

### **III. Appendices to Bylaws and Regulations**

#### **Appendix A**

##### **Divisional Legislative Interpretations (CC 31 Aug 06)**

The following Divisional legislative interpretations were made by the Committee on Rules, Jurisdiction, and Elections in response to requests. Per SCB 13.28.4, these interpretations were approved by the Senate. They are therefore adopted as the meaning of the Bylaws and Regulations to which they refer. Related Bylaws and Regulations affected by the interpretation are given in brackets. [Numbering indicates the year and month in which the interpretation was reported to the Division: e.g., May 1968 = 1968.5A. ("A" signifies the first interpretation in that month.)] (CC 31 Aug 06; EC 31 Aug 06, 31 Aug 08)

##### **1968.5 A. College Faculty**

[SCB 2.1]

"College Faculty" is understood to mean voting Academic Senate members who are members of a college's Faculty. (CC 29 Aug 97, 31 Aug 98; EC 31 Aug 06)

##### **1968.10 A. Transfer Students; Intercampus Visitors; Education Abroad Students**

[SCR 5.1.1]

University of California, Santa Cruz, students while at another campus of the University of California as Intercampus Visitors, or while away under the auspices of the University of California's Education Abroad Program, remain Santa Cruz students and do not fall within the provisions of SCR 5.1.1. Students who have left the Santa Cruz campus and at some later time apply for re-entry as Intercampus Transferees should not be judged, as to their academic acceptability, entirely on a grade-point average computed only from letter grades awarded for courses taken at other campuses. The transcripts of all such applicants should be referred to the University of California, Santa Cruz, college to which they previously belonged. The college should decide, bearing in mind the general level of performance indicated throughout the University of California by a grade-point average of 2.0, whether the applicants are eligible for readmission to University of California, Santa Cruz, taking account both of work done elsewhere and work done previously at University of California, Santa Cruz. (CC 31 Aug 98; EC 31 Aug 06)

##### **1968.11 A. Graduation Requirements for Intercampus Visitors**

[SCR 10.1.3]

A student wishing to graduate from University of California, Santa Cruz, must take seven courses of the last nine from among courses offered at University of California, Santa Cruz, by a college or department. A student who becomes an Intercampus Visitor during the period over which he takes the final nine courses, can take only two courses (or the unit equivalent of two University of California, Santa Cruz, courses) for credit from among courses offered by the campus which he or she visits. (CC 31 Aug 98; EC 12 May 97; EC 31 Aug 06)

##### **1969.4 A. Letter Grades [Superseded and deleted, 31 Aug 98]**

[SCR 9.1.3]

##### **1987.5 A. Appeals of Graduate Student Evaluations and Grades**

[SCB 13.21.4 and SCR 16.3.2]

The Graduate Council has the authority to hear the appeals of graduate student grades or evaluations, when disputes cannot be resolved by the instructor or the chair of the appropriate department or graduate committee. This power derives from the plenary authority of the Graduate Council over all matters relating to graduate instruction. (CC 31 Aug 98; EC 12 May 97, 31 Aug 98)

### **1993.10 A. Privilege of Senators Regarding Conflicts of Interest Within the Senate**

[SCB 13.25.2]

Under Regents' Standing Order 103.2, any Academic Senate member is entitled to "the privilege of a hearing by the appropriate committee or committees of the Academic Senate on any matter relating to personal, departmental, or University welfare." As part of this privilege, any Academic Senate member who has raised such an issue before a Santa Cruz Division Committee is entitled also to raise a question of conflict of interest of any member of such Committee and to receive a timely reply. Under SCB 13.25.2, the Committee on Privilege and Tenure takes cognizance of this privilege. (CC 31 Aug 98)

### **1996.2 A. Modification of the Faculty Code of Conduct as a Result of the Resolution on Romantic Relationships**

[SCB 13.25]

The Resolution on Romantic Relationships was enacted to express the support of the Santa Cruz Division for "present efforts of the University Committee on Privilege and Tenure (UC P & T) to introduce an amendment into the Faculty Code of Conduct which would address this important issue of romantic and/or sexual relationships between faculty and students" (AS/SCP/879-1). Thereafter, the University Committee on Privilege and Tenure considered the resolution of the Santa Cruz Division and decided that "[T]he more general language proposed by the SC [Santa Cruz] resolution invites genuine concern over the ability of such an addition to the Faculty Code of Conduct to open the way to dangerous and irresponsible charges," and that the "SC [Santa Cruz] resolution ... was ... not ... a proper vehicle for ... additions to the Code of Conduct" (University Privilege and Tenure Annual Report 1987-1988, May, 1988). UC P&T correctly noted that the Faculty Code already prohibits any relations in which faculty exploit students, but declined to read the Santa Cruz resolution as an authoritative interpretation of that prohibition in the area of sexual relations.

