

REMCHO, JOHANSEN & PURCELL, LLP
ATTORNEYS AT LAW

201 DOLORES AVENUE
SAN LEANDRO, CA 94577
PHONE: (510) 346-6200
FAX: (510) 346-6201
EMAIL: harrison@rjp.com
WEBSITE: www.rjp.com

Joseph Remcho (1944-2003)
Robin B. Johansen
Kathleen J. Purcell (Ret.)
James C. Harrison
Thomas A. Willis
Karen Getman
Margaret R. Prinzing
Harry A. Berezin

SACRAMENTO PHONE: (916) 264-1818

MEMORANDUM

To: Members, Governance Subcommittee, Governing Board
California Institute for Regenerative Medicine

From: James C. Harrison

Date: October 4, 2012

Re: Manner of Disqualification (Our File No.: 2297-0)

INTRODUCTION

At the request of the Chair of the Governance Subcommittee, we have prepared a draft policy regarding the manner of disqualification for members of the Governing Board who have a financial interest in an application for funding where the applicant institution has been publicly identified. Under California law, public officials, like members of the Governing Board, are generally not required to leave the room when they have a disqualifying conflict of interest.¹ In the case of the Governing Board, a requirement that members leave the room would typically serve no purpose because applications are presented to the Board by application number only; the identity of the applicant institution and the principal investigator are not disclosed to the Board or the public. The purpose of the Board's blind review policy is to prevent even the appearance of a conflict of interest and to ensure that the Board's decisions are based on the merits of the scientific proposal, rather than on the identity of the applicant institution or investigator. However, members of the public, including applicants, are free to submit written comments to the Board and to provide public testimony during Board meetings. On occasion, therefore, applicants self-identify by submitting written comments, including extraordinary petitions, and by making public comments regarding their applications. Under these circumstances, the Board's review is no longer blind. The proposed policy is intended to

¹ Pursuant to Government Code section 87105, certain public officials, including members of county boards of supervisors and city councils, are required to leave the room when they have a conflict. This provision, however, does not apply to members of the Governing Board.

Members, Governance Subcommittee, Governing Board
October 4, 2012
Page 2

address only those cases in which an applicant has self-identified, either by submitting written comments or offering public comment.

The proposed policy would require Board members who have a financial interest (as defined in the Political Reform Act and Proposition 71) in an application as to which the applicant has self-identified to leave the room if and when the Board discusses the application. For example, if an applicant submits an extraordinary petition and a member of the Board requests a discussion of the application, members who have a financial interest with respect to that application would be required to leave the room until the discussion and any vote are complete. By contrast, members who have a financial interest in an application submitted for blind review would not be required to leave the room.

PROPOSED POLICY REGARDING THE MANNER OF DISQUALIFICATION

A member of the Governing Board shall leave the room under the following circumstances:

1. The member has a financial interest, as defined by Government Code section 87103 and Health and Safety Code section 125290.30(g), in an application under discussion by the Board; and
2. The applicant has self-identified either by submitting written comments to the Board regarding the application in advance of the Board meeting or by offering public comments regarding the application during the Board meeting at which the application is being considered.

When the Board's discussion of the application, including any vote, is complete, the member may return to the room.