

## Committee on Elections, Rules and Jurisdiction Annual Report 2008-2009

Total Meetings: 14	Meeting Frequency: 4-5 per quarter	Average Hours of Committee Work Per Week: 10
Total bylaw and regulation proposals, other advice matters, and elections supervised: 55	Total matters deferred from previous year: 6	Total matters deferred to coming academic year: 10

CERJ took the following actions during 2008-2009.

### **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 2008-2009:*

(1) Davis Division Bylaw 99: Representation on the Committee on Research. The Committee on Research proposed that Davis Division Bylaw 99 be amended to add to Section B a provision for a representative of the Academic Federation to the Subcommittee on Research Policy. This proposal was adopted by the Representative Assembly on February 24, 2009.

(2) Davis Division Bylaws 39 and 40: Election To, and Term of Office of, the Committee on Committees. The Committee on Committees submitted a proposal which would change the beginning of the term of newly-elected members of the Committee on Committees to the September 1 following the election by removing the special provision for the beginning of term from Bylaw 39, so that Bylaw 30(G) would govern the term of service, as it does for all other committees. The amendment would also make each member of the Committee on Committees represent a specific constituency of faculty members rather than being "at-large" representatives of the entire faculty. This proposal was adopted by the Representative Assembly on February 24, 2009.

(3) Davis Division Bylaw 141: Change in Membership of College of Letters & Science Faculty. With the establishment of the University Writing Program (UWP), three faculty members in the professor series were appointed in the UWP. However, Davis Division Bylaw 141 and Bylaw 2(A) of the College of Letters and Science have both required Senate faculty in the College to hold appointments in "departments in which students in the College of Letters and Science may elect their major work," and UWP does not offer a major. CERJ, therefore, proposed that Davis Division Bylaw 141 be amended to grant membership in the Faculty of Letters and Science to faculty holding appointments in the UWP. After the Faculty of the College of Letters and Science made a corresponding change to its Bylaws, this proposal was adopted by the Representative Assembly on May 7, 2009.

(4) Davis Division Bylaw 56: Membership on Committee on Courses of Instruction. Before the creation of the College of Biological Sciences, there were three undergraduate colleges, each of which are represented by two members of the Committee on Courses of Instruction (COCI). There are now four undergraduate colleges, and equity requires that the newly-established fourth college should have the same level of representation as do the three older colleges. Since each of the three older colleges have two members, independently of their size, CBS should also have two members as in order to be equitably represented. An additional reason for this proposal was that COCI itself will be coming under significant strain due to the implementation of the new General Education Regulations. The addition of two members would be helpful in the implementation process. The proposal was adopted by the Representative Assembly on May 7, 2009.

(5) Davis Division Bylaw 148: Faculty of the School of Nursing. The Board of Regents has established a School of Nursing on the Davis campus. This proposal would establish a Davis Division Faculty of the School of Nursing. When the faculty is in place, steps may be taken toward establishing Bylaws for the Faculty of the School of Nursing, which in turn is necessary for the establishment of degree programs in the School. The proposal was adopted by the Representative Assembly on May 7, 2009.

(6) Davis Division Bylaw 123: Change in Membership of the Committee on Undergraduate Scholarship, Honors, and Prizes. It was proposed that the membership on the Davis Division Committee on Undergraduate Scholarship, Honors, and Prizes (CUSHP) be expanded from 16 to 20, in order to accommodate a heavy workload during a short period of time. The primary workload of the committee is reading undergraduate scholarship applications, which is done entirely in the Winter Quarter. In the other quarters, there are a few committee meetings, a few social events relating to certain scholarships, and an interview process to determine the university medalist. The proposal was adopted by the Representative Assembly on June 5, 2009.

(7) Davis Division Bylaw 121: Change in Membership of the Undergraduate Instruction and Program Review Committee. It was proposed that the membership on the Davis Division Undergraduate Instruction and Program Review Committee (UIPR) be clarified and re-constituted. Bylaw 121 (F) is unclear with respect to the number of members of UIPR. With the formation of the College of Biological Sciences (CBS), there are now four undergraduate colleges. The Bylaw would specify that the four members are to be drawn from CBS, College of Agricultural and Environmental Sciences, the College of Engineering, and the College of Letters and Science. The number of non-ex officio members of the UIPR not representing a college would be reduced from three to two. The proposal was adopted by the Representative Assembly on June 5, 2009.

