

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
OFFICE OF ETHICS, COMPLIANCE AND AUDIT SERVICES



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March 28, 2019

**CHANCELLORS  
LABORATORY DIRECTOR WITHERELL**

**RE: Escalation Protocols for Research Related Matters**

Dear Colleagues:

In a February 7, 2019 letter to you, President Janet Napolitano stated that federal agencies such as the National Institutes of Health (NIH) were increasingly inquiring about and scrutinizing international engagements at research universities. One of the top-line recommendations endorsed by President Napolitano was the adoption of a mechanism to ensure that federal agency inquiries are appropriately tracked, escalated and investigated.

In the last several months, a number of campuses have received federal inquiries involving foreign entities' involvement in research from NIH. These inquiries often request the campuses to investigate allegations of non-compliance related to federal grants, contracts or awards, such as non-disclosure of foreign entity financial or non-financial support in grant applications. In addition, over the last year, federal agencies have publicly discussed and may inquire in the future about numerous other topics regarding the involvement of foreign entities in research matters that may or may not involve non-compliance, such as:

1. Diversion of intellectual property from federally funded research to foreign entities;
2. Recruitment or sponsorship of students of foreign entities to work in research partnerships with campuses;
3. Compliance with reporting requirements in connection with receipt of certain gifts and contracts from foreign sources (which may include foreign university or other foreign entity support for research);
4. Use of federal grant funds in connection with research partnerships between universities and foreign entities; or

5. Physical and cybersecurity threats that may be posed by foreign entities gaining unauthorized access to protected or sensitive information in research computing systems or research laboratories at the University of California (UC).

As President Napolitano noted in her February 7, 2019 letter, there should be a mechanism to ensure that these matters are appropriately tracked, escalated and investigated. To that end, and to promote consistency in how these matters are handled, the Office of Ethics, Compliance and Audit Services (ECAS), in conjunction with the Office of General Counsel (OGC), is creating a systemwide investigative protocol for these matters. Because it is anticipated that federal agencies may expand their focus to include additional matters related to foreign entities' involvement in research, the scope of matters to which this protocol is to be applied has been broadly described, as noted below.

All UC locations should adhere to the following escalation and investigative procedures to ensure that the appropriate stakeholders are engaged on response efforts in a timely manner.

Triggering Events:

A "triggering event" shall include the following:

1. Any communication from a federal agency regarding federally funded research grants, contracts or awards in which the federal agency expresses concern about a foreign entity's involvement in the research; or
2. Any campus' knowledge or suspicion of any violation of any federal agency policy or federal law regarding federally funded research grants, contracts or awards in which the campus has a concern regarding a foreign entity's involvement in the research.

A "triggering event" must involve a concern regarding a foreign entity's involvement. Thus, for example, a "triggering event" shall not include a communication or violation related to federally funded research that (a) involves only domestic entities or individuals, or (b) involves a foreign entity but there has been no concern expressed by the agency or campus about the foreign entity's involvement.

A "communication" shall include, but not be limited, to: (a) any subpoena, civil investigative demand or other document request directed at the UC or any UC faculty or staff; (b) any request for interviews with any UC faculty or staff; (c) any "cease and desist" letter from an agency; and (d) any agency request for a review of such issues and further information on compliance/non-compliance and corrective actions.

Such foreign entities include but are not limited to foreign governmental entities, foreign universities, foreign private entities or any joint ventures, affiliations or combinations between such entities, any domestic subsidiaries or affiliates of foreign entities, any faculty, student, employee or contractor of a foreign entity, or any agent acting on behalf of a foreign entity.

Escalation Procedures:

Once a “triggering event,” as described above, occurs, the university employee who receives the communication must immediately (within 24 hours) notify the Locally Designated Official (LDO). Campuses must establish a protocol for reporting a “triggering event” to the LDO and provide necessary awareness training of this requirement.

The LDO will immediately enter the known details of the communication into the federal inquiry/investigation tier of the whistleblower reporting system (NAVEX). Such details shall be only viewable or accessible to the leadership or staff on the reporting campus who have a reason to know. Such details shall not be viewable or accessible to a campus that is not the reporting campus.

NAVEX will generate notifications to the Office of General Counsel and the Office of Ethics, Compliance, and Audit Services and those offices will assist the campus in appropriately handling the inquiry.

Investigation Procedures:

The LDO will typically be responsible for overall oversight of the investigation into any allegations of misconduct resulting from the “triggering event.” There may be situations, however, when ECAS and OGC determine that overall oversight of the investigation is more appropriately handled by others.

The campus Office of Research and other relevant campus departments will assist and be consulted as appropriate in investigating the allegations.

OGC and ECAS will assist in appropriately handling the inquiry and assist in reviewing any potential communications to a federal agency.

Questions:

Please direct any questions or concerns to my attention.

Respectfully,



Alexander A. Bustamante  
Senior Vice President  
Chief Compliance and Audit Officer

cc: President Napolitano  
Provost and Executive Vice President Brown  
Academic Senate Chair May  
Executive Vice President and Chief of Staff Nava  
Executive Vice President and Chief Financial Officer Brostrom  
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