

Committee on Elections, Rules and Jurisdiction Annual Report 2009-2010

Total Meetings: 17	Meeting Frequency: 4-5 per quarter	Average Hours of Committee Work Per Week: 10
Total Bylaw and Regulation proposals, advice , and elections supervised: 69	Total matters deferred from previous year: 10	Total matters deferred to coming academic year: 13

CERJ took the following actions during 2009-2010.

Proposed Amendments to Bylaws and Regulations

The Committee is authorized "To prepare and report for action by the Representative Assembly such changes and additions to the Bylaws and Regulations as it may deem advisable." (Davis Division Bylaw 71(B)(1)). The following changes were recommended during the academic year 2009-2010:

(1) Davis Division Bylaw 14: Divisional Representatives to the Assembly. The amendment clarifies the procedure for Committee on Committees (COC) to fill vacancies when the number of nominations is less than the number of open positions. It also gives COC the option of making further nominations, such that the total number of nominees is no more than twice the number of positions to be filled, which would result in an election. This proposal was adopted by the Representative Assembly on February 11, 2010.

(2) Davis Division Bylaws 45: Review of Personnel Actions. The amendment limits the scope of the personnel appeals process by stating that it applies to current Divisional members only, and that recommendations on appointments by the Oversight Subcommittee of the Committee on Academic Personnel are not subject to appeal. This proposal was adopted by the Representative Assembly on February 11, 2010.

(3) Davis Division Bylaw 52: Change in Membership of the Affirmative Action and Diversity Committee. The amendment updates and clarifies the membership of the Affirmative Action and Diversity Committee by removing the Vice Provost – Faculty Relations, since that position no longer exists, and adding the Associate Executive Vice Chancellor for Campus Community Relations. The amendment also removes the committee's duty to recommend persons from its membership to serve on the Student Affirmative Action Administrative Advisory Committee, since that committee no longer exists. The proposal was adopted by the Representative Assembly on February 11, 2010.

(4) Davis Division Bylaw 126: Composition of the Joint Academic Senate/Academic Federation Personnel Committee. Members of the Academic Senate/Academic Federation Joint Personnel Committee are appointed by the Senate and the Federation under provisions of the Bylaws of both entities. Davis Division Bylaw 129 specifies that the committee shall consist of three Senate members and four Federation members, with the Chair rotating between membership categories. Until May 2003, Academic Federation Bylaw XI(A) was

consistent with the provisions of the Senate Bylaw. However, at that time the Federation revised its Bylaw to specify that the Committee consists of two Senate members and five Federation members, with the Chair being a Federation member. As a result, the Senate and Federation Bylaws were inconsistent. The amendment makes the Senate and Federation Bylaws consistent by setting the membership at three Senate and five Federation members, with the Chair being a Federation member. The proposal was adopted by the Representative Assembly on February 11, 2010.

(5) Davis Division Bylaw 16: Elections by Ballot. Davis Division Bylaw 16, which specifies the procedures for elections by ballot, is amended by striking out a clause in section 16(E)(4). At present, if the number of candidates nominated is not greater than the number of open positions, no election is held, but the candidates are deemed elected by the Secretary “if so instructed by the Representative Assembly.” The amendment removes this condition, so that the candidates are to be deemed elected automatically by the Secretary. The proposal was adopted by the Representative Assembly on June 4, 2010.

(6) Davis Division Bylaw 64: Membership on the Committee on International Studies and Exchanges (CISE). The amendment reduces the membership on the Davis Division Committee on International Studies and Exchanges (CISE) due to an excessive number of ex officio members. The number of members or the number of representatives is reduced by one, by removing the Director of the International House. There is also a change in the description of some of the membership. The word ‘faculty’ is replaced by ‘Senate member’ in reference to members drawn from the undergraduate colleges. A further revision is the insertion of the word ‘regular’ before the first occurrence of ‘member.’ The amendment also changes the name of the committee to “Committee on International Education.” The proposal was adopted by the Representative Assembly on June 4, 2010.

(7) Davis Division Bylaw 113: Dissolution of Transportation and Parking Committee. The Executive Council recommended the dissolution of the Transportation and Parking Committee, with its duties to be handed over to the Faculty Welfare Committee and the Planning and Budget Committee and the list of their respective committee duties amended accordingly. A package of three Bylaws amendments, one pertaining to each of the committees, was adopted by the Representative Assembly on June 4, 2010.

(8) Davis Division Regulation A540: Grades. DDR A540 is amended by imposing a three-year limit on completion of the work receiving the grade Incomplete (I). If the work is not completed by that time, the grade of Incomplete becomes permanent, except that students would be able to remove the I grade after the three-year deadline by repeating the course if it is available. The proposal was adopted by the Representative Assembly on June 4, 2010.

Formal Advice Issued

Most of the work of the Committee involves advising Senate officers, Senate committees, and individual members when questions or conflicts arise. Such advice is not formally binding but suggests the likely outcome should a formal Legislative Ruling be requested.

Advice of a recurring nature and/or of general importance is listed below and is also published in CERJ's online Archive of Advice.

(1) No-Confidence Vote Options. An issue regarding options for conducting no-confidence votes was brought to CERJ's attention. Advice was requested regarding the different methods for handling a vote of no-confidence. The complete Advice, dated September 23, 2009, including background and rationale, is appended to this report.

(2) CAPAC Authority. CERJ was asked by the Chair of the Division for advice on whether the Appellate Subcommittee of the Committee on Academic Personnel (CAPAC) has authority to review the appeal of an appointment that has been recommended against by the Oversight Subcommittee of the Committee on Academic Personnel (CAPOC). The complete Advice, dated October 7, 2009, including background and rationale, is appended to this report.

(3) Enforcement of Graduate Program Proposal Memoranda of Understanding. At its June 10, 2009 meeting, the Executive Council endorsed a procedure which requires three memoranda of understanding (MOUs) between faculty involved with departmental programs and the administration. The MOUs are required for new programs and will be phased in for existing programs. The Graduate Council asked CERJ for advice on enforcement of the memoranda. The complete Advice, dated October 16, 2009 is appended to this report.

(4) Discontinuance of a Graduate Program. CERJ was asked about the role of the Graduate Council in the discontinuance of a graduate program. The complete Advice, dated October 22, 2009 is appended to this report.

(5) Representation of the School of Nursing on the Representative Assembly. CERJ was asked by the Divisional Chair whether the School of Nursing may have representation on the Representative Assembly. The complete Advice, dated November 17, 2009 is appended to this report.

(6) Davis Division Regulation C516: Part Time Study. CERJ was asked by the Executive Director to provide advice to the Office of the Registrar regarding DDR C516, Part Time Study, concerning what qualifies as a "family responsibility" as a justification for part-time study. The complete Advice, dated November 19, 2009, is appended to this report.

(7) Proposed Major in Sustainable Agriculture and Food Systems. CERJ reviewed a proposal from a committee in the College of Agricultural and Environmental Sciences to establish a new interdisciplinary major in Sustainable Agriculture and Food Systems. The complete Advice, dated February 4, 2010, is appended to this report.

