Annual Report

Ethics, Compliance and Audit Services

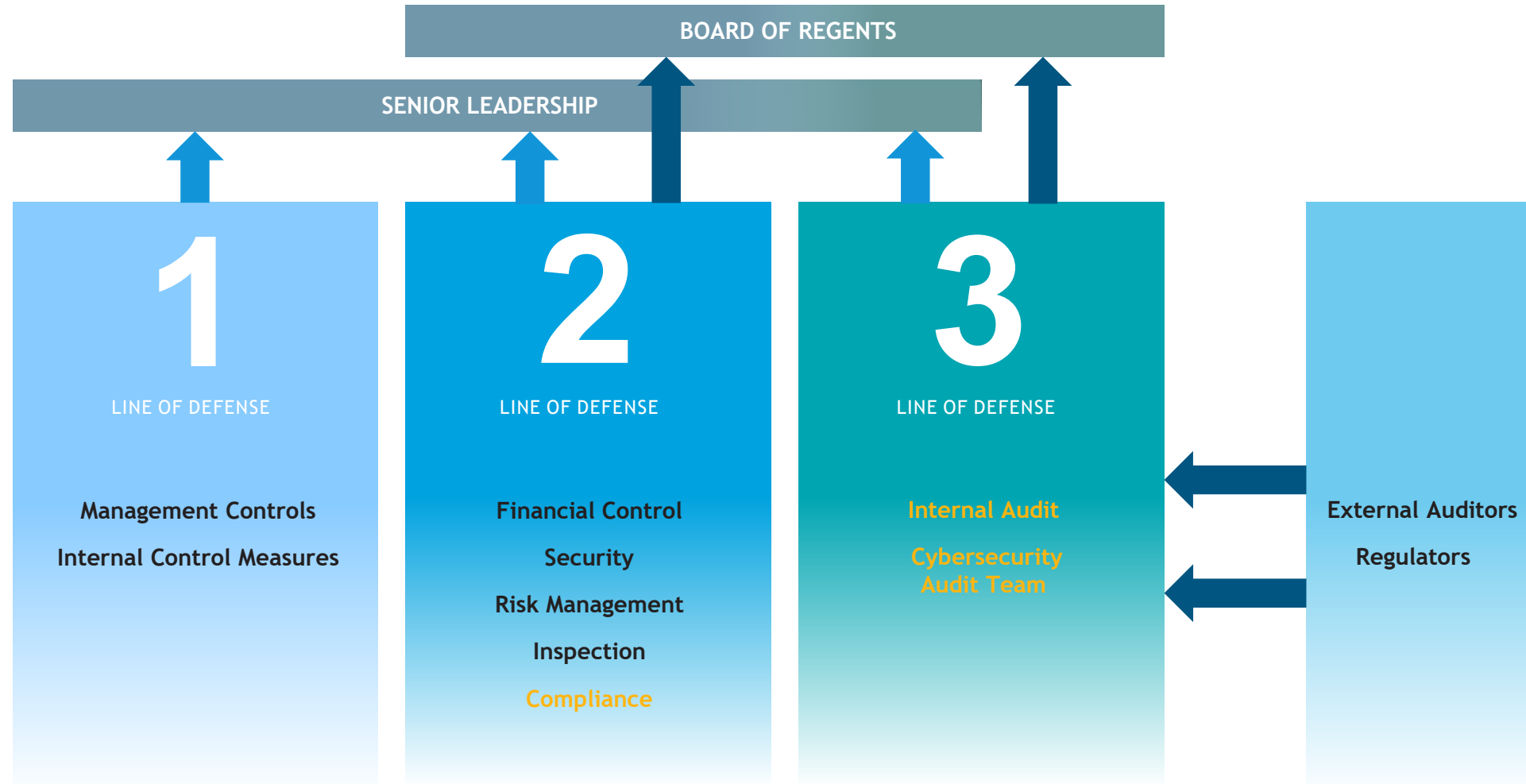2020/21

UNIVERSITY OF CALIFORNIA

ECAS at a Glance

The Office of Ethics, Compliance and Audit Services (ECAS) is an independent Regental office. ECAS is primarily responsible for coordinating audit, compliance, and investigations efforts across the system. ECAS works with the ten campuses, Lawrence Berkeley National Laboratory (LBNL), the UC Office of the President (UCOP), and the six UC academic health centers.

The locations' Internal Audit Directors and Chief Ethics and Compliance Officers report to both local leadership and to the Regents through ECAS' Senior Vice President – Chief Compliance and Audit Officer (SVP/CCAO). The health centers each have Health Care Compliance Officers who report to both the health centers' Chief Executive Officers and to the Regents through ECAS' SVP/CCAO. Additionally, ECAS maintains relationships with other campus compliance personnel across the system (e.g., Campus Privacy, Officers, Research Compliance Officers, and Export Control Officers) to ensure compliance efforts are coordinated.

