

July 13, 2012

Ms. Winnacker:

These Legislative Rulings of 5/18/12 are tendered to you for further communication in your liaison capacity.

On March 14, 2012, a preliminary request for Legislative Rulings by the Committee on Rules and Jurisdiction of the Academic Senate of the University of California (UCR&J) was received from Chair Anderson and Vice Chair Powell of the Academic Senate of the University of California. The request was in regard to proposed extensions of Academic Senate membership to academic appointees in 1) Adjunct Professor and 2) Health Sciences Clinical Professor series at the San Francisco Division of the Academic Senate of the University of California. The request was amended and received in final form on April 30, 2012.

As chair of UCR&J, I determined that both Professors Anderson and Powell had the constitutional standings required by Academic Senate Bylaws to make this request, by virtue of their membership in the Academic Council of the Academic Senate of the University of California.

As chair of UCR&J, I further determined that this request raised questions about the consequences of proposed actions at one Division (San Francisco) of the Academic Senate of the University of California, on Academic Senate membership at other Divisions of the Academic Senate of the University of California (i.e., academic appointments in the Adjunct Professor series existed currently or potentially at all ten Divisions of the Academic Senate of the University of California; academic appointments in the Health Sciences Clinical Professor series existed currently or potentially at six Divisions of the Academic Senate of the University of California). Therefore, the issues were within the constitutional scope of consideration of UCR&J, consistent with Academic Senate Bylaw Part II, Title IV; Bylaw 205, B, 1-2; and Bylaw 206, A. The issues to be resolved centered foremost on interpretations of Academic Senate Bylaws Part I, Title V, bylaw 45 (Membership) and Part III, Title I, bylaw 311, A, D, E (Authority of Divisions), in view of Regental Standing Order 105.1 (RSO 105.1) and Academic Personnel Manual Sections 280-20, a (for Adjunct Professor series academic appointees) and 278-20, a (for Health Sciences Clinical Professor series academic appointees) (APM 280-20, a and 278-20, a, respectively).

It was unusual for UCR&J to receive requests for Legislative Rulings prior to receipt of proposed legislation, or initiation of an action based on completed legislation, by an agency, in this case a Division, of the Academic Senate of the University of California. The issues were exigent because the San Francisco Division of the Academic Senate of the University of California announced publicly (March 19, 2012) the intent to implement the actions under consideration on July 1, 2012. Consequently, timely resolution of the issues raised in the request for Legislative Ruling by UCR&J was

necessary to endorse, revise or stay the proposed actions of the Division in the near future.

It was also unusual for UCR&J to seek direct testimony from “claimant” and “respondent” officers of different agencies of the Academic Senate of the University of California in requests for Legislative Ruling. However, disputes in regard to membership in the Academic Senate of the University of California have evoked controversy on previous occasions. Furthermore, membership in the Academic Senate of the University of California has demonstrated historical evolution to include significant complements of academic appointees in additional series (particularly the Professor-In-Residence and Professor of Clinical “X” series). In these precedents, the Regents acted to amend Standing Orders based, at least in part, on supportive Memorials from the Academic Senate. Consequently, UCR&J (with members Fisher, Matthey and Narayan present, and members Dickson and Hirschberg participating by teleconference) met at the Office of the President of the University of California on May 8, 2012, with Academic Senate Chair Anderson and Academic Senate Vice Chair Powell, then San Francisco Division Chair Newcomer and San Francisco Division Vice Chair Chehab, and finally with San Francisco Division Chair of the Committee on Academic Personnel Garcia in order to obtain a fair and unprejudiced understanding of the issues involved in this case and the legislative process employed by the San Francisco Division of the Academic Senate of the University of California to arrive at its proposed actions. The testimony of these colleagues contributed significantly to the deliberations of UCR&J, and was in all cases considered closely before UCR&J arrived at findings enumerated below.

