

October 4, 2004

George Blumenthal  
Chair, Academic Council

Dear Chair Blumenthal,

We are writing to protest, in the strongest possible terms, the recommendation of the University Committee on Research Policy (UCORP) recommendation, endorsed by the Academic Council, that faculty be prohibited from enacting local policies against taking money from the tobacco industry.

First, contrary to multiple statements in both Lawrence Pitts' letter to President Dynes and in the UCORP report, the committee did not "consult widely" with interested faculty. In particular, none of the faculty or administrators who have been involved in leadership positions in the local efforts to promote "no tobacco money" policies on the Berkeley, San Francisco, Los Angeles, or San Diego campuses were invited to participate directly in the process by meeting with UCORP or offered an opportunity to comment on a draft of the UCORP report. This process is completely inconsistent with the idea of broad consultation with interested parties that is supposed to be the centerpiece of shared governance.

Second, UCORP did not address the fact that existing UC regulations on extramural funds state that "[t]he 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* (emphasis added)." Faculty do not simply apply for funding autonomously, but do so through some campus unit whose head (chair, director, dean) must sign the application, in effect, representing that the project is an appropriate University activity. If, after appropriate deliberation, the faculty of an academic unit is not "convinced that a [tobacco industry funded] project is an appropriate University activity," should the unit head be forced to host that activity?

Third, UCORP has simply ignored the substantial body of research on the nature of the relationship between the tobacco industry and universities. Contrary to the "whereas" clause in UCORP's July 21, 2004 resolution, the units that have made decisions to eschew tobacco industry funding did not base them 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," but rather because of an understanding that, based on recurrent historical patterns of abuse over decades, the tobacco industry's use of funding to systematically manipulate and distort scientific research actively undermines the fundamental academic mission of the university.

Indeed, this systematic and sophisticated effort to manipulate the academic research process is at the core of the massive Department of Justice racketeering (RICO) case against the tobacco industry that is currently in trial in Washington, DC. Even a cursory perusal of the Department of Justice's 2543 page "Proposed Findings of Fact" reveals the magnitude of this effort. (The material is available at <http://www.library.ucsf.edu/tobacco/litigation/uspm.html>.) The Justice Department argues that "substantial evidence establishes that Defendants have engaged and executed -- and continue to engage in and execute -- a massive 50-year scheme to defraud the

public." UCORP also ignores the fact that two of the tobacco industry's funding mechanisms (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. UCORP does not address the question of whether and why it would be consistent with the University's academic mission to continue to participate in this well documented and, according to public health experts and the US Department of Justice, continuing fraudulent enterprise.

Fourth, in its report UCORP quotes 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 several faculty units have adopted no-tobacco money policies. UCORP failed to recognize or provide an effective argument against this view. At the very least, they should be required to do so in a way that actively engages the factual record.

Fifth, UCORP ignores the fact that the Regents have (twice) voted 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." UCORP does not address the question of why the Regents would want to simultaneously avoid investments in the tobacco industry while concurrently partnering with it, particularly in light of the historical record.

Sixth, UCORP ignored the fact that there is precedent for an academic unit to eschew specific sources of funding. The Energy Institute (and MRU based at Berkeley) has had for many years a policy not to accept energy industry funding in order to protect its independence and integrity and to increase the credibility of its findings. This policy, which was well-known to Vice Provost Coleman, has existed without controversy. As with the tobacco researchers, UCORP did not invite the Energy Institute into the process or offer it an opportunity to comment on the report.

Seventh, UCORP failed to make a distinction between restrictions on the content and presentation of research results and the source of funding. No one has suggested any restrictions on the content of research questions to be asked or answers to be found and presented.

Finally, this rushed action (by UC standards) is an affront to the faculty who have, at the suggestion of Vice Provost Coleman, worked for the last two years to address the problem of tobacco industry funding for research at the local level. These discussions have been lengthy and intense (and have not always led to decisions by units to eschew tobacco funding). Overruling this process should only be done after equally careful deliberation and after fully engaging the procedural and substantive issues raised above.

Stanton A. Glantz, PhD  
Professor of Medicine

Eliseo Perez-Stable, MD  
Professor of Medicine

Michael W. Rabow, MD  
Associate Professor of Clinical Medicine

Steven A. Schroeder, MD  
Distinguished Professor of Health and Health Care

Molly Cook, MD  
Professor of Clinical Medicine

Dorothy P. Rice  
Professor Emerita

Ruth Malone, PhD RN  
Professor of Nursing

Karen Hudmon, PhD  
Assistant Clinical Professor of Pharmacy

cc: Len Zegans, MD  
Michael Bishop, MD  
Gene Washington, MD