

MEETING CALL
REGULAR MEETING OF THE REPRESENTATIVE ASSEMBLY
OF THE DAVIS DIVISION OF THE ACADEMIC SENATE

Monday, April 2, 2007

2:10 – 4:00 p.m.

Memorial Union, MU II

REVISED 3/27/07

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| 2. Announcements by the President - None | |
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| 5. Announcements by the Deans, Directors or other Executive Officers – None | |
| 6. Special Orders | |
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Patricia Harrison, Secretary
Representative Assembly of the
Davis Division of the Academic Senate

*Consent Calendar. Items will be removed from the Consent Calendar on the request of any member of the Representative Assembly.

All voting members of the Academic Senate (and others on the ruling of the Chair) shall have the privilege of attendance and the privilege of the floor at meetings of the Representative Assembly, but only members of the Representative Assembly may make or second motions or vote.

TRANSCRIPT
REGULAR MEETING OF THE REPRESENTATIVE ASSEMBLY
OF THE DAVIS DIVISION OF THE ACADEMIC SENATE

Monday, February 5, 2007

2:10 – 4:00 p.m.

Memorial Union, MU II

1. Transcript of the October 12, 2006 Meeting

Action: Unanimously Approved

2. Announcements by the President - None
3. Announcements by the Vice Presidents – None
4. Announcements by the Chief Campus Officer
 - a. State of the Campus – Chancellor Larry N. Vanderhoef
5. Announcements by the Deans, Directors or other Executive Officers – None
6. Special Orders
 - a. Remarks by the Divisional Chair – Linda Bisson
7. Reports of Special Committees - None
8. Reports of Standing Committees
 - a. Executive Council:
 - i. DDBL 63: Creation of a Divisional Standing Committee on Information Technology.

Action: Unanimously Approved

- b. International Studies and Exchanges (CISE):
 - i. Amend DDBL 64: Corrects obsolete language and responds to the expanding role for CISE in matters of international education at UC Davis. The proposal was endorsed by the Executive Council.

Action: Unanimously Approved

- c. Faculty Research Lecture
 - i. Election of the 2006-2007 Faculty Research Lecturer Award Recipient - Nominee: Alan Hastings, Environmental Science & Policy

Action: Unanimously Approved

- d. Public Service
 - i. Confirmation of the Public Service Award Recipients- will be distributed at meeting

Action: Unanimously Approved

- e. Graduate Council
 - i. Annual Report of the Graduate Council

Action: Unanimously Approved

9. Petitions of Students - None
10. Unfinished Business
11. University and Faculty Welfare
12. New Business

- a. Resolution 89: Tobacco Initiative

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Motion: Should a vote come, that vote should be of the entire faculty of the system.

Action: Defeated

Motion: We, the Representative Assembly, vote to oppose RE89.

Action: Motion withdrawn

b. Release of W-2 Information to a third party agency

Motion: We demand that all of these files be expunged immediately and any subsequent request be on an opt-in basis only, after appropriate Senate consultation.

Action: Unanimously Approved

Patricia Harrison, Secretary
Representative Assembly of the
Davis Division of the Academic Senate

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**Report to the Representative Assembly
Submitted by: Committee on Committees
Representative Assembly Meeting: April 2, 2007**

In accordance with the immediate passage by Davis Division Bylaw 63, the Committee on Committee's submits the following membership to the Committee on Information Technology:

Professor Michael Hogarth – Chair	(SOM: Pathology)
Professor Giulia Galli	(Chemistry)
Professor Niels Jensen	(Applied Science)
Professor Eric Rains	(Mathematics)
Professor Felix Wu	(Computer Science)

**PROPOSED REVISION OF DAVIS DIVISION BYLAW 73:
Academic Senate Emergency Preparedness Legislation
March 18, 2007**

Submitted by the Pandemic Planning Task Force.
Endorsed by the Executive Council.

Background

This proposal is motivated by the prospect of an emergency situation—such as a pandemic or a natural disaster—which might disrupt instruction with uncertain consequences for thousands of students. How would graduating seniors be affected by a closure of the campus in the final weeks of the quarter? What credit would be granted? How would final exams be handled and how would grades be assigned? Would any requirements be waived? What would happen if the disruption occurred early in the quarter, or were longer in duration? Would the term be restarted anew at a later date, or would the academic calendar be adjusted to accommodate the missed classes?

Decisions on these kinds of questions may need to be made within a limited timeframe and with little opportunity to consult the appropriate committees. While it is impossible to anticipate the exact nature of emergencies which might occur, it is important for the Senate to give decision makers as much guidance as possible in advance.

Since faculty as well as students will be affected, the ability of the Senate to respond may be at its weakest precisely when the need for judicious decision-making is at its greatest. Convening such bodies as the Representative Assembly or the Executive Council might be impossible, and Senate leaders might themselves be affected by the emergency. It is important for the Senate to be able to take action even in extreme circumstances.

Explanation of the Proposal and Its Rationale

The first section of this proposal requires the Executive Council to consult with appropriate committees and the Faculties of the colleges and schools and, subject to the final authority of the Representative Assembly, to issue guidelines intended to assist in making the best decisions for the campus in emergency situations.

The guidelines would suggest appropriate responses given the many factors that may be relevant, including the nature of the emergency, the duration of any closure, the point in the term during which a disruption occurs, and the quarter in which the emergency occurs. Note that coordination with the colleges and schools is essential, particularly where degree requirements reflect the expectations of licensing agencies.

The second section of this proposal spells out how decisions would be made in urgent or emergency situations. It consists of four parts:

Part 1 (Urgent Circumstances). While current Bylaws already give the Executive Council the authority to act in urgent situations, current legislation is vague as to the scope and limitations of this authority. The section clarifies and limits the authority of the Executive Council in such circumstances. It gives the Council authority to waive regulations affecting students when instruction is disrupted, and to waive requirements for graduating seniors. But it specifically prohibits the Council from permanently changing legislation or the policies of the Senate or any of its committees. It also specifies that any actions taken must be reported to the Representative Assembly and empowers the Representative Assembly to modify or reverse any actions taken.

The proposed authority is similar to that authorized at the Berkeley, Los Angeles, Santa Barbara, and Irvine Divisions, and is more limited in scope than authorized under the Bylaws of the Riverside and San Diego Divisions. It is broader in scope than authorized at Santa Cruz. (See summary of other Divisions' Bylaws, appended.)

Part 2 (Emergency Authority). Current legislation provides no mechanism for action to be taken if the Executive Council is unable to convene and achieve a quorum, as might well happen in the case of a pandemic or natural disaster. The section provides a method by which the Divisional Chair could be empowered to act on behalf of the Executive Council during a campus state of emergency or when urgent action is required and the Executive Council could not be convened. The Chair is required to convene the Executive Council as soon as possible.

Part 3 (Disability of the Chair of the Division When Exercising Emergency Authority). This section provides for successors to act if the Chair is unable to act during an emergency.

Part 4 (Terminating Emergency Authority). This section provides the mechanism by which emergency authority would be ended and normal decision-making would resume.

The Proposal

It is hereby moved that the following amendment to Davis Division Bylaw 73(C) and the following new Bylaw section 73(D) be adopted, to be effective immediately upon approval.