The members of UCR&J concurred unanimously with these preliminary determinations of the chair and methods of procedure.

After due deliberation and consideration of background/testimonial materials (available on request), UCR&J rendered a decision on this request for Legislative Rulings. As per Academic Senate Bylaw 206.II.A, these Legislative Rulings have now been presented to the Academic Council of the Academic Senate of the University of California for consideration and comment at its meeting of 6/27/12. As per the 7/9/12 request of Chair Anderson, a 5/29/12 memo of opinion from the Office of General Counsel of the University of California related to this case was considered. This opinion was inconsistent with the explicit specifications and full scope of Regental Standing Orders, Academic Personnel Manual sections, and Senate Bylaws related to the case at hand, as determined by UCR&J. Consequently, these Legislative Rulings have not been revised. UCR&J now requests the submission of these Legislative Rulings to the Assembly of the Academic Senate of the University of California for information as required in the Bylaws of the Academic Senate.

Robin Fisher (Chair, UCR&J 2009-10; 2010-11; 2011-12)

UCR&J Legislative Rulings of 5/22/12

By unanimous votes of five (5) ayes and zero (0) nays, the Committee on Rules and Jurisdiction of the Academic Senate of the University of California (UCR&J) renders the following Legislative Rulings in regard to the current proposals of the San Francisco Division of the Academic Senate of the University of California to grant membership in the Academic Senate of the University of California to academic appointees in Adjunct Professor and Academic Health Sciences Professor series:

- 1) The actions proposed by the San Francisco Division of the Academic Senate of the University of California are not consistent with the explicit statement of academic appointment series eligible for membership in the Academic Senate of the University of California enumerated by Standing Order 105.1.a (RSO 105.1.a) of the Regents of the University of California.

“The Academic Senate shall consist of the President, Vice Presidents, Chancellors, Vice Chancellors, Deans, Provosts, Directors of academic programs, the chief admissions officer on each campus and in the Office of the President, registrars, the University Librarian on each campus of the University, and each person giving instruction in any curriculum under the control of the Academic Senate whose academic title is Instructor, Instructor in Residence; Assistant Professor, Assistant Professor in Residence, Assistant Professor of Clinical (e.g., Medicine); Associate Professor, Associate Professor in Residence, Associate Professor of Clinical (e.g., Medicine), Acting Associate Professor; Professor, Professor in Residence, Professor of Clinical (e.g., Medicine), or Acting Professor; full-time Lecturer with Potential for Security of Employment, full-time Senior Lecturer with Potential for Security of Employment, full-time Lecturer with Security of Employment, or full-time Senior Lecturer with Security of Employment; however, Instructors and Instructors in Residence of less than two years' service shall not be entitled to vote.”

- 2) The actions proposed by the San Francisco Division of the Academic Senate of the University of California are not consistent with the requirement of Standing Order 105.1.b (RSO 105.1.b) of the Regents of the University of California for the Academic Senate of the University of California to “determine its own membership *under* (emphasis added) the above rule” (RSO 105.1.a).

“The Academic Senate shall determine its own membership under the above rule, and shall organize, and choose its own officers and committees in such manner as it may determine.”

- 3) The actions proposed by the San Francisco Division of the Academic Senate of the University of California are not consistent with the second clause in Standing Order 105.1.a (RSO 105.1) of the Regents of the University of California.

“Members of the faculties of professional schools offering courses at the graduate level only shall be members also of the Academic Senate, but, in the discretion of the Academic Senate, may be excluded from participation in activities of the Senate that relate to curricula of other schools and colleges of the University..”

In view of the explicit list of series of qualified academic appointees given in clause 1 of RSO 105.1.a and the directive for membership determination given in RSO 105.1.b, this clause first affirms membership in the Academic Senate for academic appointees in the series defined in RSO 105.1a. It then disassociates Academic Senate membership from unusual curricular and instructional duties of specified professional schools. Thus, UCR&J interprets this clause to mean that membership in the Faculty of such Schools is derived from, and is subordinate to, membership in the Academic Senate. The clause does not

generate a new and sufficient condition for membership in the academic Senate beyond the condition already specified in RSO 105.1.a.