UNIVERSITY OF CALIFORNIA SYSTEM

○ **10** Campuses

● **6** Health Centers

● **3** National Laboratories

UC Davis

UC Berkeley + *Lawrence Berkeley National Lab*
Lawrence Livermore National Lab

UC San Francisco

UC Merced

UC Santa Cruz

● *Los Alamos National Lab (New Mexico)*

UC Santa Barbara

UC Los Angeles

UC Riverside
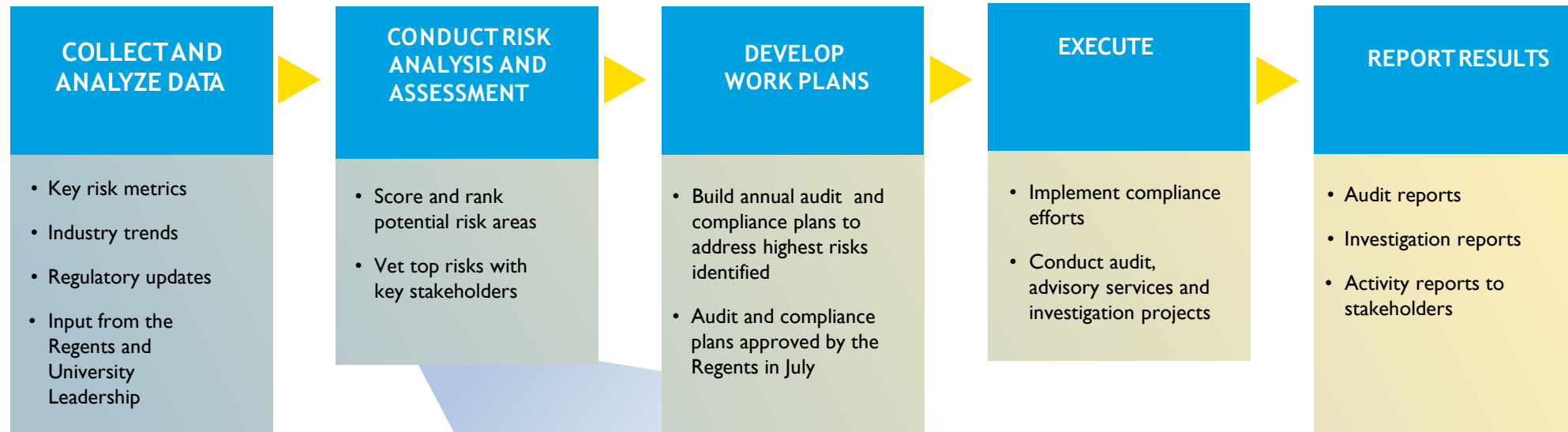
UC Irvine

UC San Diego

Three Lines of Defense

The Board of Regents and senior management collectively have responsibility for managing the risks in accomplishing the University's mission and objectives. As depicted below, the University takes a coordinated approach to manage significant risks by utilizing a diverse group of professionals working together through implementation of internal controls, risk management and compliance efforts, and independent assurance.

BOARD OF REGENTS

SENIOR LEADERSHIP

1
LINE OF DEFENSE

Management Controls

Internal Control Measures

2
LINE OF DEFENSE

Financial Control

Security

Risk Management

Inspection

Compliance

3
LINE OF DEFENSE

Internal Audit

Cybersecurity Audit Team

External Auditors

Regulators

3

Risk Assessment Process and Risk Matrix

The risk assessment process involves the collection of risk information through interviews with leadership and management, surveys, review of regulatory and industry information, emerging trends, and data analysis. This information is then evaluated to identify the top institutional risk priorities to be addressed through internal audit and compliance projects.
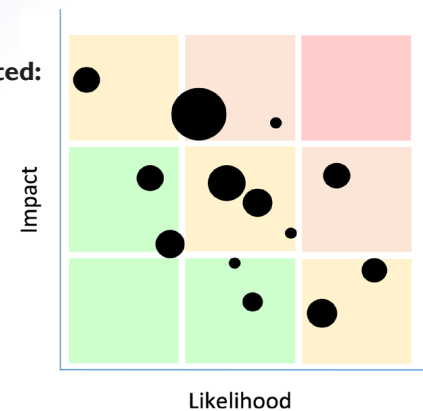
RISK ASSESSMENT PROCESS

COLLECT AND ANALYZE DATA	CONDUCT RISK ANALYSIS AND ASSESSMENT	DEVELOP WORK PLANS	EXECUTE	REPORT RESULTS
• Key risk metrics • Industry trends • Regulatory updates • Input from the Regents and University Leadership	• Score and rank potential risk areas • Vet top risks with key stakeholders	• Build annual audit and compliance plans to address highest risks identified • Audit and compliance plans approved by the Regents in July	• Implement compliance efforts • Conduct audit, advisory services and investigation projects	• Audit reports • Investigation reports • Activity reports to stakeholders

RISK MATRIX

Categories of risks evaluated:
- Financial
- Operational
- Compliance
- Strategic
- Reputational

Impact (vertical axis) / Likelihood (horizontal axis)

