



UNIVERSITY OF CALIFORNIA

Annual Report on
Ethics and Compliance
Fiscal Year 2011-12





Message from the Chief Compliance Officer

In fiscal year 2011-12, the Office of Ethics and Compliance Services (ECS), in collaboration with the University of California (UC) locations and senior leadership, prioritized myriad identified compliance risks, while responding to critical events which occurred nationally in higher education. ECS responded to these industry events by facilitating timely deliberation among the Campus Ethics and Compliance Officers (CECO) and senior leadership across the UC system regarding the compliance concerns arising from these events. Systemwide efforts were initiated to bring stakeholders together to proactively consider areas of potential compliance risk, which mirrored ECS's typical response in addressing other industry and UC specific high priority risks. In addition to responding to high visibility events, ECS focused its activities on the six compliance priority risks listed below that had commonalities across all UC locations. These compliance risks encompass financial, operational, legal, compliance and reputational components of regulatory risk and typically include enforcement consequences, either civil or criminal, for non-compliance.

1. Culture of ethics and compliance,
2. Research compliance,
3. Data privacy and security,
4. Campus safety and climate,
5. Government reporting requirements and accuracy, and
6. Health care reform

Systemwide compliance initiatives were developed in fiscal year 2011-12 that aligned with the above high risk priorities and provided value to the individual campuses and the Academic Medical Centers (AMCs) in assisting efforts to mitigate specific compliance priority risks. As identified in prior year ECS annual reports, the UC Ethics and Compliance Program of the Regents was developed within the framework of the seven elements of an effective compliance program as identified by the United States Sentencing Commission (USSC) and published in the Federal Sentencing Guidelines (FSG), Chapter 8. As recommended by the FSG, compliance committees or Campus Ethics and Compliance Risk Committees (CECRC) are operational at each campus and include an oversight structure with an appointed CECO and Vice Chancellor or higher level leadership as members of the committee. Some campuses have different titles for this committee but regardless of the name, the designated committee provided high level oversight and with working committees reporting to it which typically focus on mitigating compliance risks through education, training, auditing and monitoring, enforcement and discipline and response and prevention. In addition to examples provided throughout this report, location-specific highlights are listed in the *ECS Activities and Accomplishments*, Addendum A.

The broad diversity of operations and culture at each UC location impacted the specific compliance risks applicable to each of the six priority risk areas listed above. The ability to develop, measure and compare quantifiable compliance performance metrics where outcomes are of value to the operation is a challenge in higher education. However, UC locations have risen to the challenge, and in this report we provide comparisons and/or metrics to demonstrate the value of these activities to the organization. Examples of UC locations' achievements are listed in the *UC Location Metrics Map to Systemwide Risks* (Addendum B) and *UC Additional Location Accomplishments* Addendum C.

Overall, the focus of ECS and the UC locations was to increase the organizations' risk intelligence and develop plans of action to prevent, detect and/or deter risks through mitigating activities. Increased scrutiny by regulators, economic challenges and our changing environment are variables which present the need to target our focus on assuring the identification of appropriate risks and the effectiveness of controls that are in place to reduce these risks. The following report has been organized to reflect core ECS activities during this past fiscal year to support UC and activities which have occurred to address priority compliance risk areas.

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Appendix

A. ECS Activities and Accomplishments

B. UC Location Compliance Metrics Map to Systemwide Risks

C. Additional UC Location Accomplishments



Systemwide Policy Project

"...Continue to benchmark the University's practices and policies with other similarity situated institutions...Communicate regularly with University students, faculty, staff, alumni and the community regarding significant policies and issues through a variety of methods and media....Emphasize and practice openness and transparency at all levels and within all areas of the University." (Section 1.0)

"Develop guidelines for creating, standardizing, approving, reviewing and updating University policies...Review periodically all University policies for relevance, utility and necessity, and modify or rescind as appropriate." (Section 2.0)

*-Recommendations of the Freeh Report on the Pennsylvania State University,
Freeh Sporkin & Sullivan, LLP, July 12, 2012*

Systemwide Presidential Policies

The University Policy Office (UPO), an integral part of the Ethics Compliance and Audit Services Office (ECAS), achieved success in fiscal year 2011-12 by developing and implementing a UC Office of the President (UCOP)-based management system for systemwide policies. The Policy Management System is a web-based, automated policy workflow tool which enables UC policy owners and policy users to approve and disseminate governance materials, and maintain electronic records of the approval process. In addition, the UPO directed a team in the design and launch of a new policy website offering a "one stop" user-friendly search function for users looking for UC policy documents. These projects grew out of the President Yudof's call in 2009 for increased access to, and transparency of all UC systemwide policies, guidelines, rules and procedures. This was done to serve UC faculty and staff and to demonstrate to the public how UC conducts business, manages an exemplary research program, teaches and trains a 21st century workforce, and serves the state of California.

Policy organization is a key element of the core framework of an effective compliance program as outlined in the Federal Sentencing Guidelines. Comprehensive policy statements that are based upon legal and regulatory requirements and UC values provides a strong framework for campus stakeholders to develop implementation procedures specific to the area and enhance compliance in their daily operations.

The Policy Management System included the development and implementation of a policy to provide oversight to the development of new, revision of current, and rescission of outdated policies and procedures. Policies will be reviewed on a periodic basis to ensure accuracy and currency with the regulations, statutes and/or UC current operating practices.

Summary of Key University Policy Office Accomplishments

- ❖ Coordinated the Business Owner review of over 500 policies, identified 40 outdated policies for rescission and fostered the cross-functional update of current policies.
- ❖ Developed and implemented a process for early management and stakeholder notification about UC policy developments/revisions plans.
- ❖ Designed and implemented a standard UC policy template, building in metadata that will be used for enhanced search and reporting functions.
- ❖ Designed and implemented a policy review and approval process using SharePoint collaborative workflows.
- ❖ Facilitated the development of a search-enhanced UC Policy Websites which launched in Summer 2012

Investigations

The ECS Investigations Unit is responsible for coordinating, managing and investigating (where applicable) complaints of suspected improper governmental activity, workplace misconduct and breaches of ethical conduct.

The ECS Investigations Unit focuses on two primary areas of a compliance program: 1) management of the anonymous, confidential hotline reporting system, and 2) the coordination, management and investigation of suspected improper government activity, workplace misconduct and breaches of ethical conduct.

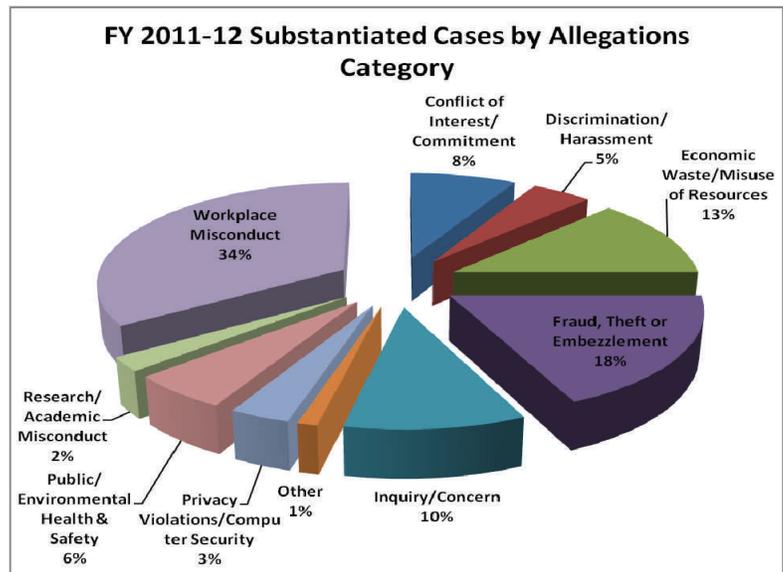
Whistleblower Reporting System

The *University of California Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities* (Whistleblower Policy) provided the framework for a comprehensive program at all UC locations to ensure compliance with federal and state whistleblower laws, as well as meeting the requirement to offer a confidential reporting process, hereafter referred to as the hotline. The hotline allows for anonymity, supporting the assurance of no retaliation to potential reporters as codified in the *University of California Policy for Protection of Whistleblowers from Retaliation Complaints* (Whistleblower Protection Policy).

