

STANDING COMMITTEES

Finance and Asset Management Committee

Resilience and Compliance Update**INFORMATION**

This report is for information only.

BACKGROUND

Over an 18-month period beginning in February 2016, the Board of Regents received a quarterly report on each of the five institution-wide compliance areas:

- Research (February 2016)
- Health & Safety (April 2016)
- Information (November 2016)
- Financial (January 2017)
- Civil Rights/Employment (April 2017)

Each report included an overview of the compliance area and two or three projects selected for focused attention over an 18-month period. Projects were selected because they: 1) represented an under-mitigated area of compliance at the University; 2) addressed an area experiencing increased regulatory enforcement, or where laws and regulations were in flux; 3) could demonstrate substantial progress in an 18-month period; 4) relied on existing budgetary and staff resources (including support from Compliance Services); 5) aligned with the goals of other University strategic programs and initiatives (e.g., ease administrative burden, minimize duplication of effort); and, 6) whenever possible, promoted health and safety.

A report on Global Activities – including two projects that met the criteria described above – was presented as a special compliance area in July 2016. Updates on the Global Activities and Information compliance projects are presented in this report.

Attachments

1. Global Activities and Information Compliance Project Updates: Overview, Impact and Lessons Learned
2. Project Update: Clery Act in Foreign Locations
3. Project Update: Export Control
4. Project Update: Student Information and Health or Safety Emergencies
5. Project Update: Internet of Things (IoT)

Compliance Project Updates

Overview

To strengthen compliance in the Global Activities and Information areas, four mitigation projects were undertaken: Clery Act in Foreign Locations, Export Control, Student Information and Health or Safety Emergencies, and Internet of Things (IoT).

Impact of these Projects to the University

- The University now has a comprehensive, baseline account of University activities that fall under export control regulations – as well as a designated expert leader proactively working with units to mitigate risk related to those activities.
- The University has a clearer understanding of which Clery Act provisions apply to its foreign locations and is strengthening compliance efforts in those locations.
- New protocol provides clear direction to staff and faculty regarding evaluating sharing personally identifiable student information in a health or safety emergency, and how to document such a disclosure pursuant to FERPA.
- Collaboration and process improvement began among various units responsible for the selection, procurement, implementation, and management of Internet of Things (IoT) systems across the institution.

Lessons Learned

- The University's size and decentralized operations often result in lack of clear ownership, accountability and authority for managing complex risks such as cybersecurity issues stemming from Internet of Things (IoT) systems.
- A dedicated subject matter role, with defined scope of responsibility and clear authority, is often necessary for high-risk compliance areas, such as export control.
- Opportunities for collaboration among units with compliance responsibilities – for example, Student Life and the Office of the University Registrar working together on Family Educational Rights and Privacy Act (FERPA) compliance – should be encouraged and can result in successful process improvement and improved compliance.

Project Update: Clery Act in Foreign Locations

Challenge Statement

The Clery Act (Clery) requires institutions of higher education to disclose information about crime on and around their campuses, as well as for university-owned or controlled facilities in foreign locations. The University of Washington operates eleven research centers, two permanent study abroad centers, a research vessel that operates in international waters, and dozens of other foreign locations regularly used or accessed for research. Clery provisions are prescriptive in some areas and ambiguous in others; the law's applicability to foreign locations can be unclear, and adherence to its provisions challenging.

Mitigation Outcomes

The project team – including representatives from the Office of Global Affairs (OGA), UW Police Department (UWPD) and UW Study Abroad Office – addressed the following elements of the mitigation plan:

