June 2, 2022

ACADEMIC SENATE DIVISION CHAIRS

MICHAEL T. BROWN
PROVOST AND EXECUTIVE VICE PRESIDENT

SUSAN CARLSON, VICE PROVOST
ACADEMIC PERSONNEL AND PROGRAMS

Re: Recommendations for Lecturers with Security of Employment Serving on Divisional Committees on Academic Personnel

Dear Colleagues:

The Academic Council has endorsed the attached letter and recommendation from the University Committee on Academic Personnel (UCAP). The letter addresses the voting rights of Lecturers with Security of Employment who serve on Divisional Committees on Academic Personnel. It offers a systemwide perspective clarifying the extent to which LSOEs should be permitted to serve on CAPs and vote on personnel issues associated with other Senate series.

The Council reminds divisions that Senate Bylaw 55 restricts LSOE voting rights to actions concerning their own series, unless explicitly extended by an individual department in a two-thirds majority vote of faculty entitled to vote on the cases. However, we also note that Bylaw 55 is concerned with general departmental voting policies, not specific CAP voting policies—an ambiguity identified by UCRJ in its consideration of LSOE service on CAPs.

Both UCAP and Council support broad representation on CAPs and efforts to increase LSOEs’ sense of enfranchisement. We also know that campuses have significantly different numbers of LSOEs who perform different roles at their respective divisions. The Council agrees with UCAP that the Bylaw 55 restriction on LSOE voting is not a reason to prevent LSOEs from serving on CAPs, and that decisions about giving LSOEs full voting rights should be left to divisional Senates, who should maintain the ultimate authority over who can be a member of CAP.

I ask Senate Division Chairs to share the letter with your respective Committees on Academic Personnel, Rules and Jurisdiction, and Committees for discussion. I also ask Provost Brown and Vice Provost Carlson to facilitate the transmission of the recommendations to campus Executive Vice Chancellors and Vice Provosts for Academic Personnel.

---

1 https://senate.universityofcalifornia.edu/bylaws-regulations/bylaws/blpart1.html#bl55
Please do not hesitate to contact me if you have additional questions.

Sincerely,

Robert Horwitz, Chair
Academic Council

Cc: Academic Council
    UCAP
    UCRJ
    UCOC
    Campus Senate Directors
    Executive Director Baxter

Encl.
May 18, 2022

ROBERT HORWITZ, CHAIR
ACADEMIC COUNCIL

RE: Lecturers with Security of Employment Serving on Divisional Committees on Academic Personnel

Dear Robert,

UCAP has considered issues related to Lecturers with Security of Employment (LSOE, Teaching Professors, Professors of Teaching) serving on Divisional Committees on Academic Personnel (CAPs). Specifically, UCAP discussed the following issues:

- Whether Divisional CAPs should allow LSOEs the right to vote on all cases, when many departments do not extend this right to faculty in this series.
- Whether LSOEs have the right to vote on personnel issues associated with other Senate series.
- Whether LSOEs should be disallowed from service on CAPs absent a Bylaw 55 amendment that specifically authorizes such appointments.
- Whether a systemwide clarification of this issue, rather than division-level interpretation, is required.

Background:

Consideration of these matters stems from a request made to the UCSD Divisional Committee on Rules and Jurisdiction on April 26, 2021, by Steven Constable, Chair of the Divisional Senate of UCSD. Chair Constable requested a legislative ruling on whether LSOEs serving on the Divisional Committee on Academic Personnel (CAP) would constitute a violation of Senate Bylaw 55 (SB55; see attachments). In his letter, Chair Constable notes that according to SB55, ladder-rank faculty of the Academic Senate vote on teaching faculty files, but not the reverse. Chair Constable also notes that the ranks of the LSOEs at UCSD are growing, and that it is desirable that they be represented in the academic review process. He asked for a review of SB55, to clarify whether LSOEs serving on the divisional CAP would violate SB55.

