

May 27, 2009

Re: Department Votes on Personnel Actions and Bylaw 55 Voting Practices

Dear Department Chairs,

Many questions come to the Committee on Academic Personnel (CAP) regarding department votes on personnel actions. As you know, policy on the voting rights of senate faculty is governed by UC Senate Bylaw 55. My goal in this memo is to clarify the current CAP's interpretation of some of the confusing issues regarding Bylaw 55, and to suggest some "best practices" regarding votes.

In particular, this memo comments on the following issues:

- 1) Rules regarding *abstentions*
- 2) Requests made by CAP annual reports regarding explaining *no* votes
- 3) The distinctions between *waived*, *absent not voting*, *abstain*, and *recused*
- 4) Specifying a period of time for decisions to be recorded as *absent not voting*
- 5) The distinction between *extension* of Bylaw 55 voting rights versus *augmentation* to the pool of voting faculty in a unit, and question of approvals for each
- 6) Some comments on "best practices" for *recording of department votes*

For your reference, here is the link for UC Senate Bylaw 55:

<http://www.universityofcalifornia.edu/senate/manual/blpart1.html#bl55/>

Abstentions

In some previous annual reports CAPs have asked for clarification of reasons for abstaining, however, as some faculty have pointed out, this was an error. UCSC Bylaw 13.4.4 states that "The Division shall not require or request explanation of voting abstentions by Senator who have the right to vote in any Divisional committee action including those involving UC Bylaw 55 actions by departments." It is also clear that a decision to abstain is understood as neither a positive nor a negative recommendation.

Link to Santa Cruz Bylaw 13 (13.4.6 – 13.4.8):

<http://senate.ucsc.edu/manual/santacruz-division-manual/part-one-bylaws/chapter-thirteen-committees/index.html>

No votes

In a number of CAP annual reports, requests have been made for departments to explain "no" votes on personnel actions. This has raised many questions from faculty, so I'd like to clarify. We certainly understand that it would be inappropriate to ask individuals how they voted or why. We interpret previous CAPs as requesting that departmental letters reflect substantive discussions that could contextualize mixed votes. If the department meeting contained discussion of issues that may help clarify the vote, then it would be helpful if those were included in the letter. If there is no such information available, it is perfectly reasonable to merely say so. (Including a simple statement is more helpful than not saying anything. For

example, a letter might say: “The vote was taken by secret ballot and there was no discussion that would illuminate the mixed vote.”)

Waive vs. Recused vs. Absent not Voting vs. Abstain

There is often confusion about these different forms of non-voting. Bylaw 13 defines “recusal” as not voting because of “conflict of interest.” In contrast, as noted above, “abstain” is a neutral response from a participating faculty member that is taken as neither a positive nor negative vote. And Bylaw 13 clarifies the distinction between “waive” and “absent not voting.” One may waive the right to vote on all personnel actions for a specific period of time (for example, while on leave), and this period of time must be stated in advance. Alternatively, a faculty member is “absent not voting” if they do not attend the meeting or participate in the vote on a particular file. Further, a faculty member on leave may choose not to waive their vote, and may vote on some actions but not others. In this situation, on the cases that are not voted on, the faculty member would be listed as “absent not voting.”

For a vote taken in a meeting, faculty who are present but neither vote “yes” or “no” are generally counted as abstentions, while those who are not present are counted as absent not voting. For a vote that extends over a period of time after a meeting, only those who indicate that they want to abstain should be so recorded; the others who do not vote are generally absent not voting. Department faculty who are serving as administrators “waive” their Bylaw 55 rights within their department for the time period that they are serving as administrators for actions that they may act on in their administrative capacity, while CAP members on our campus vote on cases within their department, and are therefore “recused” from the CAP level discussion and vote.

Specified Time Period for Absent not Voting

Absent not voting usually applies when a faculty member does not participate in the discussion and/or vote on a file. However, many departments do allow faculty to review the materials and vote after the meeting. If this option is used, then the department’s extension of Bylaw 55 voting rights should include a departmental vote to determine a clearly defined time period (in calendar days) within which faculty must vote before being counted as absent not voting.

Extensions of Departmental Voting Rights vs. Augmentations

There has been some confusion about extensions vs. augmentations to voting rights, and about whether approval is needed for these. *Extensions* relate to Bylaw 55, where a “default” set of voting rights is listed in Section B, but Section C goes on to state that departments can extend voting rights differently than the default, with a 2/3 majority vote by secret ballot. For example, some departments extend voting rights to Assistant Professors that are not listed in Section B. Extensions remain in effect for at least 12 months and until a newer vote is taken. Changes to Bylaw 55 extensions become effective immediately upon the department vote. There is no approval needed, but these changes are forwarded to CAP, the office of record, and CAP provides copies to the Academic Personnel Office (APO) and the relevant dean.

In contrast, *augmentations* are temporary appointments to the pool of Bylaw 55 voting faculty of a department (usually a small and/or new department), described in the Campus Academic Personnel Manual (CAPM) 414.220. The Dean or Department may initiate a proposal to

augment voting faculty in a unit. Following a department vote, the dean forwards the proposal to CAP for review and comment. CAP then forwards it to the Executive Vice Chancellor for approval. Augmentations are effective upon approval by the EVC. The EVC provides copies of approved augmentation to CAP for verifying department votes on personnel actions.

Link for CAPM 414.220:

http://apo.ucsc.edu/academic_policies_and_procedures/cappm/414220.htm

Recording Departmental Votes

Decisions of voting members may be recorded in the following categories: Yes, No, Abstain, Waive, Absent not voting or Recused. When departments vote on more than one action (e.g., one step advancement as well as greater-than-normal advancement) CAP members find that it reduces confusion if each option is listed not just in terms of the number of “Yes” votes on that option, but also the number of “No” votes and non-voting actions (abstain, waiving, absent not voting, recusals) on that option.

I hope that this memo may help to clear up confusion about some of the issues regarding personnel votes.

Sincerely,

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Committee on Academic Personnel

cc: Deans
Division Academic Personnel Coordinators
Department Managers
AVC Pamela Peterson