

Minutes of the
Tobacco Education and Research Oversight Committee (TEROC)
Tuesday, May 1, 2018
9:00 AM – 11:00 AM

Location

1500 Capitol Avenue, Hearing Room
Building 172, Room 172.167, First Floor
Sacramento, CA 95814

Alternative Locations

2001 N. Soto Street, Rm 324
Los Angeles, CA 90032

1100 H Street, Fishbowl Rm
Modesto, CA 95354

530 Parnassus Avenue, Ste. 366
San Francisco, CA 94143

10940 Wilshire Boulevard, Ste.
700
Los Angeles, CA 90024

4275 El Cajon Blvd., Ste. 101, Rm 7
San Diego, CA 92105

3091 Counter Center Drive
Auburn, CA 95603

1400 Arcadia Place
Palo Alto, CA 94303

MEMBERS PRESENT:

Dr. Mark Starr

MEMBERS WHO JOINED VIA WEBINAR:

Dr. Michael Ong (Chair), Dr. Alan Henderson, Ms. Patricia Etem, Dr. Wendy Max, Dr. Pamela Ling, Dr. Claradina Soto, Mr. Primo Castro, Dr. Lourdes Baézconde-Garbanati, Dr. Robert Oldham, Ms. Mary Baum, and Ms. Vicki Bauman

OTHERS IN ATTENDANCE:

April Roeseler, California Tobacco Control Program (CTCP)
Michelle Gibbons, County Health Executives Associate of California
Lindsey Freitas, American Lung Association (ALA)
Vanessa Marvin, ALA
Bob Curry, Local Lead Agency (LLA)
John Lagomarsino, California Department of Education (CDE)
Leisa Maestretti, CDE
Rebecca Lee, California Department of Public Health (CDPH)
Darren Yee, CTCP
Jerry Katsumata, CTCP
Alan Lum, CDPH
Caroline Peck, CDPH
Brandon Nunes, CDPH
Monica Morales, CDPH

Margarita Garcia, CDE
Tim Gibbs, American Cancer Society Cancer Action Network (ACS CAN)
Sarah Planche, CDE/Tobacco-Use Prevention Education (TUPE)
Phuong La, Department of Finance (DOF)
Maricris Acon, DOF
Jena Roof, Lassen County Public Health
Vanessa Hanson, Lassen County Public Health
Rich Kwong, CTCP
Valerie Quinn, CTCP
Sandra Soria, CTCP
Adam Willoughby, CTCP
Merril Lavezzo, CTCP
Veronica Wogec, CTCP
Nadine Roh, CTCP
Humberto Jurado, CTCP

Mayra Miranda, CTCP

OTHERS WHO JOINED VIA WEBINAR:

Charmaine Monte, Sacramento County Office of Education (SCOE)
Elizabeth Escalante, SCOE
Ricky Bispo, SCOE
Analisa Zamna, Stanislaus County Health Services Agency (SCHSA)
Kamlesh Kaur, SCHSA
Setar Testa, SCHSA
Jamie Morgan, American Heart Association (AHA), American Stroke Association (ASA)
Bart Aoki, UC Office of the President, Tobacco-Related Disease Research Program (TRDRP)
Derek Smith, San Francisco Department of Public Health

1. Welcome and Introductions

The TEROC Chair, Dr. Michael Ong, called the meeting to order. TEROC members and meeting guests introduced themselves.

2. General Business

Approval of Minutes

Ms. Patricia Etem motioned to approve the March 23, 2018 minutes without revisions. Motion was seconded by Dr. Alan Henderson, and passed unanimously.

Dr. Ong reviewed the TEROC-related correspondence since the March 23, 2018 meeting.

Incoming Correspondence:

1. March 22, 2018 letter from Jennie Cook, Chair, Smoke-Free Marin Coalition, requesting to continue rollover options for Proposition (Prop) 99 and Prop 56 funding to ensure continuity of quality health outcomes.

