

Approved
MINUTES OF MEETING¹
BERKELEY DIVISION OF THE ACADEMIC SENATE
Thursday, November 8, 2007

The fall meeting of the Berkeley Division was held on Thursday, November 8, 2007, in Sibley Auditorium, Bechtel Engineering Center, pursuant to call. Professor William Drummond, chair of the Berkeley Division, presided. The meeting commenced with announcements until quorum was attained at 3:10 p.m., and the meeting was called to order. Chair Drummond announced that audio recordings of Division meeting would now be posted on the Senate's website. A request to reorder the agenda was approved so that the committee reports would be heard earlier to accommodate a speaker's schedule.

I. Minutes

ACTION: The minutes of the following regular Division meetings were approved with no objection: April 27, 2006, November 14, 2006, and April 19, 2007. Minutes of the April 19, 2007 special meeting were also approved with no objection.

II. Announcements by the President

UC President Robert C. Dynes was unable to attend.

III. Other Announcements

A. Chancellor Robert J. Birgeneau

Chancellor Robert Birgeneau highlighted recent issues of importance to the Senate membership.

- Faculty compensation: The Chancellor and Berkeley's administrative leadership have worked with the Office of the President (UCOP) and Divisional leadership to revise a faculty salary plan developed by UCOP. Berkeley's plan will improve faculty salaries over a four-year period; this will be the topic of a presentation later in this meeting (Item IX.A).
- Hewlett Challenge Grant: The campus has been extremely fortunate to receive a \$110M matching grant, plus \$3M for investment, recently. Eighty chairs, plus additional interdisciplinary positions, are to be endowed with this significant new grant. The chairs will be broadly distributed throughout disciplines.
- Energy Biosciences Institute (EBI): The participation of four Senate committee chairs has strengthened contract negotiations with BP, which are near finalization. The campus will own the EBI-funded building. This contract strengthens Berkeley's position as a leader in global climate research.
- Accessibility: The Chancellor chairs a systemwide committee examining accessibility and new sources of funding which will be needed to offset rising living costs for low income students. He is working on a proposal whereby the state will match private gifts for needs-based undergraduate financial aid. The Chancellor and some others have created a matching program for gifts by the campus community as well, and he encouraged faculty to donate to this cause.

¹ Recordings of Divisional Meetings are available online at <http://academic-senate.berkeley.edu/meetings/meetings.html>, or by appointment at the Academic Senate Office. Contact acad_sen@berkeley.edu for more information.

- Campus administration:
 - Professor Gibor Basri (Astronomy) has been named vice chancellor for equity and inclusion.
 - The search for a vice chancellor for student affairs is in process; the Division chair and vice chair participate in the search committee.
- UC president search: This search is also in process with Berkeley representation to ensure its interests are represented.
- Long range planning: Chancellor Birgeneau reconfirmed State Treasurer Bill Lockyer's commitment to UC's financial health, although Lockyer had joked that UC should privatize to save money for the state. Budgetary challenges are foreseen for the upcoming year.

B. Berkeley Division Chair William Drummond

- Senate leadership: Chair Drummond has continued for a second term due to the departure of 2006/07 Division Vice Chair Sheldon Zedeck to serve as vice provost for academic affairs and faculty welfare at the end of last year. 2007/08 Division Vice Chair Mary Firestone was introduced.
- EBI: The Senate oversight committee participating in the BP contract negotiations is comprised of the current chairs of the Divisional committees on research, academic freedom, budget and interdisciplinary relations, and academic planning and resource allocation.
- Presidential search: Professor Herma Hill Kay (Law) represents Berkeley on the UC presidential search committee; she will report to Divisional Council.
- State budget: The UC compact with the state is intact for this year, but challenges lie ahead. The budget situation could impact efforts to improve faculty salaries.
- Proposition 92: The community college ballot initiative will appear on the February 2008 ballot; the outcome could affect UC's state funding. The Regents have not yet stated a position; Chair Drummond invited comment on the proposition.
- Shared governance: Intercollegiate athletics, the approvals process for protection for human subjects protocols, and campus disaster response procedures are several of the issues addressed this year by the Division in conjunction with the administration. The Senate has also consulted with the Chancellor on the relaunch of the Osher Lifelong Learning Institute; since piloted several years ago, it has been redesigned and improved.
- DeCal course: Chair Drummond has worked with the ASUC to establish a DeCal course for student members of Senate committees, with the goal of improving their participation in meetings.

