

University of Rochester
Ethical Investment Advisory Committee
Meeting Notes of March 20, 2025

The following committee members participated:

Dan Apfel, University alumnus
Karen Berger, Associate Professor of Instruction, Earth & Environmental Sciences
William FitzPatrick, Gideon Webster Burbank Professor, Department of Philosophy
Katherine Gregory, Graduate student
Jack Mottley, Associate Professor of Electrical and Computer Engineering
Wilson Peng, Undergraduate student
Doug Phillips, Senior Vice President & Chief Investment Officer (*Ex-officio*)
Molly Snyder, Project Manager, University IT

Also present were the following University staff and guests:

Steve Groves, Senior Investment Officer
Tammy Lancy, Manager, Investment Operations and Administration

Professor FitzPatrick welcomed everyone and asked if anyone had changes to the October 29 meeting notes. The notes were approved as submitted.

Professor FitzPatrick provided a statement* summarizing and commenting (on behalf of the EIAC) on recent actions taken by the EIAC, Faculty Senate, and Investment Committee regarding the revised recommendation concerning investments tied to internationally traded military and related products and services.

The Committee suggested minor additions to the statement and Professor FitzPatrick agreed to make the changes. The Committee requested that the summary appear on the EIAC website. Professor FitzPatrick stated his concerns regarding procedure in relation to the Investment Committee's interactions with the EIAC and its recommendations, and these were echoed by other members. Mr. Groves noted that the EIAC is only an advisory group, which all acknowledged, but members nonetheless shared the feeling that it has not been able to function effectively and meaningfully as an ethical advisory body given the experience with the Investment Committee since last June (as summarized in the statement*).

Professor FitzPatrick noted that the Investment Committee did not approve the most recent EIAC recommendation (which was developed in an effort to address the Investment Committee's concerns about the earlier recommendation it

had approved in May, 2024), and instead rescinded the prior policy. It then approved a policy derived from the previously approved EIAC recommendation but which, in the view of the EIAC, fundamentally weakens that recommendation and does not at all represent the EIAC's intentions or advice. Mr. Phillips noted that the new policy will appear listed with the University's Investment Policies. The EIAC asked that the previously approved policy remain on the EIAC website marked with a notation that it was rescinded. The EIAC's full statement* on the situation, explaining its concerns, will also be linked at that same spot on the website.

Several members indicated a desire to share Chairman FitzPatrick's summary with other committees and entities. At the Committee's request, Mr. Phillips agreed to share the summary at the March 25th meeting of the Senior Leadership Group for discussion. He agreed to report back to the Committee with suggestions or concerns arising from that discussion.

The Committee postponed the discussion of the remaining agenda items to a future meeting.

The Chairman will propose the date of the next meeting at a future time.

** Materials attached.*

TSL 3/20/2025

EIAC Statement on the Investment Committee's Repeal and Replacement of the Previously Accepted Policy Concerning Military-Related Investments

Last spring, the EIAC made a recommendation concerning *military-related* investments. The Faculty Senate approved it on March 19, 2024 with a vote of 19-2, and the Board of Trustees Investment Committee later voted to approve it at its May 15, 2024 meeting. That approved recommendation, along with the EIAC's rationale behind it, went up on our website shortly thereafter, and it is included here as Appendix I.

A month after their voted approval, the Board of Trustees Investment Committee made a request to the EIAC to weaken the language of the policy by changing the first part of the recommendation, replacing the 'or' with 'and'. The EIAC refused to do that for both procedural and substantive reasons. The substantive reason was that the requested change would, in the view of the EIAC, effectively trivialize the policy.

On the original 'or' version, investments in military-related products would be flagged as problematic if they were being used in ways that violate *either* U.S. law *or* international law. Violating international law would therefore be *enough* on its own to raise a flag concerning military investments, which was exactly the EIAC's intention: the idea was that the university should avoid military investments connected to human rights violations anywhere in the world (and even if this did not happen to violate U.S. law). This low bar for prohibiting military investments was deemed by the EIAC to be appropriate as an ethical policy for the University as an institution of higher learning comprising an internationally diverse community (see the rationale in Appendix I).

