



Committee on Rules and Jurisdiction
Theodora Mauro, MD, Chair

ANNUAL REPORT 2007-2008

Primary Focus Points for the Year:

- Approval of the Committee on Library Name Change to “Committee on Library and Scholarly Communication”

Task Forces, Special Committees, and Sub-Committees:

- None.

Issues for Next Year (2008-2009)

- Jurisdictional Ruling on the Grievance Before the Committee on Privilege and Tenure

2007-2008 Members

Theodora Mauro, Chair
John Imboden, Vice Chair
James Brenner
Orlo Clark
Heide Kirsch
Anne Slavotinek
Anita Stewart

Ex-Officio Members

Jean Olson, Parliamentarian
Doug Carlson, Registrar

Permanent Guests

Merlin Larson, Clinical Rep
Joanna Weinberg, Adjunct Rep

Number of Meetings: 1, electronic

Senate Analyst: Wilson Hardcastle

Systemwide Business

The Academic Senate Committee on Rules and Jurisdiction took up no Systemwide issues this year:

Divisional Business

This year, the Academic Senate Committee on Academic Planning and Budget took up the following issues related to the San Francisco Division:

Bylaw Change: Committee on Library

The Committee on Library, in conjunction with the Systemwide Committee on Library and the standing committees at other campuses, changed their name to reflect their renewed charge. This name change required a bylaw change, which required review and approval by the Committee on Rules and Jurisdiction.

The Communication from the Committee on Library (November 1, 2007) detailing their requested amendments to Divisional Bylaw 165 is attached as [Appendix 1](#).

The Communication from the Committee on Rules and Jurisdiction (March 6, 2008) to the Committee on Library approving these modifications is attached as [Appendix 2](#).

The proposed amendment to Divisional Bylaw 165 is undergoing approval by an electronic vote of the Division. Once approved by the Division, the amendment will be sent to UCRJ for final approval.

Jurisdictional Ruling on the Grievance Before the Committee on Privilege and Tenure

At this time, communications requesting a ruling from the Academic Senate Committee on Rules and Jurisdiction on a ruling made by the Committee on Privilege and Tenure (relating to jurisdiction) have not been received. However, such communications requesting a ruling from R&J are expected in the summer of 2008.

Update:

The Committee on Rules and Jurisdiction met on August 18, 2008 to review a communication from the UC Office of the General Counsel (dated July 10, 2008, Appendix 4, not attached hereto for reasons of confidentiality). The OGC sought to petition the Committee to rule that the Committee on Privilege and Tenure did not have the authority to hear a case brought by a faculty member who claimed to have lost an administrative appointment as retaliation for actions taken as a whistleblower.

The Committee found that the Office of the General Council did not have standing to petition the Committee under Divisional Bylaw 120.B.8. Furthermore, even if the OGC did have standing to petition the Committee, they did not meet the criteria to do so under Divisional Bylaw 120.B.8, specifically a petition written by at least 10 members of the Academic Senate. The Committee did not find validity in the footnote 1 on page 1 of the Communication from the OGC addressing the non-solicitation of cooperation of Senate members.

The Committee recognized the importance of this issue and clear systemwide implications and agreed that a legislative ruling from the University Committee on Rules and Jurisdiction should ultimately be sought.

The Committee rejected the petition from the Office of the General Council to rule on the actions of the Divisional Committee on Privilege and Tenure, but considered the additional request (page 4) to "join with us in seeking a Legislative Ruling on this point from the University Committee on Rules and Jurisdiction."

By unanimous vote, the Committee decided to (1) reject the petition of the OGC; and (2) after consultation with the Chair of the University Committee on Rule and Jurisdiction (UCRJ), request a Legislative Ruling from UCRJ on this issue (under Systemwide Bylaw 206.A Legislative Rulings).

The Committee's response to the OGC is attached as [Appendix 5](#).

The Committee's request for a legislative ruling to UCRJ is attached as [Appendix 6](#).

Task Forces and Other Committee Service

This year, members of the Academic Senate Committee on Rules and Jurisdiction served no Academic Senate task forces or other campus committees.

Going Forward

Ongoing issues which the Committee will continue act upon into 2008-2009:

Jurisdictional Ruling on the Grievance Before the Committee on Privilege and Tenure

At this time, communications requesting a ruling from the Academic Senate Committee on Rules and Jurisdiction have not been received. However, communications requesting a ruling from R&J are expected in the summer of 2008.

