THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
OFFICE OF ETHICS, COMPLIANCE AND AUDIT SERVICES

Ethics and Compliance Program Plan

for 2012-13

Table of Contents

Executive Summary

Overview

This past year has seen an increased national focus on regulatory compliance, specifically on the presence of a compliance function in higher education as campuses face the impact of deep budget cuts, faculty and staff protests, accusations of abuse, and violence on campus. For the University of California's (UC) Ethics and Compliance Program Services (ECS) the external focus on higher education regulatory issues in higher education has provided the opportunity for program introspection, and a desire to quantify the value of compliance to our UC colleagues and the citizens of California. The ECS program compared itself to a number of ethics and compliance programs across the nation and found that it continues to be a leader in this industry and viewed as a model program by other institutions of higher learning. The compliance risks on UC's radar mirrors similar organizations' compliance risk, especially for public institutions. ECS will continue to capitalize on its opportunity to learn from, and benchmark with the InterUniversity Compliance Consortium, which it has been a member of since 2010.

Outcome Metrics

The Ethics and Compliance Annual Work Plan for FY2012-13 (Plan) will include the development of positive, behavioral outcome metrics that can demonstrate an enhanced culture of ethics and compliance at UC. Being able to quantify a positive change to UC culture is a key ECS objective that can have a forceful, albeit indirect impact on UC operations. The Plan has been developed using prioritized risk assessment observations and work plan activities from each of the campuses' (for this Plan, this term includes the ten campuses, Lawrence Berkeley National Laboratory, Agriculture and Natural Resources and the UC Office of the President) ethics and compliance risk committee function. Campus compliance staff worked collaboratively with the internal audit function and as possible, the risk management functions at each campus to more fully capture identified compliance risks for inclusion in the campus work plan, and then prioritization by the Campus Ethics and Compliance Officers (CECOs) to the systemwide Plan.

Potential Compliance Risk Areas

The key systemwide, compliance risk areas to be focused on in FY2012-13 include, in no order of importance, the following:

1. **Culture of Ethics and Compliance** – *specifically focusing of managing youth activities on campuses and employee morale concerns*;
2. **Research Compliance** – *with a focus on the Centers for Medicare/Medicaid rules and regulations regarding Public Health Service, specifically the National Institutes of Health-funded research and disclosure of conflicts of interest by principal investigators.*
3. **Data Privacy and Security** – *continued monitoring and protection of personal data in the health care and other areas of campus activities.*
4. **Data Reporting Accuracy** – *the risk of transitioning to new financial, payroll, clinical documentation and other systems and the potential for reporting inaccurate or untimely data for mandated report.*

The focus of campus and ECS Plans for FY2012-13 will be to continue, in an outcomes-focused manner, to dissect and mitigate, issue by issue, the key components of the risks listed above.

UC Ethics and Compliance Program Plan

Higher Education Ethics and Compliance Programs - State of the Industry

The inconsistent, or lack of integration, of ethics and compliance oversight into the operations of institutions of higher education has leapt into the forefront of public awareness this past year as a result of several high profile events at a number of reputable academic centers. From the Occupy Movement's focus on university protests and the disruption and chaos those events have precipitated; to cuts in funding resulting in decreased classes, decreased enrollment, disruption of campus operations from structural downsizing, resulting in faculty and student mistrust of administration; and finally to the lack of effective oversight and protection of minors on campuses, negative publicity continues to erode the public respect historically afforded institutions of higher education. The impact of reputational damage that may have been done as a result of the above events has a potential adverse effect on recruitment and retention of prominent faculty/researchers and high achieving students, receipt of research contracts and grants, as well as community and philanthropic support. These events and their collateral damage have given us all pause to reflect on how important a culture of ethics and compliance is in fostering an environment of transparency, collective values and open communication among faculty, students and staff in order to promote and protect the mission and values of an institution.

The goals of a strong and comprehensive ethics and compliance program continue to be focused on assuring the presence of appropriate internal policies or other internal controls, delivering timely and relevant education and training, conducting monitoring of current processes, and investigating potential instances of non-compliance. Providing the Regents assurance that processes are in place, and are made available to students, faculty and staff to more fully understand their individual responsibility to the UC, especially in reporting potential compliance issues with the assurance that their reports will be addressed in a timely manner, is a primary goal of the program.