By contrast, the requested modification from 'or' to 'and' would change the logic of the policy entirely. On the 'and' version, nothing is flagged as problematic unless it violates U.S. law, since it has to violate U.S. law in order to violate *both* U.S. law *and* international law. This therefore removes any independent force for international law: *only* investments in products used in violation of U.S. law are flagged as problematic on the 'and' version (i.e., anything compliant with U.S. law is given a free pass, even if it violates international law). But in the view of the EIAC this makes the policy virtually *trivial*, because the University's Investment Office is presumably *already* required to avoid investments in things used to violate U.S. law. That's nothing new. So the change from 'or' to 'and' in effect changes the recommendation from something that originally had substantive ethical content, with international law serving as a proxy for human rights protections globally, into something that simply reiterates the standard expectation to comply with U.S. law, which trivializes the policy from an ethical point of view.

The EIAC therefore instead offered to work on coming up with an alternative recommendation that preserved the ethical substance of the original approved recommendation but avoided the reference to 'international law' that bothered some members of the Investment Committee. That was developed in the fall (with consultation with the Investment Office and indirectly with the Investment Committee) and, following proper procedures, again presented to the Faculty Senate on November 19, 2024 where it was endorsed, this time by a vote of 25-1. This revised recommendation, focused explicitly on human rights, is included here as Appendix II.

This revised recommendation from the EIAC was then presented to the Board of Trustees Investment Committee on February 26, 2025. But despite indications the EIAC was given in the fall that this revision would likely allow the issue to be resolved, it was met with skepticism in that discussion. Strong reservations were expressed about the University's investments being potentially constrained by judgments—on the part of non-partisan groups such as the International Committee of the Red Cross and Human Rights Watch, and backed by credible evidence—of significant risk of human rights violations in connection with products and services supported by relevant military-related investments. When the Investment Committee met again two days later it took the following actions (as reported in its minutes):

- It *repealed* the original recommendation it had voted to approve in May, 2024.
- It *rejected* the EIAC's proposed alternative (Appendix II), and
- It *approved* the modified 'and' version of the original policy, which they had asked for last June after regretting the EIAC's 'or' version they had approved in May:

The University of Rochester will (i) avoid direct investments in securities issued by companies selling goods or services that support military operations that violate U.S. **and** international law, and (ii) instruct the Investment Office to ask the University's investment managers to vote proxies in portfolio companies in a manner that is consistent with the goals and values underlying the first part of this policy.

The EIAC wishes to make clear that what the Investment Committee has approved is *not* anything that the EIAC has recommended or endorsed, nor is it something that the EIAC regards as ethically meaningful (as both the original recommendation and our proposed alternative would have been). For the reasons spelled out above, the view of the EIAC is that the Investment Committee's actions amount to the unilateral replacement of an *ethically substantive* policy (adopted last May) with one that no longer has any real ethical content and in effect merely reiterates a standard expectation to comply with U.S. law.

In light of the EIAC's mission to "assure the consistency of [the University's] institutional support strategies with [its] core values," we regard this as a deeply unfortunate outcome that fails to speak meaningfully to the University's values in connection with the concerns that motivated this discussion. The EIAC has tried in good faith over the course of the past year to avoid such an outcome and is disappointed that this is how things have concluded.

Appendix I

Recommendation Concerning Investments Tied to Internationally-Traded Military and Related Products and Services

University of Rochester Ethical Investment Advisory Committee (EIAC)

***APPROVED ON 5/15/24 BY THE INVESTMENT COMMITTEE
RESCINDED ON 2/28/25 BY THE INVESTMENT COMMITTEE***

Recommendation:

The Ethical Investment Advisory Committee recommends that the University of Rochester Investment Committee adopt a policy to (i) avoid direct investments in securities issued by companies selling goods or services that support military operations that violate U.S. or international law, and (ii) instruct the Investment Office to ask the University's investment managers to vote proxies in portfolio companies in a manner that is consistent with the goals and values underlying the first part of this recommendation.

Rationale:

The role of the Ethical Investment Advisory Committee is to “assure the consistency of our institutional support strategies with our core values.” Based on a number of requests from the University Community related to University investments with potential connections to military operations and occupation, the EIAC investigated this issue, as reported in the meeting notes and in the Community Questions section of the website, which also provides specific responses to the questions raised. As a more general matter and after discussion of the issues, the EIAC has concluded that investments in corporations whose products and dealings run a significant risk of contributing in these ways to such violations threaten core values articulated in the University's CSR policy and central to its mission—values such as respect for and protection of human rights, recognition of the equality of persons, and support for democratic governance.