The UC's systemwide hotline system was established through a contract with an external reporting company to protect the identity of the reporting party and to provide a mechanism for investigation, follow-up and response. When the Whistleblower Policy was developed, the position of the Locally Designated Official (LDO) was also created at all locations. This LDO role is to serve as location official for UC with the primary responsibility to receive reports of allegations of suspected improper governmental activities and to manage the investigation process.

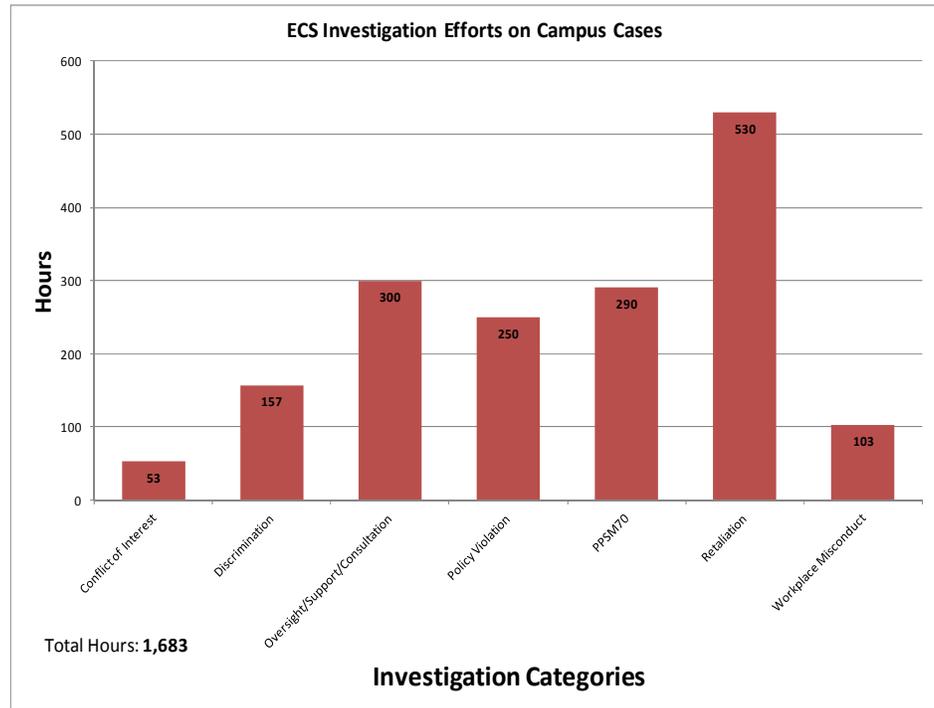
This twenty-four hour per day/seven days per week reporting system is a truly anonymous reporting process that affords UC investigators the ability to communicate with parties desiring to remain unidentified. The rate of hotline reporters opting to remain anonymous was consistent with previous fiscal years and the number of calls increased by 10% over the past year.

During fiscal year 2011-12 the number of new hotline calls included 726 new cases with 406 of those cases closed by the end of the fiscal year. Eighty-six (86) of the 406 (21%) closed cases were substantiated and categorized by the allegation. The largest category of allegations continued to be workplace misconduct, including campus security, employee dishonesty, employee misconduct, failure to follow rules or policy, inappropriate/illegal supervisor directive, medical misconduct, policy violations, substance abuse and workplace violence/threats. The next largest category of allegation was fraud, theft or embezzlement. This category includes compensation plan violations, embezzlement, employment credentials misrepresentation, theft or cash and travel/expense reimbursement issues.



Investigations

The ECS Investigations Unit provides administrative support for UCOP and the Systemwide LDO, and serves as a point of contact at UCOP for campus and laboratory LDOs on all whistleblower matters. Reports of improper governmental activity, acts of intolerance in campus environments and potential compliance concerns are received through a variety of intake points on the campuses and at UCOP. This chart to the right denotes the types of issues the Unit assisted campuses on during the past fiscal year.



The ECS Investigations Unit was expanded with the addition of two principal investigators to work with the Director of Investigations. The Unit has worked closely with campus LDOs on a variety of sensitive and complex investigations. These complex cases involve investigations where a conflict of interest would exist if campus personnel conducted the investigation, or where the subject matter of the investigation required expertise not available at the campus or academic medical center. The use of experienced ECS investigators has provided a significant overall cost savings in the reduction of investigation hours charged by external investigators, with approximately \$420,000 in savings during the past fiscal year.

Approximately **\$420,000** in external consulting fees was saved this past fiscal year by training and deploying ECAS investigator resources.

In addition to the investigation support to the campuses described above, ECS investigations performed the following activities:

- ❖ Investigations and/or oversight of external investigators for cases occurring at UCOP campus.
- ❖ Administrative support for the UCOP/systemwide LDO and UCOP Investigations Workgroup.
- ❖ Local and systemwide whistleblower and investigations training.
- ❖ Advice and consultation with campus investigators on investigation strategy, policy interpretation, report writing and editing, and specialized metrics for local management.
- ❖ Participation in campus and laboratory investigations workgroups.
- ❖ Presentations at outside organizations such as the Association of Workplace Investigators and the Society of Corporate Compliance and Ethics.
- ❖ Participation with the Office of General Counsel in the whistleblower policy revision process.

Education and Training

The ECS education efforts in fiscal year 2011-12 focused on assisting the UC community to more fully understand the complex rules, regulations and standards that govern the mission of the University: education, research and public service. A primary goal of the ECS education program was to develop and deliver in-person and online training that was accessible at all UC locations within their own units and environments. Another important goal of the ECS education program was to oversee the development and implementation of government-mandated training such as the Conflict of Interest for Researcher briefing recently updated to reflect the Public Health Services/National Institutes of Health conflicts of interest requirement for research investigators, as well as training mandated by the UC Regents, such as the General Ethics and Compliance Briefing.

ECS developed in-person training sessions, from one hour to three days in duration at centralized locations accessible to staff from all UC locations. ECS also offered online educational offerings in fiscal year 2011-12 that aligned with identified high-risk priorities. Due to ongoing budgetary challenges, ECS strived to meet the needs of UC employees who were constrained in their efforts to obtain required continuing education credits to meet professional certifications/accreditation requirements by offering educational opportunities to meet these requirements, without necessarily leaving their site of business.

