

Committee on Elections, Rules and Jurisdiction
Annual Report 2007-2008
September 25, 2008

Total Meetings: 12.	Meeting Frequency: 4/quarter.	Average Hours of Committee Work Per Week: 10.
Total bylaw and regulation proposals, other advice matters, and elections supervised: 50.	Total matters deferred from previous year: 0.	Total matters deferred to coming academic year: 4,

CERJ took the following actions during 2007-2008:

Formal Legislative Rulings Issued

CERJ issues formal Legislative Rulings to resolve disputes or clear up ambiguities regarding Senate authority, procedures, or jurisdiction. Legislative Rulings are binding unless modified by subsequent legislative or Regental action.

Legislative Ruling 4.08 on Defining “Passing Quality” With Respect to the Assignment of Incompletes: On April 14, 2008 CERJ issued the following Legislative Ruling, notice of which was published in the transcript of the April 14, 2008 meeting of the Representative Assembly:

The grade of Incomplete may only be assigned when the student’s completed work is of “passing quality” (Davis Division Regulation A540(C)). “Passing quality” means “of D- quality or better” whether the student is taking the course for a letter grade or not. The only exception is for courses listed in the General Catalog as being graded on a Passed/Not Passed or Satisfactory/Unsatisfactory basis only, in which case the completed work must be of a quality consistent with a grade of Pass or Satisfactory.

The complete Ruling, including background and rationale, is appended to this report.

Proposed Amendments to Bylaws and Regulations

The Committee is authorized “To prepare and report for action by the Representative Assembly such changes and additions to the Bylaws and Regulations as it may deem advisable.” (Davis Division Bylaw 71(B)(1)). The following changes were recommended during the academic year 2007-2008:

(1) Davis Division Bylaws 73 and 86: Special Review Committees. CERJ drafted a bylaw empowering the Executive Council to establish a Special Review Committee to examine matters which might adversely affect the delivery of courses and curricula or the functioning of campus agencies (including departments, schools, and colleges) under the principles of shared governance. Special Review Committee findings are to be made public by report directly to the Representative Assembly. This proposal was adopted by the Representative Assembly on April 14, 2008.

(2) Davis Division Regulations A552 and 538: Accommodations for Students with Documented Disabilities and the Minimum Progress Requirement. In furtherance of the University's commitment to making legally required accommodations for students with documented disabilities, CERJ proposed legislation – which was crafted with the participation of representatives from the Undergraduate Council, the Student Disability Center, and the Council of Associate Deans as well as the Divisional Chair and the Registrar – to provide well-defined and appropriately limited accommodations to students with disabilities with respect to the Minimum Progress Requirement. This proposal was adopted by the Representative Assembly on April 14, 2008 .

(3) Bylaws 10 and 13.5: Executive Director of the Davis Division: The systemwide Executive Director was recently designated a “non-Senate officer of the Academic Senate” (ASB 16, adopted May 9, 2007) to ensure appropriate recognition by administrative bodies of the critical importance of the Executive Director to the effective functioning of the Senate. For the same reason, CERJ proposed parallel changes in the Divisional Bylaws. This proposal was adopted by the Representative Assembly on June 6, 2008.

Formal Advice Issued

Most of the work of the Committee involves advising Senate officers, Senate committees, and individual members when questions or conflicts arise. Such advice is not formally binding but suggests the likely outcome should a formal Legislative Ruling be requested. Advice of a recurring nature and/or of general importance is listed below and is also published in CERJ's online Archive of Advice.

(1) Amendments from the Floor of the Representative Assembly: A question arose as to when a proposal that would change Divisional Bylaws or Regulations could be amended on the floor of the Representative Assembly. On March 11, 2008 CERJ issued formal Advice concluding that

Under Davis Division Bylaw 180 amendments from the floor are in order, under procedures governed by Robert's Rules of Order, as long as the amendments “do not exceed the scope of the previous notice.”

The complete Advice dated March 11, 2008, including background, rationale, and examples is appended to this report.

