

RE89

Office of the Secretary and Chief of Staff

TO MEMBERS OF THE COMMITTEE ON FINANCE:

ACTION ITEM

For Meeting of July 18, 2007

ADOPTION OF POLICY RESTRICTING UNIVERSITY ACCEPTANCE OF FUNDING FROM THE TOBACCO INDUSTRY

RECOMMENDATION

Regent Moores recommends that The Board of Regents adopt the following policy:

The Regents will decline all new funding from the tobacco industry or agencies substantially controlled by or acting on behalf of the tobacco industry, unless the funding is for activities clearly unrelated to the health effects of tobacco products, or to the promotion, regulation, or use of tobacco products. This should not be construed to prohibit the University from receiving funds from tobacco companies through programs that match individual employee philanthropic donations.

This policy will apply only to awards made in response to new proposals submitted after the date this policy becomes effective. Awards active as of the effective date of the policy will be allowed to continue, and acceptance of funds that may be awarded in response to proposals submitted prior to the effective date of the policy will be allowed.

BACKGROUND

To recap and update information that was provided previously to The Regents, the following is provided as background:

Research at the University of California is funded by a variety of sources, including federal, State, foundation, individual, and corporate/industry support. Under current University policy, individual researchers are free to accept funding from any source, as long as the funds are otherwise in compliance with applicable University policy (for example, as long as the award does not give the sponsor the ability to control or restrict publication of research results). Individuals, foundations, and corporate/industry sources also provide funding to the University for purposes other than research (e.g., in the form of gifts to support arts and education programs, buildings, endowed chairs and professorships, student support, etc.). There are no restrictions on

the University's ability to accept gift or endowment funding from any source, as long as the awards comply with University policies.

Over the years, critics of tobacco and of the tobacco industry have raised serious concerns about the University's acceptance of funding from sponsors with ties to the tobacco industry. While the amount of such funding received by the University is quite small in proportion to the University's total research funding, the concerns raised about acceptance of such funds center not on the amounts but on underlying principles and on the belief that such acceptance is inconsistent with the University's missions. From 1995 through 2006, UC researchers received approximately 108 awards totaling about \$37 million from tobacco-related companies¹ for research, training, and public service. By comparison, the University received more than \$4 billion in total contracts and grants revenue in FY 2006 alone.

As of January 2007, there were approximately 19 active grants at UC from sponsors with known ties to the tobacco industry (see attached chart).² These grants, supporting research and related activities on the Berkeley, Davis, Los Angeles, and San Diego campuses, were all awarded by Philip Morris USA, and total approximately \$15.8 million.³

The University also has received gift funds from tobacco companies and sources related to tobacco companies. While comprehensive systemwide information is not currently available in the University's corporate databases, consultation with campus development offices identified gifts from a number of tobacco companies. Responding campus development offices reported receiving gifts from corporate donors such as RJR Nabisco, Kraft Foods, Brown and Williamson Tobacco Corporation, and Philip Morris, with approximately 11 gifts made from 2005 through 2006, totaling about \$485,000. This is an extremely small proportion of the University's total receipt of gifts and pledge payments, which for FY 2006 alone totaled \$1.29 billion.

A number of individuals and organizations have encouraged the University to adopt a policy prohibiting acceptance of tobacco industry funds. Proponents of such a ban have expressed the strong view that the tobacco industry has exerted a corrupting influence on research and that even though the tobacco industry does fund some meritorious basic scientific research, it also funds scientifically inferior proposals and uses the more meritorious research to lend credibility to its funding program while minimizing the risks of tobacco. Adoption of a policy banning such funding is seen as a way for The Regents to make a strong statement and to dissociate the University from an industry that has been deemed to engage in corporate actions antithetical to the University's core missions.

¹ In addition to tobacco companies like Philip Morris, there are other companies, like Kraft Foods, that are either parent companies, affiliates, or subsidiaries of tobacco companies. While UC does not maintain a comprehensive list of "tobacco companies," there are companies known to UC that have in the past been identified with the tobacco industry; this data shows funding that UC has received from companies that are known to be, or to have been, tobacco-related.

² As of the date this original item was prepared in January 2007, corporate data systems maintained by the Office of the President showed only those awards processed prior to the close of FY2006.