In addition to planning and delivering internal training using UC subject matter experts, ECS also offered external education through various associations where either complimentary registration was received due to the Chief Compliance and Audit Officer's participation on association boards, e.g. Society of Corporate Compliance and Ethics or the Health Care Compliance Association, or where a reduced registration cost was negotiated due to our ability to expand site offerings through a central phone line. This resulted in substantial savings for the campuses, as well as providing necessary education by external subject matter experts. For a complete listing of all offered webinars, refer to <http://www.universityofcalifornia.edu/compaudit/webinars.html>

Approximately **\$700,000** was saved in continuing education fees in fiscal year 2011-12 through ECAS arrangements with external education resources to provide free or reduced cost programs to our UC colleagues.

Specialized Education—Training Investigators

ECS has sponsored systemwide investigation training to establish a more consistent approach to investigating, interviewing and reporting findings on assigned cases. These included the following programs during the last fiscal year:

- ❖ Three-day workshops facilitated by ECS, on *Conducting Effective Workplace Investigations* focused on investigation fundamentals, interviewing skills and report writing. To keep travel costs to a minimum, these workshops were offered in both northern and southern locations.
- ❖ Webinars focusing on the Whistleblower Policy and Whistleblower Protection Policy were conducted in conjunction with the Office of General Counsel and in support of National Compliance Week.
- ❖ An education and training conference was conducted for the Locally Designated Officials and Retaliation Complaint Officers on the structure of proposed changes to the Whistleblower Protection Policy.

Mandatory Training Initiative

Increased time and resource constraints on academic and administrative employees of the University have focused negative attention on mandated training requirements directed by the Office of the President. To address these concerns, ECS facilitated the formation of the Senate Administrative Advisory Workgroup on Required Training (SAAWRT) in 2010, a joint administrative – Academic Senate body to develop recommendations on a specific and consistent approach to the review of proposed systemwide mandatory trainings. SAAWRT drafted the systemwide policy, *Management of Mandatory Training Courses for the University of California*, including a corresponding operational process flow with a set of recommendations that have recently been forward to President Yudof and Provost Dorr for review and approval.

Auditing and Monitoring

Audit and monitoring comprises one of a core set of elements in the determination of an effective compliance program. In addition, audit and monitoring is recognized as an integral part of any quality management or process improvement program. Understanding and measuring change in process development, implementation, and what constitutes the outcome, provides the foundation for ongoing process improvements.

Monitoring can be defined as a process undertaken by a business owner to determine if

applicable policies, procedures or other defined processes are being done. It does not have to be completed independently and provides limited assurance as to the accuracy of information. Audit is a process that denotes independence in its implementation, meaning the process owner and their related chain of command are not involved and cannot control the results. The results of an audit, conducted per appropriate standard, provides objective observations on which to build a process improvement plan.



HIPAA

ECS developed an annual work plan that incorporates independent audit activities on significant, potential compliance risks and that works collaboratively with UC Internal Audit systemwide. Monitoring is encouraged at all locations and ECS assists in the development and dissemination of tools that are used by locations to assess internal compliance efforts. As has been the case for the past several years, compliance with the Health Insurance Portability and Accountability Act (HIPAA) is foremost on the work plans of UCOP and campus leadership. To determine compliance with the complex rules and regulations of the Act, ECS worked directly with Internal Audit to include an audit of each Academic Medical Center's compliance with the Act on their individual work plans for fiscal year 2011-12.

In accordance with the above-noted annual audit plan, each AMC Internal Audit unit conducted a systemwide audit of compliance with key HIPAA privacy rule requirements. Specifically, these requirements addressed the use and disclosure of protected health information (PHI) for fundraising purposes, proper disposal of PHI, accounting for certain disclosures of PHI, and the patient's right to access and/or copy of PHI held by the UC locations. Each audit identified, specific to the location, opportunities to improve processes related to compliance to these requirements. Action plans have been developed by management to address these opportunities and internal audit continues to work with management to ensure the action plans are completed appropriately and in a timely manner.

Royalty Audit Process

For information on this audit, please refer to page 13.

Health Sciences Billing and Coding Review

For information on this audit, please refer to page 17.

Clinical Research Billing

For information on this audit, please refer to page 18.

Culture of Ethics and Compliance

The University's Statement of Ethical Values and Standards of Ethical Conduct are critical roadmaps as UC strives to meet its mission in the face of increased budget cuts, complex and myriad regulatory burdens, and increased public expectations

Promoting Open Communication and Reporting

Reports of serious incidents at several prominent institutions of higher education in fiscal year 2011-12 serves as a reminder of the importance of preserving a culture of open communication to protect the most vulnerable among us. These reports illustrate how a combination of ignorance and the existence of a culture of fear can lead to failure to report inappropriate or illegal conduct to proper authorities. As a consequence, several institutions have suffered incalculable reputational damage that may, in turn, affect potential revenues, affect bond ratings, contracts, grants, recruitment, retention as well as community support. In fiscal year 2011-12, ECS strengthened compliance efforts in this area by facilitating discussions of issues and ongoing review of relevant policies and procedures, educational offerings, hotline access and investigative services that provided students, faculty and staff with information and resources to encourage timely reporting of misconduct.

Protecting Minors on Campus

In response to allegations of improper activities involving youth on college campuses across the nation, ECS formed the *Managing Youth Activities Steering Workgroup* (workgroup) to assess a number of potential systemwide risks related to UC employees working with minors off and on campus property. The workgroup included leadership from business operations, communications, ethics and compliance, internal audit, human resources, general counsel, risk services, academic affairs, education partnerships and student affairs. The charge of the workgroup was to review activities around "youth" (under 18 years of age) from a system level and identify common training, policies and other mitigating factors that could be leveraged to the campuses. The workgroup's focus during the latter half of this fiscal year was directed to understanding current systems and processes available to the campuses from a system perspective and developing recommendations for assuring a safe environment for minor youth.

" One of the most challenging tasks confronting the University Community-and possibly the most important step in ensuring that the other recommended reforms are effectively sustained, and that public confidence in the University and its leadership is restored – is an open, honest, and thorough examination of the culture that underlines the leadership..."

*The Freeh Report
Freeh Sporkin &
Sullivan, LLP
July 12, 2012*

The representative of the Office of General Counsel on the workgroup produced the DRAFT *Reporting Child Abuse and Neglect* policy. The draft policy, which at the time of this report is in the process of being submitted for review and approval, defines the steps that the UC locations must take in order to promote identification and reporting of child abuse or neglect. It requires that each location identify job classifications or individual academic or staff employees, who by virtue of their UC duties are mandated reporters. In addition, all identified mandated reporters must sign an attestation that they understand and will comply with UC policy and the law. The workgroup also produced a DRAFT advisory document to provide guidance on policy implementation that will be disseminated upon Presidential approval of the policy.

The UC Risk Management Leadership Committee (RMLC) facilitated a survey of the campuses under the auspices of the *Camps Work Group Survey Project*. Based on the survey findings, the RMLC workgroup issued a report with recommendations on best practices for immediate campus use. As well, a subgroup to the MYA workgroup was tasked to research and draft best practice guidelines on the use of volunteers at UC, in an effort to promote safety and reduce risk to UC and their volunteers.

At the location level, campuses addressed the issues by developing inventories to identify points of contact with minors on their campuses. It has been reported that several campuses have spearheaded methods to revise their specific campus processes on background checks and the identification of their location mandated reporters. ECS will continue to assist campuses with targeted education and training in fiscal year 2012-13 as well as lead efforts by the workgroup to provide overall systemwide support.

