



## CHARTER

### SCIENTIFIC MANAGEMENT REVIEW BOARD

#### COMMITTEE'S OFFICIAL DESIGNATION (TITLE)

The committee is known as the Scientific Management Review Board (also referred to as SMRB or Board).

#### AUTHORITY

42 U.S.C. 281(e), section 401(e) of the Public Health Service (PHS) Act, as amended. The Board is governed by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix), which sets forth standards for the formation and use of advisory committees.

#### BACKGROUND

The National Institutes of Health (NIH) Reform Act of 2006 (Public Law 109-482) reaffirmed certain organizational authorities of agency officials to: (1) establish or abolish national research institutes; (2) reorganize the offices within the Office of the Director, NIH including adding, removing, or transferring the functions of such offices or establishing or terminating such offices; and (3) reorganize divisions, centers, or other administrative units within an NIH national research institute or national center including adding, removing, or transferring the functions of such units, or establishing or terminating such units. The purpose of the SMRB is to advise the NIH Director and other appropriate agency officials, through reports to the NIH Director, on the use of these organizational authorities and identify the reasons underlying the recommendations.

#### OBJECTIVES AND SCOPE OF ACTIVITIES

Not less than once each seven years, the Board will provide advice to the NIH Director and other appropriate agency officials, through a report to the NIH Director, regarding the use of organizational authorities reaffirmed by the NIH Reform Act of 2006. Specifically, the Board will (1) determine whether and to what extent the organizational authorities should be used; and (2) issue a report providing the recommendations of the Board regarding the use of the authorities and the reasons underlying the recommendations.

### DESCRIPTION OF DUTIES

The activities of the Board with respect to a report will include the following, but only with respect to a specific contemplated organizational issue to be addressed in the report: (1) Review the research portfolio of the NIH to determine the progress and effectiveness and value of the portfolio and the allocation among the portfolio activities of the resources of NIH, (2) Determine the pending scientific opportunities and public health needs, with respect to research within the jurisdiction of NIH; (3) For any proposal for organizational changes to which the Board gives significant consideration as a possible recommendation in such report, the Board will (a) analyze the budgetary and operational consequences of the proposed change(s); (b) take into account historical funding and support for research activities at national research institutes and centers that have been established recently relative to national research institutes and centers that have been in existence for more than two decades; (c) estimate the level of resources needed to implement the proposed changes; (d) assume the proposed changes will be made and make a recommendation for the allocation of the resources of NIH among the national research institutes and national centers; and (e) analyze the consequences for the progress of research in the areas affected by the proposed changes.

In issuing a report on one or more specific contemplated organizational issues, the Board will consult with (1) the heads of national research institutes and national centers whose directors are not members of the Board; (2) other scientific leaders who are officers or employees of NIH and are not members of the Board; (3) advisory councils of the national institutes and national centers; (4) organizations representing the scientific community; and (5) organizations representing patients.

### AGENCY OR OFFICIAL TO WHOM THE COMMITTEE REPORTS

The Board will advise the NIH Director and other appropriate agency officials, through reports to the NIH Director, regarding the use of organizational authorities reaffirmed by the NIH Reform Act of 2006.

### SUPPORT

Management and support services will be provided by the Office of the Director, NIH.

### ESTIMATED ANNUAL OPERATING COSTS AND STAFF YEARS

The estimated annual cost for operating the Board, including compensation and travel expenses for members but excluding staff support, is \$1,193,823. The estimate of annual person-years of staff support required is 4 FTEs, at an approximate annual cost of \$571,728.

### DESIGNATED FEDERAL OFFICER

The Director, NIH, will assign a full-time or permanent part-time NIH employee to serve as the Executive Secretary (also known as a Designated Federal Officer) of the Board. The Executive Secretary will approve all committee and subcommittee meetings, prepare and approve all meeting agendas, attend all committee and subcommittee meetings, adjourn any meeting when the Executive Secretary determines adjournment to be in the public interest, and chair meetings when directed to do so by the officials to whom the committee reports.