This request was passed on to the systemwide University Committee on Rules and Jurisdiction (UCRJ), and Andrew Dickson, Chair of UCRJ responded on behalf of UCRJ, on June 14, 2021 (attached). Chair Dickson noted that SB55 specifies the designation of voting rights within a department, and restricts LSOEs to voting on cases concerning members of their own series. SB55 also specifies a procedure whereby any department can extend the voting rights of LSOEs, by 2/3 majority vote of the faculty who are entitled to vote on the cases that such an extension would cover. Chair Dickson also notes that there is ambiguity as to whether LSOEs can serve on CAPs, since SB55 is
concerned with departmental voting policies, not that of CAP. The ambiguity identified by Chair Dickson arises from the eligibility criteria for CAP membership being based on Senate membership with tenure, and whether lecturers with security of employment can be considered to have the same rights and privileges as ladder-rank Senate members with tenure. He also noted that some members of UCRJ expressed the concern that having LSOEs serve on CAPs with full voting rights would violate the spirit of SB55, unless every department within the Division had voted to extend LSOEs voting privileges to all cases. Chair Dickson met with UCAP on October 13, 2021, and recommended that UCAP should opine on whether LSOEs should serve on Divisional CAPs.

Summary of UCAP deliberations:

During UCAP’s deliberations on these matters a consensus emerged that the decision as to whether CAPs should include LSOEs as full voting members should be left to the individual Divisional Senates to decide. LSOEs represent very substantially different fractions of the faculty body at the different campuses. At Berkeley, for example, there are very few LSOEs or LPSOE (Lecturers with Potential for Security of Employment), and many of these are in a single unit. Similarly, LSOEs or LPSOE at UCLA represent a minority of the faculty. As a result Berkeley and UCLA do not anticipate appointing LSOEs to their Divisional CAPs in the foreseeable future. In contrast, UCI, UCSC, and UCSD report an increasing number of LSOEs and LPSOE on their campuses, and the Divisional CAPs have now begun to appoint LSOEs as full voting members.

The issue of whether LSOEs serving on CAPs should be restricted from voting on cases involving ladder-rank faculty was discussed briefly by UCAP. The Merced CAP had communicated the opinion to UCAP that restricting the role of LSOEs to only voting on non-ladder-rank faculty cases is not desirable, since it risks compromising the anonymity of the review process. The Merced CAP expressed support for broad representation and a need for Teaching Professors to feel enfranchised, and these sentiments found strong support within UCAP.

UCAP considered the issue of whether LSOE membership on CAPs violates the terms and spirit of SB55, and concluded that it does not. Particularly helpful to our deliberations was a communication from the UCSD CAP that summarized its position on this issue, making the key point that SB55 is concerned with departmental voting rights, and that eligibility for CAP membership is determined by Senate membership, without explicit distinction between ladder-rank and non-ladder-rank faculty. UCAP concluded that there is a fundamental difference between the right to vote on departmental actions, and voting on cases being considered by CAPs. The CAP is a very small body whose members are selected by the Academic Senate after stringent screening (on some campuses the CAP members are elected by the faculty, but the candidates for election are chosen by the Academic Senate). In contrast, any member of a department can vote on any case for which they are eligible to do so. Thus, many of the concerns that may arise regarding LSOEs voting on departmental faculty actions, such as a potential lack of familiarity with evaluating scholarship, are not pertinent when considering CAP members voting on cases. We assume that the due diligence that goes into the selection of CAP members, including consultation between the Divisional Senate Committee on Committees and Departmental Chairs and Deans, works to ensure that the Senate can have confidence in the ability of every CAP member to vote on all cases that are considered by the CAP. The Divisional Senate has the ultimate authority on appointing CAP members, and this provides a natural way for each campus to determine whether or not to appoint LSOEs to their CAPs. UCAP has concluded that there is no reason to issue a systemwide recommendation that LSOEs should, or should not, be appointed to CAPs.

Recommendations:

- Divisional CAPs should be free to allow LSOEs the right to vote on all cases considered by the CAP, if the Divisional CAP includes LSOEs. Voting as a carefully selected member of a Divisional CAP is a fundamentally different process than participating in a departmental action in which all eligible faculty vote. The fact that LSOEs may not be eligible to vote on all cases at the departmental level is a separate matter and does not conflict with the voting rights of CAP members.