The Faculty Code of Conduct was, therefore, not amended to reflect the contents of the UCSC Resolution on Romantic Relationships, and that the Code may not be fairly interpreted to reflect the contents of that resolution except to the extent that it did so previously. The UCSC Resolution on Romantic Relationships does not create a basis for the discipline of an Academic Senate member that is independent of the Faculty Code of Conduct. The Faculty Code is the sole basis on which members of the Academic Senate may be formally disciplined by the administration, and that under Santa Cruz Bylaws, the Committee on Privilege and Tenure is responsible for protecting Academic Senate members from being disciplined for matters that lie outside the Faculty Code. The Faculty Code does not necessarily incorporate all aspects of sexual harassment law that may apply to faculty relations with students. (CC 31 Aug 98)

### **1996.2 B. Jurisdiction of the Committee on Privilege and Tenure regarding Charges**

[SCB 12.9 and 13.25]

The Bylaws of the Santa Cruz Division do not reflect the existence of an administrative Charges Committee, and under SB 335, the Academic Senate Committee on Privilege and Tenure retains the power to protect faculty rights at all stages of the disciplinary process. Thus, an Academic Senate member who objects to the procedures and/or the jurisdiction of the Charges Committee on any grounds, or who objects to the decision of the administration to refer a complaint to the Charges

Committee, has the right under SB 335 to bring any and all such objections to the Divisional Committee on Privilege and Tenure. That committee has the power to hold an informal hearing on the Academic Senate member's grievance, and to negotiate a resolution of the complaint with the administration. Such a resolution might include greater P & T involvement in the early stages of the disciplinary process.

Therefore, the Committee on Privilege and Tenure has jurisdiction to hear the complaint of any Academic Senate member about the authority and procedures of any organ of the University of California Administration that reviews disciplinary charges against that Academic Senate member. The Committee on Privilege and Tenure also has the full authority of the Academic Senate to negotiate with the administration about how best to preserve the rights of the accused Academic Senate member and the accusing party while a complaint of this nature is before it. (CC 31 Aug 98)

#### **1996.10 A. Letter Grades in Narrative Evaluations**

[SCB 13.17.7 and SCR 9.2.1]

The Committee on Educational Policy (CEP) has the authority to issue "Advisory Guidelines on Writing Narrative Evaluations." Faculty may cite compliance with these guidelines as an appropriate defense against student complaints regarding the content of narrative evaluations. CEP does not have the power to make any or all of the Advisory Guidelines compulsory for Faculty without the approval of the Santa Cruz Division as a whole. SCB 13.17.7 states only that "[t]he Committee consider all matters concerning grading." No independent power to set Regulations in this area is conferred by the Bylaw, CEP may recommend Regulations to the Division in areas that could include campus grading policy. Any non-advisory change in campus grading policy must be approved by the Santa Cruz Division as a whole. (CC 31 Aug 98; EC 31 Aug 06)

#### **1996.10 B. Mention of Letter Grades in Graduate Narrative Evaluations**

[SCB 13.21.4]

The Graduate Council has the authority to determine when a narrative evaluation for a graduate student can contain reference to a letter grade. SCB 13.21.4 states: "The Graduate Council has plenary authority in all matters relating to graduate courses of instruction in the Santa Cruz Division." In the areas where the Graduate Council exercises plenary power, it acts for the University of California, Santa Cruz, campus without requiring the approval of any other agency. The scope of the plenary authority of the Graduate Council includes the power to set rules governing the narrative evaluation and grading system for graduate students, except insofar as such Regulation may conflict with the legal and constitutional protections afforded faculty and students. [See DLI 1987.5A] (CC 31 Aug 98)

#### **1996.10 C. Santa Cruz Division Minutes**

[SCB 4.3, 6.6, 8.4.1, and 9.1]

The level of detail in Academic Senate minutes is specified in *Robert's Rules of Order*, according to which "When minutes are to be published, they should contain ... a list of speakers on each side of every question, with an abstract or the text of each address" (Section 47). Santa Cruz Division Bylaws make the production of the minutes the responsibility of the Secretary, and this would include the need to check and certify the accuracy of these abstracts.

Over and beyond this need for abstracts of addresses representing the full variety of opinions, the Santa Cruz Division also has a clear precedent for publishing in its minutes the full text of individuals' addresses to the floor when the weight and significance of those speeches is such that they do not easily lend themselves to summary. If a Senator provides the Chair with a copy of his/her

speech then it is important that the full text of the speech be included in the minutes or as an appendix. (It also seems advisable in such cases to include a note to the effect that the text was provided by the Senator and is not a transcription). [See Santa Cruz Division Minutes of 11/24/1975 and 10/24/1990 for example.] (CC 31 Aug 98)

#### **1996.10 D. Santa Cruz Division Call**

[SCB 4.3 and 6.4]

The distribution of the Call to meetings may be done via e-mail. Hard copies should continue to be sent to those members who request them in hard-copy form. Hard copies should not be sent only to the department offices and/or steno pools rather than to each member requesting an individual copy. (CC 31 Aug 98; EC 31 Aug 06)