(8) Suspension of Undergraduate Majors. CERJ was asked by the Executive Director for advice concerning a proposal by the College of Engineering to suspend further enrollment in the major in Computational Applied Science. The complete Advice, dated March 4, 2010, is appended to this report.

(9) Voting Rights on Personnel Actions. At its February 24, 2009 meeting, the Representative Assembly of the Davis Division of the Academic Senate charged CERJ with providing advice concerning the rights of faculty to vote on academic personnel actions, specifically with respect to departments in the College of Agricultural and Environmental Sciences. The complete Advice, dated March 30, 2010, is appended to this report.

(10) Academic Senate Bylaw 55. CERJ received an inquiry from the Vice Provost for Academic Personnel regarding Academic Senate Bylaw 55 and voting rights. The complete Advice, dated May 26, 2010, is appended to this report.

(11) Grade Change Committee Advice. CERJ received a query from the Grade Change Committee regarding a grade change request from a student. The complete Advice, dated July 2, 2010, is appended to this report.

Other Advice/Responses Provided

The following advice relates to matters which are of a one-time nature or of less general applicability than the formal advice listed above. Only selected matters are reported here.

Voting Procedures in the Department of Pathology, Microbiology and Immunology. The department of Pathology, Microbiology and Immunology, in the School of Veterinary Medicine, asked the Oversight Subcommittee of the Committee on Academic Personnel (CAPOC) to approve voting procedures which restrict Senate members' right to vote on certain personnel matters to faculty in specific "disciplines" within the department. CAPOC asked CERJ for advice on whether this is consistent with Academic Senate Bylaw 55.

Suspension of Regulations: Drop Deadline. At the meeting of the Davis Division committee chairs, it was suggested that one way to avoid problems for students contracting the H1N1 virus would be to suspend the 10-day drop deadline that applies to a large number of courses.

Re-Scheduling Midterm Examinations. A query was received from a faculty member regarding whether the date of a midterm examination could be changed from the one listed in the syllabus.

Ballot for Divisional Representatives to the Assembly. CERJ worked with the Executive Director to develop an electronic ballot for Divisional Representatives to the Universitywide Assembly.

Student Petition. The Divisional Senate office asked CERJ to review a student petition and advise about how it should be handled.

School of Veterinary Medicine Regulations – Academic Misconduct. An inquiry was received from a faculty member in the School of Veterinary Medicine (SVM) regarding the conformity to the Code of the Senate of proposed revisions by SVM to its policy on academic misconduct.

Proposal to Repeal Senate Regulation 764. CERJ was asked to comment on a proposal at the Universitywide level to repeal Academic Senate Regulation 764, which limits undergraduate students to five units of special study courses per term.

Administration Consultation with the Library Committee. A Divisional member asked for advice on the appropriateness of a request by the Library Committee for a moratorium on plans to relocate a substantial portion of the collections on the Davis campus.

College Jurisdiction over Academic Programs. An inquiry was made concerning a new program in the College of Agricultural and Environmental Sciences, which would overlap in curriculum and courses with some programs in the College of Letters and Science (L&S). CERJ was asked to advise as to whether and to what extent L&S has jurisdictional rights regarding the relation between this program and its existing programs.

Outside Attendance at Committee Meetings. CERJ was asked for advice concerning attendance by students at a meeting of a Divisional committee.

Election of Divisional Representatives to the Assembly. CERJ certified the results of an electronic ballot for Divisional Representatives to the Universitywide Assembly after the correction of errors in the electronic report of the results. CERJ tested the reporting procedure for accuracy.

Secret Ballots on Personnel Actions. The Oversight Subcommittee of the Committee on Academic Personnel (CAPOC) asked for advice regarding the voting procedure for an academic unit. The procedure specifies that a secret ballot is by default optional but mandatory if requested by a Senate member, as is stated in ASB 55. CAPOC believed that it is mandatory in all cases.

Proposal to Amend Senate Bylaw 170: UCEP. CERJ was asked to comment on a proposal at the Universitywide level to amend Academic Senate Bylaw 170, which defines the duties of the Committee on Educational Policy (UCEP). The amendment would change a reference to “educational policy” to “undergraduate education and student welfare.”

Academic Guidelines for the Spread of Pandemic Flu. Davis Division Bylaw 73 mandates that CERJ be consulted regarding the issuance of non-binding guidelines to assist decision-makers acting in urgent or emergency situations. The Undergraduate Council drafted guidelines for dealing with a widespread outbreak of flu on campus, and CERJ reviewed the guidelines and provided comments.

Motions Passed by Committees. CERJ received an inquiry from a Divisional committee member asking whether the Chair of the committee has the responsibility of reporting to the Senate office a motion which was passed by the committee.

Faculty Personnel Committee Appointment Process. The Executive Director requested CERJ's review of a document outlining the procedures for nomination and appointment of members of Faculty Personnel Committees. Specifically, CERJ was asked whether the procedures fall within the authority of the Committee on Academic Personnel, given Bylaw 43.

Establishment of Courses and Programs. The Divisional Chair inquired about the role of departments in the establishment of courses and programs. Specifically, there was a concern about a proliferation of courses and programs being proposed at the college level.

Ballots on Personnel Actions. The Chair of the Oversight Subcommittee of the Committee on Academic Personnel inquired as to whether it is possible for departments to submit two separate ballots for personnel actions for the department Chair. The second ballot would be restricted to performance in the role of department Chair.

"Passing Quality" for the Grade "Incomplete". The Chair of the Grade Change Committee inquired about whether a grade of "D" is sufficient for the condition for the grade incomplete that the completed work be of "passing quality." CERJ advised that it is, and this condition has been published in the *General Catalog* and *Class Schedule*.

Appeal of Appointments. In the discussion in the Representative Assembly of the revision of Bylaw 45 governing the Appellate Subcommittee of the Committee on Academic Personnel, two questioners from the floor asked whether there would be a process for appeals of appointment if the amendment passed. The CERJ Chair replied that legislation would be required to allow this type of appeal.

GE Course Review. The Committee on Courses of Instruction requested a temporary augmentation of committee membership to cope with over 4,000 requests for General Education certification that it would receive during Spring Quarter.

Federation Members Chairing Senate Committees. The Chair of the Faculty of the School of Medicine (SOM) inquired of the Divisional office, who referred the inquiry to CERJ, as to whether members of the Academic Federation may serve as chairs of SOM committees.

Election for Committee on Committees. The Executive Director sent to CERJ and the Divisional Secretary a draft ballot for election to the Committee on Committees. CERJ agreed with revisions suggested by the Secretary. After the ballot was distributed, the Executive Director inquired as to how to proceed with the election given that a member had recently resigned from the Committee on Committees.

Executive Sessions of Standing Committee Meetings. An inquiry was received about the procedures for conducting executive sessions, as one of the Divisional committees wished to meet in executive session.

Voting Rights of Ex Officio Members. The Library Committee asked for advice concerning the right to vote of ex officio members who are chairs of the Library Committees of the schools and colleges.

