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September 15, 2022

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We have completed our audit of UC Berkeley's local administration of the systemwide Workers' Compensation Program per our annual service plan. The audit was performed in accordance with the Institute of Internal Auditors' *Standards for the Professional Practice of Internal Auditing* and the University of California Internal Audit Charter.

Our observations with management action plans are presented in the accompanying report. Please destroy all copies of draft reports and related documents. Thank you to the staff of Disability Management Services, University Health Services, Environment, Health & Safety, Berkeley Regional Services, Financial Planning & Analysis, Risk Services, the Controller's Office, Residential and Student Service Programs, Student Affairs Services, and Facilities Services for their cooperative efforts throughout the audit process. Please do not hesitate to call on Audit and Advisory Services if we can be of further assistance in this or other matters.

Respectfully reported,

Jaime Jue
Director

cc: Vice Chancellor Katherine Yelick
Vice Chancellor and Chief Financial Officer Rosemarie Rae
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Workers' Compensation Program Audit

Project No. 21-753

September 15, 2022

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**University of California, Berkeley
Audit and Advisory Services
Workers' Compensation Program Audit**

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OVERVIEW

Executive Summary

The purpose of the audit was to assess controls in place to ensure effective local administrative practices related to the systemwide workers' compensation program. The review covered governance and operating processes associated with workers' compensation, focusing on claims administration and injury management. Compliance with federal and state workers' compensation timeliness requirements was also addressed. Audit fieldwork was conducted March 2021 through June 2021.

Local administration of the systemwide workers' compensation program crosses internal organizational reporting lines, with multiple departments sharing responsibility for its coordination and effective operation. In order for the campus to effectively address these issues, cross-organizational coordination and collaboration is likely needed from participating departments and consulting units identified in the report, including but not limited to Disability Management Services, People & Culture, Berkeley Regional Services, Environment, Health & Safety, Risk Services, and Financial Planning and Analysis.

Each campus has made choices over time concerning how it administers workers' compensation and these choices, collectively, contribute to variations in overall workers' compensation costs between campuses. The workers' compensation assessment rate for Berkeley has been consistently the highest across all ten campuses in the system (excluding medical centers) and the Lawrence Berkeley Lab for each of the past seven years. We identified certain performance indicators that may point to multiple potential root causes for the relatively high program costs. Performance indicators include the experience modification factor; new claims; open claims; total loss days; limited awareness, knowledge, and monitoring of program costs and key metrics; and the strategic insourcing of Occupational Health Services. Potential root causes may relate to organizational configuration and positioning; establishment and oversight of program financial and operational goals; and cross-divisional coordination protocols.

We believe there is a timely opportunity for management to study the current operations of the campus workers' compensation insurance program in order to further understand the interaction of cost drivers and opportunities for cost rationalization.

We also identified certain areas to strengthen processes and internal controls related to injury management, including those for injuries that may not ultimately result in a workers' compensation claim. These areas include (1) identifying, optimizing, strengthening and documenting roles and responsibilities of the various campus units that may be involved in injury cases, (2) potentially leveraging data reporting capabilities of injuries and claims to monitor the status and aging of open cases in order to ensure consistent, appropriate, and timely resolution, and (3) designing and implementing feedback processes to ensure conditions that contribute to elevating the risk of injury are appropriately prioritized and mitigated by prevention measures, along with reinforcing and tracking adherence to administrative requirements and standards.

Management has provided action plans to address the items identified in our report.

Purpose of the Audit

The purpose of the audit was to assess controls in place to ensure effective administrative practices related to local administration of the systemwide workers' compensation program.

Scope of the Audit

The review covered governance and operating processes associated with workers' compensation, focusing on claims administration and injury management. Compliance with federal and state workers' compensation timeliness requirements was also addressed. The audit included the identification and walkthrough of processes, review of supporting information and documentation, and interviews with appropriate persons in Disability Management Services, Environment, Health & Safety, Occupational Health, Berkeley Regional Services, Risk Services, Central Payroll, and Financial Planning & Analysis, as well as specific operating area management in units with higher workers' compensation claim activity. We also interviewed persons at the University of California Office of the President - Risk Services, Bickmore Actuarial, Sedgwick (external claims administrator), and a subject-matter expert at UCLA. Audit testing covered the period July 1, 2019 – June 30, 2020. The audit fieldwork was conducted March 2021 through June 2021.