#### **1996.10 E. Timing of Meeting Minutes with Respect to Mail Ballots**

[SCB 6.4, 6.6, 8.4.1, and 9.1]

SCB 8.4.1 provides that a petition requesting a mail ballot "must be submitted not later than 21 days after the minutes of the Santa Cruz Division or of the Advisory Committee reporting such legislation or decision have been placed in the mail." The linkage between mail ballots and the circulation of minutes is significant, especially in view of DLI 1996.10C, (AS/SCP/1128), that published minutes must report the positions taken by those who spoke to an issue. A mail ballot may not take place until Senators have had the opportunity to review the minutes reporting the action on which the mail ballot was requested. There is, however, nothing in the Bylaws and Regulations that prevents the Secretary from circulating the minutes, or relevant portions thereof, before the Call to the next Regular Meeting. SCB 6.6 states only that the minutes be sent "with or before" the Call. (CC 31 Aug 98, 31 Aug 06)

#### **1996.10 F. Mention of Letter Grades in Narrative Evaluations**

[SCR A9.1.3 and 9.2.1 and Appendix C]

Part I .3. [of Section 015 of the *Academic Personnel Manual*, entitled, "Professional Rights of Faculty," ] guarantees to the Faculty "constitutionally protected freedom of expression." Changes in narrative evaluations that go beyond routine copy editing may raise questions of academic freedom and must, therefore, be approved by the signatory faculty member unless the procedures set forth in Appendix C of the Manual of the Santa Cruz Division ("Student Grievance Procedure") have been followed. Narrative evaluations are student records, and the University of California and its faculty are obliged to respect the interests of individual students in the integrity and appropriateness of such records. (CC 31 Aug 98; EC 31 Aug 06)

#### **1998.2 A. Divisional Legislative Interpretation on Judgment of Evaluations by designated [Santa Cruz Division] Member in each College – SCR 9.4.1B**

[SCB 13.17.8 and SCR 9.4.1B, Appendix C]

SCR 9.4.1B has been superseded by subsequent Divisional legislation (SCB 13.17.8, Appendix C) and legislative interpretations (1996.10A, B and E) establishing procedures and guidelines for the challenge and review of narrative evaluations alleged to contain inappropriate content. To the extent that it conflicts with these subsequent actions of the Division, SCR 9.4.1B is inapplicable. (CC 31 Aug 06)

#### **1998.5 A. Divisional Legislative Interpretation on Conflict of Interest**

[SCB 13.4.2 and SB 330A]

A vice chair of a committee is empowered to act as chair in the chair's absence, and Santa Cruz Bylaw 13.4.2 states, "No Chair of a Department, Program, or Committee of Studies may at the same time serve as Chair of either the Committee on Academic Personnel [CAP] or the Committee on

Privilege and Tenure [P&T]." In SCB 13.4.2, "Dean" and "Chair" are generic terms that include associate dean and vice chair respectively, since those titles involve succession. Therefore, a department chair cannot serve as vice chair of either CAP or P&T. This is consistent with SB 330A. (CC 31 Aug 06)

**2008.2 A. Divisional Legislative Interpretation on Privileges of non-members of committees listed in the bylaws. [SCB 13.4] [Superseded in part by SCB 13.4.4.]**

The Bylaws for the various standing committees list people as being "invited to sit with" the committee. The privileges of such people are not defined in the Bylaws. Sturgis' Rules of Procedure recognizes three categories of attendees in a meeting: voting members, non-voting members and invitees. Absent any other definition in the Bylaws, people invited to sit with a committee are interpreted as belonging to the third category in Sturgis. They are invited by default, with no committee vote being needed. However, as with all invitees, as per Sturgis the committee retains the right to rescind the invitation to these people for any meeting, either individually or as a group. The Bylaws also list "representatives" for various standing committees. Again, their privileges are not given in the Bylaws, and therefore they have to be considered as belonging to one of the categories defined in Sturgis. It is not *a priori* clear whether representatives should be treated as invitees or as non-voting members. However, the phrase "non-voting member" was changed to "non-voting representative" in 1999 by CRJE. Since CRJE is only authorized to make non-substantive changes as per SCB 13.28.5, representatives are non-voting members. As per Sturgis, among other privileges, representatives cannot be excluded from a committee meeting. (Accepted 18 Feb 09)

**2008.2 B. Divisional Legislative Interpretation on Waiver of voting rights.**

SCB 13.4.5 states that members of the Division "may give up their right to vote on all actions." The Bylaw goes on to state what happens "if a member goes on leave, but chooses to participate in some personnel actions." To achieve consistency between the two, and from the fact that SCB 13.4.5 was brought to the Senate by the Committee on Academic Personnel whose charge only covers personnel actions, the first phrase should be interpreted as "may give up their right to vote on all personnel actions." (Accepted 18 Feb 09)