C. ASUC Academic Affairs Vice President Curtis Lee

Vice President Lee noted several priority issues for undergraduate students:

- Lower Sproul complex: A student referendum on Lower Sproul redevelopment failed, following other fee increases, but the ASUC feels students remain committed and ask for the support of the administration and faculty in realizing this project.
- Student expenses: Faculty can help to keep textbook costs down by submitting textbook eDOPTION requests on time. The bookstore is less likely to obtain low cost used books for late orders, which disadvantages students and adds to the cost of their education.

- Pick-a-Prof: The ASUC partnered with Pick-a-Prof on an online course evaluation system and will soon evaluate the pilot. The system has been in demand by students and the ASUC encourages greater faculty participation to improve its coverage. Although faculty justifiably have doubts about such corporate partnerships, students want this service and the ASUC has successfully worked with a corporate vendor before.
- DeCal course: Vice President Lee has worked with Chair Drummond to create the DeCal course, "Governance at Cal", to strengthen the participation of student representatives on Senate committees. Over 30 students are enrolled and will be evaluated at the end of the year. It is hoped the course will be expanded in the future.

D. Graduate Assembly Campus Affairs Vice President Miguel Daal

Miguel Daal, Graduate Assembly (GA) vice president for campus affairs conveyed greetings from GA President Josh Daniels. The GA is encouraged to hear the Division will write to the Chancellor promoting lower Sproul Plaza redevelopment (for earthquake safety). He summarized the highest priority issues for graduate students:

- Student fees and living expenses
- Health issues
- Academic support, such as professional development and mentoring
- Campus safety

Action items upon which Graduate Assembly is focusing this year:

- Improving access to health resources
- Reducing the burden of nonresident tuition for international students
- TEACH US-to improve excellence in teaching

IV. Special Orders-Consent Calendar

*For proposed legislative amendments, **additions** to the current text are noted by an underline; **deletions** to the current text are noted by a strikethrough line*

A. Berkeley Division legislation affecting elections and mail ballots

Given the increasing interest in electronic voting options and declining participation in paper-based elections, the Berkeley Division has been exploring the possibility of conducting Division elections electronically.

Berkeley Division Bylaw 9 is a proposed bylaw that would govern electronic and paper-based elections. It is comprised of new text and text taken from existing bylaws. Sections A and D.2 are new, but the rest of the proposed bylaw (i.e., sections B, C, D.1, E, F) are taken from existing sections of Division Bylaws 4 and 17 to create one bylaw governing elections.

Amendments to Division Bylaw 25 are proposed to reflect a change in election practice within the College of Letters and Science and to make the bylaw consonant with proposed Division Bylaw 9.

An amendment to Division Bylaw 161 is proposed to allow for an electronic or paper ballot.

Electronic elections will not be mandatory; Senate members who want to vote by paper ballot will be able to do so upon request.

4. **DIVISIONAL COUNCIL** (En. 10.89, CC. 3.92)

B. Terms

1. The Chair serves for one year.
2. The Vice Chair will serve one year as Vice Chair and the next year as Chair of the Division and of the Divisional Council.
3. Committee Chairs, *ex officio*, normally will serve the same term as the tenure of their Chairs. A Committee Chair may designate a Senate member of that Committee to serve in his or her stead on the Divisional Council (with approval of the Committee on Committees) for a period of one year. (Am. 11.13.03)
4. At-Large members, half to be elected every year, will serve two-year terms. They cannot serve consecutive terms.
 - ~~At Large members shall be elected in the same manner and at the same time as members of the Committee on Committees (By Law 17), except that the first election will be held during the Fall 1989 semester to elect six members to serve from January 1990 until the beginning of the Fall 1991 or the Fall 1992 semester. However, the number of nominations must be at least twice as many as there are places to be filled; the Committee on Committees will add the necessary number of nominees to complete the slate if the number of Nominating Petitions received from the membership is fewer than the number required.~~
5. Terms begin on the first day of instruction of the Fall term, unless otherwise designated in Divisional legislation.
6. A partial term counts as a full term.
7. A vacancy occurring between regular elections is filled by the Committee on Committees.

9. **Division Elections**

A. **General Provisions**

Subject to provisions in these By-Laws, all Divisional elections and ballots are to be conducted by paper or electronic means. If an election is conducted electronically, Berkeley Division members may request a paper ballot from the Secretary in writing. The Division Secretary, in consultation with the Committee on Rules and Elections, shall decide whether the election or ballot will be conducted by paper or electronic means.

B. **Notice of Election**

Not fewer than 30 days of instruction prior to the election, the Secretary must send to each voting member of the Division a Notice of the Election. (Am. 4.26.01)

C. **Nominating Petitions**

- Nominating Petitions must be filed with the Secretary within 10 days of instruction after the Notice of Election

has been sent. (Am. 4.26.01)

- A Nominating Petition must be signed by five voting members of the Division, and must state the departmental affiliation of the nominee and nominators.
- The nominee must certify acceptance.