It is further moved that the Undergraduate Council be charged with reviewing the recommendations of the Pandemic Planning Task Force and, in consultation with the Graduate Council, the Committee on Elections, Rules and Jurisdiction, and the Faculties of the several colleges and schools, to propose nonbinding guidelines for consideration by the Executive Council and for reporting to the Representative Assembly pursuant to the proposed Bylaw 73(C).

Proposed Amendment to Section 73(C)	Explanation and Rationale
<p>Deletions are indicated by strikeout type; additions are in bold type:</p> <p>73(C). ... Some responsibilities [of the Executive Council] are:</p> <p>4. To attempt to anticipate emerging problems; to and take measures to cope with them before they become urgent; and, after consulting with the Undergraduate Council, the Graduate Council, and the Faculties of the several colleges and schools, to issue nonbinding guidelines to assist decision makers acting in urgent or emergency situations. All guidelines so issued shall be reported to the Representative Assembly at its next regular meeting, and any such guidelines are subject to rejection or modification by the Representative Assembly. If, in spite of its efforts, a situation should arise which in its opinion requires emergency action, it may in its own name issue statements or take such action as it deems essential and shall immediately report its actions to the membership of the Division by mail or shall call a special meeting of the Representative Assembly. If a majority of the Executive Council approves, the meeting may be called with only two days' notice. If a statement is made in its own name, it shall be understood that the statement is subject to confirmation, rejection, or change by the Representative Assembly.</p>	<p><i>Requires the Executive Council, in consultation with the appropriate committees and with the schools and colleges, to develop emergency planning guidelines.</i></p> <p><i>The Representative Assembly retains final authority to modify or reject the guidelines.</i></p> <p><i>The guidelines are nonbinding to allow some flexibility in dealing with the complexities of emergency situations.</i></p> <p><i>The remainder of the existing language is deleted and made more explicit – including limits of authority – in new Section 73(D).</i></p>

Proposed New Section 73(D)	Explanation and Rationale
<p>73(D). <u>Authority Under Urgent or Emergency Circumstances.</u></p> <p>1. <u>Urgent Circumstances:</u> When the Executive Council determines that urgent circumstances exist and that action must be taken before the Representative Assembly can be convened, the Council is empowered to act on behalf of the Division. This includes the authority to suspend or modify on a temporary basis the Regulations of the Division and its agencies and to suspend or modify degree requirements for those students who would have graduated upon the successful completion of their course work for that term. However, the Executive Council has no authority to enact, repeal, or amend legislation of the Division or to make permanent changes in the policies of the Senate or any of its agencies. And degree candidates recommended under suspension of the regulations must still be approved by the appropriate Faculty or Graduate Council as required by Academic Senate Bylaw 312(A).</p> <p>Any actions taken under this authority shall be reported to the Representative Assembly as soon as possible, and any such actions are subject to modification by the Representative Assembly. With the approval of the Executive Council, a special meeting of the Representative Assembly may be called on as little as two days' notice.</p> <p>An immediate meeting of the Executive Council by any method of real-time communication may be called by the Chair or Acting Chair or at the joint request of any three members of the Council for the purpose of determining that urgent circumstances exist and taking appropriate action as authorized by this section.</p>	<p><i>Clarifies the existing authority of the Executive Council to act during urgent circumstances.</i></p> <p><i>Clarifies that the Executive Council has the authority temporarily to modify regulations and degree requirements, but specifically prevents the Council from making permanent changes in Senate Bylaws or regulations, or in any other Committee's rules.</i></p> <p><i>Any actions taken must be reported to the Representative Assembly, which retains final authority to modify or reject such actions.</i></p> <p><i>Allows the Executive Council to meet on short notice by methods other than physical meetings (e.g., by conference call or videoconference). Allows meetings to be called if the Chair is unable to do so.</i></p>
<p>2. <u>Emergency Authority:</u> The Chair or Acting Chair is authorized to exercise emergency authority upon (a) a declaration of a state of emergency by the Chancellor; (b) a finding by the Chair or Acting Chair that urgent action is required before the Executive Council can be convened; or (c) a joint request of any four of the following seven persons: the Vice Chair of the Division, the Chair of the Undergraduate Council, the Chair of the Graduate Council, the</p>	<p><i>Provides a method by which the Divisional Chair (or successor) could act during a campus state of emergency or when the Executive Council cannot be convened.</i></p>

<p>Chair of the Committee on Planning and Budget, the Chair of the Committee on Committees, the Chair of the Committee on Elections, Rules and Jurisdiction, and the Secretary of the Division.</p> <p>When authorized to exercise emergency authority, the Chair of the Division (or the Acting Chair) may take any action which the Executive Council could take under urgent circumstances as specified in Section (1) and shall serve as the designated Senate authority for consultation and coordination with members of the Administration on behalf of the Division and all Senate committees which are unable to act.</p> <p>In doing so he or she should, to the extent practicable, consult with the Chair of the Committee on Elections, Rules and Jurisdiction (or such members of the Committee as are available for consultation) and with the Chair of the Undergraduate Council, the Chair of the Graduate Council, and the Chairs of the Faculties of the undergraduate colleges.</p> <p>The Chair or Acting Chair should convene a meeting of the Executive Council as soon as possible.</p>	<p><i>Ensures continuity of Senate consultation and coordination with members of the Administration in emergency situations</i></p> <p><i>Requires the Chair to consult with appropriate committee chairs whenever possible.</i></p> <p><i>Requires the Chair to convene the Executive Council as soon as possible.</i></p>
<p>3. <u>Disability of the Chair of the Division When Exercising Emergency Authority:</u> If, while authorized to exercise emergency authority, the Chair of the Division is for any reason unable to act, the following, in order of succession, shall serve as Acting Chair of the Division and of the Executive Council:</p> <ol style="list-style-type: none"> 1. The Vice Chair of the Division; 2. The Chair of the Undergraduate Council; 3. The Chair of the Graduate Council; 4. The Chair of the Committee on Planning and Budget; 5. The Chair of the Committee on Committees; 6. The Chair of the Faculties in the following order: Letters and Science, Agricultural and Environmental Sciences, Biological Sciences, Engineering, Medicine, Veterinary Medicine, Law, Management, and Education. 	<p><i>Provides for successors to act if the Chair is unable to act, but only during an emergency. In other circumstances normal succession (including appointment of a replacement by the Committee on Committees per Bylaw 40(I)) applies.</i></p> <p><i>Colleges and Schools are listed in order of student population.</i></p>

