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Assembly of the Academic Senate, Academic Council
University of California
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November 17, 2004

DIVISIONAL CHAIRS
SENATE-WIDE COMMITTEE CHAIRS

Re: Academic Council Resolution on Restrictions on Research Funding Sources

Dear Colleagues:

At its October 20 meeting, the Academic Council unanimously agreed that the Academic Council Resolution on Restrictions on Research Funding Sources, which was adopted by the Council on July 21, 2004, should be sent out for general review by the systemwide Senate Standing Committees and the Divisions. The Council felt that concerns expressed by some faculty members subsequent to the Council's July endorsement regarding both the content of the resolution and the need for members of the Senate to have their views heard warrants a full and open discussion of the resolution before any final action is taken.

I therefore am enclosing the [Academic Council Resolution on Restrictions on Research Funding Sources](#) for review by your respective constituencies. After the divisions and statewide committees have commented, the Academic Council will decide whether the Resolution should stand as written and adopted, or should be amended and/or rescinded. The Council might also decide to forward this to the Academic Assembly for action. I would like to receive responses from Systemwide committees by **February 10, 2005** and from the Divisions of the Academic Senate by **March 14, 2005**.

I also refer you to the Academic Council's ["Report on Problematic Restrictive Clauses in Contracts, Grants and Gifts for Research,"](#) for the larger context in which the University Committee on Research Policy (UCORP) formulated this resolution. In what follows, I would like to provide a brief overview of the document's background and the debate associated with it.

Last July, the University Committee on Research Policy (UCORP) brought to the Academic Council the above report on "strings" attached to research awards. Attending that report, both as a separate document and incorporated into the report, was UCORP's Resolution on Restrictions on Research Funding Sources, which was developed as a response to faculty votes within individual units of the University to ban the acceptance of research funding from the companies associated with the tobacco industry. The Resolution is, however, not particular to that one source or issue. The Academic Council adopted both the report and the resolution, and they were subsequently sent to President Dynes with the request that they be distributed to the various campus administrations. The Resolution now out for review concludes that:

“The principles of academic freedom and the policies of the University of California require that individual faculty members be free to accept or refuse research support from any source, consistent with their individual judgment and conscience and with University policy. Therefore, no unit of the University should be directed (by faculty vote or administrative decision) to refuse to process, accept, or administer a research award based on the source of the funds; and no special encumbrances should be placed on a faculty member’s ability to solicit or accept awards based on the source of the funds.”

The Resolution was developed within the larger context of UCORP’s almost two-year-long engagement with the issue of restrictions on research awards. The committee had, in October 2002, identified tobacco industry funding as one of its key issues, and throughout the year discussed the UCSF vote on whether to accept tobacco funding and the University’s negotiations with the American Legacy Foundation (ALF) regarding a clause in its grants that prohibits the broad organization receiving ALF funding from also receiving funds from the tobacco industry. In July 2003, UCORP received a formal charge from Academic Council Chair Binion to review UC’s stance on the issue of banning tobacco funding at the University, along with the broader charge to review research funding policies at UC, the fulfillment of which was the July ‘04 report and its attendant Resolution on Restrictions on Research Funding Sources. In endorsing the Resolution, the Academic Council was expressing the belief that banning certain sources of funds, such as tobacco funding, by a majority vote of the faculty within a unit is a fundamental infringement of the academic freedom of the individual UC researcher who may wish to accept such funding and who is otherwise acting in compliance with UC policy. UC policy requires that scholarship be judged solely by professional standards, and the Resolution was aimed at showing that bans based upon judgments regarding the funding source or speculations about how the research might be used fundamentally interfere with a faculty member’s freedom to carry out a research program.

UCORP’s view of the academic freedom issues was based, in part, on the American Association of University Professors’ (AAUP’s) academic freedom position. The [2002-03 AAUP Committee A Report](#) states in part:

“A very different situation obtains, however, when a university objects to a funding agency because of its corporate behavior. As a practical matter, the distinction between degrees of corporate misdeeds is too uncertain to sustain a clear, consistent, and principled policy for determining which research funds to accept and which to reject. An institution which seeks to distinguish between and among different kinds of offensive corporate behavior presumes that it is competent to distinguish impermissible corporate wrongdoing from wrongful behavior that is acceptable. A university which starts down this path will find it difficult to resist demands that research bans should be imposed on other funding agencies that are seen as reckless or supportive of repellent programs. If the initiative in calling for these bans on the funding of faculty research comes from the faculty itself, our concerns about the restraints on academic freedom are not thereby lessened.”