Update:

The Committee has requested a legislative ruling from UCRJ. The Committee expects to receive a communication from the Committee on Privilege and Tenure (P&T) prior to its first meeting requesting that the request for a legislative ruling be amended to more specifically address the confidential issues facing P&T.

Appendices

- [Appendix 1:](#) Communication from the Committee on Library (November 1, 2007) detailing requested amendments to Divisional Bylaw 165: Library.
- [Appendix 2:](#) Communication from the Committee on Rules and Jurisdiction (March 6, 2008) to the Committee on Library approving the proposed amendments to Divisional Bylaw 165: Library.
- Appendix 3: Attendance Record: As the Committee has not yet met in person for the year 2007-2008, no attendance record is attached.
- Update:**
- Appendix 4: Communication from the University of California Office of the General Counsel, July 10, 2008 [Confidential]
- [Appendix 5:](#) Communication from the Committee on Rules and Jurisdiction to the Office of the General Counsel, August 19, 2008
- [Appendix 6:](#) Communication from the Chair of the Committee on Rules and Jurisdiction to the University Committee on Rules and Jurisdiction dated August 20, 2008 requesting a legislative ruling

Senate Staff:
Wilson Hardcastle, Senior Analyst
wilson.hardcastle@ucsf.edu; 415/476-4245



COMMUNICATION FROM THE CHAIR OF THE COMMITTEE ON LIBRARY

Francis Szoka, PhD

November 1, 2007

Theodora Mauro, MD
Chair, Committee on Rules and Jurisdiction
Office of the Academic Senate, Box 0764

**Re: Proposed Modification to Divisional Bylaw 165, Name Change for the
Committee on Library**

Dear Chair Mauro,

The Committee on Library respectfully submits the attached Proposed Amendment to the Divisional Bylaw 165 for review and approval by the Academic Senate Committee on Rules and Jurisdiction.

This proposed amendment will change the name of the "Committee on Library" to the "Committee on Library and Scholarly Communication." This change is being requested to bring Divisional practice in line with Systemwide and the other divisions. The Systemwide Committee on Library and Scholarly Communication advocated and enacted these changes

Your consideration is greatly appreciated.

A handwritten signature in black ink that reads "Francis C. Szoka". The signature is written in a cursive style and is positioned above a light blue rectangular background.

Francis Szoka, PhD
Chair, Committee on Library

encl/ Proposed Modification to Divisional Bylaw 165, Name Change for the Committee on Library



Proposed Modification to Divisional Bylaw 165 Name Change for the Committee on Library

PROPOSED ACTION:

Approval of the proposed amendment to UCSF Divisional Senate Bylaw 165. Library.

Background and Justification

Statement of Purpose

It has become increasingly clear to UC faculty that the traditional models of scholarly communication have become unsustainable. From ever-increasing journal subscription costs, to new modes and venues of scholarly production, to heightened competition for both profit and non-profit publishers (such as university presses and scholarly societies), libraries have struggled to guarantee faculty members access to scholarly information. Reflecting this state of affairs, the Academic Senate established the Special Committee on Scholarly Communication (SCSC) to address these issues. Subsequently, the SCSC has submitted [five white papers](#) that not only expound on these issues, but also propose solutions to them. These white papers also illustrate the need for long-term faculty oversight over scholarly communication, which should be facilitated through a systemwide standing committee of the Academic Senate. The University Committee on Library (UCOL) is the appropriate location for such faculty oversight, as scholarly communication is very germane to the business of UCOL.

As the introduction to the SCSC's white papers aptly notes, UC librarians have been involved in the management of scholarly communication from the beginning. UCOL and the divisional Libraries have subsequently not only become familiar with these issues, but, more importantly, have gained a significant body of expertise in this area. In addition, scholarly communications cannot and should not be divorced from faculty oversight and governance of the UC library system.

In order to facilitate the execution of its new mandate, the systemwide University Committee on Library has changed its name to the University Committee on Library and Scholarly Communication, and the divisional Committees on Library are expected to follow suit both in the attention to the concerns of scholarly communication, but also in the updating of the committee's name to be consistent with University Committee on Library and Scholarly Communication.

Statement of Intended Effect

The proposed amendment to UCSF Divisional Bylaw 165, which governs the Committee on Library, would expand its charge to include oversight of scholarly communication.

