

COMMITTEE ON RULES, JURISDICTION, AND ELECTIONS

Annual Report 2021-22

To: Academic Senate, Santa Cruz Division

The Committee on Rules, Jurisdiction, and Elections (RJ&E) met two times during the fall and winter quarters, and once during the spring quarter in 2021-22. This report summarizes the Committee's work during the year.

I. Guidance on Senate Bylaws

A. Proposed Amendments to Divisional Senate Bylaw 13.24.1

The Committee on Rules, Jurisdiction and Elections (RJ&E) discussed the proposed amendments to Senate Bylaw (SB) 13.24.1, the charge for the Committee on Library and Scholarly Communication (COLASC).

The proposed change would have the UC Santa Cruz Librarians Association (LAUC-SC) appoint two ad hoc LAUC-SC members in place of the Chair and Chair-elect. The specific change read as follows:

The UC Santa Cruz Librarians Association (LAUC-SC) shall appoint two ad hoc LAUC-SC members who are invited to sit with the Committee.

After reading SB 13.4.1 et seq., members thought that further clarity was needed with regard to the status of the LAUC-SC members. This is because the bylaw clearly differentiates between representatives, who are non-voting members with the general right to participate in committee deliberations (13.4.2), and invitees, who do not have this right (13.4.3). As such, the language should reference whether the LAUC-SC members fit within the defined class of representatives. If they are not, then the amended bylaw should specifically refer to the LAUC-SC members as invitees.

As well, RJ&E suggested not using the term appoint. We understand that the appointment is made by, and is internal to, the LAUC-SC. However, given the need for further clarity to SB 13.4.2, a matter that is currently under discussion, and to avoid any ambiguity or possible misinterpretation, we suggested that the term "select" would be better and offered the following language for the proposed amendment:

The UC Santa Cruz Librarians Association (LAUC-SC) shall select two ad hoc members who are invitees and sit with the Committee.

During the Senate meeting of March 3, 2022, the proposed amendment, with RJ&E's suggested language, was approved by the Senate.

B. Voting Rights for Teaching Professors on CAP

The Committee on Rules, Jurisdiction & Elections (RJ&E) discussed the issue raised regarding the Voting Rights for Teaching Professors on the Committee on Academic Personnel (CAP).

Divisional Bylaw SCD 13.4.1 and 13.4.2 specify the membership and voting rights with respect to committees. Specifically, they provide:

- 13.4.1 Membership. All voting members of all committees must be members of the Santa Cruz Division. Representatives are non-voting members of the committee. Other persons invited to sit with Standing Committees are not members of the committee. (*Am 3 Dec 69, 6 Nov 91, Am 21 May 04, 20 May 09; CC 31 Aug 98; EC 31 Aug 99, 31 Aug 04*)
- 13.4.2 Representatives. Representatives on Standing Committees as provided in these Bylaws shall be appointed by such bodies as may be recognized by the Divisional Committee on Committees. Representatives include undergraduate and graduate students, postdoctoral scholars, and non-Senate teaching faculty. Representatives have the right to participate in committee deliberations except as provided in Bylaw 13.4.4. (*Am 3 Dec 69, 6 Nov 91, Am 21 May 04, 20 May 09; CC 31 Aug 98; EC 31 Aug 99, 31 Aug 04*)

The two classes of non-voting attendees at committee meetings are designated as “sitting with the committee” or as “representatives.” The CAP charge Divisional Bylaw SCD 13.10 does not include any non-voting members. Teaching Professors are members of the Divisional Faculty Senate, and so can be appointed to CAP as voting members, as the Bylaws are currently written. The issue before University Committee on Rules and Jurisdiction (UCRJ) seems to pertain to the question of whether Teaching Professors, given that they have security of employment, are considered to be tenured or not. The UC San Diego CAP restricts their membership to tenured divisional members. The UCSC CAP charge has no such restriction so it is unclear that the case before UCRJ would have any bearing on the present concern.

Our conclusion is that, as the bylaws are currently written, the current Teaching Professor on CAP is permitted to vote on all CAP cases as a member of the committee in 2021-22. If the UCSC Faculty Senate wishes to restrict when Teaching Professors could vote on CAP, it would need to change the CAP charge in its Divisional Bylaws.

II. Comments on Senate and Campus Policy and Process

A. Interpretation of APM 160-30

The Committee on Rules, Jurisdiction, and Elections of the Santa Cruz division was asked to render an interpretation of subsection 160 of the systemwide Academic Personnel Manual (APM). We considered this request with the understanding that the APM is not a policy of the Senate, and thus any interpretation offered may not be binding. With that said, we considered the language of the APM and related subsections. We drafted a request for guidance to the UCRJ in an effort to determine if our interpretation of the policies in question was consistent with that of systemwide R&J.

