

Statement by History Department Faculty in Support of Fairness in the Voting Process for Unionization of Non-Tenure-Stream Faculty

The undersigned members of the History Department join our voices to those of members of the Philosophy, Theatre and Dance, Anthropology, and English Departments in calling for fairness in the voting process for unionization of non-tenure-stream faculty. The outcome of a fair election is not pre-determined as not all non-tenure-stream faculty support unionization. However, the electoral process must be fair.

We know of no fair-minded precedent in the history of American democracy for the peculiar two-thirds turnout threshold sought by the Administration. This would enable a minority of voters to prevail over even a clear-cut majority who voted otherwise, simply because overall participation - during a pandemic, no less - fell short of an arbitrary two-thirds "quorum."

Indeed, even the turnout in the 2020 presidential election, estimated to be the highest in 120 years, barely achieved a margin of two-thirds of eligible voters - the threshold that the Administration requires for this campus election. Of all the important votes held at Santa Clara over the years, including elections to faculty, staff, and student bodies, it is hard to remember many which have met, let alone exceeded, such a quorum. Yet these votes were not deemed illegitimate or unrepresentative for failing to meet such an improbably high bar.

As our colleagues in the Philosophy Department noted in their statement of April 21, this extraordinary quorum requirement treats the lecturer electorate unequally, counting all who fail to vote, for whatever reason, as No votes and inviting an outcome that may be entirely at odds with the expressed will of the voters. Effectively, it abandons the principle of one person, one vote – a bedrock of American democracy since at least the Civil Rights era.

The undersigned members of the History Department join the English Department in supporting the Religious Studies Department's articulation of rules of fair process, which include, in items #1 and #3, guidelines for ethical negotiations (Statement by Religious Studies Faculty for Supporting Fairness in the Voting Process for Unionization, April 27, 2021). Item #2 offers a fair method for conducting elections, grounded in and consistent with American history and University precedent.

- 1) the University administration's decision to employ an anti-union law firm, Littler Mendelson, to lead their negotiations on the unionization election is not consistent with the University mission;
- 2) the best way forward is for the University to work within the clear guidelines offered by the National Labor Relations Board, such that only ballots cast should be counted as votes either for or against unionization – those who decide not to cast ballots should not be counted as "votes" against unionization;
- 3) continued negotiations in good faith is a desideratum.

Signed,

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