This clause also allows for, but does not require, exclusion of members of Academic Senate who are Faculty of such Schools from Academic Senate curricular and instructional duties related to other schools and colleges than their own, in contradistinction from all other members of the Academic Senate.

This clause does not delegate the definition of membership in the Academic Senate to either Divisions or Schools.

The “courses at the graduate level”, which specify the Schools affected by this clause, are post-baccalaureate, first professional programs leading to M.D., D.D.S., D.V.M., D.Pharm. or J.D. degrees, as determined previously in UCR&J Legislative Ruling 6.11.E. Academic oversight of these degree programs, but not faculty governance, is delegated by the Academic Senate to the Faculty of Schools, composed entirely of members of the Academic Senate, wherein such programs are located. Beyond these duties, the clause does not apply to the Schools or the Division as a whole located at the San Francisco Division of the University of California. All of these Schools also offer traditional graduate (i.e., academic doctoral and masters) degree programs governed entirely by the Academic Senate of the University of California, through authority delegated to the Academic Senate Coordinating Committee on Graduate Affairs then to the Division Graduate Council.

4) The actions proposed by the San Francisco Division of the Academic Senate of the University of California are not consistent with Bylaws of the Academic Senate of the University of California. These Bylaws include:

A) Academic Senate Bylaw Part I, Title I, bylaw 5 (Membership and Authority). This Bylaw is a *verbatim* acceptance and adaptation of RSO 105.1, which is declared integral for the purposes of government by the Academic Senate. The actions proposed by the Division are contrary to this Bylaw.

“The membership, duties, powers, and privileges of the Academic Senate are defined by the Standing Orders of The Regents of the University of California. Relevant portions of these Standing Orders are contained in [Appendix I](#), which is declared an integral part of these Bylaws.”

B) Academic Senate Bylaw Part I, Title V, bylaw 45 (Membership). This Bylaw limits specifically Faculty membership to preceding Senate membership. The actions proposed by the Division are contrary to this Bylaw.

“In accordance with the provisions of this Bylaw, the membership of each Faculty is defined by the bylaws of the Division to which it is responsible, or by the Bylaws of the Senate for those Faculties directly responsible to the Assembly. Membership in a Faculty is limited to the following Senate members:

- 1) The President of the University;
- 2) The Chancellor;
- 3) The chief academic administrative officer of the school or college; (Am 12 May 2004)

- 4) All members of the Academic Senate who are members of departments assigned to that school or college (Academic Senate members who have retired and transferred to emeritus/a status retain departmental membership.); (Am 4 May 89)
- 5) Such other Senate members as are specified in Divisional Bylaws or these Bylaws.

Only voting members of the Senate may vote in Faculties of which they are members.”

C) Academic Senate Bylaw Part III, Title I, bylaw 305, A-B (Divisions). This Bylaw limits specifically Division membership to preceding Senate membership. Division authority to determine membership and voting rights is limited to ascertaining which Academic Senate members belong to that Division. The actions proposed by the Division are contrary to this Bylaw.

“The Academic Senate has ten Divisions: Berkeley, Davis, Irvine, Los Angeles, Merced, Riverside, San Diego, San Francisco, Santa Barbara, and Santa Cruz. (Am 22 Jun 2005)

- 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;
 - 4) 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.”

D) Academic Senate Bylaw Part III, Title I, bylaw 310, A, 1 (Authority of Divisions). This Bylaw requires the Division to conduct its business in a manner “not inconsistent” (i.e., consistent) with the superseding Bylaws and Regulations of the Academic Senate, limits the authority of the Division to matters primarily relevant to only the Division, and delegates all powers not specifically retained by the Academic Senate to the Divisions. The actions proposed by the Division are contrary to subsections 1 and 3 of this Bylaw, and exceed the authority reserved for the Division in subsection 5 of this Bylaw.

