



OFFICE OF THE ACADEMIC SENATE

9500 GILMAN DRIVE  
LA JOLLA, CALIFORNIA 92093-0002  
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February 21, 2007

Professor John Oakley  
Chair, Academic Senate  
University of California  
1111 Franklin Street, 12<sup>th</sup> Floor  
Oakland, California 94607-5200

Dear John,

I would like to have some time to discuss with Academic Council next week an issue related to tobacco related research funding and academic freedom. I refer to a controversy that goes back to June 2002, when a UCSD School of Medicine faculty member applied for funding from the American Legacy Foundation, an organization that appears to have stipulated that acceptance of such funds would mean that no one else in the School or functionally comparable unit could accept funding from a tobacco company or foundation during the period of ALF support. The matter was brought to the attention of the Executive Vice Chancellors and to Vice Provost for Research Larry Coleman who ruled that an outside entity could not determine what funding sources are acceptable to other PIs based on its funding of a specific research program. This ruling was contested by the recipient of ALF funding on the San Diego campus and the matter was referred to UCSD Senate committees on Research, Academic Freedom, Planning and Budget, and Privilege and Tenure. The matter was further referred to UCORP, which discussed it in December of 2002 and at subsequent meetings. Academic Council also discussed the matter and received input from Vice Provost Coleman. Then UCSD Senate Chair Dimsdale subsequently wrote to then UCSD Vice Chancellor for Research and Graduate Studies Attiyeh stating, on behalf of Senate Council, that "All of the committees concluded that it is inappropriate for the University to accept any contracting language to the effect that 'the PI and his sponsoring organization (Department, ORU, etc.) agree not to accept funding from specified sources'. There was agreement that this would lead to a chilling interaction among faculty, would limit academic freedom, and would be grievable".

Attached to this letter please find more information about the deliberations related to this matter. This case is illuminative, in my opinion, of the proverbial 'slippery slope' down which we slide when strong advocacy, 'pro or con' a certain source of funding, inclines towards a broad proscription of faculty funding and scholarly effort. I am equally concerned that Academic Council and the UC Senate is being asked by the Regents to take a position with no more than a court opinion for guidance. I prefer to hear from our expert committees regarding the findings that inform that court opinion and other issues related to the proposed stricture on tobacco related research funds.

I would also like if you and Vice Chair Brown could provide some guidance for members of the Senate regarding the proprieties of faculty communication with Regents and vice versa. I feel that the Senate is placed at a disadvantage when Regents choose to communicate with individual faculty on matters that may have a broader impact on the scholarly activities of their peers and the freedom to pursue them.

Sincerely,

A handwritten signature in black ink, appearing to read 'Henry C. Powell', with a long horizontal flourish extending to the right.

Henry C. Powell, Chair  
Academic Senate, San Diego Division



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March 14, 2005

PROFESSOR GEORGE BLUMENTHAL, Chair  
Academic Senate  
University of California  
1111 Franklin Street, 12<sup>th</sup> Floor  
Oakland, California 94607-5200

SUBJECT: Restrictions on Research Funding Sources

Dear George,

After several discussions, and with the benefit of study by our Divisional Committee on Academic Freedom, Committee on Research, and Graduate Council, the San Diego Senate Council strongly supports the Resolution of the University Committee on Research Policy Restrictions on Research Funding Sources, July 2, 2004.

In reaching this opinion, the Senate Council considered such issues as real and hypothetical limits that might be placed on academic freedom; the role of departmental chairs and other authorities of the academic administration in preventing fraud, abuse, and embarrassment to the University in the conduct of extramural funding relationships; the preeminent authority of the UC Regents in setting policy with regard to external funding sources, and, in particular cases, banning them; and the adequacy of existing Senate and Administrative channels through which a local academic unit—indeed, an individual faculty member—can ultimately bring its advice to bear on the deliberations of The Regents as to the propriety of certain funding sources.

In all of these respects, the San Diego Senate Council found that the UCORP resolution is sensible and entirely consistent with the principles informing academic freedom, research integrity, institutional interest, and, withal, the structures and mechanisms of shared governance.

Sincerely,

A handwritten signature in cursive script that reads "Don".

Donald F. Tuzin, Chair  
Academic Senate, San Diego Divisioncc: J.B. Minster  
ChronFile

October 25, 2004

PROFESSOR SALVATORE ALBANI, Chair, Committee on Research  
PROFESSOR ETHAN BIER, Chair, Committee on Academic Freedom

SUBJECT: Grant Restrictions (“Strings”) on Research Funding

Dear Colleagues,

On October 1, 2004 Professor Ted Ganiats, Chair of the Department of Family and Preventive Medicine, transmitted a letter to George Blumenthal, Chair of the systemwide Academic Council, to Max Neiman, Chair of the University Committee on Research Policy, and to me, alleging that due process and adequate faculty consultation were not followed in the review process concerning “strings” attached to research grants (enclosure 1). On October 4, at our first Senate Council meeting for the academic year, this view was presented by Professor John Pierce, a member of the Department of Family and Preventive Medicine and chair of the Graduate Council (enclosure 2). Some historical information is in order at this point.

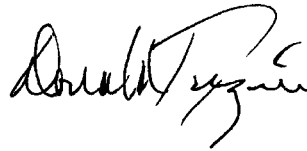
In June 2002, Professor David Burns of the Department of Family and Preventive Medicine brought an issue regarding restrictions on research grants to the Senate’s attention (enclosure 3). Grants from the American Legacy Foundation (ALF) contain a condition that if a PI receives ALF funding, no one else in the school or functionally comparable unit to which the grant is made may accept funding from a tobacco company or foundation during the period of ALF support. When Professor Burns’ grant was originally submitted from UCSD, the University Contracts and Grants Office in some way was not aware of the unusual granting restrictions. The grant was funded and the foundation’s restrictions became apparent subsequently during the grant renewal process. The Council of Vice Chancellors, in consultation with Vice Provost Coleman, concluded that it was inappropriate for UC to accept such sponsor-imposed restrictions (enclosure 4). It was this conclusion that Professor Burns viewed as depriving him of his academic freedom to pursue lines of investigation sponsored by the ALF.

In January 2003, the Department of Family and Preventive Medicine voted unanimously to refuse funding from tobacco companies, and in March, 2003 the UCSD Cancer Center followed suit by deciding that it would not administer any grant supported by the tobacco industry or one of its sponsored organizations (enclosures 5, 6).

During the 2002-03 academic year, these issues were discussed by the Committees on Academic Freedom and on Research, Senate Council, and Senate-Administration Council on the Divisional level, and by the University Committees on Academic Freedom, on Planning and Budget and on Research Policy, and the systemwide Academic Council. Outcomes of those discussions are attached (enclosures 7, 8, 9, 10). In July 2003, Academic Council charged the University Committee on Research Policy (UCORP) to examine UC’s stance on accepting or repudiating funding from specific sources in the context of a broader charge to review UC research funding policies (enclosure 11). UCORP’s report was presented at the July 21, 2004 Academic Council

meeting (enclosure 12; the full report may be found at <http://www.universityofcalifornia.edu/senate/reports/researchstrings072304.pdf>). Academic Council adopted both the report and the accompanying resolution (enclosures 13, 14).

It is this review process, culminating in the resolution adopted by Academic Council in July 2004, that is being challenged by Professors Ganiats and Pierce. I ask that your committees review the issues raised by Professors Ganiats and Pierce, giving special attention to the consultative process. Please transmit your recommendations and comments to me (c/o the Academic Senate Office, 0002) no later than December 10, so that Senate Council may consider this again at its January 3, 2005 meeting.