### ESTIMATED NUMBER AND FREQUENCY OF MEETINGS

Meetings of the Board will be held at the call of the Chair or upon request of the Director, NIH. The location of the meetings of the Board will be subject to the approval of the Director, NIH.

Not less than once each seven years, the Board will provide advice to the NIH Director and other appropriate agency officials, through a report to the NIH Director, regarding the use of organizational authorities reaffirmed by the NIH Reform Act of 2006. The Board will meet not fewer than five times with respect to issuing any particular report.

### DURATION

Continuing. The Board is mandated by statute with no specific end date.

### TERMINATION

Unless renewed by appropriate action prior to its expiration, the Charter for the Scientific Management Review Board will expire two years after the Charter is filed.

### MEMBERSHIP AND DESIGNATION

The Board will consist of an odd number of voting members including the chair, not to exceed 21, who are selected by the Secretary of the U.S. Department of Health and Human Services (HHS), and the Director, NIH, who will be a permanent nonvoting ex officio member. The voting members of the Board will include not fewer than 9 officials who are directors of NIH national research institutes or national centers. The Secretary will ensure that the group of institute and center officials includes directors of:

- national research institutes whose budgets are substantial relative to a majority of the other institutes;
- national research institutes whose budgets are small relative to a majority of the other institutes;

- national research institutes that have been in existence for a substantial period of time without significant organizational change under Section 401, subsection (d) of the PHS Act, as amended;
- as applicable, national research institutes that have undergone significant organizational changes under subsection (d) or that have been established under such subsection, other than national research institutes for which such changes have been in place for a substantial period of time; and
- national centers.

The Secretary will appoint members from among individuals who are not officers or employees of the United States. Such members will include: (1) individuals representing the interests of public or private institutions of higher education that have historically received funds from NIH to conduct research; and (2) individuals representing the interests of private entities that have received funds from NIH to conduct research or that have broad expertise regarding how the NIH functions, exclusive of private entities under (1). All non-Federal members will be appointed as Special Government Employees (SGEs).

The Chair of the Board will be selected by the Secretary from among the non-Federal members of the Board. The term of office of the Chair will be two years.

Members will be invited to serve for overlapping five-year terms, except that any member appointed to fill a vacancy for an unexpired term will be appointed for the remainder of that term. A member may serve up to 180 days after the expiration of that member's term if a successor has not taken office. Terms of more than two years are contingent upon the renewal of the Board's Charter by appropriate action prior to its expiration.

#### SUBCOMMITTEES

As necessary, subcommittees and ad hoc working groups may be established to perform functions within the Board's jurisdiction. The advice and recommendations of a subcommittee and ad hoc working groups must be deliberated by the parent advisory committee. A subcommittee may not report directly to a Federal official unless there is statutory authority to do so. Subcommittee membership will be drawn in whole or in part from the parent advisory committee. All subcommittee members may vote on subcommittee actions. Ad hoc consultants may not vote.

Subcommittee members who are not members of the parent committee may attend closed sessions of the parent committee meeting pertaining to the subject of the subcommittee but they may not count towards the quorum of the parent committee and they cannot vote on committee actions. As necessary and with the approval of the Executive Secretary, the Board and its subcommittees may call upon special consultants; assemble ad hoc working groups; and convene conferences, workshops, or other activities.

### QUORUM

A quorum for the conduct of business by the full Board will consist of a majority of appointed members eligible to vote.

### MEETINGS

Of the meetings held with respect to issuing a report on one or more specific contemplated organizational issues, (1) one or more meetings will be directed toward the scientific community to address scientific needs and opportunities related to proposals for organizational changes under section 401, subsection (d) of the PHS Act, as amended, or as the case may be, related to a proposal that no such changes be made; and (2) one or more meetings will be directed toward consumer organizations to address the needs and opportunities of patients and their families with respect to proposals referred to in clause (i).

