



# COMPLIANCE ALERT

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## Foreign Engagement

### [Huawei Moratorium](#)

To address recent federal developments that increase the University of California's risk associated with engagements with Huawei, the Offices of Ethics, Compliance and Audit Services and Research and Graduate Studies worked closely with campus Vice Chancellors for Research to develop the "University of California's Systemwide Restrictions on Engagements with Huawei" document that outlines UC's approach. The document outlines a UC Systemwide moratorium on any future engagement with Huawei; the cessation of all pending projects, gifts, purchases or other engagements with Huawei; best practices for winding down existing agreements; and management of risks associated with engagements with Huawei's U.S. subsidiary.

### [Escalation Protocols for Research Related Matters FAQs](#)

Companion FAQs added to clarify the Escalation Protocols for Research Related Matters. This June 18, 2019 version of the Escalation Protocol Letter supersedes the March 28, 2019 version.

### [NIH Probe of Foreign Ties Has Led to Undisclosed Firings - and Refunds from Institutions](#)

Reports on sharing of confidential proposals and unreported foreign associations and funds in published research prompted the NIH to further review potential violations of grant and peer-review process rules. Since then, the NIH has initialized investigations and issued over 180 letters to research institutions about concerns of violations by researchers. University responses varied from returning NIH grant funds to dismissal.

### [Foreign Gifts under Scrutiny](#)

As the Department of Education begins to open investigations against universities for inaccurate reporting of foreign funding, as required by Section 117 of the Higher Education Act, higher education associations are in turn asking for clarification or additional guidance on what the rules require and how to correct or amend reports.

## UC Admissions

### [Admissions Audit](#)

To help guide the University of California's efforts to bolster the policies and procedures governing its systemwide undergraduate admissions process, ECAS recently completed a systemwide audit of UC admissions. The audit was initiated in response to federal authorities identifying a number of individuals who were trying to "game the system" of admissions at colleges and universities nationwide.

- [Summary of ECAS Audit Report](#)
- [ECAS Audit Report](#) – Systemwide Audit of Undergraduate Admissions

A second audit, to be completed by the end of 2019,

will take a deeper dive into selected areas, such as application verification controls, IT system access and student-athlete participation.

## Research Regulatory Updates

### [NIH Fetal Tissue Research Requirements Raise Worries](#)

The National Institutes of Health (NIH) announced on [July 26](#) changes to requirements for NIH funded researchers using fetal tissue. The new rules for applications submitted after September 25 include provision of a justification for using fetal tissue and undergoing an ethics advisory board review. Scientists raised concerns the additional requirements impede fetal tissue research.

### [Industrial Hemp Guidance](#)

UC's Research Policy Analysis & Coordination (RPAC) unit and Office of General Counsel (OGC) created [Industrial Hemp Guidance](#) and [FAQs](#) to provide a regulatory and statutory background of changes to federal and state requirements for conducting hemp and hemp derivatives research.

## Healthcare Fraud

### [Medicare Advantage Provider and Physician to Pay \\$5M](#)

A physician and Medicare Advantage provider, Beaver Medical Group L.P., agreed to pay over \$5 million to resolve False Claims Act allegations. They were accused of intentionally submitting incorrect diagnosis codes in order to receive inflated compensation for services unsupported by patient medical records.

### [District of Columbia Physician Indicted for Alleged Role in Health Care Fraud Scheme](#)

A District of Columbia physician is charged of falsifying medical records and submitting Medicare claims for unnecessary or not provided medical services. The federal indictment indicates over \$12.7 million of false Medicare claims were made.

### [Healthcare Executive Sentenced to 42 Months in Prison for Kickback Violations](#)

A health care executive was sentenced to prison for her role in a \$4.6 million kickback scheme which included the payment of illegal kickbacks in exchange for arranging Medicare referrals for Durable Medical Equipment.

### [Physician Sentenced To Prison for Illegally Writing Opioid Prescriptions](#)

Family medicine physician was sentenced to one year and one day in federal prison and ordered to pay a \$125,000 fine for overprescribing highly addictive pain pills Oxycodone and Hydrocodone not for a legitimate medical purpose.

## Compliance Pitfalls

### [University Employee Sentenced to Two Years of Probation](#)

A University of New Hampshire (UNH) employee used a university credit card to buy Amazon gift cards between 2013 and 2018 to pay for personal goods. The employee submitted fraudulent receipts and justifications to UNH. The fraudulent charges were then paid by the university and reimbursed by NIH grants. After investigation, the employee pleaded guilty and was sentenced to two years of probation, ten months of home detention, and must pay \$5,500.

### [Harvard Fencing Coach Dismissed for Conflict-of-Interest Violation](#)

The fencing coach of Harvard University allegedly sold his home at twice the assessed price to a parent whose son was admitted to the university and competed as a student athlete for the fencing team. The subsequent investigation resulted in the [dismissal](#) of the coach for violating the university's conflict of interest policy.