1. *Applicability of Clery provisions.* Based on Clery definitions and requirements, the UW has no foreign campuses. It does, however, have multiple locations, based on study abroad programs, which constitute foreign-controlled property. Emergency notifications, missing student notifications, and fire safety requirements apply to campuses only and therefore don't apply to the University's foreign-controlled properties. Timely warnings are required for all Clery geography and therefore apply to foreign-controlled properties; processes are in place between Global Affairs and UWPD for crime reporting and assessment of whether a timely warning is required.
2. *Annual reporting.* Clery-reportable crimes in a foreign-controlled property that are reported by a designated UW Campus Security Authority (CSA) to the UWPD Clery Coordinator are recorded as a crime statistic in the University's Annual Security Report (ASR), under the noncampus property category. The OGA Global Travel Security Manager is the designated focal point for reporting Clery-reportable incidents abroad; however, crime reports can be made directly to the UWPD Clery Coordinator. UWPD annually requests Clery-reportable data from the local police departments where the University's foreign-controlled properties are located.
3. *Training.* Study abroad leaders and program directors are considered CSAs when conducting study abroad activities overseas. Rome Center staff and faculty who have been identified as CSAs complete required safety training. Program Directors of faculty-led programs participate in a series of three pre-departure workshops with the UW Study Abroad Office and the Global Travel Security Manager to discuss prevention, response and notification procedures. Enhanced information on Clery requirements and CSA responsibilities is being integrated into these workshops.

Peer universities were contacted and have generally come to similar conclusions about, and are taking similar actions related to, Clery compliance in foreign locations.

Assessment and Next Steps

The project accomplished the majority of the elements of the original mitigation plan. Work on the following element is ongoing: identify and train in-country faculty and staff as CSAs. Next steps include: the Office of Global Affairs will continue to designate CSAs and provide annual training for study abroad faculty and staff; and during annual training, OGA will emphasize the need to expedite crime reporting in compliance with the Clery Act's timely warning provisions.

Impact to the Institution

The University has a clearer understanding of which Clery provisions apply to foreign locations and is strengthening Clery compliance efforts in those locations.

Project Leaders

Ann Anderson | Associate Vice President & Controller, Finance & Facilities

Daniel Brencic | Global Travel Security Manager, Office of Global Affairs

Kyle Richard | Tax Director, Financial Management

Relevant Laws and Regulations

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act | 20 USC Section 1092(f)

This compliance topic was originally presented to the Board of Regents in July 2016. Detailed context information and the original mitigation plan can be found in that report:

<https://www.washington.edu/regents/files/2016/07/2016-07-B-5.pdf>.

Project Update: Export Control

Challenge Statement

In the interest of vital national security and foreign policy objectives, the U.S. government regulates the transfer of strategically-important information, technology, commodities and software through export control regulations. Scholarly activities occurring on University of Washington campuses and around the world, and the related exchange of ideas with the international academic community, can involve the transfer of information or materials deemed “sensitive” with respect to such regulations. This high-risk domain poses unique challenges for a complex research institution like the UW and demands a robust and revamped program in the Office of Research, including its Office of Sponsored Programs (OSP), to meet the institution’s compliance obligations.

Mitigation Outcomes

The project gained momentum with the January 2017 arrival of the Assistant Vice Provost for Export Control, a new role housed in the Office of Research. The following work was undertaken:

1. *Situation scan.* The situation scan included:
 - An overview of the University’s export control-related compliance obligations, including an account of laws and regulations enforced by the U.S. Departments of State (Directorate of Defense Trade Controls), Commerce (Bureau of Industry and Security), Defense, and Energy – as well as the Nuclear Regulatory Commission, the U.S. Food & Drug Administration, the Centers for Disease Control and Prevention, and the U.S. Fish & Wildlife Service, among others;
 - An account of the regulated activities and areas of possible risk exposure at the University, including: sponsored research projects; visa applications; gifts to the University; shipping and receiving; procurement; non-disclosure agreements; international scholar visits; and collaborations, joint research centers, and international university exchanges.
 - Identification of departments and units with export control compliance obligations, as well as additional infrastructure and next steps needed to support export control compliance in those areas.

2. *Outreach, consultation and education.* Ongoing engagement with the UW community includes the following:
 - To facilitate creation of an informed network of researchers, scholars and staff, the Assistant Vice Provost’s office serves as a resource and hub for the development of export control compliance best practices. Relationships have been forged with individuals in a wide range of units across the UW, including the Office of Sponsored Programs, CoMotion, Applied Physics Laboratory (APL), Office of Global Affairs, and International Scholars Operations.

- As part of the Collaborative for Research Education (CORE), a class entitled “An Introduction to Export Compliance at the UW” is regularly offered to the research community.
- Export control-related topics are regularly incorporated into departmental faculty meetings and research administration meetings.