(2) Scope of Academic Senate Bylaw 55 Regarding Departmental Voting on Personnel Matters: The Divisional Chair asked CERJ for clarification of the scope of ASB 55 on personnel matters for which votes need not be taken. On March 17, 2008 CERJ advised that

The provisions of ASB 55 apply to all votes taken on personnel matters, even when a vote need not be taken at all (as in the case of an advisory vote regarding the appointment of a department chair).

The complete Advice dated March 17, 2008, including further details and examples of the voting rights under ASB 55, is appended to this report.

(3) Appointment of Senate Faculty to Administrative Committees: Senate faculty may be invited to serve on non-Senate committees. However, CERJ advised that

Senate faculty do not represent the Davis Division of the Academic Senate unless they are appointed by the Davis Division.

The complete Advice dated May 8, 2008 is attached to this report.

(4) Academic Senate Bylaw 55 and New Appointments: Several members of the Division posed questions about the role of the departmental vote in the making of new appointments conferring Senate membership. In particular, questions have been raised regarding the Dean's authority when a department forwards recommendations regarding multiple candidates. CERJ advised that

No appointment to a position carrying membership in the Academic Senate may be initiated without a departmental vote on the particular candidate, to be conducted pursuant to Academic Senate Bylaw 55. The Chancellor, upon recommendation from the Dean, has the ultimate authority to make the appointment after approval by a departmental vote.

When a department votes affirmatively on the appointment of multiple candidates, and also provides a ranking of the candidates who were found to be acceptable, the Dean may initiate an offer to one or more of the acceptable candidates--whether or not an offer is extended to the department's top-ranked candidate--without violating ASB 55. However, if a department votes on only a single candidate while also providing a ranking of additional candidates for informational purposes only, then the Dean could initiate an offer to one of the additional candidates only after returning the matter to the department for a determination of the suitability of the particular candidate pursuant to the provisions of ASB 55.

The complete Advice dated May 29, 2008, including an extensive discussion of the rationale and further advice to departments, is appended to this report.

(5) Administrative Appointment of Committee Member: CERJ provided the following formal advice on the impact of the appointment of a member of a Divisional committee to an administrative position:

Davis Division Bylaw 28(C) states that "No member of the Division holding an administrative title of Chancellor, Vice Chancellor, Provost, Vice Provost, Dean, Associate Dean or titles with equivalent levels of administrative responsibility may serve as a member of a divisional committee or as a representative of the Davis Division to any taskforce, committee, or agency (except in a non-voting, ex officio capacity.) These restrictions do not apply to chairs of academic departments or programs."

Therefore, a position as a voting member of a Divisional committee or as a Divisional representative to any taskforce, committee, or agency becomes vacant on the effective date of an appointment of the incumbent to an administrative position of

Associate Dean or higher. The vacancy shall then be filled as specified in the Bylaws.

(6) Appointment of the Divisional Vice Chair as Chair-Elect. An unusual situation occurs when the Divisional Vice Chair is appointed to be Chair-Elect (and therefore to assume the office of Chair on September 1). On March 6, 2008 CERJ formally advised that

Under the terms of DDB 40(I), the office of Vice Chair becomes vacant when the Vice Chair is appointed to and accepts the office of Chair-Elect. The Bylaw further states that 'A vacant office shall be filled no later than the beginning of the second full academic term after a vacancy occurs.' Since the vacancy in this case occurs during the winter quarter, this is a requirement to fill the position not later than the start of the fall quarter, which makes filling the position during the current academic year discretionary.

If the Committee on Committees chooses not to fill the office of Vice Chair 'the Secretary shall assume the duties of the Vice Chair' (DDB 13(B)).

If the CoC chooses to fill the vacancy the appointee would take office immediately and would serve as Vice Chair through August 31. CoC may (but need not) appoint the same person as Vice Chair for the following academic year.