“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.
- 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.

- 5) 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.”

E) Academic Senate Bylaw Part III, Title I, bylaw 311, A (Authority of Divisions – Part II. Jurisdiction). This Bylaw defines the obligatory pathway of Legislation through the Academic Senate Assembly when Division legislation is likely to substantially affect more than one Division. The lack of enabling Division legislation for the actions proposed by the Division and subsequent Academic Senate legislation due to the implications for multiple Divisions does not fulfill the requirements of this Bylaw.

“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.”

F) Academic Senate Bylaw Part III, Title I, bylaw 311, C (Authority of Divisions – Part II. Jurisdiction). This Bylaw defines the authorities specifically reserved by the Academic Senate Assembly and its Standing Committees, with particular regard to issues affecting two or more Divisions and changes in academic governance. The power to change academic government, which includes membership in the Academic Senate, is reserved specifically for the Academic Senate, and is not delegated to the Divisions. The actions proposed by the Division do not meet the requirements of this Bylaw.

“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.”

5) The actions proposed by the San Francisco Division of the Academic Senate of the University of California are not consistent with the *Academic Personnel Manual (APM)*, which represents a formal agreement between the administration (on behalf of the Regents of the University of California) and the Academic Senate of the University of California for the shared governance of employment duties, appointments, evaluations and advancements of academic appointees in the various available series. The actions proposed by the Division are contrary to the following sections of *APM*:

For the Adjunct Professor series (APM 280-20.a):

“Appointees in this series are not members of the Academic Senate.”

For the Health Science Clinical Professor series (APM 278-20.a):

“Appointees in this series are not members of the Academic Senate.”

6) The actions proposed by the San Francisco Division of the Academic Senate of the University of California are not consistent with its Division bylaws.

A) The Division announced publicly its intent to implement the proposed extensions on July 1, 2012. However, the Division bylaws, on the May 8, 2012 date of testimony/deliberation and as accessed on May 22, 2012, demonstrate no recent and/or relevant amendments, revisions or additions to legislation, which would be necessary to enable the proposed extensions on their announced inception date.

B) The proposed actions of the Division are not consistent with the following partial list of Division bylaws, as presently constituted. Contradiction of these Division bylaws, which are now in compliance with and subordinate to Academic Senate Bylaws, would necessarily contradict the superseding Academic Senate Bylaws. These bylaws include:

Chapter II,1. Membership

“General Provisions: Roster of the membership shall comprise the President of the University, ex officio, the Chancellor and Vice Chancellors at San Francisco, each Dean at San Francisco, the Registrar and Admissions Officer, the University Librarian at San Francisco, each lecturer who has full time teaching responsibilities in any curriculum under the control of the Academic Senate and whose academic title is Senior Lecturer with Security of Employment or Lecturer with Security of Employment; Assistant Professor, Assistant Professor in Residence, Assistant Professor of Clinical (e.g., Medicine); Associate Professor, Associate Professor in Residence, Associate Professor of Clinical (e.g., Medicine); Acting Associate Professor; Professor, Professor in Residence, Professor of Clinical (e.g., Medicine); and Instructors or Instructors in Residence giving instruction in any of the curricula under the control of the San Francisco Division, and any other person certified for membership by the Secretary of this Division in accordance with the policies of the Assembly.”

Chapter IV,Section II,35. Modification of legislation

”No Bylaw, Regulation or Procedure of the Division or its Faculties (for exception see 35 (F) below) may be added to, amended or repealed, in whole or in part, except as specified in Appendix VIII and paragraphs A-F below: [En 22 April 92, 18 Nov 04].