³ Please see attached "Tobacco Industry Sponsored Projects at the University of California: Known Active Awards as of December 22, 2006."

Proponents of a ban on acceptance of tobacco funding argue that the University should dissociate itself from an industry known to make a product harmful to human health and that has a history of attempting improperly to influence or misrepresent research results. A number of other highly regarded institutions have already adopted policies declining tobacco industry funding. These include Johns Hopkins School of Public Health, University of Arizona School of Public Health, Emory University School of Medicine, Harvard School of Public Health, Harvard Medical School, and Ohio State University School of Public Health.

Most recently, proponents of a ban have pointed to the August 17, 2006 federal district court ruling (*U.S. v. Philip Morris USA, Inc.*, U.S.D.C.D.C. Civ. No. 99-2496)⁴ that found defendant tobacco companies guilty of violating the Federal Racketeer Influenced and Corrupt Organizations (RICO) Act as evidence of the tobacco industry's fraudulent corporate actions and disingenuous relationship with academic research institutions. They particularly point to a concern that defendant Philip Morris, found to have engaged in fraudulent actions, funds research at the University of California. This decision is currently on appeal.

Opponents argue that an institutional policy prohibiting researchers from accepting tobacco funding would violate the academic freedom of individual faculty members. They argue that the University should reject the idea that accepting funding from a corporate sponsor connotes an endorsement of the corporate sponsor's products or corporate actions. They also argue that while the use (or *misuse*) of research results by tobacco companies may be objectionable, individual investigators are expected to ensure the integrity of the conduct of their research regardless of the source of its funding. The University's policy on Integrity in Research provides in part that "all persons engaged in research at the University are responsible for adhering to the highest standards of intellectual honesty and integrity in research."⁵ The University's Statement of Ethical Values, adopted by The Regents in May 2005, restates the University's expectation that all members of the University community engaged in research are to conduct their research with integrity and honesty at all times, and to meet the highest standards of honesty, accuracy, and objectivity.⁶ Opponents of a policy argue that restricting investigators' funding to ensure research integrity may be unnecessary and may undermine the ability of researchers to explore promising avenues of inquiry independent of political and moral judgments about the source of that funding.

Finally, opponents of a ban note that it is a dangerous "slippery slope" to adopt a policy of rejecting funding from certain types of industry sponsors whose products or corporate behaviors are objectionable to some, and caution that there are a number of other industries that some would argue should fall under such a policy. While acknowledging the legitimacy of concerns about tobacco and about the corporate behavior of some companies, opponents of a funding ban express the opinion that as long as a grant has no conditions that would prevent researchers from adhering to their obligation to engage in intellectually honest research and to release the results of such research, the sponsor's motivations should not preclude acceptance of funding.

⁴ The full text of the ruling is available online at: <http://www.dcd.uscourts.gov/opinions/2006/99-2496-082006a.pdf>

⁵ The University's Policy on Integrity in Research can be found online at: <http://www.ucop.edu/ucophome/coordrev/policy/6-19-90.html>

⁶ The full text of the University's Statement of Ethical Values can be found online at: http://www.ucop.edu/ucophome/coordrev/policy/Stmt_Std_Ethics.pdf

At the time RE89 was originally proposed, President Dynes asked that The Regents be advised that the University's Academic Senate had considered this issue a number of times and that the University's Vice Provost for Research, Lawrence Coleman, and the systemwide Council of Vice Chancellors for Research (COVCR), which includes all the campus Vice Chancellors for Research, also have expressed their opposition to adoption of a University policy restricting faculty from accepting research funding from tobacco companies and have expressed the view that such a policy is likely to undermine researchers' academic freedom and set a troubling precedent for future consideration of restrictions on funding from other industries that may also be the subject of moral or political debate or that may be involved in litigation regarding alleged corporate misdeeds involving fraud or other illegal actions. Given that existing University policies require researchers to adhere to the highest standards of honesty, accuracy, and objectivity in their work, the President has expressed concern that a funding ban may be unnecessary and might unfairly impugn the integrity of the University's faculty.