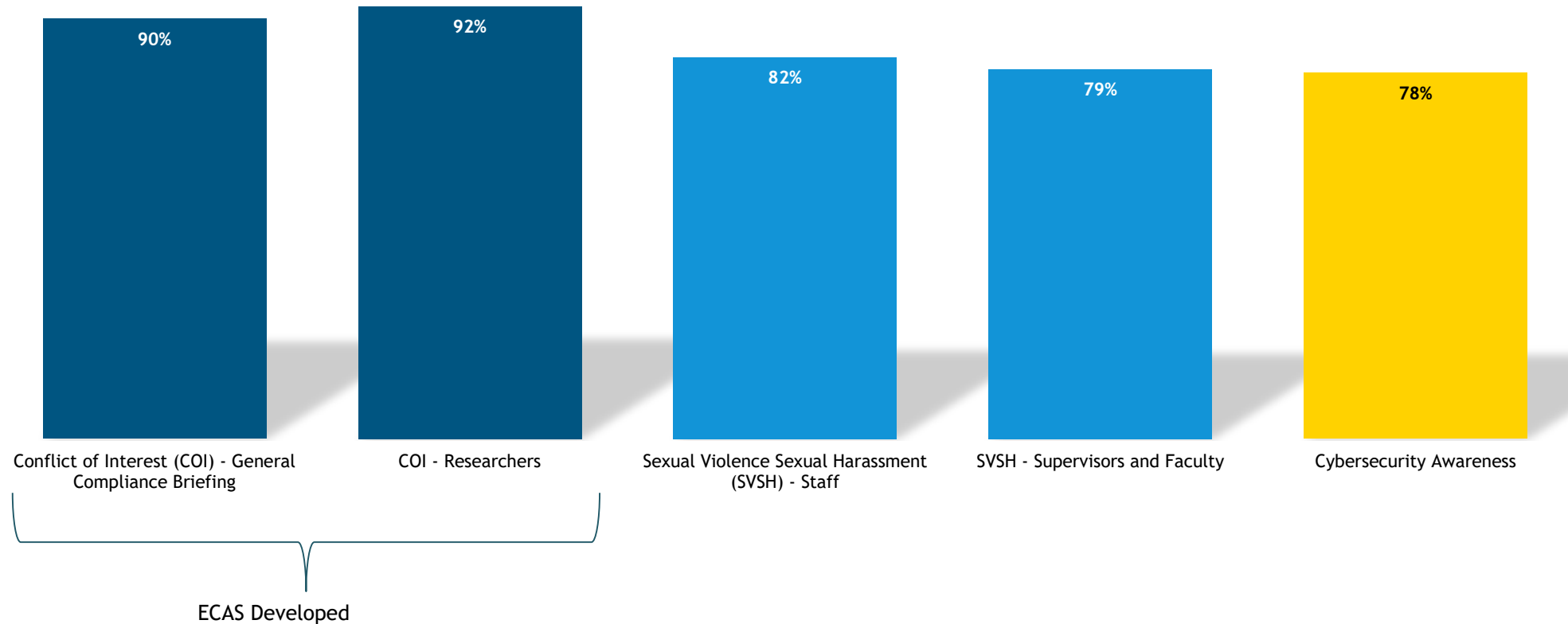# Identified Audit and Compliance Risk Areas

Each year, the Internal Audit and Compliance functions address a wide variety of operational, financial and compliance risks facing the University. Through their collective risk assessment efforts, Internal Audit and Compliance identified the following risks as areas of focus in their respective annual work plans in FY21. The bolded topics represent high priority risk areas.

CAMPUS OPERATIONS

- Admissions
- Athletics
- **Business Continuity/ Disaster Recovery**
- Campus Reopening
- Campus Safety
- Disability Management
- Outside Professional Activities

External Regulatory Compliance:

NCAA	EAR
EEOC	ITAR
ADA	Clery Act
FEHA	OSHA
ED	

RESEARCH

- Conflicts of Interest/ Commitment
- Export Control
- **Foreign Influence**
- Laboratory Safety
- Research Data Management
- **Technology Transfer**

External Regulatory Compliance:

NIH	FDA	DHHS
NSF	OHRP	EAR
DOD	NASA	ITAR
DOE	NDAA	
FPPC	OMB	
USDA	FBI	
OFAC	ORI	

HEALTHCARE

- Conflicts of Interest/ Commitment – Clinical Setting
- Drug Diversion
- Health and Clinical Research Data Management
- Privacy
- Revenue Cycle
- Telehealth

External Regulatory Compliance:

CMS	OSHA	FBI
JCAHO	FCA	EMTALA
DHHS	AKS	SAMSHA
CDC	DEA	CDPH
FDA	OIG	DMHC
Stark Act	DOJ	DHCS

INFORMATION TECHNOLOGY

- Artificial Intelligence and Machine Learning
- **Cybersecurity**
- Information Security Policy Compliance
- IT System Implementations
- Privacy

External Regulatory Compliance:

OCR	GLBA
FISMA	CMMC
HIPAA	PCI-DSS
FERPA	CIPA
GDPR	CMIA
ONC	

FINANCIAL MANAGEMENT

- Deficit Management
- Executive Compensation
- Federal COVID-19 Relief Funds
- Financial Controls
- Fiscal Oversight
- Incentive Plans
- Payroll Processing

External Regulatory Compliance:

FCPA	FEMA
OFAC	DOF
IRS	EDD
FTB	

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Mandatory Trainings

The University implemented several mandatory training programs throughout the system to satisfy regulatory obligations or policy requirements. ECAS tracks completion rates for the following trainings and provides quarterly updates to all UC locations regarding their respective completion rates.

