

# Foreign Influence

## Practical Approaches to Converting Issue Response to Proactive Culture



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## Agenda

- Best practices for responding to foreign influence allegations
- Productive engagement with regulatory and law enforcement agencies
- Proactive processes and measures to mitigate foreign influence risks

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## Background

- Increased activity related to foreign influence by federal agencies
- Investigation/prosecution of researchers for engaging in activity with foreign entities
- [Suspension of “China Initiative” and transition to “Strategy for Countering Nation-State Threats”](#)
- Resources available at: <https://www.ucop.edu/ethics-compliance-audit-services/compliance/research-compliance/foreign-influence.html>

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# HANDLING FOREIGN INFLUENCE ALLEGATIONS

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## Initial Considerations

- Responsibility for tracking allegations/conducting investigations
- Coordinating with stakeholders
- Communicating with leadership
- Role of counsel

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## Foreign Influence Case Management Team

- Composition
  - Chief Compliance Officer
  - Research – Compliance, Sponsored Programs
  - Academic Affairs
  - Counsel
- Purpose
  - Triage
  - Preliminary assessment
  - Ongoing communication
- Development of SOPs

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## Commencing the Investigation

- Investigation charge
- Identifying the investigator(s):
  - Internal vs. external
  - Faculty involvement
  - Privileged vs. non-privileged
- Gathering and preserving records
- Obtaining translations
- Noticing Respondent
- Noticing funding agency
- Due process considerations

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## External Evidence

- Institutional websites
- Social media
- Journal publications
- News articles
- Posted CV and Bio Sketch
- Grant Applications
- Conference websites

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## Internal Evidence

- Conflict of interest disclosures
- Conflict of commitment disclosures
- Personnel records
- Travel documentation
- Access logs
- Email
- Witnesses

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## Regulatory and Law Enforcement Engagement

- Early outreach by Research leadership
- Agency involvement during investigation
  - Proposed search terms
  - Proposed interview questions
- Sharing of investigation report
- Post-investigation engagement with Agency

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# PROACTIVE PROCESSES AND MEASURES

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## Foreign Influence Risk Management Life Cycle

1. Create a Risk Management Plan
2. “Work” the Plan
3. Create and Nurture a Risk Management Culture
4. Implement Strategies for Ongoing Review



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# Risk Management Methodology

Grace LaConte's  
**Strategic Risk Management Method**

LaConte Consulting ©2017 <http://lacontecconsulting.com>



## 1. Establish Context

- Review current risk management methods



## 2. Identify Risk

- Conduct a risk assessment



## 3. Assess Risk

- Calculate impact: Severity x Likelihood
- Create & implement a plan



## 4. Control Risk

- Avoid (eliminate)
- Reduce (mitigate)
- Retain (accept)
- Transfer (insure)

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## Step 1



### 1. Establish Context

- Review current risk management methods

- What is the current state (aspirational goals and organizational vulnerabilities)?
- How engaged are faculty and staff?
- Do policies and procedure align with regulatory requirements?
- Can you identify all international collaborations?
- What will happen if you do not make any changes to the current state?

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## Step 2



### 2. Identify Risk

- Conduct a risk assessment

- Are you conducting regular foreign influence risk assessments?
- Who is responsible for managing risk?
- What data are you collecting? How are you collecting it?
- Once foreign influence risks are identified, how are they controlled?
- Do you have an adequate feedback loop?

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## Step 3



### 3. Assess Risk

- Calculate impact: Severity x Likelihood
- Create & implement a plan

- Are you calculating impact (severity x likelihood) for potential vulnerabilities?
- Is your plan in SHAPE?
  - Contains a defined framework (**S**tructured)
  - Enhances trust in leaders (**H**onest)
  - Contains a realistic vision for the future (**A**ccurate)
  - Extends the planning process past the executive level (**P**articipatory)
  - Provides a compelling vision and direction (**E**nergizing)

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## Step 4



### 4. Control Risk

- Avoid (eliminate)
- Reduce (mitigate)
- Retain (accept)
- Transfer (insure)

- Once vulnerabilities are identified, you are committed and empowered to take action.
  - Avoid (eliminate)
  - Reduce (mitigate)
  - Retain (accept)
  - Transfer (insure)

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## UC Davis Risk Management Approach

- Engaging with Systemwide Colleagues
  - Monthly Export Control Officers Meetings
- Documented Roles and Responsibilities
- Continuing Review

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## Continuing Review

### Implement Strategies for Ongoing Review

- **Quality Control:** Conduct Internal Review of Policies and SOP's on a defined maintenance schedule.
- **Quality Assurance:** Convene a work group or advisory council to be accountable for monitoring.