(8) Davis Division Bylaw 76: Faculty Research Lecture Committee. Davis Division Bylaw 76 states that the term of office of members of the Faculty Research Lecture Committee is from April 1 to March 31 of the following year. By removing from the Bylaw the reference to a specific term of office, this proposal would bring the term of office of the Committee under Davis Division Bylaw 29(E). As a result, the term of office would be September 1 to August 31 of the following year. The timing of the nomination of the recipient to the Davis Division

Representative Assembly would be changed by the proposal from Fall Quarter to Winter Quarter. The proposal would also remove the specification that the Faculty Research Lecture be given during "Charter Week." Permitting the lecture to be given at any point in the spring quarter would allow flexibility in scheduling. The proposal was adopted by the Representative Assembly on June 5, 2009.

(9) Davis Division Bylaw 111: Elimination of the Committee on Student-Faculty Relationships. The 2008-2009 Committee on Student-Faculty Relationships requested that the committee be disbanded. This proposal would remove Bylaw 111, which establishes the existence of the committee. This proposal is the result of a self-study conducted by the Student-Faculty Relationships Committee. The Committee unanimously believes that conflicts or disagreements between faculty and students are most appropriately resolved at the department level. The number of cases that came to the Student-Faculty Relationships Committee over the last few years does not justify the existence of an Academic Senate Committee. The proposal was adopted by the Representative Assembly on June 5, 2009.

## **Editorial Amendments to Bylaws**

*The Committee is authorized "To make editorial and conforming non-substantive changes in Bylaws and Regulations with regard to numbering, headings, cross-references, organizational titles, details of style, and similar items." (Davis Division Bylaw 71(B)(1)).*

The editorial Bylaw amendments include conforming revisions regarding ex officio committee membership and representation. The two Bylaws to which the amendments would conform are:

(1) DDB 28(C). "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.)"

(2) DDB 29(A). "Regular standing committees shall consist of members of the Academic Senate or of such members in combination with student representatives and/or other non-Senate representatives."

The descriptions of these conforming Bylaw revisions are appended to this report.

## **Proposed Resolutions**

(1) Davis Division Regulations 522 and 523: Proposed Change in Effective Date. At the June 6, 2008 regular meeting of the Representative Assembly, Davis Division Regulations 522 (Baccalaureate Degree Requirement in General Education) and 523 (Criteria for General Education Certification) were adopted by the Assembly. Concurrent with the adoption of these Regulations, the Assembly approved an effective date of September 1, 2010. It was

proposed that the effective date be delayed by one year, with a new effective date of September 1, 2011. In order to meet the September 2010 implementation, all current courses (estimated at 1200-1600) would have to be updated to designate the appropriate "Literacy" by November, 2009, or at the latest by the end of the Fall Quarter 2009. Meeting this target was not feasible, for the following reasons:

- The colleges, departments, Academic Senate Office and administrative offices would need additional time to assure appropriate classification of courses and entry into the course database and the General Catalog.
- The current electronic Course Approval Form (CAF) system is sorely inadequate for the purposes of managing the workload associated with the revision of existing courses and any new course proposals.
- Campus departments and advisers need additional time to become knowledgeable about the new requirements in order to advise students under the old GE requirements and the revised GE requirements during the period in which the revised requirements are being phased in.

The proposal was endorsed by the General Education Committee and adopted by the Representative Assembly on February 24, 2009.

## **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) Appointment of Graduate Students to Teach Upper-Division Courses. A problem regarding the appointment of graduate students to teach upper-division courses was brought to CERJ's attention. The complete Advice dated October 13, 2008, including background and rationale, is appended to this report.

(2) Faculty Conferring on Personnel Actions. CERJ was asked whether department members have the right to confer among themselves before voting on personnel matters. The complete Advice dated November 7, 2008, including background and rationale, is appended to this report.

(3) Faculty Consultation in Appointment of Department Chairs. The Divisional Chair solicited CERJ advice regarding the question of the role opinion of faculty has in determining the chair of a department. The complete Advice dated December 15, 2008 is appended to this report.

(4) Representative Assembly Meeting Call: CERJ asked by the Executive Director whether paper versions of the Meeting Calls of the Representative Assembly (RA) are required to satisfy the conditions laid down in Davis Division Bylaw 19 for notification of RA meetings. The complete Advice dated December 16, 2008 is appended to this report.

(5) Department Chairs on CAP: CERJ was asked by the Divisional Chair whether any legislation which prohibits a department Chair from service on the Committee on Academic Personnel. The complete Advice dated January 13, 2009 is appended to this report.