(7) Committee Voting Rights: Ex Officio and Administrative Members and non-Senate Representatives: In response to an inquiry regarding the Public Service Committee, on April 11, 2008 CERJ formally advised that

All members of the Academic Senate who are members of a Senate committee (including appointed, elected, and ex officio members) are entitled to vote. Ex officio status per se does not affect a member's voting rights.

However, persons who are Associate Deans or above may not be appointed or elected to Senate committees. If included on a committee ex officio they serve in a non-voting capacity.

Persons who are not Senate members may only serve on Senate committees as non-voting representatives. (Davis Division Bylaw 28)

Other Advice Provided

The following advice relates to matters which are of a one-time nature or of less general applicability than the formal advice listed above. Only selected matters are reported here.

Senate Consultation Policy. Drafted a proposed “Policy and Procedure for Academic Senate Consultation” to provide that all requests from the Administration for review, consultation or approval, and all requests for the appointment of faculty to administrative committees, shall be addressed to the Davis Division Chair. The routing of such requests was then spelled out. This was intended to ensure that the Division as a whole is fully engaged in the Shared Governance of the University, to guarantee that the relevant committees are involved in formulating a response, and to provide central record keeping of inquiries and responses which shall be made available to all Senate members on the Senate web site. Adopted as official policy of the Executive Council on May 15, 2008.

Undergraduate Writing Council. Advised on considerations relevant to the formation of an Undergraduate Writing Council.

General Education Proposal. Advised the Undergraduate Council regarding proposed changes in the General Education requirement (Davis Division Regulations 522-524).

Graduate Student Instructors. Conveyed concerns about proposed Senate Regulation 750 and APM Section 210 regarding the role of graduate students in University instruction.

Use of the Academic Senate Listserv. Advised that use of the Academic Senate listserv should be strictly limited to official business.

Oversight and Jurisdictional Authority of Committees. Advised informally regarding the jurisdictional and oversight authority of the Committee on Committees vis-à-vis the Committee on Academic Personnel.

Renaming of the Affirmative Action and Diversity Committee. Provided advice on the drafting of a proposal to change the name of the systemwide Affirmative Action and Diversity Committee to the Committee on Equity and Diversity. Suggested that, if the proposal is adopted systemwide, the Division should consider a conforming change in the name of the Divisional committee.

Student Petition to the Student Petition Subcommittee of the Executive Council. Provided extensive advice regarding procedural aspects of a student petition requesting the granting of a PhD degree on the basis of the so-called “three-paper rule.”

Use of Clickers for Voting in Representative Assembly Meetings. Advised against the use of clickers for voting purposes due to excessive cost and technical considerations.

Implementation of Electronic Voting Procedures for Divisional Elections. Addressed concerns about whether all voters were timely included in the ASIS online voting system.

Supervision of Routine Elections of the Division. Advised regarding appropriate procedures and timelines for the election process.

Pending Matters

(1) Date When Newly-Elected Members of the Committee on Committees Assume Office. Under the DDB 39(A) “The elected members [of the Committee on Committees] shall take office immediately after their election is determined by the Committee on Elections, Rules and Jurisdiction.” This can result in a change in the membership occurring in May, before the work of the Committee is complete for the academic year. This is unduly disruptive and is inconsistent with the general rule under DDB 29(E) that newly-elected or appointed committee members assume office on September 1. To avoid this disruption CERJ recommends that the Division consider repealing DDB 39(A) so that members of the Committee on Committees assume office on September 1 following their election in accordance with rules applicable to all other committees (DDB 29(E)).

(2) Davis Division Bylaw 141: Senate Membership for University Writing Program Faculty. CERJ proposed that Davis Division Bylaw 141 be amended to specify that Senate members of the University Writing Program be accorded membership in the Faculty of the College of Letters and Science, thus bringing the Divisional Bylaws into conformity with the recently-changed Bylaw 2(A) of the College. This proposal is under review by the College of Letters and Science.

(3) Composition of the Joint Personnel Committee. Members of the Joint Personnel Committee are appointed by the Academic Senate and the Academic Federation under provisions of the Bylaws of both entities. Davis Division Bylaw 129 specifies that the committee shall consist of 3 Senate members and 4 Federation members, with the Chair rotating between membership categories. Until May 2003 Academic Federation Bylaw XI(A) was consistent with the provisions of the Senate Bylaw.