The Growth and Maturity of Higher Education Compliance Programs
UC's Ethics and Compliance Program in Perspective

Institutions of higher education are relative newcomers to the world of formal Board-approved ethics and compliance programs. As complex situations have arisen and academic institutions have been faced with very public disclosures of ethical misconduct or large compliance failures, Board decisions have been made to implement organization-wide, ethics and compliance programs. When the UC Regents approved a resolution to mandate an ethics and compliance program in 2008, UC was one of the first large, *multi-campus* organizations to develop and implement a comprehensive ethics and compliance program. Due to the lack of a critical mass of higher education ethics and compliance programs with similar characteristics of the UC, an informal networking and benchmarking workgroup was established by the University in 2010 that continues today. The InterUniversity Compliance Consortium (IUCC) includes a small, but prominent group of western universities: University of Texas, Stanford University, University of Washington, California Institute of Technology, and California State University that all have similar ethics and compliance goals and objectives, to provide a forum to discuss compliance program best practices and process improvements.

In addition to initiating the effort to establish the IUCC, UC compliance leadership has been recognized by several national ethics and compliance organizations as nationally respected leaders in the development and implementation of its multi-campus ethics and compliance program whose structure has been reported by other universities as the model for their program development. In a recent telephone survey of several universities with a formal ethics and compliance programs by UC ECS staff to gauge the comprehensiveness and maturity of UC's program, the results indicated that the UC's program continues to be viewed as a leader in the structure of its centralized program. For example, Ohio State University and University of Washington representatives both reported that their institutions are now considering a centralized ethics and compliance function based upon the UC model.

Maintaining independence from an assurance standpoint is a focus of the EC, but collaborating with the various risk disciplines to improve compliance, decrease potential duplication and campus confusion was also commented on by several of the universities surveyed. The University of Virginia and Fordham University felt their compliance functions may be constrained by a lack of coordination among compliance, internal audit, risk management and other risk disciplines on campus.

Several institutions reported robust ethics and compliance programs that have commonalities with the UC program. New York University (NYU) and the University of Pennsylvania's (Penn) ethics and compliance programs report robust ethics and compliance programs, both of which have nationally recognized mature programs and compare similarly to UC's program. Several key programmatic areas of comparison include:
- The chief compliance officer has dual reporting relations to the Compliance and Audit Committee of the Regents, and to senior management.
- The adoption of the "seven elements" (United States Sentencing Commission recommendations for an effective compliance program) model with a compliance risk-based approach.
- The development and utilization of a comprehensive risk profile across the key risk disciplines including internal audit, compliance and risk management by comprehensive collaboration and integration of activities surrounding the identification, mitigation, and monitoring of risk issues.
- Leveraging resources across all disciplines – the breakdown of silo'd activities.
- Correlating performance metrics to key compliance risk mitigation activities.
- Movement to focus on the quantification of behavioral outcomes.

The take-away from the survey is that more mature higher education ethics and compliance programs have progressed beyond structure and process towards a focus on behavioral outcomes. Similar to UC, NYU and Penn are each attempting to develop and implement compliance performance metrics that measure the extent to which employees have changed their behaviors as a result of compliance processes and procedures. Behavioral metrics, in turn, assist compliance leadership to demonstrate several key compliance indicators of return on investment from ethics and compliance programs.

Moving from Structure Outcomes to Process and Behavioral Outcomes
The UC Ethics and Compliance Program's approach was reviewed during internal department strategy sessions designed to begin planning for the development of annual ethics and compliance work plan for fiscal year 2012-13. During that session, ECS leadership discussed the juncture the current program has reached in its maturity. The structural development of the system and the campus-based ethics and compliance programs (CECRP) is generally complete, and ongoing processes are in place for the

identification and review of potential compliance risk issues, initiation of a response to the issues, and assurance that efforts are in place to enhance compliance with relevant regulations and/or policies. The next step in the maturation process is to increase the focus on the "value" of an ethics and compliance program to each campus by providing quantifiable data to support the use of limited resources to implement their program. As noted in the previous section, it is important to move from the usual reporting of plan and process developments in response to identified compliance risks, to report on the impact of those plans and processes on the campus operations, and as possible, on the culture of the organization.

Collaboration between departments and campus organizations with resultant leveraging of resources are key ingredients of effective operations.   The comprehensiveness of risk mitigation activities is enhanced by the different perspectives of each risk disciplines. Their roles are different and the approach they take to assist in mitigation activities should be coordinated as much as possible to achieve the most comprehensive outcome.   As do the majority of the CECRCs, ECS took the lead at UCOP to formally establish a collaborative risk assessment function between the Office of Ethics, Compliance and Audit Services and Risk Services, Office of General Counsel and Human Resources to better leverage resources and improve efficiencies when working with the campuses.

