

**Minutes of the
Tobacco Education and Research Oversight Committee (TEROC)**
Meeting on May 20, 2008
Sacramento Hilton
Garden Inn
South Natomas
2540 Venture Oaks Way
Sacramento, CA 95833

MEMBERS PRESENT:

Kirk Kleinschmidt, Wendell Brunner, Pamela Ling, Michael Velazquez, and Lawrence Green, Lourdes Baézconde-Garbanati, Alan Henderson, Peggy Uyeda, and Dorothy Rice

MEMBERS ABSENT:

Michael Ong

OTHERS IN ATTENDANCE:

Meredith Rolfe, California Department of Education (CDE)
Neal Kohatsu, Chief, Cancer Control Branch, California Department of Public Health (CDPH)
Philip Gardiner, Tobacco-Related Disease Research Program, University of California
April Roeseler, Acting Chief, California Tobacco Control Program (CTCP), CDPH
Tonia Hagaman, Chief, Local Programs and Advocacy Campaigns Unit, CTCP, CDPH
Greg Oliva, Chief, Strategic Planning and Policy Unit (SPPU), CTCP, CDPH
David Cowling, Chief, Evaluation Unit, CTCP, CDPH
Caroline Kurtz, Chief, Local Programs and Priority Populations Unit, CTCP, CDPH
Nadine Roh, Chief, Fiscal and Business Operations Section, CTCP, CDPH
Shirley Dellenback, Chief, Library and Information Services Unit, CTCP, CDPH
Colleen Stevens, Chief, Media Unit, CTCP, CDPH
John Francis, SPPU, CTCP, CDPH
Andrea Valdez, California Youth Advocacy Network (CYAN)
Colleen Haydon, CYAN
Rich Heintz, Local Lead Agency, Project Directors Association
John Lagomarsino, CDE
Paul Knepprath, American Lung Association
Tim Gibbs, American Cancer Society
Justin Garrett, Center for Tobacco Policy and Organizing
Lynn Bartolo, Board of Equalization (BOE), Excise Taxes Division (ETD)
Bill Kimsey, BOE, ETD
Richard Parrott, BOE, ETD

1. WELCOME, INTRODUCTION, AND OPENING COMMENTS

Tobacco Education and Research Oversight Committee (TEROC)
Chairperson Kirk Kleinschmidt called the meeting to order at 9:05 a.m.

Mr. Kleinschmidt asked for all those attending to sign in.

2. APPROVAL OF MINUTES FROM JANUARY 29, 2008 TEROC MEETING, CORRESPONDENCE, AND ANNOUNCEMENTS

There were no changes made to the January 29, 2008 minutes. The minutes were approved unanimously.

Mr. Kleinschmidt discussed the following correspondence:

- Two letters from TEROC to Ms. Andrea Valdez, California Youth Advocacy Network (CYAN) thanking her for her presentation on smoke-free movies and a letter of support for CYAN's Tobacco and Hollywood Campaign.
- Letter from TEROC to Teresa Boschert thanking her for her membership and service on TEROC.
- Letter from TEROC to Dr. Shu-Hong Zhu thanking him for presenting his analysis and recommendations regarding the California Smokers' Helpline adding a sexual orientation question at intake.

Determination of future meetings: Members selected September 12, 2008, in the Oakland Area, and January 20, 2009, in Sacramento as future TEROC meeting dates.

3. ENVIRONMENTAL DEVELOPMENTS

Mr. Kleinschmidt discussed environmental developments which included:

- Numerous local smoke-free policies are being adopted in California focusing on multi-unit housing and outdoor spaces.
- San Francisco is considering a tobacco-free policy for pharmacies, which is a priority for TEROC and tobacco control programs.
- Smoke-free issues are also occurring nationally, with the creation of more smoke-free spaces in the U.S. Senate.
- More local tobacco retailer licensing policies are being adopted throughout California, including Long Beach and Pacifica.
- The National Council of Legislators from Gaming States will be considering a resolution to support smoke-free casinos at a conference in Napa, CA, June 13-15, 2008.

Action Item: TEROC will write a letter of support that is respectful of tribal sovereignty and state the desired end goal to be 100 percent smoke-free casinos.

4. CANCELED PRESENTATION: BUDGET UPDATE

Mr. Jay Kapoor from the Department of Finance had e-mailed the chairperson before the meeting to let him know that he would be unable to attend the TEROC meeting and present on the June budget revision.

Mr. Kleinschmidt pointed out the specific budget handouts for the May Revision. There were no real surprises from January 2008. Overall, members were able to understand the new revision numbers.

Question (Q): Is the University of California (UC) account decrease appropriate?

Response (R): Yes, this is what the UC expected to receive.