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## Engaging Stakeholders

### Work Groups and Advisory Councils as a Quality Assurance Strategy

- UCOP Work Group
- UC Davis Export Control Oversight Committee



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## Export Control Oversight Committee (ECOC) Charge

1. Review regular Export Control Compliance Program assessment reports
2. Review suspected export control violations
3. Recommend corrective actions
4. Evaluate and recommend potential solutions for implementing, maintaining and tracking export control compliance

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## ECOC Membership

Research Compliance	Safety Services	Distribution Services
Technology Transfer	Campus/Health Compliance	Faculty
Sponsored Programs	Procurement	Global Affairs
Counsel	Information Technology	Services for International Students and Scholars

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## Sample ECOC Topics

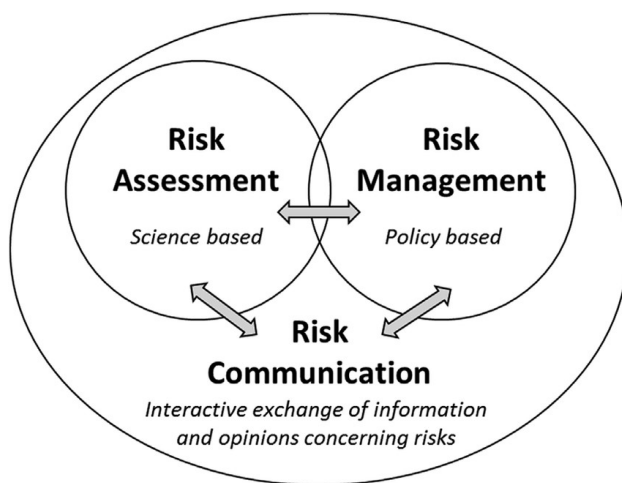
- Discussion of Recommendations to Detect Undisclosed Foreign Influence and Sure Timely Conflict of Commitment Disclosures
  - UCOP Guidance Memo 21-03]
- Review of UC Davis Export Controls Policy
  - UC Davis PPM 430-10]



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## Risk Communication



- It is critical to move beyond **Risk Assessment** and **Risk Management** to **Risk Communication**.
  - Inform and educate all stakeholders.
  - Support ongoing tactics to control or mitigate risk.
  - Develop a community culture of risk assessment and risk management.

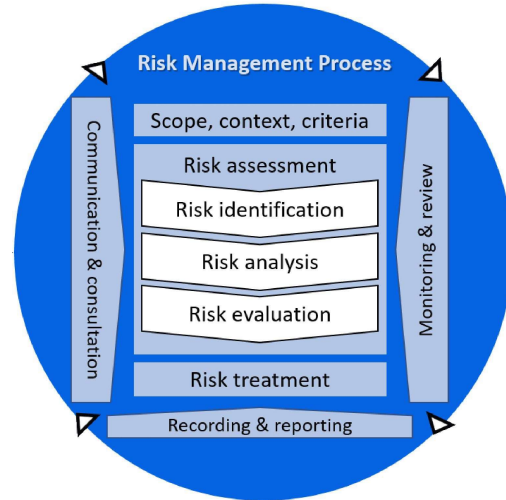
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# Risk Management Culture

## Create and Nurture a Risk Management Culture

- **Culture is created through communication.**
- **Communication enables the spread and reiteration of culture.**
- Develop and implement a comprehensive communication campaign
- Engage all members of the campus community in the risk management process.



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# Talking Points



- Be enthusiastic about the collaboration opportunity. Encourage faculty/staff to be **cautiously optimistic**. Be aware of bad actors using clever strategies to gain inappropriate access to US science and technology.
- Exercise **due diligence**. Verify collaborators' credentials. Contact colleagues (common connections). Review organization's credentials. Be alert to recent affiliation with foreign military or foreign government.
- Exercise **more due diligence**. Reach out to Export Control Office (or other local experts) to conduct appropriate screening (i.e., Visual Compliance, World Check One).

