

PATENT COORDINATORS
CONTRACT AND GRANT OFFICERS
VICE CHANCELLORS - RESEARCH/ADMINISTRATION
ADMINISTRATIVE CONFLICT OF INTEREST COORDINATORS

SUBJECT: Managing Potential Conflicts of Interest in Licensing Under the California Political Reform Act

Dear Colleagues:

In a June 18, 2001 letter to Chancellors and Laboratory Directors (Exhibit A), Provost King and Senior Vice President Mullinix asked campuses and Laboratories to implement the requirements of California's Political Reform Act with regard to licensing University research results. To accomplish this, campuses and Laboratories were asked to establish local plans to ensure that intervening substantive review of University decisions relating to such licensing activities are carried out as required by the Act. To distinguish this from other intervening substantive review processes under the Act, intervening substantive review of licensing decisions will be referred to as Licensing Decision Review (LDR). LDR plans must provide for intervening review by an appropriately disinterested official or committee if an inventor or author participates in or influences University licensing decisions and has a disqualifying personal financial interest in those decisions as defined in the California Political Reform Act.

The Provost and Senior Vice President directed OTT to issue systemwide guidance for use by campuses and Laboratories in establishing their Licensing Decision Review plans. Accordingly, I am enclosing the new University of California Guidelines on Managing Potential Conflicts of Interest in Licensing (Exhibit B). These guidelines have been developed after extensive consultation with University Patent Coordinators, licensing personnel, Conflicts of Interest Coordinators, and representatives from OTT, the Office of Research Policy, and the Office of General Counsel. The guidelines address some of the most common issues concerning potential conflicts of interest in University licensing activity, and should be followed to implement the requirements of the California Political Reform Act. They are developed to clarify the roles of both inventors and licensing professionals, and to assist them in complying with the Act. The guidelines also apply to authors whose works will be licensed by the University. Also enclosed is Exhibit C, "Required Elements for Campus/Laboratory Plans for Licensing Decision Reviews," which outlines the elements that any local LDR process must include to be in compliance with the Political Reform Act. UC Form TT-100, "Inventor Statement Concerning Involvement in Licensing Decisions" (Exhibit D) must be used in accordance with the Guidelines.

Campuses and Laboratories have broad discretion in shaping their local LDR processes. As long as the enclosed Guidelines (Exhibits B) and the Required Elements (Exhibit C) are satisfied, some of the areas of local choice and flexibility include:

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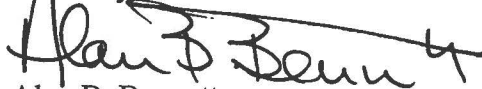
- the extent to which inventors should be encouraged to participate in the licensing decision-making process;
- choice of conducting LDR by individual UC officials or by committee review;
- levels for reviews of varying rigor based on the level of inventor financial interest;
- nature of materials to be reviewed, instructions to reviewers, scope of potential remedies, and authority for final decisions.

For your information and as a reference I have also included OTT's own Plan for Carrying Out Licensing Decision Reviews (Exhibit F) including a sample notice that OTT will provide to inventors, "What Inventors Need to Know about Conflict of Interest in Licensing" (Exhibit E). I consider OTT's own plan an interim one until we have gained experience in this area. It may be revised from time to time based on our experience and feedback from inventors, campuses, and Laboratories. Campuses and Laboratories should feel free to incorporate any elements of the OTT plan, or to construct something quite different, as long local plans include all the Required Elements (Exhibit C). If campuses or Laboratories wish to have OTT occasionally conduct an LDR for an invention managed by the local licensing office in unique case circumstances, then the local LDR plan may provide for that option.

Finally, all sites--regardless of whether or not they have independent licensing offices--should indicate how they wish to handle LDRs of inventions that are under OTT management. These inventions may be covered by the local LDR process or by the OTT LDR plan (this will be the default). To the extent that local LDR plans will address cases for which OTT will be the authorized licensing office, those aspects of the LDR should be coordinated with OTT and agreed upon in a memorandum of understanding between the two offices.

Campus and Laboratory LDR plans should be submitted to my attention by October 31, 2001. If in developing these plans, you have any questions or need any policy or legal advice, please feel free to contact Joe Acanfora at (510) 587-6011 or Marty Simpson at (510) 987-9763.

Sincerely,



Alan B. Bennett

Executive Director

Research Administration and
Technology Transfer

Exhibit A - Letter from Senior Vice Presidents King and Mullinix, June 18, 2001

Exhibit B - Guidelines on Managing Potential Conflicts of Interest in Licensing

Exhibit C - Required Elements for Campus/Laboratory Plans for Licensing Decision Reviews

Exhibit D - UC Form TT-100, "Inventor Statement Concerning Involvement in Licensing Decisions"

Exhibit E - Sample Notice: "What Inventors Need to Know about Conflict of Interest in Licensing"

Exhibit F - OTT Plan for Carrying Out Licensing Decision Reviews

cc: OTT Associate Directors and Managers
Academic Conflict of Interest Coordinators