## Title I. Membership and Authority of the Academic Senate

## Title I. Membership and Authority

**305. Divisions**

The Academic Senate has nine Divisions: Berkeley, Davis, Irvine, Los Angeles, Riverside, San Diego, San Francisco, Santa Barbara, and Santa Cruz.

A. Membership

Each Division shall determine its membership in accordance with this section of the Bylaws and with the Standing Orders of The Regents. The membership of each Division shall consist of:

1. The President of the University;
2. Each Senate member whose appointment is at the campus of the Division and who has not transferred voting rights to another Division in accordance with the provisions of Article B.2 of this Bylaw [see SOR 105.1(a)];
3. Each emeritus Senate member whose appointment at the time of retirement was at the campus of that Division;

Each Senate member with a Universitywide appointment who chooses to enroll in that Division.

B. Voting Rights

1. Each member of a Division whose voting rights have not been transferred in accordance with the provisions of Article B.2 of this Bylaw has the right to vote in that Division.
2. The voting right of a member temporarily assigned to another University campus may be transferred, upon the member's request, to that Division for the period of the temporary assignment.

**310. Authority of Divisions - Part I**
[Protected -- see Bylaw 116.E]

A. General Provisions

1. Subject to such provisions as appear elsewhere in these Bylaws, each Division shall have authority to organize, to select its own officers and committees, and to adopt for the conduct of its business rules and regulations not inconsistent with the Bylaws and Regulations of the Academic Senate.
2. Each Division is authorized to receive and consider reports and recommendations from the Faculties of colleges and schools located wholly or partly on the campus which it represents, from its Divisional committees, from local administrative officers, and from other Divisions.
3. It is authorized to originate and take final action on legislation substantially affecting only the Division; to establish Faculties in schools and colleges located wholly on the campus which it represents; to transmit directly to the President resolutions on any matter of University concern, subject to the provisions of 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.
4. All powers of the Academic Senate not specifically delegated to the Assembly or to the Standing Committees of the Academic Senate are reserved to the Divisions.
5. Neither this Bylaw as a whole nor any part of it shall be added to, amended, or repealed except by action of the Assembly as specified in Bylaw 116.E, and ratified by two-thirds of the votes cast in a mail ballot of the voting members of the Academic Senate.

**311. Authority of Divisions - Part II. Jurisdiction**
[Protected -- see Bylaw 116.E]

A. Legislation

Legislation substantially affecting only one Division shall be subject to final approval by the Division. Legislation substantially affecting more than one Division or the statewide University shall become effective only upon approval by the Assembly, subject to Petition and Referendum [see Bylaw 75]. Resolutions and memorials are not legislation within the meaning of this Bylaw.

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.

C. Assembly Jurisdiction

The following shall be considered matters of such general concern as to come within the jurisdiction of the Academic Senate, through the mechanism of the Assembly.

1. Requirements for admission to undergraduate status and minimum requirements for admission to graduate status.
2. General regulations such as those concerning registration, residence, minimum unit requirements for degrees and certificates; general requirements for the Bachelor's degree (including military training and Subject A); general regulations concerning the grade-point system, credit for courses and examinations; University Extension policy; general regulations concerning disqualification and reinstatement of delinquent students.
3. Matters, other than 1 and 2 above, involving interrelationships of parallel schools or colleges in two or more Divisions.
4. Changes in academic government.

D. Divisional Jurisdiction

The following shall be considered as among the matters requiring action only by a Division:

1. Matters, other than those mentioned under C above, which concern colleges or schools situated within the jurisdiction of only one Division.
2. Matters concerning curricula offered within the jurisdiction of only one Division of the Academic Senate.
3. The chair of the appropriate Division shall determine initially what legislation is solely of Divisional concern. Such decision may be appealed to the Division or to the Assembly of the Division, if there be one. [See Bylaw 205.B]

E. Changes

Neither this Bylaw as a whole nor any part of it shall be added to, amended, or repealed except by action of the Assembly as specified in Bylaw 116.E, and ratified by two-thirds of the votes cast in a mail ballot of the voting members of the Academic Senate.

**312. Authority of Divisions - Part III**

A. General Provisions

1. Each Division shall approve and supervise all courses of instruction and curricula in the colleges and schools of the Division, except as otherwise provided in these Bylaws or the Standing Orders of The Regents [See Bylaw 51.] In the discharge of this duty the Division shall provide for appropriate consultation with the Chancellor or a designated representative.
2. Each Division shall recommend to the President all candidates for degrees in a college, school, or Graduate Division under its jurisdiction.
3. Each Division shall recommend, in its discretion, candidates under suspension of the regulations, provided that such candidates have been approved by the appropriate Faculty or Graduate Council.
4. See also protected Bylaws 310.A and 311.

