

March 19, 2014

**Katherine Florey**, Chair  
Committee on Privilege and Tenure-Hearings Subcommittee

RE: Attendees at the Pre-hearing Teleconference

Dear Chair Florey,

CERJ received your request for advice regarding attendees at the pre-hearing teleconference. CERJ understands that one of the parties has questioned potential participants from the administration and counsel at the pre-hearing teleconference based on the following Committee on Privilege and Tenure procedures: <http://academicsenate.ucdavis.edu/committees/committee-list/priv-and-tenure/pt-policies.html#grievance>.

CERJ has reviewed the issue based on the following legislation:

1. Systemwide Bylaw 335(D)(2) states the following:

Prior to the formal hearing, the chair of the Hearing Committee shall schedule a conference with the parties and/or their representatives.

CERJ agrees that it is explicitly "**and/or**," which suggests that the "**or**" in the Davis Division description is meant to be an inclusive **or** and not an exclusive one.

2. Davis Division Bylaw 87 does not explicitly refer to this paragraph, but it does state the following:

DDB 87(E)(2): Upon request of the Investigative subcommittee, the chair of the Hearings subcommittee shall appoint hearings panels for grievance cases as prescribed by Systemwide Senate Bylaw 335.

DDB 87(E)(6)(a): The hearing procedures shall conform to Systemwide Senate Bylaw 335, 336, 337 or Section 015 of the UC Davis Academic Personnel Manual, as applicable to the case.

After reviewing the systemwide and divisional bylaws and the Committee on Privilege and Tenure procedures, CERJ agrees that "or" really does mean "and/or." Therefore, CERJ advises that the Hearing Subcommittee's past practice of scheduling the pre-hearing teleconference to include the grievant and counsel, administration and counsel, Hearings Subcommittee Chair and the Committee on Privilege and Tenure Analyst is consistent with systemwide and divisional bylaws and regulations and committee procedures.

Sincerely,



David Roche, Chair  
Committee on Elections, Rules and Jurisdiction

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