The only significant question referred to the change in the unrestricted reserve account. Following the meeting, staff e-mailed Mr. Kapoor. His response is included here:

“The reason for the decrease in the reserve is that revenue projections decreased significantly:

The Governor's Budget projected Proposition (Prop) 99 revenues at \$327 million in 2007-08 and \$335 million in 2008-09. May Revision projections are \$7 million less in 2007-08 and \$15 million less in 2008-09.

The projected decrease in revenue is primarily attributable to larger annual declines in cigarette consumption than had been assumed in the Governor's Budget, based on an analysis of historical consumption data. In addition, the forecast reflects a modest downward adjustment in the 18 to 64 population. The revised 2007-08 projection also incorporates updated data on cash collections.”

5. PRESENTATION: BOARD OF EQUALIZATION (BOE)

Ms. Lynn Bartolo, Mr. Bill Kimsey, and Mr. Richard Parrott presented. Ms. Bartolo works for the Excise Taxes Division (ETD) and administers the tax and law program. Within the Compliance Section, they are responsible for:

- Registration and licensing of all cigarette and tobacco product manufacturers, importers, distributors, wholesalers, and retailers.
- Advisory services via the BOE's toll-free phone line (800) 400-7115.
- Collections for all liabilities within the cigarette and tobacco programs.
- Return processing for all cigarette and tobacco products manufacturers, importers, distributors, and wholesalers.
- Account maintenance and closeouts.
- Billings for non-remittance returns, partial remittance returns, late returns, and computational errors.

BOE conducts an Internet program that:

- Informs consumers and retailers of their tax obligations on their Internet and mail order purchases of untaxed cigarettes and tobacco products from out-of-state sellers.
- Notifies out-of-state sellers of their requirement to provide BOE with information regarding their sales to California customers.
- Protects California's licensed distributors and retailers.

Since July 2006, BOE has recouped over \$5 million in excise tax and use tax through the efforts of this program.

The BOE's Investigations Division issues citations to licensees for violations of the Cigarette and Tobacco Products Licensing Act. The ETD processes the citation and issues a Notice of Violation. The appeals procedure includes:

- Licensee appeals Notice of Violation (e.g., warning notice).
- First Level citation conference held.
- First Notice of Decision sent.
- Licensee then appeals the Notice of Decision.
- Final decision is made by BOE's Appeals Division.
- Revocations and fines over \$2,500 can be appealed to the elected board.

As of May 5, 2008, the tax program had 39,417 accounts which break down into the following categories: Cigarette Distributor (111), Tobacco Product Distributor (580), Cigarette Manufacture/Importer (34), Tobacco Manufacturer/Importer (70), Cigarette and Tobacco Products Wholesaler (437), Cigarette Retailer (38,185).

The Audit Section is responsible for:

- Processing cigarette tax stamp orders, which are now the new cigarette tax stamps (as of January 1, 2005). To date, BOE has generated approximately \$100 million in revenue which would not have been received without the new stamp.
- Processing cigarette tax stamp refunds.
- Coordinating between ETD and BOE's Investigations Division which helps to ensure compliance among licensees.
- Performing cigarette and tobacco products tax audits.
- Handling appeals process for tax audits and refunds.

Q: How many licenses are revoked per year?

R: To date, a total of 11 retailers that have been revoked over the existence of the program. Most cases occur because the seller's permit is revoked. One case occurred from selling during the suspension period, resulting in a mandatory suspension.

Q: Where does the fine money go?

R: The fine money goes into the cigarette compliance accounts.

Q: What is the nature of most audits?

R: Most of the audits result from coding errors. For example, if a seller lists the product as a food item at checkout instead of as a tobacco item. If there is an indication of a problem, they will try to validate the mistake through a third party and stamp information. If it is more than \$5,000 they will go into the field to audit.

Q: In terms of calculating consumption in California, are Internet sales folded into total sales?

R: Tracking only considers taxable sales.

Q: What about tracking Internet sales?

R: There are 15 Internet tobacco companies who are considered "large." All of these companies are audited. Of the medium sized companies, approximately 40 percent are audited. Of the small companies, very few are audited, and are selected to be audited by random sample.

Q: Is there a federal tax stamp?

R: No. However, there is a senator in Texas who wants to have a federal tax stamp. If this were to occur, there would be a more uniform way of tracking tobacco and sales throughout the United States.

Q: Do the military and tribal lands require tax stamps?

R: For the military, no. Each base will have a Base Commander who will determine the quantity of tobacco/cigarettes they will sell without a stamp. It will vary from base to base. At this time, it is around two cartons at a time. Though, some bases will allow up to ten cartons at a time.

As for Native American tribes, if tobacco is bought from a California distributor, then the product can be tracked. However, very few actually purchase through distributors in California. As a result, it is very difficult to calculate tribal sales and enforce no-taxed sales to non-tribal residents.

