



December 3, 2004

Dear Colleagues,

As you know, George Blumenthal, in response to concerns raised by faculty on several campuses, has recently distributed a report from UCORP entitled "Problematic Restrictive Clauses in Contracts, Grants and Gifts for Research" to Systemwide Senate committees and the Divisions for comment. As part of this process, he has provided the list of people to whom he sent this request to permit those of us (and others) who raised these issues to communicate directly with you.

Adopting this report as written means that the Senate refuses on principle to develop any procedures for assessing evidence, no matter how egregious, that funds from a particular donor compromise the University's mission. Without such procedures, the University cannot defend the autonomy and integrity of academic research except on narrow grounds, such as outright censorship or contractual limitations on publication.

We agree with UCORP that serious threats to academic freedom have emerged post-9/11. We support its stand against outside funders, public or corporate, attaching "strings" to research or other University activities. We object, however, to the report's treatment of the University's internal decisions to decline funding from certain sources. On this topic, we argue, the report is so seriously flawed that it undercuts the report's laudable and urgent defense of academic freedom. As written, the report will prevent the University from reviewing evidence that an outside funder has compromised the University's central missions and is likely to do so in the future.

We believe that the report's treatment of tobacco funding, in particular, demonstrates the risks of neglecting credible internal review. Because the current report appears to be a referendum on "tobacco versus academic freedom" we feel that we must address these concerns. In particular:

1. UCORP did not request evidence or input from any UC academic units that have, after extensive deliberations, adopted policies to decline tobacco industry funding.
2. UCORP did not address any of the academic literature on the issue of tobacco industry funding and academic integrity, much of this literature by UC faculty. UCORP did not address the fact that faculties in leading universities worldwide have stopped accepting tobacco funds due to the industry's long history of manipulating the scientific process and compromising their academic missions.
3. UCORP did not address the facts that tobacco's major funding channels, the Council for Tobacco Research and the Center for Indoor Air Quality (which provided money for some UC researchers) were disbanded under allegations of fraud by the California Attorney General and other attorneys general or that the US Department of Justice, in its current racketeering lawsuit, alleges a criminal conspiracy by the tobacco industry to corrupt and misdirect university research, to pre-empt research results contrary to its interests, and to produce and disseminate disinformation under the guise of independent research.
4. UCORP did not recognize nor consider the broader implications of the fact that its recommendation represents a major change in current UC policy, which states "The University enters into certain contracts to carry out research projects for outside agencies when it is convinced that the project is an appropriate

University activity." (UCORP neither questioned nor examined the implications of its recommendation on the long-established policy of the Energy Institute, and MRU based at Berkeley, to decline energy company money to protect its integrity.)

UCORP's report does not make the obvious distinction between speech, protected by the University's policy on academic freedom, and the Regents' accepting funds from specific sources to conduct sponsored projects. Significantly, UCORP stated- incorrectly- that local policies on tobacco funding were based on "moral and or political judgments" rather than specific evidence of manipulation of the scientific process that directly bears on protecting UC's research mission from outside influence.

Chair Blumenthal asked the University Committee on Planning and Budget how to handle these issues before distributing the UCORP report to you. UCPB responded in a letter dated November 15, 2004, in part:

Like UCORP, we reject restrictions rooted in political, ideological or moral beliefs or restrictions wielded as a device to remove a troublesome colleague, but cases may arise where the funding source has a well-documented public record of intentional disregard for the basic integrity of the research enterprise, including the suppression or manipulation of research results or the research process itself solely for commercial advantage. The reputation and welfare of an entire academic unit and its researchers may be at stake in such a situation and must be weighed carefully against individual claims of academic freedom. Such cases will be rare, one hopes, but UCORP has not suggested a process through which the faculty and administration can address such situations that may violate the university's historic commitment to objective, open and disinterested inquiry while at the same time guaranteeing the rights of individual researchers. What criteria, for example, should enter into making this balancing decision? UCORP needs to address these issues.

Finally, throughout its report, UCORP consistently invokes UC "existing policies and principles" as the foundation of its conclusions, but nowhere are these policies and principles clearly defined with reference to the APM, the PPM or the Standing Orders of the Regents. A complete inventory and text of the relevant sections bearing upon research contracts and grants would be very helpful, particularly since those academic units that have made the decision to eschew certain sources of funding did so after investigating current university policy and maintain that their actions were consistent with those current policies.

(The full letter may be formally obtained by requesting it from Chair Blumenthal.).

It is important to emphasize the precedent that this action will set. Health science schools (medicine, nursing, and public health) throughout the world have debated the issue of tobacco industry funding, and many (but not all) have decided to decline such funding. To date no university administration or Academic Senate has overruled these decisions. Does the University of California want to be the first to do so, particularly without building a full record that all relevant evidence related to the issue were carefully considered?

We urge your committee or Division to obtain the UCPB letter and to support its recommendations. The development of fair procedures for addressing evidence that outside funding sources have openly or covertly compromised the research enterprise will articulate the University's legitimate interest in protecting its own academic integrity and individual researchers' academic freedom.

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cc: Interested parties