Minimum Progress. The Divisional Chair asked CERJ about a proposal made in the Council of Deans and Vice Chancellors regarding the application of DDR A552, which sets the standard for minimum progress for undergraduate students, to part-time students. CERJ advised that this Regulation specifically exempts part-time students.

Summer Session Final Examination. The Executive Director asked for advice concerning student complaints regarding the administration of a final examination in a Summer Session class.

DDR 528 – Credit by Examination. Student Judicial Affairs inquired about whether credit by examination can be earned during one of the Summer Sessions, rather than during a regular quarter.

Pending Matters for 2010-2011

(1) Authority for Transfer Credit. CERJ was asked to initiate a request for a ruling from the Universitywide Rules and Jurisdiction Committee (UC R&J) concerning the authority to rule on transfer credit for non-EAP courses. A request was made, and UC R&J has unanimously endorsed the Divisional position, as have the Academic Council and Senate Assembly. The Committee on International Studies and Exchanges has been notified about this ruling and asked to formulate plans to take over the process of certifying the courses. The Divisional office will provide guidance for implementation of the authority over certification. The UC R&J legislative ruling is still pending. ***A copy of the request for legislative ruling from the Divisional CERJ to the Systemside UC R&J is appended to the report.***

(2) Monitoring Performance of Senate Committees. The Chair of the Committee on Committees (COC) and the Divisional Chair raised the question of how the performance of Senate committee is monitored. The COC Chair, working with Divisional Chair, has formulated a proposal which was sent to CERJ for advice regarding Bylaw interpretation and possible revision. A draft amendment with questions was sent to COC and the Divisional Chair, who indicated that further action on the matter has been deferred until the questions can be resolved.

(3) Library Committee Reorganization. The Chair of the Library Committee has forwarded to CERJ a proposal to change the composition of the Library Committee. A draft Bylaws amendment was written and sent along with some concerns to the Library Committee. The proposal has not been acted upon by the Library Committee.

(4) Special Committee on Student Evaluations. The Executive Council approved by electronic ballot on May 13, 2009 a proposal to form a Special Committee on Student Evaluation of Teaching, which was to carry out its charge from October 1, 2009 through April 30, 2010. Its report was due in May of 2010, but has not been received.

(5) CA&ES Bylaws Conformity. The College of Agricultural and Environmental Sciences proposed amendments to its Bylaws in the past academic year. These amended Bylaws are

being examined for conformity to Universitywide and Divisional Senate Bylaws. Preliminary work on this issue has been done by CERJ.

(6) Establishment of Courses and Programs. As noted above, CERJ has investigated the question of authority of units to offer majors and minors. One outcome of that investigation is proposed amendments of Policy and Procedure Manual (PPM) Section 200-25. The amendments are still pending review.

(7) School of Veterinary Medicine Grading Policy. The Faculty of the School of Veterinary Medicine (SVM) amended its Regulations regarding its grading policies. SVM Regulation 80 provides procedures for the Faculty to establish and amend its grading standards for the Doctor of Veterinary Medicine degree. Some of the standards appended to Regulation 80 are not in conformity with Divisional Regulations. SVM has asked that Divisional Regulations be amended to allow it to implement non-standard grading policies. SVM wished to implement its Regulation 80 in June of 2010 and asked CERJ for advice about further steps needed to be taken at the campus level. CERJ advised that revised SVM Regulations be reported to the Representative Assembly. At the June meeting, the RA removed the item from the consent calendar and remanded it to CERJ. Subsequently, a temporary memorandum of understanding (MOU) was drafted by CERJ and signed by the Divisional Chair and the Chair of the Faculty of the School of Veterinary Medicine. The MOU allows the implementation of Regulation 80 for the 2010-2011 academic year only. CERJ will ask the Universitywide Committee on Rules and Jurisdiction for a Legislative Ruling concerning the authority of the professional schools over grading policy and more generally over authority granted to the Academic Senate. ***A copy of the MOU between the Davis Division of the Academic Senate and the School of Veterinary Medicine is appended to the report.***

(8) Divisional Officer Title "Secretary." The Committee on Committees has suggested to CERJ that the title "Secretary" of the Davis Division be changed. CERJ will review the proposal in 2010-2011.

(9) Membership on the Grants Subcommittee of Committee on Research. The Committee on Committees, with the concurrence of the Chair of the Committee on Research, has suggested the reduction in the number of members of the Grants Subcommittee be reduced from eleven to five. CERJ will draft an appropriate Bylaw amendment in 2010-2011.

(10) Membership on the Graduate Council. The Committee on Committees has suggested that the number of members of the Graduate Council be reduced from twelve to eleven. CERJ will draft an appropriate Bylaw amendment in 2010-2011.

(11) Masters in Preventative Veterinary Medicine. The Graduate Council is concerned that the Bylaws and Regulations of the Faculty of the School of Veterinary Medicine (SVM) abrogate its authority over the degree Masters in Preventative Veterinary Medicine. It asserts that it has authority over this program and has not redelegated it to SVM. CERJ will review the item in 2010-2011.

(12) Review of College and School Bylaws. The Executive Director and the Divisional Chair have requested that CERJ provide advice on how to handle in a systematic way conformity of Bylaws and Regulations of Schools and Colleges to the Code of the Senate.

(13) Bachelor of Science in Veterinary Medicine. The Executive Director has asked for advice whether the Bachelor of Science degree offered by the School of Veterinary Medicine may in fact be awarded by a professional school.

Respectfully Submitted,

G.J. Matthey, Chair
James Fadel
James Rustad
Kimberly Pulliam, Analyst

CERJ Advice on No-Confidence Vote Options

September 23, 2009

CERJ advises that there are two ways to handle a vote of no confidence by a college division's faculty. CERJ believes that the first method is greatly preferable to the second, for several reasons. 1) the general membership of the Davis Division is not familiar at first hand with the actions of the dean. 2) The process involved in the first method is more efficient and less demanding on time and resources. 3) The appropriate recipient of the information that the faculty has voted no confidence is the Chief Campus Officer, rather than the President or Board of Regents.

Method 1

Executive Council to Chief Campus Officer

DDB 73(C)(3) states as one of the powers of the Executive Council: "To advise the Chief Campus Officer on the performance of principal administrative officers such as vice chancellors, deans, and associate deans."

If the college division's faculty voted no confidence in its dean, the Executive Council could then advise the Chief Campus Officer that the dean's performance is unsatisfactory to the faculty of the division of the college.

Method 2

Davis Division to the President or Board of Regents

Standing Order of the Regents (SOR) 105.2.e states: The Academic Senate shall have the right to lay before the Board, but only through the President, its views on any matter pertaining to the conduct and welfare of the University."

This authority is fleshed out in systemwide Bylaw 311:

"B. Resolutions; Memorials

1. Each Division may transmit resolutions on any matter of University concern directly to the President, with copies to the Assembly. Such resolutions may also be transmitted to the Assembly for its consideration and concurrence; or the Assembly may originate and transmit such resolutions.
2. Memorials to The Regents on any matter of University concern may be originated either by a Division or by the Assembly but no memorial shall be transmitted to the President to be laid before The Regents unless it has been approved by a mail ballot submitted to the voting members of the Senate."