Q: Do you have an estimate of unlicensed sellers?

R: Yes, the BOE has a program that investigates and identifies unlicensed sellers. This program ends June 30, 2008, but a new program will be beginning. Nevertheless, the number is likely lower than five percent. The reason has to do with the system of accountability which makes the distributors to check licenses before selling tobacco products to them.

Q: What are the Internet-related trends for tobacco sales?

R: As the BOE begins to focus in on Internet tobacco sales and further enforce the tobacco tax, they have seen a leveling of the playing field. As a result, it is not as economically feasible to purchase online, and

individuals are not as likely to purchase from the larger online tobacco companies.

In terms of enforcement, the BOE will track who is selling online, and send them a letter concerning the Jenkins Act which says that purchasers are not exempt from federal excise tax and can be liable for state taxes as well. If BOE sends a second letter, they will send a copy to the California Attorneys General (AG). The AG can build a case against violators.

Q: Could the BOE provide insight related to the bill that banned private carriers from Internet sales and the legal opinion in the state of Maine?

R: BOE is not really familiar with this case but understands that the issue was related to violation of privacy and limiting commerce.

Q: What is your current estimate of non-taxed sales?

R: Currently, the BOE is receiving approximately \$4-5 million, but estimates that there is at least \$60 million annually from Internet sales.

Q: Is there National coordination?

R: Yes, there are annual meetings to discuss best practices.

Q: What works best?

R: California has really been the leader and is trying to get other states to implement many of the best practices.

Q: With an encrypted stamp would there be ways to get further information related to sales?

R: Yes, the encryption can do that. Currently, they cannot track the sales from the distributor to the retailer. After the tobacco product is stamped they do not know where the stamp will go. Encryption would solve this problem.

Q: What agencies do you work with?

R: The BOE works with Federal and State organizations, such as the Federal Alcohol and Tobacco Tax Bureau.

Q: Is there a national effort to harmonize the data.

R: There have been discussions, but it would cost a great deal. First, what is needed is a new federal tax stamp.

Q: Is it fair to say that other states are underestimating non-taxed sales?

R: Yes. It is interesting to note that Canada has just passed a law that taxes at the manufacturer level and is carried out at the national level making it much easier to track.

Mr. Kleinschmidt thanked the BOE for their time and presentation.

6. 2009-11 MASTER PLAN (MP) DISCUSSION

Mr. Kleinschmidt facilitated a conversation regarding the writing of the MP. At this point there are no major shifts from the 2006–08 MP. Nevertheless, TEROC has been working on updating the language and clarifying strategies within each objective.

TEROC has selected a new theme for the MP, titled: “Endangered Investment.” TEROC is likely recommending at least a \$1.50 tobacco tax increase with an earmark of at least \$0.20. This focus reflects what is needed to accomplish TEROC’s goals.

The September meeting will set aside time to discuss the MP, with hopes of producing the document by the end of the year.

TEROC will send a SurveyMonkey to the field to gather information on objectives and strategies. The Department of Education (CDE) will likely get a survey out sooner to meet the needs of teachers going on summer break.

Q: Is the \$1.50 tax the consensus of the group?

R: Yes, it’s the historic one. The \$0.20 is based on what we could do to achieve adult and youth prevalence by the end of the three-year MP. The funding should be appropriate to what agencies would need.

Q: Politically is that what will sell if something less came about?

R: Likely, yes. The earmark is the very significant. It is likely that California will raise the tax on tobacco products, though it is a question of whether or not Tobacco Control is included.

TEROC is also recommending an inflation adjustment that would account for decreases in the relative sales price and program loss due to inflation over time.

7. FIRST 5 DISCUSSION

TEROC invited Ms. Kris Perry, Executive Director of First 5 California, to discuss the agency’s current tobacco control-related operations. Unfortunately, Ms. Perry declined the invitation in an e-mail stating:

“Thank you for the invitation however we won't able to present this year due to pre-existing commitments. I also want to clarify that First 5 California does not work on tobacco-control issues directly. We are funded by tobacco tax revenue, but the Board of Equalization is responsible for the collection of those dollars. I hope you are able to coordinate other speakers. Good luck, Kris Perry.”

Mr. Kleinschmidt stated that there had been discussion the day before during the MP meeting, but he still wanted to allow time for discussion.

As a historic point, the last First 5 speaker TEROC had was from Alameda County First 5. This represented the county level where they are doing a bit more related to tobacco control. But the existence of tobacco control activities at the local level are really on a case-by-case basis.

Mr. Kleinschmidt noted that First 5 still funds some of the California Smokers' Helpline, but is not focusing on tobacco control-related issues in any substantive way. At this point, TEROC is not quite sure what to do with their relationship with First 5 for tobacco-related issues.