Donald F. Tuzin, Chair  
Academic Senate, San Diego Division

#### Attachments

cc: J.B. Minster  
M. Null  
ChronFile

## UNIVERSITY OF CALIFORNIA, SAN DIEGO

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THEODORE G. GANIATS, M.D.  
 PROFESSOR AND INTERIM CHAIR  
 DEPT. OF FAMILY AND PREVENTIVE MEDICINE

SCHOOL OF MEDICINE  
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 DIEGO  
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 OFFICE: (858) 534-6058  
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 E-MAIL: [tganiats@ucsd.edu](mailto:tganiats@ucsd.edu)

October 1, 2004

Open letter to

Chair, Systemwide Academic Council  
 Chair, UCORP  
 Chair, UCSD Academic Council

Dear Chairs:

It has come to the attention of my Department that on July 21, 2004, the systemwide Academic Senate passed a resolution stating that policies that an academic unit will not accept research monies from the Tobacco Industry are in violation of academic freedom (see <http://www.universityofcalifornia.edu/senate/reports/researchstrings072304.pdf>). We searched for the detailed report considering all of the issues involved and presenting the case for why an academic unit should not vote and implement such a policy, but were not able to find these deliberations.

As an academic unit that has held a vote of all senate faculty and implemented a policy of "no tobacco money," we feel it is important to make the case for this policy to the academic community prior to such a recommendation being made by UCORP and the Academic Council. We were not provided with an opportunity to present testimony or involved in discussions relating to this recommendation. We feel that these august University committees have not acted in the spirit of consultation that has for so long been a prized hallmark of the University of California's academic community.

First, Department Senate faculty voted to impose the limitation themselves. Thus the limitation reflects the desires of senate members. The Department would certainly be willing to accept a recommendation that such a restriction should be reviewed annually as a means of ensuring that the rule continues to be consistent with Department Senate members' desires. Secondly, it is worth noting that if any Department member were to decide to seek tobacco industry funding, the research could be housed in the UCSD Cancer Center, which has no restriction.

With respect to the reasoning that lead Department Senate members to unanimously vote not to accept tobacco industry funding, the abundant evidence that the tobacco industry's funding of university research has actively interfered with the fundamental academic mission of the university was fundamental to our decision. This evidence is laid out in considerable detail in the United States Department of Justice racketeering charges against the Tobacco Industry. For the full text and executive summary of this case, see <http://www.library.ucsf.edu/tobacco/litigation/uspm.html>. It is essential that the University Senate's consideration of the appropriateness of the right of an academic

unit to adopt a "no tobacco money" policy be based on a careful consideration and refutation of this evidence that the Tobacco Industry intentionally and deceptively embarked on a long-term practice of distorting scientific research. There was no discussion in the UCORP report that two of the tobacco industry's funding mechanisms for universities (the Council for Tobacco Research and the Center for Indoor Air Research) have already been disbanded as a result of fraud litigation brought by several state attorneys general, including California's.

We note that UCORP did note the 1970 Regents' resolution on research as stating that UC research "makes a vital contribution to the defense of the United States; the social and community needs of the State of California, and its people; and the health and well-being of all mankind." This statement is precisely the reason that we voted (with no dissenters) to adopt a no-tobacco money policy.

We are puzzled by the lack of concern by UCORP for the dissonance between this recommended policy and the Regents decision to divest their investment holdings in the tobacco industry. As UCORP notes in its report, "The right to solicit funding for research is strictly controlled by current University policy. Awards are made to the corporation known as 'The Regents of the University of California,' not to an individual faculty researcher, and therefore any commitments accepted under awards are the commitments of the corporation."

Prior to adoption of a recommendation depriving Senate members of their ability to self-limit, the Department urges broad community-wide consultation on the matter, including consideration of the tobacco industry's attempts to distort scientific endeavors to their own advantage.

Sincerely,



Ted Ganiats, M.D.  
Professor and Interim Chair

Cc: President Dynes,  
Chancellor Fox  
Vice Chancellor Attiyeh

TO: Don Tuzin and Academic Senate Council  
From: John P. Pierce, Council member  
Re: Other Business at 10/3 meeting: Academic Senate vote to outlaw Departments and ORUs from having a "no tobacco monies" policy

The Chair of the Department of Family and Preventive Medicine has sent a letter to the Senate objecting to the procedures and the logic behind the recent Academic Senate vote on "no tobacco monies". To me, it is particularly galling that the text of the letter to President Dynes notes that the rationale for these "no tobacco money" policies is based on "moral or political judgments about the fund source or the propriety of the research, or because of speculations about how the research results might be used." This accusation is not justified in any background report and has been made without hearing any testimony from the units who voted on the policies.

To my mind, there are 5 major issues related to a decision to not allow a "no tobacco monies" policy in an academic unit. Before an informed decision can be made, each of these issues should be addressed in a background report. These are:

**1. On the issue of due process**

Notes from a member of UCORP on their recommendation "The (UCORP) report just says that no individual unit has the authority to pass binding policies prohibiting accepting funding from a type of funder independent of the UC conditions that must already be met...When UCORP finally came up with a draft report after 2 years, we all asked what happened next. We were told, as I recall, that we would send it on to the academic council and they would send it back to the campuses for discussion. Either we were misinformed, the council chose not to do this, or my memory is wrong. I was surprised to hear at the first COR meeting this year that this had been adopted by the council."

Why was this recommendation not sent back to campuses for their discussion? Why was there no presentation of the case for a "no tobacco monies" policy presented by those who voted to implement it?

**2. On the rationale for the "no tobacco monies" policy**

The justification for the restriction on tobacco industry research is not based on the public health problems caused by the product or concerns about what the industry might do, as suggested in the Senate letter. Rather, it is based on a 40 year, well documented, history of tobacco using funding of academic research institutions for the purpose of obstructing the progress of scientific understanding. **Those actions were defined by the courts in the master settlement agreement as fraud and conspiracy**, something that makes tobacco unique among all of the other industries commonly raised as similar "slippery slope" examples. Immediately after the organizations which conducted this fraud and conspiracy were dismantled by the court, Philip Morris created a new external scientific grant program.

In the current racketeering case brought by the US Dept of Justice, one of the charges specifically relates to the Tobacco Industries University grants program. Indeed, these charges

are the basis for the Foundations, who administer the research monies made available from the lawsuits, placing conditions on awards that specify "no tobacco money".

Also, isn't this part of the rationale for the Regents voting that UC not invest in tobacco industry stocks?

### **3. On acceptance of monies which come with conditions**

There are a number of instances within the University of California in which research monies are given by external bodies only provided certain conditions are met. A number of contracts with the pharmaceutical companies can be described in this way. Another instance may be the insistence of the National Institutes of Health that large investigator initiated grants must be treated as UOIs with the federal government having equal say in the research.

If this is a major argument on the current issue, then it needs to be presented and the other sources of money that will be jeopardized by this precedent decision need to be outlined.

### **4. On an Academic Unit having a policy that no member will accept money from a source that is antithetical to its mission**

There is a precedent here already at UC. The Energy Institute (and MRU based at Berkeley) has a policy that no member will accept research monies from the energy industry because such monies do not fit with the mission of the Institute. This policy has been in existence for many years. The consideration of UCORP or the Academic Senate did not address whether their vote will mean that the Energy Institute has to revoke its policy.

While it is true that many academic units do not have a well-defined mission, this is by no means universal. Departments, Institutes and Centers who have a well-defined mission should have the right to restrict research monies for projects from sources that will taint their independence and credibility. To insist that such restrictions have to be University-wide is unjust to other faculty members with research that is unrelated to that mission.

