



# COMPLIANCE ALERT

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## UC Policies and Guidance

### [PPSM-63: Investigatory Leave](#)

The policy describes the investigatory leave process for employees in the Professional & Support Staff and Managers & Senior Professionals personnel groups, and Senior Management Group members. New updates include clarification of the University's investigatory leave process and two new sections:

- Section III.B – Circumstances When Investigatory Leave May be Warranted
- Section III.C – Written Notice

### [BFB BUS-10: Principles of Accountability with Respect to Financial Transactions](#)

This policy provides an overview of financial accountability, financial management, data integrity, and compliance associated with financial transactions throughout the University. This policy codifies UCOP Financial Policy previously posted on the CFO Division website into a new systemwide Business and Finance Bulletin.

### [PACAOS 100.00 Policy on Student Conduct and Discipline](#)

The Policies Applying to Campus Activities, Organizations and Students are a compendium of Universitywide policies relating to student life. Section 100.00 describes the University's policy on student conduct and discipline. As of March 1, 2019, this policy underwent revisions to include:

- Clarification that campuses shall implement the procedures set forth in Appendix E, when a formal investigation is deemed appropriate for cases involving cases of sexual violence, sexual harassment or other conduct prohibited by the UC Policy on Sexual Violence and Sexual Harassment (SVSH Policy);
- Addition of direct references of defined prohibited conduct under SVSH Policy;
- Addition of 102.26 (violations of the SVSH Policy) as prohibited conduct under the Policy on Student Conduct and Discipline;
- Addition of 104.81, allowing campuses to set forth campus regulations for placing holds on requests for transcripts, diplomas and other student records; and
- Modification to 105.05 Suspension, to prohibit a student from transferring or registering for courses at another UC campus or location during the period of Suspension.

### [PACAOS 130.00 Policies Applying to the Disclosure of Information from Student Records](#)

The Policies Applying to Campus Activities, Organizations and Students are a compendium of Universitywide policies relating to student life. Section

130.00 describes the University's policies applying to the disclosure of information from student records. This policy is revised to include revision to 130.722, clarifying complainants of an alleged forcible or non-forcible sex offense are allowed to re-disclose the outcome of a related student disciplinary decision. Existing policy language suggests that complainants are not allowed to re-disclose such information, and UC may not legally prohibit complainants from re-disclosure of this information

### [PACAOS Appendix E: Sexual Violence and Sexual Harassment Student Adjudication Framework](#)

Revised Appendix E, which addresses immediately-needed changes, will serve as the interim Sexual Violence and Sexual Harassment Student Adjudication Framework pending a more comprehensive revision of these procedures.

- General revisions and clarifications to the policy (e.g., addition of references between the policy and the corresponding sections of the Student Adjudication Model – Process Flow Chart);
- Clarification that campuses may apply Appendix E procedures to resolve reports of other student conduct violations that occur in connection with violations of the SVSH Policy;
- Clarifications to the Notice of Charges;
- Clarifications on the types of evidence the investigator may consider or exclude;
- Description of the opportunity, for both Complainant and Respondent, to review and respond the information the investigator has deemed relevant before the investigator concludes the fact-finding;
- Description of the opportunity, for the Complainant and/or Respondent, to meet with the Student Conduct office, to respond to the Title IX report and recommendations;
- Clarifications to the Appeal Process;
- Flowchart revised to reflect revisions to the framework process;
- Process timeline revised to 135 days, vs 120 days to allow additional time for broader hearings; and
- Addition of V.B.1 – Opportunity to Appeal for “Suspension/Dismissal Cases” with broader evidentiary appeal hearing.

### **Additional PPSM Policy Updates**

Updated web links, office titles, and other typographical amendments have been applied to the following:

- [PPSM-II-50: Sabbatical Leave](#)
- [PPSM-83: Death Payments](#)

- [PPSM-82: Conflict of Interest](#)
- [PPSM-51: Reduced Fee Enrollment](#)
- [PPSM-3: Types of Appointment](#)
- [PPSM-36: Classification of Positions](#)
- [PPSM-2: Definition of Terms](#)
- [PPSM-1: General Provisions](#)
- [PPSM-II-71: Senior Management Supplemental Benefit Program](#)
- [PPSM-II-64: Termination of Appointment](#)
- [PPSM-II-43: Personal Leave](#)

## GDPR and Data Protection

### [Google Hit with £44M GDPR Fine Over Ads](#)

Two privacy groups in May 2018 filed complaints under the EU's General Data Protection Regulation. An investigation conducted by a French data regulator determined Google was not transparent to consumers how they used information for personalized advertising and failed to provide a specific legal purpose for collecting user data and obtaining consent.