- Specifically, LSOEs should have the right to vote on personnel issues associated with other Senate series, if LSOEs
are members of the Divisional CAP. Appointment to the Divisional CAP is perhaps the most carefully scrutinized of Senate committee appointments, typically involving consultation between the Senate and the administration. As a result, the Senate should have confidence in the ability of individual CAP members to vote on all cases.

- LSOEs can be allowed to serve on CAP absent a Bylaw 55 amendment that specifically authorizes such appointment. UCAP concludes that SB55 pertains to departmental actions, for which the voting procedure is fundamentally different than voting by CAP members on faculty actions.

- A systemwide clarification, rather than division-level interpretations, is not required. UCAP believes that the rules, as they stand, permit each campus to make the appropriate decisions concerning CAP membership. UCAP recommends that the systemwide Academic Senate issue clarification on this matter by stating that LSOEs should be permitted to be appointed to Divisional CAPs at the discretion of the Divisional Senate.

UCAP appreciates the opportunity to comment on this matter. Please don’t hesitate to contact me if you have any questions.

Sincerely,

John Kuriyan, Chair
UCAP

Attachments:

1. Request from the Divisional Senate of UCSD to the UCSD Divisional Committee on Rules and Jurisdiction, regarding LSOEs serving on CAPs.
2. Senate Bylaw 55
3. Letter from Andrew Dickson, Chair of UCRJ.
April 26, 2021

Professor Geoffrey Braswell  
Chair, Committee on Rules & Jurisdiction  
San Diego Divisional Academic Senate  
VIA EMAIL

Re: Request for Legislative Ruling - Bylaw 55, Departmental Voting Rights

Dear Professor Braswell,

I am requesting that a legislative ruling be obtained from the University Committee on Rules & Jurisdiction regarding UC Senate Bylaw 55, Departmental Voting Rights. The San Diego Divisional Committee on Committees has raised the question of whether Teaching Professors (Lecturers with Security of Employment) serving on the Divisional Committee on Academic Personnel, and thus evaluating files of ladder rank faculty, would constitute a violation of Bylaw 55.

The Committee has defined the issue as follows.

Over the past years, the University has recruited a significantly larger number of LSOE/Teaching Professors than it did in earlier decades, increasing the number of those files that reach CAP. As a result, the relative proportions of Teaching Professor files that end up reaching CAP in recent years has gone up significantly. UC Bylaw 55 (see: Bylaw 55) states which faculty are entitled to vote on hiring and promotions: general faculty members of the AS are entitled to vote on teaching faculty files, but not the reverse. Teaching faculty are entitled there only to vote on promotions of other teaching faculty. There is an amendment (paragraph C of Bylaw 55) that individual departments can vote to extend voting rights more broadly than spelled out in Bylaw 55 (e.g. giving teaching faculty the right to vote on general faculty promotions) but only if the department votes to approve that extension by a 2/3 majority. Moreover, paragraph C stipulates that any faculty member could later request to nullify the extension, and then it would be nullified unless it re-passes with a 2/3 majority.

We believe that the increasingly large number of people within our ranks that fall within the Teaching Professor category have as much right as anybody else to have their concerns understood and represented in the academic evaluation process. It is pertinent
to review UC Bylaw 55 and gain greater clarification about Teaching Professors’ right in the evaluation process, so that our University will not create a two-tiered system.

In accordance with UC Bylaw 206, I am requesting that you obtain a ruling from the University Committee on Rules & Jurisdiction as to whether Teaching Professors (Lecturers with Security of Employment) serving on a Divisional Committee on Academic Personnel would violate UC Senate Bylaw 55.

Sincerely,

Steven Constable
Chair
San Diego Divisional Academic Senate

cc: Tara Javidi, Vice Chair
Ray Rodriguez, Director
Ashley Welch, Senate Analyst
Senate Bylaw 55

Title VI. Rights and Authority of Senate Members

- 55. Departmental Voting Rights
  A. General Provisions
  1. According to the Standing Orders of the Regents, "... the several departments of the University, with the approval of the President, shall determine their own form of administrative organization ..." No department shall be organized in a way that would deny to any of its non-emeritae/i faculty who are voting members of the Academic Senate, as specified in Standing Order 105.1(a), the right to vote on substantial departmental questions, excepting only certain personnel actions as detailed in Article B of this Bylaw. [See Legislative Ruling 5.67 ] (Am 4 May 95)
  2. In all matters other than those specified in paragraphs 1 to 5 of Article B of this Bylaw, the right to vote may be delegated to duly elected committees.