It appears that precedent is on the side of allowing units to have a "take no money from x" policy. Should the Senate vote against the Unit policies on tobacco money, then, as a matter of fairness, they must invalidate the Energy Institute policy as well.

### **5. On academic freedom to obtain money from any source to conduct research**

Academic freedom to obtain money to support research should apply to every UC faculty member. The Foundations established from the lawsuits against the Tobacco Companies are a major source of research monies for public health studies relating to tobacco issues. Our faculty should have the academic freedom to apply for and undertake research funded by these Foundations. The academic freedom argument must be applied to all faculty equally.



>From: Dave Burns <DBurns@ucsd-tcpp.ucsd.edu>  
 >To: mbernstein@ucsd.edu  
 >Subject: FW: Sponsor imposed Restrictions on UC's academic freedom to accept  
 sponsorship/FAMRI  
 >Date: Tue, 4 Jun 2002 16:28:13 -0700  
 >X-Mailer: Internet Mail Service (5.5.2650.21)  
 >X-MailScanner: Clean

>  
 >I would like to ask your help with this in your role with the Academic  
 >Senate. It is an immediate problem for me as it will preclude me from  
 >accepting a large award from FAMRI starting July 1 and prevent a renewal  
 >of a large award from the legacy Foundation in December. This email string  
 >is from an investigator in UC Berkeley who was notified that she likely  
 >will not be able to accept her award and I am in the same position.

>  
 >The position by the Council of Vice Chancellors below makes it clear  
 >that, even as an individual investigator, I am not permitted to enter  
 >into an agreement where I refuse to accept tobacco industry sponsorship  
 >based on preserving my academic freedom. The result is that I do not  
 >have the academic freedom to pursue lines of investigation sponsored by  
 >the Legacy foundation and FAMRI (one of a very few groups who sponsor  
 >the work I am interested in doing) in order to preserve my right to accept  
 >money from the tobacco companies. This decision was made without faculty  
 >consultation and is being applied retrospectively to a grant that has  
 >already been awarded. It leaves me in a very difficult position come July 1.

>  
 >In addition to my personal difficulties, it seems to me to be an untenable  
 >public position for the University to say it will not allow investigators  
 >to apply for funds from public health oriented foundations in order  
 >to preserve the right to receive funds from tobacco companies.  
 >If we are forced to choose between these two sources of funding,  
 >why would we choose the tobacco companies, particularly since neither  
 >UCSD nor UCSF currently have any money from tobacco and we do have several  
 >pending grants from Legacy and FAMRI. It is very hard for me to understand  
 >how my academic freedom is not being severely compromised by this decision.

>  
 >I know that John Pierce has contacted you about this issue and would  
 >like to second his concerns. To make my personal difficulties worse I  
 >am leaving on vacation out of the country on Thursday and will not be  
 >back until the 22nd which compounds the difficulty in resolving this issue.

>  
 >Thank you for your assistance.

>  
 >David M. Burns, M.D.  
 >Professor of Family and Preventive Medicine  
 >Professor of Medicine  
 >UCSD School of Medicine  
 >1545 Hotel Circle So., Suite 310  
 >San Diego, CA 92108  
 >Phone 619 294 6453  
 >Fax 619 220 0228  
 >email dburns@ucsd.edu

>  
 > > -----Original Message-----

> > From: Stanton Glantz [SMTP:glantz@medicine.ucsf.edu]  
 > > Sent: Tuesday, June 04, 2002 11:35 AM  
 > > To: dburns@ucsd.edu  
 > > Subject: Fwd: Sponsor imposed Restrictions on UC's academic freedom  
 > > to accept sponsorship/FAMRI  
 > > >  
 > > >>X-mailer: Eudora Pro 4.0.1 Macintosh

> > >>>Date: Fri, 31 May 2002 09:45:43 -0700  
> > >>>To: hammondk@uclink.berkeley.edu  
> > >>>From: Jyl Baldwin <jbaldwin@uclink4.berkeley.edu>  
> > >>>Subject: Fwd: Sponsor imposed Restrictions on UC's academic  
> > >>>freedom to accept sponsorship/FAMRI  
> > >>>Cc: jbfreed@uclink4.berkeley.edu, roslynk@uclink4.berkeley.edu,  
> > >>>judybear@uclink.berkeley.edu  
> > >>>  
> > >>>Kathie,  
> > >>>  
> > >>>Please see the "heads-up" I received this morning from UCOP. In  
> > >>>a nutshell, it states the university policy regarding acceptance  
> > >>>of awards where the funder restricts or prohibits the University  
> > >>>from accepting funding from certain other sponsors. You have a  
> > >>>proposal pending to the Flight Attendants Medical Research Institute,  
> > >>>whose policies include such a provision. We will be happy to try to  
> > >>>negotiate acceptable terms, in accordance with UC policies. However,  
> > >>>if we are unsuccessful, we will be unable to accept funding from FAMRI  
> > >>>on your behalf. Director Freedman has requested that I send a letter  
> > >>>to FAMRI stating that if your project is selected for funding, we  
> > >>>reserve the right to negotiate appropriate terms. This letter will  
> > >>>also make reference to the UC policies noted in the email message  
> > >>>below. Please feel free to contact me if you have any questions  
> > >>> or would like to discuss further.  
> > >>>  
> > >>>Regards,  
> > >>>  
> > >>>Jyl  
> > >>>  
> > >>>>X-Sender: saevans@popserv.ucop.edu  
> > >>>>Date: Fri, 31 May 2002 09:27:58 -0700  
> > >>>>To: jbaldwin@uclink.berkeley.edu, ahakimelahi@ucdavis.edu  
> > >>>>From: Samuela Evans <samuela.evans@ucop.edu>  
> > >>>>Subject: Fwd: Sponsor imposed Restrictions on UC's academic freedom  
to accept sponsorship  
> > >>>>  
> > >>>>>X-Sender: dmears@popserv.ucop.edu  
> > >>>>>X-Mailer: QUALCOMM Windows Eudora Version 5.0.2  
> > >>>>>Date: Thu, 30 May 2002 17:09:57 -0700  
> > >>>>>To: Ldale@ucsd.edu, JKlimek@RESEARCH.UCSF.EDU  
> > >>>>>From: David Mears <david.mears@ucop.edu>  
> > >>>>>Subject: Sponsor imposed Restrictions on UC's academic freedom to  
> > >>>>> accept sponsorship  
> > >>>>>Cc: samuela.evans@ucop.edu, barbara.yoder@ucop.edu,  
> > >>>>>Jeremy.Trybulski@ucop.edu,  
> > >>>>> mcanning@legal.ucsf.edu.Lchronister@ucsd.edu  
> > >>>>>  
> > >>>>>I would like to provide you advance information about UC policy  
> > >>>>>of accepting sponsor imposed restrictions on UC's freedom to  
> > >>>>>accept sponsorship. The specific sponsors who are imposing  
> > >>>>>restrictions are the American Legacy Foundation (ALF) and the  
> > >>>>>Flight Attendants Research Institute (FARI).  
> > >>>>>  
> > >>>>>The Council of Vice Chancellors discussed the issue of UC  
> > >>>>>accepting sponsor imposed restrictions on sponsorship. The  
> > >>>>>following understanding comes from advance information received  
> > >>>>>from Vice Provost Lawrence Coleman and Allison Rosenberg. I  
> > >>>>>expect to put something out in a Contract and Grant Memo in the  
> > >>>>>near future. But as an aid to your operational needs, this  
> > >>>>>information is being provided before the C&G Memo is issued.  
> > >>>>>