### [Some Jobs Just Require Greater Scrutiny: A Conflict of Interest Story](#)

An internal audit of a University of North Carolina Chapel Hill initiative revealed a director gave a \$1.5 million contract to a business partner without using a proper bidding process. Upon further review, additional conflict of interest concerns were found, including: using office space for private business and working on private projects using university information.

### [Maryland Practice Agrees to Provide Deaf 6-year-old a Qualified Interpreter](#)

The U.S. Department of Health and Human Services, Office for Civil Rights (OCR) received several complaints alleging a Maryland orthopedic practice failed to provide a 6-year-old physical therapy patient a qualified American Sign Language interpreter, in violation of Section 504 of the Rehabilitation Act of 1973 and Section 1557 of the Affordable Care Act. The medical practice agreed to train staff on communicating with patients and improve assessments of auxiliary aids and services for patients.

### [University of Kansas Researcher Indicted for Fraud for Failing to Disclose COI](#)

A University of Kansas researcher stands accused of failing to disclose his full-time employment with Fuzhou University while conducting research funded by U.S. Department of Energy and National Science Foundation contracts. The associate professor did not disclose his conflict of interest, as is required by university policy, and is charged with wire and program fraud.

## GDPR and Privacy

### [School ID Checks Lead to GDPR Fine](#)

The Swedish Data Protection Authority issued its first fine of \$20,700 to a school municipality for violating

the General Data Protection Regulation (GDPR) when a high school tested the use of facial recognition to monitor student attendance. Despite gathering parent approval, the agency determined the school had improperly processed biometric data, did not conduct an impact assessment, and did not get pre-approval from the regulator to conduct the trial.

### [After a Data Breach, British Airways Faces Record Fine](#)

Under GDPR, the Information Commissioner's Office issued a record \$230 million fine to British Airways for a security breach last year that exposed the private information of 500,000 customers.

### [Google and the University of Chicago Are Sued Over Data Sharing](#)

Initially championed as a partnership to improve patient medical diagnoses, the University of Chicago Medical Center and Google are now being sued for potentially sharing patient data that was not completely de-identified. The lawsuit claims the inclusion of medical notes and dates is a violation of HIPAA rules.

### [GDPR Privacy Can Be Defeated Using Right of Access Requests](#)

An Oxford University researcher, impersonating another person, retrieved personal information from some UK and U.S. organizations using Right of Access, a part of GDPR requiring organizations to share the personal data collected of individuals if requested. Some organizations handed over a social security number, home addresses, and credit card numbers with little to no verification of identity.

## Intellectual Property

### [USC to Pay \\$50M to Settle Legal Dispute](#)

In a 2015 lawsuit, UC San Diego (UCSD) alleged the University of Southern California (USC) and a former UCSD researcher attempted to transfer funding awarded to the university and research data from a UCSD Alzheimer's Disease research program to USC. Additional claims include misleading UCSD employees to move to USC and inviting USC human resources to UCSD to facilitate transfers. As part of a settlement, USC will pay UC \$50 million and restore program data it had taken from UCSD databases.

### [Lawsuit Alleges Professor Stole Student's Research and Defrauded University of Millions](#)

A professor from the University of Missouri at Kansas City is accused of stealing research developed by a graduate research assistant and selling it to a pharmaceutical company without crediting the student and university approval. The university submitted a federal lawsuit alleging the professor financially benefits from the sale and future royalties despite university patent guidelines stipulating inventions by employees are the intellectual property of the university. Earlier in the year, the professor resigned

from the university after facing several misconduct allegations concerning treatment of graduate students.

## UC Policies and Guidance

### Sexual Violence and Sexual Harassment

As of July 31, 2019:

- The revised [Sexual Violence and Sexual Harassment Policy](#) reflects the comprehensive, systemwide review issued.
- [Appendix E: Sexual Violence and Sexual Harassment Student Investigation and Adjudication Framework](#) is revised to incorporate a hearing into the adjudication process.

### BFB-BUS-43 Purchases of Goods & Services; Supply Chain Management

This Policy was updated on July 1, 2019 to:

- update the terminology relating to Procurement/Supply Chain Manager to Procurement/Supply Chain Director;
- update the definitions relating to formal competitive bidding from “issued publicly by UC” to “issued publicly by Campus Procurement or qualified entity (e.g. GPO)”;
- update the definitions relating to informal competitive quotation by removing “submitted in accordance with solicitation” from the Procurement/Supply Chain Manager, Commodity Manager or Buyer;
- update the definitions relating to Small Business Officer to include biannual federal e-SRS reporting on Subcontract plans;
- add a policy related to negotiating with bidders;
- update the exemption from the Requirement to Competitively Bid Goods and Services section to include usage of the source selection & price reasonableness form;
- update the unauthorized purchases section to include “Reimbursement or Payment of Unauthorized purchases Require Policy Exception Authority and/or Designee(s)”;
- update Low-Value Purchases section by: removing “shall apply to granted additional purchasing authority”; adding definition of functional reporting; adding the amount of additional authority; adding “or office of record”;
- update Procurement Card Program section by adding the retention of documentation to seven years after award close out or end of project research;
- change the title of responsible procurement authority section from “Director of Strategic

Sourcing” to “Strategic Sourcing Director”;

- change the “Campus Controller” section to “Campus Controller or Office of Record”;
- add the \$250,000 small business purchase threshold in the Supplier Diversity and Federal Planning and Reporting Section; and
- update the language and make it consistent.