(6) Ex Officio Voting Rights: A Divisional committee inquired of CERJ whether ex officio members on standing committees have the right to vote on committee business. The complete Advice dated January 22, 2009, including background, rationale, and examples, is appended to this report. A further question considered by CERJ in connection with this issue was whether the Librarian, Registrar and Admissions Officer (all of whom are Senate members) are covered by DDB 28(C), which states, "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.)" The Chairs of the relevant committees were surveyed, and there was no support for applying DDB 28(C) to those holding the titles mentioned above. CERJ did not pursue this issue any further.

## **Other Advice/Responses 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.*

CA&ES Special Review Committee. A special review committee was created by the Executive Council to investigate various complaints by departments of improper actions by the administration of the College of Agricultural and Environmental Sciences (CA&ES). CERJ was asked to provide advice on which part of the special review committee report should be made public. CERJ advised that the entire report should be made public. The report was received by the Representative Assembly on February 24, 2009.

Petition from a Graduate Student. The Executive Director received a communication from a student who has been dismissed from his graduate program and whose appeal to Graduate Studies has been denied. CERJ gave advice on how to answer this student's request for information about how to submit a student petition to the Division.

Housing of Majors in CA&ES. Informal advice was sent to a faculty member requesting advice about procedures for establishing a new major in the College of Agricultural and Environmental Sciences (CA&ES). It was advised that majors are governed by colleges, and that the only formal procedure required in the CA&ES Bylaws is approval by the college Undergraduate Majors and Curriculum Committee. It was further advised that the faculty member refer questions about procedures within the college to the college's Rules and Jurisdiction Committee.

Information Technology Committee. Advice was sent to the Divisional Chair regarding the appointment of Senate representatives to three campus informational technology committees. The advice was that it would be in the best interests of the Senate to make these appointments. The Chair accepted the advice and stated that he would move forward with the process of appointing representatives.

Secret Ballots on Personnel Votes. A faculty member inquired about what constitutes a "secret ballot," to which faculty are entitled in voting on personnel actions by Academic Senate Bylaw 55. His question was answered by another source before CERJ could provide advice.

Ph.D. Appeal Letter. A graduate student has been trying to appeal to the Senate the denial of his Ph.D. Advice was sought by the Executive Director about who should sign a letter regarding the Senate's position on the status of his petition. CERJ advised that the letter should be signed by the Chair of the Senate.

University Librarian on the Library Committee. The Executive Director inquired as to whether the University Librarian of the Davis campus is an ex officio member of the Library committee, since Davis Division Bylaw 83(B) did not state that this was the case. In consultation with the Library Committee, CERJ determined that the Librarian is an ex officio member, and this status was added to the Bylaw in an editorial revision that is a part of the revisions appended to this report.

HArCS Special Review Committee. The Divisional Chair sought the advice of CERJ regarding setting up a Special Review Committee to investigate complaints by Senate members in the College of Humanities, Arts and Cultural Studies (HarCS), specifically with respect to the role of the opinion of faculty in the appointment of the Chair of a department. CERJ provided advice on the creation of the committee.

Vote on Faculty Transfer. A situation arose in which a faculty member in a program wished to transfer to a department outside the current college. A question arose as to whether the department that would lose the faculty member had any recourse with the college Dean regarding replacement of the position that would be lost. CERJ advised that the department has no such recourse.

Disestablishment of Organized Research Units. The Chair of the Committee on Research asked about what should be done when the policy of the Office of the President and the Davis Division Policies and Procedures Manual are in conflict. This conflict was relevant to the process of the disestablishment of an Organized Research Unit. The Chair reported shortly thereafter that the matter had been resolved, and there was no need for CERJ advice.

Special Committee on Student Evaluations. CERJ was consulted in the process of drafting a possible resolution for the February 24, 2009 Representative Assembly meeting. This resolution, which was ultimately not brought forward, would have established a special committee devoted to student evaluations. This committee would have been in response to the possible movement to an on-line course evaluation system.

Minimum Department Size. There was a proposal endorsed by a college Executive Committee to split an existing department into two departments. The Committee on Planning and Budget (CPB) objected to the establishment of one of the departments on the grounds that with only four members, it would be too small. The Executive Director asked for advice from CERJ as to whether there is Senate rules regarding the minimum number of faculty required for the formation of a department. CERJ advised that there are no such rules.

Distinguished Public Service Award Recipients. The Committee on Public Service wished to recommend five faculty members for the 2008-2009 Distinguished Public Service Award. Davis Division Bylaw 88(B)(2)(c) allows "up to four" "faculty members" to be nominated for the award in any given year. CERJ advised Senate staff that only four faculty members could receive awards. One award was given jointly to two faculty members and two others were given singly.