However, in May 2003 the Federation revised their Bylaw to specify that the Committee consists of 2 Senate members and 5 Federation members, with the Chair being a Federation member. As a result, the Senate and Federation Bylaws are inconsistent. Resolution of this inconsistency is pending.

(4) Bylaws and Regulations Online Management System (BROMS). CERJ raised concerns about whether the current system for maintaining the Bylaws and Regulations was adequate to guarantee the integrity of the Code of the Senate and to provide a clear archival record of changes made therein. This matter was to be revisited in 2008-2009.

Respectfully Submitted,

L. Jay Helms, Chair
Thomas Farver
G.J. Matthey

Committee on Elections, Rules and Jurisdiction

April 14, 2008

Legislative Ruling 4.08

Defining “Passing Quality” With Respect to the Assignment of Incompletes. The grade of Incomplete may only be assigned when the student’s completed work is of “passing quality” (Davis Division Regulation A540(C)). “Passing quality” means “of D- quality or better” whether the student is taking the course for a letter grade or not. The only exception is for courses listed in the General Catalog as being graded on a Passed/Not Passed or Satisfactory/Unsatisfactory basis only, in which case the completed work must be of a quality consistent with a grade of Pass or Satisfactory.

Background

DDR A540(C) states that

The grade Incomplete shall be assigned only when the student’s work is of passing quality and represents a significant portion of the requirements for a final grade, but is incomplete for good cause as determined by the instructor.

Some departments and faculty members have interpreted this to mean that an Incomplete can only be assigned where the completed work is of C- quality or better. In other cases Incompletes have been assigned as long as the student’s work is of D- quality or better. We seek to resolve this inconsistency in grading practices.

Analysis of Relevant Legislation

Systemwide legislation (ASR 780(A)) defines grades as follows:

Except as provided in SRs 778, 782, and 784, the work of all students in the University shall be reported in terms of six grades:

1. passing: A (excellent), B (good), C (fair), D (barely passing)
2. not passing: F (failure)
3. undetermined: Incomplete

The Davis Division implementation under DDR A540(A) is less explicit:

The work of each student shall be reported in terms of the following grades: A (excellent), B (good), C (fair), D (poor), F (failure), I (incomplete), and IP (in progress). Grades of A, B, C, and D may be modified by plus (+) or minus (-) suffixes.

However, all Divisional Regulations, including grading systems, must be consistent with Systemwide Regulations (see ASB 310(A)(1)) unless the Assembly of the Academic Senate provides a variance (per ASR 778(F)). And the variance granted by the Assembly authorizing the Davis Division to define grades at variance with ASR 780(A) reiterates that a D is a passing grade:

In the Davis Division, the passing grades “A,” “B,” “C,” and “D” may be modified by plus (+) or minus (-) suffixes. (Variance approved November 3, 1969.)

The grade of D- is therefore of “passing quality” (albeit “barely passing”). This is consistent with the long-standing definition of a D as “barely passing” in the Davis General Catalog.

The minimum performance required for a grade of Pass under passed/not passed grading is a C- (ASR 778(C)(1); DDR A545(E)). Similarly, the performance required for a grade of Satisfactory is higher than the minimum passing level for letter grades (ASR 778(C)(2); DDR A548(D)). However, this does not alter the general definition of “passing” performance per ASR 780(A) for courses in which letter grades are assigned. Indeed, D grades are counted as “passing” for the purposes of the General Education requirement (DDR 522(B)(1)) and the Minimum Progress requirement (DDR A552(B)). Moreover, D grades are explicitly regarded as “passing” for minimum progress, even if the course is repeated:

If a student receives a grade of D in a course and repeats the course, the course shall be counted as units passed each time the course is passed up to a maximum of 16 units. (DDR A552(B)(1)(b).)