> > >>>>1. It is inappropriate for UC to accept sponsor imposed  
> > >>>>restrictions on UC's academic freedom to seek and accept  
> > >>>>sponsorship from any source.  
> > >>>>  
> > >>>>2. It is inappropriate for UC to accept sponsor imposed  
> > >>>>restrictions on UC's academic freedom to seek and accept  
> > >>>>sponsorship from any source, whether the scope of the  
> > >>>>restriction be UC-wide, by campus, by  
> > >>>>department, or by principal investigator when the principal  
> > >>>>investigator is acting as an employee of the UC Regents and is  
> > >>>>performing work on an extramural award accepted by UC Regents.  
> > >>>>  
> > >>>>There was discussion about PI's accepting such restrictions as  
> > >>>>individuals, while acting as employees of the UC Regents. This  
> > >>>>is inappropriate, because it is the UC Regents who have  
> > >>>>accepted the extramural award and its terms, and when the PI  
> > >>>>works on the award, the PI is working as an employee of the UC  
> > >>>>Regents and must work consistently with the terms accepted by  
> > >>>>the UC Regents. If the PI works in a consultant capacity,  
> > >>>>outside of the UC Regents, and acts as  
> > >>>>an individual, the PI may accept such terms.  
> > >>>>  
> > >>>>3. Regarding UCSD's acceptance of an award from the American  
> > >>>>Legacy Foundation which included such a restriction on  
> > >>>>sponsorship, this was a mistake and an oversight. Vice  
> > >>>>Chancellor for Research Attiyeh has agreed to communicate to ALF  
> > >>>>that UCSD accepted the restriction in error, will narrow the  
> > >>>>restriction to the current PI only for the current award,  
> > >>>>and will not accept a restriction if there is a renewal.  
> > >>>>  
> > >>>>4. Regarding UCSF having a current award with ALF without the  
> > >>>>restriction, any renewal would be subject to not accepting the  
> > restriction.  
> > >>>>  
> > >>>>5. The policy views summarized in paragraph's 1, 2 & 4, are  
> > >>>>also applicable to the Flight Attendants Research Institute  
> > >>>>proposals at UCSF and at any other campus.  
> > >>>>  
> > >>>>If there are any questions, please contact me.  
> > >>>>  
> > >>>>Regards,  
> > >>>>  
> > >>>>D  
> > >>>>  
> > >>>>Jyl Baldwin  
> > >>>Acting Assistant Director Non-Federal Programs  
> > >>>Manager University/Industry Research  
> > >>>Sponsored Projects Office  
> > >>>University of California  
> > >>>336 Sproul Hall #5940  
> > >>>Berkeley, CA 94720-5940  
> > >>>Phone: 510/642-8114  
> > >>>Fax: 510/642-8236  
> > >>><http://www.spo.berkeley.edu>  
> > >>>  
> > >>>Neal L Benowitz MD  
> > >>>Professor of Medicine, Psychiatry and Biopharmaceutical Sciences  
> > >>>University of California San Francisco Box 1220  
> > >>>San Francisco, CA 94143-1220  
> > >>>tel 415-206-8324  
> > >>>fax 415-206-4956

>X-Sender: lcoleman@popserv.ucop.edu  
 >Date: Mon, 2 Dec 2002 23:22:00 -0800  
 >To: John Pierce <jppierce@ucsd.edu>  
 >From: "Lawrence B. Coleman" <Larry.Coleman@ucop.edu>  
 >Subject: Re: UC decision on Tobacco Money  
 >Cc: richard.atkinson@ucop.edu, rdynes@ucsd.edu, jdimsdale@ucsd.edu,  
 > glantz@medicine.ucsf.edu, burnside@socrates.berkeley.edu, bmklein@ucdavis.edu,  
 > whparker@uci.edu, rpeccei@conet.ucla.edu, david.ashley@ucop.edu,  
 > richard.luben@ucr.edu, rattiyeh@ucsd.edu, rkelly@biochem.ucsf.edu,  
 > gaines@lifesci.ucsb.edu, rcmilller@cats.ucsc.edu, pjoddone@lbl.gov,  
 > porter@lanl.gov, wadsworth3@llnl.gov, jeff.hall@ucop.edu,  
 > david.mears@ucop.edu, alan.bennett@ucop.edu, jud.king@ucop.edu  
 >X-MailScanner: PASSED (v1.2.7 28402 gB37Mtpk032255 mailbox4.ucsd.edu)  
 >  
 >John,  
 >  
 >Thank you for your email. I want to take this opportunity to respond to  
 >several of your points. First I am acting in my role of Vice Provost for  
 >Research, not as chair of UCOP or UCORP. In addition the Vice Chancellors  
 >for Research and I have discussed this issue over two meetings and the  
 >group has been firm and unanimous in its beliefs.  
 >  
 >The chief issue is more complex than you describe. It is not the question of  
 >notifying the ALF of any tobacco funding at UCSD, but in ALF removing its  
 >funding from one PI if another PI accepts any tobacco money. This as defined  
 >by the ALF. This puts pressure (chilling effect) on the ALF PI's colleagues  
 >not to accept any funding from otherwise legal and acceptable funding sources.  
 >The ALF definition of tobacco or tobacco related funding is quite broad and  
 >could include, for example, nutrition research funded by the Nabisco Company  
 >(aka RJR Nabisco). It is also not a question of publicly announcing who is  
 >supporting which faculty research. As you say that is "public information."  
 >  
 >To the Vice Chancellors for Research and I the core principle is that we  
 >cannot allow one funding entity to determine what funding sources are  
 >acceptable for other PI's to tap.  
 >  
 >The Vice Chancellors did agree that an individual PI may agree to not accept any  
 >tobacco related funding, but not to impose that condition either explicitly or  
 >implicitly on other faculty. I must add that acceptance of this restriction  
 >is a exception to policy. The University has successfully negotiated with other  
 >("anti-smoking") sources to limit the prohibition to the individual PI and not  
 >the PI's school. ALF has refused to limit the restriction to the PI.  
 >  
 >The issue is not tobacco, the sequela of tobacco use or the amounts of money  
 >involved. It is about an outside agency influencing what research funding faculty  
 >may attract. It is a very steep "slippery slope." We would never accept language  
 >in an industry grant that put that funding in danger if the University accepted  
 >funding from that company's competitor. Accepting ALF money or Phillip Morris  
 >Foundation support for legitimate research does not imply that the University  
 >supports either smoking or the message of the ALF.  
 >  
 >As to the amounts of money or the number of faculty, I do not have access  
 >to those numbers. But that is not the issue. The issue is that we should  
 >never tell any faculty member that a legitimate source of funding should  
 >not be tapped as that award could adversely affect the funding of a colleague.  
 >  
 >Academic freedom, our freedom to explore all avenues of research and to  
 >freely publish the results are cornerstones of the research university  
 >and, like the first amendment, it must be defended.  
 >  
 >I hope that this adds some clarity to the issues and your query.