School of Medicine Bylaws. CERJ was asked to review proposed changes to the School of Medicine Bylaws. CERJ reviewed the changes and determined that they were consistent with divisional and systemwide legislation. The Bylaw changes will be placed on the October 2009 Representative Assembly agenda.

Replacement of a Committee Member. A member of a standing committee could not attend a committee meeting and asked that a member of her department attend in her place. CERJ advised that only the Committee on Committees has the authority to appoint a temporary replacement for absent committee members, and that the attendance of the fellow department member is at the discretion of the committee.

College of Engineering Bylaws. CERJ was asked to review proposed changes to the College of Engineering Bylaws. CERJ reviewed the changes and determined that they are consistent with divisional and systemwide legislation. The Bylaw changes will be placed on the October 2009 Representative Assembly agenda.

Committee on Committees Election Ballot & Extension Request. The Executive Director requested that CERJ review a draft of the Call for Nominations to Committee on Committees. CERJ approved the call, and it was distributed on April 3. CERJ was also asked for advice regarding an extension of the due date request from the College of Biological Sciences. The advice from CERJ was that the Bylaws are explicit about the time-period for nominations, and that they do not make any provision for an extension. CERJ also advised that the use of electronic signatures in lieu of handwritten signatures is not acceptable without a policy for their use, which does not exist at present.

Academic Personnel Process Review Task Force. The Chair of the Committee on Committees (COC) was concerned that the forthcoming report of the Academic Personnel Process Review Task Force might affect the nomination process for the Committee on Academic Personnel Oversight Committee (CAPOC). It was not known at that point whether the Task Force would recommend changing the size or composition of CAPOC. The Divisional Chair sought the advice of CERJ regarding the Committee on Committees' slate of nominees for 2009-2010. CERJ advised that COC may need to have two slates of nominees

ready in case the Representative Assembly were to adopt a change in the composition of CAPOC in response to the Task Force report. Because that report was not yet available when nominations were due, one slate of nominees was put forward by COC.

Representation of the Committee on Information Technology on CCFIT. The Executive Director inquired of CERJ whether the Committee on Information Technology (CIT) could appoint one of its non-Senate representatives to the Campus Council on Information Technology (CCFIT). CERJ advised that only Senate members may represent the Senate on external committees.

Registrar Membership on the Grade Change Committee. CERJ learned that the Grade Change Committee (GCC) was unaware of the ex officio membership of the Registrar, who has been sending a staff member to GCC meetings. CERJ apprised the Executive Director of the situation, and she said she would inform all parties of the Registrar's membership on GCC.

Systemwide Undergraduate Admissions Regulations. The Board of Regents approved substantial changes to admissions procedures. CERJ was asked to review revisions to the systemwide Regulations that would bring Senate policy into line with the Regents' action, as well as clarify other regulations. CERJ reviewed the revised Regulations and made some minor suggestions for changes to them.

Officers of the Division. CERJ was asked by the Executive Director for advice as to whether Divisional Representatives to the Senate Assembly are officers of the Division. CERJ advised that according to Davis Division Bylaw 10, they are not officers of the Division.

Divisional Representatives to the Assembly. The Executive Director referred to CERJ a request for interpretation of DDB 14(B), which empowers the Committee on Committees (COC) to fill vacancies when the number of nominations to COC is less than the number of positions to be filled. CERJ advised that COC has discretion to nominate between two persons (the actual number of vacancies) and five persons (the number that would be needed for a full election of six members were to be held).

Grade Change Guidelines. CERJ reviewed and approved revisions to the Grade Change Committee Guidelines.

Criteria for Faculty Hires. An inquiry was received from an emeritus Senate member concerning his department's criteria for evaluating potential faculty recruits. CERJ directed the inquirer to the previous advice on the use of collegiality in personnel actions.

Policy on the Grade "Incomplete". An inquiry was received from a program that wishes to place a time expiration limit on the completion of course in which the grade "incomplete" was received, a limit intended to apply to students not in residence. The program had been advised by the Office of the Registrar that this would conflict with Davis Division Regulation A540. CERJ advised that a time limit applies to students only during the period in which they are in residence.

UCD Health System Procedures. An inquiry was received from a faculty member questioning whether Hospital Policies and Procedures 1701, concerning the procedure for allocating individual responsibility in professional liability cases in which there has been a judgment, is consistent with the Code of the Senate. CERJ advised that nothing in the Code of the Senate conflicts with the policy in question.