Outgoing Correspondence:

1. April 3, 2018 letter to Dr. Karen Smith, Director and State Public Health Officer of California Department of Public Health, regarding multi-year spending authority for Prop 56-funded State Agencies.
2. April 3, 2018 letter to State Superintendent of Public Instruction Tom Torlakson regarding multi-year spending authority for Prop56-funded State Agencies.
3. April 3, 2018 letter to Attorney General Xavier Becerra regarding multi-year spending authority for Prop 56-funded State Agencies.
4. April 3, 2018 letter to the University of California President Janet Napolitano regarding multi-year spending authority for Prop 56-funded State Agencies.
5. April 9, 2018 letter to Governor Edmund Brown regarding multi-year encumbrance and spending authority for Prop 56-funded State Agencies.
6. April 9, 2018 letter to Assembly Member Phil Ting, Chair, Assembly Budget Committee, regarding multi-year encumbrance and spending authority for Prop 56-funded State Agencies.
7. April 9, 2018 letter to Assembly Member Kevin McCarty, Chair, Assembly Budget Subcommittee Number 2 on Education Finance, regarding multi-year encumbrance and spending authority for Prop 56-funded State Agencies.
8. April 9, 2018 letter to Assembly Member Joaquin Arambula, Chair Assembly Budget Subcommittee Number 1 on Health and Human Services, regarding multi-year encumbrance and spending authority for Prop 56-funded State Agencies.
9. April 9, 2018 letter to Michael Cohen, Director, California Department of Finance, regarding multi-year encumbrance and spending authority for Prop 56-funded State Agencies.
10. April 9, 2018 letter to Senator Holly Mitchell, Chair, Senate Budget and Fiscal Review Committee, regarding multi-year encumbrance and spending authority for Prop56-funded State Agencies.
11. April 9, 2018 letter to Senator Anthony Portantino, Chair, Senate Budget Subcommittee Number 1 on Education, regarding multi-year encumbrance and spending authority for Prop 56-funded State Agencies.
12. April 9, 2018 letter to Senator Richard Pan, Chair, Senate Budget Subcommittee Number 3 on Health and Human Services, regarding multi-year encumbrance and spending authority for Prop 56-funded State Agencies.
13. April 9, 2018 letter to Betty Yee, State Controller, regarding multi-year encumbrance and spending authority for Prop 56-funded State Agencies.
14. April 12, 2018 letter to Michael Cohen, Director, California Department of Finance, thanking him and the Department for their assistance regarding Prop 56.

General Discussion

Dr. Ong announced Dr. Edith Balbach was recently appointed to TEROC by the Governor as the representative from UC/TRDRP and will join the Committee at the June 7 TEROC meeting. Dr. Ong also announced Dr. Aoki had been appointed as the Executive Director of Research Grants Program Office. Dr. Ong congratulated Dr. Aoki on behalf of TEROC.

3. Discussion about Proposition 56 Funding

Dr. Ong noted the Department of Finance (DOF) said at the March 23 TEROC meeting they were working on an administrative solution relating to fiscal year (FY) 2017/18 Prop 56 funds. He asked if any of the three agencies had an update to share with TEROC.

Mr. Alan Lum, Deputy Director of Administration, California Department of Public Health (CDPH), summarized his staff has an administrative process to handle the funds. The goal is to ensure the contracts are fully executed with start dates within FY 2017/18. CDPH will pay the invoices to those contracts through March 2020. Earlier in the morning, Mr. Lum became aware that there might be current FY funds that would not be in fully executed contracts by June 30, 2018, and thus will work with DOF to identify how to carry over these funds into succeeding years.

Dr. Ong thanked Mr. Lum and his staff for their work and asked at what point CDPH would update their funded projects. Mr. Lum replied CDPH is working on a letter in response to the April 3, 2018, TEROC communication urging Dr. Karen Smith, Director of CDPH, to update the Prop 56-funded projects. The letter is currently in the review process and they will send it out as quickly as possible.

Dr. Aoki added UC/TRDRP is having a similar issue with fund balances from FY 2017/18. UC/TRDRP is currently reviewing research proposals and will make funding recommendations by the end of May. However, a number of award funds will not be in executed contracts by June 30, 2018. He continued his contacts at DOF informed him those amounts might need to revert then re-appropriated. Dr. Ong commented that it sounds like this is the same issue that all of the agencies are facing and will be a question to ask DOF colleagues who are joining during the second half of the meeting. Dr. Ong added based on discussions with DOF at the March 23 TEROC meeting, his understanding is unspent funds for FY 2017/18 would revert into the same subaccount to be re-appropriated.