UC Alignment with the Freeh Report Recommendations

While the release of the *Report of the Special Investigative Counsel Regarding the Actions of the Pennsylvania State University Related to the Child Sexual Abuse Committed by Gerald A. Sandusky* (Report) has had a profound impact on the board of trustees, the administration, and the community of Pennsylvania State University (Penn State), the Report also holds far reaching implications for higher education for the foreseeable future. The Report's recommendations serve as a blueprint for achieving a culture of ethics and compliance in higher education.

As noted in the previous section on managing youth activities, ECS quickly took the lead in gathering information on UC activities related to incidents that would be detailed later in the Report in an effort to improve current processes. Since the release of the Report, ECS has been actively engaged in a review of the Report's recommendations to assess alignment with existing UC governance structures as well as system and campus level compliance-related programming and activities. In an effort to identify and address any potential gaps, ECS conducted a high-level assessment and found that UC programs and activities comport well with the majority of the Report's recommendations. Going forward, ECS and internal audit staff will conduct a review of the organizational structure at the UC campus-level to better understand the lines of reporting in assuring compliance with NCAA rules and regulations. The review will help identify recommendations to better integrate NCAA compliance with the Regents' Ethics and Compliance Program at both the system- and campus-levels.

Priority research compliance risks in fiscal year 2011-12 included Conflict of Interest, Export Controls, International Activities and Intellectual Property.

Research Compliance

As one of the primary missions of UC, and comprising approximately 20% of UC's revenues, research activities and compliance with research-related regulations and policies continued to be a high priority for UC in fiscal year 2011-12.

International Activities

While research is not the only focus of UC's international activities, efforts in this area are included in the Research Compliance section of this report to highlight the increased

number and complexity of these engagements in fiscal year 2011-12. The increase in UC systemwide educational and research projects abroad, especially in the areas of engineering and health, coupled with the increased governmental focus on regulations governing international activities, as depicted in the box to the right, demonstrate the need for an increased focus on providing clarity for UC researchers in their UC related activities beyond US borders.

International Activity Enforcement



In March 2012, Department of Homeland Security creates an Office of Academic Engagement with plans to triple number of investigative agents focused on international students and university-based homeland-security research



State Department increases enforcement of export control violations, and universities are targeted in enforcement

As a result of a number of international incidents, including regional insurgencies, earthquakes, tsunamis and displacement of people, infrastructures and daily business, there was a request from the Regent’s Committee on Compliance and Audit during this fiscal year for ECS to report on the status of management controls established to mitigate compliance risks related to current international activities and related UC policy.

In response to that request, a project was initiated to assess UC policy related to current practices in engaging in overseas activities. The project included establishing an informal inventory of international activities across the system and revising existing policies on international activities to replace the *Administrative Guidelines for the Establishment and Operation of Foreign Affiliates and Foreign Operations* issued in 2005. This draft policy is currently being vetted and will ultimately be submitted to the Presidential policy process for review during fiscal year 2012-13.

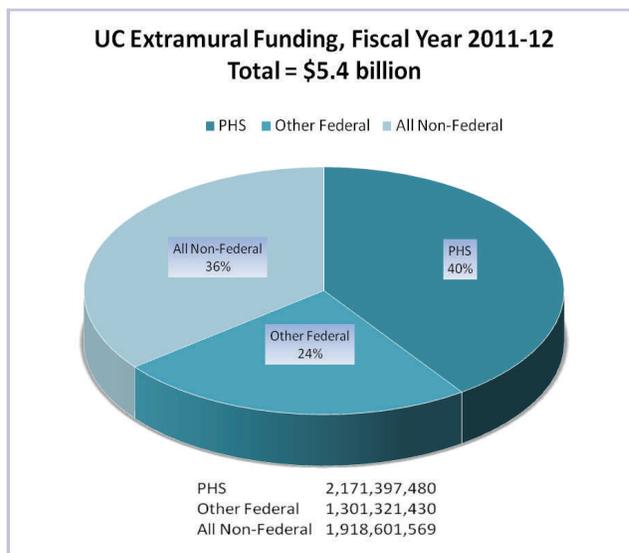
Conflict of Interest (COI)

Conflict of interest continues to be a high priority compliance risk for UC due to its large health science and research enterprise, and continued public and regulatory focus in this area. New COI regulations were recently issued by the Public Health Service (PHS), which includes UC’s top funding agency, the National Institutes of Health (NIH), and significantly increased regulatory requirements for PHS-funded investigators. In fiscal year 2011-12 PHS funding accounted for approximately 40 % of all UC’s extramural funding (see adjacent pie chart). Included in the new PHS COI requirements are an increase in reporting frequency, reduced thresholds for reporting financial interests, mandatory training, establishing peer review processes for COI disclosures and more. ECS efforts during the past fiscal year were focused on developing a training course that could be used as a resource by UC locations to meet the new PHS mandatory training requirement.

Export Control

In fiscal year 2010-11, ECS identified a need across the UC system for central export control resources to provide appropriate regulatory advice to investigators working with export controlled equipment and/or materials. In May 2010 ECS hired the first Systemwide Export Control Officer (ECO). In fiscal year 2011-12, ECS developed a Systemwide Export Control Compliance Program that was widely vetted with UC leadership and communicated broadly to UC location stakeholders. As part of the program, ECS established the first *Systemwide Export Control Workgroup* and listserv connecting all UC locations to dialogue on key compliance issues and share best practices. In collaboration with other offices at UCOP, ECS identified and addressed important export control policy issues.

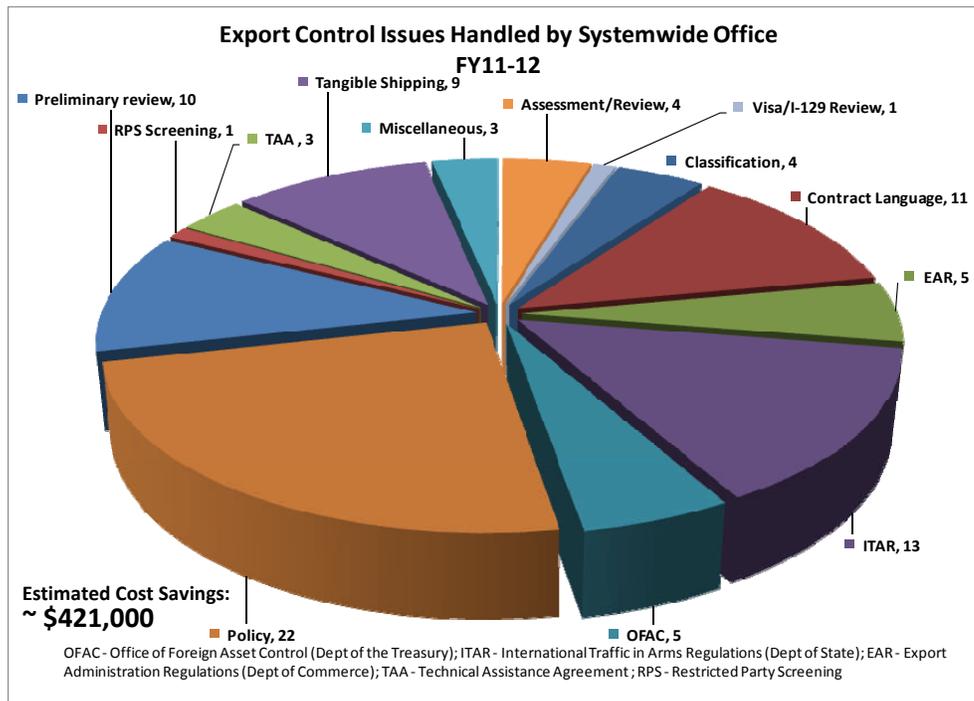
As shown in the pie chart on the following page, the export control office provided significant support to UC locations in fiscal year 2011-12 and responded to 90 diverse export control-related inquiries with the goal of preventing non-compliance. For example, classification and licensing support to obtain the appropriate approvals from the federal government to export controlled research-related items. ECS was successful in obtaining International Traffic in Arms Regulations (ITAR) licenses, enabling the export of defense articles critical to research programs at two UC locations. Handling of these licenses by ECS provided an average cost savings to the campuses of \$4,000 per license, or an estimated cost savings of **\$32,000** for fiscal year 2011-12.