<p>Any person assuming authority as Acting Chair of the Division shall notify the Executive Council as soon as possible and shall also inform appropriate members of the Administration that he or she is the designated authority for Senate consultation and coordination.</p> <p>If, while authorized to exercise emergency authority, the Acting Chair of the Division should become unable to act, then the first person on the entire list above who is then able to act shall serve as Acting Chair of the Division.</p> <p>A person serving as Acting Chair of the Division may continue to so act for the duration of the authorization to exercise emergency authority even if a person higher on the above list regains the ability to act. However, the Chair of the Division shall resume the authority of office and shall notify each member of the Executive Council and appropriate members of the Administration immediately upon regaining the ability to act.</p> <p>This Section (3) applies only when the Chair or Acting Chair is authorized to exercise emergency authority; vacancies occurring or continuing at any other time shall be filled as specified by Bylaw 40.</p>	<p><i>An Acting Chair continues to act until the Chair recovers. This avoids unnecessary changes during times of emergency.</i></p>
<p>4. <u>Terminating Emergency Authority:</u> The emergency authority may be ended by action of the Chair or Acting Chair of the Division. Normally he or she would do so when the Executive Council regains the ability to act.</p> <p>The emergency authority may also be ended by action of the Executive Council, by action of the Representative Assembly at a regular or special meeting; by action of the Division through ballot; or at the joint request of any four of the following seven persons: the Vice Chair of the Division, the Chair of the Undergraduate Council, the Chair of the Graduate Council, the Chair of the Committee on Planning and Budget, the Chair of the Committee on Committees, the Chair of the Committee on Elections, Rules and Jurisdiction, and the Secretary of the Division. If the emergency authority is terminated other than by action of the Chair or Acting Chair, emergency authority may not again be assumed by action of the Chair or Acting Chair for a period of 30 calendar days.</p>	<p><i>Normally the Chair will end the emergency himself or herself when able to convene the Executive Council.</i></p> <p><i>As a safeguard, other mechanisms are provided to terminate the Chair's emergency authority. In that case the Chair would not be able immediately to reclaim emergency authority. (The alternative methods provided in Section 2 would need to be employed instead.)</i></p>

Reference: Emergency Legislation at Other Divisions

Divisions with provisions similar to those proposed for urgent circumstances.

Berkeley Bylaw 4(C). The Divisional Council ... Acts on behalf of the Division on matters other than legislative matters retained by the Division.

Irvine Bylaw 150(D). Upon determination of exigent circumstances by a simple majority of the total Cabinet membership, the Cabinet is empowered to act in lieu of the Divisional Senate Assembly, or any of its Councils, except that no Senate legislation (Bylaw or Regulation) may be enacted or amended by any in lieu action of the Cabinet. The Cabinet must report any such in lieu action to the Senate agency for which it acted at the next regularly scheduled meeting of that agency, at which meeting the agency in question may endorse or reverse the in lieu action taken by the Cabinet.

Los Angeles Bylaw 60(B). The Executive Board (1) is empowered to act upon all matters except legislation in the name of the Los Angeles Division at times when the Legislative Assembly cannot readily be convened or when haste is required. The Board shall thus act in the name of the Division only when, in its judgment, the action is urgently advisable before the Legislative Assembly can be convened. All such actions must be reported to the Legislative Assembly at its next succeeding meeting; and the Assembly possesses the right to amend or rescind such actions in the same manner in which it may amend or rescind action adopted at preceding meetings of the Assembly itself. During an academic recess, the Board may act provisionally for the Division on all matters except legislation. Such action is subject to confirmation by the Legislative Assembly at the first regular or special meeting following the recess.

Santa Barbara Bylaw 50(C)(4). [The Executive Council] acts for the Division on any matter except legislation when the Faculty Legislature is unable to meet within 30 days of a council or committee action requiring approval by the Faculty Legislature. All such actions are subject to ratification at the next Faculty Legislature meeting, and may be appealed to the Faculty Legislature.

Divisions with provisions providing broader authority to its Executive Council, including allowing the modification of legislation:

Riverside Bylaw 8.5.3. At the request of the Faculty of a school or college and with the advice of the appropriate Divisional committees, this committee may act upon courses, curricula, and legislation. However, it shall not act if the matter can be included in the agenda of a regular Divisional meeting to be held within thirty calendar days from the time of the request. Each such Advisory Committee action must be reported to the Division at the next regular meeting.

San Diego Bylaw 242(B)(4) The Senate Council may act for the Representative Assembly in case of emergency.

Division providing narrower authority to its Executive Council:

Santa Cruz Bylaw 8.5. Lack of Quorum

When a report or a piece of legislation appears on the agenda of two successive regularly scheduled meetings of the Santa Cruz Division, and when action on that report or piece of legislation is prevented by lack of a quorum at those two Divisional meetings, then the Advisory Committee (*sic*) is empowered to act upon the report or piece of legislation prior to the next meeting of the Santa Cruz Division.

When a Standing or Special Committee of the Santa Cruz Division proposes a piece of legislation and identifies this piece of legislation as Urgent Legislation in the Call to a regularly scheduled Divisional meeting, and when action on this legislation is prevented by the lack of a quorum at this regularly scheduled meeting of the Santa Cruz Division, then the Executive Committee is empowered to act upon the piece of legislation prior to the next meeting of the Santa Cruz Division. To enact legislation under this Bylaw, the Executive Committee must pass the legislation with the same percentage vote that would have been required at a Divisional meeting. When the Executive Committee takes any action under the provisions of this Bylaw, written notice of the action must be sent to all members of the Santa Cruz Division within fifteen calendar days. The Executive Committee may not take any action under the provisions of this Bylaw on a report or piece of legislation if the Santa Cruz Division Office has received a petition from ten voting members of the Santa Cruz Division within ten working days after the scheduled meeting requesting a Special Meeting of the Division to discuss the report or piece of legislation.

RE89

TO MEMBERS OF THE COMMITTEE ON FINANCE:

ACTION ITEM

For Meeting of January 18, 2007

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

Regent Moores recommends that the Committee on Finance recommend that The Regents adopt the following policy:

"The freedom of our academic community to pursue research and educational activities is vital to the University's mission and to its success as a world-class institution, and should be affected by University mandate only in rare and compelling circumstance. The collective use of sponsored research by the manufacturers and distributors of tobacco products as an industry to support a public deception about its products is unique, unprecedented and represents just such rare and compelling circumstance. Accordingly, the Regents of the University of California shall accept no funds from the manufacturers or distributors of tobacco products, their affiliates, or any entity controlling or controlled by such companies, that are to be used to study tobacco-related diseases, the use of tobacco products or the individual or societal impacts of such use."

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

BACKGROUND

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

Research at the University of California is funded by a variety of sources, including federal, State, foundation, individual, and corporate/industry support. Under current University policy, individual researchers are free to accept funding from any source, as long as the funds are otherwise in compliance with applicable University policy (for example, as long as the award does not give the sponsor the ability to control or restrict publication of research results). Individuals, foundations, and corporate/industry sources also provide funding to the University for purposes other than research (e.g., in the form of gifts to support arts and education programs, buildings, endowed chairs and

professorships, student support, etc.). There are no restrictions on the University's ability to accept gift or endowment funding from any source, as long as the awards comply with University policies.

Over the years, critics of tobacco and of the tobacco industry have raised serious concerns about the University's acceptance of funding from sponsors with ties to the tobacco industry. While the amount of such funding received by the University is quite small in proportion to the University's total research funding, the concerns raised about acceptance of such funds center not on the amounts but on underlying principles and on the belief that such acceptance is inconsistent with the University's missions. Since 1995, UC researchers have received approximately 108 awards totaling about \$37 million from tobacco-related companies¹ for research, training, and public service. By comparison, the University received more than \$4 billion in total contracts and grants revenue in FY2006 alone.