Ms. Etem asked what percentage of the FY 2017/18 appropriation for each of the agencies would go back to the subaccounts at the end of FY 2017/18. Dr. Aoki estimated for UC/TRDRP it could be up to 50 percent, but it depends on what DOF counts as encumbered. Mr. Brandon Nunes from CDPH replied for CDPH the amount could range from \$50 to \$60 million, about 33 percent. Mr. Lagomarsino estimated about 60 percent of Prop 56 funds would not be encumbered by CDE. Dr. Ong commented it sounds like agencies have an intent to encumber all of the Prop 56 funds for current FY by June 30, 2018, although the contracts will not be fully executed. Mr. Lum replied, yes. Dr. Aoki added this is the case for UC/TRDRP. He continued he and his staff will encumber all of the FY 2017/18 funds to grant awards, but not fully execute those contracts. Mr. Lagomarsino said for CDE there would be unspent funds from FY 2017/18 that will revert.

Dr. Ong noted the DOF's definition of encumber is an important point for current FY funds. If it means having a fully executed contract, a portion of Prop 56 FY 2017/18 funds will not be encumbered by June 30, 2018. However, if an "intent to encumber" counts as encumbrance, then agencies would have the ability to complete the execution of the contracts for those funds after June 30, 2018. Ms. Etem commented this cumbersome funding structure is unacceptable moving forward since it negatively affects projects' effectiveness. Dr. Ong thanked all of the agencies for their efforts in finding an administrative process.

John Lagomarsino, CDE, announced the new Tobacco Use Prevention Education (TUPE) Office at CDE, which Sarah Planche is the administrator. TEROC congratulated CDE.

Dr. Ong invited colleagues from DOF to join the meeting. He welcomed Ms. Phuong La and Ms. Maricris Acon from DOF and thanked them for their time. He summarized the meeting thus far for DOF staff. Ms. Acon commented DOF has communicated concerns raised in prior meetings to the Administration as well as internally at DOF. Dr. Ong asked if there is a possibility of a one-time extension to the agencies to encumber funds if there is an intent to encumber given the short time frame in which the funds were allocated to

agencies. Ms. Etem asked if it is possible for DOF to provide defining language to give agencies the authority to encumber funds if they have an intent to award. Ms. Acon replied she would have internal conversations with DOF representatives for the three agencies about the issue and will circle back with TEROC. Dr. Ong said it is great to know those conversations are happening and will continue to happen.

Dr. Ong summarized, in response to the previous TEROC letters, it sounds like agencies will not encumber all of the funds for this FY year by June 30, 2018 and are in communication with DOF to find administrative solutions. Dr. Ong added TEROC might want to write back to the original 13 letter recipients thanking agencies for their efforts to find a solution for unencumbered FY 2017/18 funds. Dr. Ong asked what timeframe would be helpful for agencies to fully encumber funds if intent to encumber was acceptable for this FY. He added TEROC would continue to encourage a long-term solution of continuous appropriation without regard to FY in the letter. Dr. Aoki commented UC/TRDRP's second set of funding commitments would be completed by the end of May. Mr. Nunes added for CDPH, Request for Applications were beginning to be released in May, so he was unsure about timeline and would get back to TEROC. Mr. Lagomarsino commented CDE does not currently have any competitive grant releases. They were hoping to release additional grants related to health equity, but will not be able to do so by June 30, 2018 due to staffing shortage and the tight timeline. Mr. Lagomarsino encouraged TEROC to advocate for agencies to have the ability to treat Prop 99 and 56 funds similarly and for all Prop 56 funds to be continuously appropriated without regard to FY.

