

**Minutes of the
Tobacco Education and Research Oversight Committee (TEROC)**

Meeting on Tuesday, September 28, 2010
Hilton Oakland Airport Hotel
1 Hegenberger Road
Oakland, CA 94621

MEMBERS PRESENT:

Dr. Lourdes Baezconde-Garbanati, Dr. Wendel Brunner, Ms. Pat S. Etem, Dr. Lawrence Green, Dr. Alan Henderson, Dr. Pamela Ling, Mr. Naphtali Offen, Dr. Michael Ong (Chair), Dr. Dorothy Rice, Ms. Peggy Uyeda, Ms. Kathleen Velazquez, Dr. Valerie Yerger, Dr. Shu-Hong Zhu

MEMBERS ABSENT:

OTHERS IN ATTENDANCE:

Angela Amarillas, California Healthy Kids Resource Center
Dr. Bart Aoki, University of California, Office of the President (UCOP), Tobacco-Related Disease Research Program (TRDRP)
Majel Arnold, California Department of Public Health (CDPH), California Tobacco Control Program (CTCP)
Glen Baird, CTCP
Hilva Chan, California Department of Education (CDE), Coordinated School Health and Safety Office (CSHSO)
Dr. David Cowling, CTCP
Dr. Mary Croughan, UCOP
Joe Fitz, Board of Equalization (BOE)
Dr. Phillip Gardiner, TRDRP
Tonia Hagaman, CTCP
Sue Hauke, CDE, CSHSO
Rich Heintz, Local Lead Agency (LLA) Project Directors' Association
Tom Herman, CDE, CSHSO
Bill Kimsey, BOE
Paul Knepprath, American Lung Association of California (ALAC)
Dr. Caroline Kurtz, CTCP
Dr. George Lemp, TRDRP
Dr. Donald Lyman, CDPH
Carol McGruder, African American Tobacco Control Leadership Council (AATCLC) and URSA Institute
Stephanie Roberson, CDPH, Cancer Detection Section
April Roeseler, CTCP
Nadine Roh, CTCP
Gordon Sloss, CTCP
Greg Wolfe, CDE, CSHSO

1. WELCOME, INTRODUCTION, AND OPENING COMMENTS

Tobacco Education and Research Oversight Committee (TEROC) Chair Michael Ong called the meeting to order at 9:40 a.m. He welcomed newly appointed TEROC members and members and guests introduced themselves.

2. NEW MEMBER ORIENTATION

• Tobacco Education and Research Oversight Committee (TEROC)

The Chair outlined TEROC's legislative mandate in the Health and Safety (H&S) Code and TEROC's role in providing oversight for Proposition (Prop) 99 programs of the California Department of Public Health's (CDPH) California Tobacco Control Program (CTCP), the University of California Office of the President's Tobacco-Related Disease Research Program (TRDRP) and the California Department of Education (CDE). The appointing authority and representative roles for the thirteen members was discussed, together with conflict of interest.

The Chair indicated that since CDPH has a pending application before the Fair Political Practices Commission to clarify requirements for all CDPH advisory committees, TEROC members do not need to file a Form 700 Statement of Economic Interests at the present time. Since TEROC members may include CTCP contractors and/or CDPH/CDE/TRDRP staff, conflict of interest is a gray area and should be considered on a case by case basis. Members may recuse themselves from discussing issues or abstain from voting as options that can be part of the official record.

The legislative requirement to produce a Master Plan, and the vision, mission, goals and objectives of the current plan were discussed.

• California Department of Public Health (CDPH)

Donald Lyman provided an overview of CDPH and CTCP, including the development of Prop 99 and subsequent declines achieved in tobacco use prevalence. Dr. Lyman discussed CDPH and CTCP staffing and organization charts, and the hiring freeze exemption request that has been submitted for the appointment of a new CTCP Branch Chief.

CTCP's program strategies focus on social norm and environmental change in four major areas:

- Reducing exposure to secondhand smoke (SHS);
- Countering pro-tobacco influences;
- Reducing the availability of tobacco products; and
- Providing cessation services.

Funded program components include the media campaign, local programs, and evaluation. Media may be the most visible portion of the program, but

media works with policy development and all other elements in a coordinated infrastructure that brings about social norm change. Evaluation and surveillance determines what is and is not working. Local policies are important to CTCP because they can institutionalize social norm change and influence and shape state policy.

Discussion ensued on the decision for CTCP not to have a major focus on youth. Dr. Lyman discussed CDE's role in providing tobacco education in schools and CTCP's role in affecting adult behavior and the environment youth grow up in to impact youth tobacco use. CDPH is now responsible for the legislatively-mandated evaluation of the In-school Tobacco Use Prevention Education (TUPE) program.

The Chair thanked Dr. Lyman for his presentation.

- **California Department of Education (CDE)**

Tom Herman and Greg Wolfe provided an overview of the Prop 99 funded TUPE program that provides for comprehensive in-school tobacco prevention for a small proportion of California students. The program goal is to prevent and reduce youth tobacco use through evidence-based instruction, research-based activities, and youth development activities. The TUPE program is guided by provisions of the H&S Code; the Principles of Effectiveness in Title 4 of the No Child Left Behind Act; Centers for Disease Control and Prevention (CDC) guidelines; and CDE TUPE guidelines. Implementing the Principles of Effectiveness includes conducting collaborative needs assessments; process evaluation and monitoring; implementing effective evidenced-based programs identified by the California Healthy Kids Resource Center; and youth development activities with a tobacco-related focus.

