Ethics and Compliance Services Program Policy

Responsible Officer:	SVP - Chief Compliance & Audit Officer
Responsible Office:	EC - Ethics, Compliance & Audit Services
Issuance Date:	2/1/2011
Effective Date:	2/1/2011
Scope:	The ECS Policy and ECS Program Manual (Appendix A) provides a roadmap for ECS staff to make day to day compliance program operational decisions within a structured framework that provides consistency and objectivity.

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I.   POLICY SUMMARY

The Office of Ethics and Compliance Services (ECS) Program Policy has been designed to provide a clear statement of ECS department policy with related procedural steps for internal department operations included in the Ethics and Compliance Program Services Office Manual (Addendum A). The policy guidance is derived from the Ethics and Compliance Program (Program) as approved by the Board of Regents (Regents) of the University of California (University) in July 2008. In addition, ECS was guided by the University's *Statement of Ethical Values and Standards of Ethical Conduct* and utilized the seven elements of an effective compliance program as promulgated by the United States Sentencing Commission (USSC) found in Section 8 of the published Federal Sentencing Guidelines (FSG), as a foundation for policy and proceduralsteps. The ECS Manual will be updated periodically to reflect changes in the University policy and/or other regulatory changes.

II.   DEFINITIONS/ACRONYMS

- ANR: Agriculture and Natural Resources
- CCAO: Chief Compliance and Audith Officer
- CECO: Campus (OP) Ethics and Compliance Officer
- CECRC: Campus Ethics and Compliance Risk Committee
- DOI: Director of Investigations
- ECAS: Ethics, Compliance and Audit Services
- ECS: Ethics and Compliance Services
- I-GROUP: UCOP Investigations Work Group

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- LBNL: Lawrence Berkeley National Laboratory
- LDO: Locally Designated Official
- OP: Office of the President
- PCAC: President's Compliance and Audit Committee

III. POLICY TEXT

The ECS Program Policy provides guidance to the ECS Office in its efforts to assure the Regents and the citizens of the state of California that the University conducts its operations in compliance with government rules and regulations by implementing an effective program. The ECS Program Manual provides a foundation for ECS to structure a Program that effectively:

- Enhances a culture within the University that promotes prevention, detection, and resolution of instances of non-compliance with federal and state laws, public and private requirements and the University's ethical and administrative policies;

- Articulates and demonstrates the University's commitment to the Program;

- Maintains a process for disseminating information and guidance on applicable federal and state statutes, regulations, the University policy and other requirements;

- Maintains an infrastructure throughout the University system to support the Program;

- Reduces damage to the reputation and goodwill of the University resulting from misconduct;

- Educates and informs employees of the importance of ethics and compliance processes and procedures;

- Provides advance notice of, and expectations for employees regarding ethics and compliance processes and procedures, and the repercussions associated with non-compliance;

- Assists the University in complying with federal, state and local rules and regulations;

- Mitigates penalties and sanctions that may be imposed for non-compliance;

- Provides a means and method for the University to monitor the strengths and weaknesses of ethics and compliance documentation processes for all the University sites;

- Provides a means of preventing and detecting any noncompliant business practices;

- Provides a protocol for responding to any regulatory investigation or audit; and

- Provides employees a means by which to report or address concerns or issues regarding noncompliance within the University.

IV.   PROCEDURES

Appendix A outlines procedures for the day-to-day operations of the department with key functions.

V.   RELATED INFORMATION

- United States Sentencing Commission's Federal Sentencing Guidelines, Section 8 – Seven Elements of an Effective Compliance Program
  http://www.ussc.gov/Guidelines/2012_Guidelines/Manual_HTML/8b2_1.htm

- University of California Statement of Ethical Values and Standards of Ethical Conduct
  http://www.ucop.edu/ethics-compliance-audit-services/_files/stmt-stds-ethics.pdf

VI.   FREQUENTLY ASKED QUESTIONS

- Not applicable

VII.   REVISION HISTORY

- October 28, 2013

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Appendix A

I. ANNUAL ETHICS AND COMPLIANCE WORK PLAN

The purpose of this section is to provide a consistent system-wide approach to the assessment, development, approval, implementation and evaluation of the University's ethics and compliance work plan (work plan) that will incorporate individual campus, ANR, LBNL and OP compliance priorities and risk mitigation plans on an annual basis.

PROCEDURES

A. Risk Assessment Process

- Following the timeline as established by the SVP/CCAO disseminated on an annual basis, each CECO will be responsible for submitting a draft campus-specific compliance work plan to the ECS for review and aggregation into a system-wide draft compliance work plan. That draft work plan will be submitted to the Presidents Compliance and Audit Committee (PCAC) and the Regents' Committee on Compliance and Audit for approval (CC&A).