D. Voting

1. By paper ballot:

- At least 14 calendar days before the Election, the Secretary must mail to each voter a list of all nominees, stating their nominators and departmental affiliation of each. (Am. 4.26.01)
- The list of nominees must be accompanied by a ballot listing the nominees alphabetically, a plain envelope in which the voter is to enclose the marked ballot, and a further envelope addressed to the Secretary to be used for return of the sealed ballot.
- The voter must be notified that:
 - all ballots must be returned to the Secretary no later than the date of election;
 - A ballot is invalid if more names are marked than there are vacancies to be filled, or if the ballot lacks the signature of the voter in the space provided on the return envelope;
 - A voter who spoils a ballot may, by tearing it across once and returning it to the Secretary, obtain another. (EC.00)

2. By electronic ballot:

- At least 14 calendar days before the Election, the Secretary must make available to each voter an electronic ballot of all nominees, stating their nominators and departmental affiliation of each.
- Each voter will have access to a secure, web-based voting system that is administered by the Academic Senate office.
- The voting system will authenticate the identity of each voter and separate the identity of each voter from his or her vote to maintain the confidentiality of the voting process.
- The voting system will be designed so that once a vote has been cast, neither the voter nor anyone with access to the system can change the vote.
- If a Senate member prefers a paper ballot, the Berkeley Division will make one available upon written request. If a voter submits both an electronic and a paper ballot, the electronic ballot will take precedence and the paper ballot will be destroyed prior to the count.

E. Election of At-Large Members to the Divisional Council

- At-Large members shall be elected at the same time as members of the Committee on Committees and in the manner outlined in this By-Law, except that the number of nominations must be at least twice as many as there are places to be filled; the Committee on Committees will add the necessary number of nominees to complete the slate if the number of Nominating Petitions received from the membership is fewer than the number required.

F. Election of Committee on Committees Members

- Committee members are elected in accordance with Senate and Berkeley Division By-Laws.
- Candidates receiving votes on at least 35% of the valid returned ballots are to be declared elected.
- If more candidates receive votes on at least 35% of the valid ballots cast than there are vacancies to be filled, those having the highest percentage are to be declared elected.
- If fewer candidates receive votes on at least 35% of the valid ballots cast than there are vacancies, a second mail ballot must be taken. It must list the nominees not elected but receiving the highest percentage on the first ballot, but not to exceed twice the number of remaining vacancies.
- Those receiving the highest percentage on the second ballot are to be declared elected for such vacancies as exist. A tie for the last vacancy is broken by lot.

17. **COMMITTEES** (CC. 10.89, 3.92)

A. Membership

- This Committee has eight members, who are elected in accordance with Senate and Division By-Laws.
- It chooses its own Chair, who is also a member of the Grievance Board as provided in By-Law 13.

B. Terms and Vacancies

- Four members are elected each year to serve for two years beginning the first day of instruction in the Fall.
- When a vacancy in its own membership occurs, the Committee, subject to confirmation by the Divisional Council, may appoint a member of the Division to serve the unexpired part of the term.
(CC. 10.89)
- The Committee is instructed to give consideration to nominees not elected but receiving the highest vote in the immediately preceding election.

BC. Duties

This Committee appoints:

- The Chair, Vice Chair, Secretary and Parliamentarian of the Division;
- All other Standing Committees;
- Special Committees as the Division may direct;
- Faculty Representative to the Senate of the Associated Students of the University of California, who also serves as

a member of the student Search and Selection Committee and the Grievance Board, as provided in By-Law 13.C;

- Student members to Committees on Educational Affairs (By-Law 13); (Am. 11.8.05)
- Nominees for appointment to administrative committees when called upon by the Chancellor; nominees to all positions on the Chancellor's Committee for Animal Care and Use, except for non-Senate and outside University members; (Am. 11.8.05)
- Nominees to all non-chair positions on the Committee for the Protection of Human Subjects, except for non-Senate and outside University members. (En. 4.88; Am. 11.13.03; Am. 11.8.05)

~~C. Election of Committee Members~~

- ~~• Four members are elected each year to serve for two years beginning the first day of instruction in the Fall.~~
- ~~• The Committee is elected by mail ballot conducted in accordance with Senate By-Laws.~~

~~1. Notice of Election~~

~~Not fewer than 30 days of instruction prior to the election, the Secretary must mail to each voting member of the Division a Notice of the Election. (Am. 4.26.01)~~