SYSTEMWIDE RATE OF COMPLETION
JUNE 30, 2021

- Conflict of Interest (COI) - General Compliance Briefing: 90%
- COI - Researchers: 92%
- Sexual Violence Sexual Harassment (SVSH) - Staff: 82%
- SVSH - Supervisors and Faculty: 79%
- Cybersecurity Awareness: 78%

ECAS Developed

ECAS Compliance Activities

Collaborations and Consultations

ECAS collaborated extensively with partners at all UC locations, UC Legal, Federal Government Relations, and Research, Policy, Analysis, and Coordination (RPAC) on regulatory and compliance guidance for the system:

- ECAS collaborated on **155** shared projects resulting in compliance guidance, toolkits, infographics, templates, and alerts to campuses on research, health, privacy, and export control matters.

Campuses requested ECAS' assistance with 937 regulatory and compliance-related matters.

Peer Group Administration and Program Development

ECAS convened 14 systemwide peer groups to identify and address compliance risks, share best practices, communicate regulatory updates, and coordinate various systemwide efforts:

- Chief Ethics and Compliance Officers
- Healthcare Compliance Officers
- Locally Designated Officials
- Campus Privacy Officers
- Health Privacy Officers
- Clinical Privacy Group
- Policy Advisory Group
- Policy Coordinators
- Clery Coordinators
- Research Compliance Group
- Clinical Research Group
- Export Control Officers and Workgroup
- Industrial Security Workgroup
- ADA Coordinators

ECAS members also participate in, provide support to, or advise 27 other peer or work groups that touch on compliance areas, both within UC and at the national level.

ECAS Compliance Activities, Continued

Systemwide Training, Policy and Awareness Activities

ECAS regularly provided training and awareness activities to campuses on emergent and high risk areas.

- ECAS coordinated and/or produced **53** awareness activities for the compliance community Systemwide, including:

  - COVID-19 Sensitive Data Management Privacy Principles and Practices
  - Overseas Non-Student Appointee Guidance
  - Overseas Telework During the Pandemic

  - Foreign Component Infographic
  - CURES Info-Blocking Regulation Memorandum
  - UC Health Systemwide Notice of Privacy Practices Template
  - OFAC Sanctions Advisories

- ECAS designed, developed, and/or implemented **68** trainings across the system, including the following courses:

  - Research Security Symposium
  - Foreign Influence for Auditors
  - Export Control Considerations Within Academia
  - Advanced Export Control Classification
  - Health Privacy Training
  - Conflict of Interest for Researchers
  - Clery Act Training for Campus Security Authorities

  - Annual Systemwide Clery Act Compliance Training
  - Export Control and Sponsored Research
  - Restricted Party Screening
  - Foreign Influence (general)
  - CURES Information Blocking for Student Health Centers and CAPS

- ECAS Policy Office oversees the policy process for all Presidential policies and facilitated issuance of **21** new or revised policies across **14** UCOP divisions.
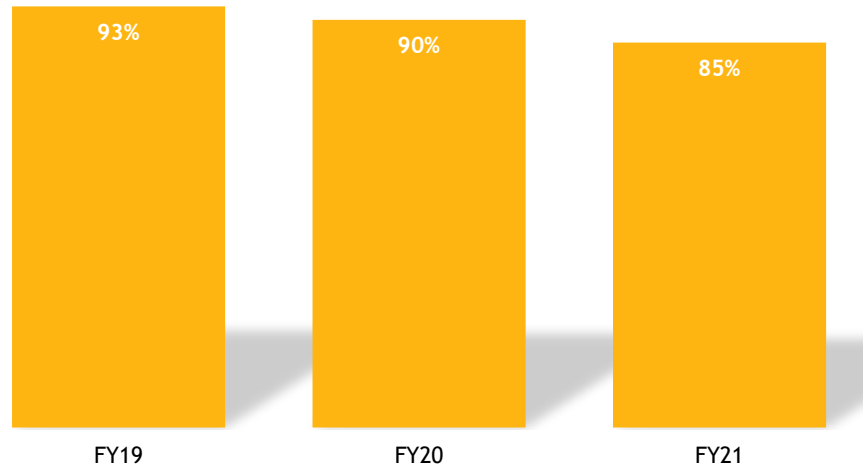
ECAS co-chaired the Presidential Working Group on Artificial Intelligence (AI) to guide the ethical and responsible implementation of AI within the UC System.