Meetings will be open to the public except as determined otherwise by the Secretary, Department of Health and Human Services (Secretary) in accordance with subsection (c) of section 552b of Title 5, United States Code; notice of all meetings will be given to the public.

In the event a portion of a meeting is closed to the public as determined by the Secretary, in accordance with the Government in the Sunshine Act (5 U.S.C. 552b(c)) and the Federal Advisory Committee Act, a report will be prepared which will contain, as a minimum, the Board's functions, a list of members and their business addresses, the dates and places of meetings, and a summary of the Board's activities and recommendations during the fiscal year. A copy of the report will be provided to the Department Committee Management Officer.

### REPORTS

Each report on one or more specific contemplated organizational issues issued by the Board will be submitted by the Director, NIH to (1) the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives; (2) the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate; (3) the Secretary; and (4) officials with organizational authorities, other than any such official who served as a member of the Board with respect to the report involved. The Director will post each report on the Internet site of the NIH.

### RECORDKEEPING

Records of the Board, formally and informally established subcommittees, or other subgroups of the committee, will be handled in accordance with General Records

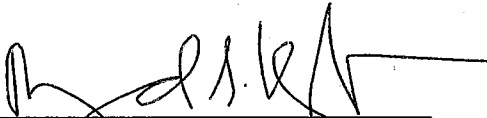
Schedule 26, Item 2. These records will be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552. For each meeting of the Board, the Director, NIH, will post on the Internet site of the NIH a summary of the proceedings.

FILING DATE

August 13, 2009

APPROVED:

7/29/09  
Date

  
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Acting Director, NIH

## ATTACHMENT 3

### PROPOSED PLAN FOR APPROPRIATE BALANCE OF BOARD MEMBERSHIP

The Scientific Management Review Board will consist of an odd number of voting members including the chair, not to exceed 21, who are selected by the Secretary of HHS, and the Director, NIH, who will be a permanent nonvoting ex officio member. The voting members of the Board will include not fewer than 9 officials who are directors of NIH national research institutes or national centers.

The Secretary will appoint members from among individuals who are not officers or employees of the United States. Such members will include: (1) individuals representing the interests of public or private institutions of higher education that have historically received funds from NIH to conduct research; and (2) individuals representing the interests of private entities that have received funds from NIH to conduct research or that have broad expertise regarding how the NIH functions, exclusive of private entities under (1).

The NIH will give close attention to equitable geographic distribution and to ethnic and gender representation so long as the effectiveness of the Board is not impaired.

Appointment will be made without discrimination on the basis of age; ethnicity; gender; sexual orientation; disability; or cultural, religious, or socioeconomic status.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

August 13, 2009

Washington, D.C. 20201

The Honorable Edward M. Kennedy  
Chairman, Health, Education, Labor,  
and Pensions  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

A copy of the charter for the following committee is enclosed for your committee file in accordance with Section 9(c) of Public Law 92-463:

**Scientific Management Review Board**

The Act requires the Department to file a copy of the charter for each advisory committee it utilizes with the standing committee of the Senate and of the House of Representatives having legislative jurisdiction of the Department, and with the Library of Congress.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah McCannon".

Deborah McCannon  
Committee Management Specialist  
Acting, Department Committee Management  
Officer

Enclosure





DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

August 13, 2009

Washington, D.C. 20201

The Honorable Henry A. Waxman  
Chairman, Committee on Energy  
and Commerce  
House of Representatives  
Washington, DC 20515

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Deborah McCannon  
Committee Management Specialist  
Acting, Department Committee Management  
Officer

Enclosure



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

August 13, 2009

Washington, D.C. 20201

Library of Congress  
Federal Advisory Committee Desk  
Government Documents Section  
101 Independence Avenue, SE  
Washington, D.C. 20540-4174

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Deborah McCannon  
Committee Management Specialist  
Acting, Department Committee Management  
Officer

Enclosure