Resolutions and Memorials are further defined in Bylaw 90.

At the Divisional level, the relevant Bylaw is I(B), which spells out the authority of the Davis Division:

Subject to the provisions of the Bylaws of the Academic Senate, the Davis Division is authorized to receive and consider reports and recommendations from the Faculties of colleges and schools located wholly or partly on the Davis campus, from its divisional committees, from local administrative officers, and from the other Divisions. It is authorized to originate and take final action on legislation substantially affecting only the Davis Division; to establish Faculties in schools and colleges located wholly on the Davis campus, to transmit directly to the President resolutions on any matter of University concern, subject to the provisions of University Academic Senate Bylaw 311; and to submit reports and recommendations to the Senate or to the Assembly concerning changes in Senate legislation and such other matters as it may deem appropriate.

The mechanism for a vote initiated by faculty members is spelled out in DDB 17, Ballots on Issues, which begins as follows:

"Any issue must be submitted to a ballot of the Division at the request of (1) the President of the Academic Senate or (2) the Chief Campus Officer, acting through the Chair of the Division with the consent of the Executive Council (3) the Executive Council, (4) the Representative Assembly by resolution adopted at a duly called meeting or (5) 50 voting members of the Division presented in a written petition."

The only references to balloting in the College of Letters and Science Bylaws concerns election of representatives to the College Assembly, policy decisions made by the Assembly, and Bylaws and Regulations adopted by the Assembly. There is no apparent mechanism for a ballot by resolution.

Under this method, the appropriate vehicle for a vote of no confidence would be in the form of a resolution or memorial on the part of the Davis Division. Only the Division is empowered to bring a resolution or memorial before the President. Doing so would require a vote of the membership of the Davis Division, which presumably be triggered by a petition of voting members of the Davis Division.

CERJ Advice on CAPAC Authority
October 7, 2009

The Committee on Elections, Rules and Jurisdiction (CERJ) has been asked by the Chair of the Davis Division for advice on whether the Appellate Subcommittee of the Committee on Academic Personnel (CAPAC) has authority to review the appeal of an appointment that has been recommended against by the Oversight Subcommittee of the Committee on Academic Personnel (CAPOC). CERJ advises that CAPAC does not have such authority.

Rationale

Davis Division Bylaw 42(C) specifies the powers of CAPAC: “This subcommittee shall have the following duties:

1. To provide advice independent of the Oversight Subcommittee to the Chief Campus Officer on any review of a personnel action beyond the original review conducted by the Oversight Subcommittee or the Faculty Personnel Committee subject to the requirements of Davis Division Bylaw 45.”

DDB 45(A) specifies only two types of review: reconsideration and appeal. Reconsideration is “undertaken by the same committee that considered the original action,” and thus CAPAC would not be able to reconsider any recommendation made by CAPOC. DDB 45(A)(ii) states that: “Appeal is appropriate when a Senate member believes that a personnel committee has failed to apply established standards of merit or has failed to follow established procedures.”

According to a literal reading of this Bylaw, all that is required for an appeal is that a single member of the Senate (whether a member of the Davis Division or not) believes that CAPAC has not performed its function in the proper way. There is nothing in the Bylaw that states that this Senate member must be the subject of the personnel action.

However, it is clear that the intention in the creation of CAPAC on October 10, 2002 was to limit the initiation of appeals to those cases where it is the subject of the personnel action who questions the performance of CAPOC in his or her own case. In the October 7, 2002 report of the (special) Committee for Appealing the Recommendations of CAP, it is stated that “The proposed procedure and By-law 45, permits **a candidate** to appeal on the basis of failure to follow ‘established’ standards of merit or of defects in procedure.” CERJ thus advises that the appeals procedure is not intended to permit a review to be initiated by anyone but the candidate, and that no non-member of the Senate is entitled to initiate a review.

To clarify the situation, CERJ advises that appropriate clarifying Bylaws changes be made. Some substantive issues that should be addressed in the process of making such changes would include whether appeal may be initiated only by the candidate, or whether it might be made by a third party such as the department chair. Another question is whether appeal may be made only on behalf of a current member of the Davis Division or whether it may be made, e.g. by the department chair, in a judgment by CAPAC concerning an appointment.

**Advice on Enforcement of Graduate Program Proposal Memoranda of Understanding
Committee on Elections, Rules and Jurisdiction
October 16, 2009**

At its June 10, 2009 meeting, the Executive Council endorsed a procedure which requires three memoranda of understanding faculty involved with departmental programs and the administration. These MOUs are required for new programs and would be phased in for existing programs.

The Graduate Council has asked CERJ for advice on enforcement of the memoranda. The three memoranda, and the ways in which they might fail to be carried out, are as follows.

Administrative

This MOU contains commitments by the administration for all administrative and space resource needs, and it would be signed by the lead dean and the head of a faculty unit (if applicable). The the responsibility for fulfilling the commitment might rest with the administration, and neither the Graduate Council nor any other Senate body has authority over the actions of the administration regarding assignment of staff and space. A department or organized research unit that signed the agreement might fail to meet its condition as well.

Instructional

The instructional MOU requires commitment to cover all required core and elective courses, with the proviso that there be faculty in residence capable of teaching them. If a dean fails to provide resources to allow the relevant courses to be taught, then the Graduate Council would have the same options as listed for the Administrative MOU, and the same holds if a department fails to provide the relevant courses.

Student Support

The student support MOU requires the Dean of Graduate Studies to provide sufficient financial support through block grants for new programs and existing programs that project substantial growth in student population, without reducing such support for existing programs. The Graduate Dean may fail to provide such support.

Possible Actions by the Graduate Council

If there were a violation of one or more of the MOUs, the Graduate Council could lodge a protest with the party that failed to meet the conditions of the memorandum, bring the matter to the attention of higher administration officials, publicize the matter, or in the extreme case, take measures leading to the termination the graduate program. If the party is a department acting as a Senate agency, then it could be censured by the Division. In practice, the threat of terminating the program would seem to be the most effective enforcement tool for the Graduate Council.

CERJ Advice on Discontinuance of Graduate Programs
October 22, 2009

CERJ has discussed the issue of the role of the Graduate Council in the discontinuance of a graduate program and provides the following advice.

1. The Graduate Council may recommend to the Coordinating Council on Graduate Affairs (CCGA) that an existing graduate program be discontinued (i.e., permanently closed).
2. The Graduate Council must consult with the CCGA before making any recommendation.
3. The Graduate Council should familiarize itself thoroughly with three documents and follow the procedures laid down in them:

Appendix P of the 2008-2009 *Coordinating Council on Graduate Affairs Handbook*, entitled "Role of CCGA in the Transfer, Consolidation, Disestablishment, and Discontinuance of Academic Programs and Units."

http://www.universityofcalifornia.edu/senate/committees/ccga/ccgahandbook_current.pdf

Systemwide "Policy on Transfer, Consolidation, Disestablishment, and Discontinuance of Academic Programs and Units."

<http://www.ucop.edu/ucophome/coordrev/policy/9-19-79att.html>

UC Davis Policy and Procedures Manual Chapter 200, Section 25, "Establishment or Revision of Academic Degree Programs."

