

The Regents of the University of California

COMMITTEE ON FINANCE

January 19, 2000

The Committee on Finance met on the above date at UCSF - Laurel Heights, San Francisco.

Members present: Regents Atkinson, Connerly, Hopkinson, S. Johnson, Lee, Montoya, Pannor, and Preuss; Advisory member Miura

In attendance: Regents Kozberg, Leach, Moores, Nakashima, Taylor, and Vining, Regent-designate Kohn, Faculty Representative Cowan, Secretary Trivette, General Counsel Holst, Assistant Treasurer Young, Provost King, Senior Vice President Kennedy, Vice Presidents Broome, Darling, Gomes, and Hershman, Chancellors Bishop, Carnesale, Cicerone, Dynes, Greenwood, Orbach, Tomlinson-Keasey, Vanderhoef, and Yang, and Recording Secretary Bryan

The meeting convened at 9:05 a.m. with Committee Chair S. Johnson presiding.

1. **REVERSION OF PROPERTY TO THE STATE, BAY AREA RESEARCH AND EXTENSION CENTER, SANTA CLARA COUNTY**

This item was withdrawn.

2. **APPROVAL OF INDEMNIFICATION, AMERICAN HEART ASSOCIATION AGREEMENT, OFFICE OF THE PRESIDENT**

The President recommended that he be authorized to execute an agreement with the American Heart Association (AHA) that contains indemnification language that might require assumption by the University of third-party liability, which is restricted to The Regents under Standing Order 100.4(dd)(9).

It was reported that the proposed AHA contract allows the University to conduct classes in lifesaving skills for health care providers using AHA materials. The classes are provided to health care professionals, including nurses and house staff, so that they can meet the training requirements set by the regulatory agencies and established community standards.

The indemnification clause in the proposed agreement requires the University to indemnify the AHA from and against any claims and damages arising out of and in connection with the courses offered by the University and conducted at training sites. For example at UCLA, the courses are offered to health care professionals on campus and at non-University owned

facilities in the community. University employees do most of the training, but some of the instructors are independent contractors.

The AHA indemnification clause would require the University to indemnify the AHA for actions of third parties (the non-University owned training sites and any independent contractor instructors engaged by the University). Under Standing Order 100.4(dd)(9), Regental approval is required for agreements by which the University assumes liability for conduct of persons other than University officers, agents, employees, students, invitees, and guests. The AHA has rejected all requests to use the standard University indemnification language and will not allow the University to continue to use AHA materials in teaching the lifesaving courses without executing the agreement.

In this particular case, it is important to note that AHA simply supplies course materials, while the active conduct of instruction and certification is performed by the University. AHA does not seek indemnification for the science content of its materials. Because the University benefits from teaching the lifesaving classes and the AHA materials are recognized as the standard in the health care industry, it is proposed that The Regents grant the President authority to sign the AHA agreement that contains the indemnification clause at issue, with the option to re-delegate this authorization to the Chancellors.

To reduce the University's potential liability exposure, the campuses would be required to use employees, rather than independent contractors, to conduct the classes whenever possible. In contracts with independent contractors engaged to conduct the courses, the campuses would be required to negotiate with the independent contractors to ensure they (1) have insurance coverage within the limits of Business and Finance Bulletin 63; (2) indemnify The Regents against liability resulting from their actions or conduct; and (3) name The Regents as an additional named insured on their insurance policies. Similarly, in contracts with non-University training sites the campuses would also be required to negotiate with the training sites to ensure the sites (1) have appropriate insurance coverage; (2) indemnify The Regents against liability resulting from their actions or conduct; and (3) name The Regents as an additional named insured on their insurance policies.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board.

3. **REPORT ON NEW LITIGATION**

General Counsel Holst presented his **Report on New Litigation**. By this reference the report is made a part of the official record of the meeting.

FINANCE

-3-

January 19, 2000

The Committee adjourned at 9:10 a.m.

Attest:

Secretary