B. Legislation

See protected Bylaws 311.A and 311.D and Legislative Ruling 5.65.

C. Modification of Legislation

1. Subject to the provisions of Bylaw 51, and except as may otherwise be provided for in the Bylaws of the Division, Divisional legislation may be modified at any meeting of a Division or its Assembly if at least five calendar days' written notice has been given to all Divisional members. (Am 23 May 1996)
2. All proposed legislation presented to a Division or its legislative agency must be accompanied by a statement of its purpose and intended effect and must include the text of the legislation to be modified.
3. Modification of Divisional Bylaws shall require the approval of two-thirds of all voting members present; modification of Divisional Regulations shall require the approval of a majority of all voting members present.
4. Modifications of legislation shall take effect immediately following approval by the legislative agency empowered to act finally for the Senate, unless a different date is specified or required by Divisional Bylaw.

D. Other Authority

1. Each Division may petition the Assembly for reconsideration or request a referendum in accordance with the provisions of Bylaw 75.
2. See protected Bylaw 311.B.

## Title II. Meetings of the Divisions

**315. Meetings**

A. Right to Call

1. In addition to provision established by each Division for calling meetings, the President of the Senate may call special meetings of a Division during the academic year.
2. The Chair of the Division or, in the absence or disability of the Chair, the Vice Chair must call a special meeting on written request of a minimum number of Divisional members to be determined by the Division. (Am 12 May 2004)
3. Each Division may enact legislation governing emergency meetings of the Division and its agencies.

B. Notice of Meetings

1. Regular Meetings
   a. At least five calendar days before any meeting of a Division or Divisional Assembly, the appropriate Secretary shall send the call for the meeting to the President and Vice President of the Academic Senate, to Divisional offices, to the Secretary/Parliamentarian of the Senate, and to members of the University Committee on Rules and Jurisdiction. The call must contain the text of proposed legislation and a statement of the purposes and intended effects of the proposal. (Am 23 May 1996)
   b. Except as may otherwise be provided for in the Bylaws of the Division, a copy of the call shall be sent to each member of the Division at least five calendar days before any meeting. (Am 23 May 1996)
2. Special Meetings. The call for a special meeting shall include the reasons for the meeting.

C. Order of Business

1. Regular Meetings. Unless otherwise specified in divisional bylaws, this order of business may be suspended by a two-thirds vote of the voting members present. Business shall include the following (Am 12 May 2004):

   Roll call (in Assemblies only)
   Minutes
   Announcements by the President
   Other announcements
   Special orders
   Reports of Special Committees
   Reports of Standing Committees
   Petitions of students
   Unfinished business
   University and faculty welfare
   New business

2. Special Meetings. The order of business shall be:

   Roll call (in Assemblies only)
   Business stated in the call
   Other matters authorized by unanimous consent of the voting members present
   (Am 12 May 2004)

D. Rules of Order. Unless otherwise specified by divisional bylaws, questions of order not covered by legislation shall be governed by the rules of the Assembly (see Bylaw 120 D. 6). (EC 18 Nov 68; Am 10 Mar 69; Am 12 May 2004)

E. Privilege of the Floor. Any Senate member may attend and speak at any meeting of any Division [see Bylaw 60]. Voting privileges at meetings of the Division or its Assembly must be established by the Division in accordance with the provisions of Bylaw 305.B.

F. Minutes. After every meeting of a Division or Divisional Assembly, the Secretary shall send the minutes to the President and Vice President of the Academic Senate, to Divisional offices, to the Secretary/Parliamentarian of the Senate, and to the members of the University Committee on Rules and Jurisdiction, not later than the distribution of the Call to the next regular meeting. (Am 23 May 96; Am 12 May 2004)

G. Unless divisional bylaws specify otherwise, the Division Chair receives petitions of students or other material for presentation to the Division and may refer them to an appropriate committee. (En 12 May 2004)

## Title III. Divisional Committees and Faculties

**320. Authority of Committees.** [See protected Bylaw 115.C]

**325. Committees of Divisions. Standing Committees.**

Each Division may establish appropriate standing committees. For Every Standing Committee of the Assembly (except for the Editorial Commitee) each Division shall designate a corresponding Divisional Committee (see Bylaw 128 D.) (Am 12 May 2004)

**330. Graduate Councils**

A. General Provisions. Regulative and coordinative functions in a campus Graduate Division shall be exercised in accordance with Bylaw 180 by a Graduate Council of the Division concerned. The Dean of the campus Graduate Division is *ex officio* a member of the Council but shall not be Chair or Vice Chair.