In a course for which letter grades may be assigned the faculty member has no official cognizance of whether a student is taking the course for a letter grade or on a passed/not passed (or satisfactory/unsatisfactory) basis. Because the faculty member submits only letter grades, the letter grading standard must apply in determining whether the work is of passing quality. However, if the course is graded *exclusively* on a passed/not passed (or satisfactory/unsatisfactory) basis then letter grades are generally not computed. In that case the completed work is of passing quality if performance at that level would earn a grade of Pass (or Satisfactory).

Committee on Elections, Rules and Jurisdiction
Advice On Amendments From the Floor of the Representative Assembly
 March 11, 2008

Advice

***Question:** When a proposal which would change the Divisional Bylaws or Regulations is being considered by the Representative Assembly, may the proposal be amended from the floor?*

***Answer:** Under Davis Division Bylaw 180 amendments from the floor are in order, under procedures governed by Robert's Rules of Order, as long as the amendments "do not exceed the scope of the previous notice."*

Background and Discussion

The following analysis is an interpretation of the background and meaning of Davis Division Bylaw 180 which is intended to assist the Chair with any ruling that might need to be made on amendments from the floor.

In Spring 1999 the Chair of the Division, in his capacity as chair of the Representative Assembly, ruled that "no amendment to legislation under discussion could be enacted without notice being given to the Division." (Report of the Committee on Elections, Rules and Jurisdiction, per Minutes of the October 25, 1999 meeting of the Representative Assembly.) This ruling was consistent with Davis Division Bylaw 180, which at the time read as follows:

The Representative Assembly shall not take final action on the addition to, amendment of, or repeal of Legislation during the meeting at which such proposals are first made, unless notice thereof shall have been sent to all members of the Division at least five days before the meeting. (Davis Division Bylaw 180 prior to October 25, 1999.)

The Committee on Elections, Rules and Jurisdiction subsequently opined that

While this ruling was consistent with the wording of Bylaw 180, it represented a departure from the actual practices of the Representative Assembly in which amendment of legislation under debate was usual, and indeed is contrary to parliamentary practice as described, for example, in Robert's Rules of Order. The Committee on Elections, Rules, and Jurisdiction therefore recommends the adoption of an amendment to Bylaw 180 that would clarify the customary practice of the Representative Assembly with respect to debate and amendment of legislation.

That amendment, enacted on October 25, 1999, revised DDB 180 to state that

The Representative Assembly may add to, amend, or repeal legislation, provided that no final action shall be taken during the meeting at which such proposals are first made, unless notice thereof shall be sent to all members of the Division at least five days before the meeting. The notice shall be consistent with the

provisions of Bylaw 19. Notice shall include a statement of the purposes of the legislation consistent with Bylaw 195. *The notice requirement shall not be interpreted to prevent amendments from the floor which do not exceed the scope of the previous notice.* Davis Division Bylaw 180 as amended October 25, 1999, emphasis added.)

Thus the Bylaws now allow amendments from the floor. However, the scope of such amendments is not unlimited because amendments which are extraneous or which introduce issues not discussed in or related to the proposal -- and which have not been made available for consideration and review by the membership -- would defeat the purpose of the notice requirement.

Thus amendments to a proposed regulation which enacted degree requirements which were substantially different from those in a noticed motion or which had substantial resource implications could reasonably be ruled out of order. In that case the proponents of the amendment could instead urge the defeat of the main motion.

Robert's Rules of Order states that the duties of the presiding officer include

deciding all questions of order (subject to an appeal to the assembly by any two members) unless when in doubt he or she prefers to submit the question to the decision of the assembly. (Robert's Rules of Order Section 58 on the duties of the Chair or President)

Therefore the determination of whether a proposed amendment to a noticed motion exceeds the scope of the previous notice is made by the Chair. Making such a determination does require some judgment. For example, changing a proposed degree requirement to allow (or to disallow) pass/not passed grading in the relevant courses could reasonably be held to be within the scope of the original proposal. On the other hand, an amendment from the floor adding an entirely new component to a proposed set of degree requirements could reasonably be ruled out of order.