Holding a contrary position, some faculty members believe that self-governance allows a unit of the faculty to restrict research awards based on the source of funds. For example, a group of faculty members active in opposing the acceptance of tobacco money have formally objected to the Resolution, and cite the Regents' 1970 resolution on research, which states that UC research "makes a vital contribution to [...] the health and well-being of all mankind" as the reason some faculty units have adopted no-tobacco money policies. They raise several procedural issues, one of which is that UCORP's initial consultative process was not broad enough and not held with "interested parties." It is the Academic Council's intention to address this particular criticism through discussions involving broad constituencies within Senate committees and the Divisions.

Key among the other objections raised by the group is the argument that the tobacco industry's history of systematically distorting scientific research is inconsistent with and undermines the University's fundamental academic mission. In support of this argument, it is pointed out that tobacco companies are now under federal RICO¹ indictment, and that the Council for Tobacco Research and the Center for Indoor Air Research were disbanded based on allegations of fraud by law enforcement officials. The current racketeering lawsuit alleges a criminal conspiracy by the tobacco industry to corrupt and misdirect university research, to preempt research results contrary to its interests, and to produce and disseminate disinformation under the guise of independent research. This group of faculty argues that in accepting research funding from the tobacco industry, the University is acting as an unintentional collaborator with the tobacco industry. Those with this point of view would draw a clear distinction between freedom of speech, which they agree is protected by academic freedom, and the acceptance of funding from a particular source. They also argue that this resolution inappropriately limits the grounds under which the University may refuse funding from a source.

In the same vein, the anti-tobacco money group argues that the UC Regents have divested their holdings in the tobacco industry, and therefore, it is inconsistent and questionable that the Regents (who as a body are the legal recipients of funding awards) should accept research sponsorship from the same source. On the other hand, it can be argued that investment choices (for monetary profit), which might provide financial support for repugnant behavior, may not be strictly analogous to accepting research funding that comes without strings and is in support of fundamental research.

Those opposing the resolution may also argue that each unit (eg. campus, college or department) should have the right to set its own policy by majority vote of the faculty. According to university policy, funding is approved by the head of a unit (a chair, dean, director) if the project is deemed an "appropriate university activity." They ask, then, if the majority of faculty members of a particular unit decide that accepting funding from a certain source is not an appropriate university activity, then "should the unit head be forced to host that activity?" However, UCORP has pointed out that policy is made at much higher levels and that a unit head, when approving a research grant or contract, is acting as an administrator, not as the head of a Senate unit; therefore that unit head must follow broader University policy.

¹ The Racketeer Influenced and Corrupt Organizations Act (" RICO"), 18 U.S.C. §§ 1961-1968, prohibits individuals or entities from engaging in racketeering activity associated with an "enterprise," which includes corporations, partnerships and other legal entities and associations. The RICO statute also makes it illegal for individuals or entities to profit from a pattern of racketeering activity, and allows for the confiscation and seizure of such ill-gotten gains.

I realize that in summarizing these arguments, I may not have done justice to all points of view within the University regarding this Resolution. I hope that discussions within committees and divisions will help to clarify the issues further. Clearly, the issues associated with the Resolution on Restrictions on Research Funding Sources have significant ramifications for research policy and for individual UC researchers. I look forward to hearing your responses.

Sincerely yours,

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

George Blumenthal, Chair
Academic Council

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Resolution of the Academic Council Restrictions on Research Funding Sources

**Submitted by the University Committee on Research Policy;
Adopted by the Academic Council July 21, 2004**

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

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

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

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

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

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

Resolved, That the principles of academic freedom and the policies of the University of California require that individual faculty members be free to accept or refuse research support from any source, consistent with their individual judgment and conscience and with University policy. Therefore, no unit of the University should be directed (by faculty vote or administrative decision) to refuse to process, accept, or administer a research award based on the source of the funds; and no special encumbrances should be placed on a faculty member's ability to solicit or accept awards based on the source of the funds.