

**CERJ Advice on Graduate Program Bylaws Approval
October 13, 2010**

"In the event that an existing graduate program does not have approved bylaws, should the approval of the new bylaws be via a simple [majority] or 2/3 vote?"

CERJ advises that the program may report to the Graduate Council that the proposed Bylaws are approved if a simple majority votes in favor of the new Bylaws. Specific information about the number of votes for and against should be reported both on the overall Bylaws package and on any components of the Bylaws on which a vote is taken. After the votes are reported, it would be up to the Graduate Council to determine whether the level of support is sufficient for Council approval of the Bylaws.

CERJ also advises that the Graduate Council amend its Bylaws guidelines to specify the voting margin needed for approval of new Bylaws and possibly for approval for Bylaws changes. It might well wish to do so before receiving proposed Bylaws from the program in question.

Rationale:

Academic Senate Bylaw 310(A)(1) states: "Subject to such provisions as appear elsewhere in these Bylaws, each Division shall have authority to organize, to select its own officers and committees, and to adopt for the conduct of its business rules and regulations not inconsistent with the Bylaws and Regulations of the Academic Senate." CERJ finds nothing in the Bylaws of the Academic Senate that requires a 2/3 majority for the initial approval of Bylaws. It is in fact standard practice for Bylaws changes to require a 2/3 vote, and there is an expectation on the part of the Graduate Council that changes to program Bylaws will require a 2/3 vote (as is seen from suggested language in its Bylaws template documents, described below). But expectations do not have the force of requirements.

Since the proposed Bylaws are new, there are no program Bylaw provisions regarding voting on their establishment. The only restrictions on voting on Bylaws, besides consistency with the Code of the Senate, would have to be established by the Graduate Council, which, in its capacity as an agency of the Davis Division, has mandated that graduate programs institute Bylaws, subject to Graduate Council approval.

It appears that there is there is only one voting rule that would apply to the initial submission of Bylaws to the Graduate Council. CERJ has reviewed the documents "Bylaws Guidelines for Graduate Groups and Departmentally-based Graduate Programs," "Bylaws Template for Graduate Groups," "Bylaws Template for Departmentally Based Graduate Programs," and "UC Davis Graduate Council Procedures for Establishing a New Graduate Degree Program" and knows of no further relevant documents.

In "Bylaws Guidelines," there is a description of a "cover memo" which should include "The date and manner in which the program approved the proposed bylaws changes, (e.g., in a program meeting or by an e-mail ballot), including the vote." Nothing is stated about the nature of the vote. Later on in that document, a minimum voting requirement is stated.

"The Graduate Council has defined a minimum quorum (see page 9). It specifies that all issues that require a vote must be:

-- voted on by 50+% of the eligible members--

-- passage requires a 50+% supporting vote of the members voting.

The program may set more stringent quorum requirements, if it wishes."

This language suggests that there is no 2/3 vote restriction placed by the Graduate Council with respect to voting on Bylaws. The apparent lack of a 2/3 vote restriction is reinforced by the fact that the only restriction placed on Bylaws amendments on the template for departmentally based programs is:

Amendments to these Bylaws may be made in accordance with program's quorum policy.

(Although the template just cited concerns departmentally based programs and not graduate groups, it is cited only as a general indicator of Graduate Council policy.)

The Graduate Council would have to approve the voting policies of a graduate program and could require a 2/3 vote for changes to them, but this does not cover the case of the initiation of the Bylaws.

As far as expectations are concerned, the template for Bylaws for graduate groups gives the following "example" in the case of amendments to the Bylaws.

Amendments to the By-Laws shall be circulated to the membership by mail or e-mail and at least two-thirds of those votes, assuming a quorum as defined above, received within 10 working days of distribution shall be required for an amendment to pass.

A similar example is given for the template for departmentally based graduate programs.

However, an example does not constitute a requirement. Further, the

"Bylaws Guidelines" state that: "If specific wording is required, it is noted under the appropriate article." There is no notation that specific wording requiring a 2/3 majority is required for Bylaws changes.

In summary, absent a specific Graduate Council requirement that a 2/3 majority is needed to approve (or amend) program Bylaws, the only condition for approval of new Bylaws is that 50% of the members of the program vote and 50+% of the members voting approve.