### [GDPR-inspired Data Protection Heads to South America](#)

In 2018, Brazil passed the LGPD data protection regulation, inspired by Europe's GDPR, requiring compliance by August 2020. The regulation establishes an independent agency in charge of enforcement and issuing fines to organizations for non-compliance.

## Privacy and Security

### [Hospital Employees Fired for Accessing Celebrity's Medical Records](#)

After TV celebrity Jussie Smollett received medical treatment at Northwestern Memorial Hospital, dozens of hospital workers without authorization accessed his medical records after a review of PHI access logs. As a violation of HIPAA, the hospital reportedly dismissed many workers who reportedly dismissed healthcare workers who committed the privacy violations.

### [Colorado Hospital Failed to Terminate Former Employee's Access to ePHI](#)

A former employee of Pagosa Springs Medical Center (PSMG) continued to have remote access to a patient calendar containing electronic protected health information (ePHI) despite their departure. In addition, the hospital did not have a BAA agreement with the calendar vendor. PSMG will pay \$111,400 and undergo additional corrective actions.

## Freedom of Information and Public Records Act

### [Industries Turn Freedom of Information Requests on Their Critics](#)

Entities in dispute with or facing criticism from researchers are increasingly using public records requests to interrupt the work of academics. A UC Berkeley researcher analyzes this trend through a published work in the [UCLA Law Review, Volume 66](#). The debate has sparked conversations for expanding exemption to public records disclosures to researchers. A recently proposed California bill, [AB-700](#), would exempt disclosure of "information relating to a researcher or their research at, or in affiliation with, a public postsecondary educational institution, including unpublished research methods, trade secrets, and correspondence".

## Healthcare Fraud

### [Sutter Will Pay \\$30M to Settle Medicare Overcharge Allegations](#)

The Department of Justice alleged Sutter Health and four affiliates of inflating the risk scores of Medicare Advantage patients, leading Medicare to over pay the healthcare system for providing medical services to high risk patients. Sutter and associated affiliates will pay \$30 million to settle the allegations, but the healthcare system, along with an affiliated partner, face a different litigation brought on by a whistleblower alleging additional inflated risk scores.

### [Wichita Doctor Sentenced to Life for Diverting Rx Drugs to the Streets](#)

A Kansas physician, who registered with the Drug Enforcement Administration to dispense controlled substances, wrote prescriptions drugs without conducting proper examinations or establishing patient medical needs. After investigation and prosecution, the doctor received a life sentence in federal prison.

## Foreign Engagement

### [Universities on the Foreign Payroll](#)

An overview of higher education institutions receiving significant donations from abroad and addressing the importance of reviewing any potential influence foreign entities may have on universities. Suggested recommendations and changes to legislation and processes advance transparency by improving disclosure of financial relationships and partnerships.

### [U.S. Universities Reassess Collaborations with Foreign Scientists in wake of NIH Letters](#)

NIH Director, Francis Collins, announced the agency sent letters to over 55 higher education institutions citing concerns that researchers are not fully disclosing all foreign affiliations. Universities have begun to assess foreign relationships, how to improve reporting,

and some have begun to take action to address violations.

## **UCOP Communications on International Engagements**

Due to the increased attention of federal agencies on international engagements at research universities, UC President Napolitano issued a [communication](#) to raise awareness of the issues to the UC community. One of the top-line recommendations endorsed by President Napolitano was the adoption of a mechanism to ensure that federal agency inquiries are appropriately tracked, escalated and investigated. To that end, and to promote consistency in how these matters are handled, the Office of Ethics, Compliance and Audit Services (ECAS), in conjunction with the Office of General Counsel (OGC), is working to create and maintain corresponding investigative procedures for these matters and issued [Escalation Protocols for Research Related Matters](#) document. A subsequent [communication](#) from UC President Napolitano requested an [inventory](#) of equipment, gifts, agreements, and services provided by Huawei and ZTE, due to a potential issuance of a Presidential Executive Order barring Chinese telecommunications equipment from United States wireless networks and/or barring private entities from using Huawei and ZTE technology, or placement of these companies on a restricted parties list. A [Presidential Executive Order](#) addressing national security concerns related to these issues was signed on May 15th. The following day, the Department of Commerce placed Huawei on the [Entity List](#) effective May 16th.