>Oakland, California 94607-5200  
>Phone: (510) 987-9436 Fax: (510) 987-9456  
>e-mail: Lawrence.Coleman@ucop.edu  
>URL: <http://www.ucop.edu/research/>  
> and  
>Professor of Physics  
>Department of Physics  
>University of California, Davis  
>One Shields Avenue  
>Davis, California 95616-8677  
>Phone: (530) 752-6258 Fax: (530) 752-4717  
>e-mail: LBColeman@ucdavis.edu  
>URL: <http://info-physics.ucdavis.edu/Text/Coleman.html>

10/25/04 - Enclosure 5  
SAN DIEGO: DEPARTMENT OF FAMILY & PREVENTIVE MEDICINE (0628)  
SCHOOL OF MEDICINE

January 21, 2003

To: Joel E. Dimsdale  
Chair, UCSD Academic Senate

Richard Attiyeh  
Vice Chancellor for Research

From: Robert M. Kaplan *DMK*  
Chair, Department of Family and Preventive Medicine

On January 17, 2003, the Department Family and Preventive Medicine endorsed a resolution to decline research support from the tobacco industry. The resolution follows. In addition to the unanimous vote, the department asked that the resolution be shared with the academic senate and the committees currently considering restrictions on tobacco industry funded research. The Department also hopes other departments will follow our lead and adopt voluntary commitments to decline tobacco industry funding.

**Department Policy on Funding of Research  
From the Tobacco Industry**

The consequences of tobacco use are well documented in volumes of systematic research. The tobacco industry has a long and troubled history of manipulating research and suppressing information about the deadly and addictive consequences of tobacco use. The industry has attempted to buy credibility by funding scholarly research in academic institutions. Therefore, the Department of Family and Preventive Medicine at UCSD will not apply for grants or other contracts from the tobacco industry. Further, the Department will not apply for or participate in research programs supported by other organizations sponsored by the tobacco industry\*.

\*Organizations affected by this policy include:

American Tobacco  
British American Tobacco Company, Ltd  
Brown & Williamson Tobacco Corp.  
Center for Indoor Air Research  
The Council for Tobacco Research USA, Inc.  
Dimon Incorporated  
Hill & Knowlton, Inc.  
Kraft  
Liggett & Brooke Group

Liggett & Myers, Inc.  
Loews Corporation  
Lorillard Tobacco Co., Inc.  
Philip Morris (The Altria Group)  
Research American Tobacco Corp.  
RJ Reynolds  
RJR Nabisco, Inc.  
Smokeless Tobacco Council  
Standard Commercial  
Star Scientific, Inc.  
The Tobacco Industry Research Committee  
The Tobacco Institute, Inc.  
United States Tobacco Company  
Universal Leaf Tobacco Co.  
Vector Group

Date: Mon, 17 Mar 2003 14:26:07 -0800 ( PST)  
From: "Davis, Deborah" <dedavis@ucsd.edu>  
To: cancer-all-l@ucsd.edu  
Subject: Ca Ctr Tobacco Industry Policy  
Sender: cancer-all-l-relay@ucsd.edu  
Reply-To: "Davis, Deborah" <dedavis@ucsd.edu>  
X-Spam-Level: Level  
X-Spam-Level: Level  
X-MailScanner: PASSED (v1.2.7 81507 h2HMclmK097543 mailbox3.ucsd.edu)  
X-MailScanner: PASSED (v1.2.7 97526 h2HMcGIN020383 mailbox5.ucsd.edu)

The following resolution was unanimously adopted by the Executive and the Research Leaders Committees of the Rebecca and John Moores UCSD Cancer Center.

The Moores UCSD Cancer Center, which has reducing the burden of cancer as its major mission, will not participate in activities sponsored by the Tobacco Industry. The leadership of the Cancer Center agrees that the Cancer Center will not administer any grant that is supported by the Tobacco Industry or one of its sponsored organizations.

University policy, confirmed by the Academic Senate, states that it is inappropriate for the University to accept any contracting language limiting acceptance of funding from specific sources. This policy is based upon considerations of academic freedom.

Because of the goals of the Cancer Center as stated in the above resolution, we ask that members of the Cancer Center who seek support from the Tobacco Industry or one of its sponsored organizations have those grants administered by another academic or administrative unit of the University, not by the Cancer Center. We hope that voluntary compliance with this request will permit a course of action consistent with the mission of the Cancer Center and with University of California policy.



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SANTA BARBARA • SANTA CRUZ

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 shedrick@ucsd.edu

UCSD CANCER CENTER  
 1066 CMM East  
 9500 Gilman Drive  
 La Jolla, California 92093-0687

Tuesday, August 27, 2002

Joel Dimsdale  
 Chair, Academic Senate

Dear Joel,

The Academic Freedom Committee has considered the issue of the American Legacy Foundation conditions for grant support. As we understand it, ALF provided grant funding under the condition that "no one else in the school or functionally comparable unit to which the grant is made may accept funding from a tobacco company or foundation during the period of ALF support". We understood the principles to be: 1) whether one PI should be placed in a position of having to decide whether his/her grant receipt might result in the withdrawal of funding from another PI; and 2) the University should not allow any outside funding entity to constrain the funding sources that are acceptable for other PIs in the University. The discussion of our committee occurred entirely by e-mail since one of our members is out of the country.

One issue that was discussed was the degree to which research conducted under grants from commercial entities may, in practice, be skewed by the interests of the funding source. In particular, the University might question tobacco industry funding of its research. The tobacco industry has demonstrated a systematic lack of scientific integrity, and this is most relevantly exemplified by the constraints placed on funded researchers with respect to the conduct of experiments and reporting of results. At some point, it may be appropriate for a committee to review funding agencies with respect to the guidelines and restrictions they impose on researchers. While we recognize that this is a slippery slope, there may be a case for restrictions placed on funding sources that attempt to influence the outcome of funded studies. This is more relevant to the issue posed by NEA policies as discussed below. We agree that this is a different issue from the one posed, and not within the purview of the Academic Freedom Committee.

With respect to the issue at hand, the committee unanimously feels that researchers should not be placed into the position of deciding whether his/her grant receipt might result in the withdrawal of funding from another PI. Perhaps even more generally, no funding agency should be allowed to specify sources of funding for other University investigators. We agree that the University cannot accept funding from agencies with such broad restrictions unless there is full disclosure that the University will not agree to such terms and there is written acknowledgment of this by the grantor.

The issue of whether restrictions may be imposed on the funded individual is entirely different. Restrictions on the use of grant funds are almost universal. In addition, there are precedents for granting agencies to consider other funding obtained by an investigator in making a funding decision. For example, if an investigator was funded by the American Cancer Society to carry out a project, the National Institutes of

Health might properly deny funding for a project considered to be overlapping. In addition, the funds can be restricted to direct experimentation and exclude other use such as the purchase of equipment or expenditures associated with foreign travel. The extreme case is whether a funding agency can exclude an investigator from obtaining funds from another agency regardless of purpose. The committee feels that an individual may decide to accept such personal restrictions for the duration of the funding.

The issue of the NEA is again different. The NEA was allowed to impose a restriction on art that was considered to be obscene. We feel that this is a different issue related to the one posed above for the Tobacco Industry. The question becomes can a researcher accept funding from an agency when that agency has preconceptions regarding the outcome of the funded work? The Supreme Court in their wisdom decided that such restrictions should be allowed in case of obscenity, but in any event this is much different from the position taken by the ALF.

In summary, on the general principle posed, we are in agreement with the University position. We thank the Academic Senate for allowing us to comment on this issue.

Sincerely,

Stephen M. Hedrick, Chair  
George Sugihara  
Louis A. Montrose  
David S. Leland

ACADEMIC SENATE: SAN DIEGO DIVISION, 0002  
UCSD, LA JOLLA, CA 92093-0002  
COMMITTEE ON RESEARCH  
(858) 534-2130  
FAX (858) 534-4528

January 21, 2003

PROFESSOR JOEL E. DIMSDALE, Chair  
Academic Senate, San Diego Division

SUBJECT: Research Funding from American Legacy Foundation

Over the course of two recent meetings, the Committee on Research has been grappling with a complex matter pertaining to research funds provided by the American Legacy Foundation (ALF). ALF is a non-profit organization established with funds from the Tobacco Settlement -- the very large financial settlement reached some years ago between various government entities and companies involved in the manufacture and sale of tobacco products. Among other things, ALF sponsors research on tobacco control measures. In 2002 a half-million dollar ALF grant funded the research of Professor David Burns of the Department of Family and Preventive Medicine in the UCSD School of Medicine.