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

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

A number of individuals and organizations have encouraged the University to adopt a policy prohibiting acceptance of tobacco industry funds. Proponents of such a ban have expressed the strong view that the tobacco industry has exerted a corrupting influence on research and that even though the tobacco industry does fund some meritorious basic

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

² As of the date this item was prepared, corporate data systems maintained by the Office of the President showed only those awards processed prior to the close of FY2006 – campuses may have accepted additional awards since that time. Though an effort has been made to obtain updated data from individual campus Contract & Grant offices, it is possible that there are awards not reflected in the above summary.

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

scientific research, it also funds scientifically inferior proposals and uses the more meritorious research to lend credibility to its funding program while minimizing the risks of tobacco. Adoption of a policy banning such funding is seen as a way for The Regents to make a strong statement and to dissociate the University from an industry that has been deemed to engage in corporate actions antithetical to the University's core missions. Proponents of a ban on acceptance of tobacco funding argue that the University should dissociate itself from an industry known to make a product harmful to human health and that has a history of attempting improperly to influence or misrepresent research results. A number of other highly regarded institutions have already adopted policies declining tobacco industry funding. These include Johns Hopkins School of Public Health, University of Arizona School of Public Health, Emory University School of Medicine, Harvard School of Public Health, Harvard Medical School, and Ohio State University School of Public Health.

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

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

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

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

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

undermine the ability of researchers to explore promising avenues of inquiry independent of political and moral judgments about the source of that funding.

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

The President wishes to advise The Regents that the University’s Academic Senate has considered this issue a number of times. Further information about the Academic Assembly’s resolutions is included below.

The President further wishes to advise The Regents that the University’s Vice Provost for Research, Lawrence Coleman, and the systemwide Council of Vice Chancellors for Research (COVCR), which includes all the campus Vice Chancellors for Research, also have discussed the issue of restricting acceptance of tobacco funding at length. They have repeatedly expressed their opposition to adoption of a University policy restricting faculty from accepting research funding from tobacco companies and have expressed the view that such a policy is likely significantly to undermine researchers’ academic freedom and would set a troubling precedent for future consideration of restrictions on funding from other industries that may also be the subject of moral or political debate or that may be involved in litigation regarding alleged corporate misdeeds involving fraud or other illegal actions. Given that existing University policies require researchers to adhere to the highest standards of honesty, accuracy, and objectivity in their work, there is concern that a funding ban may be unnecessary and might unfairly impugn the integrity of the University’s faculty.⁷

Academic Senate Consideration

Following discussion of *Research Funding: Acceptance of Funding from Corporate Sponsors Associated with the Tobacco Industry* at its September 20, 2006, meeting, The Regents asked the Academic Senate whether a policy banning funding from tobacco industry sources was justified in light of the August 17, 2006 federal district court ruling (U.S. v. Philip Morris USA, Inc., U.S.D.C.D.C. Civ. No. 99-2496) that found defendant

⁷ While the COVCR has consistently expressed its opposition to a policy restricting acceptance of research funding from a particular industry segment such as the tobacco industry, as of the preparation of this Regents item, the COVCR had not reviewed the specific text of the draft policy that is now being considered by The Regents.

tobacco companies guilty of violating the Federal Racketeer Influenced and Corrupt Organizations (RICO) Act.

In response to this request, the Assembly of the Academic Senate debated the issue on October 11, 2006. The Assembly's actions, described in a November 1, 2006 letter from Assembly Chair John Oakley to President Dynes,⁸ which was also conveyed to The Regents, consisted of passage of three resolutions:

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

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

and

“The Assembly asserts its conviction that past funding arrangements involving the tobacco industry have been shown to suppress academic freedom.”⁹

As background to this action of the Academic Assembly, the Call of the meeting at which the three resolutions were adopted, stated:

“At its July 21, 2004, meeting, the Academic Council adopted a Resolution on Restrictions on Research Funding Sources. Then, in October of 2004, the Academic Council, in response to concerns raised by some faculty members regarding both the content of the resolution and the need for broader consultation on the issues it addresses, sent the Resolution out for full Senate review and consideration of whether it should stand as written and adopted, or should be amended or rescinded. Formal responses from all nine Divisions and from six standing committees of the Assembly showed a preponderance of support for the resolution in principle. Based on those formal comments and recommendations,

⁸ The full text of [Chair Oakley's November 1, 2006 letter to President Dynes regarding "The Academic Senate's Resolutions on the Research Funding Issue"](http://www.universityofcalifornia.edu/senate/assembly/oct2006/research%20funding.11.06.pdf) is attached and available online at: <http://www.universityofcalifornia.edu/senate/assembly/oct2006/research%20funding.11.06.pdf>.

⁹ The full text of the resolutions is included in Chair Oakley's November 1, 2006 letter that is attached (see above).

the Academic Council adopted an amended version of the Resolution on Restrictions on Research Funding Sources, which was, on May 11, 2005, adopted by the Academic Assembly as the Resolution of the Academic Senate on Research Funding Sources.¹⁰

(Attachments)

155888.1

¹⁰ The full text of the Call can be found at:
<http://www.universityofcalifornia.edu/senate/committees/assembly.10.11.06agenda.pdf>



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Chair of the Assembly and the Academic Council
Faculty Representative to the Board of Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

March 19, 2007

John J. Moores, Regent
The Regents of the University of California
1111 Franklin Street, 12th Floor
Oakland, CA 94607

Dear John:

I write in response to your letter to me of January 23, 2007, soliciting on behalf of The Regents the Academic Senate's input on issues raised at the January Regents' meeting by RE-89, a proposed policy by The Regents to decline tobacco-industry funding for tobacco-related research.

The overriding question posed in your letter is whether or not the faculty support RE-89. I am committed to providing an unambiguous answer to that question before The Regents act on RE-89 at the May Regents' meeting. I have sent out RE-89 for systemwide review, and have announced that I will convene the 60-member Assembly of the Academic Senate — our sovereign legislative body — for an up-or-down vote on RE-89 at a face-to-face meeting to be held on May 9, 2007.

Your letter also asked a series of specific questions that seek to explore the evidentiary basis for the faculty's position. These questions would be very difficult for a legislative body to answer in the best of circumstances, given the congeries of different reasons legislators might have, individually, for voting together on the same resolution. I have been concerned that the Assembly, as such, would either fail to answer your questions, or, by answering them, would fail to achieve an unambiguous vote supporting or opposing RE-89.

I have discussed these concerns with the Assembly, at our telephonic meeting on February 14, and at the February 28th meeting of the Academic Council (the executive committee of the Assembly). The Council appointed a working group of five Council members, representative of the range of views among the Senate on RE-89 and related issues, to prepare answers to your specific questions. It is the Council's view, and mine, that this is the best way to respond to your letter in good faith, and as fully as possible, without getting bogged down in endless revisions and word-smithing by either the 19 members of Council or the 60 members of the Assembly.