The California Healthy Kids Survey (CHKS) has been administered every two years to Grades 7, 9 and 11 and includes tobacco use and attitudes and beliefs. Data are used to drive program implementation and improvement. Youth tobacco-use interventions include Readiness for Cessation, Cessation and Aftercare.

TUPE Program requirements include a tobacco-free school policy, including posting of signs and annual notifications. TUPE instruction is required for Grades 6-9, with booster sessions and intervention strategies for Grades 10-12. A random selection of grantees is required to participate in the California Student Tobacco Survey administered by CDPH. The H&S Code requires special services for pregnant minors and minor parents.

Assembly Bill (AB) 647 resulted in a change from formula grants (entitlements for every school) to competitive grants as a result of declining Prop 99 funds. Current grants include Cohort D (2008-11), with 22 grantees; Cohort E (2009-13), with 42 grantees; and Cohort F (2010-2013) with 37 grantees.

School Academic Research Awards are also awarded with UCOP, TRDRP to stimulate and support collaborations between schools and academic investigators to perform scientific research into tobacco control issues.

Mr. Wolfe indicated that over approximately 15 years, funds distributed have declined from approximately \$60 million to less than \$15 million. The 101 current grantees represent a small proportion of the 1,500 Local Education Agencies (LEAs) or schools, including direct charters, that are eligible to apply. Discussion ensued on the difficulties of funding any state-wide interventions with the move to competitive grants.

Mr. Wolfe indicated data was not available on the impact of tobacco-free school policies on teacher smoking prevalence. County TUPE coordinators are responsible for monitoring policy certification and enforcement.

Discussion ensued on capacity building given the competitive grants application process and the importance of targeting areas with high youth tobacco use prevalence rates. Mr. Herman stated CDE was committed to encouraging LEAs to focus on underrepresentation, but limited resources makes strategies like site visits difficult. A potential grant from the federal Office of Safe and Drug-free Schools could improve efforts in this regard.

The presenters were asked to comment on the National Institutes of Health's (NIH) review of the long-term effectiveness of in-school tobacco-use prevention programs, and the evidence that TUPE funding is a good investment. Mr. Wolfe indicated that CTCP and TRDRP have more staff and greater resources for evaluation, and while CDE's California Healthy Kids Survey is a vital tool for needs assessment, it is not a tool that is sufficient to scientifically evaluate the effectiveness of the TUPE program. However, process evaluation is emphasized as vital in ensuring research-validated programs are implemented with fidelity. However, long-term evaluation studies are not published by many of these programs. It is clear that the onset age for tobacco use has been raised by two to three years, and this onset age is a marker for a wide range of risk behaviors among youth. A new generation of tobacco control advocates is also being created.

Mr. Wolfe commented on the difficulties of tracking and maintaining relationships with high-risk schools. This has been exacerbated by the elimination of the federal Safe and Drug-free Schools program and violence prevention funds being freed to be used for general fund purposes. He suggested TERO must consider the potential for a diminished return on investment unless Prop 99 funds for TUPE are increased.

The Chair thanked Mr. Herman and Mr. Wolfe for their presentation.

- **University of California, Office of the President (UCOP), Tobacco-Related Disease Research Program (TRDRP)**

Dr. Aoki provided an overview of the Prop 99 funded TRDRP administered by UCOP, within the Research Grants Program Office (RGPO). Legislative mandates for TRDRP include making research grants related to the “prevention, causes, and treatment of tobacco-related diseases”; maintaining a Scientific Advisory Committee (SAC) and Review Panels; placing an emphasis on public policy research as an area of “compelling interest”; a systematic dissemination of research results; and evaluation.

Dr. Aoki provided a summary of current awards made through various grant mechanisms. He outlined the composition of the SAC as representing community-based programs; professional and voluntary organizations; governmental tobacco programs; and research institutions. Recent SAC-sponsored initiatives have included the California Award, focusing on state-specific research; the Policy Research Initiative; and the Environmental Exposure and Health Effects Initiative. With the SAC, TRDRP is commencing a Strategic Planning process.

The Policy Research Initiative involves a Collaborative Policy Advisory Committee and a research team focusing on:

- Analyzing the impact of the California tobacco control program on population level trends, including different population subgroups; and
- Estimating the economic impact of changed smoking prevalence.

The Environmental Exposure and Health Effects Initiative is also collaborative in nature, and comprises two components:

- Indoor Air Quality Research (Thirdhand Smoke Exposure and Health Effects)
- Water Quality Research (Water Contamination with Cigarette Butts - Effects on Aquatic Life and Humans).

Upcoming TRDRP initiatives include the Tobacco-Related Health Disparities Among African Americans Initiative. An initial input meeting is anticipated for November 2010 to include academics, national experts, activists and RGPO staff from the HIV and Breast Cancer programs.

In response to a question regarding the balance between policy and biomedical research in TRDRP’s portfolio, Dr. Aoki confirmed the SAC is looking comprehensively at this balance with input from agencies and investigators.