Dr. Ong summarized what the TEROC letter would encourage:

1. DOF to allow agencies a one-time ability to encumber current funds beyond June 30, 2018 if there is an intent to encumber demonstrated by an award letter or other defined language
2. Prop 56 funds are continuously appropriation without regard to FY

Ms. Etem commented that it is vital to get funds out to the field, especially for those working with priority populations as outlined in Prop 56. Dr. Aoki commented it would be helpful for UC/TRDRP if DOF could define encumbrance as intent to award, not as a fully executed contract. Ms. Etem asked CDPH if they could clarify their needs. Mr. Nunes said he would need to take time to better understand timelines with competitive grantee funding and get back to TEROC. Ms. La and Ms. Acon said they would follow up with their colleagues at DOF about the request to count intent to encumber as encumbrance. Dr. Ong asked if there were anyone else who would like to comment.

Mr. Derek Smith from San Francisco Department of Public Health commented it has been challenging for Local Lead Agencies (LLAs) to navigate rumors about changes to multi-year encumbrance and spending authority (MYESA) and appreciated TEROC's letters to members of the California State Legislature, which he shared with San Francisco County Supervisors. Mr. Smith also shared TEROC's letters with local policymakers and added \$1.2 million of their Prop 56 funding would revert if they could not rollover funds. He noted the funding issue has significant implications on health equity projects and goals.

Ms. Lindsey Freitas from the American Lung Association (ALA) expressed significant concerns from her organization as a co-sponsor of Prop 56 legislation about how Prop 56 funds are being spent. She expressed appreciation for efforts to find an administrative fix, but does not understand what the problem is since Prop 56 was clear in outlining the money is to be spent exactly as the Prop 99 money. The current problem, she added, is affecting the ability of the program to be effective. Mr. Tim Gibbs from the American Cancer Society Cancer Action Network (ACS CAN) and a co-sponsor of Prop 56 legislation also echoed Ms. Freitas' comments. He stated Prop 99 enabling legislation allows for the ability of tobacco prevention and research programs to have MYESA. Prop 56 references the same enabling legislation in Prop 99. He does not understand why there was a policy change with Prop 56. He said he and his organization are appreciative of DOF's efforts, but does not see why it is an issue in the first place.

Dr. Starr noted from the March 23 TEROC meeting, he understood the problem to be in the Prop 56 subaccount structure. He understands Prop 56 language allows for continuous appropriation regardless of FY and does not think that is the source of the problem. Rather, he continued, since the subaccounts were created by the Budget Act, they do not have the same continuous appropriation authority as the main Prop 56 fund. He asked DOF if this is where the problem source is and if the solution would be to give the subaccounts continuous appropriation authority.

Ms. Acon replied when Prop 56 was created there were two funds: The main fund and the Department of Health Care Services fund. To make tracking of funds easier, DOF created subaccounts for each program within the main fund to decrease co-mingling. Dr. Starr asked if the subaccount structure was something TEROC had asked DOF for. Ms. Acon replied yes. Dr. Starr asked about how to give the subaccounts continuous appropriations authority. Ms. La commented DOF is continuing to have conversations about how to do that.

Jamie Morgan from the American Heart Association and American Stroke Association and co-sponsor of Prop 56 legislation expressed appreciation to TEROC, but is unclear what the problem is. She also asked DOF for more information about the administrative solution for current FY funds. She asked if any other agencies receiving Prop 56 funds are experiencing the same issue. Ms. Acon replied she has only heard back from CDPH, CDE, UC/TRDRP.

TEROC Action

Dr. Ong reminded TEROC of the motion for TEROC to re-communicate with the same letter recipients:

- DOF to allow agencies a one-time ability to extend the definition of encumbering to include intent to encumber for this current FY
- A long-term solution of continuous appropriation

Dr. Pam Ling motioned, Ms. Etem seconded. Motion passed unanimously.

Public Comment

A webinar attendee asked about TEROC's education and outreach to the public on Proposition E in San Francisco, which would uphold the vote by County Supervisors to ban the sale of flavor tobacco products, including menthol. Dr. Ong said TEROC has been vocal about the positive public health impacts of banning the sale of flavor tobacco products for a long time.

Ms. Etem moved TEROC write a letter in support of Proposition E for San Francisco. Ms. Etem motioned, Dr. Ling seconded. Motion passed unanimously.

4. Adjourn

Dr. Ong adjourned the meeting.