I enclose the working group's response, which is in the form of a letter to me signed by all five members of that group, and includes two internal attachments. At the working group's suggestion, I am also circulating its letter and attachments to all agencies of the systemwide Academic Senate, to assist in their responses to my call for systemwide review of RE-89. We would certainly welcome similarly broad circulation among other Regents of this letter, the working group's letter, and the attachments thereto.

Sincerely yours,

A handwritten signature in blue ink, appearing to be 'JO', is placed over a light blue rectangular background.

John B. Oakley
Chair, Academic Council

Encl.

cc: Chairman Richard C. Blum
Regent Russ Gould
President Robert Dynes
Provost Rory Hume

March 12, 2007

Professor John Oakley
Chair, Academic Council

Dear John:

On February 28, Academic Council considered how best it might answer the questions posed in the letter sent to you on January 23, 2007, by Regent Moores. Although Council is not accustomed to receiving such letters, Council interpreted the letter as an indication of the seriousness with which The Regents view the concept of shared governance. Certainly APM 010 states that “[t]he substance and nature of ...the professional standards [that sustain the University’s pursuit and achievement of knowledge] properly lie within the expertise and authority of the faculty as a body.” As you know, Council appointed a working group (the signers of this letter) to determine how to respond to the letter, and charged us to report back as soon as possible.

Our working group intentionally included members known to have different perspectives on the question of RE-89. Specifically, it included one member known to be leaning toward advising The Regents to adopt RE-89, two individuals known to be leaning toward advising The Regents not to adopt RE-89, another individual who saw merit in both positions, and an individual known to be agnostic on the issue of RE-89, the last of whom served as chair of the working group. Over a period of 11 days, the group devised a strategy for answering the questions, relying on internal expertise and on the advice of expert colleagues. What we present to you herein is the result of our combined efforts.

Our goal

Our goal is to answer as faithfully as we can the questions posed by Regent Moores so that his questions can be used to help frame the deliberations of the different divisions and committees as they consider the issue of RE-89. We have tried to provide facts as we know them where Regent Moores’ questions require facts, and to explain the main points of view in response to questions of opinion. We have done our best to avoid the appearance, and the substance, of persuasion.

We hope and believe that the great majority of faculty on both sides of this issue will not find our document objectionable in its totality. We also recognize that we may have overlooked some analyses or inadvertently omitted some facts. We nonetheless believe that the document we transmit here can help members of the Senate come to a determination about how to answer the question: should The Regents endorse or fail to endorse RE-89?

We also hope that this document can contribute to thinking about broad issues of academic freedom and research integrity. While Regent Moores’ questions are specific to possible banning of tobacco funding, there are many faculty members who hope that the issue will be considered without regard to any specific industry or funding source.

Our request

We request that you electronically convene the Academic Council on Tuesday, March 13, and ask them to endorse by Friday, March 16, the circulation of this document to all divisions and all committees so that it can help inform the responses that you have requested of the divisions and the committees by April 13. Should a majority of those responding vote to circulate this document, we request that it be circulated immediately after the vote.

Our responses

Below are the responses to the questions posed by Regent Moores in his letter to you dated January 23.

1. How would APM010 have to be amended to be consistent with the proposed policy?

Various answers have been advanced. According to one point of view, RE-89 would require no change because APM 010 does not mention financial arrangements. Others argue that given the realities of contemporary scientific research, a prohibition of funding operates functionally the same as a research ban. Accordingly, acceptance of RE-89 would require excising these words from APM 010: “The principles of academic freedom guarantee freedom of inquiry and research . . .” These faculty believe that principles of academic freedom are rooted in the notion that scholarly inquiry is not susceptible to manipulation. Still other faculty members say that the very aims of academic freedom principles would be upheld and advanced in the special case of non-acceptance of tobacco industry funding because of the way in which the industry has manipulated the scientific process and distorted or suppressed evidence of tobacco-related health risks. Because the APM must provide a broad framework of policies and procedures necessary to guide and regulate faculty conduct, it is intentionally non-specific. Amending it to proscribe a single source of funding could distort that purpose.

How might the proposed tobacco funding policy be amended to be consistent with APM 010?

There are a large number of possible answers to this question; which answer a person selects depends, again, on how that person views matters of academic freedom. One view is that no restriction (however it is worded) is consonant with the principles of academic freedom. A second view is that a policy could be devised that allows for heightened scrutiny under a set of narrowly constrained circumstances so that, for example, no research funding can be accepted from illegal entities like the cocaine cartel or from legal entities that have been found to have engaged in a certain set of behaviors such as racketeering. Another view is that the policy must be broad and not tagged to a specific industry.

How might we create a “broad policy” not tagged to a specific industry? The starting point for such a policy might reside in identifying what it is, in the view of The Regents, that makes the tobacco industry “unique.” In what ways have the freedom-subverting actions of the tobacco industry differed from freedom-subverting actions on the part of other industries that have attracted public notoriety?

2. *At institutions that ban tobacco money, what examples are there of blocked research?*

While specific cases may exist, we do not know of any research that has been prevented at other institutions that have policies banning tobacco money, because no such examples have been offered for our consideration; without appropriate surveys, they would be difficult to find. However, we are aware of an instance wherein a person accepted funding from a particular funding source that stipulated prohibition from receiving research funds from the tobacco industry, for either his colleagues or himself.

What examples are there of individuals who have not been able to obtain funds because UC had no tobacco ban?

Some years ago the issue of a funding ban arose at UC San Diego, where an investigator had accepted funding from the American Legacy Foundation (ALF), an organization dedicated to preventing tobacco use. When a grant from the ALF was due to be renewed in 2002, it came to light that acceptance of ALF funding entailed proscription of “tobacco funding” by other faculty, a circumstance that appeared to have escaped administrative notice when the original grant was accepted. The matter was referred to the UCSD Division of the Academic Senate and also to the Vice Chancellors for Research at the various campuses. Upon the recommendation of the systemwide Vice Provost for Research, Lawrence Coleman, and the campus Vice Chancellors for Research, funding with such “strings attached” was declined by the University. Although the ALF was invited to remove the proscription, it apparently did not wish to do so. The matter was thoroughly discussed by the UCSD Division of the Academic Senate which resolved that acceptance of funding on behalf of faculty that stipulated proscription of receipt of other funding by other faculty would infringe on the rights of those faculty members, would violate academic freedom, and would be potentially grievable as a Privilege and Tenure violation. These events took place several years ago, but renewed discussion of the matter during the current year led the UCSD faculty to reaffirm its earlier position with a single faculty member dissenting.

We understand that there may be other projects at UCLA in the School of Nursing that have not been able to obtain funds because UC did not have a tobacco ban. The American Cancer Society, the American Lung Association of California, and the Flight Attendant Medical Research Institute have policies of not funding *investigators* who take tobacco money; there has been discussion of expanding this to *institutions*. However, it must be noted that many faculty members have expressed concerns about having university policies determined by funding agencies. The concern also might be raised that funding entities that support both advocacy and research may have difficulty in taking a neutral view with regard to academic freedom.

3. *How can the Regents be assured that current policies protect the integrity of the research process?*

Again, based on a person’s philosophy, different answers can be imagined; but one neutral starting point is to differentiate between policies and their application. We note that the University of California has in place a system designed to assure the integrity of the research process. The policies governing the conduct of research at UC appear in multiple places.

