

November 10, 2014

ANDRÈ KNOESEN, CHAIR

Davis Division of the Academic Senate

RE: Teaching Professor Working Title

You asked us to evaluate whether the Executive Council of the Academic Senate, Davis Division, has the power to approve the request set forth below:

Job advertisements for Lecturer with potential for security of employment (PSOE) shall use the working title "Assistant Teaching Professor" to describe the position. Lecturers PSOE shall be allowed to list their title on syllabi, office doors, websites and letter heads as "Assistant Teaching Professor," and Lecturers SOE as "Teaching Professor." This working title does not change the rights or responsibilities of Lecturers PSOE/SOE as described in APM210, 283, 285 and 615.¹

Brief Conclusion

- The Code of the Academic Senate does not expressly authorize or forbid use of the proposed designation. The Code does not make clear whether "working titles" for Senate members are permissible at all and if so, what role the Senate or its committees plays in approving or disapproving them.
- Although the Code does not expressly authorize use of working titles, it is likely that the Senate, through its committees (including the relevant faculty), can approve the use of working titles under its general authorization to "organize" faculties, "govern []" colleges and schools, and adopt rules and regulations consistent with the Code of the Academic Senate. This conclusion is based on the assumption that the administration agrees with the use of the working title, and we express no opinion about any other scenario.
- It is appropriate for Executive Council to give advice on whether the use of the working title here is desirable or undesirable as a matter of general policy.
- It may be advisable to get input from the CAP Oversight Subcommittee.

¹ It is our understanding that APM 615 was merged into APM 610, effective July 1, 2014.

Because the administration and relevant department are seeking the advice of Executive Council here, we express no opinion on whether the final decision to use the working title is reserved on the one hand to the administration or, on the other, to the department itself.²

We express no opinion on potential legal or political ramifications of the use of this designation, or on whether use of the proposed designation is consistent with the Academic Personnel Manual or is appropriate as a matter of Senate or University policy.

Scope of Review

We have reviewed the Code of the Academic Senate, including the Standing Orders of the Regents, the systemwide Academic Senate bylaws, regulations, and legislative rulings, the Davis Division bylaws and regulations, and the bylaws and regulations of the Schools and Colleges of the Davis Division. We have also reviewed prior legislative rulings and advice issued by the Davis Division CERJ.

Although authoritative interpretation of the Academic Personnel Manual is outside our jurisdiction, we have reviewed the systemwide APM, as well as UC Davis-specific APM provisions and the Regents Policies, for context and to aid our understanding.

Because this is a matter of first impression where the text of the Code of the Academic Senate offers little express guidance, we emphasize the description of CERJ advice given by the University Committee on Rules and Jurisdiction: CERJ advice “suggest[s] the *likely* outcome should ... a Legislative Ruling be requested on the issues involved.”³

The Code of the Academic Senate Does Not Expressly Prohibit or Authorize the Use of the “Working Title” of “Teaching Professor”

The Code of the Academic Senate apparently does not use either the term “teaching professor” or the term “working title.” Moreover, we have located no provision in the Code that clearly prohibits (or authorizes) use of the “working title” of Teaching Professor or Assistant Teaching Professor using different words. We have also reviewed all instances of the use of the word “title” in the Code and found nothing relevant.

² See Standing Order of the Regents 105.2(c) (“The several departments of the University, with the approval of the President, shall determine their own form of administrative organization.”). The systemwide and Davis Divisional bylaws have similar provisions. ASB 50(A) provides, “The government of each college and school is vested in its Faculty, except as limited by the authority of the Divisional Graduate Council and the Coordinating Committee on Graduate Affairs. Each Faculty is directly responsible to the Division of which it is a committee.” ASB 55(B)(8) provides, “The tenured faculty members of a department shall establish the method by which personnel matters other than those listed in Paragraphs 1 to 6 of this Article B are determined. The method adopted must have the approval of the divisional Committee on Academic Personnel or its equivalent.” Similarly, DDB 137 provides, “Each Faculty is authorized to organize, to select its officers and committees, and to adopt any procedural rules and regulations consistent with Bylaws and legislation of the Academic Senate and the Davis Division.”

³ Systemwide Legislative Ruling 12.93B (emphasis added).

General Grants of Authority Probably Authorize the Senate, Through Its Committees, to Approve Use of the Working Title

In general, the President of the University is to “consult” with the Senate on actions to “appoint” Lecturers with Security of Employment.⁴ The scope of this duty to consult is not expressly limited.