Committee on Elections, Rules and Jurisdiction
Advice on the Scope of ASB 55 Regarding Departmental Voting on Personnel Matters
March 17, 2008

Background

On March 13, 2008 Divisional Chair Linda Bisson asked for clarification of the scope of Academic Senate Bylaw 55 on personnel matters. In particular, she asked whether it is applicable to votes taken on personnel matters (such as for the appointment of a department chair) which, under campus or Senate policy, need not have been taken at all.

Advice

All votes on personnel matters are “substantial departmental questions” in the sense of Academic Senate Bylaw 55(A)(1). Therefore, the provisions of ASB 55 apply to all votes taken on personnel matters, even when a vote need not be taken at all (as in the case of an advisory vote regarding the appointment of a department chair). These provisions include

- (1) the right to vote by “any of its non-emeritae/i faculty who are voting members of the Academic Senate ... excepting only certain personnel actions as detailed in Article B of this Bylaw” (ASB 55(A)(1));
- (2) the limitation of voting rights “to those members of the department who are also members of the Academic Senate” (Systemwide Legislative Ruling 5.67; see also ASB 35(C)(2)); and
- (3) the provision that “no voter may be denied the option to require a secret ballot” (ASB 55(B)(7)).

Committee on Elections, Rules and Jurisdiction
Advice on the Appointment of Senate Faculty to Administrative Committees
May 8, 2008

Background

Committee on Committees Chair Craig Tracy has asked CERJ to review Senate authority regarding the appointment of Academic Senate members to administrative committees.

Advice

Davis Division Bylaws give the Executive Council the responsibility to

be available for consultation with the Chief Campus Officer concerning the establishment of Administrative task forces, and communicate with appropriate Divisional committees relative to the establishment of task forces by the campus Administration. (Davis Division Bylaw 73(C)(2).)

Administration requests for the appointment of Academic Senate representatives on administrative task forces--or any administrative committee, however styled--should therefore be addressed to the Executive Council through the Chair of the Division. The Executive Council may delegate the appointment authority to the Chair, to the Committee on Committees, or to the appropriate standing committee, subject to the provision that

No member of the Division holding an administrative title of Chancellor, Vice Chancellor, Provost, Vice Provost, Dean, Associate Dean or titles with equivalent levels of administrative responsibility may serve as a member of a divisional committee or as a representative of the Davis Division to any taskforce, committee, or agency (except in a non-voting, ex officio capacity.) These restrictions do not apply to chairs of academic departments or programs. (Davis Division Bylaw 28(C).)

Only Academic Senate members appointed by the Division in this manner may be regarded as being representatives of the Academic Senate.

In instances where the administration appoints Senate members to administrative committees without following these procedures,

Lacking formal connection to the Senate, such committees cannot provide advice to the Administration on behalf of the Senate as called for in the Standing Orders. The formation of an administrative advisory committee does not represent consultation with the Senate. (*Mending the Wall: Report of the Special Committee on Shared Governance and Senate Operations* (December 13, 2004), Section 2.3.)

Committee on Elections, Rules and Jurisdiction
Advice on Academic Senate Bylaw 55 and New Appointments
 May 29, 2008

Advice

No appointment to a position carrying membership in the Academic Senate may be initiated without a departmental vote on the particular candidate, to be conducted pursuant to Academic Senate Bylaw 55. The Chancellor, upon recommendation from the Dean, has the ultimate authority to make the appointment after approval by a departmental vote.

When a department votes affirmatively on the appointment of multiple candidates, and also provides a ranking of the candidates who were found to be acceptable, the Dean may initiate an offer to one or more of the acceptable candidates--whether or not an offer is extended to the department's top-ranked candidate--without violating ASB 55. However, if a department votes on only a single candidate while also providing a ranking of additional candidates for informational purposes only, then the Dean could initiate an offer to one of the additional candidates only after returning the matter to the department for a determination of the suitability of the particular candidate pursuant to the provisions of ASB 55.