The core question was whether the statement, “documents contained in a file of a pending academic review are not considered academic personnel records for purposes of APM 160-30 until that review is completed and a final decision has been issued” was internally consistent with the plain meaning of the APM. Moreover, was this interpretation consistent with those sections of the APM that incorporate by reference subsection 160-30?

We could find no stipulation in either APM-160 or APM-220 that the contents of a file do not become records until the review is completed and a final decision is made.

APM-160-20-b defines the specific contents of academic files that are records and distinguishes between confidential, personal, and non-personal records. APM-160-20-c describes an individual's access to these records, which includes, in APM-160-c-2 and APM-160-c-3, their access during the review. We thus concluded from our reading of APM-160 that the contents of a file before a personal action is concluded are considered records. The access to and ability to comment on the records during review described in APM-160 is also consistent with campus practice.

APM-160-30, which describes an individual's ability to request corrections or deletions to academic records, does not require that this request be made only after the review is completed, or put any restriction on when this request can be made. Nor does it state that, for the purposes of that section, file contents are not records.

APM-220-80 Recommendations and Review: General Procedures makes repeated reference to APM-160. In particular APM-220-80-d refers to file contents as defined in APM-160-20-b as records, and applies specifically to the time before the departmental recommendation is determined.

d. Before the departmental recommendation is determined, the chair shall provide the candidate the opportunity to inspect all documents in the personnel review file other than confidential academic review records (as defined in APM - 160- 20-b(1)), and shall provide to the candidate upon request a redacted copy (as defined in APM - 160-20-c(4)) of the confidential academic review.

APM-220-81-1 states:

l. At the San Diego and Santa Cruz campuses, where the administrative structures are significantly different from those on other campuses, the Chancellors shall establish in writing review procedures which are in principle equivalent to those described in this and other parts of APM -220.

Given the possibility that the Santa Cruz Campus Academic Personnel Manual (CAPM) might differ from the APM, we also reviewed CAPM-410.220 and CAPM-200.160 with regard to records and general review procedures. We find the CAPM and APM to be consistent. The definition of academic personal records is described in CAPM-200.160-A and refers to file contents as records without any reference to a time restriction as to when they become records. CAPM-200.160-D regarding the opportunity to request corrections, addition or deletions refers directly back to APM160-30.

UCRJ received these considerations and in turn deferred to the systemwide University Committee on Privilege and Tenure (UCPT). In their response, UCPT observed, in part, the following:

After a careful review of APM 160-30 and APM 220-80, UCPT has unanimously determined that the divisional administration's interpretation of APM 160-30 is inconsistent with both the letter and the spirit of the provision.

At issue is whether, pursuant to APM 160-30, an individual has a right to request redactions, corrections, or additions to the academic personnel records during an ongoing academic review (a right that would be additional to the candidate's uncontested right, granted under APM-220-80-e and 80-h, to make a written comment on the departmental recommendation that becomes part of the personnel review file as the review proceeds.)

According to the divisional administration's interpretation, APM 160-30 does not create a right to make such requests during an ongoing academic review.

This interpretation is incorrect.¹

B. Proposed Revisions to Campus Academic Personnel Manual Subsections (CAPM) 300.240 and 304.241

RJ&E discussed proposed revisions to sections 300.240 and 304.241 of the Campus Academic Personnel Manual. RJ&E members appreciated the effort made to bring clarity to the CAPM with regard to tenure but noted other opportunities for increased clarity.

First, members observed that 300.240 aligns us with the APM but questioned why the “adjusted for fiscal year” language was removed in subsection F.2.iv. 300.240.F.2.iv: With the language “adjusted for fiscal year” removed, this passage makes it seem as if the salary requirement could be met simply by paying deans their regular monthly salary for 12 months instead of 9 months, which would increase their annual salary by 33%. It appears that the intent of the prior language was to ensure that deans should receive a higher per-month salary and not merely be paid more because they now worked 12 months instead of 9.

The committee also had some questions regarding Section K. Specifically, what are the parameters of the activities that should be reported as “uncompensated professional activity”?

300.240.K.ii-iii: These paragraphs impose limitations and reporting requirements for all outside professional activities, compensated as well as uncompensated. The Committee wondered if this also included Category III outside activities, as defined in the Academic Personnel Manual, subsection 025, which include the development of scholarly or creative works. For regular faculty, Category III activities do not require reporting nor do they count toward the maximum days allowed for outside professional activities (APM-025). The Committee found it odd to impose limits on scholarly work for deans when deans at the same time were subject to “standard research expectations for faculty” (CAPM 300.240.M).