### Sustainable Practices

The Sustainable Practices Policy establishes goals in nine areas of sustainable practices: green building, clean energy, transportation, climate protection, sustainable operations, waste reduction and recycling, environmentally preferable purchasing, sustainable foodservice, sustainable water systems. The July 2019 revision clarifies the following sections: climate protection, zero waste, and sustainable procurement.

### G-28: Travel Regulations

The July 1, 2019 revision updates delegation to Chancellor or other University official to reimburse, in limited circumstances, spouse/domestic partner, dependent-care provider, and dependent travel expense or dependent-care expenses related to employee’s or employment candidate’s University travel.

## What’s Happening at UC

### Welcome New ECAS Team Members

- ECAS welcomes Noelle Vidal as the Systemwide Privacy Manager. In the last five years, Noelle lead a compliance program as a Regulatory Compliance and Privacy Officer, for the largest independent physician partnership, providing acute care continuum services at over 250 facilities in 15 states. She oversaw development and execution of joint annual compliance risk assessment and work plan efforts, lead enterprise Compliance & Ethics Committee and provided compliance solutions to the business units. In her previous role, she spent about ten years at Kaiser Permanente as a Clinical Practice Compliance Manager. In that role, she led efforts in the areas of Integrated Risk Management, National Care Delivery Compliance Programs, Hospital Assessment and Audit, EHR Compliance Assessments and other projects. As a Privacy Officer, she has extensive experience in development and implementation of policies, procedures and compliance manuals, developed initial HIPAA/CA privacy policies and procedures and administered comprehensive training programs tailored to operations, health and research. Noelle has over 19 years of experience in the areas of privacy and regulatory compliance.
- Marci Copeland joins ECAS as the Associate Director Systemwide Export Controls. Marci

brings 12 years of experience working in the UC system. During her time at UCI she developed the campus export control program, participated in the development of the UC systemwide Export Control Policy and acted as a co-lead of the UC systemwide export control program assessment. Most recently she led the Research Engagement and Facilitation team at UCI responsible for areas such as Conflict of Interest, Dual Use Research of Concern, Export Control and Foreign Influence. Marci assisted UCLA part-time with their export control program for two years from 2013-2015 and served as a board member of the Association of University Export Control Officers (AUECO) for three years. Marci is looking forward to continuing to work with her export control colleagues to address foreign influence concerns, advance the systemwide export control program, and identify ways to increase compliance and efficiency while supporting the University's mission.

- Samantha Williams joins the ECAS team as a Principal Investigator from the University of Maryland, where she served as an Investigator in the Office of Civil Rights and Sexual Misconduct. In that role, Samantha investigated primarily sexual misconduct cases involving faculty, staff, and students. She also trained campus community members on compliance issues related to Title IX and other civil rights laws. Prior to her work in higher education, Samantha served as a nonprofit attorney, representing low-income DC residents in domestic violence and family law matters. Samantha is happy to return to the Bay Area, where she grew up, after an almost 15-year hiatus. Samantha holds her B.A. from Notre Dame and her J.D. and LL.M. from Georgetown.

### **UCOP Opportunity: Cyber Audit Specialists**

Two positions in the ECAS Cybersecurity Audit Team performing cybersecurity audit projects.

- [Requisition Number 20190126](#)
- [Requisition Number 20190172](#)

### **UCOP Opportunity: Director of Compliance**

The Director of Compliance for ECAS will report directly to the SVP and work with the SVP on planning, implementing and monitoring the systemwide Ethics and Compliance Program. The position supervises subject matter experts in Healthcare Compliance, Research Compliance, Export Control, and Privacy and works closely with the Chief of Staff, Deputy Systemwide Audit Officer and the Director of Investigations.

### **2019 Ethics, Compliance and Audit Symposium**

Registration for the 2019 Ethics, Compliance and Audit Symposium on October 28-30, 2019 at the Newport

Beach Hyatt Regency is open. Detailed information, including confirmed sessions to date, session descriptions, and speakers can be found on our [Symposium Website](#). Speakers include a member of the UC Board of Regents, senior leadership, federal partners, and internal and industry subject matter experts. Regular registration is \$225 per person and ends on September 30, 2019. Registration cancellation requests received on or before October 4, 2019 will receive a full refund. No refunds will be available for cancellation requests received after October 4.