

CERJ Advice on Voting Rights on Personnel Actions March 30, 2010

Background

At its February 24, 2009 meeting, the Representative Assembly of the Davis Division of the Academic Senate charged the Divisional Committee on Elections, Rules and Jurisdiction (CERJ) with providing advice concerning the rights of faculty to vote on academic personnel actions, specifically with respect to departments in the College of Agricultural and Environmental Sciences (CA&ES). The resolution reads, in part, "The Committee on Elections Rules and Jurisdiction (CERJ) shall consult with the Committee on Academic Personnel-Oversight Committee and shall provide Advice that clearly defines the role Academic Federation faculty can play in the recruitment of Academic Senate faculty. This Advice shall be widely disseminated to departments within CA&ES."

The charge to CERJ was itself a response to a recommendation made by a Special Committee that investigated certain appointment actions that had been taken within CA&ES. The recommendation was: "The role of Academic Federation faculty in the review and recommendation on faculty hires into Academic Senate positions needs to be clarified with departments in the CA&ES. The culture of placing equal weight on the views of both AS and AF faculty in hiring faculty with AS appointments, while only AS faculty can vote on such appointments, is problematic. When faculty comments are forwarded with the Final Search Report, those comments must be separated to identify those made by AS faculty and those made by AF faculty."

Advice

The role of Academic Federation faculty in the review and recommendation on faculty hires into Academic Senate positions is distinct from that of Senate faculty with respect to voting rights.

CERJ divides the issue of voting rights into three exclusive cases, depending on the title of the position on which a vote is taken: (1) Academic Senate title, as specified in Standing Order of the Regents 105.1(b), (2) non-Senate title, typically Cooperative Extension (CE) or Agricultural Experiment Station (AES), (3) both Senate and non-Senate titles attaching to a single appointment. Those with appointments with non-Senate titles must be distinguished as to whether they (a) are engaged in instruction, or (b) are not engaged in instruction.

Exclusively Senate Titles

CERJ advises that departments should adhere to the rule specified in the Academic Personnel Manual, UCD-220: "As a minimum, Academic Senate faculty members at or above the proposed rank shall have the right to vote on all actions at a level up to and including their own rank. Departments that wish to allow non-Senate academic members of equivalent rank to participate in the review of personnel actions may do so on an informal basis, but may not extend voting rights to non-Senate faculty." The recommendations and/or vote by non-Senate department

members must be identified as such and recorded separately from the Senate vote.

The basis for the exclusion of non-Senate faculty from voting on exclusively Senate appointments lies in systemwide Academic Senate Bylaw 35(C)(2), which states: “Only members of the Academic Senate may vote in Senate agencies and their committees when those agencies or committees are taking final action on any matter for the Academic Senate, or giving advice to University officers or other non-Senate agencies in the name of the Senate. Persons other than Senate members may be given the right to vote on other questions, such as those that involve only recommendations to other Senate agencies, but only by explicit Bylaw provisions.” In addition, systemwide Senate Legislative Ruling 7.06 states, “In matters delegated to the Academic Senate, an academic department acts as an agency of the Academic Senate.” When voting on appointments that carry Senate membership, as specified by systemwide Senate Bylaw 55, academic departments are acting as an agency of the Senate, and therefore only members of the Senate may vote on such appointments.

Exclusively Non-Senate Titles

Instructional faculty

CERJ advises that departments should adhere to systemwide Senate Legislative Ruling 7.06, which states: “only members of the Academic Senate may vote on the departmental recommendation in a merit action involving non-Senate instructional faculty. A department may solicit a recommendation or vote from non-Senate instructional faculty to be used in its deliberations.” Although this ruling does not concern appointments as such, it clearly applies to recommendations on appointments, which carry more weight than recommendations on merit actions. The recommendations and/or vote from non-Senate instructional faculty must be identified as such and recorded separately from the Senate vote.

Non-Instructional faculty

CERJ advises that the Senate has no authority over voting in personnel actions for appointments for positions whose job responsibilities fall outside those delegated by the Regents to the Senate.

Split Senate/non-Senate Titles

CERJ advises that departments should adhere to the procedure specified by the CA&ES Dean’s Office, which was endorsed by the Executive Committee of the Faculty of CA&ES and the Davis Division Executive Council: “In the case of split appointments with an I&R [Senate] component that also carry a CE and/or AES component, CE Specialists and Agronomists [AES appointees] may participate in the departmental planning, search plan development, and voting on that portion of the position that is not an I&R appointment. The votes and comments of CE Specialist and Agronomists must be recorded in a letter that is separate from the votes and comments of Senate faculty.”

The rationale for this rule is that it combines the exclusion of non-Senate members from the Senate vote on the Senate part of the appointment but allows non-Senate members to vote on the

non-Senate part of the appointment, thus combining the restriction on voting for instructional faculty with the right to vote on non-instructional faculty.

Applicability of This Advice To All Personnel-Related Votes

This advice, which requires separation of votes by Senate members from votes by non-members of the Senate, is applicable to all departmental votes that are taken in the hiring process. Voting at each step of the process constitutes “giving advice to University officers or other non-Senate agencies in the name of the Senate,” in the language of Academic Senate Bylaw 35(C)(2), as discussed above. A further reason for applying the advice to all personnel-related votes is that the consequences of actions taken before the final vote, e.g., the reduction of the candidate pool to a short list, determine the options available to Senate members at the time the final vote is taken. For this reason, those actions constitute an integral part of the appointment process, in which the manner of voting should be uniform.