## **Senator's Queries Prompt NIH and NSF to Clarify How They Monitor Foreign Research Ties**

As Congress members raised concerns over how the NIH and NSF monitor foreign affiliations at research universities, both agencies provided additional clarity on how they remind grantees of requirements and collect information on foreign affiliations, including new methods of disclosure being offered for grantees and institutions to designate foreign components in their research. However, universities are requesting the agencies clarify what a foreign component or relationship entails.

## **Risks in Mishandling Research Grants**

### **[UT Health Science Center Pays \\$2.3 Million](#)**

Following a two-year investigation, the University of Texas Health Science Center will pay over \$2.3 million to resolve allegations of mishandling grants received from the National Institutes of Health (NIH). The Human Genetics Center had drawn down grant funds shortly before grant closure to prevent returning unused funds to NIH.

### **[NSF Audit Results in Request for UT Austin to Repay \\$284K](#)**

A performance audit of NSF awards conducted by the NSF Office of Inspector General at University of Texas Austin resulted in questionable claimed costs totaling \$283,613. UT Austin concurred with 9 out of 10 findings that include questionable purchases made near award expiration, inadequate documentation, unreasonable travel, and unallowable visa fees and expenses.

### **[Duke University to Pay \\$112.5 Million to Settle Claims of Research Misconduct](#)**

A whistleblower lawsuit filed under the False Claims Act revealed Duke University researchers submitted falsified data when applying for NIH and EPA grants from 2006 to 2018. The university will pay \$112.5 million and aims to fortify ethical research practices through mandated training and creating a research integrity office.

## **What's Happening at UC**

### **[UCOP Opportunity: Associate Director Systemwide Export Controls](#)**

Drives the standards, risk assessment, best practices, education, training, assessments, monitoring, oversight, and reporting of an effective risk-based Systemwide export control compliance program, addresses current risks and emerging risks such as matters associated with foreign influence.

### **[UCOP Opportunity: Systemwide Privacy Compliance Manager](#)**

Under the direction of the Director of Compliance, the Privacy Manager will design, develop, implement, administer and monitor a system-wide, comprehensive privacy program.

### **[UCOP Opportunities: Cyber Audit Specialists](#)**

Two positions in the ECAS Cybersecurity Audit Team performing cybersecurity audit projects.

- [Requisition Number 20190126](#)
- [Requisition Number 20190172](#)

### **[UCOP Opportunity: Principal Investigator](#)**

The Principal Investigator is a critical role within the Ethics, Compliance and Audit team, and is responsible for investigating claims of harassment, discrimination, retaliation, and violation of University policies and procedures.

### **[UCOP Opportunity: Director of Compliance](#)**

The Director of Compliance for ECAS will report directly to the SVP and work with the SVP on planning, implementing and monitoring the systemwide Ethics and Compliance Program. The position supervises subject matter experts in Healthcare Compliance, Research Compliance, Export Control, and Privacy and works closely with the Chief of Staff, Deputy Systemwide Audit Officer and the Director of Investigations.

## **2019 Ethics, Compliance and Audit Symposium**

Registration for the 2019 Ethics, Compliance and Audit Symposium on October 28-30, 2019 at the Newport Beach Hyatt is now open. Detailed information can be found on our [Symposium Website](#).

The Office of Ethics, Compliance and Audit Services is committed to strengthening a culture of ethics and integrity throughout the University by providing relevant and timely training on current and emerging compliance, audit and ethics issues. The Symposium will feature keynote and breakout sessions led by internal and external experts covering a variety of higher education issues and available best practices. It will be an opportunity for colleagues throughout the system to collaborate and engage in robust discussions regarding many of these issues.