

Committee on Elections, Rules and Jurisdiction

July 20, 2007

Legislative Ruling 7.07

Committee Authority Over Student Petitions and Appeals. The Committee on Elections, Rules and Jurisdiction (CERJ) is the Divisional committee with exclusive jurisdiction to interpret Senate legislation, and it may do so by issuing Advice or Legislative Rulings. But it does not make findings of fact on individual student petitions or consider appeals of such findings of fact.

The Grade Change Committee (GCC) has exclusive jurisdiction over all grade change requests. In exercising this authority it is fully bound by the Guidelines which it is required to issue on behalf of the Division. And it has no authority to change a grade on the basis of a reassessment of the quality of a student's work, even with the concurrence of the student and the faculty member involved.

The Student-Faculty Relationships Committee (SFRC) may make appropriate recommendations on matters relating to student-faculty relations which are not the responsibility of other committees. But it has no authority to consider or to make recommendations arising out of inquiries or allegations about grading irregularities of any kind.

Bona fide appeals of committee decisions on student matters are generally referred (at the discretion of the Secretary) to the Student Petitions Subcommittee of the Executive Council. However, under Executive Council procedures appeals are limited to confirming that the committee did not act in an arbitrary or capricious manner in making its determination and that the decision was based on substantial evidence.

Background

Members of the Division have raised questions regarding the handling of student petitions and appeals. These issues have now been raised with five Senate committees: the Committee on Elections, Rules and Jurisdiction, the Grade Change Committee, the Student-Faculty Relationships Committee, the Committee on Privilege and Tenure, and the Student Petitions Subcommittee of the Executive Council.

This Legislative Ruling clarifies the authority of the several committees over student petitions (including appeals).

Discussion of Committee Jurisdiction and Authority

The Committee on Elections, Rules and Jurisdiction (CERJ) is the committee charged

To advise the Division, its officers, committees, faculties, and members in all matters of organization, jurisdiction and interpretation of legislation of the Academic Senate and its agencies. (DDB 71(B)(5))

CERJ also has the authority to publish binding

legislative rulings interpreting the Code of the Davis Division of the Academic Senate. Such rulings shall remain in effect until modified by legislative or Regental action. (DDB 71(B)(6))

In most cases CERJ provides interpretations of legislation by rendering Advice, and formal Advice of general applicability is published on the CERJ web site (academicsenate.ucdavis.edu/cerj). Such Advice, while not binding, “should nevertheless be considered authoritative” and “suggest[s] the likely outcome should...a Legislative Ruling be requested on the issues involved.” (Systemwide Legislative Ruling 12.93B.) When a Legislative Ruling is issued it is formally binding on the Division and its committees.

Therefore, CERJ is the Divisional committee with exclusive jurisdiction to interpret Senate legislation, including Bylaws and Regulations dealing with the handling of student petitions and appeals. CERJ is also authorized to resolve jurisdictional questions within the Senate. But it does not make findings of fact on individual student petitions or consider appeals of such findings of fact.

The Grade Change Committee (GCC) has the authority to

adjudicate grade change requests which are not unambiguously justified by the Regulations of the Academic Senate and of the Davis Division.. (DDB 78(B))

Thus GCC has exclusive jurisdiction over all grade change requests. (Professional school courses covered by Davis Division Regulation 549(D) are not considered in this Ruling.)

Guidelines governing the administration of grade changes are issued by GCC on behalf of the Davis Division. They are published on a regular basis in the Class Schedule and Registration Guide’s section on Grade Change Guidelines. The adoption of these Guidelines is mandated by Davis Division Regulation 549(D), which states that “Approval or denial shall be governed by working guidelines that are consistent with the provisions of Davis Division Regulation A540.”

These Guidelines are promulgated under a specific grant of authority under Davis Division Regulation 549(D) and thus have greater legislative authority than the usual procedural rules which a committee might adopt under general parliamentary principles. In particular, because the Regulation specifies that GCC decisions “shall be governed” by those Guidelines, the Guidelines are fully binding on GCC itself. Of course, GCC may modify its Guidelines from time to time and provide notice of these changes by appropriate publication. But if GCC were able to ignore or waive the Guidelines on a case-by-case basis then Davis Division Regulation 549(D) would be rendered meaningless.

Furthermore, the Guidelines note that “A grade can be changed only if a ‘clerical’ or ‘procedural’ error can be documented.” This is consistent with Divisional Regulations:

All grades except Incomplete or In Progress are final when filed by the instructor in the end-of-term course report. The correction of clerical and procedural errors shall be governed by guidelines established by the Davis Division and shall be under the supervision of the Davis Division Grade Changes Committee. No change of grade may be made on the basis of reassessment of the quality of a student’s work or, with the exception of Incomplete or In Progress grades, the

completion of additional work. No term grade except Incomplete may be revised by re-examination. (Davis Division Regulation A540(E).)

In the face of this clear prohibition in the Regulations, GCC has no authority to change a grade on the basis of a reassessment of the quality of a student's work, even with the agreement of both the student and the faculty member involved and even if it were believed that doing so would not disadvantage other students in a particular case.

The Student-Faculty Relationships Committee (SFRC) has the authority to

consider all information submitted to it, relative to student-faculty relations that are not the responsibility of other committees, and may make comments and recommendations to the group or individual having specific authority regarding resolution of any problems involved. (DDB 111(B))

Thus, while SFRC has no specific decision-making authority, it has broad authority to consider issues relating to student-faculty relations and to make appropriate recommendations. However, because questions about grades are the responsibility of GCC, SFRC has no authority to consider grading inquiries or to make recommendations arising from allegation of grading irregularities, regardless of the nature of those allegations. Such allegations are considered solely by GCC, which alone has authority to take remedial action if procedural errors have been made.

Discussion of Appeals of Committee Decisions

Student petitions not covered explicitly by the Bylaws, including appeals of final decisions by a standing committee, are referred to an appropriate committee at the discretion of the Secretary as provided by Davis Division Legislative Ruling 11.05. The Secretary generally refers *bona fide* appeals to the Student Petitions Subcommittee of the Executive Council, which has been established for this purpose.

The Executive Council may establish policies and procedures for the operation of this subcommittee. On January 17, 2006 the Executive Council approved the following criteria for the evaluation of student appeals:

The role of the Student Petitions Subcommittee in reviewing a student petition appealing the action of a standing committee is to assure that the standing committee did not act in an arbitrary or capricious manner in making its determination and that the decision of the standing committee is based on substantial evidence. The Student Petitions subcommittee does not believe that it should substitute its judgment on the substantive merits of the petition for the judgment of the reviewing committee that is more directly informed of the facts and issues of the case, and to which Senate bylaws assign primary responsibility in the matter. (December 7, 2005 Report of the Student Petitions Subcommittee of the Executive Council, unanimously endorsed by the Executive Council per the Approved Minutes of its January 17, 2006 meeting.)