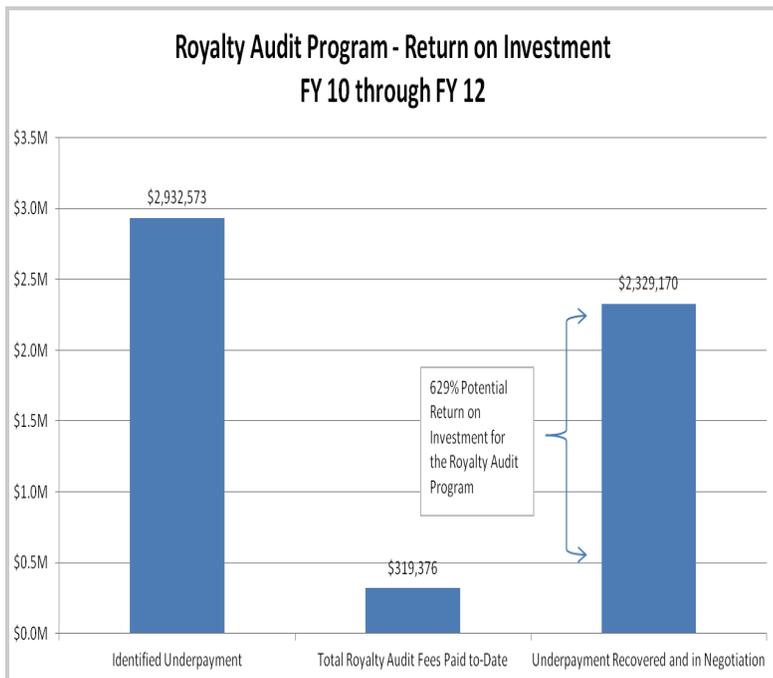
Systemwide Value

- ❖ Quick access to export control resources for researchers and administrators
- ❖ Systemwide training
- ❖ Advocacy with regulators
- ❖ Self guide tools

ECS provided advice and assistance for related Office of Foreign Assets Control (OFAC) licensure, supported internal export control audits conducted at two UC locations, was a participant in a facilitated export control process review and developed an Export Control Database for internal ECS tracking. The database was made available to all UC locations as a tool to track their export control compliance activities and outcomes. In fiscal year 2011-12, ECS launched a review of systemwide tangible shipping practices for research items shipped internationally. In addition, the Export Control Officer engaged in outreach with agency leadership at the State Department, Treasury Department's Office of Foreign Asset Controls, and the Commerce Department's Bureau of Industry and Security, and provided important export control training to UC stakeholders. In total, there has been an estimated savings of \$421,000 to the system in the reduction of outside professional fees, completed through establishment of a formal UC Export Control Compliance Program.



UC Royalty Audit Program



Since fiscal year 2010-11, 16 audits have been completed under the UC Royalty Audit Program. UC recovered a total of **\$1,141,367** in underreported royalties identified in seven audits. In addition, in fiscal year 2011-12, one campus recovered **\$390,581** from a single licensee after discovering an underpayment while preparing for an intended audit.

To date, **\$2,329,170** in underreported royalties across the UC system has been recovered, or are under negotiation, as a direct result of the royalty audit program. As shown to the left, the total cost in professional fees incurred for the royal audit program is minimal as compared to the monies returned to UC (which is approximately a **629%** potential return on the investment).

Data Privacy & 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.

The UC remains focused on enhancing and maturing its information security and privacy programs. In fiscal year 2010-11, President Yudof convened a *Systemwide Privacy and Information Security Steering Committee* (Steering Committee) to make recommendations about how the UC should address policy and governance issues related to privacy and data security.

This past year, the Steering Committee has been drafting recommendations for a UC privacy framework, discussing strategies for addressing governance issues related to privacy and information security, and identifying a formal process for managing technical and societal changes that impact UC privacy and information security policies and practices. The Committee’s report will be submitted to President Yudof in fiscal year 2012-13.

In March 2012, UC hired its first systemwide Chief Information Security and Privacy Officer (CISPO) to provide strategic leadership, oversight, and coordination for UC’s information security and privacy program. The CISPO is responsible for developing and managing a systemwide information security and privacy program designed to recommend and advocate policies and best practices for safeguarding and managing information assets, coordinate systemwide initiatives to reduce information security and privacy risks, track incidents and violations of privacy and security policies, and work in conjunction with the Systemwide Health Science Privacy Liaison.

This position reports to the Chief Information Officer and Associate Vice President Information Resources and Communications, with a dotted line reporting relationship to the Senior Vice President/Chief Compliance and Audit Officer. These two senior leaders are working in conjunction with the CISPO to provide a collaborative partnership around this area to help reduce privacy and security risks. The CISPO is responsible for reporting on information security and privacy initiatives to the Steering Committee.

“Invisible” Servers and Information Systems Leave Universities Vulnerable to Costs of Cyber Security



Ohio State University
In Dec 2010, OSU discovered that names, SSNs, birth dates, and addresses of 760K community members were accessed on an unsecured server. Total costs incurred were \$4M.



Missouri State University
In Nov 2010, College of Education created list, including names of SSNs, of 6K students who studied in college as part of its accreditation process. List was uploaded to unsecured server and not discovered until Feb 2011.



Yale University
Computer file containing names and SSNs of 43K university members was migrated to an unsecured server. In Fall 2011, Yale learned that the data was publicly viewable on Google for 10 months.

Source: ‘A Practical Approach to Institutional Risk Management’, The Advisory Board Company, 2012

Campus Safety and Climate

Campus Safety has emerged as one of the most significant issues facing higher education – including the University of California.

Campus Climate and Safety has been one of the more visible and high risk areas facing higher education during the past several years. The UC community has the responsibility to provide a safe working and learning environment, and to speak out against acts of intolerance by affirming and defending our values. UC also needs to be concerned and prepared for a wide range of crisis situations, including and not limited to pre-meditated acts of violence, laboratory safety and natural disasters. Such events effect all members of the UC community: students, staff and faculty.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)

The issue of campus security for students has always been a key focus of campus leadership in providing a well-rounded education for students, that is steeped in knowledge transfer but housed in a safe and secure environment. Under the Clery Act, campuses must prepare, publish, and distribute an annual security report (ASR) disclosing information about campus safety policies and procedures with campus crime statistics for the three most recent calendar years. Due to activities surrounding UC's response to higher education events, necessitated an increased focus on Clery Act compliance .