Moreover, “[t]he government of each college and school is vested in its Faculty,”⁵ and each Division has the authority to “organize ... and to adopt for the conduct of its business rules and regulations not inconsistent with the Bylaws and Regulations of the Academic Senate.”⁶ Finally, the Senate has authority to “determine the membership of the several faculties and councils.”⁷

The language of these general grants of authority seems broad enough to encompass the matter at hand. Although the scope of these general provisions is certainly open to debate, we believe that a complete analysis leading to a Legislative Ruling probably would conclude that the Senate, through its committees (including the relevant faculty) could authorize the use of the working title as requested here.

There is at least one precedent for Senate approval of the use of titles that could be considered “working titles”⁸ for Senate members. The Senate, through the Committee on Academic Personnel – Oversight Subcommittee has consulted with the administration on the use of the title “Distinguished Professor,”⁹ although we have not been able to determine whether the Senate was involved with the creation of the title.

Executive Council Advice Is Appropriate

⁴ SOR 100.4(c). Although the appointments here are for Lecturers PSOE, it appears that they are intended to lead to the possibility of security of employment and thus potentially fall within the duty to consult. *See also* ASB 195 (University Privilege & Tenure Committee to “[a]dvise the President, the Academic Senate and its Divisions, and the Divisional Privilege and Tenure Committees on general policies involving academic privileges and tenure.”).

⁵ ASB 50(A). ASB 50(A) contains exceptions that apparently are not applicable here. *See also* DDB 137 (“Each Faculty is authorized to organize, ... and to adopt any procedural rules and regulations consistent with Bylaws and legislation of the Academic Senate.”).

⁶ ASB 310; *see also* ASB 50(B) (“Except as otherwise provided, each Faculty may organize ...”).

⁷ SOR 105.2(c); *see also* ASB 305 (“Each Division shall determine its membership in accordance with this Section of the Bylaws and the Standing Orders of the Regents.”); DDB I.A (“The Davis Division ... shall have authority to organize .. and to adopt for the conduct of its business rules and regulations not inconsistent with the Bylaws and Regulations of the Academic Senate and the Standing Orders of the Regents of the University of California.”).

⁸ The terms “Research Professor” and “Distinguished Professor” are in use on the Davis campus. The administration’s Academic Affairs website describes “Research Professor” as a “payroll title” and “Distinguished Professor” as an “honorary title.” We were unable to locate any of these titles – “Research Professor,” “Distinguished Professor,” “payroll title,” or “honorary title” – in the Code of the Academic Senate.

⁹ *See* Memorandum from William H. Casey, Chair, Committee on Academic Personnel to Vice Provost Barbara A. Horwitz, July 29, 2009 (concluding that “above scale faculty can use the ‘Distinguished Professor’ title indefinitely.”).

The power of the President of the University to “appoint” University employees is qualified by an instruction to “consult with a properly constituted advisory committee of the Academic Senate” when the action involves a “Lecturer with Security of Employment.”¹⁰ The position in question here is designed to lead to possible appointment as a Lecturer with Security of Employment, so Senate consultation seems appropriate.

It appears that the Executive Council is a “properly constituted advisory committee” of the Senate in this respect. The Council is to “serve as liaison between the Division and the Davis campus Administration,”¹¹ to “facilitate and expedite consultations between the administration and appropriate committees of the Division,”¹² and to “attempt to anticipate emerging problems and to take measures to cope with them before they become urgent.”¹³

CAP Oversight Input May Be Desirable

As noted, the Committee on Academic Personnel - Oversight Committee gave advice in 2009 on the question whether the title Distinguished Professor could expire. It may be appropriate to ask CAP - Oversight for advice here, given that several of its duties seem relevant: The subcommittee is charged with “consulting regularly with the Executive Council on policy regarding academic personnel,”¹⁴ as well as “striv[ing] to maintain consistent personnel standards within the Division,”¹⁵ and “confer[ring] with and advis[ing] the Chief Campus Officer on all matters of general policy regarding academic personnel.”¹⁶

Sincerely,



John Hunt, Chair
Committee on Elections, Rules and Jurisdiction

Cc: Gina Anderson, Executive Director, Davis Division of the Academic Senate

¹⁰ Standing Order of the Regents 100.4(c).

¹¹ DDB 73(C).

¹² DDB 73(C)(2).

¹³ DDB 73(C)(4).

¹⁴ DDB 42(B)(5).

¹⁵ DDB 42(B)(1).

¹⁶ DDB 42(B)(4).