Dr. Aoki was asked to comment on the dissemination of research results beyond the scientific community. Dr. Aoki conceded that with the recent

reorganization of the RGPO, this has not been a major focus, but future plans include reinstating a TRDRP symposium in 2011.

Ms. Etem asked how research findings may be translated to messages for public support of the ballot initiative for a tobacco tax increase. Dr. Aoki suggested the current evaluation of the impact of California's tobacco control efforts needs to be clearly distilled and widely disseminated to the public.

Dr. Aoki indicated TRDRP's strategic planning process may include consideration of how TRDRP may respond to other funding opportunities such as those available through the American Recovery and Reinvestment Act (ARRA) and federal health care reform.

The Chair thanked Dr. Aoki for his presentation.

3. APPROVAL OF MINUTES FROM MAY 25, 2010 TEROC MEETING, CORRESPONDENCE, AND ANNOUNCEMENTS

The following amendments were suggested for the Minutes:

Page 1: Delete "Dr." before Peggy Uyeda's name

Page 11: clarify language relating to cost savings from RGPO restructuring; delete number of Centers of Excellence and cite three referred to as examples.

Acceptance of Minutes as amended moved by Dr. Green, seconded by Dr. Rice, motion carried unanimously.

Announcements:

The Chair reported on the anticipated release of the Air Resources Board's (ARB) SHS risk reduction report and a possible presentation to TEROC at an upcoming meeting. ARB has indicated that a 2010 release is unlikely and presenting would be premature. It is not clear if thirdhand smoke will be addressed in this report. A representative of CDPH's Cancer Registry will be attending the January meeting in Sacramento to present on activities funded from the Prop 99 Research Account.

Incoming Correspondence:

The Chair reviewed correspondence, including:

- E-Mail of May 28, 2010 outlining the response from Bruce Lee, Department of Finance, to a question from the prior TEROC meeting on zero balances in certain Prop 99 reserve accounts. A reserve is unnecessary in accounts that receive a flat allocation and do not have to respond to increases in demand for services.
- Copy of e-Mail from Naphtali Offen to Donald Lyman, CDPH, dated July 13, 2010, regarding Helpline questions.

- E-Mail from George Lemp to Chair, dated August 16, 2010, regarding a TRDRP-funded study identifying new toxic compounds generated when SHS reacts to ozone, and the impact on asthma, with attachments.
- Letter from Donald Lyman to Chair and Mr. Offen, dated August 24, 2010, responding to the inquiry regarding Helpline questions and outlining protocols in asking questions as to the sexual orientation and gender identity of callers. A 15 percent quality control sample is asked about their experience answering four demographic questions.

Outgoing Correspondence:

The Chair reviewed correspondence, including:

- E-mail from Chair to TEROC members with Press Release from Governor Schwarzenegger announcing TEROC appointments, dated 8/20/2010.

4. ENVIRONMENTAL DEVELOPMENTS

The Chair reported the following Environmental Developments:

- **San Francisco Pharmacy Ban Appeal and New Ordinance**
A state appeals court ruled that San Francisco's ban on tobacco sales in drugstores appeared to be unconstitutional because it exempts supermarkets and big-box stores that have pharmacies. San Francisco supervisors have given preliminary approval to expanding the law to also apply to grocery stores and big box stores.
- **New FDA Restrictions in Effect**
New federal restrictions include stronger warning labels for smokeless tobacco products, new restrictions on free sampling of tobacco products and a ban on the use of the words “light,” “low,” and “mild” for cigarettes and smokeless tobacco products packaging and advertising.
- **BOE Releases 2009 Cigarette Sales Data**
Cigarette sales in California fell to their lowest level in a decade in 2009 (the 8.1 percent sales drop was the largest year-over-year decline since 2000, according to the BOE). The number of cigarette packs sold in the state fell to 972 million – down from 2.8 billion in 1980.
- **New study: Smoking Cessation: the Economic Benefits**
The ALA released a nationwide cost-benefit analysis of providing smoking cessation coverage and data on the combined medical and premature death costs and workplace productivity losses per pack of cigarettes. The nationwide average retail pack of cigarettes is \$5.51 and the costs and workplace productivity losses nationwide equal \$18.05.
- **Call for Smoking Ban in Public Housing**
In *The New England Journal of Medicine* in June, public health and legal experts called for banning smoking in all public housing complexes.
- **California Attorney General Settlement with Sottera**
The settlement with Sottera prevents one of the country’s largest electronic cigarette producers from targeting minors and claiming electronic cigarettes are a safe alternative to smoking or cessation devices.

- **Food & Drug Administration (FDA) Warns Electronic Cigarette Distributors**

The FDA issued warning letters to five electronic cigarette distributors for various violations of the Federal Food, Drug, and Cosmetic Act including unsubstantiated claims and poor manufacturing practices.

5. LEGISLATIVE & VOLUNTARY HEALTH AGENCY UPDATE

Paul Knepprath of the American Lung Association (ALA) provided an update on voluntary health agency activities and the status of legislation for this legislative session.

Mr. Knepprath reported the Secretary of State certified the validity of signatures collected for the California Cancer Research Act (CCRA) ballot initiative in August. The measure has therefore qualified for the next state-wide ballot, currently anticipated for February 2012, but an earlier election is possible. Mr. Knepprath outlined the initiative's proposed allocation of the \$1 per pack tax increase to cancer and tobacco-related disease research (60 percent); equipment and research facilities (15 percent); tobacco control (20 percent); enforcement (3 percent); and administration (2 percent).

