

# Center for Education on Social Responsibility (CESR)

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## Ethics and Compliance Monitoring Tools in Higher Education: Development and Implementation

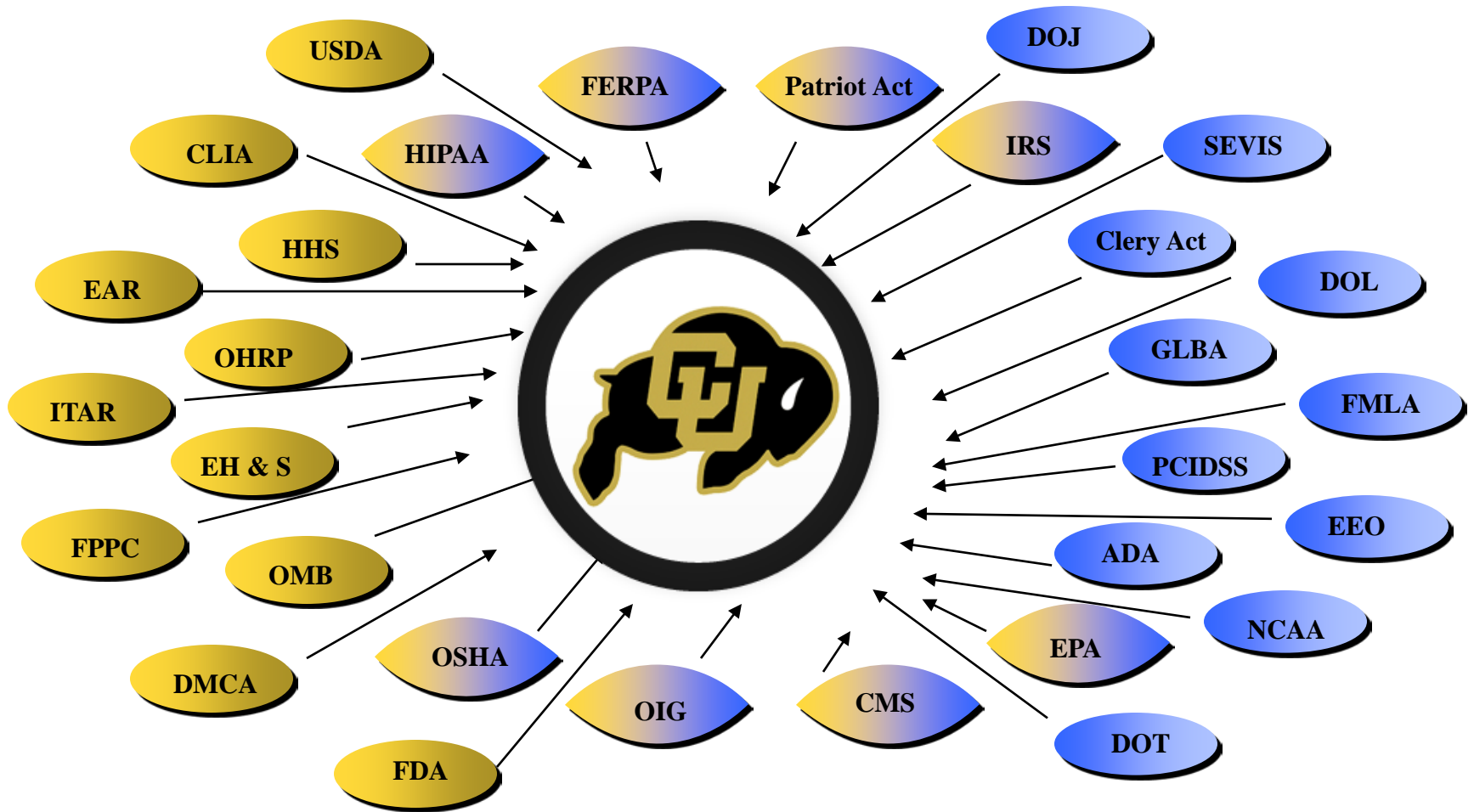
# Introduction

- Academia
- Volunteer Sector
- Private Sector
- Municipal Government
- Higher Education
  - Systemwide Director of Ethics and Compliance, Office of the President, University of California
  - Faculty, Haas School of Business, UC Berkeley

# Learning Objectives

1. Recognize when monitoring tools may be needed
2. Identify examples of ethics & compliance (E&C) monitoring tools
3. Determine how E&C monitoring tools are implemented

