Background information for April 8 vote on revising the *Faculty Handbook* to match the voting procedures in use from December, 2018.

I. New faculty voting procedures were adopted from 12/2018 to 2/2022: Why?

In 2018 the faculty engaged in a sustained effort to reform faculty governance led by the President's Task Force on Faculty Governance (Wendy Cadge and Susan Curnan, co-chairs) plus the Faculty Senate (Susan Curnan, chair).

At the Faculty Meeting of September 14, 2018, President Liebowitz highlighted the critical importance of faculty participation in governance and the low level of such participation at Brandeis. This problem, evident for years, was acute: to illustrate, in 2018 just 20% voted on our new General Education requirements.[i,ii] (All documents cited here will shortly be available on the Senate webpage.)

Later that month the President distributed a poll to faculty with questions about Faculty Meetings.[iii] The poll was open for a full week and faculty were reminded twice by the Provost. Over 50% of the faculty participated and the responses were overwhelming:

1. Virtual attendance should be permitted at Faculty Meetings   93% in favor
2. Votes should be held after the Faculty Meeting   83% in favor.[iv]

II. The new faculty voting procedures: Description

The 2018-2019 Senate devised a new voting procedure that maintained Robert's Rules in every way possible while achieving faculty goals.[v] The initial steps for passing legislation had been, and remained, the following:

Step 1. Motion and second
Step 2. Possible amendments: Each requires a simple majority
Step 3. Call the question: Requires a 2/3 majority
Step 4. If that passes, proceed to the faculty vote.

The special requirements for *Handbook* revisions were also retained: Debate at two consecutive faculty meetings; two consecutive faculty votes;, a 2/3 majority on both votes.

The one necessary adjustment to Robert's Rules occurred in Step 4. The new procedures specified that motions would be distributed electronically after the Faculty Meeting to all eligible faculty,[vi] and remain open for five business days.[vii] The Office of Institutional Research (OIR) distributed the votes, processed the results, and maintained strict confidentiality.[viii]

From 12 December 2018 to 4 February 2022, all motions to revise the *Handbook* were handled via the new voting procedures.

III. Moving forward: *Handbook* procedures unless & until *Handbook* revision

In 2018 electronic voting was presented to the faculty as provisional for a year.[ix] The *Handbook* was not revised concurrently because the Senate recognized a trial period would provide opportunities to improve the process.

The *Handbook* revisions were delayed beyond the one-year trial period for a clear reason: the pandemic. COVID-19 arrived early in 2020, just when *Handbook* revisions would have been proposed. The then-Senate naturally turned to more pressing matters. The revisions were not delayed due to problems with the nuts-and-bolts *per se,* which have worked well. During the first year, the second year, and the third year the Senate received no complaints though the faculty voted electronically on many *Handbook* revisions and other important matters. Further,

the faculty as a whole remains satisfied: not one of the 200+ comments on this year's Faculty Survey concerned voting mechanisms.

Now that the pandemic is under better control, this year's Senate is working to end the delay by holding a faculty vote on the necessary *Handbook* revisions.

Unless and until the *Handbook* is revised to state otherwise voting must return to *Handbook* rules, according to an opinion from the Committee on Faculty Rights and Responsibilities (CFRR) that has been accepted by the Provost.

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CFRR ruling

The committee unanimously agrees that the issues of voting procedures in faculty meetings, and of how Handbook amendments are made, are well within the mandate of CFRR. The committee undergoes regular training with the General Counsel to clarify our mission and responsibilities. The role of the CFRR is to interpret the Faculty Handbook, including both procedural/collective and individual issues, on behalf of the faculty. The Handbook states:

> VI.D.2.d. The Committee on Faculty Rights and Responsibilities, acting on behalf of the faculty, interprets provisions of the Faculty Handbook.

Are current voting procedures consistent with the Handbook? The CFRR has agreed that the Handbook states that faculty must be present (either in person or virtually) at the Faculty Meeting to vote, based on section **VIII. ADOPTION AND AMENDMENT OF THE FACULTY HANDBOOK:**

> "Proposals for further revision of the Handbook must be adopted by the Faculty Meeting by a two-thirds vote of the members present and voting at two meetings in a single academic year, and approved by the Board of Trustees."

Voting by subsequent asynchronous electronic methods is not consistent with the requirement for presence. This is a direct Handbook requirement, with no need to refer to Robert's Rules:

> "VI.A.3.c "Meetings are conducted according to Robert's Rules of Order, except as provided herein."

The CFRR recognizes that the current voting processes were adopted as a pilot to test the feasibility of adapting voting procedures to allow greater faculty participation in University governance and that votes made under this pilot program are valid. However, after four years and new concerns raised by faculty, any continuation of this process should be codified by changes to the Faculty Handbook.
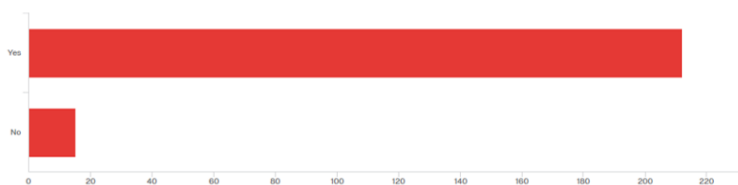
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[i] Among other concerns, such low participation rates create the risk of vote capture by an unrepresentative minority.

[ii] Liebowitz's comments on faculty voting, extracted from his full speech, accompany this note. For the complete text see the following document: Liebowitz, *Outline of the comments by President Ron Liebowitz at the September 14 Faculty Meeting*. These comments are also summarized, distinctly, in the minutes of the Faculty Meeting on 9/14/2018.

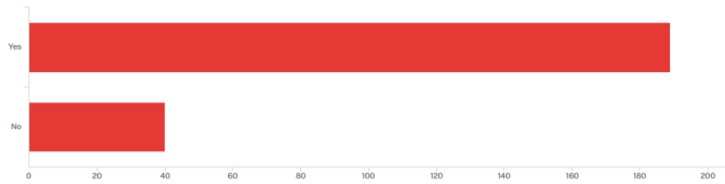[iii] See *President - Email accompanying poll on voting*.

[iv] See the chair's ppts for Faculty Meetings of 12 October and 2 November, 2018 and charts below

Q2 - Electronic participation in faculty meetings should be allowed.

Q4 - Electronic voting after the close of faculty meetings should be allowed.

v Thanks to Kate Moran for this clear interpretation of current voting procedures.

vi See 12/5/18 memo of Kate Moran, then on the Senate Council, to faculty: *December 12, 2018: Faculty Meeting Legislation Process & Voting*.

vii See, e.g., the 10/23/2018 memo of Judith Jaffe, then-Director of OIR, to the Faculty Senate Council: *Electronic Participation and Voting at Faculty Meetings*.

viii The entire voting process became more rigorous with the shift to electronic voting. Voting is fully recorded and cannot be tampered with by anyone, including the Senate chair. The process is also controlled to ensure that every eligible faculty member gets one vote. Finally, the tallies are exact, an advance over the previous process of counting hands at faculty meetings.

ix See the minutes of the Faculty Meeting on 11/2/2018.