Members noted that smoking rates have increased among youth and there is a reported \$2 billion unspent at the local level. The members are concerned that they are not addressing smoking among youth and that the money is not being spent appropriately.

Q: Who should TEROC send a letter to, and who should be copied on the letter?

R: The state commission, the First 5 member board, and local commissions (58 total). However, there is a lot of autonomy for each local commission, and with the recent media and auditing scrutiny of the years; First 5 is likely to be defensive.

Q: Have we put forward Objectives to develop a relationship to work together?

R: It is a matter of jurisdiction. TEROC does not have any authority over First 5.

There is also supposed to be a specific percent of funds allocated to research, but it is unclear how much accountability or reporting has occurred.

Ms. April Roeseler noted that the California Tobacco Control Program (CTCP) has tried many times to develop a relationship and learn how to coordinate with First 5. Examples included how they could use their television programs to support tobacco-related issues. But this has been difficult. Most recently, CTCP had a meeting in November of 2007 and provided a number of suggestions on how they could help improve tobacco control efforts in California. CTCP tried to collaborate with First 5 for the implementation of the smoke-free cars with minors law, but First 5 asked CTCP to pay for the printing of educational materials distributed by First 5. However, CTCP was unable to since the new law did not provide for any funding.

Overall, TEROC needs to go to whom First 5 is accountable which would be the state commission.

The question as to the rationale for local First 5 programs not spending their money was raised. The answer given relates to the First 5 wanting to plan for sustained funding over future years. TEROC members believed that this was not a legitimate argument and that dialogue between the programs could be helpful at both the state and local level.

The message posed to First 5 is that we are not winning the war on tobacco, but that we need to work together. While tobacco control is not a major priority, it is still an issue they are legislatively responsible for addressing.

Perhaps there is a need for organizing constituencies at the local level regarding the current issues and how local programs can hold local commissions accountable as well.

There needs to be accountability for First 5's inability to spend public funds effectively and timely. Even though a tobacco tax is a declining revenue source, they need to be spending the dollars collected. Furthermore, First 5's activities undermine and jeopardize tobacco control's ability to increase the tobacco tax.

TEROC needs to go first to the state commission and detail the concerns, and offer to work collaboratively with First 5. The message addresses the best practices for families and young children and the ability of tobacco control agencies and education programs to work with local commissions as well. The message should also include specific ideas for engagement between agencies.

Action Item: TEROC will make a formal request to be on the agenda with Dr. Alan Henderson. Depending on the outcome of the request, Dr. Henderson would work with staff to provide information on specific issues, TEROC history with First 5, and TEROC's desire for collaboration. The next meeting is July 17, 2008.

8. CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH)–TOBACCO CONTROL PROGRAM UPDATE

Dr. Neal Kohatsu presented, referring to the report in the meeting packet.

Dr. Kohatsu highlighted specific elements of the agency report. These included:

The Funding Shortfall Application (FSA). CTCP conducted a FSA review process for procurements TCS 05-101, Local Tobacco Control Interventions, and TCS 05-102, Addressing Priority Populations in Tobacco Control. Seven-million dollars (\$7,000,000) were available for this procurement. Twenty-seven FSA applications received passing scores in the review

process, and there was enough funding to cover twenty-four of these projects for a two year augment. Unfortunately, three passing agencies could not be funded. Funded contracts are being negotiated and should be fully executed by July 1, 2008. There were two appeals from this procurement process and both were upheld by the Division of Chronic Disease and Injury Control Chief.

Q: Is it a continuation or expansion of projects?

R: There is actually a mix of projects. Some agencies are continuing to focus on similar work and some have adopted new two-year projects. This is based on both evaluation of current projects and FSA requirements.

Additionally, the maximum annual agency funding is \$150,000. This is the same as the base funding levels allocated to local lead agencies (LLA).

Be a REEL Hero contest: The video contest was created to engage Californians on the issue of tobacco control and to solicit the best 30-second anti-tobacco commercials from California's creative community. Over four-dozen entries were received, and 19 were selected as finalists. The winning video was titled "Other Ways to Use a Cigarette," and was aired on television during American Idol. The contest helped address issues of talent with the Screen Actors Guild (SAG) and will better enable CTCP to use good quality ads in a viral way. As a result of the contest, CTCP has 12 really good advertisements (ads) with full rights to modify and utilize as desired.

Q: Will CTCP translate any of the ads?

R: This is a big consideration that CTCP is looking into.

Q: Did the SAG have any push back?

R: CTCP has very strict rules with the State and SAG. Through consultation regarding how this would affect their relationship, CTCP learned that there would not be issues as long as CTCP did not utilize their ad agency during the process.

Q: Could there be any utilization with schools?

