Office of the President

TO MEMBERS OF THE COMMITTEE ON COMPLIANCE AND AUDIT:

<u>**DISCUSSION ITEM**</u>

For Meeting of October 31, 2012

ETHICS AND COMPLIANCE ACTIVITIES REPORT

The Ethics and Compliance Services Office began implementation of the approved Annual Work Plan for fiscal year 2012-13 with a focus on general, research and health sciences compliance risk, as well as its ongoing ethics and compliance education activities. In addition to an analysis of the confidential hotline report trends, analysis of each location's compliance oversight activities was conducted through interviews with campus and laboratory leadership and compliance officers. Systemwide education and training on key compliance issues continued during the quarter, including planning activities for an on-site investigator training session.

Of note, the following are the key compliance focus areas in each of the categories described that were addressed during the first quarter:

- General Compliance
    - Managing Youth Activities
    - International Policy
    - Education and Training – Specific Compliance Risk Areas
    - Self-Assessment Process for Ethics and Compliance Program

- Research Compliance
    - Conflicts of Interest
    - Payroll Certification Demonstration Project – Extension

- Health Sciences Compliance
    - Clinical Research Billing Initiative
    - Billing/Coding Process Inventory

The following report summarizes the key activities accomplished by the Ethics and Compliance Services Office during the first quarter of fiscal year 2012-13.

QUARTERLY ACTIVITIES REPORT ON ETHICS AND COMPLIANCE

As the Ethics and Compliance Program (ECP) moved into its fifth year of operations, the Ethics and Compliance Services (ECS) Office began a systemwide process of evaluating the structure and effectiveness of the program at the campus and system levels during the first quarter of fiscal year 2012-13. It is a recognized industry best practice, and a recommendation by federal regulators to periodically evaluate the effectiveness of the institution's compliance program using the United States Sentencing Commission's seven elements of an effective compliance program.

ECS has developed tools for the campuses and Lawrence Berkeley National Laboratory (LBNL) to use this fiscal year to self-assess the incorporation of the seven elements of an effective compliance program into their location-specific program. The process was initiated with interviews of campus senior leaders reviewing their location-specific ethics and compliance risks, implementing structures to address these risks and procedure for evolving the effectiveness of their programs. Following the completion of the senior level interviews, and compilation of campus program self-evaluations, an external compliance program specialist will review to assess the effectiveness of the systemwide program.

Confidential Reporting of Potential Compliance Issues to the Whistle Blower (WB) Hotline

This quarter there was an increase of 8% (1Q12: 195 to 1Q13: 210) in reporting of potential compliance concerns and/or improper government activities to the UC confidential hotline. Of note, new potential discrimination/harassment reports increased from 9 (1Q12) to 30 (1Q13) - 233%. As these are new cases, investigations will continue at both the location and system level to substantiate and, as appropriate, conduct an analysis of the cause of these events to determine the need for policy change, education and/or more focused enforcement.

The top five allegation categories in numeric order, excluding "inquiries" for this quarter as compared to first quarter, for fiscal year 2011-12 is shown in the table on the next page. Note that there is a three-way tie this quarter for third place, but they are listed as 3, 4 and 5 for comparison purposes. The top six categories reflect 74% of the total number of reported allegations.

Top Five Potential Allegation Categories for 1QFY12-13 As Compared to 1QFY11-12*

Potential Allegation Category	Numeric Ranking FY12-13	Numeric Ranking FY11-12	1Q FY12-13 Results	1Q FY11-12 Results	Percentage Change
Workplace Misconduct	1	1	56	68	-18%
Discrimination/Harassment	2	6	30	9	233%
Economic Waste/Misuse of University Resources	3	5	18	17	6%
Retaliation/Retribution	4	3	18	21	-14%
Conflict of Interest/ Commitment	5	4	18	21	-14%
Fraud, Theft, Embezzlement	6	2	15	23	-35%
Total Potential Reports			**210**	**195**	**8%**

Even though the numbers may be relatively small for the total number of UC employees, this data is trended to assist management in observing for potential shifts in employee behavior. Movement over time, either positively or negatively, is an element of culture and indicates a potential cultural change. The data is aggregated annually and trended to past years' data to provide a comprehensive overview of trends in substantiated claims.

*Of the 1QFY12-13 potential allegations (210), 13 closed cases were substantiated. Of the 1QFY11-12 potential allegations (195), 45 closed cases were substantiated.

Key Ethics and Compliance Office Initiatives

The key system initiatives that ECS continued to either lead or be actively involved in during this past quarter include:

1. Managing Youth Activities Workgroup – Reporting Child Abuse and Neglect
Status: Ongoing. The primary focus of the workgroup during this quarter has been to finalize and disseminate for review the UC Draft Policy on Reporting Child Abuse and Neglect incorporating the recent regulatory changes to the California Abuse and Neglect Reporting Act (CANRA) Cal. Pen. Code §§ 11164-11174.3. ECS and the Office of the General Counsel are working with the campuses to assure compliance with the identification of, and acknowledgement of, mandated reporters with the provision of education and training to CANRA, as needed.