Mr. Knepprath indicated revenue estimates from the potential tax increase are under one billion dollars annually, with approximately \$150-160 million for tobacco control initially, but decreases in consumption will affect future annual revenue. Discussion ensued on mitigation fees earmarked for addressing the harm tobacco causes as an alternative to tax increases that currently require only a legislative majority.

Mr. Knepprath distributed a Fact Sheet on Prop 26, which is on the ballot for the November 2010 election and is largely funded by oil, tobacco and alcohol companies. If passed, Prop 26 would redefine fees as taxes for the purposes of vote requirements. At the state level, a fee could then only be imposed by a two-thirds vote of both houses of the legislature, making passage extremely difficult. The voluntary health agencies are opposing Prop 26. A measure similar to Prop 26, Prop 37, was defeated in 2000. Mitigation fees are a critical part of many current prevention and enforcement programs, modeled on a fee on paint companies for childhood lead poisoning prevention.

Mr. Knepprath distributed a Legislative Update from the Center for Tobacco Policy and Organizing on four bills sent to Governor for signing:

- AB 2496 (Nava) would increase the ability of the Attorney General's Department to require "nonparticipating manufacturers" who did not sign the Master Settlement Agreement to make annual payments into an escrow account to cover future legal costs, and strengthen enforcement.
- AB 2733 (Ruskin) would prohibit tobacco retailers from giving away or displaying tobacco products during a period when the state tobacco

retailer license has been suspended or revoked, and require a notice be displayed regarding their suspension.

- Senate Bill (SB) 882 (Corbett) would prohibit the sale of electronic cigarettes to minors.
- SB 220 (Yee) would require health plans to provide tobacco cessation benefits. The American Cancer Society, American Heart Association and ALA are cosponsors. A similar bill was vetoed in 2005. SB 220 has many supporters including health organizations, business and labor groups.

The Chair thanked Mr. Knepprath for his presentation.

6. BOARD OF EQUALIZATION (BOE)

The Chair introduced Bill Kimsey and Joe Fitz to present on evasion, licensing, enforcement and other BOE issues. He indicated prior questions on BOE charges on the Prop 99 revenue accounts will need to be directed to BOE's Financial Management Division.

Mr. Fitz presented economic analyses of cigarette sales and taxes. Tax-paid distributions have declined from approximately 2.8 billion packs in 1980-81 to 972 million packs in fiscal year (FY) 2009-10, representing a 3.5 percent annual decline. Since the passage of Prop 10 in 1999, a 42 percent decline has been achieved which represents a decrease in revenue of \$600 million. However, annual changes do vary – for example, the federal tax increase in 2009-10 led to an annual decrease of 85 million packs alone. From 2003 to 2006, legislative changes including tobacco retail licensing and a new cigarette tax stamp led to a reduction in illegal sales that increased tax-paid distributions. Mr. Fitz indicated tax-paid distributions are not available on a city or county basis since the location of tobacco distributors buying tax stamps does not correlate with retail sales locations.

Mr. Fitz provided a breakdown of federal and state taxes (\$1.88) and product price (\$3.21) per pack in California, totaling \$5.09. The tobacco industry often increases product price in anticipation of tax increases taking effect. Mr. Fitz estimates a typical daily smoker (15 cigarettes per day) would spend \$1,393 annually, more than expenditure on electricity or telephone services. People in lower income brackets spend proportionally more on cigarettes and tobacco products than those in higher income brackets.

Mr. Fitz presented an analysis demonstrating that since 1960, years with increases in retail prices above ten percent were also years with significant decreases in tax-paid distributions. Mr. Fitz has also analyzed price elasticities of demand (responsiveness of sales to price changes) for years with these large price increases and found that fiscal year 2009-10 had the highest elasticity (-0.63, or a 6.3 percent decline in sales from a 10 percent

price increase). This suggests that tobacco consumers seem to be getting more responsive to price increases over time.

Dr. Ong referred to the difference between this estimate and other estimates in tobacco research literature (often drawing on 1980s data) suggesting a price elasticity of -0.4. Mr. Fitz indicated various reasons could account for differences, including increased tax evasion, differences in California smokers as compared to national counterparts, variances in elasticity calculations, and the larger impact of the recession. The BOE now uses -0.6 price elasticity in revenue estimates on the recommendation of the Legislative Analyst's Office.

Mr. Fitz discussed the BOE's econometric model that predicts tax-paid distributions on the basis of price to calculate estimates for Prop 10 backfill (the reimbursement to Prop 99 programs to compensate for the additional revenue that would have been received without Prop 10's \$0.50 tax increase). The model's predictions have been close to actual tax-paid distributions for the ten years since Prop 10's passage. The average impact of Prop 10 on cigarette sales has been calculated at approximately 240 million fewer packs sold each year, for an average annual backfill estimate of approximately \$20 million (3.5 to 4 percent of Prop 10 revenue). The backfill is calculated retrospectively and estimates for the prior fiscal year are typically presented to the BOE for consideration at a November meeting. The model has an implied elasticity of -0.4 but this varies based on each year's data.

Mr. Fitz indicated the information in his presentation could be used by members and attributed to him. Mr. Fitz also indicated the BOE had issued a press release on July 27, 2010 that discusses some of the data.

