

The Regents of the University of California

COMMITTEE ON FINANCE

September 20, 2007

The Committee on Finance met on the above date at Mondavi Center, Davis campus.

Members present: Regents Blum, Brewer, Dynes, Garamendi, Gould, Hopkinson, Island, Kozberg, Moores, Parsky, Preuss, and Wachter; Advisory member Croughan; Staff Advisors Brewer and Johansen

In attendance: Regents Allen, Bugay, De La Peña, Johnson, Pattiz, Ruiz, and Varner, Regents-designate Cole, Scorza, and Shewmake, Faculty Representative Brown, Secretary and Chief of Staff Griffiths, Associate Secretary Shaw, General Counsel Robinson, Chief Investment Officer Berggren, Provost Hume, Executive Vice Presidents Darling and Lapp, Vice Presidents Broome, Foley, and Sakaki, Acting Vice President Standiford, Chancellors Birgeneau, Blumenthal, Bishop, Block, Fox, Kang, Vanderhoef, and Yang, Acting Chancellor Grey, and Recording Secretary Smith

The meeting convened at 10:30 a.m. with Committee Chair Gould presiding.

1. APPROVAL OF MINUTES OF PREVIOUS MEETING

Upon motion duly made and seconded, the minutes of the meeting of July 18, 2007 were approved.

2. APPROVAL OF THE FINAL 2007-08 BUDGET

The President recommended that changes to the University of California 2007-08 budget plan for State General Funds consistent with the final budget act adopted by the Legislature and the Governor, as described below, be approved.

Executive Vice President Lapp recalled that the Board approved a total budget plan for the University for 2007-08 at the November 2006 meeting. The Governor and the Legislature had since acted on the State budget and, as a result, the Board was asked to approve a final budget plan consistent with changes included in the final budget act. There were very few changes to The Regents' original plan as it was adopted in November 2006 and they are all related to State General Funds; there were no proposed changes to other fund sources. Ms. Lapp noted that the 6.4 percent increase in State funding over last year is significant, given that the State's overall budget increased by only 0.6 percent.

At the November 2006 meeting, the Board adopted the following resolution related to student fees:

IT IS RESOLVED that the intent of the University is to maximize the use of fee income for science while maintaining appropriate oversight, and The Regents will review such allocation.

The Committee approved the President's recommendation as amended and voted to present it to the Board.

7. **ADOPTION OF POLICY REQUIRING SPECIAL REVIEW/APPROVAL PROCEDURES PRIOR TO UNIVERSITY SUBMISSION OF RESEARCH PROPOSALS TO TOBACCO INDUSTRY FUNDERS**

Regent Moores recommended that the Board of Regents withdraw RE89 ["Adoption of Policy Restricting University Acceptance of Funding from the Tobacco Industry," presented at the July 18, 2007 Regents meeting] from consideration, and instead adopt a substitute resolution that contains a combination of the following elements:

- A. Regental statement to researchers: A Regental statement expressing concern about the tobacco industry and exhorting University researchers to exercise the utmost care to assure that their research adheres to the highest scientific and ethical standards, including vigilance in not allowing any funder to direct or control the outcome of their research or the dissemination of its results.
- B. Scientific review and Chancellorial approval of research proposals prior to submission to tobacco industry funders: A direction that the President establish a policy requiring that prior to the University's submission of any proposal seeking research funding from the tobacco industry, the research proposal must be reviewed by a scientific review committee drawn from the community of scholars and designated by the President for this purpose, and must be approved by the relevant Chancellor (who will take the recommendations of the scientific review committee into account in determining whether to approve submission of the proposal). The scientific review committee would be charged with advising the relevant Chancellor regarding whether a proposed study uses sound methodology and appears designed to allow the researcher to reach objective and scientifically valid conclusions.
- C. Annual report to The Regents: A direction that the President prepare and submit to The Regents an annual report summarizing the number of proposals submitted to the scientific review committee, the number approved, and the number funded, along with a description or abstract of each proposal. [If E. below is adopted as an alternative to B., this provision would be either deleted or modified so that the annual report would include information about research proposals submitted to (and

funded by) tobacco industry funders, rather than information about proposals submitted to a scientific review committee].

- D. Authorization for individual academic units to request Regental permission to adopt tobacco funding restrictions: A provision authorizing individual academic units within the University (e.g., departments, schools or campuses) to request Regental approval to adopt a policy declining to accept, process, or administer research awards funded by the tobacco industry. A majority vote of the Academic Senate faculty affiliated with the unit would be required.
- E. [As a potential alternative to B., above]: Requirement that the University will not accept a research award from a tobacco industry funder until an abstract of the proposal has been included as an information item at a regularly scheduled Regents meeting. A direction that the President establish a policy requiring that The Regents be provided with an abstract of any research proposal submitted by the University to a potential tobacco industry funder. The University would not accept a research award from a tobacco industry funder until an abstract of the proposal has been included as an information item at a regularly scheduled meeting of The Regents.