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## Talking Points



- Look for the “**win-win.**” Understand what is motivating the collaborator. Identify mutual benefits for the short- and long-term. Be wary of collaborations focused only on short-term gains.
- Consult **local experts** (i.e., Chief Compliance Officer, Export Control Officer).
- Document the mutually beneficial relationship in an **agreement**. Include scope of work, roles and responsibilities, IP ownership, deliverables, and plan (timeline). Rely on contracting staff to provide guidance and formulate an appropriate agreement.

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## Talking Points



- Understand **export control restrictions**, if any. Seek export licenses as/if necessary.
- **Disclose. Disclose. Disclose.** Disclose the potential collaboration immediately to your department/unit chair, college/school dean, and other leadership.
- If engaged in sponsored research, **discuss the collaboration with your sponsor** BEFORE you formalize the relationship.

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# Sample Communication

[https://www.ucop.edu/ethics-compliance-audit-services/compliance/research-compliance/faculty\\_one-page\\_on\\_global\\_engagement.pdf](https://www.ucop.edu/ethics-compliance-audit-services/compliance/research-compliance/faculty_one-page_on_global_engagement.pdf)

## Do you conduct international research?

We value international collaboration. Engagement with our academic partners around the world enhances the quality of research and furthers scientific discovery. However, you may have recently heard that federal agencies are taking an increased interest in academic researchers and their international collaborations. Fortunately, UC is dedicated to supporting its researchers and has put together this tool with FAQs and resources for you. If you do any of the following, this information is for you!

### Are you collaborating globally?

#### Shipping

Do you ship outside the U.S.? Avoid delays and potential fines by contacting your local Export Control Office.



#### Shipping to China, Russia, or Venezuela?

An export declaration to the U.S. government is required when shipping most items (except published documents) to these countries.

#### Working with Cuba, Iran, or Syria?

You may need special permission from the U.S. government before engaging with these countries.

#### Visiting Scholars

Hosting scholars from other countries and they are working on your federally sponsored research? Disclosures may be required.

Contact: Your [local campus expert](#), [Garrett Eaton](#) or [Marci Copeland](#) for advice on requirements.

### Are you sharing materials, ideas or information?

#### Data Integrity

Identify sensitive research data, and back up your data in a secure environment such as a secure cloud server. Unsecured data can be compromised and manipulated, making it unusable. Contact: Your [local campus expert](#).



#### Transfers and Sharing of Intangible Research Materials

You may need an export license prior to sharing intangible items, including:

- Software, algorithms, encryption code, unpublished data, information not in the public domain, patented information or third-party intellectual property.

[See here for exemptions](#). Ask your [local campus expert](#) for advice.

## UC and sponsors of research have many disclosure requirements



### Conflict of Commitment

Outside professional activities must be reported in UC OATS and some require prior approval. Visit your campus help page on the UC OATS portal found [here](#) for contact information.

### Are you receiving extramural research funding?

Federal funding agencies are closely reviewing the completeness of disclosures in proposals and throughout the life-cycle of contracts and grants.

### You should be aware of the following Contract & Grants Disclosure updated requirements:

- **Other Support** includes all resources, foreign and domestic, made available to a researcher in support of or related to all of their research endeavors, even non-monetary value support, such as in-kind.
- **Biographical Sketches** include positions, scientific appointments, foreign affiliations, and honors, including positions with no remuneration or voluntary.
- **Conflict of Interest** disclosures in accordance with UC and sponsor Conflict of Interest policies are part of the overall disclosure requirements for UC researchers.

Contact your sponsored projects office or department for information about sponsor disclosure expectations.

Contact: Your [local campus expert](#), [Deborah Motton](#) or [Shanda Hunt](#).

## Are you traveling internationally?



### Data Protection

If you are traveling with electronic devices, you can take some of the following steps to protect your information:

- Leave your data or device at home or use a loaner where available.
- Back up your data.

You or your IT administrator can also set up a Virtual Private Network (VPN) or encrypt your hard drive. Additional IT security guidance can be found [here](#).

### Travel Safety

Ask your [risk management office](#) for guidance.

### Travel Insurance

Travel insurance is available for UC business travel. More information can be found [here](#).

### Hand Carrying Research Materials, Samples or Equipment

Exports, including items that are hand-carried, are subject to legal requirements. Ask your [local campus expert](#) for assistance.

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# Questions?

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