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, Graduate Student Researchers, and recipients of University Fellowships; (Am 8 Mar 72; Am 12 2004)
   c. Appointment of postdoctoral scholars or their academic equivalent and for their enrollment by the Graduate Division.[1]
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. (Am 7 Dec 76)

C. In accordance with the provisions of Senate Bylaw 20, a divisional graduate Council may redelegate any of the authority vested in it only as may be provided by the divisional bylaws.

[1]For purposes of this legislation a postdoctoral scholar is one who:

1. Has been awarded, or has completed requirements for, a doctoral degree or foreign equivalent where at least three years of undergraduate study are prerequisite to admission to the graduate degree program, and
2. Has been awarded a Fellowship or Traineeship or equivalent support for studies at the postdoctoral level and
3. Will pursue a program of research and training approved by a department or research unit and by the Dean of the Graduate Division.

The term "academic equivalent" refers to such appointments as Postgraduate Research-category who are in training status but not to interns and residents. Enrollment as a postdoctoral scholar is limited to a period not to exceed five years. (Am 29 Nov 72, 5 May 88)

**334. Privilege and Tenure: Divisional Committees -- Jurisdiction (En 23 May 01)***
[See Legislative Rulings 3.73, 12.80, 3.93.A-B, 4.94]

A. Divisional Privilege and Tenure Committees shall have jurisdiction to deal with three distinct categories of cases:

1. grievance cases (SBL335), where a member of the Senate claims injury through the violation of his/her rights and privileges;
2. disciplinary cases (SBL 336), where a member of the Senate is accused of having violated the Faculty Code of Conduct; and
3. early termination cases (SBL 337), where a Senate or non-Senate faculty member challenges whether there is good cause for his/her early termination.

Such committees may also be called upon by the campus administration of their Division to render advice on campus policies or local regulations that may affect academic privileges and tenure. [See Legislative Ruling 12.80]

B. At the end of every year, the Divisional Committee will supply a summary of its cases to the University Committee on Privilege and Tenure, to be used for statistical purposes only. This summary shall not include the name of any individual involved in a case before the Divisional Committee. For any matter held over from the previous year, the Committee shall report the final disposition of the case. The Divisional Committee shall also report any final disagreements with the Chancellor.

C. Resolution of Disagreements with the Chancellor. After any formal hearing on grievance, discipline, or early termination, upon notice of the Chancellor's tentative decision to disagree with the Privilege and Tenure findings or recommendations, the Chair of the Divisional Privilege and Tenure Committee should either meet with the Chancellor or arrange for the full Divisional Privilege and Tenure Committee to meet with the Chancellor. The Committee is obliged to report the existence of agreement or disagreement with the Chancellor annually to the Division of the Senate, without divulging confidential information.

**In May 2001, Bylaws 334-337 replaced the former Senate Bylaw governing all divisional Privilege and Tenure activities, Bylaw 335.*

**335. Privilege and Tenure: Divisional Committees -- Grievance Cases (En 23 May 01)**

A. Scope

1. Any member of the Academic Senate may grieve to the Divisional Privilege and Tenure Committee (hereafter, the Committee) that the member's rights or privileges have been violated. Before considering the grievance and determining whether a formal evidentiary hearing is warranted, the Committee may require that the grievant shall first exhaust all appropriate administrative avenues of redress. Administrative avenues of redress include, but are not limited to, presentation of the grievance along with a request for an administrative remedy to the department chair, dean, or other appropriate academic administrator with authority to investigate and offer a remedy.
2. In cases of personnel review involving tenure, promotion, or reappointment, such grievances may be based only on allegations: (a) that the procedures were not in consonance with the applicable rules and requirements of the University or any of its Divisions, and/or (b) that the challenged decision was reached on the basis of impermissible criteria, including (but not limited to) race, sex, or political conviction. The committee shall be empowered to determine the validity of the grievances under (a) or (b) but shall not be empowered to reevaluate the academic qualifications or professional competence of the grievant.