- Due Notice and Review: Subject to the provisions of the Bylaws of the Academic Senate legislation may be modified at any meeting of the Division, provided that the proposed modification has been distributed to the membership, in writing, at least five days before the meeting. [Academic Senate Bylaw 312 (C)]
- Requisite Majorities: Adoption, repeal, or amendment of a Divisional Bylaw requires a two-thirds affirmative vote of all members voting and present at a meeting or participating in electronic voting, as long as there is a quorum. Regulations may be modified with the approval of a majority of the members voting. [Am 1 Sep 03]
- Formal Presentations: All proposed legislation presented to the Division shall be accompanied by a statement of the purpose and effect of the proposal (including claimed undesirable effects, when the Coordinating Committee deems them applicable) as well as a text of any legislation to be modified or adopted. [Am 4 May 72]
- Effective Date: Legislation becomes effective on September first following its approval by the Division, unless otherwise stated in such legislation. [En 22 Jan 70]”

Chapter VI,Section I,80,subsection 4. Voting eligibility for Division committees

“Voting Eligibility: 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 vote on other questions, such as those that involve only recommendations to other Senate agencies. [Am 1 Sep 03]”

Chapter VI,Section II,100,subsections 1 and 2. Membership of Faculties

- “When functioning as a committee of the Division, the membership of each Faculty is determined by the Bylaws of the Division and includes the following persons only [Academic Senate Bylaw 45]:
 1. The President of the University
 2. The Chancellor at San Francisco
 3. The Dean of the School
 4. All members of the Academic Senate who are members of departments assigned to that School
 5. Such other members of the Academic Senate as are specified by the Bylaws of the Division or the Assembly”

Chapter VI,Section II,100,b. Voting eligibility for Faculty(ies)

- “Voting Eligibility: Only voting members of the Academic Senate are eligible to vote in the Faculty or Faculties of which they are members. Instructors with less than two years service shall not be entitled to vote. [Standing Order of The Regents 105.1(a) and Academic Senate Bylaw 45]”

C) The proposed actions of the Division occur in circumstances where the available evidence indicates that the Division has not employed the proper means to modify its legislation, as set forth in Division bylaws Chapter IV,Section II. Modification of legislation, and Chapter V,75, Referendum and reconsideration. The available evidence also indicates that the Division has not employed proper alternative legislative procedures related to requests for modification of Standing Orders of the Regents of the University of California, as provided by Division bylaws Chapter IV,Section IV,60 and 63, Resolutions and Memorials to the Regents.

D) In the absence of enabling legislation for the proposed actions, the Division does not satisfy the requirements of Division bylaws Chapter VI,Section 3,120,B,1-3 and 5, which outline the duties of the Division Committee on Rules and Jurisdiction to supervise, publish, review and advise in regard to Division legislation. As a consequence, the Division does not satisfy the requirements of Academic Senate Bylaw Part II,Title II,bylaw 205,A, which charges UCR&J to examine newly enacted Division legislation for its implications across Divisions.

E) The San Francisco Division of the Academic Senate of the University of California does provide evidence for extensive consultation and collegial discussion among the officers of the Division, and with academic administrators who are also members of the Academic Senate of the University of California, during the preparation of the proposed actions. This consultative process, while informal in nature, is strongly supportive of the proposed actions. However, such evidence cannot substitute for a

valid legislative process within the Division, consistent with its own bylaws, the superseding Bylaws of the Academic Senate and the superseding Standing Orders of the Regents.

Final Considerations:

UCR&J recognizes the significant and valuable contributions to the University provided by colleagues with academic appointments in Adjunct Professor and Clinical Health Sciences series. However, these series of academic appointments are not presently granted explicit membership in the Academic Senate of the University of California, and the current Legislative Rulings of UCR&J must be based on this fact. UCR&J declines to either encourage or discourage future grants of membership in the Academic Senate of the University of California to these series *per se*. It is the firm view of UCR&J that these issues, as they emerge, are best resolved by legislative, not judicial, means, as delineated in the Bylaws of the Academic Senate of the University of California and the bylaws of the Division. Furthermore, it has not escaped the notice of UCR&J that the case-by-case application of currently available mechanisms for transfer of series for academic appointees (i.e., from Adjunct Professor and Clinical Health Sciences Professor series to Professor-in-Residence and Professor of Clinical “X” series) are feasible within the Division and could largely satisfy any genuine concerns for recognition of collegial accomplishment brought to light during the course of this deliberation.