Academic Senate Consideration

In 2004, the Academic Senate began what proved to be a long debate concerning restrictions on research funding from tobacco companies. In part the debate was a response to bans adopted by individual units of the University, including the UCLA School of Nursing, the UC Berkeley School of Public Health, the UCSD Cancer Center, and the UCSF Cancer Center. Eventually, in May 2005, the Assembly of the Academic Senate adopted a Resolution on Research Funding Sources. That resolution provided:

[P]rinciples of academic freedom and the policies of the University of California require that individual faculty members be free to accept or refuse research support from any source consistent with their individual judgments and conscience and with University policy. Therefore, a unit of the University may not refuse to process, accept, or administer a research award based on the source of the funds; nor may such a unit encumber a faculty member's ability to solicit or accept awards based on the source of the funds, except as directed by the UC Board of Regents.

The resolution also expressed the Senate's view that "[o]nly the UC Board of Regents has the plenary authority to establish policies on the acceptance of research funding" and proposed that individual units might propose that the Academic Senate, through the President, request the Board of Regents to adopt a policy to refuse funding from a particular source.⁷

In September 2006, following discussion of *Research Funding: Acceptance of Funding from Corporate Sponsors Associated with the Tobacco Industry*, The Regents asked the Academic

⁷ The Academic Senate's actions are described in a letter from then-Chair of the Academic Senate George Blumenthal to President Dynes dated May 31, 2005 (attached). On August 1, 2005, the President forwarded George Blumenthal's letter and a copy of the *Academic Senate Resolution on Research Funding Sources* to The Regents (attached).

Senate whether a policy banning funding from tobacco industry sources was justified in light of the August 17, 2006 federal district court ruling (U.S. v. Philip Morris USA, Inc., U.S.D.C.D.C. Civ. No. 99-2496) that found defendant tobacco companies guilty of violating the Federal Racketeer Influenced and Corrupt Organizations (RICO) Act.

In response to this request, the Assembly of the Academic Senate debated the issue on October 11, 2006. The Assembly's actions [see note above] consisted of passage of three resolutions:

“The Academic Assembly instructs the Chair of the Assembly to advise the President that grave issues of academic freedom would be raised if The Regents were to deviate from the principle that no unit of the University, whether by faculty vote or administrative decision, has the authority to prevent a faculty member from accepting external research funding based solely on the source of funds. Policies such as the faculty code of conduct are already in place on all campuses to uphold the highest standards and integrity of research. The Academic Assembly believes that Regental intervention on the basis of assumptions about the moral or political standing of the donor is unwarranted.”

“The Assembly declares its deep disapproval of funding arrangements in which an appearance of academic freedom belies an actual suppression of academic freedom.”

and

“The Assembly asserts its conviction that past funding arrangements involving the tobacco industry have been shown to suppress academic freedom.”⁸

Academic Senate Response to Regental Request for Additional Input

At its January 2007 meeting, The Regents requested that the Academic Senate further consider and provide a formal and unambiguous position on RE89, the proposed Policy Restricting University Acceptance of Funding from the Tobacco Industry. On May 9, 2007, the Assembly of the Academic Senate voted 44-5 (with 3 abstentions) against adopting RE89.⁹

Responses from Supporters of RE89

⁸ The Academic Senate's actions are described in Chair John Oakley's letter to President Dynes dated November 1, 2006 (attached).

⁹ A copy of Academic Senate Chair Oakley's May 31, 2007 letter to President Dynes describing the Academic Senate action is attached and may be found at the following url:
<http://www.universityofcalifornia.edu/senate/assembly/may2007/as.re89.0507.pdf>

Numerous organizations and individuals have written in support of RE89. Their responses are attached.

Researcher Responses to President Dynes' Request for Additional Input

On March 9, 2007, President Dynes wrote a letter (attached) to sixty UC researchers who had been identified as having received funding from the tobacco industry, noting some of the concerns that have been expressed about tobacco industry influence on research, and inviting their input on a number of specific questions regarding their experience with tobacco industry funders. The responses President Dynes received from these researchers are attached.

Updated Information on Research Awards From Tobacco Industry Sponsors

The original preparation of RE89 provided data on UC research funding from tobacco-related companies through the close of FY 2006 (see attached chart). Campuses are presently being queried about their data through FY 2007, which just closed. Updated data received from campuses will be compiled and made available at the July Regents meeting.

(Attachments)