Mr. Kimsey discussed the ongoing impact of tobacco retail licensing and the cigarette tax stamp. The state cigarette tax of \$0.87 per pack of 20 cigarettes is paid upon purchase of tax stamps from the BOE by cigarette distributors, which are then affixed to packages. For smokeless and other tobacco products (OTP), which are becoming increasingly popular with new products like snus, tax is calculated as a percentage of the distributor's wholesale cost. The annual calculation is now based on a methodology approved by the BOE and wholesale costs obtained from the Tobacco Merchants' Association, and the rate is 33.02 percent for fiscal year 2010-11. The tax is paid by the distributor that makes the first taxable distribution (sale) in the state.

Prior to the enactment of the licensing bill (AB 71), there had been approximately 100 licensed cigarette distributors and 300 licensed OTP distributors paying taxes. When AB 71 was signed into law in 2003 to address the unlawful distribution and sales of untaxed cigarettes and tobacco products, a statewide program to license all distributors, manufacturers wholesalers, importers, and retailers of cigarettes and tobacco products was

established. Approximately 40,000 entities are now licensed, and distributors supported the legislation to level the playing field.

SB 1701 came into effect in 2005, and required an encrypted tax stamp, with at least the name and address of the distributor affixing the stamp; the date the stamp was affixed; and the denominated value of the stamp. Sixty inspectors and investigators make about 10,000 site visits each year (to approximately 25 percent of licensees) to ensure compliance.

The prior heat-applied stamp was easy to counterfeit. The current tax stamp has encryption capable of being scanned; micro-print; tamper-evident label stock and pearlescent ink. Since the stamp has been in use, the encryption system has never been compromised. A new stamp is now planned to be introduced in November 2010 that has additional security features including complex background detail; a visible serial number; and color-shift ink. The authenticity of the new stamp will be able to be verified with a \$5 credit card sized device, as opposed to a \$700 scanner. Distributors will also be required to purchase bar-code readers to record brands and manufacturers.

Scanners can instantly notify inspectors that a stamp is legitimate, counterfeit, or stolen, and the BOE receives daily email reports. The incidence of retail violations, including counterfeit stamped cigarettes, has declined dramatically since the passage of the licensing and tax stamp laws, from a seizure rate of 13 percent per 10,000 inspections in FY 2004-05 to 1.9 percent in FY 2008-09. In FY 2008-09, there were 49 seizures for counterfeit stamps; 84 for unstamped products; and 4 for stamps from other states. Unstamped products seized have typically been purchased through the internet, with a decline observed in purchases from commissaries for resale purposes. Few regional differences in these rates are observed.

From felony tax-evasion cases (from July 1, 2004 through June 30, 2009), \$67,273,155 has been recouped in 30 cases involving cigarettes and \$81,376,289 in 30 cases involving OTP, which are not stamped (a total of \$148,649,404). For OTP, cases rely on auditing product dates and invoices.

Since FY 2005-06, annual revenue from cigarette taxable distributions has been increased by an estimated \$85.6 million from these additional enforcement efforts. OTP revenues have increased from \$40 million in FY 2002-03 to almost \$90 million in FY 2008-09. This is also partly attributable to the growing sales of OTP with developments like smoke-free laws.

Mr. Kimsey was asked to comment on any emerging tax evasion areas, given that the CCRA initiative would include extra funding for enforcement. He indicated that enforcement for taxing internet sales remains challenging, though the BOE is working to monitor sales and bill purchasers for these taxes. Sales of unstamped cigarettes on American Indian reservations are

also of concern, but the BOE has no authority for enforcement (amendments to the tribal gaming compacts would be required). Some states have provided that excise taxes collected from sales of cigarettes on reservations can remain with the tribes. Estimating revenue lost from untaxed sales through both the internet and on California reservations remains difficult.

Mr. Fitz indicated an additional 101 million packs are now going through legal channels, with an estimated value for excise taxes of \$87.7 million for these cigarettes in FY 2010-11. An additional \$12.8 million from OTP taxes is estimated for FY 2010-11, and when additional state and local sales and use taxes being collected on these products are also factored in, total additional revenue can be estimated at \$149.8 million. Mr. Fitz confirmed that excise taxes and product price are both included for the calculation of sales tax.

The Chair thanked Mr. Fitz and Mr. Kimsey for their presentations.

7. CALIFORNIA DEPARTMENT OF EDUCATION (CDE) REPORT

Tom Herman, Greg Wolfe and Hilva Chan presented the CDE update and reported a meeting with CDPH, CTCP staff on June 16, 2010. The two agencies continue to discuss and identify areas of mutual cooperation to integrate aspects of tobacco control. The next meeting is tentatively scheduled for October 11, 2010.

CDE and CTCP staff have been in regular communication regarding the development of a proposal to amend the H&S Code to require all LEAs, including County of Offices of Education, school districts, and direct-funded charters to adopt and enforce a tobacco-free campus policy regardless of the receipt of Prop 99 TUPE funding.

Cohort E (2009-13) TUPE grantees are in the process of submitting twelve month progress reports and were also required to submit an online report by September 15 on the number of students who were provided activities or services, including those that were intended to meet the specific needs of one or more of the priority populations designated in the Master Plan. While demographic data are available at the district level, reporting this data at a school-level has proven more challenging. A summary of results will be reported at a future TERO meeting.

