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Michael Brown
Chair of the Academic Council
UC Academic Senate

In Re: Proposed Guidelines on Vendor Relations

Dear Michael,

Thank you for the opportunity to opine on the Proposed Guidelines on Vendor Relations. Upon receipt, I specifically requested that the UCLA School of Medicine FEC opine, as well as the Academic Senate's Executive Board. All other standing committees of the Senate were invited to opine. UCLA cannot support the proposal as written. In order that any such policy be acceptable to the faculty of UCLA, the following amendments would be required.

In summary, while members of the SOM FEC and Executive Board found this proposal to be a substantial improvement over the earlier draft, it continues to pose unreasonable restrictions on faculty, staff, and student activities that are likely to lead to widespread unintended and/or unavoidable non-compliance. Moreover, the proposal is unfair in that it singles out only the health sciences for new restrictions while allowing similar activities in other University units (your 9/5/07 letter is titled "... Proposed Guidelines Regarding Vendor Relations" yet the actual document is titled "Proposed Health Care Vendor Relations Policy"). In addition, the sweeping nature of the proposal raises serious academic freedom issues and will be a detriment to patient care.

Specifically, the following are our suggestions for revision and/or concerns that require redress that would make the proposal acceptable to UCLA:

1. The SOM FEC and Executive Board have serious reservations with the proposal being issued as a policy. Rather, they would like to see UCOP issue these as a set of guidelines. It is important to note that the circumstances at the various UC campuses are different in terms of the research portfolios, education programs, community clinics, number of indigent patients served, and so forth. Guidance from the UC system would be constructive and welcome, but there needs to be flexibility in the implementation of the guidelines as policy to meet local needs. We would be happy to accept a deadline by which local implementation should be completed, but we are concerned that inflexible centrally-

mandated policy will lead to widespread non-compliance. This would be highly counterproductive to our shared goals.

2. The Executive Board and the SOM FEC are concerned about the fairness of this proposal and the singling out of a selected group of faculty based on their appointment to a University unit. The preamble to the document states that the issues raised by the Political Reform Act and the University Conflict of Interest Policy apply to everyone in the University environment, and yet the policy proceeds to single out the health sciences for the new policy without justification or even clarification as to why.

This strikes both the Executive Board and the SOM FEC as inappropriate and once again will lead to a policy that is likely to be violated frequently. For example, faculty with dual appointments in the health and physical or life sciences would be able to accept gifts in one venue but not another. MD/PhD students and faculty will be affected differently in the clinical and research settings. There are numerous examples where practices prohibited by the proposal would be permissible in other units. In many cases these units are adjacent or intermixed in the same physical location.

3. The SOM FEC is concerned about the section on gifts and honoraria (section IV.c.). There are numerous conflicts in the proposal, as well as sections that did not make sense to the SOM FEC members. For instance, faculty could receive an honorarium for specific services (e.g., consulting), yet they could not receive travel funds to perform the service. Another example is that SOM faculty would not be allowed to receive textbooks for inspection and possible course adoption, yet College of Letters and Science faculty presumably would.

4. The Executive Board and the SOM FEC find the definition of gifts by vendors (section V) to be overly broad—so much so that it is likely to interfere with research and poses serious concerns about academic freedom. This section could be interpreted as prohibiting medications or devices free of charge under research contracts, as well as Material Transfer Agreements with industry. Moreover, the restrictions on samples of drugs or devices from industry continue to propose unreasonable restriction on physicians' judgment and will interfere with patient care, particularly for the indigent, elderly, and homeless. Some patients in free clinics (particularly the homeless and chronically mentally ill) will require long-term use of free samples, which is prohibited by this proposal. Some patients, such as the elderly or working poor, may not be indigent, but rapidly will become indigent unless samples can be used judiciously on an ongoing basis.

5. The SOM FEC recommends that the proposal concerning gifts to members of the public at a University function be better clarified (section V. 1.). Does the proposal intend to regulate individuals who are not University employees?

6. The Executive Board and the SOM FEC are concerned about the prohibition on receiving samples, supplies, and equipment for research and investigation purposes (section V.4.). In many cases, these are provided for research and these studies cannot be conducted without these items. Asking permission from a department chair seems unnecessarily restrictive and borders on limiting the academic freedom of faculty to conduct their scholarly activities.

7. Both the Executive Board and the SOM FEC are concerned with issues related to faculty attendance at professional meetings and their interactions with industry representatives who also attend these meetings. In many instances, it would be impossible to go to a dinner meeting at a professional

convention without violating the proposed policy. This is unnecessarily burdensome for faculty and should be adjusted accordingly.

8. Finally, the restriction on faculty receiving honoraria or travel reimbursement for participating in "speaker training" program presented by industry is unacceptable to the Executive Board and the SOM FEC. There are a number of problems with this restriction:

- "Speaker training" is not defined. This might not be distinct from industry consulting. In the absence of some compelling rationale, this is yet another intrusion on academic freedom;
- This proposal runs the very serious risk of opening a 'backdoor' mechanism to restrict the right of faculty to participate in a particular type of activity. Most industry programs do not occur in Los Angeles, for example; therefore, if faculty wish to participate, they must use personal or university funds to travel at their own expense, which obviously is unattractive or impractical. At best, this will raise unfair burdens on faculty, and, worse yet, it will have a negative impact on academic freedom;
- FDA rules mandate that anyone who is going to be sponsored by industry at some kind of talk must go through a training program in order to become familiar with FDA-approved drug indications and guidelines. If faculty cannot attend a speaker training, they never will be able to be sponsored by industry to speak, which is an undesirable result of the proposed language as written;
- Many of our faculty are experts in their clinical area and as such are asked by industry to train speakers about a particular disease state. This proposal has the undesirable effect of preventing our faculty from training other faculty because they never can have their expenses paid.

While the current proposal certainly improves upon the earlier version, UCLA concludes that it cannot support this proposal without significant revisions. Thank you again for the opportunity to opine. Please let me know if you have any additional questions.

Sincerely,



Elizabeth Ligon Bjork
UCLA Divisional Senate Chair

Cc: Maria Bertero-Barceló, Executive Director and Chief of Staff, Systemwide Senate
Nick Brecha, UCLA SOM FEC Chair
Andrew Leuchter, UCLA Executive Board Member
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