R: Yes. CTCP is looking at each ad and identifying the appropriate audiences. Each ad requires a few edits, but schools will be included on the list.

Tobacco Industry Campaign Contributions: The Center for Tobacco Policy and Organizing (The Center) continues to release updates reporting on tobacco industry influence at the capitol. The most recent update shows that tobacco interests spent more than \$1.2 million on lobbying expenditures in 2007. Most significantly is the figure that Philip Morris USA, Inc. spent more in one quarter on lobbying expenditures. One of the likely targets of the expenditures was the Health Care Reform legislation, AB 1x1, which proposed a tobacco tax of \$1.75 to fund health insurance coverage for low-income populations.

Q: Does this report tie into the current MP?

R: Yes. There is a strategy that addresses legislator's acceptance of tobacco industry money.

Comments (C): A TEROC member asked if The Center can make reference to the MP and provide a web link in their future reports. This would provide for more integration of the MP and the work being done. Specifically with the current MP: "Confronting a Relentless Adversary."

The Local Programs Unit was very pleased to announce they are fully staffed. Four new staff had been hired, and are currently being trained. Typically, there is a six months to one year learning curve for staff.

Q: Is CTCP renewing the University of California, San Francisco Contract?

R: Yes. There are approximately 60 positions in CTCP, and approximately 50 percent are contract employees. This contract makes up a significant portion of the budget, but is necessary because it is difficult to hire new State civil service positions.

Dr. Kohatsu also introduced Nadine Roh as a new hire for CTCP.

Regarding the CDPH, CTCP reorganization: Dr. Kohatsu shared the current process of elevating CTCP to the branch level within CDPH. Currently, CTCP exceeds the size of many other branches. Also, this change would increase CTCP's ability to operate within the department and have its own branch chief position.

Q: Who is currently the head of CTCP?

R: Ms. April Roeseler is acting chief. Though, establishing a branch chief position will be competitive process.

CTCP will likely become a branch over the month of July. There will be three sections within the branch: 1) Evaluation and Knowledge Management, 2) Programs and Media Operations, and 3) Financial and Business Operations (FBO). The FBO Section reflects a new unit to CTCP that will conduct more fiscal forecasting and proactively address problem contracts.

The Center conducted the Information and Education Days on April 21-22, 2008, in Sacramento. The event hosted 150 local tobacco control representatives participating in one day of training and one day in meetings, sharing tobacco control successes and challenges with state legislators. Participants either met with legislators, their staffers, or dropped by offices with information packets. As part of the legislative meetings, participants asked legislators to sign a resolution supporting the TEROC MP. Prior to the event, 19 current or former legislators had signed the Protect all Californians

from Tobacco (PACT) Resolution. An additional three legislators (Jenny Oropeza, Jared Huffman, and Fiona Ma) signed the PACT Resolution during the two-day event.

Action Item: TEROC will send letters of support to legislators who signed the PACT.

Q: Could CTCP provide more information on smoke-free multi-unit housing (MUH) initiatives?

R: Most of the work being conducted today is in the field through LLAs and competitive grant agencies. Agencies are responding to requests from the public and other partnering agencies. And, the information being distributed is helping to develop partnerships with other housing related stakeholders (e.g., owners/managers and tenants). CTCP agencies have developed mechanisms for voluntary and legislative policy approaches with a good deal of success.

At this point, CTCP has a short-term goal of securing at least 50 percent smoke-free units in all California MUH, with the understanding that this will grow. In some cases like Yolo County, some owners are voluntarily adopting 100 percent smoke-free policies prior to opening new complexes. Many cities are starting to view this as a quality of life issue.

Q: Who is speaking on the demand side of smoke-free MUH?

R: Many individuals who are coming forward and sharing issues. The American Lung Association (ALA) has been very active on the local level. Also, LLAs are very organized in the process of gathering constituents.

9. UNIVERSITY OF CALIFORNIA – TOBACCO-RELATED DISEASE RESEARCH PROGRAM (TRDRP) REPORT

Dr. Phillip Gardiner provided the report by briefly referring the Committee to the report provided. Dr. Gardiner said that the report was short and self explanatory, and he wanted to take the time to share an occurrence of what is happening at the University of California Office of the President (UCOP).

Dr. Gardiner believed what he was sharing was taken on with some trepidation; that sharing this information was a risk taken on by himself.

Dr. Gardiner believes that the TRDRP is in jeopardy.

To his understanding, there are going to be changes by the UCOP that TRDRP would no longer exist the way it was proposed in legislation, and that TRDRP would essentially be dismantled.

The UCOP is creating a new research program that would consolidate the six current research programs as well as a new national lab that would be a part

of research studies. They intend to pull all funding to create one centralized competitive granting program called "Grants Central Station." This is supposed to be done by July 1, 2008.