# The Problematic: Regulatory Bodies and Requirements Impacting CU

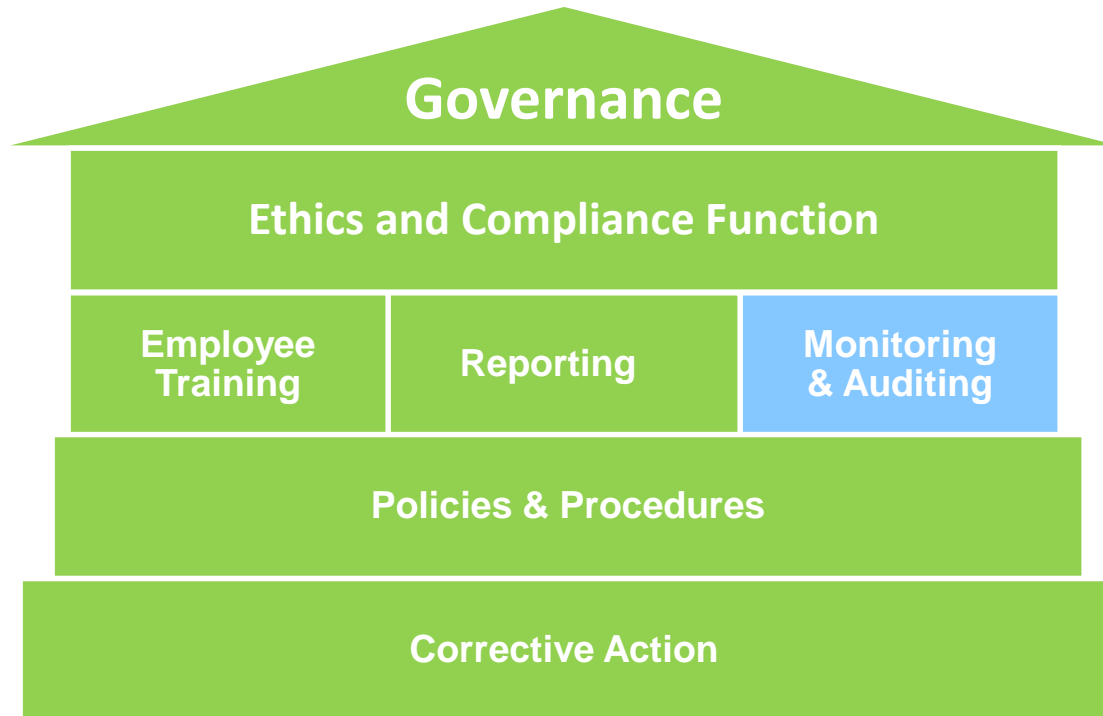


*\*Including but not limited to the agencies listed*

# The Seven Elements

- Standards, policies and procedures
- Program oversight
- Education
- Communication or anonymous reporting
- Monitoring and auditing
- Investigations and enforcement of standards
- Corrective or disciplinary action

# E&C Program Structure



*A structure for managing regulatory risks within the enterprise*

When are monitoring tools needed?

# What is the difference between monitoring and auditing?

- Auditing:

- Formalized approach, independent, objective.

- Audits are performed by someone who has no vested interest in the outcomes or business area being reviewed.
    - Audits have established approach and methodology for sampling.

- Monitoring:

- Day to day reviews.

- Not necessarily independent of business unit, i.e.,: self reviews, peer reviews, etc.
    - Part of doing business and approach may be informal.



# Purpose and Goals of Effective Monitoring & Auditing

No Big Surprises

## **Early Warning Systems**

- Systematically identify, assess and prioritize risks
- Avoid unrewarded risks and protect assets in place
- Promote organizational learning
- Reduce chance of repeat problems

# Purpose and Goals of Effective Monitoring & Auditing

No Big Mistakes

## **Integrated Infrastructure**

- Ensure bad news travels fast internally first – early warning systems
- Prevent and rapidly respond to potential catastrophic failures
- Improve ability to anticipate and prepare for change
- Establish a risk-based culture
- Provide assurance that key risks and exposures are understood and mitigated

# Purpose and Goals of Effective Monitoring & Auditing

No Big Missed Opportunities

## **Comprehensive Practices & Procedures**

- Seek growth but ensure strategic and tactical risks are mitigated
- Maximize chances of success of achieving business plan goals
- Accelerate ability to respond to change and opportunities
- Install an appropriate control infrastructure

# Annual E&C Monitoring & Audit Plan

## **First Question: Do you have one?**

Include the following steps in developing your plan:

- Conduct a risk assessment – consider focus reviews, surveys, individual interviews with key management/board members, known risk areas (initial start)
- Prioritize the risks – be sure to document methodology and close this loop at the end of each year
- Identify resources that will be needed for conducting monitoring and/or audits on each of the risk areas
- Ownership and accountability or resolution at appropriate level

# Monitoring and Auditing Overview

## **Define Review Scope & Assumptions**

- Conduct interviews with University Process Owners
- Review Policies & Procedures
- Review Education and Training materials
- Document scope & assumptions

## **Develop Review Criteria**

- Test Review Criteria
- Enter criteria into database

## **Conduct Review**

- Review recent audit related documentation
- Enter findings into database

## **Document Findings and Observations**

- Query database for exception findings
- Summarize observations
- Develop recommendations

## **Obtain Management Response**

- Share findings with Business Process Owners
- Obtain reactions to recommendations
- Draft a Corrective Action Plan

## **Remediate**

## **Finalize Report & Corrective Action Plan**

## **Re-audit/Follow Up**

# Monitoring and Audit : Summary

Effective Monitoring and Auditing approach provides a method to:

