interests of both the candidate and the University, and to see to it that the departmental review is fair to the candidate and rigorous in maintaining University standards." Clause e. states that "The chair shall report the nature and extent of consultation on the matter within the department (including any vote taken) and present any significant evidence and differences of opinion which would support a contrary recommendation." This language refers to "consultation" generically and in no way restricts the kind of consultation. Thus, it is consistent with consultation among members of the department prior to a vote.

As noted, it is up to each campus to develop its own guidelines to instruct chairs in the process. Section UCD-220 covers personnel actions in the professor series. Of particular interest in that document is item IV.F.4.a.5), which states that Academic Senate Bylaw 55 "Does not allow constraints to be placed on those eligible to vote (e.g., attendance at meetings)." Denial of the opportunity to confer with other colleagues might be construed as a constraint on those eligible to vote. Also, IV.F.4.c states that "the process of consultation ([APM 220-80-e](#)) requires that the department chair report the consultative process used within the department in the departmental letter" There is no mention of any restrictions on the consultative process. APM 220-80-a states that "Formal considerations of appointments and reappointments, merit increases, non-reappointments, and promotions are normally initiated by the department chair, after

appropriate consultation with members of the faculty." This indicates that at least the chair may consult with individual faculty members. APM 220-80-e states that "The chair shall report the nature and extent of consultation on the matter *within the department* (including any vote taken) . . ." (my emphasis). This seems to indicate that the consultation may include more than solicitation of opinions by the chair.

Most important is UCD-220, Procedure 1, "Appraisal, Merit, Promotion and Preliminary Assessment." Procedure 4 of the department chair is: "Consults with faculty, who meet, discuss candidate's record, and subsequently vote." Since part of the procedure is to meet and discuss the candidate's record, it is absolutely clear that the Administration's procedures provide the right of faculty members to confer with one another prior to a vote. This Procedure does not state explicitly that all conferring take place within any particular meeting, though there seems to be a presumption that the discussion of the candidate's record be in the meeting at which a vote is taken. Again, there is no specific prohibition against prior conferring.

A final consideration is based on UCD-220 Exhibit A, "Consultation and Voting on Academic Senate Personnel Actions." This document states: "Within the limits of Bylaw 55, departments must decide upon their own voting procedures and submit those procedures in writing, through their dean, to the Oversight Subcommittee of the Committee on Academic Personnel (CAP) for review." If a department has any concern about whether and how pre-voting conferring among department members is permitted, it might be wise for a department to include a reference to prior consultation in its submitted procedures.