University of California

Ethics and Compliance Plan

for 2010-2011

Report to the Compliance and Audit

Committee of The Regents

July, 2010

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Executive Summary

Crisis breeds innovation is a term that is used in industry board rooms across the nation when dealing with industry downturns; however, it is a term that can be aptly used now in the halls of academia. Innovation is needed as higher education continues in its efforts to meet its mission of preparing a growing number of students for the future, but is encumbered with overall decreasing revenues with increasing regulatory burdens. Organization survival and growth are predicated on a workforce that positively meets its challenges and works together to build a stronger, more flexible foundation.

Ethics and compliance are two essential elements of organizational survival and growth. Properly integrating a culture of ethics and compliance into overall UC operations, efficiency and efficacy become transparent by-products of effective management. Identifying, prioritizing, understanding and mitigating potential compliance risks is an essential tool in the arsenal of institutions as they steer their organizations to meeting strategic goals.

As evidenced across the nation, institutions of higher education are saddled with similar compliance risks such as campus safety, accuracy in government reporting, data privacy and security and myriad research-related risks. The following Ethics and Compliance Services (ECS) Annual Plan for FY2010-2011 has been developed based on identified compliance risks facing UC as a system of ten world-renowned campuses, a national laboratory, and five nationally known regional medical centers. The process for ethics and compliance risk identification is outlined in more detail in the attached appendices, but a concerted, collaborative effort has been conducted to ensure that key compliance risks facing UC are identified and a plan for mitigating them is established.

The draft plan has been shared internally with key leadership at the campus and UCOP level to gain feedback and a better understanding of the risks facing all UC locations. Following final approval of the plan by The Regents it will be appended to include detailed work statements for each of the identified key risks. The Plan will incorporate, and link to campus and other key departments' risk mitigation plans for next fiscal year.

The attached work plan includes a detailed work strategy that outlines key monitoring elements and project management by the ECS Office.

Overview

Potential Compliance Risks

A comprehensive list that includes, but may not be limited to, potential compliance risks has been identified and prioritized for focus during the next fiscal year. The list incorporates a number of areas identified as risks during the past fiscal year but continue to pose potential concerns to the University. The seriousness of the risk and the complexity of such risk identification and mitigation activities, coupled with the complexity of the University of California in its administrative and academic operations, lend itself to developing strategies that span several years and are multi-faceted in approach.

Interwoven within the risks and action plans identified within this document is the ever-present and potentially debilitating constraint of budgetary cuts. Major budget cuts can be viewed as a compliance risk in itself; however, the comprehensiveness of the state deficit and its impact on daily operations, coupled with resultant compliance activities to identify and mitigate such risks adds to the burden of campus compliance teams. The identification and monitoring of internal controls and control systems is essential during tumultuous financial times to assist leadership in efficiently and effectively managing their respective organizations to ensure compliance with regulations.

The following list outlines the top seven potential compliance risks to the University as identified through interviews with key campus, laboratory, and UCOP leadership; review of current literature and discussions with compliance leadership at a number of academic institutions across the nation; and review of internal, current risk-related issues and mitigation plans. The ECS Office will work collaboratively with location compliance leadership to assist in the identification of related processes or issues; development and implementation of monitoring tools and related process protocols; and evaluation/monitoring activities designed to determine the effectiveness of the activity.

The seven risks are not presented in any priority order, but are randomly listed and bear equal attention with a due date of fiscal year end - June 30, 2011. Further detail on planned mitigation activities by the campuses will be provided as periodic updates on the metrics are available.

I. **Campus Safety** — this category includes issues related to acts of intolerance and any pre-mediated acts of violence or disruption to campus activities.

    Goal: Identification of preparedness plan to address acts of intolerance or other disruption to campus activities.

    Metric: Provide monitoring of campus process and evaluate effectiveness to meet challenges of student, employee and visitor safety from acts of violence and/or intolerance.

II. **Government Funds Reporting Requirements Accuracy —** this category includes the accurate reporting of the use of funds received by the University from the federal government per contractual or reimbursement regulation, such as time and effort reporting per National Science Foundation (NSF), National Institutes of Health (NIH); American Recovery and Reinvestment Act (ARRA) grant monies; and Centers for Medicare/Medicaid Services (CMS – primarily Medicare and MediCal) billing and coding accuracy.

> *Goal:* Enhancement of location-specific protocols and processes to monitor accurate and timely submission of reports/claims in support of receipt of funds as mandated by government standards or regulations.

> *Metric:* Monitoring tools and related protocols developed and implemented.

III. **Data Privacy and Security** — the privacy and security of personal financial and/or health information for students, patients, faculty and administrative staff is challenging in an environment of open access and autonomous operations.

> *Goal:* Data privacy and security efforts meet regulatory requirements and increased awareness and education occurs on internal policies and procedures.

> *Metric:* Control mechanisms are in place for the protection of students, patients, faculty and administrative staff from privacy/security breaches and appropriate mitigation activities instituted such as policies and procedures, educating staff, reporting breaches and enforcing administrative actions as appropriate.

IV. **Research-related Compliance Risks**, including those related to the following:
   a. conflicts of interest disclosures process and follow up
   b. industry relations protocols
   c. export controls, and
   d. intellectual property

> *Goal:* System-wide and location-specific policies and procedures are in place and actualized through implementation plans to meet regulatory requirements for all appropriate research activities.

> *Metric:* Assuring mechanisms are in place to adhere to appropriate policies and procedures and reporting requirements.

V. **Culture of Ethics and Compliance** — incorporating the University's Statement of Ethical Values and Standards of Ethical Conduct is universally accepted as the "right thing to do" and needs to be reinforced during the chaotic economic times that are facing the University.

> *Goal:* Appropriate level of location leadership is actively engaged and demonstrates commitment to System-wide and campus/laboratory/UCOP ethics and compliance activities

Metric: UC personnel at each location will demonstrate awareness of ethics and compliance program without fear of retaliation or retribution through communication and reporting of potential compliance issues. Location communication supports culture of ethics and compliance as evidenced by participation in mandated compliance and other activities.

VI. **Investigation Practices** — ensuring that investigation techniques are consistently applied across the system when investigating compliance or other complaints, as well as potential improper government activities. This becomes more important as the number and depth of issues increase and need for appropriate follow up.

Goal: Enhance approach to investigations and reporting of observation/findings across the University to encourage consistency.

Metric: Location-specific investigation protocols are consistent with system-wide policy. Education is provided to investigators to encourage consistent approach to investigations.

VII. **Health Care Reform** — the Patient Protection and Affordable Care Act (PPACA) recently passed by the Congress has the potential for increased compliance risks to the University as the Act's terms are interpreted and mandated across the nation.

Goal: Determination of impact of PPACA sections on University operations and development of ECS monitoring tool to track implementation effort to ensure compliance to Act timelines.

Metric: Comprehensive tool developed outlining PPACA regulations that impact UC and the potential compliance risk.

The above risks will be outlined in more detail with specific ECS and campus/location objectives and quantifiable performance metrics assigned in the attached work plan. Status reports on the agreed upon metrics will be provided on a periodic basis to the President's Compliance and Audit Committee and the Board of Regent's Compliance and Audit Committee.

Summary

This next fiscal year will continue to be a challenge for the ECS Office as resources will be stretched thin from both a UCOP and campus/location perspective. Unfortunately, in this type of environment, the activities of auditing and monitoring to assure that control and/or system mechanisms are in place are decreased due to priority needs elsewhere for available resources. The ability to focus on core values and targeted risk focus areas will be a primary objective and one that will need leadership support to assist in achieving positive outcomes.