  B. Designation of Voting Rights
  1. All tenured faculty in a department have the right to vote on all new departmental appointments that confer membership in the Academic Senate. Prior to such a vote, all the non-emeritae/i departmental members of the Academic Senate must be afforded an opportunity to make their opinions known to the voters. (Am 4 May 95)
  2. Professors have the right to vote on all cases of promotion to the ranks of Professor, Professor-in-Residence, and Professor of Clinical (e.g. Medicine). Professors and Senior Lecturers with Security of Employment (SOE) have the right to vote on all cases of appointment or promotion to the rank of Senior Lecturer (SOE). (Am 5 May 88)
  3. Professors and Associate Professors have the right to vote on all cases of promotion to the ranks of Associate Professor, Associate Professor-in-Residence, and Associate Professor of Clinical (e.g. Medicine). Professors, Associate Professors, Senior Lecturers (SOE) and Lecturers (SOE) have the right to vote on all cases of appointment to the rank of Lecturer (SOE). (Am 5 May 88)
  4. For voting purposes, all cases that involve the removal of the Acting modifier from the title of a member of the Academic Senate shall be treated as promotions to the rank in question.
  5. All cases of nonreappointments or terminations of Assistant Professors, Assistant Professors-in-Residence, and Assistant Professors of Clinical (e.g. Medicine), or Lecturers and Senior Lecturers, shall be voted upon by those faculty eligible to vote on promotions to the ranks of Associate Professor, Associate Professor-in-Residence, Associate Professor of Clinical (e.g. Medicine), or appointments to the titles Lecturer (SOE) and Senior Lecturer (SOE), respectively. (Am 5 May 88)
6. All cases of advancement within any rank that confers membership in the Academic Senate shall be voted upon by those persons entitled to vote on promotion or nonreappointment to the rank in question under the provisions of Paragraphs 2 to 5 of this Article B. (En 4 May 1995)

7. In none of the instances specified in Paragraphs 1 to 5 of this Article B may the right to vote be delegated to a committee. The actual method of voting shall be determined by the eligible voters; subject, however, to the provision that no voter may be denied the option to require a secret ballot. In cases of advancement within rank, the eligible voters for each rank in question shall either follow the same procedures used for promotions and non-reappointment or may, by two thirds majority vote and subject to the approval of the divisional Committee on Academic Personnel or its equivalent, delegate the authority for such actions to a duly elected committee or other agency, or adopt some other method acceptable to the divisional Committee on Academic Personnel or its equivalent. Any such method or delegation of authority shall remain in effect for at least one calendar year (twelve months). Thereafter, upon the request of any faculty member entitled to a vote on the cases in question under the provisions of Paragraph 6 of this Article B, the eligible voters shall reconsider the question of how such cases shall be handled. (Am 4 May 1995)

8. The tenured faculty members of a department shall establish the method by which personnel matters other than those listed in Paragraphs 1 to 6 of this Article B are determined. The method adopted must have the approval of the divisional Committee on Academic Personnel or its equivalent.

C. Extension of Voting Privileges to non-Emeritae/i Faculty

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 under the provisions of paragraphs 1 to 6 of Article B of this Bylaw, upon at least a two-thirds majority vote by secret ballot of those faculty entitled to vote on the cases in question under the provisions of paragraphs 1 to 6 of Article B of this Bylaw. Any extensions of the voting privilege under this Article C must remain in effect for at least one calendar year (twelve months); thereafter, any faculty member entitled to a vote on the cases in question under the provisions of paragraphs 1 to 6 of Article B of this Bylaw may request reconsideration. Following a request for reconsideration, and prior to any subsequent vote on the cases in question, the Chair or other appropriate departmental officer shall put the question of renewal of privileges to a vote. An extension of voting privileges will be renewed only upon at least a two-thirds majority vote by secret ballot of those faculty entitled to vote on the cases in question under the provisions of paragraphs 1 to 6 of Article B of this Bylaw. (Am 4 May 95)[See Legislative Ruling 5.67]

D. Rights and Privileges of Emeritae/i Faculty (En 4 May 95)

1. Emeritae/i members of the Academic Senate retain membership in the departments to which they belonged at the time of their retirement. They
do not have the right to vote on departmental matters, except as provided in this Article D.