Internal Audit Services – Productivity and Allocation of Effort

DISTRIBUTION OF EFFORT

Distribution of effort by service line, 3-year trend

The internal audit function provides three lines of service: audits, advisory services, and investigations. The following chart depicts the number of hours of effort allocated to each of our service lines over the past three years.

	Audits	Advisory Services	Investigations
FY21	94,021	37,467	11,536
FY20	93,449	38,565	12,328
FY19	88,892	34,074	15,842

■ Audits ■ Advisory Services ■ Investigations

PLAN COMPLETION

Audit plan completion percentage, 3-year trend

The percentage of audits in the Annual Internal Audit Plan completed by the end of the fiscal year has declined for the last two years due to larger audits and special projects, staffing issues, and the impact of COVID-19.

FY19	FY20	FY21
93%	90%	85%

REPORTS

Number of reports issued, 3-year trend

The number of audit, advisory services, and investigation reports issued has declined for the last two years for the same reasons indicated on the audit plan completion chart.
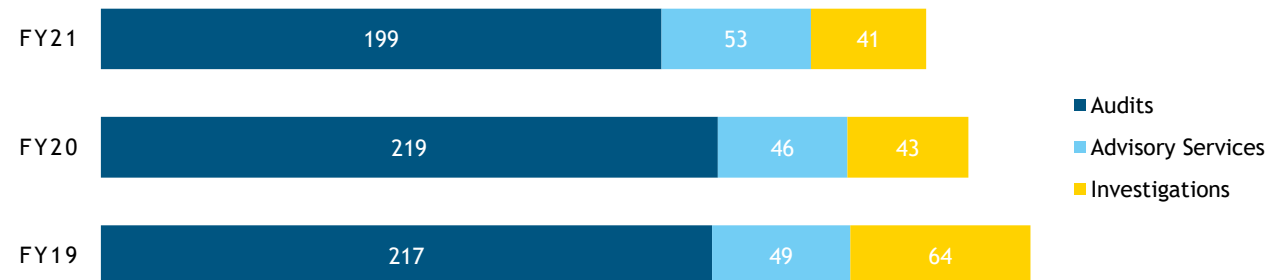
	Audits	Advisory Services	Investigations
FY21	199	53	41
FY20	219	46	43
FY19	217	49	64

■ Audits ■ Advisory Services ■ Investigations

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Internal Audit Services – Productivity and Allocation of Effort

DISTRIBUTION OF EFFORT

Distribution of effort by functional area

The chart below depicts the breadth of projects covered by Internal Audit hours over 14 functional areas.

Auxiliary, Business & Employee Support Services 3%

Lab Research Programs & Processes 2%

Facilities, Construction & Maintenance 2%

Emerging Risk Issues 1%

Development & External Relations 3%

Financial Management 20%

Governance and Compliance 4%

Human Resources & Benefits 5%

Risk, Environment & Safety 5%

Research 6%

Health Sciences Operations 16%

Student Affairs 6%

Academic Units & Programs 11%

Information Management & Technology 16%

THEMES IN INTERNAL AUDIT RESULTS

From the body of internal audit work performed during FY21, the following are the most significant and recurrent internal control issues:
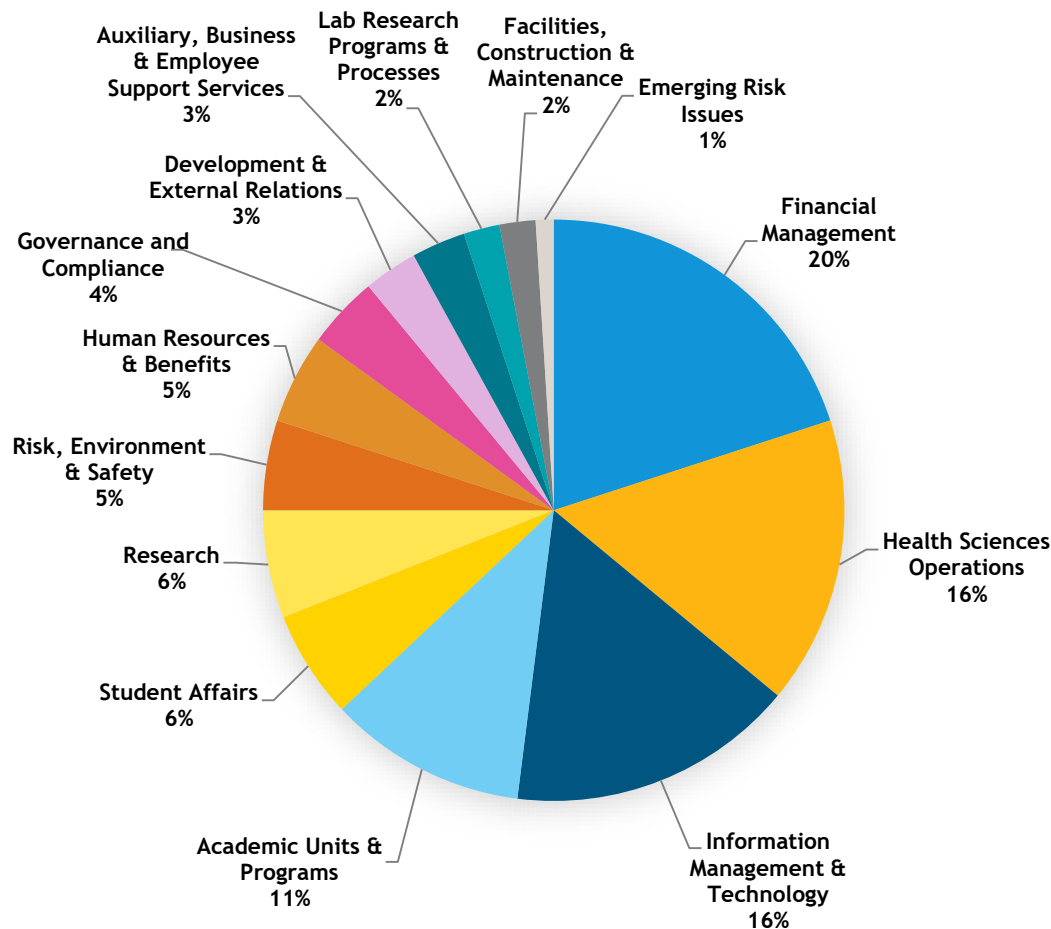
Cybersecurity
Protecting the University's data and critical infrastructure from attacks remains a primary ongoing concern and area of focus for Internal Audit.

