

## VIII. REPORTS OF STANDING COMMITTEES (continued)

### Academic Council (continued)

- **John B. Oakley, Chair**
- **Michael Brown, Chair, Academic Council Subcommittee on Systemwide Senate Leadership and Office Structure**
  2. Amendment to Academic Senate Bylaw 110 A. Officers and Consultants of the Assembly - Chairs and Vice Chairs (**action**)

### **Proposed New Senate Bylaw 110.A. 4 – Suspension and Removal of Officers of the Assembly**

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. . . . 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; modification of Regulations requires the approval of a majority of all voting members 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 110.A](#) was approved by the Academic Council at its meeting of January 24, 2007.

### **PROPOSED ACTION: Approval of the proposed Senate Bylaw 110.A.4**

#### **Background and Justification**

In academic year 2005-06, an ambiguity in the bylaws of the Academic Senate surfaced concerning: (1) whether or not an officer of the Academic Senate could be removed from office; and (2) the procedure for effecting the removal. The University Committee on Rules and Jurisdiction (UCRJ) identified Senate Bylaw 35.D.5 as the authoritative source to effect removal. It reads as follows:

#### *Bylaws of the University of California Academic Senate*

##### *Part I: Membership, Authority and Organization*

##### Title IV. Committees

##### 35. Membership of Committees

##### D. Method of Appointment

5. A systemwide Senate agency may by a two-thirds vote, revoke any appointment it has previously made. Prior to revoking an appointment, the agency shall give notice to the appointee, including reasons for the proposed revocation, and provide the appointee with an opportunity to respond.

The applicability of Senate Bylaw 35.D.5, however, was repeatedly questioned during the initial phases of the 2005-06 Academic Council Chair’s removal. For example, does Senate Bylaw

35.D.5 apply only to appointed committee members, and not elected Senate officers; and are the Academic Council and Academic Assembly properly understood to be “agencies” of the systemwide Senate? The final ruling of UCRJ concluded that Senate Bylaw 35.D.5 could be applied to the removal of a Senate officer, especially given the inherent right of any organization to remove an officer or director from office for cause by the same authority that elected or appointed them (see Sturgis, 4th ed., p. 173). UCRJ also offered the following legislative ruling:

The Assembly has the power to remove an officer of the Assembly with a two-thirds vote under Bylaw 35.D.5. The Assembly should only remove an officer for valid reasons, and the Assembly should provide for adequate notice to the accused officer, a fair hearing, the right to counsel, and a reasonable opportunity for the officer to present a defense. Nothing in the current bylaws specifies the standards or procedures to be used for judging what constitute valid reasons for removal of an officer, adequate notice to the accused officer, a fair hearing, the right to counsel, or a reasonable opportunity for the officer to present a defense; therefore, the Assembly must decide these questions. The Assembly has both the authority and the responsibility for these decisions.

Following the removal proceedings conducted by the Academic Assembly in March 2006, the Academic Council decided that the Academic Senate needed a removal provision that was clearly applicable and responsive to the concerns listed in UCRJ’s legislative ruling. The Academic Council therefore established the Academic Council Subcommittee on Systemwide Senate Leadership and Office Structure to, among other activities, write and recommend an appropriate bylaw provision that addresses all of the concerns voiced during the period leading up to the removal of the 2005-06 Academic Council Chair, especially regarding due process and the removal authority of the agencies of the systemwide Academic Senate. An amendment to Senate Bylaw 110.A, the bylaw concerning the election and duties of the officers of the Assembly (the Chair and Vice Chair of the Academic Assembly), was judged to be the appropriate location to insert a removal provision concerning those officers.

Importantly, the proposed bylaw makes explicit what has been implicit in the Code of the Academic Senate: that the Academic Senate is parliamentary. In a presidential system of government, there is a strictly held separation of powers between the executive and legislative branches. The branches have independent powers, are independently elected, and check and balance each other. In contradistinction, parliamentary executives, those responsible for the day-to-day management of the set of institutions comprising the government, are dependent upon the direct and indirect support of the legislature, who are those members of a representative assembly empowered to adopt laws for the governed. Parliamentary executives serve at the pleasure of the representative body and hold office as long as the "confidence of the house" is maintained. If members of the legislative body lose faith in the officer, they can call for a vote of no confidence and compel the officer to resign. Under current Academic Senate Bylaws a vote of no confidence is passed by a majority vote.

The proposed bylaw no longer leaves the Academic Senate’s parliamentary system of government and the accountability of the Academic Senates’ officers to implication.