Possible language for such a resolution is provided below, following the background information.

It was recalled that, at the July 18, 2007, Regents meeting, the Committee on Finance discussed RE89, "Adoption of Policy Restricting University Acceptance of Funding from the Tobacco Industry." In RE89, Regent Moores recommended adoption of a policy under which The Regents would 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. After discussion, the Committee decided to table the item to give time for a compromise proposal to be developed and brought back to the Committee for consideration.

Subsequent to the July meeting, three key ideas that were discussed at the July 18 meeting became the focus of efforts to reach a compromise. They are:

- A Regental expression of concern about the actions of tobacco industry funders and about the importance of ensuring the quality and integrity of research.
- Recognition that the community of scholars is the best judge of both quality and integrity of research, and the requirement that there be a special level of peer review for tobacco-industry-funded research proposals prior to submission.

- The importance of “sunshine” measures that can keep the President and Regents informed about tobacco-industry-funded research conducted by University researchers.

Subsequent to the July meeting, a fourth element, which had been discussed previously, also emerged as part of the compromise discussions: to allow individual academic units within the University to request Regental permission to adopt their own policies declining to accept, process, or administer research awards funded by the tobacco industry. Forwarding such a proposal might require a majority vote of Academic Senate faculty affiliated with that unit.

This proposal would not require the University to decline research funding from the tobacco industry, but instead would require adoption of special review and approval procedures to ensure that before the University submits a research proposal to a tobacco industry funder, adequate consideration has been given to whether the proposal appears designed to yield objective and scientifically valid conclusions. It would also require reports that would keep the President and The Regents informed about tobacco-industry funded research conducted by University researchers. Finally, as noted above, it would allow individual academic units within the University, through the Academic Senate and through the Chancellor and the President, to request Regental permission to adopt their own policies declining to accept, process, or administer research awards funded by the tobacco industry. This last measure would address the concerns of faculty within some units that have, in the past, expressed a desire to adopt a policy that they felt would dissociate themselves from an industry thought to be incompatible with the unit’s mission. Typically, these would be units associated with public health or cancer treatment and prevention.

Current University policy does not require formal internal scientific peer review of research proposals prior to submission to government, foundation, industry, or other private sponsors, nor does the University require Presidential approval of research proposals. However, proponents of the current compromise proposal believe that a special level of review and a requirement of a higher level approval will provide an extra measure of protection to minimize the chance that “bad science” is being deliberately funded by the tobacco industry, with the added potential for manipulation of the research findings by the industry upon completion.

Although the present proposal does not prohibit acceptance of research funding from the tobacco industry, it would allow individual academic units requesting Regental permission to adopt such a prohibition. For this and other reasons, some of the concerns voiced by both proponents and opponents of such a prohibition were relevant to consideration of adopting special review and approval procedures. Therefore, further background recapping and updating information that was provided previously to The Regents in connection with RE89 was provided.

Parts 1, 2, and 3 of the proposal (see Potential Language for Regental Resolution, below) were sent to the Chair of the Academic Senate and to the campus Vice Chancellors for Research for review and comment. Part 4 of the proposal (allowing individual units to request permission to adopt their own bans) and Part 5 (requiring an abstract of a proposal seeking tobacco industry funding to be provided to The Regents as an information item at a regularly scheduled meeting prior to acceptance of funds) were developed at the request of proponents of the original resolution (RE89), subsequent to that initial consultation.

The systemwide Vice Chancellors for Research expressed their opposition to the compromise proposal under consideration. In a letter to the President dated August 29, 2007, Vice Chancellor Barry Klein, writing on behalf of all ten Vice Chancellors for Research, expressed concern that the proposal would stifle academic freedom, create an unneeded bureaucracy, and be contentious and divisive to faculty. The letter expressed serious concern about Provisions 2, 3, and 4 of the proposal under consideration [Provision 5 was added after the date the letter was received]. The letter respectfully urged The Regents to consider adopting a Regental exhortation to researchers (similar to the one contained in the first provision of the proposal), which could in the Vice Chancellors' view "go a long way toward accomplishing the goals of The Regents without heading down a path of 'research controls' that would have a negative impact on the creativity and greatness of our University."

