

POWER DYNAMICS

After a No-Confidence Vote at the U. of Kentucky, a Tussle Over Ballots Gets Messy

By [Megan Zahneis](#) September 19, 2024



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For months, faculty members at the University of Kentucky [have criticized](#) what they see as an attempt by administrators to strip them of power. Now, some are worried they'll be retaliated against for opposing those changes.

In May, the University Senate at Kentucky [voted no confidence](#) in the institution's president, Eli Capilouto, after he proposed a series of shared-governance changes that included dissolving the Senate. Capilouto, the senators [said](#), was moving too quickly and using inaccurate information,

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resulting in “unnecessary and harmful division” across the university. Capilouto said he was acting at the behest of the university’s trustees, who asked him to recommend changes to what they saw as an inefficient shared-governance system that failed to ensure all voices — particularly staff members’ — were heard. The trustees [voted in June](#) to adopt Capilouto’s recommendations.

Now, the former leader of the Senate is accusing administrators of trying to gain access to individual ballots from the no-confidence vote. DeShana Collett, whose term as chair of the Senate Council — the University Senate’s executive committee — ended in the spring, [wrote](#) to faculty members last month that the university’s actions since the vote could be perceived as a “blatant act of retaliation” and “significant breach of confidentiality.”

The conflict, with its dueling claims of justification in legal precedent, illustrates the deteriorating state of the faculty-administration relationship at the university since the decision was made to reform its shared-governance model. The move has also ramped up fears regarding the chilling of faculty members’ speech about their own institution, which has been led by a long-serving president who, prior to recent events, had enjoyed a relatively amicable relationship with the faculty.

After the University Senate was dismantled, Collett told *The Chronicle*, the provost’s office assumed control of the online account the Senate used to administer all of its votes, including the no-confidence vote. Doing so gave administrators access to individual voting records, she said, meaning that Capilouto, if he chose, could learn the names of faculty members who voted against him. When the no-confidence vote was taken, only the totals — 58 in favor, 24 against, and 11 abstaining — were reported. That’s how the University Senate has conducted votes since at least the 1970s, and, Collett said, it’s in accordance with both the state’s Open Meetings Act and a corresponding ruling by the university’s own general counsel.

But when the University Senate was dissolved and the online account switched hands, Collett said, the university “went directly to looking for the individual votes of no confidence,” and placed on administrative leave a staff member who had, at Collett’s direction, “archived” the results of the vote after they’d been reported. Collett said administrators questioned her on why the votes had been archived.

Despite being archived, the votes were not deleted and are still accessible, Collett said, but it’s unclear whether the university has in fact obtained those records. It has not asked for detailed records of any of the Senate’s

votes on other matters, she added. The staff member who was placed on leave declined to comment, as did the university, citing it as a personnel matter.

A university spokesman denied that officials had any interest in the votes. "The University has no plans to access the voting records of a body that has been abolished by our Board of Trustees," Jay Blanton wrote in an email to *The Chronicle*. "Of course, the University will not retaliate against those who voted in favor of the motion of no confidence and the University assumes faculty will not retaliate against those who opposed the motion."

Speech Rights

The need for confidentiality in the vote is clear, said Collett and Jennifer Cramer, a member of the executive committee of Kentucky's chapter of the American Association of University Professors. "We vote by secret ballot for a reason," said Cramer, who is a professor of linguistics. "The idea is, senators are voting their conscience. They're voting for what their colleagues would hope they would vote for, and they should be able to do so in a way that they don't feel like someone's going to come for them when they make their voice known."

Secret ballots with results reported in the aggregate are typical for no-confidence votes, said Sean McKinniss, a consultant who maintains a [public database](#) of no-confidence votes. While there's no universal standard, "most seem to occur anonymously and reported plainly," McKinniss wrote in an email to *The Chronicle*. "I've never heard of an administration seeking the individual votes, and I can't think of any sensible reason to make that request."

With the University Senate dissolved, leaders of the campus AAUP chapter see it as their mandate "to make sure that the people who cast the votes for no confidence are not being retaliated against, because that's the only explanation for why the university would want the votes," said Karen Petrone, the chapter president.

And it's a reasonable concern, said Mark Criley, senior program officer in the national AAUP's department of academic freedom, tenure, and governance. He likened a faculty vote of no confidence to a key assumption underlying American voting systems. "We have assurances of secrecy, so we rely on those," he said. "If those assurances are violated, then we have reason to wonder what the reason would be and to rethink our participation in those processes in the future." While the AAUP has no policy on how no-confidence votes should be conducted or reported, Criley said the association does affirm professors' right to protected

intramural speech. “I have, for my part, not heard of a case where the administration tried to recover secret ballots. If that’s what’s happening here, that would be a new one for me,” he said.

Criley said that while the national association has not weighed in formally on the matter, it’s interested in “monitoring developments.”

Criley did send a [letter](#) to university administrators in April, noting that what were then proposed changes to the shared-governance structure at Kentucky appeared to “contravene the widely observed principles of academic governance supported by the AAUP.”

Aside from principles of academic freedom, the First Amendment protects any citizen’s right to speak, anonymously or not, said Haley Gluhanich, a senior program officer for campus rights advocacy at the Foundation for Individual Rights and Expression. “FIRE’s stance really is that one has the right to express themselves or to speak anonymously, and that any government actor, including a public institution trying to uncover anonymous speech, is very chilling,” she said.

Legal Concerns

Collett, the former University Senate leader, decided to write to faculty members about her concerns after being interviewed by two university administrators about the archiving of the votes. When she forwarded her concerns to those administrators and three others, one wrote back: “It is my understanding per General Counsel that this matter is under serious investigation with the possibility of becoming a criminal investigation,” and advised Collett to have her lawyer contact the university. Collett, a professor in the department of physician assistant studies, shared a copy of that exchange with *The Chronicle*.

The staff member who archived the votes online was merely acting on her direction, Collett said, and that direction did not break any laws. The University Senate’s duty, she wrote in her letter, was “only to show within its minutes whether a motion was approved or disapproved.”

Blanton said that the staff member who archived the votes is still employed by the university and is working full time in the provost’s office. State laws, he wrote, require that records be preserved for a certain amount of time and that any Kentucky citizen or media organization be allowed to gain access to those records unless a narrow exemption applies. “Given these laws,” he wrote, “employees cannot destroy University records simply because they believe the records might be embarrassing to them or their colleagues.”

The university, he added, is “still working to determine what materials can be archived in accordance with university policy and state law

regarding the maintenance of records and whether some records were destroyed.”

Meanwhile, in the absence of a University Senate, Kentucky will form a new Faculty Senate. While the previous body had some decision-making power and included some staff members, administrators, and students, the Faculty Senate will be an advisory body made up of only faculty members. Elections for the Faculty Senate [are to take place](#) this fall, and a provisional Faculty Senate Executive Committee is presiding in the interim.

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