For Cohort F (2010-13) TUPE grants, the Notice of Intent to submit an application was due to CDE on April 19, 2010, and applications were due on May 24, 2010. CDE received 107 notices of intent and 66 submitted applications. Ten applicants were disqualified for not having been certified as tobacco-free or not meeting other requirements. Funds were awarded to thirty-eight applicants, and one additional grantee following a successful appeal, with awards totaling \$14,969,985. Competition for these funds

continues to be extremely vigorous as a result of the elimination of both the TUPE and federal Safe and Drug Free Schools and Communities (SDFSC) formula grants. Some awards were Tier One with a flat rate awarded for small LEAs and others were Tier Two awards based on \$37.50 per student served. Tier Two recipients are required to implement a prevention program, a range of interventions for at-risk students, and targeted cessation programs. Mr. Wolfe indicated that details of unsuccessful applicants have not been publicly released in the past.

Discussion ensued on the efficacy of small awards at the local level, and a lack of funding for top-down, CDE initiatives at the state level. Mr. Wolfe indicated the prior entitlement system comprised of small awards of \$3-\$4 per student, and many small districts would potentially see larger awards under the competitive system. CDE has discussed forming a workgroup to consider the challenges of diminished resources and current arrangements, and TEROCC would be invited to participate in this process.

Mr. Wolfe confirmed that of nine research-validated, evidence-based TUPE programs, seven have evidence of efficacy with priority populations, including programs developed specifically for the American Indian population and at-risk students. Ms. Uyeda suggested that CDPH could be invited to participate in the TUPE Coordinators Conference in November to collaborate on strategies for priority populations. Mr. Wolfe agreed that targeting certain populations in mixed school districts is challenging, and suggested any input on strategies is welcomed.

For the new Cohort G TUPE grants, the Tier 1 grant award will be \$4,500 over a three year grant term. Grantees will only be required to adopt and enforce a tobacco-free school policy and administer the CHKS. This may promote wider participation in the TUPE program by small or rural LEAs.

CDE will propose a new initiative to County TUPE Coordinators at their November 2010 statewide meeting, targeted to counties with no TUPE funding. The initiative will invite Coordinators to form teams to promote the following youth development strategies:

- Youth Involvement in STAKE Act enforcement in collaboration with law enforcement and county health agencies
- Youth involvement in anti-tobacco advocacy in local community tobacco control ordinance development and statewide anti-tobacco advocacy
- Media literacy and youth media production to counter the influence of the tobacco Industry
- Peer educators
- Service-learning projects.

County TUPE Coordinators will also be asked to take responsibility for identifying and developing resources, guidelines, best practices and other

technical assistance to support the ability of TUPE grantees to adopt and implement high-quality youth development activities. The goal will be to develop California's next generation of anti-tobacco advocates and involve youth from priority populations in developing tobacco-prevention supports and opportunities that are culturally responsive to the needs of priority populations. Dr. Green suggested that TRDRP-sponsored research on community-based participatory strategies could be a valuable resource.

Mr. Herman reported the Safe and Healthy Kids Program Office and the School Health Connections/Healthy Start Office merged on July 1, 2010 to become the Coordinated School Health and Safety Office (CSHSO), with four School Health Education Consultants. John Lagomarsino, formerly CDE's lead TUPE Consultant, will continue to have responsibility for supporting tobacco-free school policy certification.

Hilva Chan provided an overview of the CHKS, a confidential and anonymous student survey of risk behaviors, school climate and safety, and resiliency. Until July 2010, districts had been required to administer CHKS to 5th, 7th, 9th and 11th graders every two years, and this requirement continues for TUPE grantees. In 2007-09, over 1 million students from 855 school districts and 7484 schools took part in the survey. CHKS tobacco questions include lifetime and 30-day tobacco use, age of onset, perceived harm, peer disapproval, and cigarette availability. CHKS reports summarizing district and school level data include 30-day tobacco use data by student ethnicity (since 2009-10) and are available online.

The elimination of the federal SDFSC formula grant eliminates the mandate for districts to administer the CHKS, but CDE is strongly encouraging districts to continue to participate. Beginning this year, CHKS can also be conducted online, which will be easier for districts to administer. In addition to the student survey, comparable staff and parent surveys have been developed and will be marketed together as the California School Climate, Health and Learning Survey System (Cal-SCHLS).

Dr. Yerger asked if a question on use of menthol cigarettes could be included in the surveys. Ms. Chan indicated it could be considered in the current review of survey questions. The presenters confirmed that all questions are multiple-choice rather than open-ended. Mr. Offen asked whether there was a question on sexual orientation, and the presenters indicated that is included only as a response to types of harassment and bullying. Mr. Offen suggested a wider question be considered, and Dr. Ling requested the use of products such as snus and electronic cigarettes be considered for inclusion.

CDE is encouraging districts to continue to administer CHKS by stressing the importance of maintaining data to remain competitive for federal funding opportunities that may follow the reauthorization of the Elementary and

Secondary Education Act. Three regional forums are also planned to focus on the value of maintaining the survey.

The Chair thanked Mr. Herman, Mr. Wolfe and Ms. Chan for their presentations.

8. CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH), CALIFORNIA TOBACCO CONTROL PROGRAM (CTCP) REPORT

Donald Lyman and April Roeseler provided an update on CTCP activities and reported the release of the Youth Tobacco Purchase Survey data, with an illegal sales rate of 7.7 percent in 2010, down from 8.6 percent last year. The store type with highest illegal sales rates was discount/gift stores.

California has been awarded \$240,173 over two years from federal Patient Protection and Affordable Care Act Funds. The proposed projects include promoting tobacco cessation and tobacco cessation systems change targeting Medi-Cal and mental health and substance abuse facilities; monitoring the retail environment; and addressing menthol.

CDPH has approval to carry over approximately \$1 million in unexpended funds from Year 1 of the five year CDC collaborative grant. Dr. Baezconde-Garbanati questioned the reasons for the delays in expending funds. Ms. Roeseler indicated there have been delays in filling ten positions created with these federal funds, and in augmenting contracts with existing grantees for project activities. Recruitment to state positions has been challenging given the furloughs which resulted in a 15 percent pay reduction; the subsequent hiring freeze; and internal delays in processing appointments. The reauthorization of contract language by CDPH's Office of Legal Services was also delayed past the July 1 contract start date. Ms. Roeseler confirmed the federal funds are only available for a time-limited period and California risks losing them. The CDC Project Officer overseeing the CDPH grant has written to express dissatisfaction with the pace of expenditure for the funds.

Discussion ensued on actions to address the situation, and the current status of hiring a CTCP Branch Chief. Dr. Lyman confirmed recruitment efforts are continuing and requests to exempt the position from the hiring freeze have been submitted but not yet approved.

Action Item

Dr. Baezconde-Garbanati moved that letters be sent to the Governor requesting a exemption to the hiring freeze for the appointment of a CTCP Branch Chief, and to the CDPH Director expressing concerns regarding the delays in expenditure of federal stimulus funds and urging the funds be expended in accord with terms of the awards as soon as possible.

Dr. Brunner recommended the letter to the CDPH Director draw attention to issues with the department's internal processes which have led to delays. Dr. Henderson seconded, motion carried unanimously.

Dr. Lyman reported that with Merced County no longer conducting tobacco control activities, the California Health Collaborative was to be contracted to take on this role from October 1, 2010 but internal contract approval processes may delay the start date to January 1, 2011. ETR Associates has been awarded the California Tobacco Control I-Clearinghouse contract for a three year term.

A new General Market Television ad, titled Deadliest, has premiered. Approval has also been granted for a number of new ads to be produced with completion anticipated under the current administration.

CDPH's Contract Management Unit (CMU) has approved the contract with the California Youth Advocacy Network, (the Statewide Youth and Young Adult Advocacy, Training, and Technical Assistance grantee), and full execution is pending. Approval of contracts with new competitive grantees submitted to date to CMU is also pending.

Local Legislative District Days was held in September as a complement to Capitol Information and Education Days to educate elected officials and staff in district offices on tobacco control issues.

Due to the delay in passing the state budget, UCSF is suspending certain Capacity Building Network activities that are performed by subcontractors on CDPH's contract with UCSF's Institute for Health and Aging.

With CDC funding, CTCP will be conducting Regional Forums focusing on addressing exemptions and loopholes in California's Smoke-free Indoor Workplace Law and Tobacco Pricing and Manipulation in Los Angeles (January 20, 2011); Sacramento (January 26, 2011); Fresno (February 16, 2011); and San Jose (February 23, 2011). With ARRA funding to expand Helpline services, five Local Lead Agencies (LLAs) (Sacramento; Kern; Sonoma; Mendocino; and Humboldt) will be distributing nicotine replacement therapy vouchers to uninsured patients.

Ms. Etem requested training materials from CTCP's Cultural Competency Training for staff outlined in the CDPH report, and Ms. Roeseler confirmed they could be provided to her and are available through the I-Clearinghouse.

Dr. Zhu asked when the release of the 2008 California Tobacco Survey data could be anticipated. Dr. Cowling and Dr. Lyman discussed the suspension of data collection following the Governor's Executive Order in 2008. The release of the data is now anticipated before the end of 2010.

The Chair thanked Dr. Lyman and Ms. Roeseler for their presentations.

**9. UNIVERSITY OF CALIFORNIA, OFFICE OF THE PRESIDENT (UCOP),
RESEARCH GRANTS PROGRAM OFFICE (RGPO) AND TOBACCO
RELATED DISEASE RESEARCH PROGRAM (TRDRP) REPORTS**

Mary Croughan, George Lemp and Bart Aoki reported on UCOP, RGPO and TRDRP activities. Dr. Croughan provided an update on the reorganization of the Office of Research and Graduate Studies (ORGS), and progress on ensuring a number of TEROC's priorities for TRDRP are realized. Recruitment for a dedicated TRDRP Director will soon begin. A full complement of TRDRP Scientists will be maintained, with reclassification as Management and Senior Professionals II. A symposium will be convened in October 2011 (in conjunction with CTCP's Project Director's Meeting).

Dr. Croughan provided an overview of current plans for new units to be created within the RGPO. A new Contracts and Grants Unit, combining pre and post award functions, will improve efficiencies, maintain scientific integrity through the award process, and promote cross-training of staff. A new Evaluation and Dissemination Unit will include graphics and communications, with strategies to encompass UCTV coverage and legislative briefings. Plans continue for UC Grants to become a new grants program unit, with two to three staff. Staffing in the existing Financial Administration Unit will also be supplemented to improve timeliness of grant payments.