<http://manuals.ucdavis.edu/PPM/200/200-25.pdf>

4. To avoid any future controversy, a Bylaws amendment should be proposed in order to make explicit that the Graduate Council has the power to recommend discontinuance of programs.

The 2008-2009 *Coordinating Council on Graduate Affairs Handbook*, entitled "Role of CCGA in the Transfer, Consolidation, Disestablishment, and Discontinuance of Academic Programs and Units" notes that an extensive search of relevant documents reveals that none of them either "explicitly describe nor expressly forbid any particular role for CCGA in transfer, consolidation, disestablishment, or discontinuance" (p. 54). CERJ adds that nothing in the Davis Division Bylaws explicitly describes or expressly forbids any role of the Graduate Council in the discontinuance of graduate programs. The *Handbook* goes on to cite reasons which implicate CCGA in the discontinuance process. It notes that "divisional Graduate Councils are involved in transfer, consolidation, disestablishment, and discontinuance actions (both de jure and de facto actions) involving degree programs."

One of the specific roles claimed by CCGA is that it "review transfer, consolidation, disestablishment, and discontinuance proposals while they are still at the division level *to make certain that the divisional Graduate Council is appropriately involved . . .*" (my emphasis).

The appropriateness of the involvement by the Graduate Council may have one or both of two sources: the Divisional Bylaws and the PPM.

Davis Division Bylaw 80(B)(10) lays down one of the duties of the Graduate Council: "To determine for the Division and to make recommendations to the statewide Coordinating Committee on Graduate Affairs concerning the qualifications of departments and graduate groups for initiating new programs and for making changes in established programs leading to existing graduate degrees." It is reasonable to recognize the discontinuance of an existing graduate program as a change in that program, albeit a drastic change. However, it would be best if this role of the Graduate Council be made explicit. DDB 121(B)(3) charges the Undergraduate Council with approval or disapproval of discontinuance of undergraduate programs.

The PPM is quite clear, and it explicitly covers the discontinuance of graduate programs. (Note that the policy for discontinuance is stated in a document whose title mentions only establishment or revision.) Item D(3) of its procedures states: "The Graduate Council approves or rejects the proposal on behalf of the divisional Academic Senate."

**Advice on Representation of the School of Nursing on the
Representative Assembly**

**Committee on Elections, Rules and Jurisdiction
November 17, 2009**

According to information available to the Committee, at this time the School of Nursing has not been established as an academic unit, and the one Senate member who is overseeing the establishment of the School holds an appointment in the School of Medicine. According to Davis Division Bylaw 34, that Senate member is represented in the Representative Assembly by the department of which she is a member.

Any Senate member has the privileges of attending and speaking in Assembly meetings. However, only representatives may make motions or vote.

In order for the School of Nursing to gain its own representation in the Assembly, it must first be constituted in such a way that it has at least one department (or the School itself may function as a department, as is the case with the School of Law).

Once the administrative structure is in place, there are two possibilities. The first is that the department has at least thirteen members. In that case, the department is entitled to elect its own representative. The second is that the department has fewer than thirteen members. In that case, the department may combine with Senate faculty outside the department to form a "constituency" that would elect a representative.

If there already exists a School of Nursing with faculty appointments in it, or when the School of Nursing is established and Senate faculty are appointed in that School, the Senate office should be notified, and the process of electing a representative may begin. It appears, given the recruitment going on at this time, that the threshold of thirteen Senate members will not be met initially, in which case a constituency would have to be formed. The Senate office will assist in the establishment of a constituency.

CERJ Advice on Davis Division Regulation C516: Part Time Study
November 19, 2009

Background

CERJ was asked by the Executive Director to provide advice to the Office of the Registrar regarding DDR C516, Part Time Study, concerning what qualifies as a “family responsibility” as a justification for part-time study. The specific question was whether the Senate has already specified what qualifies as a “family responsibility.”

Advice

As far as the specific question goes, CERJ is aware of no instance where any agency of the Senate has specified what qualifies as a "family responsibility." Since the Office of the Registrar administers the Regulations established by the Senate, it must determine what specifically qualifies as a "family responsibility" in the absence of any specific guidance from the Senate. In so doing it is not establishing a policy, but only interpreting existing policy.

CERJ advises that the Office of the Registrar may make these determinations on an *ad hoc* basis as the need arises. However, given the fact that questions on the matter have been received, it might be useful for there to be some specific guidelines. Should the Office of the Registrar wish to propose such guidelines, it should do so in consultation with the Undergraduate Council, through the Senate office. Thus would parallel the existing procedure whereby guidelines for grade changes are developed by the Grade Change Committee in consultation with the Office of the Registrar. And should the Office of the Registrar wish to suggest changes to the Regulation, such a suggestion should be submitted to the Senate office.

Advice on the Proposed Major in Sustainable Agriculture and Food Systems
Committee on Elections, Rules and Jurisdiction
February 4, 2010

The Davis Division Committee on Elections, Rules and Jurisdiction (CERJ) has reviewed a proposal from a committee in the College of Agricultural and Environmental Sciences (CA&ES) to establish a new interdisciplinary major in Sustainable Agriculture and Food Systems. This proposal was initiated by the Executive Committee of CA&ES.

CERJ finds two objectionable features of the proposal. The first concerns the academic unit which would offer the program.

“The committee recommends the following administrative personnel:

- a. Master Advisor, who is a faculty member of the Academic Senate to champion the major. (ASI Director, Tom Tomich)

- b. Advising Associate/Internship Coordinator, who will have an appointment in ASI and whose responsibilities include academic advising and coordinating student internships.

- c. Steering Committee, whose responsibilities include oversight of the SAFS major, and is composed of the ASI Director, Master Advisor, Advising Associate, Peer Advisor, three Faculty Representatives (presumably chairs or vice-chairs) with at least one each from a natural science and a social science focused department, and a Student Representative” (page 5).

“Sustainable Agriculture and Food Systems is an interdisciplinary major in the Agricultural Sustainability Institute.” (Appendix B, proposed General Catalog copy).

Standing Order of the Regents 105.2(B) reads in part, “The Academic Senate shall authorize and supervise all courses and curricula offered under the sole or joint jurisdiction of the departments, colleges, schools, graduate divisions, or other University academic agencies approved by the Board”

According to SOR 105.2(B), curricula are to be offered by “academic agencies approved by the Board” of Regents. The proposal would have the program offered under the jurisdiction of an “institute” which, to our knowledge, has no such academic standing. CERJ advises that interdisciplinary majors within a college must either be based in a department or the college.

The proposed Steering Committee would provide “oversight of the SAFS major.” CERJ advises that oversight is tantamount to supervision, and supervision must be the exclusive function of the

Committee in Charge, which consists entirely of Senate members, in conformity to SOR 105.2(b).

There is no prohibition for a curricular program to be afforded space or staff assistance by a non-Senate entity, but the proposal would reach beyond such material assistance to make the major, in effect, an arm of the Agricultural Sustainability Institute.

The second problem concerns the faculty personnel process.