Assessment and Next Steps

The project leaders accomplished all elements of the original mitigation plan. The Office of Research, and the Associate Vice Provost for Export Control, will build on the success of this project through the following activities: continuing education and outreach efforts, with particular regard to evolving export control laws and regulations, and their contexts on university campuses; regular review of University procedures, protocols and policies, including coordination of needed process improvements with affected departments and units across the three UW campuses and UW Medicine; and ongoing relationship building with key University laboratories and research facilities, to ensure proactive risk mitigation efforts and coordination of export control practices.

Impact to the Institution

The University has a comprehensive, baseline account of University activities that fall under export control regulations – as well as a designated leader and expert proactively working with units to mitigate risk related to those activities.

Project Leaders

Joe Giffels | Associate Vice Provost for Research Administration and Integrity

Mark Stomski | Assistant Vice Provost for Export Control

Sample of Relevant Laws and Regulations

- Export Administration Regulations (EAR) | 15 CFR §§ 730-774
- International Traffic in Arms Regulations (ITAR) | 22 CFR §§ 120-130
- Office of Foreign Assets Control Regulations (OFAC) | 31 CFR §§ 500-599
- Assistance to Foreign Atomic Energy Activities | 80 CFR § 810

This compliance topic was originally presented to the Board of Regents in July 2016. Detailed context information and the original mitigation plan can be found in that report:

<https://www.washington.edu/regents/files/2016/07/2016-07-B-5.pdf>.

Project Update: Student Information and Health or Safety Emergencies

Challenge Statement

The Family Educational Rights and Privacy Act (FERPA) generally prohibits colleges and universities from disclosing personally identifiable information about a student – except for designated “directory information,” which includes physical and email address, phone number, dates of attendance, date of birth, and other personal and academic information – without the student’s consent. However, when a student is a threat to her/himself, or a threat to others, an institution may disclose personally identifiable information from an education record of a student without the student’s consent, if the information is necessary to protect the health or safety of the student or others. An institution’s failure to provide appropriate warning about a student who poses a danger can have significant legal and, more importantly, safety ramifications.

Mitigation Outcomes

The project leaders collaborated with a broad base of campus stakeholders and successfully:

- Reviewed peer practices to gain an understanding of how other universities comply with FERPA’s health or safety emergency exception.
- Worked with the UW Division of the Attorney General’s Office to develop a comprehensive understanding of FERPA’s disclosure provision; and reviewed the mandates of other relevant federal and state laws, and UW policies and procedures, to ensure compliance.
- Developed a clear protocol for appropriate documentation and records management regarding all information disclosed in connection with a health or safety emergency.
- Consulted with campus offices and units – SafeCampus, Health & Wellness, Counseling Center, Disability Resources for Students, Office of Youth Programs Development and Support, Housing & Food Services, and others – to ensure clarity and consistency of the protocol and lay the groundwork for successful adoption and implementation.

Assessment and Next Steps

The project team accomplished all elements of the original mitigation plan. Next steps include: the project leaders will work with stakeholders – including Marketing & Communications, Office of Academic Personnel, Human Resources, Student Life, and SafeCampus – to coordinate a messaging and awareness campaign about the new protocol on the three UW campuses and at the School of Medicine; and the protocol will be evaluated periodically to ensure it is operating effectively and efficiently.

Impact to the Institution

New protocol provides clear direction to staff and faculty regarding evaluating sharing personally identifiable student information in a health or safety emergency, and how to document such a disclosure pursuant to FERPA.

Project Leaders

Helen B. Garrett | University Registrar and Chief Officer of Enrollment Information Services, Office of the University Registrar

Ellen B. Taylor | Associate Vice President for Student Life

Sample of Relevant Laws and Regulations

- Family Educational Rights and Privacy Act of 1964 (FERPA) | 20 U.S.C. § 1232g
- Mental Illness (Exemptions for liability) | Chapter 71.05.120 RCW
- Medical Records – Healthcare Information Access and Disclosure (Mental health services, confidentiality of records – Permitted disclosures) | Chapter 70.02.230 RCW; see also Chapter 70.02.050(1)(c)

This compliance topic was originally presented to the Board of Regents in November 2016. Detailed context information and the original mitigation plan can be found in that report:

<https://www.washington.edu/regents/files/2016/11/2016-11-B-3.pdf>.