The Clery Act mandates that institutions disclose statistics for crimes reported to local police agencies and for crimes reported to campus security authorities (CSAs). In addition to their annual reporting during fiscal year 2011-12, several UC campuses engaged in a review of their Clery Act compliance program activities, including reviews of reporting to assure standardization of crime advisory bulletins and their Clery Act Annual Report. A *Systemwide Clery Act Task Force* is being convened during fiscal year 2012-13 to re-orient responsible UC officials to the Clery Act and its requirements to ensure the accuracy and completeness of reporting.

Government Reporting Requirements & Accuracy

Accurate reporting is required when UC uses federal funds for research, or submits claims for health care services to federal or state health insurance programs.

Government focus on accurate and timely reporting in the areas of effort reporting on federal research projects and along with the submission of appropriate claims to the Centers for Medicare and Medicaid Services for health care services provided to government beneficiaries continued to be priorities in fiscal year 2011-12.

In the area of research grants, the Office of Inspector General (OIG) of the Department of Health and Human Services (DHHS) published in its *Annual Work Plan* the intention to review colleges' and universities' compliance with selected cost principles issued by OMB Circular A-21, *Cost Principles for Educational Institutions*. The OIG stated that it would conduct reviews at selected schools based on the dollar value of federal grants received. In response to state and federal efforts in this regard, locations continued to strengthen their ability to accurately report on the use of government funds for research through implementation of new oversight processes, reporting tools and training initiatives in grants management. There were several audits initiated in fiscal year 2011-12 with focus on use of funds.

Effort Reporting on Federal Research Projects

Research grant and contract funds reporting accuracy continued to be complicated by the complexity and diversity of the rules and regulations governing submission of reports to the various government-sponsoring agencies. The federal government has finally recognized these challenges and proposed revisions to the federal regulations in fiscal year 2011-12. The White House's Office of Management and Budget went so far as to issue a *Request for Input on Reduction of Cost and Burden Associated with Federal Cost Principles for Educational Institutions* (OMB Circular A-21).

In spite of pending federal reform to the requirements associated with OMB A-21, including effort reporting, locations continued to participate in efforts to improve compliance with this requirement. A number of campuses improved effort reporting compliance through implementation of oversight structures, policy revisions, tools, resources and training. Campuses also initiated a comprehensive training program for unit research administrative and compliance staff to ensure an appropriate level of knowledge of OMB A-21 requirements and campus policies. Several campuses implemented the use of systemwide Effort Reporting Systems to automate effort reporting and improve compliance (total of eight campuses on the system). In addition, a number of campuses developed new training for investigators in grants management.

ECS was instrumental in coordinating communications between the pilot campuses, increasing systemwide awareness with senior leadership, and the federal government, and established UCOP executive sponsors.

For the second year in a row, ECS continued to collect systemwide effort reporting compliance metrics from all ten campuses. The federal government expects all effort reports submitted by UC to be timely and accurate. The overall results demonstrate continued improvement. Surveys were developed and delivered to approximately 900 end-users of payroll certification at the pilot campuses to assess their feedback on the alternative means of accounting for time spent working on federally funded research projects. The results are pending and will be included in a final report to DHHS.

Payroll Certification Demonstration Project Expected Outcomes:

-  Frequency of documentation to certify for Researchers
-  Meaningfulness
-  Accountability
-  Compliance

External Audits

In the past year ECS has been tracking the number of regulatory agencies and their requests for audits. These requests have escalated with the increased scrutiny on use of government funding and regulatory oversight. These audits requires already strained campus resources to be pulled away from day to day operations. Many of these audits were immaterial in identifying areas for non compliance.

External Audit Activity in Fiscal Year 2011-2012

- ❖ In fiscal year 2011-12, UC was subject to more than 100 external audits performed by federal, state, local government and/or private institutions.
- ❖ Entities with the most widespread audit activity at UC locations in fiscal year 2011-12 included the National Science Foundation, California Bureau of State Audits, California Department of Finance, California State Board of Equalization, Department of Labor and Public Health Foundation Enterprises.
- ❖ UC personnel spend thousands of hours each year responding to external audit requests. UC internal audit departments spent approximately 7,000 hours coordinating external audits in fiscal year 2011-12.

Health Sciences Compliance Program

Healthcare Billing to the Federal Government

The Health Sciences Compliance Officers (HSCO) continued to work diligently during fiscal year 2011-12 to enhance their respective internal processes for the ongoing review of claims from the Academic Medical Centers, as well as the Schools of Medicine to ensure the accuracy and timeliness of billing and coding of claims. The five Health Science Compliance Programs (HSCP) located at UC Davis, Irvine, Los Angeles, San Diego and San Francisco faced increased governmental scrutiny on data privacy and security; inpatient, outpatient, and professional claims submission with increased audit activities; implementation of electronic medical record systems and their related impact on clinical documentation compliance requirements; and enactment of complex regulatory provisions of the Accountable Care Act of 2009. Meeting the challenges described above and maintaining a proactive stance in detecting and deterring potential errors in billing and coding through on-going audit and monitoring activities and education were the primary foci of the HSCP this past year.

The HSCP annual work plans targeted areas identified by the DHHS OIG as areas of potential vulnerability for fraud, waste, or abuse. The increased focus on health care claims by the Centers for Medicare and Medicaid Services (CMS) was evidenced by the exponential growth of expenditures allocated to detecting fraud, abuse, and waste in the health care industry and the recovered amounts of Health Care Fraud and Abuse Control Program (HCFAC) during FY2011 and the first six months of fiscal year 2012.

The table to the right reflects the national accomplishments of the HCFAC in recovering taxpayer monies mistakenly received by healthcare providers by either fraud, waste or abuse and underscores the continuing efforts of the HSCOs to assure that the reimbursement received by UC health sciences are appropriate and not lost to repayment and/or civil fines or penalties.

Federal Monetary Results– HHS Office of Inspector General	
Fiscal year 2011-12*	Fiscal year 2012-13 (6 months ending 3/31/12)**
❖ Of \$4.1B received in fiscal year 2011-12 for payments of negotiated settlements and judgments for the current and past years, \$2.1B was negotiated and received in fiscal year 2011-12 .	❖ \$1.2B expected recoveries from audit and investigative activities.
❖ 2662 individuals and entities excluded from participation in Federal health care programs.	❖ 1264 individuals and entities excluded from participation in Federal health care programs.
Federal Government Return on Investment for the HCFAC Program	
1997-Current \$5.10 for every \$1.00 of enforcement	3 Year Rolling Average (2009-11) \$7.20 for \$1.00 of enforcement

The UC AMCs are recognized providers of healthcare to both the federal and state, as well as private insurance beneficiaries. Patient care revenues of UC AMCs have risen as the demand for high quality, more complex care has increased. Though the combined AMCs' payer mix reflects a higher rate of contracted versus government payers, the amount of revenue received from the federal or state government is significant, thereby potentially garnering increased attention by government regulators.

The following is a summary of key activities within the Health Sciences Compliance arena that occurred during fiscal year 2011-12.

Reimbursement for Health Care Services

In an effort to assess potential risk and identify best practices among the UC AMCs in the billing and coding of health services, ECS facilitated a systemwide coding process inventory in fiscal year 2011-12. The inventory established a definition of an “ideal” coding process flow for various health service segments and enabled UC AMCs to develop a common auditing framework that documents findings from the acute care setting to the physician level. This year ECS continued to support UC AMC use of compliance audit software at four of the five UC AMCs. This software is a comprehensive compliance system for improving efficiencies and increasing compliance productivity in reviewing accuracy of provider claims for reimbursement. It facilitates regular review cycles by tracking provider audits, samples random cases for audit review based on standard criteria, and automatically creates audit reports for review with department managers and providers. An additional functionality launched recently at three of the UC AMCs allows for the generation of summary reports to compare audit results across the three UC AMCs, soon to be four AMCs.