“Recognition/incentive for faculty involvement will be necessary to elicit long-term engagement. CAES and ASI need to work in concert to provide this incentive. One way for this recognition to be achieved is to have the ASI Director contribute formal input into the merit and promotion actions of the teaching faculty involved with the SAFS major” (page 5).

It is unclear what “formal input” to personnel actions of the teaching faculty might be. Clearly, the ASI Director would have voting rights only for a member of his or her own department. Academic Senate Bylaw 55 confers the right to vote on “certain personnel actions” to members of the department of the faculty member to whom the action applies.

Section 220 of the Academic Personnel Manual makes clear that each department determines its own voting procedures. “Within the limits of Bylaw 55, departments must decide upon their own voting procedures and submit those procedures in writing, through their dean, to the Oversight Subcommittee of the Committee on Academic Personnel (CAP) for review.” Thus, it would be up to the department of any faculty member who teaches in the proposed major to solicit formal input from the ASI Director with respect to any personnel action for that faculty member. A requirement for “formal input” for any department member may not be imposed by an extra-departmental entity.

There is one further technical point worth comment. In Exhibit A of APM 220-25, there is a reference to “Consultation with Affected Parties to Form Complete Proposal.” This appears to be a reference to the first step in the process, in which, “The initiator shall consult with review committees (Undergraduate Council or Graduate Council, Vice Provost--Undergraduate Studies or Dean—Graduate Studies, school or college), and with the dean(s) of affected schools or colleges for input and assistance in proposal preparation and requirements.” Further, APM 220-25 states that in the process of the establishment of new major, a vote shall be taken of the Senate members of the “affected unit” if it is below the college level. As the major would be interdisciplinary, it appears that there is no “affected unit.”

**CERJ Advice on Suspension of Undergraduate Majors
March 4, 2010**

Background

The Committee on Elections, Rules and Jurisdiction has been asked by Executive Director Gina Anderson for advice concerning a proposal by the College of Engineering to suspend further enrollment in the major in Computational Applied Science.

Advice

Based on information obtained by CERJ from the Office of the Provost, the administration's policy on suspension of enrollment in majors is based on a document entitled "Universitywide Review Policies for Academic Programs, Academic Units, and Research Units," commonly referred to as the "Compendium."

<http://www.universityofcalifornia.edu/senate/resources/Compendium.pdf>

The relevant section of the Compendium is the following.

"II.A. Undergraduate Degree Programs

With the exception of undergraduate degree programs involving a title unique to the campus, all actions involving undergraduate degree programs are carried out on the nine established campuses. That is, creating a new undergraduate degree program, changing the name of an existing undergraduate degree program, and consolidating, transferring, or discontinuing an existing undergraduate degree program are campus decisions and there is no systemwide review of them. If approved by the responsible divisional Academic Senate committee and supported by the campus administration, a proposed action involving an undergraduate degree program is implemented."

Two points are of note. First, the campus is responsible for "all actions involving undergraduate degree programs." Although suspension of enrollment in a major is not mentioned specifically, it is an action involving an undergraduate degree program and hence is a campus responsibility. Second, the action must be "approved by the responsible divisional Academic committee."

The local implementation of the suspension process is reported by the Office of the Provost as being based on Policy and Procedure Manual 200-25, entitled "Establishment or Revision of Degree Programs." The following is the relevant portion of PPM 200-25.

“4. Approval from the school or college Executive Committee and the recommendation of the dean is forwarded to the divisional Senate office for transmittal to the Undergraduate Council and the Committee on Planning and Budget.

Copies of these approvals and recommendations are also sent to the Vice Provost--Undergraduate Studies and to the chairs of the Executive Committees of the undergraduate colleges to comment on potential effects to programs within their colleges.

5. The Committee on Planning and Budget submits advisory comments to the Undergraduate Council.

6. The Undergraduate Council reviews the proposal and can approve the program on behalf of the Divisional Academic Senate.

7. The Undergraduate Council approval is referred to the Vice Provost--Undergraduate Studies for comment and transmittal to the Council of Deans and Vice Chancellors (CODVC). A copy of the Undergraduate Council approval is sent to the Chair of the Divisional Academic Senate for the information of the Executive Council.”

It is clear that since the Executive Committee and Dean of the College of Engineering have forwarded the proposal to the Senate office, it is the Undergraduate Council (UC) and the Committee on Planning and Budget (CPB) who should evaluate it, with CPB advising UC, which in turn “can approve the program on behalf of the Divisional Academic Senate.” Given what is stated in PPM 200-25 and the Compendium, approval by the Undergraduate Council is required for any action involving undergraduate degree programs.

CERJ is concerned that this procedure may not be followed in all cases. In the case at hand, there is evidence that the major has already been suspended. The following URL points to a Web page posted by the Office of Admissions.

http://admissions.ucdavis.edu/counselors/academic_updates.cfm

It reads: “**Suspended Majors.** In 2008, the College of Agricultural and Environmental Sciences elected to suspend the Individual Major program, and new proposals will not be accepted until further notice. Computational Applied Science, B.S., College of Engineering, remains suspended indefinitely. Nature and Culture, A.B., College of Letters and Science, has been suspended (effective for new applicants fall 2010). Statistics, A.B., College of Letters and Science, is in the process of being discontinued. Bachelor of Science (B.S.) degrees in Statistics will remain available with options in Applied Statistics and Computational Statistics.”

Given that the approval process has not been completed, the statement about the suspension of admissions to the Computational Applied Science major should be corrected. Moreover, it should be ascertained whether the other suspensions were properly approved, and further corrections should be made if needed.

CERJ advises that, given that suspension of admission to majors is governed by PPM 200-25, the Office of the Provost is not entitled to suspend any major until the entire process outlined in PPM 200-25 has been completed.

CERJ also recommends that PPM 200-25 be amended to specify that it applies specifically to the suspension of admission to majors.

CERJ Advice on Voting Rights on Personnel Actions March 30, 2010

Background

At its February 24, 2009 meeting, the Representative Assembly of the Davis Division of the Academic Senate charged the Divisional Committee on Elections, Rules and Jurisdiction (CERJ) with providing advice concerning the rights of faculty to vote on academic personnel actions, specifically with respect to departments in the College of Agricultural and Environmental Sciences (CA&ES). The resolution reads, in part, "The Committee on Elections Rules and Jurisdiction (CERJ) shall consult with the Committee on Academic Personnel-Oversight Committee and shall provide Advice that clearly defines the role Academic Federation faculty can play in the recruitment of Academic Senate faculty. This Advice shall be widely disseminated to departments within CA&ES."

The charge to CERJ was itself a response to a recommendation made by a Special Committee that investigated certain appointment actions that had been taken within CA&ES. The recommendation was: "The role of Academic Federation faculty in the review and recommendation on faculty hires into Academic Senate positions needs to be clarified with departments in the CA&ES. The culture of placing equal weight on the views of both AS and AF faculty in hiring faculty with AS appointments, while only AS faculty can vote on such appointments, is problematic. When faculty comments are forwarded with the Final Search Report, those comments must be separated to identify those made by AS faculty and those made by AF faculty."