B. Preliminary Procedure in Grievance Cases

1. For the purpose of advising Senate members on the available relief in case of a potential grievance, each Division, in accordance with specifications to be determined by such Division, shall appoint an individual or panel (preferably former members of the Privilege and Tenure Committee, but not current members) who shall be available to each grievant to discuss the claim of violation of rights and privileges and to provide advice on the appropriate procedure to be followed. Such individuals or panel members shall not serve as representatives of any grievant, and they shall maintain full confidentiality to the extent allowable by law. An aggrieved Senate member may consult with the individuals appointed under this provision with the understanding that the grievance will not be disclosed and that the consultation shall not constitute notice of the grievance to the campus or University administration. In cases where the grievance contains allegations of improper governmental activities and/or allegations of retaliation for reporting improper governmental activities, panel members shall inform grievants of their right to make a protected disclosure of allegations of improper governmental activities and/or allegations of retaliation for reporting improper governmental activities to the Locally Designated Official (LDO) pursuant to the Whistleblower Policy and the Whistleblower Protection Policy. Panel members also shall inform grievants that any such allegations that are part of a grievance brought to the Privilege and Tenure Committee will be reported to the LDO in accordance with the Whistleblower Policy and/or the Whistleblower Protection Policy. (Am 10 Mar 04)
2. Upon receipt of a written grievance , the Privilege and Tenure Committee shall first determine whether or not the grieving Senate member has made out a *prima facie* case. This determination shall be limited to a review of the written grievance only. A *prima facie* case shall be deemed established if the Committee concludes that the allegations as stated in the written grievance, if true, would constitute a violation of the faculty member's rights and privileges. If the grievance includes allegations of improper governmental activities and/or allegations of retaliation for reporting improper governmental activities, the Committee shall report those allegations to the LDO in accordance with the Whistleblower Policy and the Whistleblower Protection Policy. (Am 10 Mar 04)
3. If it finds that there is a *prima facie* case, the Committee may conduct a preliminary review of the evidence to determine whether there is sufficient reason to believe that a right or privilege of the grievant may have been violated. In the course of its preliminary review, the Committee shall provide the grievant with an opportunity to discuss his or her allegations with the Committee, either orally or in writing. Upon an appropriate showing of need by any party or on its own initiative, the Committee may request files and documents under the control of the administration, including the grievant's personnel files and confidential documents contained therein. Such confidential documents shall remain confidential within the committee unless disclosure is required by law. At this stage, the Committee may also give the administrator with authority to offer a remedy notice of the grievance and an opportunity to respond. To further facilitate its review, the Committee may also ask other persons involved in the events that gave rise to the grievance, including the department chair, to appear before or provide information to the Committee.
4. If the committee determines either that the grievant has not made out a *prima facie* case or that after a preliminary review, there is not sufficient reason to believe that the grievant's rights and privileges may have been violated, it shall advise the grievant to that effect in a written communication stating the reasons for its conclusion.
5. If the Committee determines that the grievant has made out a *prima facie* case of violation of a right or privilege, and that there is sufficient reason to believe that the grievant's rights and privileges may have been violated, the Committee shall advise the Chancellor's designee of the grievance and the *prima facie* determination. The Committee shall make an attempt to promote a resolution of the controversy between the grievant and the administrative officer, officers, or other persons concerned. If no resolution can be reached, the Committee shall conduct a formal hearing in accordance with the provisions set forth below.
6. No grievance may be considered by the Committee if more than three years have passed between the time the grievant knew or should have known about the violation of his/her rights and privileges and the resulting injury therefrom, and the filing of a grievance with the Committee.

C. Early Resolution

1. Any party may attempt to resolve the grievance informally through negotiations. Such negotiations may proceed with the assistance of impartial third parties, including one or more members of the Committee. A negotiated resolution is permissible and appropriate at any stage of these grievance procedures. If a negotiated resolution is reached after a written grievance is filed, then the Privilege and Tenure Committee should be given notice that the matter has been resolved.
2. The grievance may also be resolved through mediation in cases where such mediation is acceptable to the administration and the grievant. With the consent of the administration and the grievant, the Committee may assist in the selection of an appropriate mediator. Other relevant parties, including members of the Committee, may participate in the mediation.