The UCOP wants to spin off grant monitoring and fiscal oversight. They could also be planning to jettison the newsletter, conferences, and the website. All of these changes are based on the Klein Report which calls for a greater streamline of services within the UCOP.

The problem TRDRP has is that they currently have eight to nine positions, and they are down by three or four positions. UCOP is working to determine how many full time employees are needed to facilitate the work, which could possibly mean a decrease by 50 percent.

What has been lost is the legislative mandate of the TRDRP. Dr. Gardiner shared a portion of a letter that had been sent out that day which quotes the Prop 99 law, stating:

"The Legislature hereby requests the University of California to continue to administer a comprehensive grant program to support research efforts related to the prevention, causes, and treatment of tobacco-related diseases. It is the intent of the Legislature that the program incorporates the principles and organizational elements specified in this article, including, but not limited to, a program office with a director and other necessary staff, a scientific advisory committee, and research review panels." (California Health and Safety [H&S] Code section 104505). Furthermore, the University is expected to "provide for the systematic dissemination of research results to the public and the health care community, and to provide for a mechanism to disseminate the most current research findings in the areas of smoking cessation and the prevention of tobacco use..." (California H&S Code section 104530).

Currently the UCOP is viewing the various research programs as only being used for peer review, and not the other things that TRDRP does.

Q: What is their concept about peer-review versus the other stuff that you do?

R: There is a somewhat limited understanding of the things that TRDRP does. They understand that TRDRP does good peer review, and TRDRP has been told that the idea of disseminating would be to spin off a specific office with dedicated staff to monitor the grant and disseminate the research.

Dr. Gardiner indicated that TRDRP senior scientists took it upon themselves to write a letter to their stakeholders. This comes after the Breast Cancer Research Program had met and drafted a letter to the Vice-President of Research at the UCOP. In response to the letter they were asked who their

stakeholders were, and shared that there are lots of stakeholders around the country. The letter went out that day around 9:30 a.m.

It is Dr. Gardiner's understanding that everyone who works at UCOP will have to reapply for their job.

Q: These new jobs will be a part of "Grants Central Station"?

R: Yes. And there will be only so many positions available.

Q: And, what are the job descriptions going to be based on?

R: The job descriptions have not been written. What they have been told is that everyday they should look at the website to see if the positions have been posted.

Q: Could you provide more explanation on what grant management will entail?

R: We have no idea. Dr. Gardiner shared that he was told that would still be examined. But, the UCOP's idea of grant management is more of the fiscal side of it. The scientific side is what is lost from the legislative mandate.

Dr. Brunner shared that it seems that one of the purposes of the research project was to not only do research on tobacco disease but also on tobacco prevention strategy in order to disseminate the information in order to have a better tobacco control program. This is the part that TEROC should be concerned about.

Dr. Gardiner agreed but said he was also concerned whether or not they have a program. He encouraged TEROC to review the legislative language, write a letter to Dr. Steven Beckwith, the Vice President of Research for UCOP, and encourage the UCOP not to dismantle the program.

Q: What are other groups doing about this (e.g., Cancer and AIDS Research)?

R: Many are going nuts and have already sent a letter to Dr. Beckwith. But, they feel that if they do not receive a proper response in a timely manner, they will go to the press.

(C): If there is any correspondence, it should be copied to the legislature. This feels like this could jeopardize TEROC's oversight functions which is legislatively mandated.

Q: Have you heard a response from the American Heart Association (AHA), the ALA, or the American Cancer Society (ACS)?

R: Not yet. They are planning to make a special appeal to the voluntary groups.

Dr. Gardiner spoke with Ms. Gerri Padilla (Chairperson for TRDRP's Scientific Advisory Committee) about the issue the day before and is planning on meeting with her to decide how this will come up on their agenda on June 2, 2008, where Dr. Beckwith will be speaking.

Q: Are other research programs legislatively mandated? Would it be better for the research groups to join together?

R: Breast Cancer is, and some others as well. They are going to regroup and try to address this. But, it seems clear that the UCOP will be going ahead with the changes.

Q: So, TRDRP might not need their own contracts grant monitoring? That could be centralized?

R: Yes. But, where would the expertise, the scientific review, or oversight come from by collapsing these things all together, and placing a number of disciplines together?

Q: What do they say about the legislative mandate?

R: The devil is in the details because they could still reorganize in such a way to meet the legislative mandate.

Q: From a legal perspective, is there a possibility of an injunctive process in order to slow this down and address this issue? It seems as though this is on the fast track for being released. It will be much more difficult to address the issue after changes have been made than to stop it all together.

R: Breast Cancer has met with a lawyer and there is a meeting where some of the programs will be discussing different courses of action.

Dr. Gardiner shared that Dr. Larry Gruder has not been included in the e-mail sent out by the TRDRP researchers.