In its current form, Bylaw 165 limits the Library Committee to advising "the Chancellor regarding the administration of the library at San Francisco." The proposed amendment would

allow the Committee on Library to serve in an advisory capacity regarding matters of scholarly communication, and to reflect this expanded mandate, formally changes its name from the “Library Committee” to the “Committee on Library and Scholarly Communication.” The additional language proposed below is identical to the changes adopted at Systemwide.

CURRENT LANGUAGE:

165. Library Committee

B. Duties:

1. To advise the President and the Chancellor regarding the administration of the library at San Francisco, in accordance with the Standing Orders of The Regents, and perform such duties relative to the Libraries at San Francisco as may be assigned to the Division by proper authority.
2. To provide liaison between Faculty and Library Administration on all matters of library policy.
3. To participate with the University Librarian on matters relating to library budget formulation policy and the allocation of space and apportionment of funds.
4. To prepare and submit to the San Francisco Division an annual report on financial problems, allocation of space, facilities for Library research and any other matters within its jurisdiction.

PROPOSED LANGUAGE

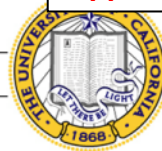
165. Committee on Library and Scholarly Communication

B. Duties:

1. To advise the President and the Chancellor regarding the administration of the library at San Francisco, and issues related to innovations in forms of scholarly communication, in accordance with the Standing Orders of The Regents, and perform such duties relative to the Libraries at San Francisco as may be assigned to the Division by proper authority.
2. To provide liaison between Faculty and Library Administration on all matters of library policy.
3. To participate with the University Librarian on matters relating to library budget formulation policy and the allocation of space and apportionment of funds.
4. To prepare and submit to the San Francisco Division an annual report on financial problems, allocation of space, facilities for Library research and any other matters within its jurisdiction.

ACTION REQUESTED:

Approval of the proposed amendment to UCSF Divisional Senate Bylaw 165. Library.



**COMMUNICATION FROM THE CHAIR OF THE
COMMITTEE ON RULES AND JURISDICTION
Theodora Mauro, MD**

March 6, 2008

Francis Szoka, PhD
Chair, Committee on Library
Campus Box 0764

Re: Proposed Modification to Divisional Bylaw 165, Name Change for the Committee on Library

Dear Chair Szoka:

The Academic Senate Committee on Rules and Jurisdiction has reviewed the Proposed Amendment to the Divisional Bylaw 165, as submitted in the Communication dated November 1, 2007, changing the name of the “Committee on Library” to the “Committee on Library and Scholarly Communication.” The Committee approves this language as proposed.

The proposed amendment must be approved by a vote of the Division, and subsequently approved by the University Committee on Rules and Jurisdiction before it may go into affect.

Sincerely,

Theodora Mauro
Chair, Committee on Rules and Jurisdiction

The Committee on Rules and Jurisdiction

Theodora Mauro, MD, Chair
John Imboden, MD, Vice Chair
James Brenner, MD
Douglas Carlson, JD
Orlo Clark, MD
Heidi Kirsch, MD
Merlin Larson, MD
Jean Olson, MD
Anne Slavotinek, MD
Anita Stewart, PhD
Joanna Weinberg, JD, LLM



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David Gardner, MD, Chair
Elena Fuentes-Afflick, MD, MPH, Vice Chair
Mary J. Malloy, MD, Secretary
Jean Olson, MD, Parliamentarian

Communication from the UCSF Academic Senate Committee on Rules and Jurisdiction Theodora Mauro, MD, Chair

August 19, 2008

Charles Robinson
Vice President for Legal Affairs and General Counsel
The Regents of the University of California Office of the General Counsel
1111 Franklin Street, 8th Floor
Oakland, CA 94607

Re: Petition for Review of Divisional Committee on Privilege and
Tenure's Assertion of Jurisdiction with Respect to Grievance of [REDACTED]
[REDACTED]

Dear Mr. Robinson:

On August 14, 2008, the UCSF Academic Senate Committee on Rules and Jurisdiction (R&J) reviewed the request for Review of Divisional Committee on Privilege and Tenure's Assertion of Jurisdiction with Respect to Grievance of [REDACTED] and found that the Office of the General Counsel (OGC) does not have standing to petition the Committee.