ECS facilitated collaboration across the system on the establishment of consistent approaches to meet emerging health sciences compliance challenges. For example, the UC Medical Billing Advisory Committee, a systemwide health sciences advisory group convened by UC Irvine with support from ECS, expanded in fiscal year 2011-12 to include more systemwide billing and coding professional participation. The group transferred knowledge on a variety of complex coding and billing issues, as well as discussed individual campus experience with various government proceedings as the Medical Recovery Audit Contractor activities and strategies for addressing cases. The CMS focus on Medicare “one day stays” observation services and transition to the new transaction standards, the precursor to ICD-10 implementations in 2014, are areas of ongoing discussion.

Clinical Research Billing Compliance

Overall enhanced enforcement by CMS on high cost healthcare services has resulted in increased scrutiny of clinical research billing (CRB) practices at the UC AMCs. As reported in last year’s Annual Report, ECS conducted a review of the key clinical research billing policies and processes at four of the five UC AMCs. Based on the findings of that review, ECS facilitated the delivery of a clinical research billing training program by a nationally known expert that was made available to all five UC AMCs. In addition, ECS provided health science leadership and the HSCOs with industry best practice information to enhance current clinical research billing practices, and provided a CRB self-auditing tool that could be used by each HSCO in preparing for future systemwide CRB process reviews.

Privacy and Security of Personal Health Information

Data privacy and security is essential to maintaining public trust in UC health care services and research activities, which includes the regulators responsible for overseeing these activities. A patchwork of federal and state laws mandates that UC secure individually-identifiable health information and report breaches when they occur. In 2009, the California legislature mandated that licensed healthcare facilities notify individuals and the California Department of Public Health (CDPH) of breaches of their medical information under the Confidentiality of Medical Information Act (CMIA). Also in 2009, the federal HIPAA was amended to require notification of individuals and the federal DHHS of breaches of their PHI.

The UC HSCOs and Privacy Officers took a number of important steps in protecting PHI in both the delivery of health care services and in the conduct of research activities in the past year. ECS continued to facilitate monthly HSCO and Privacy Officer conference calls and in-person meetings to discuss a range of compliance issues related to these areas. In fiscal year 2011-12, the encryption of mobile devices was identified as a top systemwide priority. UC AMCs updated data privacy and security policies and procedures at their respective locations, conducted training on the importance of encrypting mobile devices, and followed up with monitoring for compliance with policy. ECS also facilitated the development of a UC Information Breach Decision Tree for California State Law, as well as a UC Breach Response Form for use by UC AMCs in the event of a suspected privacy breach.

In relation to human subjects research, UC's policy that some human subjects research involving use or disclosure of health information is not subject to HIPAA has caused some researchers and administrators to conclude that this information may not need to meet the stringent security requirements under the HIPAA regulations. To correct this misperception, ECS worked collaboratively with the HSCOs to develop a draft policy on HIPAA and Research. This policy will provide guidance to researchers on how information protected by HIPAA can be accessed and shared for research activities. The policy will be vetted and put into the systemwide process for approval in the near future.

While the Human Resources Compliance Office is part of HR, they work closely with ECS in supporting and monitoring the overall systemwide Ethics and Compliance program with a focus on HR initiatives.

Human Resources Compliance Office

A major project was undertaken in fiscal year 2011-12 to ensure the eligibility of all family members covered by employees and retirees on the University's health and welfare plans. The University engaged an outside vendor to verify a population of 175, 892 family members. The project is near completion and, as of June 25, 2012, 90% of employees and retirees have completed the process with approximately 3,000 family members being voluntarily removed, resulting in significant cost savings. On an ongoing basis, newly added family members will be verified to ensure UC fulfills its fiduciary responsibility for the health plans and reduces unnecessary costs. Separately, HR Compliance also monitors and corrects on a semi-annual basis instances of duplicate health and welfare coverage not allowed under the Group Insurance Regulations. Estimated savings from this latter project in fiscal year 2011-12 was \$313,000 and similar savings have been experienced in other years.

To assist with information security efforts in fiscal year 2011-12, HR Compliance partnered with the UC Retirement Administration Service Center (RASC) to run regular reports monitoring the service database to ensure appropriate redaction of Social Security Numbers and protected health information.

In coordination with the Office of General Counsel, HR Compliance continues to enhance the development of affirmative action plans to meet the requirements of the Office of Federal Contract Compliance Programs. HR Compliance is currently working with Academic Personnel, the Affirmative Action Directors and Employment Managers to standardize the means by which demographic data is collected from applicants and employees.

Data was collected in fiscal year 2011-12 on performance evaluation completion rates and the merit program for fiscal year 2010-11 to measure compliance with policy and provide information on the distribution of merit funding at campus locations. In fiscal year 2011-12, HR Compliance developed a monitoring plan to review compliance with performance review policy for non-represented staff. A random sample of performance evaluations will be reviewed during on-site visits to approximately six UC locations in the summer of 2012. HR Compliance will be looking to measure completion rates and will be reviewing each evaluation to determine if the basic elements of an appropriate review are included.

HR Compliance continues to monitor compliance with the policy on Reemployment of *University Retired Employees Into Senior Management Group and Staff Positions*, compliance with the provisions of the Voluntary Separation Plan, and compliance with the repayment provisions under Personnel Programs for Staff Members 65 (Termination of Career Employees—Managers and Senior Professionals, Salary Grades I through VII).

HR Compliance holds regular conference calls with the Chief Human Resource Officers (CHROs), Compliance Committee (a committee established by the locations' CHROs with representatives from Irvine, Irvine Medical System, Los Angeles, Davis Health System, Lawrence Berkeley National Laboratory, and Santa Cruz).