With a new Health Policy Scientist, TRDRP will have 6 FTE's, but with staff in the Contracts and Grants, Evaluation and Dissemination and Financial Administration Units supporting TRDRP operations, there will effectively be 10 FTEs for TRDRP. Job descriptions will include the expectation for staff to contribute approximately 15-20 percent of their time to the new Centers of Excellence. TRDRP Scientists will also have more time to contribute to capacity building. Centralizing staff in the new units will reduce TRDRP employer contributions to pensions due to the mixed salary funding streams and shared costs. An economic specialist will also be on the ORGS staff and available for special projects at no cost to TRDRP.

Both lay and scientific abstracts will be required to be submitted by applicants with research proposals and with grantee progress reports to assist in dissemination of results.

Dr. Lemp provided an update of TRDRP operating costs. In FY 2007-08, total operating costs were approximately \$1.8 million, dropping to a projected \$1.5 million in FY 2010-11. Total state budget allocations dropped from \$16.6 million to \$12.5 million over the same period. Total proposal review cost savings are projected to be approximately \$119,000, largely from implementing in-house meetings and video conferencing. Total personnel

costs and recharge costs for the centralized units are approximately \$11,000 lower than in FY 2007-08.

Dr. Lemp and Dr. Croughan indicated the FY 2010-11 budget projections include salary costs for appointing a Director; restoring the position of a fourth TRDRP Scientist; and higher employer pension contributions. Administrative personnel costs are projected to be \$142,000 lower than the five percent cap on administrative expenses that is required for TRDRP. Research personnel costs are higher than FY 2007-08 rates, while application evaluation/review personnel costs are comparable. Cost savings are directed to grants.

Dr. Croughan indicated TRDRP symposiums are planned to be convened every three years. Dr. Green suggested NIH funding could be investigated to support symposium costs. Publication will also resume for TRDRP's newsletter, *Burning Issues*. Greater effort will also be devoted to the timely dissemination of advance findings from key research studies to the media. Recent examples have included findings on thirdhand smoke. The release of John Pierce's findings on the impact of California's tobacco control efforts on lung cancer rates is imminent.

Dr. Croughan referred members to TRDRP's written report providing an update on research funding, including the expanded Tobacco Control Policy Research Initiative with additional resources allocated. Contracts with the research teams have been extended for an additional six months to enable more detailed and specific analyses to be completed. A further meeting of the External Scientific Monitoring Committee may be required to review data. Findings are now expected to be reported to the TRDRP State-wide Policy Advisory Board by February 28, 2011. Dr. Rice questioned whether the expansion of the Initiative includes a new Cost of Smoking report with county data. Dr. Lemp indicated that is not part of the terms but one of the researchers has expressed interest if additional resources were available. TRDRP has now also set aside an annual allocation of \$1,000,000 for a new Special Policy Research Initiative beginning in fiscal year 2011-2012. The details of this Policy Research Initiative were announced as part of the Annual Call for Applications released on September 1, 2010.

Dr. Ong encouraged TRDRP to consider opportunities that may arise from the Patient Centered Outcomes Research Institute's federal health care reform funds.

The Chair thanked Dr. Croughan, Dr. Lemp, and Dr. Aoki for their presentations.

10. CLOSED SESSION PURSUANT TO SECTION 11126 (a)(1) OF BAGLEY-KEENE OPEN MEETING ACT 2004

The Chair announced to members that following the requirements of

Section 11125(b) of the Bagley-Keene Open Meeting Act, a closed session has been listed on the meeting agenda and proper notice had been given. He announced the issue to be considered in closed session, as listed on the agenda, as "Discussion of UCOP, RGPO, TRDRP Employment Issues." He referred to the agenda's citation of the provision of the Act, Section 11126(a)(1), authorizing a personnel exception to the open meeting requirements to protect the privacy of employees, and to allow members to speak candidly. He indicated only discussion of employment issues and no other matters would be considered during the closed session.

The Chair announced the meeting of TEROC would reconvene in open session at 3:55 pm. A report in that open session would only be required if a decision had been made to hire or fire an individual in the closed session, which does not apply to the closed session agenda item for this meeting. The Chair indicated minutes would be kept for the closed session but that under the Act, the minutes are confidential, and are disclosable only to the board itself or to a reviewing court, as they are not a public record subject to inspection pursuant to the California Public Records Act. The Chair asked that the room be cleared of individuals not directly involved in the closed session as part of their official duties.

TEROC met in closed session and reconvened in Open Session at 3:55 pm.

11. DISCUSSION OF FUTURE TEROC ISSUES

The Committee discussed the quorum requirement in the draft TEROC By-laws (a majority of currently appointed members) and agreed to postpone consideration to a future meeting.

The Committee agreed to postpone the review of the draft Master Plan Field Survey Tool and consider incorporating a wider range of questions in a single survey tool.

The Committee agreed to indicate availability and confirm future meeting dates by electronic polling.

12. PUBLIC COMMENT

There was no public comment.

The meeting was adjourned at 4:07 p.m. Next meeting: to be confirmed.