We therefore suggest that votes on multiple candidates be conducted with a clear understanding of the authority of the Dean to make offers to other than the top-ranked candidate, or to make multiple offers (with possible implications for future searches). It is also important that both the votes and the letters conveying the departmental recommendation be clearly and carefully worded so that there is no misunderstanding about the need for subsequent consultation with the department.

Background

Several members of the Division have posed questions about the role of the departmental vote in the making of new appointments conferring Senate membership, asking for an interpretation of Academic Senate Bylaw 55 in this context. In particular, questions have been raised regarding decanal authority when a department forwards recommendations regarding multiple candidates.

Rationale

(1) Departmental Voting Rights

The complete list of academic titles conferring membership in the Academic Senate is given in Standing Order of the Regents 105.1(a). SOR 105.1(b) states that "the Academic Senate shall determine its own membership under the above rule." Legislative Ruling 5.06 states that "All Senate members must be appointed to academic departments (or their equivalent within the meaning of ASB 55)." So, with the exception of certain administrative officers specified in SOR 105.1, every member of the Davis Division of the Academic Senate must be appointed as a member of some department.

SOR 105.2(c) further empowers the Academic Senate to "determine the membership of the several faculties and councils..." Under the provisions of Davis Division Bylaws 141-153, which define the membership of the Faculties (that is, the Senate members of a particular school or college), and consistent with ASB 45, which sets out the parameters within which Divisions may define membership

in Faculties, appointment to a qualified title in virtually any academic department (or equivalent) conveys membership in the corresponding Faculty.

Thus the Academic Senate's role in determining the membership in the Academic Senate and in a Faculty, as authorized under SOR 105.1(b) and 105.2(c) respectively, is discharged by its role in determining membership in departments. ASB 55 provides the departmental voting procedures for appointments which convey membership in a Faculty and in the Academic Senate. All personnel voting practices must comply with ASB 55 and the specific voting processes approved by each department and by the Committee on Academic Personnel pursuant to ASB 55(B)(7). (These processes are kept on file with CAP.)

ASB 55 explicitly requires that

All tenured faculty in a department have the right to vote on all new departmental appointments that confer membership in the Academic Senate. (ASB 55(B)(1))

Therefore no new hire may be initiated without a departmental vote on the particular candidate, conducted pursuant to ASB 55. Of course the departmental vote is advisory to the Dean and Chancellor. And the Chancellor, upon recommendation from the Dean, has the ultimate authority to make the appointment after approval by a departmental vote.

(2) Situations When Multiple Candidates Are Ranked By Departments

A specific issue raised by members of the Division concerns a situation in which the departmental faculty voted to recommend the appointment of multiple candidates, and also provided a ranking of the candidates who were found to be acceptable. The Dean then selected a candidate who was not the department's first choice for the position. Because the selected candidate was approved by the department and the voting rights guaranteed by ASB 55(B)(1) were honored, such action is not a violation of ASB 55.

A corollary question concerns a situation in which a department voted to approve multiple candidates for a single position and provided a ranking thereof, and the Dean chose to initiate offers to more than one individual from the list. If a department has approved multiple individuals for appointment this also is not a violation of faculty voting privileges.

However, if a department votes on only a single candidate pursuant to ASB 55 and also provides a ranking of additional candidates for informational purposes only, then the Dean could initiate an offer to one of the additional candidates only after returning the matter to the department to determine if the additional candidate were suitable for appointment. This is necessary because ASB 55(B)(1) requires a departmental vote on every individual to whom an offer is extended.

A particular problem arises if a department is unaware that the unanticipated extension of multiple offers could adversely impact upon future searches. If the impact on future hires had been known prior to the initial vote, the result of a departmental vote approving multiple candidates might have been different. It is therefore important that faculty in a department approving multiple candidates fully understand the import of the departmental vote. And it is critical that both the votes and the letters conveying the departmental recommendation be clearly and carefully worded so that there is no misunderstanding about the need for subsequent consultation with the department.