~~2. Nominating Petitions~~

- ~~• Nominating Petitions must be filed with the Secretary within 10 days of instruction following mailing of the Notice of Election. (Am. 4.26.01)~~
- ~~• A Nominating Petition must be signed by five voting members of the Division, and must state the departmental affiliation of the nominee and nominators.~~
- ~~• The nominee must certify acceptance.~~

~~3. Ballots~~

- ~~• At least 10 days of instruction before the Election, the Secretary must mail to each voter a list of all nominees, stating their nominators and departmental affiliation of each. (Am. 4.26.01)~~
- ~~• The list of nominees must be accompanied by a ballot listing the nominees alphabetically, a plain envelope in which the voter is to enclose the marked ballot, and a further envelope addressed to the Secretary to be used for return of the sealed ballot.~~
- ~~• The voter must be notified that:~~
 - ~~• all ballots must be returned to the Secretary no later than the date of election;~~
 - ~~• A ballot is invalid if more names are marked than there are vacancies to be filled, or if the ballot lacks the signature of the voter in the space provided on the return envelope;~~
 - ~~• A voter who spoils a ballot may, by tearing it across once and returning it to the~~

Secretary, obtain another. (EC.00)

4. ~~Voting~~ (Am. 10.25.93; 10.25.94)
- ~~• Candidates receiving votes on at least 35% of the valid returned ballots are to be declared elected.~~
 - ~~• If more candidates receive votes on at least 35% of the valid ballots cast than there are vacancies to be filled, those having the highest percentage are to be declared elected.~~
 - ~~• If fewer candidates receive votes on at least 35% of the valid ballots cast than there are vacancies, a second mail ballot must be taken. It must list the nominees not elected but receiving the highest percentage on the first ballot, but not to exceed twice the number of remaining vacancies.~~
 - ~~• Those receiving the highest percentage on the second ballot are to be declared elected for such vacancies as exist. A tie for the last vacancy is broken by lot.~~
5. ~~Vacancies~~
- ~~• When a vacancy in its own membership occurs, the Committee, subject to confirmation by the Divisional Council, may appoint a member of the Division to serve the unexpired part of the term. (CC. 10.89)~~
 - ~~• The Committee is instructed to give consideration to nominees not elected but receiving the highest vote in the immediately preceding election.~~

25. **RULES AND ELECTION** (Am. 10.25.94)

- B. By vote of the Division, issues of interpretation of Divisional legislation may be referred to this Committee for decision and report.
- Such decisions are subject to review by the Division, either when the report is made or on petition signed by twenty-five voting members of the Division. The final date for filing such petition is ten days after the minutes of the Division reporting the decision are placed in the mail.
 - If the Division disapproves the report of the Committee, the Committee must at once draft legislation which expresses the intent of the Division.
 - This Committee supervises all elections of the Division, ~~election of Committee on Committees for the College of Letters and Science,~~ and voting on propositions submitted to the Division by mail or electronic ballot. (Senate By-Law 340 and Berkeley Division By-Law 9).
 - Unless otherwise specified in these By-Laws, election is by a plurality of votes cast. (Am. 10.25.94)

161. **ELECTRONIC OR MAIL BALLOT**

An electronic or mail ballot must be held on any issue, including modification of legislation, if a majority of the voting members present at a meeting of the Division so orders. ~~Mail~~ Electronic and mail ballots are held in accordance with Senate By-Laws 95 and 340 and Berkeley

Division By-Law 9.A and 9.D. (En. 3.89)

ACTION: The Consent Calendar was approved with no objection.

V. Reports of Special Committees (None)

VI. Reports of Standing Committees

A. Committee on Academic Freedom

Chair of the Committee on Academic Freedom (ACFR), Christopher Kutz (Law), reported on the committee's activities for this year.

- EBI contract: Chair Kutz reported his experience on the Senate oversight committee to the EBI contract negotiations has been positive and productive.
- Research funding sources: ACFR upholds researchers' rights to obtain funding from any source (which do not otherwise violate University policy). Discussions continue regarding research funding from tobacco and pharmaceutical companies.
- Threats: Federal antiterror legislation may pose threats to academic freedom through such methods as surveillance of political activity on campus and library records requests. There is concern about substantive infringement to academic freedom in behavioral research by institutional review boards; ACFR urges further examination of this possibility as regards human subjects reviews.

B. Committee on Budget and Interdepartmental Relations

Professor Carla Hesse, chair of the Committee on Budget and Interdepartmental Relations (BIR), provided an update on the committee's work. BIR has had a great year and has made progress in a number of areas.