The following Plan continues to be based upon the nationally accepted foundation of the United States Sentencing Commission's seven elements of an effective compliance program which is still the hallmark of compliance programs as recognized by industry and government agencies.   Planning activities surrounding the Plan development reflect ECS's efforts to identify through an accepted risk assessment process the key compliance risks identified at each campus and then aggregated across the system and prioritized the Campus Ethics and Compliance Officers.   Following prioritization of the key compliance risk areas, the CECOs worked to identify performance metrics for key compliance areas that are relevant, valuable and have consistent data across all of the campuses for comparison purposes.   **Appendix A** reflects a quantifiable prioritization of the aggregated campus risks that generates the systemwide compliance risk pool for the Plan.

Plan Objectives

The Plan outlined below described the key compliance risks prioritized by the CECOs and ECS leadership as described in the section above.   Each specific risk area was able to be classified into a discreet higher education compliance risk category that assists in providing a framework for the reporting of the key compliance risk identification and mitigation activities at each location. As the UC program moves towards more a more consistent process and behavioral outcome reporting system, the metrics listed below will be more quantifiable and demonstrate positive movement towards an enhanced ethics and compliance culture.

The prioritized compliance risk areas that are described in more detail below include the following:
1. Culture of Ethics and Compliance
    a. Specific Risk: Minor Youth on Campuses
    b. Specific Risk: Employee Morale (Uncertain Future, Bullying, Harassment)

2. Research Compliance
    a. Specific Risk: Conflicts of Interest

3. Data Privacy and Security

4. Data Reporting Accuracy
   a. Specific Risk: Transition of Business Systems
   b. Specific Risk: Accuracy of Billing and Coding Data

Key Compliance Risk Categories and Identified Risks

I.   **Culture of Ethics and Compliance**

a. *Specific Risk: Minor Youth on Campuses*
As described earlier in this document, the safety of minor youth on the campuses or who are involved in campus-sponsored functions is a key concern. Due to the extent and complexity of activities and functions that may be sponsored by a campus, or University space or expertise provided to an external activity, the focus to mitigate this risk by targeting reporting mechanisms such as the University hotline is a priority. Ensuring processes are in place for the communication of the State of California Child Abuse and Neglect Reporting Act, and ongoing review and enhancement of key structural safeguards such as comprehensive background checks is a key focus of ECS efforts.

The campuses identified open communication among employees and fear of retaliation in reporting suspected unethical or illegal behavior as key impediments to a strong culture of ethics and compliance. In response to the publicized violence against minor youth on campuses, the University locations inventoried minor youth activities to gain a better understanding of the scope and depth of the potential risk and what processes are currently in place to mitigate a potential problem from occurring.

In addition to providing reporting and investigative services, ECS will continue to facilitate in the work of a systemwide *Managing Youth Activities Task Force (Task Force)*. The Task Force is in the process of developing a systemwide policy. In conjunction with the issuance of the policy, ECS will assist the campuses with guidance and potential tools for policy implementation.

Goal:
Systemwide and campus-specific policies and processes are in place to assure the identification and education of mandatory reporters in compliance with the State of California's Child Abuse and Neglect Reporting Act; and monitoring for trends to indicate a need for additional process improvements.

Metric:
Management plans have been developed and implemented for the identification, background checks, and education of mandatory reporters.

b.   *Specific Risk: Employee Morale (Uncertain Future, Bullying, Harassment)*

The campuses also associated employee morale with culture as a key compliance risk. As we look to FY2012-13, UC continues to face major budgetary concerns. Senior leaders will have to continue to focus a majority of their efforts on ways to cut operational costs and raise revenue. This round of cuts may have severe impact on campus operations and the delivery of core services. The CECOs voiced their concern that the ongoing budgetary crisis will continue to erode morale among employees with a potential adverse effect on their campus culture of ethics and compliance. In addition, reports of harassment/retaliation and bullying are on the rise as workplaces become more stressful during this time of uncertainty.

Goal:
Campus leadership continues to monitor changes in the ethical culture of their location and enhance and communicate plans/programs to support ethical and complaint behaviors.

Metric:
Campus programs are developed and implemented to maintain and enhance ethical and compliant behavior in the workplace.

II.   **Research Compliance Risk**

The campuses identified compliance with the new federal Conflict of Interest regulations as a key compliance risk. On August 25, 2011, the federal Department of Health and Human Services (HHS) through the Public Health Services (PHS) and specifically the National Institutes of Health (NIH) enacted new, more stringent rules regarding financial conflicts of interest in research. As implemented, the regulations will substantially impact principal investigators on research involving the use of human subjects, who have personal financial interests in the sponsor of their research, or in companies providing investigational drugs, devices or other financial support to their HHS-funded projects. For example, principal investigators, co-investigators, and key research personnel will be required to disclose *any* equity interest in a non-publicly traded company as well as the occurrence of any reimbursed travel or sponsored travel related to their institutional responsibilities and not just to their research.