2. With the exception of personnel actions, Emeritae/i members of the department have the right to receive the same notice of meetings as other Academic Senate members. They have the right of access to materials relevant to those meetings, the privilege of the floor at those meetings, and the right to make their opinions known to the voting members.

3. Emeritae/i, while recalled to service in a department from which they have retired, regain voting rights on all departmental matters, except personnel matters, during the period of such service. They may be accorded voting privileges on personnel matters only as a class consisting of all recalled Emeritae/i and only as specified in paragraph 4.c of this Article D.

4. Additional privileges in a department from which they have retired may be extended, either to all Emeritae/i as a class of the whole, or to all Emeritae/i recalled to active service, during the period of such service, as follows.

   a. Voting privileges on all non-personnel matters may be extended to all Emeritae/i upon a majority vote by secret ballot of the total non-Emeritae/i Academic Senate membership of that department.

   b. The privilege of notice of meeting on personnel actions, access to materials, and/or privilege of the floor may be extended to Emeritae/i upon at least a two-thirds majority vote by secret ballot of those faculty entitled to vote on the cases in question under the provisions of paragraphs 1 to 6 of Article B of this Bylaw.

   c. Voting privileges on personnel matters may be extended to Emeritae/i upon at least a two-thirds majority vote by secret ballot of those faculty entitled to vote on the cases in question under the provisions of paragraphs 1 to 6 of Article B of this Bylaw.

      i. Any extensions of privilege to Emeritae/i under paragraph 4 of this Article D must remain in effect for at least one calendar year (twelve months); thereafter, any faculty member entitled to a vote on the question of an extension of privilege under the provisions of paragraph 4 of this Article D may request reconsideration. Following a request for reconsideration, and prior to any subsequent vote on the cases in question, the Chair or other appropriate departmental officer shall put the question of renewal of privileges to a vote. An extension of privilege will be renewed only under the procedures specified for the initial extension of voting privileges by paragraph 4 of this Article D.

   a. Other Units. In Divisions or schools or colleges where the term "department" is not used, this Bylaw refers to those units from which academic appointments and promotions are recommended to administrative officers. (Am 2 Dec 81)
to review UC Bylaw 55 and gain greater clarification about Teaching Professors’ right in the evaluation process, so that our University will not create a two-tiered system.

In accordance with UC Bylaw 206, I am requesting that you obtain a ruling from the University Committee on Rules & Jurisdiction as to whether Teaching Professors (Lecturers with Security of Employment) serving on a Divisional Committee on Academic Personnel would violate UC Senate Bylaw 55.

Sincerely,

Steven Constable  
Chair  
San Diego Divisional Academic Senate

cc: Tara Javidi, Vice Chair  
Ray Rodriguez, Director  
Ashley Welch, Senate Analyst
June 14, 2021

Geoffrey E. Braswell
Chair, UC San Diego Committee on Rules and Jurisdiction
Professor of Anthropology
La Jolla, CA 92093-0532

Re: UCRJ Comments on the request by the UCSD Senate Chair regarding SB 55

Dear Professor Braswell,

Thank you for your May 10, 2021 request on behalf of the San Diego Senate division chair for a ruling on the question of whether Teaching Professors (Lecturers with Security of Employment) serving on the Divisional Committee on Academic Personnel, and thus evaluating files of ladder rank faculty, would constitute a violation of Bylaw 55, Departmental Voting Rights. UCRJ’s analysis and opinion on this matter follows below.

**Background**

The question at issue appears to be whether UC Senate Bylaw 55 (Departmental Voting Rights) necessarily also affects the potential roles of members in the UCSD Divisional Committee on Academic Personnel, with particular concerns as to the implications for Teaching Professors (Lecturers with Security of Employment) who are thus called on to evaluate the files of ladder rank faculty.