300.240.K.iv: This paragraph appears partly redundant and partly contradictory with the preceding paragraph (300.240.K.iii). CAPM 300.240.K.iii says that deans may engage in 12 days of compensated and uncompensated outside professional activity per fiscal year without deductions from accrued vacation, whereas 300.240.K.iv provides that deans may engage in 12 days of compensated outside professional activity without deductions from accrued vacation. Together, these paragraphs leave it unclear whether uncompensated activities count toward the 12-day limit

¹ UCPT_RJ&E_interpretation of APM 160-30_06132022

Similarly, 304.241.B.4 provides: “A fiscal-year faculty administrator who accrues vacation may engage in up to twelve work days of compensated outside professional activities without deducting from vacation leave balances. In excess of twelve workdays and up to the limit of 48 calendar days, accrued vacation leave shall be used.” Could the policy clarify that this applies to 100% Faculty Administrator positions, but not to less than 100% positions? The 12 and 48-day restrictions are listed in APM - 246 - Faculty Administrators (100% Time), but not in APM - 241 - Faculty Administrators (Positions Less Than 100%). In addition, unlike the revised CAPM 300.240, the revised CAPM 304.241 makes no other mention of the 48-day restriction on total outside activities. Members noted that the CAPM is more restrictive on this issue than the APM is.

C. Academic Integrity Policy

The Committee discussed the proposed revisions to the campus’ Academic Integrity Policy (AIP). A number of observations surfaced in the course of our discussion. Currently the college provosts handle academic integrity issues (Duties of the Provost: <https://apo.ucsc.edu/policy/capm/308.240.html>). This has made it difficult for faculty in the situation where offenders are from two or more different colleges. If the investment is to be made in the creation of the Conduct Board it would seem that it should be the single point of contact for faculty in academic integrity cases. This would also help to address the workload concerns that have arisen. Additionally, the policy seems to leave the decision to escalate a case to the Board to the College Provosts, but there is no clear statement of the criteria for escalation, which could lead to inconsistencies in the proposed process. Also having a diversity of college provosts involved in the decisions to sanction can lead to an unfair variation in outcomes for students.

Members identified a number of possible paths forward. One is to eliminate college provosts entirely from academic integrity cases. This would improve consistency and allow for the establishment of clear evenly applied standards and a single point of contact for faculty. This would require a revision of the CAPM portion referred to above regarding the duties of the Provost. This was the path preferred by the committee.

Alternatively, the Conduct Board could serve as the single point of contact for faculty and the Board could then refer cases to the provosts as appropriate. This would ensure consistency in referral. In cases in which multiple colleges are involved the Conduct Board could adjudicate all such cases. Minor cases involving only a single college could still be delegated to the provosts, but this process would ensure consistency and fairness in regard only to “who decides” but still invites inconsistency with regard to the implementation of sanctions. We note with concern that the draft modifications of academic integrity policy recommend “what grades appear on the transcript as fundamentally an academic issue that is separable from the student discipline process,” thereby encouraging the establishment of academic policy or regulation for the grade option separate from disciplinary policy. The Committee believes the “preservation of grade” option is critical if academic integrity policies are to have real consequences, and therefore recommends CEP takes action to preserve this in conjunction with disciplinary policy. We also urged that every effort should be made to streamline the process as much as possible so that it will be used as widely as possible.

III. Divisional and Systemwide Reviews

In addition to the items listed above, RJ&E provided comment on the following requests for review.

A. Divisional

- Proposal for the Baskin School of Engineering (BSOE)
- Baskin School of Engineering Direct Admission and Diploma Proposal

B. Systemwide

- Systemwide Review of Presidential Policy on Affiliations with Certain Healthcare Organizations, Implementing Regents Policy 4405
- Systemwide Review of Academic Personnel Manual Subsection 759 (APM 759)
- Proposed Changes to the Systemwide Policy on Sexual Violence/Sexual Harassment

IV. Updates of the Santa Cruz Division Manual

The following updates were made for the 2021-22 manual of the Santa Cruz Division. There are two classes of changes.

1. Changes due to divisional legislation

- Divisional Senate Bylaw 13.24.1

2. Conforming changes

- College Nine now John R. Lewis College

V. Elections and Ballots

Committee on Committees Elections

RJ&E reviewed COC nomination petitions, wherein there were two (2) candidates for the two (2) open positions. SCB 11.4 specifies that “If the number of nominees is equal to the number of places to be filled, all the nominees will be declared elected.” RJ&E certified the two members as elected to COC.

Respectfully submitted,

COMMITTEE ON RULES, JURISDICTION, AND ELECTIONS

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