Like most funding agencies, ALF imposes a variety of conditions on the use of its funds, and one such condition has recently occasioned considerable controversy. In particular, ALF seeks to link its research grants to certain conditions concerning research financed by tobacco companies. In its initial grant to Professor Burns, ALF included a clause in its award prohibiting the organizational unit receiving the grant (in this case, the UCSD School of Medicine) from receiving any funding from a tobacco company. Although the University originally agreed to this condition, it has since taken the position that it would constitute an unacceptable constraint on university research.

After a series of negotiations in the summer of 2002, a less stringent version of the ALF condition was proposed. The compromise proposal sought to impose a reporting obligation upon the organization receiving an ALF grant. In short, UCSD SOM was to report to ALF if and when it received funds from a tobacco company. The specific language of the compromise proposal was as follows. (Note that in this context the term "Grantee" refers not to the individual PI, but to UCSD):

As a condition of this grant, if Grantee receives sponsorship from a tobacco company or subsidiary listed on the ALF website, for performance in the school or department where the Principal Investigator on the ALF grant is employed, Grantee is obligated to disclose the name of the tobacco company to ALF.

If ALF determines the funding source to be in violation of its principles regarding the acceptance of funding from Tobacco or Tobacco-related entities, ALF may terminate the ALF Grant Agreement. Notification of such decision to terminate will be in writing and such termination will be effective 90 (ninety) days after the University's receipt of such notice. The University will return any unspent funds after termination expenses have been settled.

Both ALF and Professor Burns agreed in principle to this condition, but after discussions at the systemwide level (specifically by the systemwide council of Vice Chancellors for Research), it was rejected by UCOP.

The Committee on Research discussed this matter at some length at its final meeting of 2002, and at our first meeting this year invited Professor Burns to address the committee. In seeking to sort through the various complex issues involved, and in the hope of finding some solution to this problem, the committee was guided by two principles.

The first principle concerns the public disclosure of sources of funding. It is the view of the committee (and, as we understand it, the policy of the University) that the University must provide the fullest reasonable disclosure of the sources of funds used in support of research at UCSD, if requested. This is one instance of the general responsibility of a public university to be open in its conduct of business, but it also has a special significance in the area of scholarly research. The public has a right to know who is paying for research, since information about the sources of funding for research can be relevant to the assessment of its merit.

The second principle concerns the need for academic freedom in the conduct of research. It is a fundamental principle of the academic community that scholars must be free to pursue whatever ideas or research projects they deem fit, as long as such projects are within the mission of the University and the department or ORU. Any policy that limits or tends to limit this basic freedom of inquiry must be viewed with grave suspicion. It is the view of the committee (and, as we understand it, the policy of the University) that the proper forum for assessing the quality of research is the process of peer review. It is of course the responsibility of funding agencies to decide which research projects they deem worthy of support. But in our view the terms of research grants should not seek to impose prior constraints on the research projects or sources of funding open to other members of the scholarly community.

In light of these two principles, the committee offers the following comment upon the proposed ALF condition of funding. We find no grounds for objection to the first paragraph of the proposed ALF condition -- the requirement that the university disclose whether Tobacco Company funds are being used in support of UCSD research. Every research grant comes with reporting conditions, which the University and the Principal Investigator jointly undertake the responsibility to fulfill. The committee believes that the Office of Contracts and Grants is best placed to provide support in fulfilling such an obligation. On the other hand, the committee is gravely concerned about the second paragraph of the proposed ALF condition of funding. In effect, the ALF condition threatens to cut off funding to an institution that accepts funds from an organization with which it disagrees. However well-intentioned, such a policy ultimately serves to undermine the openness and hence the objectivity of the research community it seeks to support.

It is the view of the committee that any tenable resolution to this matter must find its place within the boundaries established by the two principles outlined above. One possible solution considered by the committee was the suggestion that the grantee for the purposes of this grant might be taken to be an organized research unit or department, rather than SOM as a whole. Since Professor Burns is an affiliate of the Cancer Center, one avenue worth exploring is that the affiliates of the Cancer Center might collectively agree to forgo funding opportunities originating from the tobacco industry. Such a resolution would have significant advantages over the existing proposal. In particular, it would be a voluntary, self-imposed restraint adopted by a specific group of concerned researchers, rather than a mandate imposed upon investigators by an outside agency. While this proposal merits exploration, it does not entirely resolve the issues concerning academic freedom. For instance: would a majority vote by the affiliates of an ORU restrict the academic freedom of dissenters within that research community? Would a unanimous vote of current affiliates unfairly constrain future affiliates? These are complex matters, and our committee did not consider itself adequately qualified to address them fully. We respectfully suggest that the Senate Committee on Academic Freedom be asked for its comment on this complex matter, and that both committees be invited to review any proposed resolution between the University and ALF.

Daniel L. Rudnick, Chair  
Committee on Research

cc: R. Attiyeh, Vice Chancellor-Research  
D. Burns, Family/Preventive Medicine (SOM)  
S. Hedrick, Chair, UCSD Committee on Academic Freedom  
D. Long, Chair, UCORP  
J. Talbot, Vice Chair, UCSD Academic Senate  
Chron File

March 3, 2003

VICE CHANCELLOR RICHARD ATTIYEH  
Research  
0003

SUBJECT: American Legacy Foundation (ALF) Funding

Dear Dick:

Senate Council, the Committee on Research, and the Committee on Academic Freedom in our San Diego Division have all discussed the ramifications of contract language concerning the ALF. In addition, UCORP and Academic Council similarly discussed this extensively, and the matter was remanded to our Division. I should add that Academic Council also conferred extensively with Vice Provost Coleman.

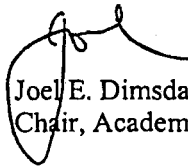
We feel that Professor Burns should be allowed a no-cost extension on his current grant, and it is acceptable to us if he wishes to disclose to the funder both his current funding sources as well as his intention never to accept certain funding sources.

If Professor Burns wishes to write a new grant or a competing renewal to ALF, we believe similar statements are acceptable in the contract language and suggest you approve them "by exception."

All of the committees concluded that it is inappropriate for the University to except any contracting language to the effect that "the PI and his sponsoring organization (Department, ORU, etc.) agree not to accept funding from specified sources." There was total agreement that this would lead to a chilling interaction among faculty, would limit academic freedom, and would be grievable.

I am copying Professor Burns as well as relevant campus individuals who have considered this matter.

Sincerely,



Joel E. Dimsdale  
Chair, Academic Senate: San Diego Division

cc G. Binion, Chair, Academic Council  
D. Burns, Department of Family & Preventive Medicine  
G. Gill, Interim Director, Cancer Center  
S. Hedrick, Chair, Committee on Academic Freedom  
D. Rudnick, Chair, Committee on Research  
R. Kaplan, Chair, Department of Family & Preventive Medicine  
J. Talbot, Vice Chair, San Diego Division  
ChronFile

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**Excerpt from Academic Council Minutes, February 26, 2003**

**V. Research Funding**

**Issue:** The Academic Council invited Lawrence Coleman, Vice Provost of Research, to discuss the issue of restrictions on sponsored research funding and how policy is made/implemented regarding contracts and agreements that have stipulations (“strings”) attached. His report follows.