Advice

The role of Academic Federation faculty in the review and recommendation on faculty hires into Academic Senate positions is distinct from that of Senate faculty with respect to voting rights.

CERJ divides the issue of voting rights into three exclusive cases, depending on the title of the position on which a vote is taken: (1) Academic Senate title, as specified in Standing Order of the Regents 105.1(b), (2) non-Senate title, typically Cooperative Extension (CE) or Agricultural Experiment Station (AES), (3) both Senate and non-Senate titles attaching to a single appointment. Those with appointments with non-Senate titles must be distinguished as to whether they (a) are engaged in instruction, or (b) are not engaged in instruction.

Exclusively Senate Titles

CERJ advises that departments should adhere to the rule specified in the Academic Personnel Manual, UCD-220: "As a minimum, Academic Senate faculty members at or above the proposed rank shall have the right to vote on all actions at a level up to and including their own rank. Departments that wish to allow non-Senate academic members of equivalent rank to participate in the review of personnel actions may do so on an informal basis, but may not extend voting rights to non-Senate faculty." The recommendations and/or vote by non-Senate department

members must be identified as such and recorded separately from the Senate vote.

The basis for the exclusion of non-Senate faculty from voting on exclusively Senate appointments lies in systemwide Academic Senate Bylaw 35(C)(2), which states: “Only members of the Academic Senate may vote in Senate agencies and their committees when those agencies or committees are taking final action on any matter for the Academic Senate, or giving advice to University officers or other non-Senate agencies in the name of the Senate. Persons other than Senate members may be given the right to vote on other questions, such as those that involve only recommendations to other Senate agencies, but only by explicit Bylaw provisions.” In addition, systemwide Senate Legislative Ruling 7.06 states, “In matters delegated to the Academic Senate, an academic department acts as an agency of the Academic Senate.” When voting on appointments that carry Senate membership, as specified by systemwide Senate Bylaw 55, academic departments are acting as an agency of the Senate, and therefore only members of the Senate may vote on such appointments.

Exclusively Non-Senate Titles

Instructional faculty

CERJ advises that departments should adhere to systemwide Senate Legislative Ruling 7.06, which states: “only members of the Academic Senate may vote on the departmental recommendation in a merit action involving non-Senate instructional faculty. A department may solicit a recommendation or vote from non-Senate instructional faculty to be used in its deliberations.” Although this ruling does not concern appointments as such, it clearly applies to recommendations on appointments, which carry more weight than recommendations on merit actions. The recommendations and/or vote from non-Senate instructional faculty must be identified as such and recorded separately from the Senate vote.

Non-Instructional faculty

CERJ advises that the Senate has no authority over voting in personnel actions for appointments for positions whose job responsibilities fall outside those delegated by the Regents to the Senate.

Split Senate/non-Senate Titles

CERJ advises that departments should adhere to the procedure specified by the CA&ES Dean’s Office, which was endorsed by the Executive Committee of the Faculty of CA&ES and the Davis Division Executive Council: “In the case of split appointments with an I&R [Senate] component that also carry a CE and/or AES component, CE Specialists and Agronomists [AES appointees] may participate in the departmental planning, search plan development, and voting on that portion of the position that is not an I&R appointment. The votes and comments of CE Specialist and Agronomists must be recorded in a letter that is separate from the votes and comments of Senate faculty.”

The rationale for this rule is that it combines the exclusion of non-Senate members from the Senate vote on the Senate part of the appointment but allows non-Senate members to vote on the

non-Senate part of the appointment, thus combining the restriction on voting for instructional faculty with the right to vote on non-instructional faculty.

Applicability of This Advice To All Personnel-Related Votes

This advice, which requires separation of votes by Senate members from votes by non-members of the Senate, is applicable to all departmental votes that are taken in the hiring process. Voting at each step of the process constitutes “giving advice to University officers or other non-Senate agencies in the name of the Senate,” in the language of Academic Senate Bylaw 35(C)(2), as discussed above. A further reason for applying the advice to all personnel-related votes is that the consequences of actions taken before the final vote, e.g., the reduction of the candidate pool to a short list, determine the options available to Senate members at the time the final vote is taken. For this reason, those actions constitute an integral part of the appointment process, in which the manner of voting should be uniform.

CERJ Advice on Academic Senate Bylaw 55
May 26, 2010

Background

The Committee on Elections, Rules and Jurisdiction received a query from Vice Provost Horwitz regarding Academic Senate Bylaw 55(D)(2) regarding rights and privileges of Emeritae/I Faculty. The specific question was whether the rights to which Bylaw 55(D)(2) and 55(D)(4) refer to are to be provided (or can be provided) to emeriti faculty who were not Senate members prior to their retirement – e.g., Adjunct professors or Unit 18 lecturers for whom emeritus status has been approved. In other words, does Bylaw 55(D) speak only to the rights and privileges of Senate emeriti faculty, with such rights not being extendable to non-Senate emeriti faculty?

Advice

CERJ advises that no part of Academic Senate Bylaw 55 is applicable to any non-member of the Senate, and no rights granted by it may be extended to non-Senate Emeritae/i.

Bylaw 55 is the first clause under Title VI, "Rights and Authority of Senate Members." So any right granted through Bylaw 55 is a right of a Senate member, and no right is granted to a non-member of the Senate.

ASB 55(D)(1) refers explicitly to "Emeritae/i Members of the Academic Senate" as retaining membership in the department of which they were members upon retirement. 55(D)(2), which was specifically asked about, states: "Emeritae/i members of the department have the right to receive the same notice of meetings as **other** Academic Senate members" (emphasis added). This implies that the reference is to Emeritae/i Senate members. While 55(D)(4), the other clause in question, does refer to "all Emeritae/i as a class of the whole, or to all Emeritae/i recalled to active service," there can be no doubt that in this context it is a shorthand for all Emeritae/i Senate Members. There would be no reason to extend the privileges described therein to non-members of the Senate when the other clauses extend them only to members of the Senate.

CERJ Advice on Student Grade Change Request
July 2, 2010

Background

The Committee on Elections, Rules and Jurisdiction has been asked by the Grade Change Committee for advice regarding a grade change request from a student. The basis of the request was a mid-quarter change in the grading procedure that was stated in the syllabus, which may not have been adequately announced, and which apparently resulted in a lowering of the student's grade.

Advice

According to Davis Division Bylaw 79(B): "It shall be the duty of this committee to advise the Registrar on matters of grade change policy and to adjudicate grade change requests which are not unambiguously justified by the Regulations of the Academic Senate and of the Davis Division."

The relevant Davis Division Regulation 537(A): "By the end of the first week of instruction, the instructor will provide students with a course outline containing information regarding the **anticipated**: topical content of the course, amount and kind of work expected, and examination and grading procedures" (emphasis added). Nothing in the regulation requires the instructor to adhere to the anticipated grading procedure.

The student's request for a grade change is therefore not unambiguously justified in his or her grade-change request, and hence it is the responsibility of GCC to adjudicate the request.

