



CALIFORNIA STATE UNIVERSITY, SACRAMENTO

FACULTY SENATE

October 17, 2002

To: Faculty Senate
Via: Senate Executive Committee

From: William A. Dillon
Presiding Member
University ARTP Committee

California State University, Sacramento
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Faculty
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Senate Received

Subj: The principle of a probationary faculty member's right to decline without prejudice to serve on hiring committees

At the Senate's request, the University ARTP Committee has reconsidered the subject principle as expressed in the Senate's recommendation to the President last Spring and recommends that the Senate delete the expression of that principle from its proposed changes to Sections 6.04.B.1, 6.04.C.2 and 6.06.B.1. The three sections would then read as follows:

- 6.04.B.1 "Appointment of full-time temporary faculty unit employees normally shall follow the recruitment and selection procedures for probationary faculty unit employees contained in Section 6.06 below. ~~However, a department or equivalent unit may elect to permit probationary faculty to participate in every part of the hiring including the final review and recommendation of individuals to receive appointments as full-time temporary faculty. Notwithstanding a department's or equivalent unit's choice to permit participation by probationary faculty, probationary faculty may decline without prejudice to participate in any way in the appointment of full-time temporary faculty.~~ Any variation from the requirements of Section 6.06 below shall require compliance with department procedures provided for such variation and also shall require a waiver from the Affirmative Action Officer.
- 6.04.C.2 "An appointment for a less than full-time temporary employee may be on a conditional basis. The conditions established at the time of appointment may relate to enrollment and budget considerations. If a class is canceled, the temporary employee shall be paid for class hours taught. Classes may be canceled any time prior to the third class meeting." (M.O.U. 12.5) Department or equivalent units may authorize an elected peer review committee for part-time appointees consisting of probationary or tenured faculty or both or the department chair or both the committee and the chair to carry out all or part of the primary level review and recommendation process for part-time faculty unit appointments. ~~But probationary faculty may decline without prejudice to serve on a peer review committee elected to recommend the appointment of less than full-time temporary faculty employees.~~

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6.06.B.1 “Recommendations regarding probationary appointments shall originate at the department or equivalent unit. Probationary appointment procedures shall include the following:” (M.O.U. 12.21)

“Each department or equivalent unit shall elect a peer review committee of tenured employees for the purpose of reviewing and recommending individuals for probationary appointments. At the discretion of the president and upon request of the department these peer review committees may also include probationary employees.” (M.O.U. 12.22.a) ~~This section shall not be read to preclude the election of probationary faculty unit employees to participate in the work of peer review committees constituted under this section. The participation of probationary faculty shall not extend to the final review and recommendation of individuals for probationary appointments. If a department or equivalent unit elects to permit the participation of probationary faculty under this section, it shall specify in its ARTF policies the extent of that participation short of final review and recommendation. Probationary faculty may decline without prejudice to participate in any search leading to the appointment of probationary faculty.~~—Note: On this campus, the President has approved the inclusion of probationary faculty on the elected peer review committee or committees of any department or equivalent unit that chooses to request it.

On reconsidering its original recommendation, the Committee has concluded that its recommended language cannot operate to protect probationary faculty from any informal sanctions, such as unpleasant comments, that might be visited upon them for declining to participate in a hiring decision. The Committee has concluded as well that the chance of formal sanctions, such as a letter to the file noting a faculty member’s refusal to participate in one instance of hiring is so rare as, in practice, to be non-existent. In the unlikely event of such a letter being submitted to a file, the criticized faculty member would have a right of rebuttal and thus, all the chance he or she now has, to respond to formal criticism or censure. Since RTP recommendations must be based on nothing but the contents of the file, and since the chance of there being anything in the file to document a faculty member’s decision not to participate is remote at best, the Committee has concluded that the intended benefits of the previously proposed language will not be produced by it in fact.

Furthermore, the Committee has concluded that the previously proposed language would embody a principle that directly contradicts the obligation to serve where needed on department, college or university committees at a time when the university is in more need of such service than has usually been the case. Thus when weighing the need of service against the probable absence of intended benefit from the recommended language, the Committee has concluded that the claim of need should prevail and the proposal of a uniform exception to the obligation to serve on a hiring committee should be withdrawn.

The Committee recognizes, however, that the University may not force anyone to serve, whatever provision for consequences it may make in a case of refusal to serve. Given that no one can be compelled to serve and that no University rule against the consequences of refusing to serve seems practical, the Committee has decided to recommend with the concurrence of the Dean of Faculty Affairs that the Senate request the Dean of Faculty Affairs to inform every department or equivalent unit and every probationary faculty member that departments or equivalent units may, if they wish, include language in their documents governing appointments that informs probationers that they may decline to serve on hiring committees. Such letters, the Committee and the Dean believe, will tend to

bring on in the departments a discussion of the issue of department needs and the vulnerability and consequent concerns, if any, of probationers about participating in hiring. At the very least, the letter to probationers may operate to stimulate a perception of the alternative of declining to participate where no perception of that alternative exists at the moment, thus leaving probationers with the mistaken impression that they now have no choice in the matter at all.

WAD/cj
Enclosure

cc: D. Wagner, Dean, Faculty and Staff Affairs
S. Orman, Director, Faculty Affairs
B. Buckley, Chair, Faculty Senate