COVID-19 Impact
The pandemic has created unprecedented challenges with respect to emergency and continuity planning, health and safety protocols, transition to remote instruction and work, and significant financial impacts.

Foreign Influence
The issue of foreign influence in research remains a top risk to the institution. The federal government continues to prioritize oversight and enforcement in this area.

Financial Controls
Our auditors continue to identify issues related to departmental financial oversight and financial controls to ensure the completeness, accuracy, and appropriateness of transactions.

Safety
The safety of students, faculty, staff, and visitors on campus remains a high risk area. Our decentralized operations often result in inconsistent levels of control and compliance.

Conflicts of Interest and Commitment
Mechanisms for disclosure of potential conflicts of interest and commitment, and responsibility for monitoring these disclosures, is delegated across our campuses and thus at high risk for inconsistency and errors.

Enterprise System Implementations
Over the past several years, the University has initiated several large-scale IT system implementations which have caused significant strain on resources and introduced various risks associated with data integrity, business continuity, and internal control.

Regulatory Compliance
With regulatory compliance requirements becoming increasingly complex and burdensome, the University is challenged to maintain compliance with limited resources.

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Internal Audit Special Projects

In FY21, Internal Audit dedicated significant effort towards special projects identified by leadership and external stakeholders, including:

Cybersecurity

- Conducted a systemwide audit of the Threat Detection and Identification (TDI) program, which identified opportunities for improvement in the implementation of the TDI capabilities and cyber-risk governance practices
- Reviewed the state of implementation and compliance with the recently revised systemwide information security policy across all UC locations

Admissions

- Assisted with follow-up activities related to the California State Auditor's audit of admissions practices, including:
  - Additional review of admissions cases identified by the State Auditor
  - Assistance with the implementation of the State Auditor's recommendations

Compliance Monitor

- Serving as Compliance Monitor for the implementation of recommendations from the UCLA Health and Student Health Special Committee Report

Internal Audit Services – Management Corrective Actions

MCA ACTIVITY

### Summary of Management Corrective Action (MCA) Activity, 3-year trend

Every observation identified by Internal Audit generally has a reciprocal management corrective action to address that observation, including a target date for completion. Local internal audit departments and the systemwide Office of Audit Services track and monitor MCAs until completion. The table below provides a summary of MCA activity for the past three fiscal years.

	FY19	FY20	FY21
Beginning MCAs (open at start of fiscal year)	600	255	465
MCAs added	859	1,171	954
MCAs closed	1,204	961	953
Ending MCAs (open at end of fiscal year)	255	465	466