The University Committee on Research Policy (UCORP) attempted to summarize these in its July 9, 2004, report on *Problematic Restrictive Clauses in Contracts, Grants, and Gifts for Research*, which was adopted by the Academic Council on July 21, 2004. The report indicates that “the principles of

institutional autonomy and academic freedom are the underpinnings of numerous policies restricting and defining conduct of research in the University” (page 4). The report then goes on to describe six key areas in which policies governing the acceptance and conduct of research have been developed. The full text of this section of the UCORP report is contained as Attachment 1, and the areas are summarized below:

- Publication policy. The freedom to publish and disseminate research results is a key condition of any funding accepted at UC.
- Classified research. There are certain circumstances in which a contract or grant with publication restrictions might be accepted if the work is deemed as “classified” and conducted at an off-campus site, including the Los Alamos and Livermore National Labs or the Marine Physical Laboratory of the Scripps Institution of Oceanography.
- Intellectual property. Policies have been developed to protect the University’s intellectual property as well as that of individual faculty and students.
- Nondiscrimination. University policy prohibits discrimination against an individual based on a number of personal factors, and can be applied to selection of research participants.
- Private gifts for research. Gifts are distinguished from grants, and it is noted that both are subject to the same rules and procedures.
- Solicitation and acceptance of funding. It is noted that all awards to the University are made to “The Regents of the University of California”.

In addition, the university has a detailed policy on integrity in research (Attachment 2), which describes the conduct of research and the standards of ethical behavior expected of faculty and students involved in research. The policy also discusses the procedures for addressing allegations of misconduct in research.

In the *Statement of Ethical Values* adopted by The Regents in May of 2005 and sent to all faculty the following October, the ethical conduct of research is described:

Members of the University community engaged in research are not to: fabricate data or results; change or knowingly omit data or results to misrepresent results in the research record; or intentionally misappropriate the ideas, writings, research, or findings of others. All those engaged in research are expected to pursue the advancement of knowledge while meeting the highest standards of honesty, accuracy, and objectivity.

Are the policies always perfectly applied? Of course not. We recognize that even when researchers engage in no impropriety, research results can be mishandled. Yet, among the thousands of faculty who are continuously engaged in research, there are relatively few instances where the policies have not been applied in an appropriate manner. We see the relative rarity of abuse as an indication that the policies are well conceived.

The relative rarity of abuse may also derive from the motivations of academic researchers as contrasted with researchers in industry. Academic researchers are not predominantly motivated by material gain but are driven by a desire to contribute knowledge, as well as by the knowledge that they are judged by academic peers in the academic review process. The value placed on a researcher’s work depends entirely on his or her integrity. Any researcher thought to be lacking in integrity has only worthless products no matter how much he or she has toiled. Among academics at

the University of California, therefore, people have a strong self-interest in scrupulous adherence to the precepts of academic integrity.

Even if the self-interested pull toward integrity were less strong than it is, academic researchers are the subject of a great deal of self-policing in their various disciplines. Yes, some poorly done studies are published. But the process of peer review helps assure the community that high standards are followed.

4. *What is the proper interpretation of the October Assembly resolution saying “past funding arrangements involving the tobacco industry have been shown to suppress academic freedom.”*

An institutional body, such as The Regents or the Academic Senate, does not have one mind or, therefore, one necessarily coherent reason or set of reasons behind its actions. When asked, the author of the resolution in question – which was the third research-funding-related resolution adopted on October 11, 2006 – said that she intended the resolution to signal that a Regental decision to decline funding from the tobacco industry would be consistent with the protection of academic freedom. Without interviewing all the members of the Assembly who were present on October 11, however, it would be impossible to provide a more detailed answer as to the proper interpretation of this resolution; and the intentions of the author of the resolution may not have been universally known or understood by those voting. Some claim to have thought they were simply making a statement acknowledging the egregious nature of the tobacco industry, a point of agreement among both proponents and opponents of a tobacco industry funding ban. The October Assembly resolution in question was in fact an outgrowth of a resolution previously passed by the Academic Council (the executive committee of the Assembly) and placed before the Assembly at the opening of a discussion time that was limited to forty-five minutes. The assertion was based on opinion and reference was made to the judgment in a racketeering trial, but senate members did not have the opportunity to study the documents provided in support of the motion. One may also wonder about the appropriateness of singling out a resolution for explanation. Resolutions that admit of different interpretations are, perhaps, not good resolutions. Yet, perhaps resolutions, good or bad, need to stand – or fall – on their own merits.

5. *What weight should the Regents give to a certain pattern of legal findings?*

The weight of legal findings in civil and criminal proceedings is an important matter. Certainly, the appeal process should be exhausted if The Regents believe determinations made by a trial court are to play a role in their decision-making about funding. However, if they wish to make their decisions on academic grounds and the established pattern of behavior of the funding source with respect to how they have engaged the research or teaching enterprise, then judicial determinations are superfluous. Some faculty think that what matters then is whether there is evidence of behavior that is inconsistent with the purposes of the principles of academic freedom as judged by the Academic Senate. Other faculty members think that what matters is not how a funding source behaves, but rather whether the University has policies that can assure that funding sources will not be able to manipulate research done by our faculty.

Unnumbered question

Regent Moores’ letter also asks what changes might ensure that a policy is not misinterpreted in the future. Again, there is no simple answer, and any meaningful reply involves numerous

contingencies. All members of the workgroup agree that an initial step might be taken that could prove essential for future deliberations.

Specifically, we think that The Regents ought to elaborate on one statement in proposed RE-89. The recommended policy contains the statement: “The collective use of sponsored research by the manufacturers and distributors of tobacco products as an industry to support a public deception about its products is unique, unprecedented and represents just such rare and compelling circumstances.” If the tobacco industry is indeed thought to be truly unique in its behavior (which it may well be), then this uniqueness should be described and demonstrated via comparative study. The existence of even a single ban establishes that there are circumstances that call for bans, and therefore those circumstances must be delineated. Only by articulating the governing principles clearly and specifically will there be guidelines that reassure us that we are not beginning a slide down a slippery slope.

Failure to articulate the general principle underlying the claim that “[t]he collective use of sponsored research by the manufacturers and distributors of tobacco products . . . is unique, unprecedented and represents just such rare and compelling circumstance” would take UC into dangerous policy territory. The absence of stated principles and policies opens the door to a potential flood of future requests such that the time and thought of the Academic Council could be consumed by consideration of additional bans on research funding from other industries, leaving little time for consideration of other Council business. Some faculty feel that even establishing the admissibility of bans with sufficient cause would throw the understanding of academic freedom, varied though it might be among the faculty, into serious philosophical disarray.

Final note

It is tempting to allow ourselves to feel impatient with those who hold different views than our own. Open and free debate has, nonetheless, been fostered within the working group. While our points of view have diverged rather sharply on several occasions, we have continued to hold each other in very high regard and to respect that reasonable people may differ about matters of great importance. We hope that the trouble we have gone to in seeking genuine answers to the provocative questions posed by Regent Moores has resulted in a document that is of use to all members of the Senate as, separately and together, we seek to advise The Regents about RE-89.