UCR&J finds that, consistent with the Bylaws of the Academic Senate, the proposed changes of membership at the San Francisco Division of the Academic Senate of the University of California cannot be endorsed for implementation at this time due to serious defects, indeed the inexplicable absence, of the products of legislative processes required to enable such actions. There is simply no groundwork of legislation in support of these changes in the present bylaws of the Division, the superseding Bylaws of the Academic Senate of the University of California, or the superseding Standing Orders of the Regents of the University of California. UCR&J can only condone governance by appropriately legislated rules - our Bylaws - instead of governance by informal consultation and pronouncement within the Academic Senate and its agencies.

UCR&J prospectively cautions the Division that elections based on the invalid proposed changes of membership at the San Francisco Division of the Academic Senate of the University of California would necessarily be ruled invalid. The outcomes of such elections would be ruled null and void within both the Division and the Academic Senate. Officers and committees of the Division who are selected based on such outcomes would be ruled ineligible to act as agents and agencies of the Academic Senate of the University of California. The actions taken by these ineligible officers and committees would also be ruled null and void.

The Division raises a legitimate constitutional question in regard to the powers of UCR&J to deliberate and rule in these matters. In response, UCR&J is charged to

issue certain Legislative Rulings interpreting the *Code of the Academic Senate*, which consists of the Manual of the Academic Senate and the manuals of its Divisions, under Academic Senate Bylaw Part II, Title IV, bylaw 206, A. On this basis, UCR&J has the authority to interpret the understanding of the Academic Senate of the Standing Orders of the Regents (particularly as embedded in Academic Senate Bylaws) and the *Academic Personnel Manual* on behalf of the Academic Senate of the University of California. Changes of academic government within the Divisions lie within the jurisdiction of the Academic Senate (and hence, UCR&J), a reserved function not delegated to the Divisions, as specified in Academic Senate Bylaw Part III, Title I, bylaw 311, C, 4. Furthermore, the means and actions of Division governance are required to be “not inconsistent” (i.e., consistent) with the Bylaws and Regulations of the Academic Senate, as detailed in Academic Senate Bylaw Part III, Title I, bylaw 310, A, 1. Thus, UCR&J has the authority to address the process of academic government and its compliance with Academic Senate Bylaws within a single Division, particularly when changes proposed within a Division are found to have implications for other Divisions as evident in this case.

UCR&J responses to questions from the request for Legislative Rulings:

1. *“Who is made a member of the Academic Senate by Standing Order of the Regents 105.1(a)?”*

UCR&J Response (current Legislative Rulings 1, 4A and 4B): Officers of the University and academic appointees in the 17 series of academic titles specified in the Standing Order and the Academic Senate Bylaws constitute the membership of the Academic Senate. For academic appointees, Academic Senate membership is granted by virtue of the series of academic appointment.

2. *“Who is a Member of the Faculty of a professional school offering courses at the graduate level only?”*

UCR&J Response (current Legislative Ruling 1, 2 and 3): Members of the Academic Senate granted such status by virtue of their administrative office and/or series of academic appointment are members of such Faculties. This distinction is not relevant for Divisions, or when the Schools in question offer traditional (doctoral and masters) graduate degrees as well as the postbaccalaureate professional degrees actually referred to in this clause of the Standing Order of the Regents. The distinction between professional schools that offer courses at the “graduate” level only and schools which offer other courses is not relevant to the issue of Academic Senate membership, but only with respect to authority over curricula and degree program requirements.