It should be noted that GCC's published Guideline 15 asserts GCC's right to make a grade-change that it opposed by the instructor when it finds that a clerical or procedural error has been made. If GCC deems the present case to involve a procedural error, then by its own rules, it may make the grade change.



OFFICE OF THE ACADEMIC SENATE
ONE SHIELDS AVENUE
DAVIS, CALIFORNIA 95616-8502
TELEPHONE: (530) 752-2231

November 10, 2009

I am writing on behalf of the Davis Division Committee on Elections, Rules and Jurisdiction, requesting advice or a ruling from UCRJ on the following matter.

The issue concerns the authority for granting transfer credit for currently-enrolled students. On the Davis Campus, the Education Abroad Program (EAP) has established the Non-UC Study Abroad Program (NUCSA). Students enrolled in this program would wish to obtain credit for some or all of the courses that they take in these non-UC programs. The Director of Undergraduate Admissions on the Davis campus asserts control of the transfer process. We would like UCRJ's opinion about whether the Senate has granted the Admissions officer such control.

The UC Davis Director of Undergraduate Admissions asserts that:

Only Undergraduate Admissions Officers may determine transferability of credit to the University; the authority for determining transferability of credit has been delegated to campus Undergraduate Admissions Officers by the system wide Academic Senate Committee Board of Admissions and Relations with Schools (BOARS). Academic Senate Rule [sic] 474 and BOARS' committee minutes of December, 1960 and May, 1961 specify that credit from other institutions is to be awarded based on conformity with policies and rules established by BOARS and delegating the authority for determining this conformity to Admissions Officers.

The following is the wording of ASR 474, with highlighting added.

474. Applicants may be given advanced standing in the University on the basis of certificates from other colleges and universities, upon the approval of the certificates by the Board of Admissions and Relations with Schools. The Board is empowered to adopt with regard to other collegiate institutions such working rules as may seem proper, to reject the certificates, in whole or in part, to defer the final granting of credit in advanced standing pending the completion, by the applicant, of satisfactory work in residence at the University, and to require examinations in any or all of the subjects offered. Applications for supplementary credit **on the basis of work done before entering the University** should be filed with the appropriate Admissions Officer **at the time of application for admission**.

This Regulation appears in the context of Chapter II, **Admissions**. More specifically, ASR 474 occurs in Chapter III, **Admission to Advanced Standing**. These titles indicate that ASR does not govern the provision of transfer credit to students who are currently enrolled in the University. As the highlighted phrase indicates, the relevant part of ASR 474 applies only to work done by students before entering the University.

While the Meeting Call for the November 2, 1964 Assembly meeting indicates that the (currently-numbered) ASR 474 was amended to change the authority for accepting applications from the Registrar to the "appropriate Admissions officer," we believe that this change is irrelevant because it applies only to pre-admission status of students. It should also be noted that ASB 145, Board of Admissions and Relations with Schools, specifies powers for BOARS that are limited exclusively to admissions matters.

This view is corroborated by the Chair of BOARS, Sylvia Hurtado, who writes in an e-mail message, "Once matriculated, I believe that undergraduate education issue is typically taken up by the Undergraduate Committee on Educational Policy (UCEP). Advanced standing credit issues typically involve the admissions office at matriculation, as stated in the Senate regulations and that is delegated to review by campus admissions committees. In my five years on BOARS we have never dealt with any issues for students once enrolled."

We hope that you will advise that approval of education abroad courses for already-matriculated students does not lie within the purview of the Admissions Officer on the Davis campus, but rather is a matter for the Davis Division of the Academic Senate to decide.

Sincerely,

A handwritten signature in black ink, appearing to read "G. J. Matthey", with a long horizontal flourish extending to the right.

G. J. Matthey, Chair
Davis Division Committee on Elections, Rules and Jurisdiction

**MOU: Davis Division of the Academic Senate and Faculty of the School of Veterinary Medicine
August 3, 2010**

Background

During the 2009-2010 academic year, the Faculty of the School of Veterinary Medicine (SVM) adopted a change to its Regulations, specifically by adding Regulation 80, "Student Performance Standards for the Doctor of Veterinary Medicine." Regulation 80 allows for the Faculty to establish and amend its own performance standards for the DVM. A set of performance standards was adopted in conjunction with Regulation 80.

The performance standards include instructions on grading, and a D grade is not given as an option for instructors. This grading policy conflicts with the grading policies of the Davis Division. More broadly, Regulation 80 itself allows the adoption of other standards which might conflict with grading policies specified in Davis Division Regulation A540. The revised Regulations were presented at the June, 2010 Representative Assembly meeting, but the RA voted to defer consideration of them.

To resolve these actual and potential conflicts, DDR A540 could be amended to provide an exemption, as is currently provided for Regulation 70 of the Faculty of the School of Medicine. Such an amendment cannot, however, be adopted before the Fall 2010 Representative Assembly meeting, which would preclude the application of the performance standards to the 2010-2011 entering class.

It has been a long-standing belief on the part of the Faculty of SVM that its Regulations are not subject to the authority of the Davis Division of the Academic Senate. There is support for this position in advice provided by in 1977 and again in 1995 by the universitywide Committee on Rules and Jurisdiction (UCR&J). This advice was disputed in 1994 by the Davis Division Committee on Elections, Rules and Jurisdiction (CERJ), but no action was taken at that time.

At issue is the interpretation of Standing Order of the Regents 105.2(b), which states that "the Senate shall have no authority over courses in . . . professional schools offering work at the graduate level only." Although UCR&J has issued advice concerning this interpretation, it has not issued a Legislative Ruling, which by ASB 206(A) has "the status of Senate legislation." Concerning the status of advice, Legislative Ruling 12-93B states, in part, "Unless issued as a Legislative Ruling and in accordance with the appropriate procedures, such advice or finding does not have the status of legislation and is therefore not formally binding on the Senate officers and agencies to whom rendered. The advice, opinions, and findings of UCRJ and its counterpart agencies within the Divisions should nevertheless be considered authoritative in the sense in which that term is defined in *Webster's New Collegiate Dictionary*—'entitled to obedience, credit or acceptance.' They represent the considered judgment of a committee charged with preserving the integrity of the Code of the Academic Senate. In addition, they suggest the likely outcome should an action taken contrary to this advice be challenged before the Divisional Committee on Rules and Jurisdiction or before UCR&J, or should a Legislative Ruling be requested on the issues involved."

It is the position of the Davis Division that because the SVM offers a Bachelor of Science degree, the Senate has authority over its courses. The Division intends to ask UCR&J for a Legislative Ruling on the matter. In the interim, the Division shall consider as "authoritative" the advice given by UCR&J.

It is the position of the Faculty of the School of Veterinary Medicine that the Division does not have authority over its grading policies because of its status as a professional school.

Agreement

The Davis Division of the Academic Senate and the Faculty of the School of Veterinary Medicine hereby agree to allow the implementation of Regulation 80 for the 2010-2011 academic year only. Should both parties agree that an extension is desired or necessary, an addendum to this agreement must be created.



Robert Powell, Chair
Davis Division Academic Senate



Peter Pascoe, Chair
School of Veterinary Medicine Faculty Executive Committee