Q: What does this do for the 2009 call for applications?

R: TRDRP has already drafted a call for applications that will be presented to the scientific advisory committee on June 2, 2008. But, if any of the changes come to pass, it is not clear how this will impact the call for applications.

Q: How do you see this affecting current grant recipients?

R: They would likely continue.

Action Item:

A letter will be sent reminding the UC and include:

- Legal obligations
- TEROC's role: oversight and accountability

- Program integrity: TRDRP's role within California's comprehensive tobacco control program with examples of success
- The TEROC MP
- The desire to keep the program intact and to ensure proper utilization of money and oversight

The letter will request:

- the retention of staff support in order to meet the legislative mandate,
- information on what the UCOP is planning to do with the program,
- for the TEROC Chairperson to meet with the Vice Chancellor and Dr. Steven Beckwith.

The letter should be addressed to Dr. Rory Hume, Provost of the University and Dr. Steven Beckwith. The letter should also be copied to the Governor, Speaker of the Assembly, Senate President pro Tem, the AHA, the ALA, and the ACS.

10. BREAK FOR LUNCH

11. LEGISLATIVE AND TOBACCO POLICY UPDATE

Mr. Paul Knepprath, from the ALA, distributed the legislative update produced by The Center for the purpose of discussion.

Presently, the legislature is approximately halfway through the legislative process. At this time, there are about six bills related to tobacco control, which is far less than most years. However, from a policy perspective we are beginning to deal more with "niche issues."

Assembly Bill (AB) 2344, Beall: Tax evasion and cigarette smuggling
Attempts to address illegal sales to youth, but does not adequately justify this. The bill would increase the one-time \$100 fee to a \$185 annual fee to pay for the enforcement of this program. However, there is a shortfall in funds to start up the program. The current costs come from tobacco control program dollars. This would help attenuate taking tobacco tax dollars and hopefully pay for itself.

Q: How does the bill impact local retailer fees?

R: It is explicitly anti-preemptive of local tobacco retailer licensing.

AB 2344 is presently in the suspense file because it would pose a greater cost to the state. The file will be taken up tomorrow, but there is not any notion of further progress. If it does progress, the voluntary health agencies desire to take out the language which addresses illegal sales to youth. The language should say that AB 2344 addresses the product and that local policies are the ones addressing youth access to tobacco.

AB 2662, Dymally: Clarifying tobacco cessation benefits for Medi-Cal

With the current state budget and its implications this bill will likely not go forward. This would clarify that Medi-Cal tobacco cessation coverage includes both personal counseling and all Food and Drug Administration approved tobacco cessation medication, including over-the-counter and prescription medications. This bill would likely be supported by the voluntary health agencies.

AB 3010, Blakeslee: Prohibiting tobacco use in state mental hospitals

Would prohibit tobacco use or possession by patients at state mental hospitals. AB 3010 is supported by unions with workers in these hospitals and others throughout the state. The interesting thing is that tobacco is not a priority relative to other health issues (e.g., substance and mental health issues). The bill is presently on the appropriations suspense file and it is not clear if it will go forward.

Q: What are the implications for other treatment facilities if the bill passes?

R: It only affects the specific hospitals in the bill.

Senate Bill (SB) 1418, Oropeza: Smoke-free state parks and beaches

The bill did not move forward because there was not strong support to get the bill out of the policy committee. The bill will likely be brought up next year.

SB 1598, Padilla: Authorizing landlords to prohibit smoking in rental units

The bill intends to restate the existing law that landlords are not prohibited from creating smoke-free policies on their property. The trouble is that the bill's current language allows for indefinite grandfathering of current smokers. It is worse than current law which allows them to adopt a policy. This would not protect non smokers from involuntary secondhand smoke (SHS) exposure. At this point the voluntary health agencies are not comfortable supporting the bill the way it was amended.

Q: Did you share your concerns with the senator? What was his response?

R: Yes, they feel the bill still has merit.

Q: Does ALA have a position on these bills?

R: Yes, ALA is supporting AB 2344, AB 2662, AB 3010, and are likely removing support from SB 1598. ACS has the same position.

TEROC members discussed whether or not to take a position on any of the bills at this time. Mr. Knepprath shared that we will know a lot more after the following day when the bills could possibly move from the suspense file. If TEROC did take a position then it would be for the licensing.

There was a motion to support AB 2344.

The motion was seconded.

Q: How does the program feel about AB 2344?

R: Mr. Greg Oliva stated that CTCP supports the need to make BOE efforts self-sustaining, but is concerned that if the bill passed it could have a chilling effect on local tobacco retailer licensing (TRL) efforts in the state, specifically in the rural areas. Presently, CTCP has approximately 40 programs working on TRL, and we'd like to see these policies passed before AB 2344 passed.

