

Statement about Student Voting on Divisional Senate Committees
Committee on Rules and Elections
April 14, 2004

In its meetings of 15 October 2003, 10 December 2003, 17 March 2004, and 14 April 2004, the Committee on Rules and Elections (R&E) took up the issue of interpreting Bylaw 13.C.4 of the Berkeley Division, specifically the second bullet item:

- When the committee is acting for the Senate, student members do not vote.

and even more specifically the phrase "acting for the Senate".

R&E interprets this bullet item as follows:

A committee is only "acting for the Senate" or "in the name of the Senate" when the Senate, through bylaws or legislation, has explicitly ceded its authority to act directly or advise without Senate review. In this case, student members cannot vote. When a committee is not carrying out the functions above, student members can vote.

Discussion

According to the Divisional Council's minutes from 26 August 2002, the sense of the members at that time appeared to be that

"educational committees in general report to the Divisional Council and therefore are not taking final action or acting for the Senate.... The one exception is COCI,...."

At this same meeting, Chair Catherine Koshland listed the options for action as leaving the current language of the bylaw unchanged or proposing a legislative amendment. In the absence of a legislative amendment, we believe that a clear interpretation of the current bylaw is required. There does, after all, appear to be an issue of interpretation and we anticipate that the day will come when there is a close vote on a controversial issue, passions are sufficiently intense to result in a lawsuit, and the Senate finds that a casual treatment of procedure makes it vulnerable. In the long run we really have no choice but to face the issue, even though either amending or specifically interpreting the bylaw could provoke controversy.

To further complicate matters, the statewide bylaw regarding voting is more restrictive than that of the Berkeley Division:

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. [35.C.2]

"Senate agencies and their committees" includes Divisional committees, so this would seem to limit the rights of students to vote on "giving advice ... in the name of the Senate".

Complications notwithstanding, we think the current situation admits of a reasonably unambiguous interpretation. In general, *Robert's Rules of Order* provide that committees report to their parent bodies, which are ultimately responsible for enacting any legislation the committees advise. Statewide Bylaw 40, parts B and C confirm this:

40.B ... Divisional committees, including Faculties, are responsible to and normally shall report to their respective Divisions....

40.C Each committee is responsible to the agency establishing it and must report its actions to that agency. When a committee makes recommendations or renders advice to the President or to a Chancellor, it shall report its recommendations to the establishing agency when this action is consistent with its charge and does not violate confidence.

R&E believes that the interpretation given above solves the issue at hand.

APPENDIX: Committees with student members that are authorized to act on behalf of the Division

Revised: August 2007

The committees currently meeting this description are as follows.

**ADMISSIONS, ENROLLMENT, AND PREPARATORY EDUCATION
(Am.10.25.94)**

Bylaw 31, Section B. Duties, second bullet

- This Committee exercises in the Division responsibilities regarding preparatory education that are assigned by the systemwide Senate Committee on Preparatory Education and by the Division. (Am. 10.25.94; EC 6.00)

COURSES ON INSTRUCTION

Bylaw 33, Section C. Duties, first bullet

“Reviews, coordinates, and takes final action on all matters relating to courses of instruction, including approval of new courses; modification, withdrawal, conduct, credit valuation, and classification of existing courses; and consults with and advises departments and individual members of the Division on courses of instruction.”

Bylaw 100, Degrees, Certificates Honors

- The Division delegates to the Committee on Courses of Instruction its authority to recommend to the Chancellor at Berkeley, for transmittal to the President of the University, candidates for Degrees, Certificates, and Honors.
- In its review of doubtful cases, the Committee shall consult with the recommending officer.
- After forwarding its recommendations, the Committee shall report such action at the next regular meeting of the Division.”

GRADUATE COUNCIL

Bylaw 27, Section B. Duties, first bullet

“The Council exercises administrative and coordinating functions in the Graduate Division at Berkeley in accordance with Senate By-Law 330.”

Bylaw 330, Graduate Councils, Section B, Duties. Graduate Councils shall:

1. Make recommendations to the Coordinating Committee on Graduate Affairs, according to procedures adopted by the Division concerning:
 - a. Qualifications of departments and groups of departments for initiating new programs leading to existing graduate degrees, and
 - b. New graduate degrees.
2. Coordinate the procedure of various departments and schools on the campus concerned, as it relates to degrees higher than the Bachelor's degree.
3. Set policy and standards for:

- a. Admission to graduate status in accordance with the provisions of Bylaw 311.C.1;
 - b. Appointment of graduate students as Teaching Assistants, Teaching Fellows, Research Assistants, and recipients of University Fellowships;
 - c. Appointment of postdoctoral scholars or their academic equivalent and for their enrollment by the Graduate Division.
4. At its discretion, limit the study lists of graduate students who are employed.
 5. Recommend the award of fellowships and graduate scholarships, including honorary traveling fellowships, according to the terms of the various foundations.
 6. Appoint committees in charge of candidates' studies, who shall certify for every candidate, before recommendation for a higher degree, that the candidate has fulfilled the requirements for that degree; supervise the conduct of examinations for higher degrees; admit qualified students to candidacy for higher degrees.
 7. Make rules governing the form of presentation and the disposal of dissertations.
 8. Make final reports to the Division concerning the conferring of graduate degrees.
 9. Report and make recommendations to the Division on matters pertaining to graduate work.
 10. Advise the Chancellor concerning relations with educational and research foundations.
 11. Regulate in other ways the graduate work of the Division with a view to the promotion of research and learning, especially through its regular reviews of current graduate programs for their quality and appropriateness.”

UNDERGRADUATE SCHOLARSHIPS AND HONORS
Bylaw 47, Section B. Duties, second bullet

“Determines criteria for award of undergraduate honors and Honors with the Bachelor's Degree.”