Under Divisional Bylaw 120.B.8, petitions challenging an action of a Divisional committee alleged to be contrary to the Code of the Academic Senate or to the Manual of the San Francisco Division must be brought by no fewer than ten members of the Division. The Office of the General Council is/are not members of the Division of the Academic Senate, nor did the Office of the General Counsel seek the support or petition of at least ten members of the San Francisco Division of the Academic Senate.

The UCSF Committee on Rules and Jurisdiction therefore takes no action pertaining to the Divisional issue of jurisdiction being exercised by the prudence of the UCSF Academic Senate Committee on Privilege and Tenure (P&T).

However, the UCSF Committee on Rules and Jurisdiction does recognize that this issue does have system-wide implications and agrees that clarification should be sought.

Pursuant to system-wide Academic Senate Bylaw 206.A, the Chair of the UCSF Committee on Rules and Jurisdiction will request a Legislative Ruling from the University Committee on Rules and Jurisdiction (UCRJ) as to the following:

Request for Legislative Ruling:

May a Divisional or System-wide Committee on Privilege and Tenure assert jurisdiction to hear the grievance of a member of the Academic Senate regarding the loss or withdrawal of an at-will administrative appointment, even in the cases where such termination of administrative (and not academic) appointment occurs in conjunction with an alleged whistleblower complaint.

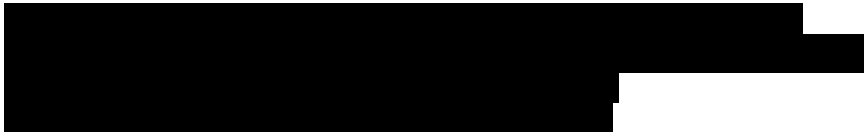
A copy of the Request for Legislative Ruling will be sent to your office under separate cover.

Sincerely,

The Committee on Rules and Jurisdiction

Theodora Mauro, MD, Chair
John Imboden, MD , Vice Chair
Doug Carlson, JD
Heide Kirsch, MD
Jean Olson, MD
Joanna Weinberg, JD, LLM

cc:





Academic Senate
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David Gardner, MD, Chair
Elena Fuentes-Afflick, MD, MPH, Vice Chair
Mary J. Malloy, MD, Secretary
Jean Olson, MD, Parliamentarian

Communication from the Committee on Rules and Jurisdiction, San Francisco Division

Theodora Mauro, MD, Chair

August 20, 2008

Daniel Hirschberg, PhD
Chair, University Committee on Rules and Jurisdiction
Office of the Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

Re: Request for Legislative Ruling

Dear Dr. Hirschberg:

On August 14, 2008, the UCSF Academic Senate Committee on Rules and Jurisdiction (R&J) reviewed a request from the University of California Office of the General Counsel (OGC) to review the Divisional Committee on Privilege and Tenure's assertion of jurisdiction for a specific grievance.

The Divisional Committee on Rules and Jurisdiction found that the OGC had no standing to petition the Committee under Divisional Bylaw 120.B.8, and did not gain the support or petition of at least ten members of the San Francisco Division of the Academic Senate as is required.

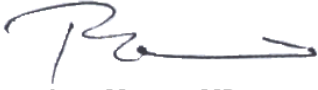
However, the UCSF Committee on Rules and Jurisdiction did recognize that this issue has system-wide implications and agreed that a clarification should be sought from UCRJ.

Pursuant to system-wide UC Academic Senate Bylaw 206.A, the Chair of the UCSF Committee on Rules and Jurisdiction requests a Legislative Ruling from the University Committee on Rules and Jurisdiction (UCRJ) as to the following:

Request for Legislative Ruling:

May a Divisional or System-wide Committee on Privilege and Tenure assert jurisdiction to hear the grievance of a member of the Academic Senate regarding the loss or withdrawal of an at-will administrative appointment, even in the cases where such termination of administrative (and not academic) appointment occurs in conjunction with an alleged whistleblower complaint.

Sincerely,

A handwritten signature in black ink, appearing to be 'Theodora Mauro', with a long horizontal stroke extending to the right.

Theodora Mauro, MD

Chair, UCSF Committee on Rules and Jurisdiction

cc: Martha Winnacker, JD, Director of the UC Office of the Academic Senate
Girish Vyas, PhD, Chair, UCSF Committee on Privilege and Tenure
David Gardner, MD, Chair, UCSF Academic Senate