The concern in the first part of the recommendation is with potential contributions to violations of U.S. or international law or of human rights via such activities as the supplying of military hardware, surveillance technologies, or equipment used in forced displacement, housing or infrastructure demolition, or attacks on civilians. Here the focus is specifically on corporations whose contributions are a substantive, not merely peripheral, part of their business, especially in volatile regions.

This recommendation should not be interpreted as denying that there are legitimate uses for military or surveillance equipment or technology; nor does the justification underlying the recommendation require endorsing one or another partisan view of broader issues in ongoing geopolitical conflicts. The question for the EIAC is about ethically responsible investing for an institution of higher learning committed to the above values, even in light of disagreement with the University community over the complexities of various geopolitical issues.

Despite whatever legitimate uses the equipment and technology in question may have, by their nature these things can readily be put to uses that are deeply ethically problematic, and investors such as the University of Rochester are not in a position to control how they will be used once they are produced and sold by the companies supplying them. It is therefore the position of the EIAC that the principles of ethical investment for an institution like ours require seeking to avoid investments in companies that are substantially engaged in providing such products and services, especially in regions where the likelihood of ethically problematic uses is significant.

Appendix II

Recommendation Concerning Investments Tied to Internationally-Traded Military and Related Products and Services

University of Rochester Ethical Investment Advisory Committee (EIAC)

REJECTED BY THE INVESTMENT COMMITTEE ON 2/28/25

Recommendation:

The Ethical Investment Advisory Committee recommends that the University of Rochester Investment Committee adopt a policy to (i) avoid direct investments in securities issued by companies that, as a material part of their business, sell products or services that are used in military operations in contexts where there is credible evidence of a significant risk of human rights violations resulting from those operations, and (ii) instruct the Investment Office to ask the University's investment managers to vote proxies in portfolio companies in a manner that is consistent with the goals and values underlying the first part of this recommendation.

Rationale:

The role of the Ethical Investment Advisory Committee is to “assure the consistency of our institutional support strategies with our core values.” Based on a number of requests from the University Community related to University investments with potential connections to military operations and occupation, the EIAC investigated this issue, as reported in the meeting notes and in the Community Questions section of the website, which also provides specific responses to the questions raised. As a more general matter and after discussion of the issues, the EIAC has concluded that investments in corporations whose products and services run a significant risk of being used in ways that violate human rights threaten core values that are articulated in the University's CSR policy and central to its mission. The concern is about contexts of use that are likely to lead to such violations through the supplying of military hardware, surveillance technologies, or equipment used in forced displacement, housing or infrastructure demolition, or attacks on civilians. Values such as respect for and protection of human rights, recognition of the equality of persons, and support for democratic governance raise serious ethical concerns for investments associated with such contexts.

The recommendation refers to *credible evidence of significant ethical risk* that military operations involving products or services supported by the investments will result in human rights violations. For the purposes of this recommendation, the bar for credible evidence of significant ethical risk is met if central non-partisan human rights bodies and organizations are raising serious concerns about actual or likely human rights violations associated with the operations in question. Such organizations include the *Office of the United Nations High Commissioner for Human Rights*, the *United Nations Human Rights Council*, and the *International Committee of the Red Cross*, along with human rights NGO's such as *Human Rights Watch* and *Amnesty International*. While there may be public disagreement over any given case, the expression of serious concerns among credible human rights monitors about human rights violations should be enough to make the investments in question ethically problematic for an institution of higher learning committed to respecting the ethical concerns of its internationally diverse membership.

This recommendation should not be interpreted as denying that there are legitimate uses for military or surveillance equipment or technology. Nor does the justification underlying the recommendation require endorsing one or another partisan view of broader issues in ongoing geopolitical conflicts, or universal

agreement on what constitutes ‘credible evidence’ or ‘significant risk’. Some degree of vagueness and contestability is inevitable in any serious ethical recommendation. The question before us is about ethically responsible investing for an institution of higher learning committed to the above values, even in light of disagreement with the University community over the complexities of various geopolitical issues. Despite whatever legitimate uses the equipment and technology in question may have, by their nature these things can readily be put to uses that are deeply ethically problematic, and investors such as the University of Rochester are not in a position to control how they will be used once they are produced and sold by the companies supplying them. It is therefore the position of the EIAC that the principles of ethical investment for an institution like ours require seeking to avoid investments in companies that are substantially engaged in providing the above-mentioned products and services in regions where the likelihood of ethically problematic uses is significant.