## **Pending Matters for 2009-2010**

- (1) Composition of the Joint Personnel Committee. Members of the Academic Senate/Academic Federation Joint Personnel Committee are appointed by the Senate and the 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.
- (2) Graduate Program MOUs. Due to a recent action by the Executive Council, the Graduate Council now requires certain memoranda of understanding (MOUs) concerning administration, instruction, and student support for new and existing graduate programs. CERJ was directed by the Divisional Chair about how the MOUs could be enforced. The issue is still pending.
- (3) Monitoring Performance of Senate Committees. The Chair of the Committee on Committees (COC) and the Divisional Chair raised the question of how the performance of Senate committee is monitored. The COC Chair, working with Divisional Chair, has formulated a proposal which has been sent to CERJ for advice regarding Bylaw interpretation and possible revision.
- (4) Library Committee Reorganization. The Library Committee is drafting a proposal to change its composition significantly, which would require a Bylaws amendment as well as action by the college Faculties. If a final proposal emerges from the Library Committee, CERJ will review it in 2009-2010 to ensure its consistency with systemwide and divisional legislation and will also determine the necessary Bylaws and Regulations amendments.
- (5) Authority for Transfer Credit. CERJ was asked to request a ruling by the systemwide Committee on Rules & Jurisdiction concerning whether the Admissions Officer on the Davis campus has the sole authority to rule on transfer credit for courses taken abroad but not under the auspices of the Education Abroad Program. CERJ is in the process of formulating a request for a ruling.
- (6) Divisional Representatives to the Assembly. CERJ is considering revisions to the wording of DDB 14(C) to clarify the procedure for nominating Divisional Representatives to the

Assembly. The need for such clarification became apparent when CERJ was advising COC regarding the nomination of Divisional Representatives by COC due to an insufficient number of nominations during the nominating process. The advice is described in the previous section.

(7) Appellate Subcommittee of the Committee on Academic Personnel. The Divisional Chair requested advice on whether the Appellate Subcommittee of the Committee on Academic Personnel (CAPAC) has the authority to review negative recommendations by the Oversight Subcommittee of the Committee on Academic Personnel (CAPOC) on faculty appointments. CERJ is formulating a response and may recommend Bylaws amendments for clarification.

(8) CA&ES Bylaws Conformity. The College of Agricultural and Environmental Sciences (CA&ES) proposed amendments to its Bylaws in the past academic year. These amended Bylaws are being examined for conformity to systemwide and Divisional Senate Bylaws. Preliminary work on this issue has been done by CERJ.

(9) CA&ES Voting Rights. As a result of a recommendation of the Special Committee reviewing actions on personnel matters by the College of Agricultural and Environmental Sciences (CA&ES), CERJ was directed by the Representative Assembly to provide, after consultation with the Committee on Academic Personnel Oversight Subcommittee (CAPOC), advice to the Division concerning the role of Academic Federation members in personnel actions. A large number of unsolicited messages from CA&ES faculty were received and a listing of the relevant documents has been compiled. CERJ will shortly submit a draft of its advice to CAPOC.

(10) At CERJ's request, the Grade Change Committee has submitted a draft of guidelines for the use of the grade "N" (No Grade). CERJ provided some comments on the draft. The Grade Change Committee will discuss the guidelines for the use of the grade "N" in 2009-10.

Respectfully Submitted,

G.J. Matthey, Chair  
Thomas Farver  
Donna Shestowsky  
Kimberly Pulliam, Analyst

**Committee on Elections, Rules and Jurisdiction Advice**  
**Appointment of Graduate Students to Teach Upper-Division Courses**  
**October 13, 2008**

A problem regarding the appointment of graduate students to teach upper-division courses was brought to CERJ's attention. At present, approval is given by the Committee on Courses of Instruction (CoCI). There are times when the Chair of that committee is vacant and appointments need to be made under time constraints, and for this reason there should be a backup mechanism in place so that appointments can be made when the Chair of CoCI is vacant.

CERJ believes that there is an existing backup mechanism that can be used in these situations. Senate Regulation 750(B) regulates the appointment of non-faculty to teach courses above the lower division:

"Professors, professors in residence, professors of clinical \_\_\_\_ (e.g., medicine) and adjunct professors of any rank, instructors, instructors in residence and adjunct instructors, and lecturers may give courses of any grade. Persons holding other instructional titles may teach lower division courses only, unless individually authorized to teach courses of higher grade by the appropriate Committee on Courses or Graduate Council. If a course is given in sections by several instructors, each instructor shall hold the required instructional title. "

The Graduate Council (GC) thus has authority to authorize the appointments in question. Davis Division Regulations are silent on this point.