Sincerely,

Mary Croughan, Working Group Chair, Chair of the University Committee on Academic Personnel
Faye J. Crosby, Chair of the Santa Cruz Division
Wendy Max, Chair of the University Committee on Research Policy
Henry Powell, Chair of the San Diego Division
Mark Rashid, Chair of the Board of Admissions and Relations with Schools

Attachment 1

Excerpt from Report of the University Committee on Research Policy. Problematic Restrictive Clauses in Contracts, Grants, and Gifts for Research. July 9, 2004. Adopted by the Academic Council. July 21, 2004.

II. UC POLICIES AND PRINCIPLES

A. Fundamental Principles: Academic Freedom and Autonomy

The research, teaching, and public service missions of an institution of higher education rest on two fundamental principles: the academic freedom of the faculty and the autonomy of the institution. The University of California is governed by a Board of Regents, which under Article IX, Section 9 of the California Constitution has "full powers of organization and governance" subject only to very specific areas of legislative control. This constitutional autonomy of the University protects the institution's ability to make academic decisions without state or other external interference. The U.S. Supreme Court first recognized an institution's autonomy in academic decisions in the 1957 concurring opinion for *Sweezy v. New Hampshire*:

It is the business of a university to provide that atmosphere which is most conducive to speculation, experiment, and creation. It is an atmosphere in which there prevail "the four essential freedoms" of a university – to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.¹

It is this institutional autonomy that allows the University to protect the academic freedom of its faculty. In an amicus brief filed in *Princeton University v. Schmid*, the AAUP noted that "any direct governmental infringement of the freedom of teaching, learning, and investigation, is an assault upon the autonomy of institutions dedicated to academic freedom.... Freedom of the university is required at certain points in order to protect freedom in the university."² Academic freedom enables the University "to advance knowledge and to transmit it effectively to its students and to the public" by protecting the "freedom of inquiry and research, freedom of teaching, and freedom of expression and publication."³ By protecting the University and its faculty from external interference, institutional autonomy also helps ensure that the research conducted in the University is focused on the public interest as opposed to a sponsor's interests.

B. Policies for Research Awards

The principles of institutional autonomy and academic freedom are the underpinnings of numerous policies restricting and defining conduct of research in the University. The language of these policies provides the initial basis for conduct of research at the University—essentially defining the scope and providing the framework and justification for all research. In a practical sense, these policies define the balance between individual freedom and the defense of other principles. UC's *Contract and Grant Manual*, which is a collection of Regental and Presidential statements, policy memos, and

¹ *Sweezy v. New Hampshire*, 354 U.S. 234 (1957). U.S. Government Printing Office
<http://www.access.gpo.gov/su_docs/supcrt/index.html>

² Euben, Donna. "Academic Freedom of Individual Professors and Higher Education Institutions: The Current Legal Landscape." May 2002. AAUP <<http://www.aaup.org/Com-a/aeuben.HTM>>

³ "Academic Freedom." *General University Policy Regarding Academic Appointees*, APM-010. 29 Sep 2003. UC
<<http://www.ucop.edu/acadadv/acadpers/apm/apm-010.pdf>>

other documents, sets forth systemwide policies for the solicitation, acceptance and administration of awards from extramural sponsors. It is the duty of the research administration officers on each campus to interpret this manual and apply its policies to sponsored project award agreements. This independence grants the campuses the flexibility to agree to specific terms, based on the circumstances of the research, that protect the University's principles while addressing, as well as possible, the needs of the sponsor and principal investigator.

Some of the fundamental guiding policies for research awards outlined in the *UC Contract and Grant Manual* and other institutional resources include:

Publication

The freedom to publish and disseminate research results is a major criterion for determining whether a sponsored project award will be accepted. Normally a contract or grant is unacceptable if it limits this freedom by: assigning to the sponsor ownership of the results; assigning to the sponsor the final decision of what may be published; or placing an unreasonably long or unlimited delay in the publication and dissemination of the results.⁴ Various exceptions to these rules are allowed only under certain circumstances.

Classified Research

Although a contract or grant for research to be conducted on a UC campus is unacceptable to the University if it limits the freedom to publish or disseminate results,⁵ the federal government has recognized that in certain research areas the public interest precludes open publication; research in these areas is deemed "classified." UC faculty can conduct classified research at off-campus sites, including the UC-managed Los Alamos and Lawrence Livermore National Labs and an off-campus facility of the Scripps Institution of Oceanography. In addition, UC policy permits the UC President to grant an exception to policy to allow classified research to be conducted on a campus, for research that involves vital national security interests and that cannot readily be conducted at the off-campus sites, when the special expertise of UC personnel is required. To the best of our knowledge, no such exceptions have ever been made.

Intellectual Property

Regulations and restrictions related to patent policy involve protection of the University's intellectual property, as well as that of individual faculty and students, and define the balance between the two. Simultaneously, they defend the University's rights within the industrial community, and are a large part of any collaboration or grant contract with an industrial partner. UC's responsibility to manage in the public interest the intellectual property derived from federal research funding was established by Congress in 1980 through the Bayh-Dole Act.⁶ The intellectual property policies have been recently reviewed and clarified in "Guidance for Faculty and other Academic Employees on Issues Related to Intellectual Property and Consulting" by the UC Technology Transfer Advisory Committee.⁷

Nondiscrimination

⁴ "Publication Policy and Guidelines on Rights to Results of Extramural Projects or Programs." *Contract and Grant Manual*, 1-400. UC Research Administration Office <<http://www.ucop.edu/raohome/cgmanual/chap01.html#1-400>>

⁵ Ibid.

⁶ "The Bayh-Dole Act: A Guide to the Law and Implementing Regulations." Oct 1999. Council on Governmental Relations <http://www.cogr.edu/docs/Bayh_Dole.pdf> or <<http://www.ucop.edu/ott/bayh.html>>

⁷ "Guidance for Faculty and Other Academic Employees on Issues Related to Intellectual Property and Consulting." 3 Mar 2003. UC Office of Technology Transfer <<http://www.ucop.edu/ott/pdf/consult.pdf>>

In accordance with state and federal regulations the University maintains a nondiscrimination policy. This policy prohibits discrimination against an individual on the basis of a number of personal factors (e.g., race, gender, ethnicity, age).⁸ These prohibitions against discrimination also apply to the selection of participants in research projects.

Private Gifts for Research

The University has identified a number of characteristics to be used to distinguish between whether monies awarded by private donors should be classified and processed as gifts or as grants.⁹ In general, private awards that contain special contractual requirements, terms allowing the revoking of funds, or special requirements and conditions that direct the research project should be classified as research grants rather than gifts. Regardless of whether an award is designated as a gift or grant, it is subject to the research review process and the administrative rules and procedures that apply to all University funds.