APPENDICES

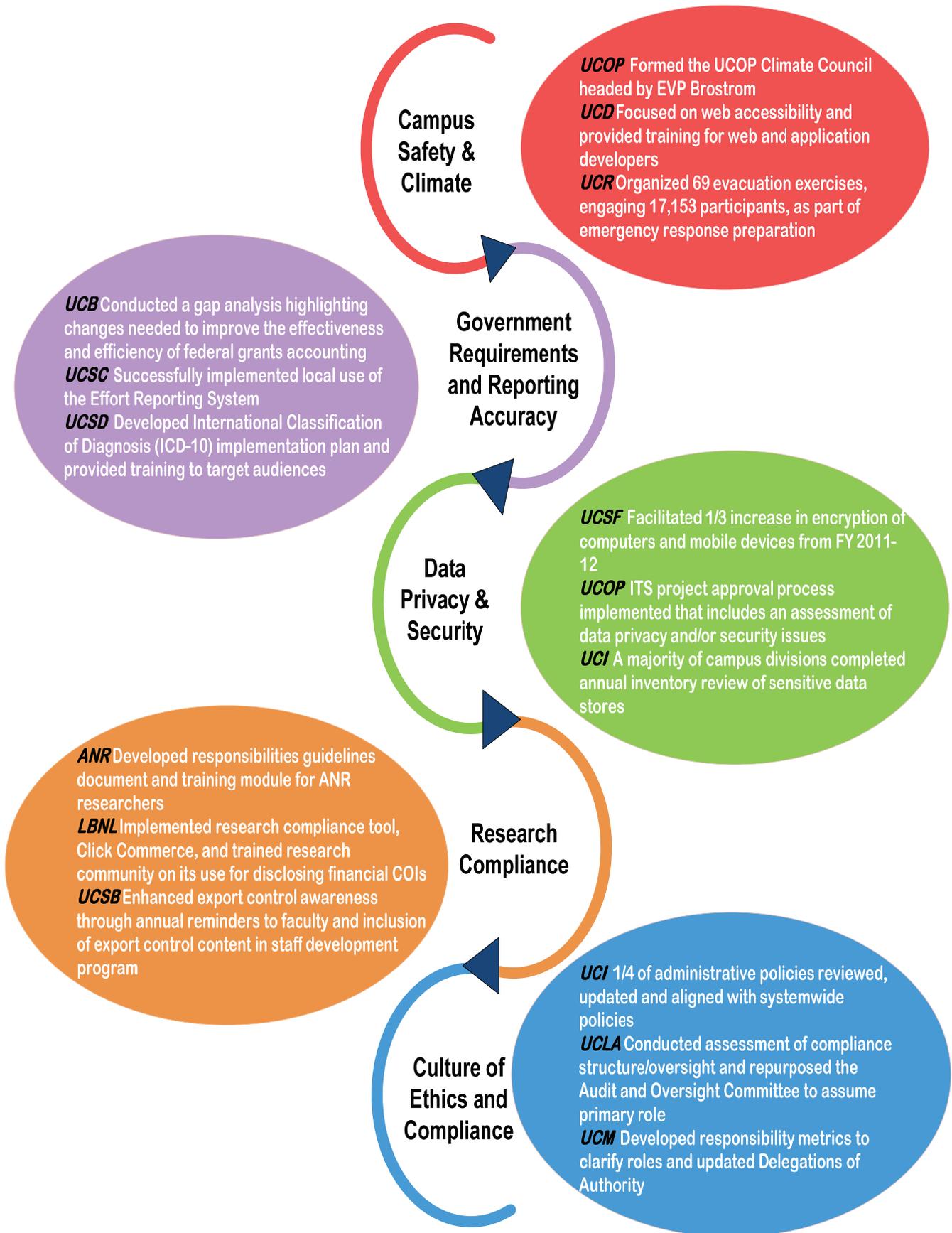
A. ECS Activities and Accomplishments

B. UC Location Compliance Metrics Map to Systemwide Risks

C. Additional UC Location Accomplishments

Compliance Risk Areas	ECS Activities and Accomplishments
Campus Safety & Climate	<ul style="list-style-type: none"> ❖ Facilitated campus use of Campus Climate hotline to allow students, employees and others to report incidents of bias, hate, intolerance, and intimidation, which are then reviewed and addressed by campus management. ❖ 102 campus-climate designated concerns were reported and followed up as appropriate during fiscal year 2011-12. ❖ Hosted six webinars and provided training systemwide.
Government Reporting Requirements & Accuracy	<ul style="list-style-type: none"> ❖ Captured systemwide effort reporting metrics and compared to baseline metrics. ❖ Facilitated evaluation of the “UC Payroll Certification Demonstration Pilot” as alternative to current process for effort reporting. ❖ Assisted four out of five Health Sciences Compliance offices in implementing an audit tool for monitoring coding accuracy. ❖ Performed systemwide clinical billing and coding process reviews and identified best practices and recommendations for process improvement at all five Academic Medical Centers, as well as individual campuses.
Data Privacy and Security	<ul style="list-style-type: none"> ❖ Collaborated with the appointment of the first Chief Information Security and Privacy Officer. ❖ Participated in drafting a set of recommendations by the Systemwide Privacy and Information Security Steering Committee to support the development and management of a UC Privacy & Security framework. ❖ Drafted HIPAA Research Policy and vetted with systemwide stakeholders. ❖ Facilitated development of single breach response form for systemwide reporting, tracking and ultimate mitigation of breach occurrences and impact.
Research Compliance	<ul style="list-style-type: none"> ❖ Facilitated drafting of single UC policy on International Activities to better align current systemwide processes with policy. ❖ Led third year of Royalty Auditing Program resulting in a 629% return on investment to date. ❖ Developed and implemented training to meet the new Public Health Service Conflict of Interest (COI) regulations. ❖ Established systemwide export control workgroup and regularly shared best practices to enhance systemwide resources in this area.
Culture of Ethics & Compliance	<ul style="list-style-type: none"> ❖ Provided and facilitated multi-faceted systemwide workgroup to oversee policy development for reporting abuse by certain University positions designated as a mandated reporter. ❖ Offered education throughout the system on various topics, ie: Whistleblower process, Youth Safety in the UC environment and Integrating Ethics and Compliance into Organizational Culture. ❖ Sexual Assault Investigation Training is being offered for the first time to the system (scheduled for July, 2012)

UC Location Compliance Metrics Map to Systemwide Risks



Additional UC Location Accomplishments	
I. Campus Safety and Climate	
ANR	Conducted on-site compliance facility reviews at 11 sites in fiscal year 2011-12
UCI	Reported laboratory safety issues and training completion rates regularly to the Campus Risk Committee for review, discussion and mitigation
UCM	Finalized and implemented background check policy for critical positions
UCSB	Hired a Chemistry Laboratory Safety Officer and developed a local laboratory Protective Personnel Equipment (PPE) Policy
UCR	Developed a comprehensive Laboratory Safety Program and programs to monitor, track and report on how campus departments and laboratories are addressing laboratory safety
UCSC	Developed a campus Clery Act Compliance Program with campus standards for physical security systems to improve campus safety climate
II. Government Reporting Requirements and Accuracy	
UCSF	Established Clinical Trials Business Support Center with three dedicated full time employees devoted to budget preparation, coverage analysis, and contract negotiation
UCSF	Updated and disseminated Effort Reporting Policy
UCSD	Established Office of Coverage Analysis Administration, revised Clinical Research Billing (CRB) Policy and developed a concept charge flow, automated tools and additional processes through a formal CRB Pilot Project to improve CRB compliance
LBNL	Developed Laboratory requirements management system for monitoring contract deliverables
III. Data Privacy & Security	
UCR	Reported that over 99% of all campus units have been inventoried for sensitive data stores in fiscal year 2011-12
UCD	Appointed a new Information Privacy and Security Committee to review information privacy and security policies, cybersafety standards, and unit cybersafety reports
UCLA	Expanded academically focused Privacy and Security Committee to include Health System Privacy
IV. Research Compliance	
UCOP	Implemented new Conflict of Interest (COI) policy by the Research Grant Program Office that requires annual disclosure of potential COIs for all staff employed in this unique granting unit
UCD	Hired a new Director of Research Compliance and Integrity
UCSD	Established job description and recruited for a dedicated local Export Control Officer
V. Culture of Ethics and Compliance	
UCB	Developed Fraud Risk Management Program with awareness briefings to campus staff quarterly
UCLA	Facilitated inclusion of Chancellor's diversity statement on websites of campus departments, centers and activities
UCM	Developed UC Administrative Responsibilities Manual and implemented the Financial Management Certification Program
UCSD	Established Enterprise Risk Management-CP Sub-Committee to identify, refine and track metrics across diverse risk areas with the goal of raising awareness, improving process controls and mitigating risk
UCSC	Furthered campus participation in initiatives of campus Enterprise Risk Management- CP Committee