CoCI has stated in its published Policies and Procedures document that all applications must be approved by it.

[http://academicsenate.ucdavis.edu/committee\\_cci\\_policies.cfm#Als](http://academicsenate.ucdavis.edu/committee_cci_policies.cfm#Als)

CERJ believes it is clear that CoCI shares this authority with the Graduate Council, given that there are no Divisional rules to the contrary.

Therefore, CERJ advises that at times when the Chair of CoCI is vacant, approval be obtained from the Graduate Council. It is very unlikely that both Chairs would be vacant at the same time. No Bylaws or Regulations change would be needed under this arrangement. The Senate might wish to adopt a Divisional Regulation which spells out the authority to approve these requests. (Irvine is the only campus that has a Regulation. 450 which is virtually the same as SR 750(B).) But since the problem arises infrequently, it does not seem that any new Regulation is really needed.

It seems reasonable that the form used by CoCI should be used by GC in these circumstances.

[http://academicsenate.ucdavis.edu/coci/associate\\_instructor\\_form.doc](http://academicsenate.ucdavis.edu/coci/associate_instructor_form.doc)

The form should be signed by the Chair of the Graduate Council, though the evaluation of the applications could be delegated to the GC Courses Committee.

**Committee on Elections, Rules and Jurisdiction Advice**  
**Faculty Conferring on Personnel Actions**  
**November 7, 2008**

The following is 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.

**Committee on Elections, Rules and Jurisdiction Advice**  
**Faculty Consultation in Appointment of Department Chairs**  
**December 15, 2008**

A question raised by Divisional Chair Powell for CERJ consideration is the following: What role does opinion of faculty have in determining the chair of a department?

CERJ's response is that the only role the opinion of the faculty has in the appointment of its departmental chair is that it represents fulfillment of an obligation of the administration to consult with the tenured members of its faculty. Nothing binds the Dean or Chancellor to follow the advice of the tenured members of the departmental faculty.

The Standing Orders of the Regents and the Academic Personnel Manual are relevant here.

SOR 100.6. "The Chancellor shall be responsible for the organization and operation of the campus, its internal administration, and its discipline."

We interpret "internal administration" to include appointments of department chairs.

APM-245-24(a) Authority: "The Chancellor has the authority to appoint department chairs upon the recommendation of the Dean or equivalent officer and after consultation with the tenured faculty in the department concerned."

The only action required with respect to tenured faculty is "consultation."

APM-245A, Appointment and Review of Departmental Chairpersons: II(A)(1)(b): "The Chancellor shall appoint the chairs of departments upon the recommendation of the appropriate dean; the dean shall consult with the tenured members of the departmental faculty prior to offering a formal recommendation."

Once again, the only action required is consultation. The only substantive difference between the Davis campus version of the APM in this regard is that it delegates the consultation process to the dean.

**Committee on Elections, Rules and Jurisdiction Advice**  
**Representative Assembly Meeting Call**  
**December 16, 2008**

The Committee on Elections, Rules and Jurisdiction (CERJ) was asked by Executive Director Anderson whether paper versions of the Meeting Calls of the Representative Assembly (RA) are required to meet satisfy the conditions laid down in Davis Division Bylaw (DDB) 19 for notification of RA meetings.

CERJ's advice is that paper versions are not necessary, and that it is sufficient that the Meeting

Calls be distributed as attachments in electronic mail messages to the relevant parties.

This advice is contrary to the advice given by CERJ on November 11, 2005. The relevant portions of that advice are quoted, and an analysis is given, below.

“(2) Does DDB 19 require the continued paper distribution of the RA meeting calls?”

DDB 19 requires the paper distribution of RA Meeting Calls. Neither web posting nor sending as an email attachment suffices for "sending" paper documents to the people specified in DDB 19, since the distinction the Bylaw draws between distribution to RA members and to other Senate members would then make no sense.

“(3) If a modification of DDB 19 is required for electronic distribution, what modification, if any, is recommended?”

We feel that paper copies should still be distributed to RA members and most or all of the other individuals specified in the first sentence of DDB 19 because (a) people are not likely to read the relevant material online; (b) RA members really need to have paper copies for reference at the meeting itself; and (c) if they printed it themselves, this would largely represent a cost shifting from the Senate office to individual faculty rather than a true cost saving.”