Senate Bylaw 55 clearly outlines in SB 55.B the designation of voting rights within a department, and essentially restricts voting to within specified academic peer groups. Specifically, Senior Lecturers (SOE) and Lecturers (SOE) are thus restricted to voting only for appointments, promotions, and terminations of positions in their own academic series, and only for actions at their own rank or below.

SB 55.C gives individual departments the authority to extend voting privileges to the Academic Senate members of their department who are “not otherwise entitled to vote under the provisions of paragraphs 1 to 6 of article B of this Bylaw”. This requires a 2/3 majority (by secret ballot) of those faculty who are entitled to vote on the cases in question under the provisions of paragraphs 1 to 6 of SB 55.B.

*This seems clear in regards to Teaching Professors (Lecturers and Senior Lecturers with Security of Employment). Their voting rights are restricted to actions concerning their own series, unless explicitly extended by an individual department of the University.*
The UCSD Division CAP is established by the UCSD Division Bylaw 172.A where it states “This committee shall consist of at least ten but no more than 14, ordinary members of the Division holding tenure rank . . .”

It would seem that the concept of “ordinary members of the Division” is guided by Standing Order 105.1.a and applies to the long list of instructional titles indicated in this Standing Order, *i.e.* including Lecturer titles that have Security of Employment, or Potential Security of Employment.

Insofar as the phase “holding tenure rank” seems potentially more restrictive, we note that although the Board of Regents RB 40 explicitly distinguishes between RB 40(c) Tenure, and RB 40(d) Security of Employment, RB 40(e) treats both identically with regards to Dismissal.

Thus, it is unclear that Lecturers with Security of Employment are necessarily considered to be “holding tenure rank”, although in many ways their associated rights and privileges are indeed the same.

UCSD SB 172.B states: “This committee is authorized to represent the Division in making recommendations to the Chancellor concerning appointments, promotions and related matters.”

This bylaw does not make any statement about voting *per se* and hence it is to be assumed that the any lawful Academic Senate member of the committee is able to vote.

**UCRJ opinion(s)**

It is clear therefore that, insofar as the wording in the Code of the Academic Senate is concerned, that there is a clear need to understand whether or not Lecturers and Senior Lecturers with Security of Employment have the same rights and privileges as the various Senate members with Tenure. UCRJ has not been able to find any statement as to whether or not this is so,

If they do, then the UCSD CAP is free to have Lecturers and Senior Lecturers with Security of Employment as members with voting privileges. Otherwise it cannot.

Alternately, UCSD could choose to rewrite its Bylaw for the CAP to allow this, and that would likely satisfy the letter of the law. Nevertheless, UCRJ had some members who expressed the opinion that as SB 55 expressly limited the personnel matters on which Lecturers and Senior Lecturers with Security of Employment could vote, having them on the CAP would clearly be in conflict with what they believed to be the spirit of SB 55, unless *every* department in UCSD had voted in accordance with SB55 to extend their voting rights. This, of course, implies a non-trivial work-around that is, in principle, available to UCSD.

However, this does not really address the concern expressed in the original request.

“We believe that the increasingly large number of people within our ranks that fall within the Teaching Professor category have as much right as anybody else to have their concerns understood and represented in the academic evaluation process. It is pertinent to review UC Bylaw 55 and gain greater clarification about Teaching Professors’ right(s) in the evaluation process, so that our University will not create a two-tiered system.”
Such a systemwide review can be initiated at the instigation of UCSD, perhaps through the UCAP. But, UCRJ does not feel it appropriate for us to opine on what changes to SB 55 might accomplish the proposed goal, but notes that there is likely a substantial body of tradition within departments throughout the University that will influence any discussion of this matter.

Please do not hesitate to contact me if you have additional questions.

Sincerely,

Andrew Dickson, Chair
University Committee on Rules and Jurisdiction

Cc: Senate Chair Gauvain
    Senate Vice Chair Horwitz
    Academic Senate Executive Director Baxter
    UCRJ

Encl.