- Energy Biosciences Institute: Chair Hesse concurred with ACFR Chair Kutz that Senate input has benefited the EBI negotiation process. This process set a precedent for future UC/industry agreements. A memorandum of agreement regarding guidelines for EBI faculty FTE, hiring, and review has been endorsed by Divisional Council and signed. Other contract details are confidential until finalized and signed, which is expected very soon.
- Faculty compensation: BIR has worked closely with the administration to adapt the systemwide plan for faculty compensation to Berkeley, upholding principles of equity and merit-based review; this will be presented later in this meeting. The Berkeley plan can serve as a model for the UC system.
- Future issues in process in BIR.
 - Improving the evaluation of teaching, both quantitatively and qualitatively.
 - Online personnel case forms: BIR is working in conjunction with the Office of the Vice Provost for Academic Affairs and Faculty Welfare, and the Academic Personnel Office to improve the management of academic personnel processes.

C. Committee on Admissions, Enrollment and Preparatory Education

Professor Robert Jacobsen, chair of the Committee on Admissions, Enrollment, and Preparatory Education (AEPE), summarized current topics in admissions.

- The single read process for applications which are either clearly admissible, or not, has been made permanent after an analysis of the two year pilot.
- A proposal to reform UC's eligibility policy is under consideration systemwide, although it has fewer implications for Berkeley than other UC campuses. The proposal would eliminate the guarantee of a spot at a UC campus for eligible students, and replace it with "entitled to review" at a UC campus. The Senate and administration are also involved in this continuing discussion. No changes would take effect within the next two years.
- AEPE feels strongly that Berkeley should have the right to determine its own admissions policy based upon academic criteria, and will oppose an effort by UCOP to impose financially-based enrollment targets on the campuses for undergraduates, graduates, transfers, etc.

VII. Petitions of Students (None)

VIII. Unfinished Business (None)

IX. University and Faculty Welfare

A. Updates on faculty salaries and retirement benefits

Faculty Salary Plan (Handout A)

Executive Vice Chancellor and Provost George Breslauer presented a new faculty salary scale plan which will increase salary levels. He served on a UC committee with wide representation from UCOP, the Academic Senate, and campus administrations, to develop a systemwide compensation plan to move salary scales toward market rates, and reduce the need for offscale and decoupled salaries.

Berkeley's administration has taken the UCOP plan, and in close consultation with BIR and others, expanded the systemwide plan with supplemental resources for Berkeley's off-scale faculty. Salary changes will be retroactive to October 1, 2007, and will be spread out over four years. Key points of Berkeley's plan are as follows (additional details are available on the Academic Personnel Office webpage):

- All faculty will receive a 2.5% COLA based on *total* salary (funded by UCOP), rather than on base salary as has been done during the past 10 years.
- A 3.9% COLA will be given to above-scale faculty (beyond Step 9) (funded by UCOP).
- A market adjustment (beyond the COLA) will be made to raise the entire salary scale closer to market rate (funded by UCOP). This is the best increase for on-scale faculty.
- Berkeley will protect its faculty who are between steps by committing additional permanent funds so that these faculty can maintain their relative position under the new scale. Under the UCOP plan they would have dropped down to "on step," from a position previously half-way to the next step. In the Berkeley plan, they will remain at half-way on the new scales. Also, those faculty who were at \$100 below the next step will be raised to the next step on the new scales, unless they were at threshold steps (Assistant Step VI, Associate V, Full Professor V).

These increases may change personnel trends and necessitate additional funding sources in the future. For example, retirements may be delayed, impacting new searches.

UC Retirement Plan (Enclosure)

Professor Robert Anderson reported on the work of the University Committee on Faculty Welfare's Task Force on Investment and Retirement (which he chaired), and the status of the UC Retirement Plan (UCRP). An Academic Council statement on UCRP (approved July 25, 2007 and transmitted to UC President Dynes on August 10, 2007), was included in the Division meeting notice. With no employee contributions in recent years, UCRP's liabilities have continued to increase and now approach the plan's assets; an increase in the funding pool will be needed in the near future to maintain benefits. The Regents have approved restarting of state and employee contributions to UCRP subject to funding by the Legislature; but the Legislature has so far declined to provide funding, and the Senate has serious concerns about doing so before staff and faculty salaries, which are below market, have been raised.

UCRP has performed about as well as CALPERS over the long-term, and the UCRP portfolio is now better diversified and more balanced than in the past.

X. New Business (None)

The meeting was adjourned at 4:55 p.m.

Gary Holland
Secretary (Fall 2007), Berkeley Division

Handout A: CalMessage from EVCP George Breslauer regarding a 2007 Market Adjustment, November 2, 2007.