The present CERJ notes that DDB 19 makes no mention of paper distribution. Therefore, if paper distribution is to be required, there must be a compelling argument in favor of that requirement. The previous CERJ advice contains four arguments. As will be seen, the present CERJ finds none of them compelling. Only the first one addresses the question of whether paper documents are required. The other three address only the question of whether distribution by paper documents is advisable.

(1) “Neither web posting nor sending as an email attachment suffices for "sending" paper documents to the people specified in DDB 19, since the distinction the Bylaw draws between distribution to RA members and to other Senate members would then make no sense.” The distinction specifically is between two different modes of distribution of the Meeting Calls, corresponding to two different groups of individuals. The agenda and all documents pertinent to it are to be distributed to all RA members and a number of other individuals. The agenda only is to be distributed to all members of the Division. The issue is whether this distinction would be preserved without the use of paper documents. While CERJ agrees that distribution

by Web posting alone would blur the distinction, sending by electronic mail attachment does not. Two different attachments would be sent to the two different groups.

(2) "People are not likely to read the relevant material online." The culture of the campus at this time is such that nearly everyone is quite accustomed to reading documents attached to electronic mail messages.

(3) "RA members really need to have paper copies for reference at the meeting itself." Paper copies are available at the door. The relevant documents are projected onto a screen for each agenda item, and anyone on the floor can request that any passage in any document be shown.

Many members bring to the meeting laptop computers that can display the documents either as the attachment or on-line via a wireless Internet connection. Those receiving the Meeting Call by attachment can print those portions to which they think they need to make reference.

(4) "If they printed it themselves, this would largely represent a cost shifting from the Senate office to individual faculty rather than a true cost saving." This is true, but as the rebuttal to (3) notes, it is not likely that a great deal of printing will be done, in which case the antecedent of the conditional would not hold. Also, the cost-shifting mentioned has become part of the culture of the campus.

**Committee on Elections, Rules and Jurisdiction Advice  
Department Chairs on CAP  
January 13, 2009**

It is the unanimous opinion of CERJ that there is no legislation which would prohibit a department Chair from service on the Committee on Academic Personnel. Consequently, the appointment of a member of CAP to the position department Chair may be made without disqualifying the continuing service of that member.

**Committee on Elections, Rules and Jurisdiction Advice**  
**Ex Officio Voting Rights**  
**January 22, 2009**

Ex officio members may be divided between members of the Senate and non-members of the Senate, and separate rules apply to each group.

***Non-Senate Ex Officio Members***

Voting rights are governed by systemwide Bylaw 35(C).

<http://www.universityofcalifornia.edu/senate/manual/blpart1.html#bl35>

Clause 2 states the following:

“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. [See Legislative Ruling 12.75]”

Davis Division Bylaw 28(F) duplicates the language of 35(C), except that it precludes voting when advice is given in the name of the Davis Division.

[http://academicsenate.ucdavis.edu/ceri/manual/dd\\_bylaws.cfm#28-](http://academicsenate.ucdavis.edu/ceri/manual/dd_bylaws.cfm#28-)

There are no explicit Bylaw provisions that give the right to vote on “other questions,” so non-Senate members do not have the right to vote on any issue.

***Senate Ex Officio Members***

Davis Division Bylaw 28(C) contains a restriction on voting by some ex officio Senate members (members of the Davis Division) of standing committees.

[http://academicsenate.ucdavis.edu/ceri/manual/dd\\_bylaws.cfm#28-](http://academicsenate.ucdavis.edu/ceri/manual/dd_bylaws.cfm#28-)

“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. (Am. 06/01/06)”

Any Divisional member of a standing committee holding one of the above titles may not vote on any issue.

***Representatives***

Davis Division Bylaw 29(F) denies voting rights to representatives on standing committees:

[http://academicsenate.ucdavis.edu/cerj/manual/dd\\_bylaws.cfm#29-](http://academicsenate.ucdavis.edu/cerj/manual/dd_bylaws.cfm#29-)

“Student representatives shall be appointed by the appropriate student government organization under procedures agreed to by the Executive Council. Non-student representatives shall be appointed in the manner designated in the Bylaw pertaining to the committee on which they are to serve. Representatives on a committee do not have voting privileges . . . .”

## **Other Rights**

### ***Ex Officio Members***

Universitywide Bylaw 39(C) grants to ex officio members the right to participate equally with regular members in all matters other than the prohibition against voting by non-Senate members.

“Except for the provision of Article C.2 of this Bylaw, ex officio members have the same powers as other members unless otherwise specified.”