AGED MCAs

Number of open MCAs over 300 days old, 3-year trend

Internal Audit reviews all management responses to ensure the corrective action is appropriate and timely. An escalation process to senior leadership and the Regents is in place if there are difficulties related to completion of the corrective actions. MCAs that have not been resolved in 300 days (from the audit report date) are discussed with leadership of the Regents Compliance and Audit Committee. The chart below displays the number of open MCAs over 300 days old over a three-year period, updated on a bi-monthly basis.
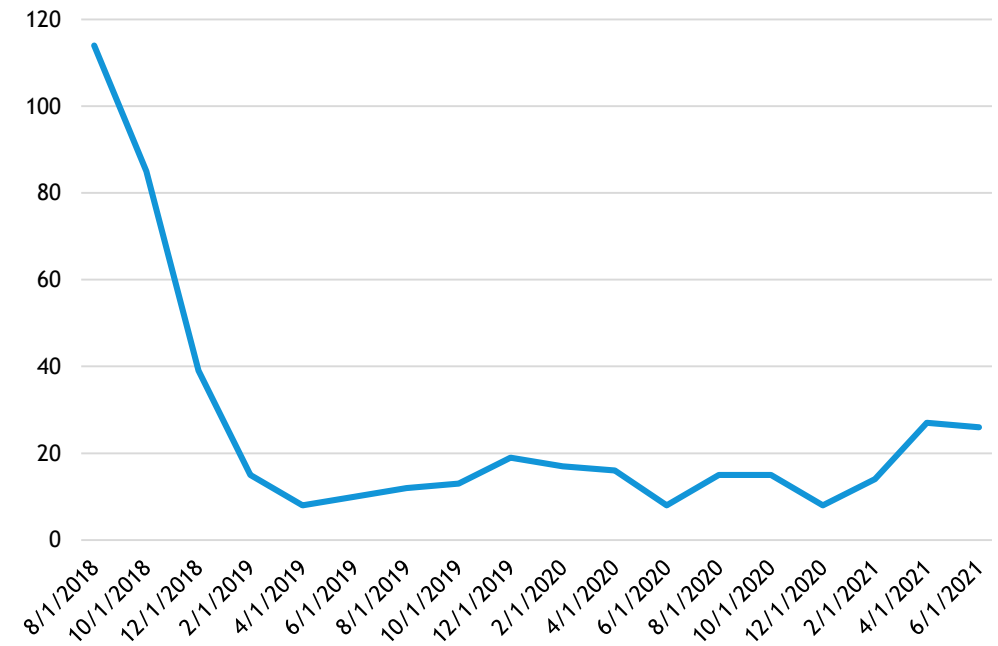
Investigation Data

TOTAL INCOMING REPORTS

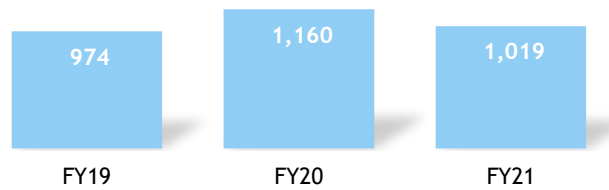**Reports by fiscal year, 3-year trend**

There was a slight drop in the number of reports received this fiscal year, reversing the trend we have seen over the past five years. However, the number of reports for this year is still higher than FY19. The significant increase in reports for the previous year may be explained by COVID-19 reports submitted during the early stages of the pandemic. Those reports leveled off in FY21.
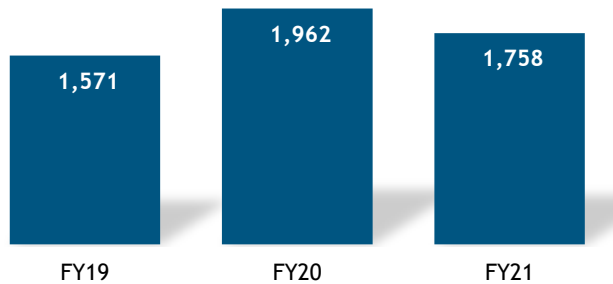
ANONYMOUS REPORTS

Reports by fiscal year, 3-year trend

The majority of reports continue to come in anonymously. Across the system, 58% of the reports we received were submitted anonymously.

INTAKE METHOD

Method by fiscal year, 3-year trend

The Whistleblower Hotline, which is available 24 hours a day, continues to be the primary reporting mechanism. Reporters may submit anonymously and in multiple languages. ECAS can communicate directly with reporters through the hotline to acknowledge receipt and request additional information without sacrificing a reporter's anonymity.

Total Incoming Reports (Reports by fiscal year)

FY19	FY20	FY21
1,571	1,962	1,758

Anonymous Reports (Reports by fiscal year)

FY19	FY20	FY21
974	1,160	1,019

Intake Method (Method by fiscal year)

Fiscal Year	Hotline	Internal	Unspecified
FY19	1,276	223	72
FY20	1,609	234	69
FY21	1,388	299	71
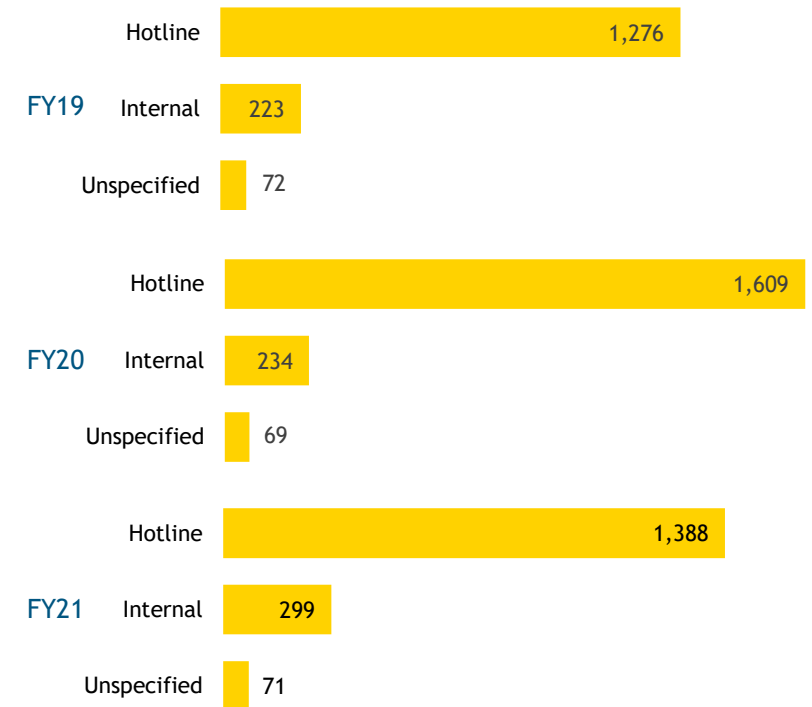
Investigation Data — Closure Reason and Issue Types