*The process of making decisions / implementing policy:*

Vice Chancellors of Research do not make policy, but decide whether to grant an exception to policy. There is little explicit (written) policy regarding what faculty may or may not do, and cases are adjudicated individually. Decisions are founded on the premise of academic freedom, that is, that research shall be open and not driven by external agencies. A common exception is that made in order to avoid conflict of interest involving intellectual property -- i.e., not accepting funding from two competing sources for research on a specific project. Another common exception is to agree to allow the funding agency “review rights” over publications in order to identify possible intellectual property issues. Academic personnel are involved in these decisions in that campus research offices are headed by academics, and Vice Provost Coleman is consulted on academic issues related to the large grants that are reviewed by UCOP. Technically, the Regents are awarded grants, not individual faculty members.

*Terminology:* Contracts and grants are the same. Gifts should by definition have no stipulations; however, naming rights are a commonly accepted “string” that comes with gifts. Beyond that, most stipulations or restrictions coming with gifts are unacceptable.

*Government Restrictions:* So far, the University has resisted federal restrictions associated with the Patriot Act and SUTI. There are already restrictions in place for certain research units, and certain reasonable restrictions will be accepted for other planned projects. The authority to decide whether to work with classified materials may be moved from the chancellors to the level the President.

*Basis of Policy:* The Contracts and Grants Manual states large principles and includes letters and agreements that have become, in effect, policy. For example, a letter stating that the campus administration, departmental faculty, and the Academic Senate have the responsibility to “establish appropriate norms and to assure the existence of an open environment” became the basis for practice in accepting outside funding. And, the fact that the Regents and the President chose not to act when (in the 1960s) asked to consider banning CIA funding, has been interpreted as a de facto university policy of not keeping a list of proscribed funding sources. The question is, then, how finely distinctions can be drawn, and to what extent the Senate is consulted.

*Public Domain:* The University can sometimes be faced with a dilemma when a sponsor stipulates that research be put in public domain. This problem arises most often in connections with the computer industry where terms of private and federal funding might be at odds.

**Discussion**

Divisional Chair Blumenthal brought to the Council’s attention recent public criticism of faculty who have received DOD or DOE funding, and raised the question of whether this constitutes an

infringement of the researchers' academic freedom. These events also point to a possible need for discussion of what appropriate research/ research funding is.

*Comments on the question of creating a policy allowing individual faculty members to accept funding restrictions that affect them alone:*

- If the VCRs found it acceptable for the PI in the UCSD case to accept restrictions on his funding, why can't it be policy rather than exception to policy?
- If a number of PIs within a unit made such agreements, there could be a significant chilling effect on other researchers within the unit.
- An accumulation of such agreements could create undue pressure for junior faculty in particular, and tenure decisions could be affected.
- Two colleagues having funds from competing restrictive sources could lead to a conflict if they share interests in the work of a graduate student.

**UCSD Case.** After consideration of the case of the San Diego researcher whose contract with the American Legacy Foundation has come under question, UCORP has drafted a letter recommending that the University allow a six month no-cost extension of the existing contract. UCORP does not, however, support accepting grants that impose restrictions on any researchers other than the principal of the contract. UCPB has formulated a similar statement, which was presented orally to Council by the committee chair.

**Action:**

1. A motion was made and seconded to endorse UCORP's letter recommending an extension of the San Diego researcher's existing contract, and to forward the letter to the San Diego Division along with a statement of the Academic Council's intention to focus on the larger policy issues that have been raised in connection with the UCSD case. The motion was passed by a vote of 13 in favor with 2 abstentions.
2. A statement will be drafted for review by Senate committees with respect to the following areas relating to restrictions on research funding: shared governance; individual faculty autonomy; and the question the university's legitimate range of interests in limitations on individual autonomy. Once vetted, the Council's statement will be brought to the administration for use in setting guidelines on restrictions connected with research funding.

**Excerpt from Academic Council Minutes, June 18, 2003 Meeting**

**XI. Tobacco Funding**

**Issue:** Faculty at UCSF are soliciting the support Academic Council in an effort to establish a systemwide ban on the funding of research by the tobacco industry.

**Action:** A motion was made for Council to recommend that UCOP reconsider its current policy regarding tobacco funded research such that it be banned university-wide.

**Action:** The above motion was tabled. The issue of tobacco funding was committed to UCORP to be considered in the context of that committee's broader project of studying restrictions within grants and contracts.



## APPENDIX A. UCORP Research Funding Strings Charge

*Office of the Chair  
Telephone: (510) 987-0711  
Fax: (510) 763-0309  
Email: [gayle.binion@ucop.edu](mailto:gayle.binion@ucop.edu)*

*Assembly of the Academic Senate, Academic Council  
University of California  
1111 Franklin Street, 12<sup>th</sup> Floor  
Oakland, California 94607-5200*

July 21, 2003

To: Darrell Long, UCORP Chair  
From: Gayle Binion, Academic Council Chair  
Re: Research Funding

Dear Darrell:

As you have probably heard from Jan Ingham, the issue of banning tobacco funding at UC was brought up and discussed briefly at last month's Council meeting. The outcome was to commit the review of UC's stance on this matter to UCORP, along with a broader charge to review research-funding policies at UC. While the matter that has given rise to the questions concerning research funding has been "tobacco money" in myriad contexts, so many related questions, not specific to tobacco, have been asked that a thorough Senate review would be advisable. I do understand that UCORP has a subcommittee interested in undertaking this important task.

As you and Jan know from previous emails on the subject, some of the questions UCORP might explore are the following:

1. How are decisions made on each campus with respect to interpreting the grant/contracting "rules"?
2. Where/how is the Academic Senate consulted?
3. When are rules "waived" and by whom? Are there patterns of "waiver"? Are these written or codified? When can waivers be done at the campus level vs. systemwide, and how is this decided?
4. What are the "default" basic rules on restrictions within grants: What are the "categories" (e.g. pre-publication review, eschewing other funding sources, etc.)?
5. Where is there a lack of clarity in "the rules"? Should the manuals be revised? Should decision-making processes be revisited?
6. Should UC allow units to eschew funds from particular sources? If so, what level of unit and under what circumstances? How should academic freedom questions enter this arena?
7. Where are the problems with respect to maintaining top-quality, credible research at UC that relate to funding? Where is conflict of interest a problem or potentially a problem.... Are there new policies that ought to be considered by the Senate/administration?

I know that this may be a rather daunting list of questions.

Please let me know if you have any questions on this.

Thanks so much.

cc: Academic Council  
Kimberly Peterson, Committee Analyst

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UNIVERSITY COMMITTEE ON RESEARCH POLICY (UCORP)  
Janis Ingham, Chair  
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Assembly of the Academic Senate  
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July 9, 2004

LAWRENCE PITTS, CHAIR  
ACADEMIC COUNCIL


**Re: UCORP Report on Problematic Restrictive Clauses in Contracts, Grants and Gifts  
for Research (Research Award Strings)**

Dear Chair Pitts:

Last July the University Committee on Research Policy (UCORP) was issued a broad charge by the Academic Council: to review research funding policies at the University. In response, our committee has spent the past year consulting extensively with the faculty and administration to identify restrictions and requirements that occur in research awards, as well as the policies and principles the University currently uses to guide its decisions whether to accept or reject these conditions. Our findings and recommendations are detailed in the enclosed final report, which we request be reviewed and discussed by the Academic Council.