Solicitation and Acceptance of Funding

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 researcher, and therefore any commitments accepted under awards are the commitments of the corporation.¹⁰ The Standing Orders of the Regents authorize the President to solicit and accept or execute research proposals and awards, with stated exceptions.¹¹ The President has delegated this authority to the Senior Vice President–Business and Finance, Vice President–Agriculture and Natural Resources, the Director of Federal Governmental Relations, Chancellors, and Laboratory Directors who have, in turn, delegated their authority, with varying levels and limitations, to the appropriate Vice Chancellors, Deans, Directors, and Contract and Grant Officers.¹² The right to accept grants is similarly controlled.¹³

⁸ “Nondiscrimination/Affirmative Action.” *Contract and Grant Manual*, chap. 14. UC Research Administration Office <<http://www.ucop.edu/raohome/cgmanual/chap14.html>>

⁹ “Distinguishing Between Private Gifts and Grants for Research.” *Contract and Grant Manual*, 9-500. UC Research Administration Office <<http://www.ucop.edu/raohome/cgmanual/chap09.html#9-500>> and “Is it a Gift or a Private Grant?” *Development Policy and Administration Manual*, chap. III – Gift Administration Policy. UC <<http://www.ucop.edu/ucophome/policies/devpol/dpa3d.html>>

¹⁰ “Corporate Status.” *Contract and Grant Manual*, 13-200. UC Research Administration Office <<http://www.ucop.edu/raohome/cgmanual/chap13.html> - 13-200>

¹¹ “Duties of the President of the University.” *Standing Orders of the Regents*, 100-4. UC Regents <<http://www.universityofcalifornia.edu/regents/bylaws/so1004.html>>

¹² “Solicitation Authority.” *Contract and Grant Manual*, 2-200. UC Research Administration Office <<http://www.ucop.edu/raohome/cgmanual/chap02.html#2-200>>

¹³ “Authority to Accept Awards.” *Contract and Grant Manual*, 2-610. UC Research Administration Office <<http://www.ucop.edu/raohome/cgmanual/chap02.html#2-610>>

Attachment 2

UNIVERSITY POLICY ON INTEGRITY IN RESEARCH University of California June 19, 1990

Policy

It is longstanding policy of the University of California to encourage and maintain the highest ethical standards in research. This Policy reaffirms the University's commitment to integrity in research.

Integrity in research includes not just the avoidance of wrongdoing, but also the rigor, carefulness, and accountability that are hallmarks of good scholarship. All persons engaged in research at the University are responsible for adhering to the highest standards of intellectual honesty and integrity in research. Faculty and other supervisors of research activities have a responsibility to create an environment which encourages those high standards and integrity in research. Open publication and discussion, emphasis on quality of research, appropriate supervision, maintenance of accurate and detailed research procedures and results, and suitable assignment of credit and responsibility for research and publications are essential for fostering intellectual honesty and integrity in research.

University policies set forth expectations for high standards of ethical behavior for faculty and students involved in research and provide procedures for addressing allegations of misconduct in research. Those policies and procedures are set forth in the Bylaws of the Academic Senate, the University Policy on Faculty Code of Conduct and the Administration of Discipline, and University Policies Applying to Campus Activities, Organizations, and Students--Part A, Student Conduct and Discipline. Procedures for administration of discipline also exist for other academic and staff employees in accordance with applicable personnel policies and collective bargaining agreements. (A list of University of California policies which pertain to integrity in research is attached.)

Misconduct means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scholarly and scientific community for proposing, conducting, or reporting research. Misconduct does not include honest error or honest differences in interpretations or Judgments of data./1

The University will continue to take prompt and vigorous action to investigate and address allegations of misconduct in research, based on the following principles:

Institutional and academic responsibility for self-regulation;

Mechanisms to protect to the greatest extent possible the due process rights of the accused, the interests of those making allegations, and the public interest;

The highest degree of confidentiality compatible with an effective response and applicable sponsor reporting requirements; and

Precautions against real or apparent conflict of interest.

Campus and Laboratory Implementation

Campuses and Laboratories shall have necessary guidelines and procedures to provide appropriate responses to allegations of misconduct in research. Such guidelines and procedures should specify how pertinent University policies and procedures will be used to address allegations of misconduct in research by faculty, students, and staff. When extramural funds are involved, local guidelines and procedures also should comply with conditions of the award, including applicable regulations issued by the sponsor of the research. Such regulations include, but are not limited to, the Responsibilities of PHS Awardee and Applicant Institutions for Dealing with and Reporting Possible Misconduct in Science (42 CFR, Part 50, Subpart A) and the National Science Foundation regulations on Misconduct in Science and Engineering Research (45 CFR, Part 689). Among their requirements, these regulations require specific reports to the sponsoring agency.

Chancellors and Laboratory Directors, or their designees, shall be responsible for implementation of this Policy, which may include the consideration of initial reports of misconduct and, when necessary, the referral or initiation of formal investigations. Local guidelines and procedures should clarify available mechanisms for imposing appropriate sanctions or discipline on individuals when the allegation of misconduct has been substantiated. Chancellors and Laboratory Directors, or their designees, shall refer to the University Policy and Procedures for Reporting Improper Governmental Activities and Protection Against Retaliation for Reporting Improper Activities to ensure coordination of allegations of misconduct which may be reported under that Policy and to advise on the procedures to protect against retaliation.

Copies of local guidelines and procedures shall be sent to the Senior Vice President--Academic Affairs for review as to compliance with this Policy.

Note 1/The definition of misconduct is based upon the regulations of the Public Health Service, Department of Health and Human Services (Responsibilities of PHS Awardee and Applicant Institutions for Dealing with and Reporting Possible Misconduct in Science, 42 CFR, Part 50, Subpart A), and it is consistent with the ethical principles and types of unacceptable conduct regarding scholarship listed in the Faculty Code of Conduct and with the types of misconduct specified in the University Policy on Student conduct and Discipline.

University of California Policies which Pertain to Integrity in Research

1. University Policy on Faculty Conduct and the Administration of Discipline (June 14, 1974), including the Faculty Code of Conduct (August 26, 1988).
2. University Policy on Disclosure of Financial Interest in Private Sponsors of Research (April 26, 1984).
3. Policy on Outside Professional Activities of Faculty Members (April 13, 1979).
4. Standing Order of The Regents of the University of California 103.1(b), Special Provisions Concerning Officers, Faculty Members, and Employees of the University, Service Obligations.
5. University Policy on the Use of Animals in Research and Teaching (October 15, 1984).

6. University Policy on the Protection of Human Subjects in Research (September 2, 1981).
7. Guidelines on University-Industry Relations (May 17, 1989).
8. University Regulation No. 4, Special Services to Individuals and Organizations, Academic Personnel Manual, Section 020, (June 23, 1958).
9. University Policies Applying to Campus Activities, Organizations, and Students -- Part A, Student Conduct and Discipline (October 31, 1983).
10. Business and Finance Bulletin G-39, Conflict of Interest Policy and Compendium of Specialized University Policies, Guidelines, and Regulations Related to Conflict of Interest (Revised April 15, 1986 and June 15, 1989).
11. Guidelines for Disclosure and Review of Principal Investigators' Financial Interest in Private Sponsors of Research (April 27, 1984).
12. University of California Patent Policy (November 18, 1985 and revised in part on April 16, 1990).
13. University Copyright Policy (August 1,-1975).
14. University Policy and Procedures for Reporting Improper Governmental Activities and Protection Against Retaliation for Reporting Improper Activities (January 1, 1990).