**Proposed Amendment to Senate Bylaw 110.A**  
*(Proposed language is noted in bold and underlined.)*

110. Officers and Consultants of the Assembly

A. Chair and Vice Chair

B. Chair and Vice Chair

1. Election. The Assembly elects a Vice Chair who is a Senate member from a Division other than that of the incoming Chair, to assume office the following September. The Academic Council submits a nomination. Further nominations may be made by the Assembly members from the floor, and on written petition by twenty-five Senate members. The Vice Chair also serves as Vice Chair of the Academic Council. The following year the Vice Chair becomes Chair of the Assembly and the Academic Council. Neither the Chair nor the Vice Chair may serve as a Divisional Representative. (Am 3 Dec 80; Am 28 May 2003; Am 12 May 2004)
2. Vacancies. If the office of Chair is vacant, the Vice Chair becomes Chair. If the office of Vice Chair is vacant, or if both offices are vacant, the Academic Council shall make *pro tempore* appointments until the corresponding offices are filled by election at the next Assembly meeting. Such elections shall be for the remainder of current terms.
3. Duties
  - a. The Chair, or in the absence or disability of the Chair, the Vice Chair, shall preside at meetings of the Assembly. The Chair may present to any Division or Senate committee any matter within its jurisdiction.
  - b. Prior to July first each year the Chair of the Assembly, in consultation with the President of the Senate and the Academic Council, shall schedule at least three regular meetings of the Assembly for the ensuing academic year. With majority approval by the Academic Council, the Chair may cancel a regular meeting, but there must be at least one regular meeting in each academic year.
  - c. Special meetings may be called by the President of the Senate or by the Chair of the Assembly. Such meetings must be called by the Chair, or where appropriate by the Vice Chair, on the written request of a Division, of twenty-five voting members of the Academic Senate, or of seven members of the Assembly. The Academic Council may cancel a special meeting requested by a Division if the Division so asks. (Am 12 May 2004)
  - d. With the concurrence of a majority of the Academic Council an emergency meeting of the Assembly may be

- called by the Chair of the Assembly, or in the Chair's absence or disability, by the Vice Chair.
- e. The Chair, in consultation with the Academic Council, shall set the agenda for every Assembly meeting in accordance with the provisions of [Bylaw 120.C](#). On the written request of a Division, of fifteen voting members of the Academic Senate, or of four members of the Assembly, the Chair shall include in the agenda any item of business within the authority of the Assembly.
  - f. The Chair shall send Memorials to the President for transmission to the Regents, in accordance with the provisions of [Bylaw 90](#).
  - g. The Chair and Vice Chair shall serve, respectively, *ex officio* as Chair and Vice Chair of the Academic Council [see [Bylaw 125.A](#)]. Both the Chair and the Vice Chair shall serve as *ex officio* members of the, the University Committee on Committees [see [Bylaw 150.A](#)], and as non-voting *ex officio* members of all committees of the Assembly except for the Committee on Rules and Jurisdiction [see [Bylaw 205.A](#)]. (Am 28 May 2003)
  - h. The Chair receives petitions of students or other materials for presentation to the Assembly and may refer them to an appropriate committee. (En 12 May 2004)

#### **4. Suspension and Removal**

**Elected officers of the Assembly may be suspended from office by action of the Assembly or of the Academic Council, and may subsequently be removed from office by action of the Assembly. In any emergency, regular, or special meeting of the Assembly or Academic Council for which the proposed action is noticed, any member may move to suspend an elected officer from office. The notice of the proposed action must state the proposed reasons for suspending the person from office. The discussion and action must be considered in a closed face-to-face session. The officer who is the subject of the suspension motion shall not preside during discussion of the motion. The suspension motion requires an affirmative vote of a majority of the members present to pass. If the suspension motion carries, the officer who is the subject of the motion is immediately suspended from office and relieved of all duties and responsibilities associated with the elected Senate office. The suspended officer is no longer empowered to represent the Senate in any way. At its next emergency, regular, or special meeting, which shall be held no later than 30 days following the action to suspend, the Assembly must decide whether to**

**remove the suspended officer from office. This item must be noticed in the Assembly's agenda. Any officer so suspended shall have the right at this meeting of the Assembly to present his or her case against removal from office. For this purpose, the suspended officer shall be granted such time as agreed to with the presiding officer but not less than one hour. The suspended officer shall also have the right, at personal expense, to be aided or represented by another person during the proceedings concerning removal. Removal requires an affirmative vote of the majority of the Assembly members present. If the action to remove the officer fails to carry, the person shall immediately return to office with all its duties and responsibilities.**

**ACTION REQUESTED: Approval of proposed Senate Bylaw 110A.4.-Suspension and Removal (Chair and Vice Chair of the Academic Assembly)**