- ECS will encourage each Campus Ethics and Compliance Risk Committee (CECRC) to work collaboratively with their Internal Audit and Risk Services function for the development and implementation of a comprehensive risk assessment process.

- Following the completion of the risk assessment process, the CECO or designee will aggregate identified potential compliance risks from the assessment observations for prioritization by the CECRC, or by the CECO for review and approval by the CECRC.

- In addition, each CECRC will review applicable industry risk alerts, e.g., privacy, health care/sciences, research, etc issues, findings from regulatory agency audits/surveys, other accreditation processes, investigations and identified system-wide potential risk areas for the incorporation into the plan development process.

B. Plan Development, Consolidation and Final Approval by the Regents

- Each CECRC's Workplan should include documentation of prioritization of potential high compliance risks and a summary of risk mitigation plan for each risk area, delineating specific steps that include, but may not be limited to, the following activities:
    - o Development/revision of current compliance related policies and procedures;
    - o Development/revision of employee specific risk training and/or education programs;
    - o Development and implementation of audit/monitoring activities;
    - o Development and implementation of response/mitigation plans for the identified risks;
    - o Evaluation of methodologies utilized for mitigation activities.

- ECS will incorporate function compliance risk-specific issues and relevant mitigation plans to include a summary of the above into a consolidated work plan.

- The consolidated work plan will be submitted to the PCAC and the Regents' Compliance and Audit Committee for approval.

- At the discretion of the SVP/CCAO, the ECS Office, in collaboration with the CECOs, will develop performance metrics to be reported on during the fiscal year.

C. Plan Implementation, Performance Metrics, and Reporting

Acting on behalf of each location's leadership, the CECO shall be responsible for overseeing the implementation of their approved, campus-specific compliance work plan and submitting periodic updates to their CECRC and, as requested, to ECS.

- Periodic reports, no less than on an annual basis, shall be submitted the CECO to ECS outlining campus-specific progress to defined work plan goals.

- The ECS will provide each CECO with a recommended format for submitting requested work plan progress reports and/or performance metrics.

II. Ethics and Compliance Annual Report

- Each location will be responsible for evaluating the effectiveness of its current year's work plan and developing an annual report that will be submitted to the SVP/CCAO for consolidation into a system wide Ethics and Compliance Annual Report to the Regents.

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III. ANNUAL ETHICS AND COMPLIANCE EDUCATION PLAN

One of the most important elements of an effective ethics and compliance program is an ongoing, relevant education and training program for all employees of the University. Basic (or general) compliance training provides the foundation and assists in enhancing the culture of ethical decision-making within an organization. Specific (relevant to job duties) training plans developed and assessed on a periodic basis that are based upon identified potential regulatory and/or other compliance risks is an essential component of education. ECS will take steps to communicate effectively the University's ethics and compliance standards, policies, and procedures to all employees by assisting the locations in providing access to function-specific compliance education/training, mandating general training as necessary and/or by disseminating publications that explain in a practical manner what is required of employees (see current Annual Education Plan on the ECAS website http://www.ucop.edu/ethics-compliance-audit-services/compliance/training/index.html.

PROCEDURES

The ECS Education Plan will provide a foundation for the development of an annual education work plan and will outline methodologies on how ECS will provide the University employees access to applicable training/education related to the Program, ethics and compliance principals and protocols and job specific compliance education.

- Per direction of the SVP/CCAO, an annual education work plan will be developed based on identification of compliance-related training needs and agreed upon system and/or campus-specific compliance risks.
  - o The draft education work plan will be shared with the CECOs for review and discussion.

- ECS will ensure that University employees receive periodic education/orientation to the overall Program guidance and standards on an ongoing basis. This general compliance education and training program shall be developed based upon system wide compliance issues that have been identified and include critical analysis in a scenario-based training.

- ECS will assure that appropriate processes are in place to maintain appropriate compliance training records for mandated education, to include but may not be limited to, attendance logs, instructor curriculum vitas, and material distributed at training sessions.

- ECS staff will provide new OP employees with initial orientation to the Program and related policies and procedures.

- The SVP/CCAO will provide Regents' Orientation session on the Ethics and Compliance Program on a periodic basis, as well as other relevant education based upon identified compliance risks.

- ECS will maintain a communication process to alert location CECOs and CECRCs to the availability of related compliance education.

- Evaluation of the effectiveness and relevance of the education work plan will be completed on an annual basis utilizing methodologies as approved by the SVP/CCAO and incorporated into the Annual Ethics and Compliance Report to the Regents.