D. Hearing and Posthearing Procedures

1. The Privilege and Tenure Committee shall appoint a Hearing Committee for each grievance case that is not resolved through a negotiated resolution or mediation. The Hearing Committee should consist of at least three Division members. At least two of the members shall be members of the Committee on Privilege and Tenure, one of whom shall chair the Hearing Committee. The Committee may not appoint a member of the department or equivalent administrative unit of any of the parties to the Hearing Committee. Hearing Committee members shall disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and recuse themselves as appropriate. A quorum for the conduct of the hearing shall consist of at least half but not less than three members of the Hearing Committee, including at least one member of the Committee on Privilege and Tenure.
2. Prior to the formal hearing, the chair of the Hearing Committee shall schedule a conference with the parties and/or their representatives. This conference should attempt to:
   a. Determine the facts about which there is no dispute. At the hearing, these facts may be established by stipulation.
   b. Define the issues to be decided by the hearing committee.
   c. Set a time for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names were disclosed to the other party prior to the hearing and to otherwise limit evidence to that which is relevant to the issues before the hearing committee.
   d. Specify whether prehearing and post-hearing briefs will be submitted by the parties as well as the deadlines for those briefs.
   e. Attain agreement about whether any person other than the Chancellor, the Chancellor's designee, the grievant, and their representatives may be present during all or part of the hearing. In order to preserve the confidentiality of the hearing, persons whose presence is not essential to a determination of the facts shall, as a general rule, be excluded from the hearing.
3. The Chancellor's designee, the grievant, and/or their representatives shall be entitled to be present at all sessions of the Hearing Committee when evidence is being received. Each party shall have the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.
4. The hearing need not be conducted according to the technical legal rules relating to evidence and witnesses. The Hearing Committee may, upon an appropriate showing of need by any party or on its own initiative, request files and documents under the control of the administration. All confidential information introduced into evidence, including the identity of confidential sources of personnel evaluations, shall remain so within the Hearing Committee. The Hearing Committee may call witnesses or make evidentiary requests on its own volition. The Hearing Committee also has the discretion to require that all witnesses affirm the veracity of their testimony.
5. No evidence other than that presented at the hearing shall be considered by the Hearing Committee or have weight in the proceedings, except that the Hearing Committee may take notice of any judicially noticeable facts that are commonly known. Parties present at the hearing shall be informed of matters thus noticed, and each party shall be given a reasonable opportunity to object to the Hearing Committee's notice of such matters.
6. The Divisional Committee on Privilege and Tenure may, at its discretion, request the appointment of a qualified person or persons, designated by the Chair of the University Committee on Privilege and Tenure, to provide legal advice and/or to assist in the organization and conduct of the hearing.
7. At the hearing, the grievant shall bear the burden of proving the validity of the grievance by a preponderance of the evidence.
8. At the conclusion of the hearing, the Hearing Committee shall promptly make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, and forward these to the parties in the case, the Chancellor, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The Hearing Committee may, however, with the consent of the grievant, authorize release of the findings, conclusions, and recommendations to other individuals or entities, to the extent allowed by law.
9. The hearing shall be recorded. The Hearing Committee has the discretion to use a certified court reporter (whose cost is borne by the administration) for this purpose, and the parties and their representatives shall have the right to a copy of the recording or transcript. The cost of the copy shall be assumed by the requesting party.
10. The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing.

E. Grievance Cases Related to Disciplinary Cases

1. There are circumstances in which the same set of facts and allegations lead to both a disciplinary matter and a grievance before the Committee. Under these circumstances, when a single hearing is held, the Committee shall make separate reports of findings, conclusions, and recommendations for the grievance and for the disciplinary matter.
   a. When a grievance involves the same set of facts that are the subject of a disciplinary matter, the Committee on Privilege and Tenure may, at its discretion, hold either matter in abeyance while it proceeds with the other. Alternatively, the Committee may, with the consent of the grievant, the accused in the disciplinary matter, and the Chancellor's designee, consider both matters within a single hearing.
   b. When a Senate member facing disciplinary charges files a grievance involving the same set of facts and circumstances as the disciplinary matter, the Committee on Privilege and Tenure has the discretion to consider both matters within a single hearing.
2. When a Senate member files a grievance which is based upon the same facts and incidents involved in a prior disciplinary hearing at which the same Senate member was accused of violating the Code of Conduct, the findings and conclusions of the prior disciplinary hearing shall be conclusive.

**336. Privilege and Tenure: Divisional Committees -- Disciplinary Cases (En 23 May 01)**

A. Right to a Hearing

In cases of disciplinary action commenced by the administration against a member of the Academic Senate, or against other faculty members in cases where the right to a hearing before a Senate committee is given by Section 103.9 or 103.10 of the Standing Orders of The Regents (Appendix I), proceedings shall be conducted before a Divisional Privilege and Tenure Committee (hereafter, the Committee). Under extraordinary circumstances and for good cause shown, on petition of any of the parties and with concurrence of the other parties, the University Privilege and Tenure Committee may constitute a Special Committee composed of Senate members from any Division to carry out the proceedings.

