

III. ANNOUNCEMENT BY THE CHAIR (oral report)

- **Mary Croughan**

IV. ANNOUNCEMENT BY THE PRESIDENT (oral report)

- **Mark G. Yudof**

V. SPECIAL ORDERS

A. Consent Calendar

1. Approval of Proposed Amendment to Senate Bylaw 337 - Privilege and Tenure: Divisional Committees – Early Termination Cases

In accordance with Senate Bylaw 116. Authority of the Assembly – Part II. E. “The Assembly is authorized to approve modifications to the University Academic Senate legislation. Written notice of any proposed changes to the legislation shall be distributed as provided for by Senate Bylaw 120.B. The notice for each proposed change must include existing and proposed texts and a statement of the purpose and intended effect of the proposed change. Except for Bylaws marked “[Protected -- see Bylaw 116.E]”, modification of Bylaws requires the approval of two-thirds of all voting member of the Assembly present...Modifications of legislation shall take effect immediately following approval unless a different date is specified or required.”

The following proposed amendment to Senate Bylaw 337 was approved by the Academic Council at its June 25, 2008 meeting, was found to be consonant with the Code of the Academic Senate by the University Committee on Rules and Jurisdiction (UCR&J), and was endorsed by the University Committee on Privilege and Tenure (UCP&T).

ACTION REQUESTED: Approve the proposed amendment to Senate Bylaw 337.

JUSTIFICATION:

The Berkeley Divisional Rules and Election Committee originally proposed the amendment because the present wording of SB 337 may unintentionally remove the right of a grievant to a hearing before a Committee on Privilege and Tenure regarding early termination. Specifically, it leaves open the possibility that practical time constraints of committee deliberations (e.g., if an early termination grievance is submitted shortly before the committee adjourns for the summer) could deprive a non-Senate faculty member of the right to appeal under any authority.

Under current policy, if the administration proposes to terminate a faculty member before the end of his or her appointment, the faculty member may request an early termination hearing with P&T to protest that decision. If the hearing does not commence before the term actually expires however, there is, in effect, no early termination, but rather a non-renewal of the faculty member’s appointment. Bylaw 337 states that a grievance for a non-renewal may then be brought under Bylaw 335 for Senate faculty and in APM 140 for non-Senate faculty. The proposed new language would guarantee faculty an early termination

hearing regardless of timing, so long as they request it before the end of their appointed term.

PROPOSED AMENDMENT TO SENATE BYLAW 337

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

A. Jurisdiction

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 dispute, either 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. ~~If the hearing has not commenced by the end of the faculty member's term of appointment, the faculty member no longer has a right to an early termination hearing pursuant to this bylaw. Instead,~~ **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.

2. Variance to SR 780/Irvine Division Regulation A365-Change of Grade

At its February 27, 2008 meeting, the Academic Council approved the Irvine Senate's request for a variance to [Senate Regulation 780](#) in order to allow Associate Deans to direct the Registrar to change students' grade basis from Pass/No Pass to a grade in exceptional situations. Council's approval was provisional, in accordance with [Senate Bylaw 125.B.6](#), which states that "if a proposed Divisional Regulation, which has been submitted to the Assembly of the Academic Senate for approval, is at variance with Universitywide Regulations and cannot be included in the agenda of a regular Assembly meeting to be held within sixty calendar days after Divisional action, the Academic Council, with the advice of the appropriate University Senate committees, is authorized to approve provisionally such proposed Regulations. Such approval is effective until the end of the next following term in which a regular Assembly meeting is held. Such approval must be reported to the Assembly. [See [Bylaw 115.F](#) and [Bylaw 206.D](#)] (CC 9 March 05)."