Potential Language for Regental Resolution

The following language was provided for consideration by The Regents as possible text for a Regental Resolution:

PREAMBLE:

1. In order for the University to effectively carry out its research mission, its researchers must engage in objective, high-quality research.
2. The University is committed to upholding the principles of academic freedom, which protect freedom of inquiry and research, freedom of teaching, and freedom of expression and publication, and which enable the University to advance and transmit knowledge.
3. The exercise of academic freedom entails correlative duties of professional care when teaching and conducting research.
4. The duty of professional care for University researchers includes a responsibility to adhere to the highest standards of intellectual honesty and integrity in research, regardless of the source of the funding for their research.
5. The Regents have serious concerns about tobacco industry funders, in part because there is evidence that such funders have a history of attempting to distort or manipulate research to de-emphasize or conceal the harmful effects of tobacco.

6. For the purposes of this Resolution, the “tobacco industry” means entities whose principal business is the manufacture and sale of tobacco products, and agencies that are substantially controlled by or acting on behalf of such entities.

RESOLUTION:

Because of The Regents’ particular concern about the tobacco industry, and because of The Regents’ interest in staying informed about the research conducted by University researchers with tobacco industry funding, The Regents adopt all four of the following provisions:

1. The Regents exhort University researchers to:
 - a) Consider carefully whether to accept research funding from the tobacco industry (and whether their research might be better served by seeking funding from alternate sources).
 - b) Exercise the utmost care in assuring that their research (including research carried out with tobacco industry funding) adheres to the highest scientific and ethical standards. This includes being particularly vigilant about not allowing any funder to direct or control the outcome of the research or the dissemination of its results.
2. The Regents direct the President to establish a policy requiring that, prior to the submission of any proposal to seek research funding from the tobacco industry, the research proposal must be reviewed by a scientific review committee drawn from the community of scholars designated by the President for this purpose, and must be approved by the Chancellor. Under the policy:
 - a) The scientific review committee shall be charged with reviewing proposals intended for submission to tobacco industry funders, and with advising the relevant Chancellor regarding whether a proposed study uses sound methodology and appears designed to allow the researcher to reach objective and scientifically valid conclusions.
 - b) The review committee shall be composed of at least three faculty members with expertise in areas of science relevant to the proposal being submitted. If a standing committee is established for this purpose, a provision shall be made allowing for consultation with experts in additional areas or from specific campuses, as needed, appropriately to evaluate a particular research proposal.
 - c) For each proposal it reviews, the scientific review committee shall produce a written report including a recommendation as to whether the proposal should be approved for submission, and/or whether any changes should be made to the proposal prior to submission,

- along with the rationale for the committee's recommendation. The report should be sent to the researcher, the Chancellor, the President, and The Regents [*consider*: and shall be publicly posted on the UCOP website].
- d) Chancellors shall be directed to take the advice of the review committee into account in deciding whether to approve submission of the proposal by the campus. Chancellors shall also be directed to take into account any advice issued by the campus conflict of interest committee, in cases where under existing policy requirements, the researcher has disclosed a financial interest in the research sponsor.
 - e) The Chancellor shall issue his or her determination (i.e., whether the proposal is to be approved for submission, with or without changes) in writing, including a rationale for his or her determination, with a copy to be sent to the researcher, the President, and The Regents. [*Consider*: A copy of the Chancellor's determination letter shall be publicly posted on the UCOP website.]
3. The Regents direct the President to prepare and submit to The Regents an annual report summarizing the number of proposals submitted to the scientific review committee, the number approved, and the number funded, along with a description or abstract of each proposal. The reporting requirement shall be in kept in place for at least five years, which will allow The Regents to review the type of research conducted by University researchers with funding from the tobacco industry. After five years, the President will consult with The Regents to evaluate whether the reporting requirement should be continued. [*Note: The Regents may wish to delete or modify provision #3 if they decide to adopt #5, below, in lieu of #2*].
 4. Individual academic units within the University (e.g., departments, schools, or campuses) may request Regental approval to adopt a policy of declining to accept, process, or administer research awards funded by the tobacco industry. An individual academic unit may request Regental approval for such a policy only upon a majority vote of the Academic Senate faculty affiliated with that individual unit. Any such request is to be submitted to the divisional Senate for comment. The divisional Senate shall forward any such request, along with the divisional Senate's comments, to the systemwide Academic Council for comment. The Academic Council shall forward the request, along with the comments of the divisional Senate and the Academic Council, to the Chancellor, who shall forward the request and all comments to the President for submission to The Regents for consideration.

5. [As a possible alternative to #2, above]: The Regents direct the President to establish a policy requiring that when a researcher submits a research proposal to campus officials for submission to a tobacco industry funder, the researcher shall also provide the President's office with an abstract of no more than 100 words that shall include a description of the proposed research, the amount of funding being requested, the proposed funding source, and a description of any anticipated deliverables. The President's office will forward any such abstracts to the Secretary and Chief of Staff to The Regents for submission to The Regents. The University will not accept a research award from a tobacco industry funder until an abstract of the proposal has been included as an information item at a regularly scheduled meeting of The Regents.