B. Prehearing Procedure in Disciplinary Cases

1. In cases of disciplinary action commenced by the administration against a member of the Academic Senate, or termination of appointment of a member of the faculty in a case where the right to a hearing before a Senate committee is given under Section 103.9 or 103.10 of the Standing Orders of The Regents, proceedings shall be initiated by the appropriate Chancellor or Chancellor's designee, once probable cause has been established. Procedures regarding the establishment of probable cause are determined by APM 015/016 and Divisional policies. The charges shall be in writing and shall contain notice of proposed disciplinary action and a full statement of the facts underlying the charges. Upon receipt of the charges, the Chair of the Divisional Privilege and Tenure Committee shall promptly deliver a copy to the accused faculty member or send it by registered mail to the accused's last known place of residence.
2. The accused shall have twenty-one calendar days from the date of the receipt in which to file an answer in writing with the Committee. The Committee shall provide a copy of the answer to the Chancellor or Chancellor's designee. Upon receipt of a written application, the chair of the Committee may grant a reasonable extension of time for filing of an answer.
3. The Privilege and Tenure committee shall consider the matter within 21 calendar days after receipt of an answer or, if no answer is received, after the deadline for receipt of an answer. The Committee shall evaluate the case and establish time frames for all subsequent procedures. The committee may refer the case to mediation (SBL 336.C) or appoint a hearing committee (SBL 336.D). As a general guide, a prehearing conference (SBL 336.D.2) shall be scheduled within 30 calendar days and a hearing (SBL 336.D) shall be scheduled within 90 calendar days of the appointment of a hearing committee. The accused shall be given, either personally or by registered mail, at least ten calendar days' notice of the time and place of the hearing. The Chancellor, Chancellor's designee, or Chair of the Privilege and Tenure Committee may for good reason grant an extension of any of these time limits.
4. No disciplinary action may commence if more than three years have passed between the time when the Chancellor or Chancellor's designee, who is authorized to initiate proceedings in accordance with SBL 336.B.1 and divisional disciplinary procedures, knew or should have known about the alleged violation of the Code of Conduct, and the delivery of the notice of proposed disciplinary action. For purposes of this section, if an administrator or employee in a supervisory role (e.g., program director, department chair, dean) has actual knowledge about an alleged violation, then it will be conclusively presumed that the Chancellor or Chancellor's designee should have known about the alleged violation. (**Am 9 March 05**)

C. Early Resolution

1. The Chancellor or Chancellor's designee and the accused may attempt to resolve the disciplinary charges informally through negotiations. Such negotiations may proceed with the assistance of impartial third parties, including one or more members of the Committee. A negotiated resolution is permissible and appropriate at any stage of these disciplinary procedures. If a negotiated resolution is reached after written charges are filed, then the Privilege and Tenure Committee should be given notice that the matter has been resolved.
2. The disciplinary charges may also be resolved through mediation in cases where such mediation is acceptable to the administration and the accused. With the consent of the administration and the accused, the Committee may assist in the selection of an appropriate mediator. Other relevant parties, including members of the Committee, may participate in the mediation.
3. Once charges have been filed with the Committee, the Chair of the Divisional Privilege and Tenure Committee should request that the Chancellor or Chancellor's designee consult with the Committee or its chair prior to the completion of any early resolution.

D. Hearing and Posthearing Procedures

1. The Privilege and Tenure Committee shall appoint a Hearing Committee for each disciplinary case that is not resolved through a negotiated resolution or mediation. The Hearing Committee should consist of at least three Division members. At least two of the members shall be members of the Committee on Privilege and Tenure, one of whom shall chair the Hearing Committee. The Committee may not appoint a member of the department or equivalent administrative unit of any of the parties to the Hearing Committee. Hearing Committee members shall disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and recuse themselves as appropriate. A quorum for the conduct of the hearing shall consist of at least half but not less than three members of the Hearing Committee, including at least one member of the Committee on Privilege and Tenure.
2. Prior to the formal hearing, the chair of the Hearing Committee shall schedule a conference with the accused, the Chancellor or the Chancellor's designee, and/or their representatives. This conference should attempt to:
   a. Determine the facts about which there is no dispute. At the hearing, these facts may be established by stipulation.
   b. Define the issues to be decided by the Hearing Committee.
   c. Set a time for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names were disclosed to the other party prior to the hearing and to otherwise limit evidence to that which is relevant to the issues before the Hearing Committee.
   d. Specify whether prehearing and post-hearing briefs will be submitted by the parties as well as the deadlines for those briefs.
   e. Attain agreement about whether any person other than the Chancellor, the Chancellor's designee, the accused, and their representatives may be present during all or part of the hearing. In order to preserve the confidentiality of the hearing, persons whose presence is not essential to a determination of the facts shall, as a general rule, be excluded from the hearing.
3. The Chancellor's designee, the accused, and/or their representatives shall be entitled to be present at all sessions of the Hearing Committee when evidence is being received. Each party shall have the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.
4. The hearing need not be conducted according to the technical legal rules relating to evidence and witnesses. The Hearing Committee may, upon an appropriate showing of need by any party or on its own initiative, request files and documents under the control of the administration. All confidential information introduced into evidence shall remain so within the Hearing Committee. The Hearing Committee may call witnesses or make evidentiary requests on its own volition. The Hearing Committee also has the discretion to require that all witnesses affirm the veracity of their testimony.
5. Prior discipline involving the same accused faculty member may be admitted into evidence if the prior conduct for which the faculty member was disciplined is relevant to the acts alleged in the current disciplinary matter. Under these conditions, prior hearing reports are always admissible.
6. No evidence other than that presented at the hearing shall be considered by the Hearing Committee or have weight in the proceedings, except that the Hearing Committee may take notice of any judicially noticeable facts that are commonly known. Parties present at the hearing shall be informed of matters thus noticed, and each party shall be given a reasonable opportunity to object to the Hearing Committee's notice of such matters.
7. The Divisional Committee on Privilege and Tenure may, at its discretion, request the appointment of a qualified person or persons, designated by the Chair of the University Committee on Privilege and Tenure, to provide legal advice and/or to assist in the organization and conduct of the hearing.
8. At the hearing, the Chancellor or Chancellor's designee has the burden of proving the allegations by clear and convincing evidence.
9. The Hearing Committee shall not have power to recommend the imposition of a sanction more severe than that proposed in the notice of proposed disciplinary action. In determining the appropriate sanction to recommend, the Hearing Committee may choose to consider previous charges against the accused if those charges led to prior sanctions either after a disciplinary hearing or pursuant to a negotiated or mediated resolution.
10. At the conclusion of the hearing, the Hearing Committee shall promptly make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, and forward these to the parties in the case, the Chancellor, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The Hearing Committee may, however, with the consent of the accused, authorize release of the findings, conclusions, and recommendations to other individuals or entities, to the extent allowed by law.
11. The hearing shall be recorded. The Hearing Committee has the discretion to use a certified court reporter (whose cost is borne by the administration) for this purpose, and the parties and their representatives shall have the right to a copy of the recording or transcript. The cost of the copy shall be assumed by the requesting party.
12. The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing.