Q: What is the number of jurisdictions with local TRL?

R: There are about 52 with jurisdictions with strong policies with fees and enforcement. There are over 70 with any sort of policy.

Mr. Knepprath recommended that TERO support the bill if amended by removing issues of youth access and local retailer licensing.

The motion was withdrawn.

12. CALIFORNIA DEPARTMENT OF EDUCATION REPORT

Ms. Meredith Rolfe presented the CDE report, referring to the report provided in the meeting packets.

The CDE continues to meet quarterly with the CTCP to share what's going on. They shared a letter from the Ventura County Office of Education regarding the difficulties caused by the administration of both the California Healthy Kids Survey (CHKS) and the California State Tobacco Survey (CSTS). A copy of the letter was provided. CDE will draft a response. The issue relates to having two surveys which diminishes the number of youth completing the survey and invalidating the quality of the data.

Dr. David Cowling stated that the problem with their issue is that in order to fully complete the survey they need to evaluate other factors, which requires too many questions to blend in with the other survey. Also, the CSTS is led by a proctor; the CHKS is administered by a teacher. The research concludes that proctor-lead survey is better. There are also differences in evaluating the data.

Dr. Cowling also stated that in response to the letter, they need to address some factual inaccuracies in the letter and issues related to how the surveys are administered.

Ms. Meredith Rolfe reiterated that the issue is not over and Mr. John Lagomarsino would like to go to the Evaluation Task Force meeting to bring up the issue.

Q: Are the surveys going to the same schools at the same time?

R: The real issue with the CHKS is that it's a two year survey and requires a data from each school. It is a census sample. The CSTS is a random sample. And, while there is overlap between the two, there should be coordination by the contractor to make sure this does not occur.

CDE and CTCP will be able to provide a copy of the joint response to the Ventura County Office of Education to the TEROC.

Ms. Rolfe also provided information regarding implementation of the taskforce recommendations. At this time 2 of the 11 recommendations have still not been adopted. One recommendation is bringing the two surveys together, and the other the CDE will not be able to work on. Nevertheless, one of the adopted recommendations evolved into AB 647 (2007) that would create a streamlined granting process and will begin in July of 2009. The CDE is in the process now of developing the grant. At this point, they have pulled together another taskforce, covering as many schools as possible, and came up with a two tier recommendation to help address issues where the competitive process would limit money going to smaller, rural schools. Tier 1 would provide a maximum funding amount between \$2,000 and \$5,000 (or possibly \$5,000 - \$10,000) for the full grant term. Tier 2 would be similar to the current Tobacco Use Prevention Education (TUPE) applications with funding based on average daily attendance and an emphasis on prevention activities for all students. Funding would be limited to a maximum of \$2 million for the full grant term.

Mr. Kleinschmidt commented that the two tier system seems like an appropriate way to address the concerns and allow for tobacco funding reaching rural schools. Nevertheless there are challenges not only with the granting change but also for adapting to the new competitive process. It will be helpful to evaluate the new granting process to ensure the money is being distributed appropriately.

Q: Could you please remind TEROC why this will be adopted in July of 2009?

R: The reason is to allow proper time to prepare the next Request for Applications (RFA). They will need to release the RFA in the fall, and it will take at least six months for the approval process.

The school districts have been notified and are aware that 2008-09 is the last year for this the current funding process and that the new granting structure will be changed.

Mr. Rolfe shared that the Categorical Program Monitoring (CPM) process has been going well. It is CDE's way to monitor school districts.

Within Objective 2 (eliminating disparities), the American Indian Education Center TUPE grants are going out. CDE had \$200,000 set aside for the grant, and only four applications were received. Only one grant was awarded and the grant was released again. CDE is hoping to get more applications this time.

Q: What was the reason for this?

R: It was a lack of applicants and quality applications.

For Objective 3, there is a letter that will be going out for schools to send to parents regarding SHS exposure in the homes, ways to decrease exposure, and encourage quitting. The CDE would like to translate this letter into as many languages as possible (25 languages).

CDE provided information regarding their other activities for middle school and high school grants and the grades four through eight entitlements.

Ms. Rolfe finished by sharing that she would be retiring and that this meeting would be her last meeting with TEROC. She has learned a lot from the members and wanted to say thank you.

Mr. Kleinschmidt also shared that TEROC appreciated all of her commitment to tobacco control.

13. PUBLIC COMMENT

Mr. Kleinschmidt concluded the regular scheduled agenda and opened the meeting to public comment.

There was a comment made to CDE regarding the use of Environmental Tobacco Smoke (ETS) as opposed to SHS. The reason being is that ETS is considered a tobacco industry-created term.

Ms. Rolfe indicated that she would be able to make that change.

Mr. Kleinschmidt adjourned the meeting.