Chairman Blum recognized that many Regents are of the belief that the University should have no involvement with the tobacco industry due to how it affects the University's reputation. He pointed out one UC researcher's conclusion that second-hand smoke was not dangerous, as well as a news story of uncertain accuracy on a UCD research project that aimed to make cigarettes taste better. Such examples, Chairman Blum argued, questioned the ability of the faculty to monitor itself.

Regent Moores asked Faculty Representative Brown to comment on which elements of the resolutions would be supported by the Academic Senate. Faculty Representative Brown stated that the Academic Senate was prepared to support resolutions 1 and 3 in the proposal. He stated that the Senate supported both transparency and respecting delegated lines of authority.

Regent Moores clarified that nothing in the proposed resolutions speaks of the right of a Regent to object to funding from any source. He put forth an amendment that included elements 1, 3, and 5 of the proposed resolution.

Regent Kozberg voiced support for Faculty Representative Brown's proposal to accept elements 1 and 3, pointing out that 4 is a slippery slope with substantial policy implications, and that 5 is, as Faculty Representative Brown indicated, a form of "micromanagement."

In response to a question posed by Regent Hopkinson, Faculty Representative Brown explained that grants must be approved through the Vice Chancellors of Research for the acceptance of funding. Faculty Representative Croughan clarified that there is no scientific review conducted on any grant application; review is conducted by the outside institutions making the grant award, unless the research involves humans or animals, which would result in additional scrutiny regarding that involvement.

Regent Hopkinson proposed that resolution 2 be restructured so that the Chancellor, rather than the President, appoint a review committee, in order to

allow a more thorough review to be done before the application was submitted or accepted. She voiced her acceptance also of 1 and 3, but not 4 or 5.

Faculty Representative Brown advised that, with the modification of resolution 2 of the proposal to conduct the review under the purview of the chancellors, a major obstacle to faculty acceptance would be removed, noting that the primary concern of the faculty was that a research proposal may be overturned by The Regents. The other concern of the faculty was the burden of the process and the actual effectiveness of the scientific review process to prevent undesirable effects. Faculty Representative Brown continued to express concern about the burden of this process on faculty.

Faculty Representative Croughan reiterated that there is no scientific review process prior to funding at the campus level on any topic. The closest situation that exists at the University is the Tobacco-Related Disease Research Program, based at the President's Office; she argued that this is the only unit that has the expertise and structure already in place to review scientifically these types of applications. Involvement of this unit in the scientific review process proposed would alleviate burden at individual campuses. Regent Gould noted that the chancellors could request the input or consultation of the Office of the President if that assistance is needed. Provost Hume explained that the Office of the President administers money on behalf of the State from the tobacco tax for research into tobacco-related diseases, and so has developed review mechanisms for this program; assistance to the chancellors could be provided by this unit if requested.

Regent Ruiz supported Regent Kozberg's comments, cautioning that the proposal is bad Regental governance by micromanaging research and poses a slippery slope. He asserted that the issue should lie with the Academic Senate, believing that academic freedom would be compromised and that there may be deleterious effects of the policy on faculty recruitment.

Regent De La Peña suggested that an independent faculty body should follow tobacco industry-funded research through its course and review the results before the research is published.

Mr. Hume noted that distortion of results is an issue for research supported by external funding from any source. The academic community has strong mechanisms to deal with this issue in many ways, including the publication and career review process.

Regent Island noted his reticence to tamper with academic freedom, and did not wish to dishonor the position of the Academic Senate, but put forth the imperative to exercise his judgment that tobacco research ought not take place in the context of a world class university.

President Dynes commented that aggressive processes exist within the University that often result in the rejection of research proposals if they violate conflicts of interest or human subjects issues. It was his belief that processes can be put in place on tobacco industry-funded research such that the University can police itself and report to The Regents the results of those processes, and that these mechanisms will meet the requirements of The Regents.

Regent Hopkinson moved the approval of resolutions 1, 2 – modified by changing the word “President” to “Chancellor” in two places and adding, “Additionally, The Regents would be provided with timely notice of such grant, and a description of the research to be undertaken,” – and 3. The amendment was duly seconded. The Committee approved the recommendation as amended and voted to present it to the Board, Regent Brewer voting no.

8. **REPORT ON NEW LITIGATION**

General Counsel Robinson presented his **Report on New Litigation**. By this reference the report is made part of the official record of the meeting.

The meeting adjourned at 1:20 p.m.

Attest:

Secretary and Chief of Staff