- Assist in identifying risk to the University that may have been otherwise undetected internally
- Assist by identifying if the controls developed to remediate a risk are working and have actually helped to mitigate the risk
- Assist with preventing a real and/or potential risk from escalating by early detection through monitoring and auditing which may help avoid additional harm to the University
- Provides the ability to approach real and/or potential risk weaknesses with a reasonable, scalable method
- Monitoring and Auditing is a critical element for an effective ethics and compliance program which helps to drive ethical behavior and compliance

# Uses of Monitoring Tools

- Tracking implementation progress for new regulations (i.e., NSF RCR training, HEOA, VAWA)
- Assessing compliance with narrow policy/reg (i.e., IP assignment monitoring)
- Collecting monitoring data from multiple subjects (i.e., royalty questionnaire)
- Assessing compliance under reactive circumstances (i.e., mandatory reporting)
- Assessing compliance on recurring basis (i.e., compliance with training requirements)

**What are some examples of monitoring tools?**



# Compliance with Intellectual Property Assignment Policy

- Compliance with University policy

- Policy statement:

- “I acknowledge my obligation to assign inventions and patents that I conceive or develop while employed by University or during the course of my utilization of any University research facilities or any connection with my use of gift, grant, or contract research funds received through the University.”
    - Duty to assign those inventions to University that are within scope of work

- Compliance with Bayh-Dole

- Duty of University to report inventions funded with federal \$\$ to the funding agency
  - Duty of University NOT to assign away rights in federally funded inventions, and to actively promote and commercialize them
  - Duty of University to provide federal sponsor of invention with free license to use invention

- Stewardship of public assets

# Compliance with Intellectual Property Assignment Policy

- Used systemwide approach (10 campuses)
- Conducted data merge
  - USPTO data (833K data lines; CY08 published patent applications)
  - UC payroll data of researchers (35K data lines; FY08 & 09 data)
    - Matched first, last names and city of residence
- Informed leadership
- Requested follow-up from Technology Transfer Offices

# Monitoring Questions to Campuses: Proper Intellectual Property Assignment

- Requested follow-up from each campus Technology Transfer Office:
  - Is individual listed a current UC employee (follow-up with HR)
  - If so, is identified IP currently assigned to UC (used CY08 USPTO data)
  - If not, should identified IP be assigned to UC (follow-up with inventor; possible follow-up with consulting company and/or dept. chair)

# Monitoring Tool—Proper Intellectual Property Assignment

UC DATA				USPTO DATA					Is/Was Inventor UC employee? Y/N	If yes, is property currently assigned to UC? Y/N	If no, should property be assigned to UC? Y/N*
LOC	LAST_NAME	FIRST_NAME	PERMCITY	Last Name	First Name	City	Title	Assignee			
10	LU	JENNIFER QING	MILPITAS	Lu	Jennifer Q.	Milpitas	System and method for controlling the size and/or distribution of catalyst nanoparticles for nanostructure growth				
10	WINSTON	ROLAND	MERCED	Winston	Roland	Merced	CONCENTRATING PHOTOVOLTAIC SYSTEM USING A FRESNEL LENS AND NONIMAGING SECONDARY OPTICS	The Regents of the University of California	YES	YES	N/A
10	WINSTON	ROLAND	MERCED	Winston	Roland	Merced	Liquid light pipe with an aplanatic imaging system and coupled non-imaging light concentrator				
10	WINSTON	ROLAND	MERCED	Winston	Roland	Merced	MULTI-JUNCTION SOLAR CELLS WITH A HOMOGENIZER SYSTEM AND COUPLED NON-IMAGING LIGHT CONCENTRATOR	Regents of the University of California	YES	YES	N/A
10	WINSTON	ROLAND	MERCED	Winston	Roland	Merced	SOLAR COLLECTORS WITH EVACUATED RECEIVER AND NONIMAGING EXTERNAL REFLECTORS	Solargenix Energy LLC			

# Monitoring Tool

## Proper Intellectual Property Assignment

- Pilot approach requiring only 2 campuses to use central data to assess compliance
- Oversight and Direction by Ethics and Compliance Office
- Pilot monitoring results submitted to ECO for review to determine usefulness of central data, and risk/benefit analysis in expending resources on the monitoring activity

**How are monitoring tools implemented?**

# Implementation of Monitoring Tools

- Surveys
  - IT considerations (platform, user seats)
  - Determining appropriate audience to receive survey
- Questionnaires/Assessments
  - Same as above
  - Added resources to assess responses in free-form text
- Spreadsheets
  - Manual population
  - Constant follow-up
- Additional Considerations:
  - Communication strategy
    - Who: senior leadership, operational leads
    - When: before, during, after, ongoing

# Identifying IT E&C Tools

- Track Compliance issues
- Produce surveys and assessments
- Reporting capabilities
- Set up own security rules
- Policy Management aspect
- Interfaces with Teammate and other systems (Ethics Point)



# Summary

- Determine when monitoring may be needed
- Think about the best monitoring tool to use to meet objectives
- Choose an effective implementation approach