The voting prohibition applies to Senate ex officio members by virtue of Davis Division Bylaw 28(C), where a limitation on the powers of ex officio members is “otherwise specified.”

### ***Representatives***

The other rights of representatives are governed by the remainder of Davis Division Bylaw 29(F):

“Representatives on a committee do not have voting privileges but they have the right to participate in committee deliberations, except as specified otherwise in the Bylaw pertaining to the specific committee involved, and they may have their opinions recorded. (En. 4/21/80; Am. 1/27/81)”

### ***Ranked Nominees***

A final issue concerns a specific procedure for the selection of recipients of public service awards. The current process is to solicit rankings of nominees from all committee members and then to use these rankings as the basis of further actions.

Since ex officio members have the same powers, save for the power to vote, as all other members, these members are entitled to rank nominees for awards. However, the role of these rankings must be strictly advisory. CERJ interprets any action which is taken on the basis of these rankings which would eliminate any candidate as being a vote, and therefore such action may be undertaken only by a vote of the members who are not ex officio.

## Editorial Changes Made to Bylaws August 2009

Additions are indicated by **bold face** and deletions by ~~strikethrough~~.

38. Committee on Committees. The committee shall consist of the Chief Campus Officer of the Davis campus **non-voting** ex officio and nine members to be elected by the Division.

52. Affirmative Action and Diversity. This committee shall consist of seven members of the Academic Senate, the Vice Provost -- Faculty Relations **non-voting** ex officio, one undergraduate student representative, one graduate student representative, and three representatives appointed by the Davis Academic Federation.

63. Information Technology. This committee shall consist of 5 members and the Vice Provost for Information and Educational Technology **non-voting** ex officio. In addition, there shall be one undergraduate student representative, one graduate student representative, and one representative from the Academic Federation.

64. International Studies and Exchanges. This committee shall consist of seven members, one undergraduate student representative, one graduate student representative, and one Academic Federation representative. The seven regular members shall include at least one faculty from each Division of the College of Letters and Science and at least one faculty from each of the Colleges of Biological Sciences, Engineering, and Agricultural and Environmental Sciences. The Committee shall include as an ex officio member the campus representative to the University Committee on International Education, unless that individual is already a regular member of the committee. In addition, the committee shall include as ex officio members **when also members of the Senate and as representatives when not** the Directors of the Education Abroad Program, the Quarter Abroad Program, the Summer Abroad Program, Services for International Students and Scholars, and the International House. (Am. 1/27/81; 6/10/86; 6/8/98; 2/5/07)

80. Graduate Council. This council shall consist of thirteen Senate members (including a chair, a vice chair, and the Dean of Graduate Studies **non-voting** ex officio),

88. Public Service. This Committee shall consist of five Academic Senate members, two representatives appointed by the Davis Academic Federation, one undergraduate student representative, one graduate student representative, and as **non-voting** ex officio members, the Vice Chancellor of Research, Vice Provost for University Outreach and International Programs, the Dean of University Extension, and the Director of the Public Service Research Program **as an ex officio member when also a member of the Senate and as a representative when not**. (Am. 3/16/93; 11/2/92; 10/20/97; 6/8/98)

99. Research, Subcommittee on Research Policy. The Subcommittee on Research Policy shall consist of a chairperson who will chair both subcommittees, 10 members, the Vice Chancellor for Research **non-voting** ex officio, one member of the Subcommittee for the Faculty Grants Program ex officio and one representative of the Academic Federation.

113. Transportation and Parking. This committee shall consist of a Chairperson, four additional Senate members, and four ex officio ~~members~~ **representatives**: one ~~representative~~ each from the Davis Academic Federation, the Staff Assembly, the Graduate Student Association, and Associated Students.

121. Undergraduate Council. This council shall consist of twelve members, three undergraduate student representatives, one graduate student representative and two representatives appointed by the Davis Academic Federation. The members shall include a chairperson and vice-chairperson, a member of the Committee on Admissions and Enrollment, ex officio, the Davis campus Vice Provost - Undergraduate Studies, **non-voting** ex officio, the Registrar of the Davis campus, ex officio and the chairpersons of the four committees of the council.

83. Library. This committee shall consist of at least ten members, including the following: one undergraduate student representative; one graduate student representative; one representative appointed by the Davis Academic Federation; the chairperson of the library committee of each college or school having a library committee on the Davis campus; a faculty member from each college or school on the Davis campus that does not have a library committee but does have a committee with responsibility for library matters; and the University Librarian of the Davis campus **ex officio**.