CLOSURE REASON

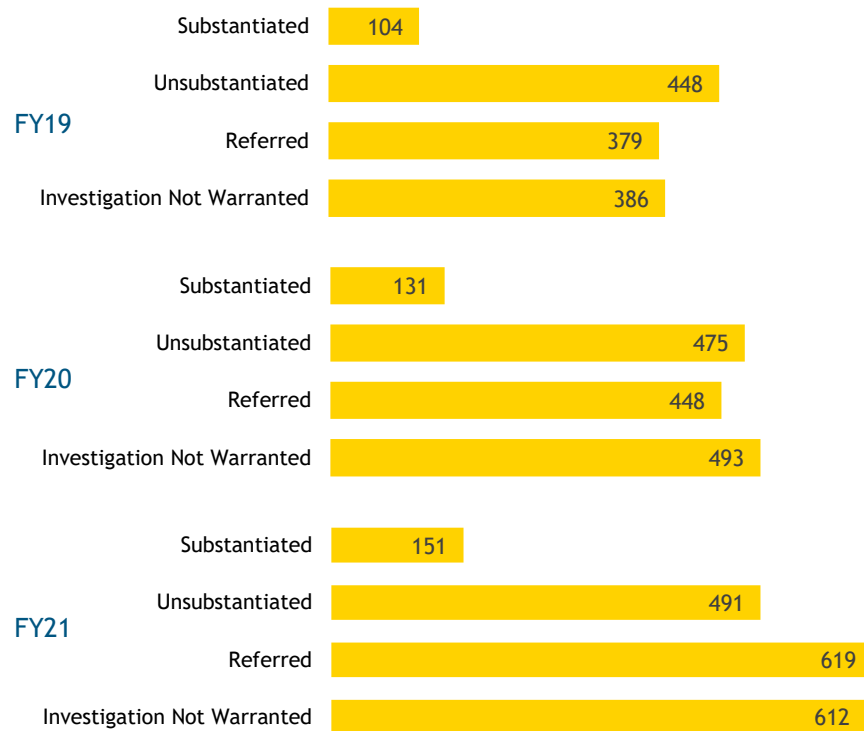### Reason by fiscal year, 3-year trend

In FY21, there was a close split between the number of reports investigated and the number of reports where an investigation was not warranted. A report may be closed without investigation if it does not allege an actual policy violation; does not provide adequate evidence; or in the event that even if the allegation is true, the actions would not constitute an improper governmental activity.

FY19
- Substantiated: 104
- Unsubstantiated: 448
- Referred: 379
- Investigation Not Warranted: 386

FY20
- Substantiated: 131
- Unsubstantiated: 475
- Referred: 448
- Investigation Not Warranted: 493

FY21
- Substantiated: 151
- Unsubstantiated: 491
- Referred: 619
- Investigation Not Warranted: 612

ISSUE TYPES

Types by fiscal year, 3-year trend

The drop in Health/Safety/Violence reports is directly related to the inclusion of a COVID-19 category in FY21. In FY20, many COVID-19 related reports were submitted through the Health/Safety/Violence category.

Workplace Misconduct continues to be the main category individuals use when submitting reports. It includes multiple subcategories, the most common allegations are related to a negative work environment (bullying by managers or colleagues) and unfair employment practices (questionable hiring practices, salary decisions, or work assignments).

Legend: FY19 | FY20 | FY21

- Child/Elder Abuse: 24 | 37 | 33
- COVID-19: 230
- COC/COI: 94 | 122 | 72
- Discrimination/Harassment: 169 | 244 | 339
- Fraud/Theft/Embezzlement: 76 | 133 | 100
- Health/Safety/Violence: 48 | 153 | 79
- IT Privacy Violations: 45 | 71 | 49
- Medical Care Misconduct: 24 | 45 | 65
- Retaliation: 96 | 109 | 113
- Sexual Misconduct: 13 | 29 | 30
- Waste/Misuse of University Resources: 55 | 97 | 69
- Workplace Misconduct: 327 | 503 | 446

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