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IV. CONFIDENTIAL REPORTING MECHANISM (WHISTLEBLOWER HOTLINE)

The ECS Department will assure that there is a consistent and advertised process for all employees to be made aware of, and have access to, a confidential and anonymous means of reporting any suspected and/or actual compliance misconduct to ECS without fear of retaliation. That process will include timely triage to appropriate personnel for follow-up, investigation, resolution and reporting. In addition, ECS will ensure that a process is in place for the timely aggregation and analysis of reports for identification of potential compliance risks and such risks are reported appropriately to management.

PROCEDURES

- All employees, supervisors, managers, and administrators are required under the Program to report, anonymously if desired, any suspected and/or actual actions of misconduct without fear of retaliation.

- The SVP/CCAO will assure that the University maintains a confidential hotline as a means by which the University employees may report all suspected and/or actual misconduct to the appropriate personnel without fear of retaliation.

- Periodic reporting will occur, at a minimum on an annual basis, of the aggregated trends identified from the data gathered from the systemwide reporting system. The results of the analysis conducted on the data trends will be reported to the PCAC and to the Regents Compliance and Audit Committee at the direction of the SVP/CCAO.

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V. INVESTIGATIONS & CORRECTIVE ACTIONS

The University of California Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy) and the Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints (Whistleblower Protection Policy) are implementing policies for the California Whistleblower Protection Act (Government Code Section 8547-8547.12). The University of California Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy) is located at the following URL: http://policy.ucop.edu/doc/1100171/Whistleblower.

This section provides administrative guidance to be followed by the Office of Ethics, Compliance and Audit Services (ECAS) to process complaints that arise under the University's Whistleblower Policies. The purpose of the administrative guidelines is to ensure comprehensive intake, evaluation, coordination and investigation of complaints of alleged improper governmental activity and complaints of whistleblower retaliation. The definitions of terms used in these administrative guidelines are identical to the definitions set forth in the University's Whistleblower Policies. If a conflict exists between these administrative guidelines and the University's Whistleblower Policies, the latter documents are the controlling authority.

RESPONSIBILITIES

A. Locally Designated Official

Each campus, Lawrence Berkeley National Laboratory (LBNL), Division of Agriculture and Natural Resources (ANR) and the Office of the President (UCOP) have a Locally Designated Official (LDO) to receive reports of allegations of suspected improper governmental activity (IGA), retaliation complaints under the Whistleblower Protection Policy and administer local implementing procedures. The LDO's responsibilities are identified in the University's Whistleblower Policy and Whistleblower Protection Policy.

B. The Office of Ethics, Compliance and Audit Services

The ECAS Investigations Unit focuses on two primary areas of the compliance program: (1) management of the independently operated hotline system for anonymous reporting and (2) the coordination, management and investigation of reports of suspected improper governmental activity (employee misconduct) including complaints of retaliation, workplace misconduct and breaches of ethical conduct. The Director of Investigations (DOI) serves as the principal point of contact at UCOP for the campus, LBNL and ANR LDO on all investigation matters under the University's Whistleblower Policies. The flow and coordination of complaints received at UCOP is described in *Attachment A (*Flow of Whistleblower Reports).

Whenever the allegation of improper governmental activity involves senior campus or laboratory officials, ECAS assumes responsibility under the University's Whistleblower Policies to conduct the investigation or manage an outside investigator. In addition, referrals are made to the ECAS Investigation Unit of sensitive, complicated and complex whistleblower complaints or compliance concerns. Working under the direction of the University's Chief Compliance and Audit Officer, ECAS Investigations Unit is positioned to provide assurance of independence and neutrality for these investigations. ECAS also investigates all IGA and retaliation complaints involving the UCOP campus.

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The DOI provides logistical and administrative support to the Systemwide LDO and UCOP Investigations Workgroup (I-Group) and ensures the workgroup responsibilities identified in the Whistleblower Policy are carried out. The DOI serves as the Retaliation Complaint Officer under Whistleblower Protection Policy for investigations originating at UCOP or referred to UCOP in accordance with the Whistleblower Protection Policy or at the request of the campuses and LBNL.