E. Relation to Prior Grievance Cases

A disciplinary Hearing Committee shall not be bound by the recommendation of another hearing body, including the findings of the Divisional Committee on Privilege and Tenure in a grievance case involving the same set of incidents. However, the Hearing Committee may accept into evidence the findings of another hearing body or investigative agency. The weight to be accorded evidence of this nature is at the discretion of the Hearing Committee and should take account of the nature of the other forum. In any case, the accused faculty member must be given full opportunity to challenge the findings of the other body.

**337. Privilege and Tenure: Divisional Committees -- Early Termination Cases (En 23 May 01)**

A. Jurisdiction (Am 10 Dec 2008)

In cases of proposed termination of a Senate or non-Senate faculty member before the expiration of the faculty member's appointment, or in cases where a tenured faculty member faces termination for incompetent performance, or for other faculty members whose right to a hearing before a Senate committee is given by Section 103.9 or 103.10 of the Standing Orders of The Regents (Appendix I) (hereafter collectively referred to as early termination), the faculty member may request a hearing before a Divisional Privilege and Tenure Committee. The committee shall then conduct a hearing on the case to determine whether, in its judgment, the proposed early termination is for good cause and has been recommended in accordance with a procedure that does not violate the privileges of the faculty member. Resolution of the disagreement, whether through negotiation or mediation, is permissible and appropriate at any stage of these proceedings.

No Senate or non-Senate faculty member may be terminated prior to the expiration of an appointment without having an opportunity for a hearing before the Divisional Privilege and Tenure Committee. So long as the faculty member requests a hearing before the end of his or her appointment, the Divisional Privilege and Tenure Committee shall appoint a Hearing Committee and proceed according to Section B below. If the faculty member fails to request a hearing before the end date of the appointment in question, the faculty member may seek a grievance hearing by grieving the non-reappointment pursuant to Senate Bylaw 335 in the case of Senate faculty or the Academic Personnel Manual in the case of non-Senate faculty.