Goal:
Adequate systemwide and campus-specific processes and protocols are in place to assure accurate and timely training of principal investigators to the new mandated language, and public disclosure of "significant financial interests" by relevant personnel.

Metrics:
- Systems are in place for the identification, training and tracking of relevant PHS-funded researchers.

- Systems are in place for the accurate and timely posting of relevant e-COI data for PHS-funded researchers.

III.   Data Privacy and Security

The campuses identified data privacy and security of personal financial and/or health information as a key compliance risk. Many of the campuses are undergoing information technology conversions in updating or replacing aging business systems. Such business systems conversions entail significant risk to privacy and data security management.

Goal:
Data privacy and security efforts on campus-specific initiatives involving business systems conversions have the management mechanisms and controls in place to help meet regulatory requirements, particularly as it relates to privacy and security breach notifications.

Metric:
Processes are in place to prevent and detect data privacy and security breaches.

IV.   Data Reporting Accuracy

This category includes the accurate reporting of data from UC to the federal or state government per contract or reimbursement regulations. The potential for inaccurate data being reported due to new and/or revamped business systems is a key compliance risk related to the accuracy and timeliness of mandatory government reporting.

a.   Specific Risk: Transition of Business Systems
With individual campus implementation of new or enhanced financial or student data systems, as well as the ongoing development and systemwide implementation of UCPath, there is heightened concern among the campus compliance leadership regarding the accuracy and timeliness of reporting mandated data to state or federal government agencies.

Goal:
Data submitted to the government in response to mandated reporting rules and regulations is accurate and timely.

Metric:
Processes are in place to monitor to monitor and assure the integrity of data reported to the government in response to mandated reporting rules and regulations to include campus-wide and academic medical center reimbursement.

b.   Specific Risk: Accuracy of Billing and Coding Data
Accurate and timely submission of billing and coding data to government reimbursement agencies continues to be a key compliance program risk that requires continual and focused vigilance. During this past year, the focus on the Student Health Services and their documentation and reimbursement operations increased.   The need for a consistent, UC systemwide approach to billing and coding for

health services for both students and patients at the Medical Centers has become more apparent. The consequences of non-compliance may be disastrous in terms of negative publicity for UC, including increased paybacks of inaccurately billed services and potential monetary (civil) fines for billing errors to the Centers for Medicare and Medicaid.

Goal:
Billing and coding data and related documentation, in support of claims submitted, are accurate and timely and meets coding rules and regulations and professional standards of clinical documentation.

*Metric***:**
Processes are in place to monitor to monitor and assure the integrity of billing and coding data submitted to third party payers following professional coding guidelines and billing rules and regulations.

Summary

In collaboration with the campuses, ECS will further quantify the goals and metrics related to this Plan which will then be aggregated on a periodic basis and reported to the Regents' Compliance and Audit Committee.

Appendix A

CECO Ranking of
Aggregated Campus Compliance Plan Risks - FY2012-13

Risk Area	Focus	Risk Likelihood	Risk Severity	Level of Control	Residual Risk Exposure
Safety	Laboratory Safety	3.64	4.00	4.18	2.4
	Emergency Planning	3.45	4.00	3.64	3.8
Research	Conflicts of Interest	3.82	3.09	3.73	3.0
	Intellectual Property	3.00	2.80	3.40	2.7
	Export Controls	3.00	3.09	2.91	3.9
Government Funds Reporting	Billing/Coding-HS	4.00	3.50	3.67	3.7
	Billing/Coding-SHS	3.67	3.22	2.89	5.0
Culture of Ethics and Compliance	ADA/EEOC	3.64	3.09	3.27	3.9
	Diversity-Awareness	3.64	2.64	3.27	3.3
	Managing Youth Activities	3.09	3.91	2.55	5.9
	Violence on Campus	3.18	3.91	3.82	2.9
Data Privacy & Security	EMRs - Health Sciences	3.80	3.40	4.40	1.6
	Business System Conversion	4.11	4.00	3.11	6.2
	UCPATH	3.71	3.86	2.71	6.5
Risk Likelihood	Rare=1, Unlikely=2, Possible=3, Likely=4, Almost Certain=5				
Risk Severity	Negligible=1, Minor=2, Moderate=3, Serious=4, Critical=5				
Level of Control	None=1, Minimal=2, Moderate=3, Strong=4, High=5				

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All Campuses represented