

Committee on Elections, Rules and Jurisdiction
Advice on Departmental Voting Procedures and Program Committees
May 10, 2006

The Code of the Senate indicates that departmental voting procedures must satisfy the following conditions:

(1) Voting within a department (or its equivalent) is limited to Senate faculty who are members of the department and who are themselves subject to being voted on by other eligible members of that department. That is, voting is a reciprocal responsibility, subject only to the eligibility rules of ASB 55. Therefore, extension of the vote to persons who are not members of a department (e.g., to nondepartmental members of a Program Committee) is in violation of the Code of the Senate.

(2) Department membership requires the vote of the tenured faculty of that department; Senate faculty may not be added to a voting constituency by appointment (e.g., to a Program Committee) without a department vote conducted pursuant to ASB 55 even if confirmed by some other Senate body (e.g., a College Executive Committee).

In addition, we note that:

(3) Size *per se* is no bar to functioning as a departmental voting unit for ASB 55 purposes.

Background and Rationale

This advice is provided in response to a request from Undergraduate Writing Program Interim Chair Karl Zender regarding draft Personnel Review Procedures for the UWP (dated 12/28/2005).

Personnel procedures are subject to review by the Committee on Academic Personnel. However, CERJ is charged with the narrower responsibility “to advise the Division, its officers, committees, faculties, and members in all matters of organization, jurisdiction and interpretation of legislation of the Academic Senate and its agencies” (DDB 71(B)(5)).

(1) May Senate members who are not members of a given department and are not subject to being voted on by that department be included in the voting constituency for that department?

ASB 55(E) accommodates programs in the College of Letters and Science which function as the equivalent of departments for the purposes of ASB 55. (The use of the word “department” below therefore includes such programs.)

The University Committee on Rules and Jurisdiction has ruled that voting is limited to faculty who are both members of the department and members of the Senate:

UCRJ Legislative Ruling 5.67. The right to vote in department meetings as specified in 105.2(c) of the Standing Orders of the Regents is limited to those members of the department who are also members of the Academic Senate...

Thus the voting group for a department may not include persons who are not members of that department. In particular, members of a “Program Committee” would not be entitled to vote unless they are also members of the department.

The vote may be extended pursuant to ASB 55(C). However, any extension of voting privileges is subject to significant restrictions: only department members may be enfranchised; they may be enfranchised only as a class and not as individuals; and such extensions must remain in force for at least one year:

ASB 55(C). Voting privileges on personnel matters within any department may be extended to one or more of the classes of non-Emeritae/i Academic Senate members of that department, as a class, who are not otherwise entitled to vote ... upon at least a two-thirds majority vote by secret ballot of those faculty entitled to vote on the cases in question... Any extensions of the voting privilege under this Article C must remain in effect for at least one calendar year (twelve months)...

Enfranchising individuals as nondepartmental members of a Program Committee risks violating all of these safeguards.

All persons who are members of a department are subject to being voted on by that department pursuant to ASB 55; and a person who is *not* a member of a department is *never* permitted to vote within that department. The Bylaws do not allow for an intermediate category of persons who are entitled to vote within a department but who are not themselves subject to being voted on by that department.

In sum, ASB 55 is predicated upon the principle of *reciprocity*: no department may permit voting by individuals who are not themselves subject to being voted on by other eligible members of that department.

(2) May voting membership in a department be secured without a vote of the department itself?

Academic Senate Bylaws clearly state that appointments to a department require the vote of the tenured faculty of that department (and other members, where allowed pursuant to ASB 55(C)):

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

And actions for new appointments normally originate only upon an affirmative vote of the department. Therefore, voting members of a department must be added through normal procedures (including a vote of the eligible Senate faculty in the department); they may not be added by appointment (e.g., to a Program Committee) without a department vote pursuant to ASB 55. Confirmation of the action by some other Senate body (e.g., a college Executive Committee) does not obviate the required department vote.

(3) Does the Code of the Senate specify a minimum size for departmental voting constituencies?

Special procedures for the election of members of the Representative Assembly are specified by DDB 34(B) for departments with fewer than 13 voting members. But size *per se* is no bar to functioning as a departmental voting unit for ASB 55 purposes.

Several departments have fewer members than do many of the programs at Davis. Even in larger departments some votes will have few eligible voters if eligibility is not extended pursuant to ASB 55(C), and the Academic Personnel Manual explicitly contemplates small voting constituencies:

APM UCD 220 Exhibit A. No vote need be recorded in cases where only one faculty member is eligible to vote.