B. Hearing and Posthearing Procedures

1. The Privilege and Tenure Committee shall appoint a Hearing Committee for each early termination case for which a hearing is requested by a faculty member. The Hearing Committee should consist of at least three Division members. At least two of the members shall be members of the Committee on Privilege and Tenure, one of whom shall chair the Hearing Committee. The committee may not appoint a member of the department or equivalent administrative unit of the faculty member facing early termination to the Hearing Committee. Hearing Committee members shall disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and recuse themselves as appropriate. A quorum for the conduct of the hearing shall consist of at least half but not less than three members of the Hearing Committee, including at least one member of the Committee on Privilege and Tenure.
2. Prior to the formal hearing, the Chair of the Hearing Committee shall schedule a conference with both the faculty member and the Chancellor's designee, and/or their representatives. This conference should attempt to:
   a. Determine the facts about which there is no dispute. At the hearing, these facts may be established by stipulation.
   b. Define the issues to be decided by the Hearing Committee.
   c. Set a time for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names were disclosed to the other party prior to the hearing and to otherwise limit evidence to that which is relevant to the issues before the Hearing Committee.
   d. Specify whether prehearing and post-hearing briefs will be submitted by the parties as well as the deadlines for those briefs.
   e. Attain agreement about whether any person other than the Chancellor, the Chancellor's designee, the faculty member, and their representatives may be present during all or part of the hearing. In order to preserve the confidentiality of the hearing, persons whose presence is not essential to a determination of the facts shall, as a general rule, be excluded from the hearing.
3. The Chancellor's designee and the faculty member and/or their representatives shall be entitled to be present at all sessions of the Hearing Committee when evidence is being received and to select a representative who may act as counsel. Each party shall have the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.
4. The hearing need not be conducted according to the technical legal rules relating to evidence and witnesses. The Hearing Committee may, upon an appropriate showing of need by any party or on its own initiative, request files and documents under the control of the administration. All confidential information introduced into evidence, including the identity of confidential sources of personnel evaluations, shall remain so within the Hearing Committee. The Hearing Committee may call witnesses or make evidentiary requests on its own volition. The Hearing Committee also has the discretion to require that all witnesses affirm the veracity of their testimony.
5. No evidence other than that presented at the hearing shall be considered by the Hearing Committee or have weight in the proceedings, except that the Hearing Committee may take notice of any judicially noticeable facts that are commonly known. Parties present at the hearing shall be informed of matters thus noticed, and each party shall be given a reasonable opportunity to object to the Hearing Committee's notice of such matters.
6. The Divisional Committee on Privilege and Tenure may, at its discretion, request the appointment of a qualified person or persons, designated by the Chair of the University Committee on Privilege and Tenure, to provide legal advice and/or to assist in the organization and conduct of the hearing.
7. At the hearing, the Chancellor's designee has the burden of proving, by clear and convincing evidence, that there is good cause for early termination. In assessing the evidence for good cause, the Hearing Committee may consider evidence regarding whether correct procedures were followed in the case.
8. At the conclusion of the hearing, the Hearing Committee shall promptly make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, and forward these to the parties in the case, the Chancellor, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The Hearing Committee may, however, with the consent of the faculty member, authorize release of the findings, conclusions, and recommendations to other individuals or entities, to the extent allowed by law.
9. The hearing shall be recorded. The Hearing Committee has the discretion to use a certified court reporter (whose cost is borne by the administration) for this purpose, and the parties and their representatives shall have the right to a copy of the recording or transcript. The cost of the copy shall be assumed by the requesting party.
10. The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing.

## Title IV. Divisional Manuals

[See Bylaws 80.B, 80.C, and 80.D concerning the content and preparation of Divisional Manuals]

## Title V. Mail Ballots

**340. Mail Ballots and/or Electronic Ballots** (Am 12 May 2004)

A. Election by Mail Ballot and/or Electronic Ballot. Election by mail or electronic ballot in Divisions of the Academic Senate shall be conducted as follows: (Am 12 May 2004)

1. Notice of Election. At least forty calendar days or any other period specified in the divisional bylaws, prior to any such election, the appropriate Secretary shall mail or provide electronically to each voting member of the agency concerned a notice of the election. (Am 12 May 2004)
2. Nominations. Nominating petitions shall be filed with the appropriate Secretary within fourteen calendar days, or any other period specified in the divisional bylaws, following the mailing or electronic distribution of the Notice of Election. Willingness to serve must be certified by each nominee. (Am 12 May 2004)
3. Choice of Ballot method. Unless limited by divisional bylaws, divisions may conduct elections using mail ballots, electronic voting, or both methods in a single election. (En 12 May 2004)
   a. For mail ballots, at least fourteen calendar days before the date of the election, the appropriate secretary shall mail to each voter a ballot listing alphabetically the names of all persons nominated and including a notification that all ballots must be returned to the Secretary no later than the date of the election. Each voter shall receive a plain envelope in which to enclose a marked ballot, and a further envelope addressed to the appropriate Secretary to be used for the return of the sealed ballot. The envelope addressed to the Secretary shall provide a space for the signature of the voter. Ballots lacking this validating signature shall be deemed void. (Am 12 May 2004)
   b. For electronic voting, the appropriate division shall use a system which verifies each voter's identity and which maintains security. Each voter shall be provided with an access to this system at least fourteen calendar days before the date of the election. The electronic voting system shall list alphabetically the names of all persons nominated and shall include a notification that all ballots must be cast no later than the date of election. (En 12 May 2004)
4. The appropriate Secretary shall deliver the ballots and the electronically received votes to the agency authorized to count the ballots. (Am 12 May 2004)
5. Number of Votes Required for Election. Each Division of the Academic Senate shall determine whether a majority or a plurality of the votes cast is required for election.
6. Certification. The appropriate Secretary, in certifying election results, shall give the tally of votes, including invalid ballots, to the appropriate legislative agency. (Am 12 May 2004)

B. Other Mail Ballots

Mail and/or electronic ballots on matters other than elections shall be conducted in accordance with Bylaw 95 (Am 16 Mar 71; Am 12 May 2004)