PROCEDURES

UCOP INVESTIGATION PROCESS - *The SVP/CCAO is responsible for the general oversight of all investigations at UCOP. Day to day operations of this process are delegated to the DOI within ECAS.*

A. Receipt of Complaints

1. Protocols are outlined in the whistleblower policies to review and assess all complaints received through reporting channels to include but not limited to complaints made to the Regents, the President's Office, the Office of General Counsel and the hotline;

2. All complaints are reviewed and assessed upon receipt, in accordance with the University's Whistleblowers Policy, to determine the appropriate disposition for follow-up (i.e., investigation, etc.). Accordingly, each complaint is reviewed for:

    o Urgency/Sensitivity
    o Improper Government Act criteria
    o Compliance and ethics issues
    o Sufficiency and specific detail

3. Complaints that are received outside of the hotline system that require campus attention are forwarded to the respective campus where they are entered in the case management system;

5. Upon evaluation of the complaint, the SVP/CCAO and/or DOI contacts and/or consults with the I-Group and/or the Office of General Counsel when necessary;

6. The hotline case management criteria have been developed to remove from the normal distribution of hotline complaints any recipient that is named in or implicated in the complaint. If a complaint is against or involves ECAS staff, the complaint is forwarded to a senior UCOP official for action;

7. If criminal activity is detected or suspected, consultation and coordination with UC Police is initiated;

B. Investigation Process

1. In the event that the allegation lacks sufficient evidentiary support or is overly broad, ECAS Investigations Unit will request additional information from the complainant if possible in an effort to evaluate whether the allegation is accompanied by information specific enough to investigate or directly points to corroborating evidence that can be pursued;

2. When a decision is made that an investigation is warranted, the DOI will make a determination of the appropriate resources to conduct the investigation. In some instances, this may require resources external to the University;

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3. Investigation oversight is maintained by the DOI to ensure that the investigation activities are carried out in accordance with appropriate laws and University procedures, and that the investigation is done fairly, objectively, thoroughly, ethically and timely;

4. All investigations are performed in accordance with the University's Whistleblower Policy, Whistleblower Protection Policy and best practices as described in relevant case law.

C. Results and Reporting

1. The DOI provides the LDO (Systemwide or campus) periodic status updates on investigation activity and disposition.

3. Upon conclusion of an investigation, the DOI informs SVP/CCAO and/or the LDO (Systemwide or campus) of the findings of the investigation and conclusions reached. When applicable, the I-Group may be involved in discussing the outcome of an investigation and determining the appropriate action to be taken.

5. In accordance with the University Whistleblower Policy, the appropriate University official will notify investigation subjects and/or whistleblowers of the final disposition of the investigation.

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VI.   ENFORCEMENT

The purpose of this section is to assure that controls are in place for ethics and compliance policies and procedures to be followed and enforced. The SVP/CCAO will assure that the University maintains a protocol for enforcement and consequent actions are in place for the University employees who have failed to comply with the University's *Statement of Ethical Values and Standards of Ethical Conduct*, policies and procedures, or state and federal laws, or those who have otherwise engaged in wrongdoing.

PROCEDURES

- All ECS employees are subject to the **Statement of Ethical Values and Standards of Ethical Conduct** and currently approved Human Resources and Academic Personnel disciplinary policies and procedures.

- The SVP/CCAO will collaborate with the President, the Provost/Executive Vice Chancellor, and the Academic Senate Chairperson on the development and implementation of appropriate enforcement protocols that address non-compliance with federal/state and/or other compliance-related policies and procedures.

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VII.   RESPONSE TO GOVERNMENT INVESTIGATIONS

The University shall maintain a procedure for an orderly and legal response to the government's request for information which will enable the University to protect its interests while fully cooperating with the government inquiry.   Refer to the Office of General Counsel's guidance on responding to a subpoena that can be found at: http://www.ucop.edu/general-counsel/_files/servproc.pdf

Flow of Whistleblower Reports
Office of the SVP/Chief Compliance & Audit Officer of the Regents (ECAS)

UC HOTLINE

PRESIDENT'S OFFICE

SECRETARY OF THE REGENTS

OFFICE OF THE GENERAL COUNSEL

OFFICE OF ETHICS, COMPLIANCE & AUDIT SERVICES

UCOP/ SYSTEMWIDE LDO

CAMPUS LDO (triage occurs locally by LDO)

HUMAN RESOURCES

AD HOC (22+ campus entities may have investigative activities)

DIRECTOR OF INVESTIGATIONS (DOI)

Initial Triage Dissemination Investigation Management Tracking/ Reporting

Advise UCOP LDO/ UCOP Investigations Workgroup (I-Group) of significant matters and developments

DOI establish timing and content of I-Group review for cases investigated by UCOP or managed by ECAS

Disseminate to UCOP management or local LDO complaints not meeting criteria for UCOP investigation

Consult with Subject Matter Experts (SME) as needed. e.g., HR, IA, RM, etc

Consider Attorney Client Protection & other legal direction

Manages investigations assigned to ECAS or other UCOP investigators

Review campus/lab requests for investigation assistance by ECAS or outside investigatiors

Consult with SVP/Ethics, Compliance & Audit Services and SMEs to determine need for outside investigation and coordinate process

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