Resources, including education and access to expert consultation, have been provided to the campuses through the Office of Risk Services (ORS) and Praesidium, a national leader in child abuse prevention, to assist the campuses in developing their individual child abuse prevention programs.

2. Conflict of Interest (COI) Regulations
Status: Ongoing. The new Public Health Service (PHS) COI regulations for PHS-funded researchers went into effect on August 24, 2012. UC implementation required revision of policies and procedures at the system and local levels to address changes in the law that now require UC to gather additional financial information from PHS-funded researchers. In addition, training of all relevant PHS-funded researchers is now mandated. By leveraging the timing and content of UC's existing COI course for researchers (COIR), ECS was able to avoid requiring researchers to take multiple courses to fulfill these dual training requirements. On August 6, 2012, the COIR course was delivered to approximately 18,000 extramurally funded researchers across the University system. As of September 30, 2012, over 70% of these researchers have completed the course.

3. Clinical Research Billing (CRB) Compliance
Status: Ongoing. In 2010, ECS conducted a high-level CRB process review at the five academic medical centers (AMCs) to capture the current state of the CRB processes (UCSF's was actually a different process but generally the method of sharing information was the same). ECS has reviewed the results with senior leaders and relevant staff at the medical centers and provided a suggested baseline CRB process flow to all campuses as well as best practices related to common CRB challenges and opportunities for improvement. The next steps identified were to revisit in two years and conduct follow-up reviews (Phase I) of each of the campuses CRB processes and identify improvements, etc.

ECS began Phase I of the 2012 CRB review in June 2012 with on-site assessments of the progress of the five UC AMCs in their establishment of coverage analyses and billing tools for CRB compliance. This first phase of the project was finished in September 2012, and observations for each medical center have been discussed with medical center senior leadership, clinical research billing, and compliance leadership. Phase II of the CRB review includes an independent audit of a claims sample associated with clinical trials and has been initiated with a projected completion date of 3QFY12-13.

4. Extension of Payroll Certification Demonstration Project (PCDP)
Status: Ongoing. In 2011, the U.S. Department of Health and Human Services (HHS) agreed to a payroll certification proposal developed by UC Irvine and UC Riverside. In partnership with the Federal Demonstration Partnership and sponsored by UCOP, these campuses will use payroll certification as an alternative to effort reporting as a means of complying with cost accounting requirements for all federal awards and contracts for a pilot period of 18 months (through September 2012). Since these campuses did not want to return to using effort reporting while they waited for the HHS Office of Inspector General to perform a scheduled audit on the PCDP, the campuses recently requested and received an extension of the PCDP through December 2013.

5. International Policy

Status: Ongoing. In an effort to better align UC policy with current UC practices related to engaging in international activities overseas, ECS worked with the Office of the General Counsel to draft a Policy on International Activities. The new draft policy more accurately reflects the breadth and oversight of activities that UC is involved in overseas. The new policy also devolves oversight of all international activities, other than subsidiaries, to the Chancellor. During this past quarter, ECS forwarded the draft policy to campus senior leadership for their feedback and then forwarded the policy to additional campus stakeholders for review. ECS is now requesting comments to incorporate into a revision of the draft policy for review by the Academic Senate and submission to the UC Policy Management System process for Presidential policies in the coming year.

6. Medical Centers – Billing/Coding Process Inventory

Status: Ongoing. Completed the final reporting with appropriate medical center compliance leadership and provided recommendations of best practices to assist each medical center in improving the accuracy and timeliness of claim submission. System themes will be shared with system leadership in Q2.

7. Policy Management

Status: Ongoing. The UC Policy Office initiated a transparent repository for UC systemwide (Presidential) policies this past quarter. Policies continue to be reviewed by appropriate department leadership for currency, template formatting and continued applicability to UC operations. The Policy Management System developed for the review and approval of all newly developed and reviewed or revised current policies, is operational with initial review by the Policy Advisory Committee and final approval by the Policy Steering Committee.

8. 2013 Compliance and Audit Symposium

The 2013 Compliance and Audit Symposium program has been developed and venues are confirmed for January 28-31 in northern California and February 11-14 in southern California.

Summary

The complexity of the UC environment and economic constraints continue to influence and challenge management, especially in the areas of risk prioritization and determining the most efficient mitigation efforts to minimize risks. Competing priorities and resource scalability are two areas of continued focus. Ethics and Compliance Services is working with the campuses to assist with prioritization of the key risks, leveraging best practices at the systemwide level to provide resources/tools to alleviate the local resource pressures, and providing independent monitoring/auditing to assist with risk identification and resolution.