3. *“What entity has the responsibility to interpret the Standing Orders of the Regents for the Senate?”*

UCR&J Response (paragraph 4 of Final Considerations of current Legislative Rulings): Except by amendment of the Bylaws by the Legislative Assembly of the Academic Senate, UCR&J is the agency of the Academic Senate that is charged with this duty. The Regents can, of course, independently change their Standing Orders, which would necessarily entail subsequent revisions in the subordinate Academic Senate Bylaws and UCR&J Legislative Rulings. In the absence of direction from the Regents themselves, the officers and agencies of the Academic Senate are not required to defer to administrative interpretations of the Standing Orders of the Regents. In practice, the Academic Senate and the administration of the University exercise shared governance to generate and

implement an *Academic Personnel Manual* that it is consistent with both the Standing Orders of the Regents and the Bylaws of the Academic Senate.

Under the specific circumstances presented in the current case, a Division may seek changes (including additions of series of academic appointees granted membership in the Academic Senate) in the Standing Orders of the Regents, the Bylaws of the Academic Senate and the *Academic Personnel Manual* through the legislative processes of resolutions and memorials provided in the Bylaws of the Academic Senate.

A Division has no means of appeal for a UCR&J Legislative Ruling except through amendment of the Bylaws of the Academic Senate.

4. ***“Where is the authority conferred on the Academic Senate by Standing Order 1051(b) to “determine its own membership under the above rule, and [to] organize and choose its own officers and committees in such manner as it may determine” vested?”***

UCR&J Response (current Legislative Ruling 4): This authority is vested in the Academic Senate, and delegated in part to the Divisions mainly for duties related to the selection, evaluation and advancement of *individual* academic appointees (i.e., persons) in specified series. This delegation also permits a Division to include non- or separately-voting non-Senate members, including students and staff, on certain non-governance committees (i.e., Division Undergraduate and Graduate Councils). Voting non-Senate members may also be included on non-governance committees primarily of Division interest (i.e., Division Committees on Clinical Affairs)

5. ***“If a Division of the Academic Senate conducts its business, including defining its membership, in a manner that is inconsistent with the Bylaws of the Academic Senate or the Standing Orders of the Regents as implemented in the Bylaws of the Academic Senate and interpreted by the University Committee on Rules and Jurisdiction, who exercises the powers granted to the Academic Senate by the Regents? Does the Division continue to exercise the powers which have been delegated by the Academic Senate to the Division, or does the systemwide Academic Senate directly exercise those powers on matters arising within the campus of the Division?”***

UCR&J Response (paragraph 3 of Final Considerations of current Legislative Rulings): The answer to both questions is – the Academic Senate of the University of California. Unprotected powers, granted to the Academic Senate by the Standing Orders of the Regents and subsequently delegated to a Division, can revert to the Academic Senate if a Division acts in a manner duly found to be inconsistent with superseding Bylaws and Legislative Rulings of the Academic Senate and/or Standing Orders of the Regents.

If the Division proceeds to implement its proposed actions in the circumstances described above, UCR&J *advises* the Academic Senate to first mandate new Division elections and officer selections based on a membership and electorate consistent with Bylaws and Standing Orders. The Academic Senate would also withhold endorsement and authorization of Division agencies, such as Committees on Committees and Academic Personnel, if their derivation is based, at least in part, on ineligible voters. Unchallenged members of the Academic Senate from the affected Division selected for service in agencies of the Academic Senate by previous eligible electorates would continue their remaining terms of service. Unchallenged members of the Academic Senate from the affected Division would remain eligible for at-large selections for service in agencies of the Academic Senate during the period of the Division’s ineligible electorate. Unchallenged and challenged members of the affected Division would be ineligible for *ex officio* selections for service in agencies of the Academic Senate during the period of the Division’s ineligible electorate.