In addition to the broad charge to review research funding policies, our committee was also specifically asked to examine the University's stance on the issue of bans on tobacco funding. The recent votes of departments, schools and other groups of faculty within UC to ban research funding from tobacco and tobacco-affiliated companies has brought this issue to the forefront. Our committee's findings on these and other self-imposed restrictions are also outlined in our report. In addition, UCORP has adopted a separate "Resolution on Restrictions on Sources of Research Funding" and requests that the Academic Council consider endorsing this resolution.

Sincerely,

  
Janis Ingham, Chair  
UCORP

Encl: 2  
cc: Maria Bertero-Barcelo, Executive Director

acceptable fund sources. We have unanimously approved a separate resolution on such restrictions, which is also attached to this report.

UCORP makes the following specific recommendations:

- In the interest of academic freedom, institutional autonomy, and the public good, the University must continue to resist problematic research funding restrictions that are in violation of University policies and principles. The Administration should continue to work with government agencies, on its own and through groups such as the AAU, to resist the blurring of the line between classified and unclassified research. The University should be prepared to publicly explain its principled opposition to governmental, corporate, and foundation restrictions that interfere with its institutional autonomy and academic freedom.
- The Academic Senate should be informed by the Administration about new types of research restrictions as they arise and should be consulted in the University's decisions to accept or reject these strings, particularly when decisions will have significant impact on the academic freedom of Senate members. The Senate should also be regularly updated on the progress towards dealing with any new or existing constraints on research.
- As a matter of systemwide concern, the Academic Council should undertake the adoption of a policy to explicitly protect the freedom of faculty members to pursue research areas of their choice and accept research awards from any source, and to clarify that a majority vote of the faculty to restrict research areas or funding sources must not be allowed to override academic freedom.
- There is a need for a systemwide effort to reexamine the *Contract and Grant Manual* for revisions and clarifications. A separate explanatory supplement to the manual, aimed at the faculty and other researchers, would be useful in explaining some of the reasons underlying rules that might seem unnecessary or arcane to a principal investigator.
- Because restrictions on research are often in conflict with academic freedom, it is important that the Divisions, the systemwide Senate, and the Administration establish clear review processes that allow a faculty member a path to appeal a decision by the Administration not to accept particular award language. A system allowing routine "exceptions to policy" is not recommended (except when, as with classified research, the President finds that such an exception is necessary to protect the public interest). However, interpretation of policy will likely continue to be problematic as new examples of problematic restrictive language emerge.
- The UC and campus development offices should be made aware of the concerns that exist regarding problematic research strings and that the policies and principles guiding the University's decisions to accept or reject strings on research grants also apply to gifts awarded to the University

**Except from Academic Council Minutes, July 21, 2004**

**VII. “Strings” Attached to Research Contracts and Grants**

**1. UCORP report: “Problematic Restrictive Clauses in Contracts, Grants and Gifts for Research,” and “Resolution on Restrictions on Research Funding Sources” –*Janis Ingham, UCORP Chair***

**Report.** Last year’s Council saw a need to know more about the various restrictions being placed on research grants. UCORP was, therefore, charged with taking a broad look at all such restrictions. The committee first responded with its resolution on SUTI, which was adopted by the Academic Council. The current report before Council is based on data gathered from Vice Chancellors of Research, development offices, contract and grant offices, and from interviews with faculty and consultations with UCOP staff. Based on this evidence, the report finds there are no types of restrictions that were hitherto unknown. The types of restrictions examined in the report include:

- Pre-publication review and approval of results, and review and approval of data. These restrictions are counter to the conduct of fundamental research, which by definition must be free and open (publishable).
- Citizenship restrictions, which are counter to university policy and state law.
- Tobacco funding bans.
- Anti-terrorism and anti-bigotry language, such as that recently adopted by the Ford Foundation. (UC has developed a response letter that mitigates the Ford Foundation restrictions.)

The report finds that UC -- both systemwide and on the campuses -- is adequately responding to the restrictions. UCORP recommends that sponsors be asked to include restrictions in RFPs. Other recommendations of the report include: keeping the Senate informed and updated on new and existing restrictions; revising the Contract and Grant Manual; establishing an appeals process for researchers regarding the acceptance of funding; and adoption of a policy to abrogate the ability of a vote of faculty that would restrict research and/or research funding sources. The VCRs have expressed interested in possible guidance the report and resolution may provide for reacting to restrictions.

**Resolution on Restrictions on Research Funding Sources.** The resolution is related to the bans instituted on some campuses by which a majority vote can bar all members of an academic unit from accepting tobacco funding. UCORP believes that this constitutes an infraction of academic freedom, and is not legitimate.

**Discussion:** Professor Ingham replied to a question about the effect of the resolution, noting that the VCRs felt it would be helpful to have as a reference for responding to campus restrictions on funding sources. One member felt that the resolution was too strong, in response to which it was emphasized that the resolution does not and in no way intends to stifle the expression of opinions. Another member objected to the resolution because it was not consonant with the university policy on academic freedom, which states that academic freedom resides with the faculty as a body. There was some discussion of the language in the final paragraph of the resolution, with a friendly amendment being agreed to that would eliminate the language within the parenthesis in the final sentence.

**Action:** UCORP Chair Ingham will distribute to Council members a copy of the letter that is now being used to mitigate the restrictions attached to Ford Foundation grants.

**Action:** In a majority vote, Council adopted both UCORP’s report “Problematic Restrictive Clauses in Contracts, Grants and Gifts for Research,” and its Resolution on Restrictions on Research Funding Sources, the final sentence of which was amended to read: “Therefore, no

unit of the University should be directed to refuse to process, accept, or administer a research award based on the source of the funds; and no special encumbrances should be placed on a faculty members' ability to solicit or accept awards based on the source of the funds.”

**2. UCAF request for Council (and/or its appropriate committees) to address the issue of corporate funding and academic freedom.**

**Issue:** UCAF reviewed UCORP's report and resolution, responding that the “tension” between academic freedom and corporate funding needs to be addressed, and requesting that the Council investigate the problem and suggest ways to avoid possible corruption of research.

**Action:** UCAF's request (as stated in the committee's July 9, 2004 letter to Chair Pitts) that the Council and/or its appropriate committees investigate possible corrupting influences of corporate funding on university research, was committed to next year's Academic Council for action.

**Resolution of the University Committee on Research Policy  
Restrictions on Research Funding Sources**

**July 2, 2004**

Whereas, Freedom of inquiry is a fundamental principle of the University of California; and

Whereas, The University of California faculty code of conduct requires that “[Professors] respect and defend the free inquiry of associates”; and

Whereas, The University of California policy on academic freedom requires that scholarship be judged solely by reference to professional standards, and that researchers “must form their point of view by applying professional standards of inquiry rather than by succumbing to external and illegitimate incentives such as monetary gain or political coercion”; and

Whereas, The University of California has existing policies that encourage the highest ethical standards in the conduct of research, require disclosure of conflicts of interest, guarantee the freedom of publication, and prevent misuse of the University's name; and

Whereas, Restrictions on accepting research funding from particular sources on the basis of moral or political judgments about the fund source or the propriety of the research, or because of speculations about how the research results might be used, interfere with an individual faculty member's freedom to define and carry out a research program; and

Whereas, No Committee, Faculty, or Division of the Academic Senate of the University of California has the plenary authority either to set aside the principles of academic freedom or to establish policies on the acceptance of research funding; now, therefore, be it

*Resolved*, That the principles 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 judgment and conscience and with University policy. Therefore, no unit of the University should be directed (by faculty vote or administrative decision) to refuse to process, accept, or administer a research award based on the source of the funds; and no special encumbrances should be placed on a faculty member's ability to solicit or accept awards based on the source of the funds.