Background Information

The university administers several risk management and self-insurance programs that are required by law and/or support ongoing operations, including workers' compensation insurance.

Workers' Compensation Program

There are three aspects of the campus' participation in the mandatory systemwide workers' compensation self-insurance program:

- *Employee benefit provider.* Provision of workers' compensation benefits to campus employees and workers.
- *Program administrator.* Administration of the campus' workers' compensation program, including work accommodation, return-to-work administration, leave-related processing, and consulting and support services provided to departments and employees. These responsibilities are shared across multiple departments, with Disability Management Services acting as a facilitator; Occupational Health providing medical services related to claims; and accommodation, return-to-work, and leave processing handled jointly by regional and central Human Resources, Environment, Health & Safety, Disability Management Services, and employee department management.
- *Insurance purchaser.* Purchase of workers' compensation insurance via payment of an insurance "premium assessment" to UCOP administered through the composite benefit rate (CBR) that fully funds UCOP's costs of providing workers' compensation insurance to the campus. UCOP's cost of providing workers' compensation insurance to the campus includes:
 - Incurred workers' compensation claims and claims adjustment expenses.
 - An external claims administrator (Sedgwick) provided by UCOP.
 - Actuarial consulting services (Bickmore Consulting) provided by UCOP.

- UCOP’s reimbursement to the campus for certain costs related to workers’ compensation. These costs are then included in UCOP’s cost of providing workers’ compensation insurance to the campus, including:
 - The cost (or partial cost) to the campus for specific programs like “Be Smart about Safety” and specific staff positions.
 - The cost of the primary workers’ compensation health care provider (Occupational Health). The cost equals Occupational Health’s annual operating budget.
- Administrative costs incurred by UCOP for coordinating the workers’ compensation self-insurance program.

Administration of the workers’ compensation program crosses internal organizational reporting lines and many departments share responsibility for its effective operation. The program is supported by the various campus departments involved with injury management (referred to as “consulting units” throughout this report), as well as campus departments where incidents may occur.

Workers’ Compensation Premium Assessment

For fiscal year 2020/2021, the campus’ workers’ compensation insurance premium assessment was \$18,789,000. This amount was based on an estimated 2020/2021 payroll exposure of \$1,412,729,630 multiplied by Berkeley’s total cost center rate of \$1.33 per \$100 of covered payroll. This amount does not include the closeout of the 6/30/2016 legacy rate adjustment of \$0.07 per \$100, which if included, results in an overall campus program rate of \$1.40 per \$100.

The past five years of payroll exposure and workers’ compensation reported loss and allocated loss adjustment expense (limited to \$175,000) were used to calculate the cost per \$100 payroll exposure. Berkeley’s final cost center rate of \$1.33 was calculated by UC’s actuarial consulting firm, Bickmore Consulting, based on the loss cost per \$100 payroll exposure multiplied by the campus’ experience modification factor of 150, less calculated investment income and plus amounts for administrative fees and various cost center funding, including Be Smart About Safety and Occupational Health expenses. Berkeley’s experience modification factor was also calculated by the actuarial consulting firm and represents the campus’ total loss costs relative to the loss costs of other UC non-medical center locations.

Summary Conclusion

Based on the results of the audit work performed, we observed opportunities to strengthen the campus’ controls and administrative practices associated with workers’ compensation program administration and injury management.

Workers’ Compensation Program Costs

Each UC campus has made choices over time concerning how it locally administers the systemwide workers’ compensation program and these choices, collectively, contribute to variations in overall workers’ compensation costs between campuses.

The workers' compensation assessment rate for Berkeley has been consistently the highest across all ten campuses in the system (excluding medical centers) and the Lawrence Berkeley Lab for each of the past seven years. We identified certain performance indicators that may point to multiple potential root causes for the relatively high program costs. Performance indicators include the experience modification factor, new claims, open claims, total loss days, limited knowledge and monitoring, and Occupational Health Services costs.

We believe there is a timely opportunity for management to further study the current operations of the campus workers' compensation program in the following areas:

- Evaluate the multiple drivers that contribute to the current high assessed composite benefit rate premiums for the program and determine what programmatic changes should be affected to bring incurred program costs in line with other campuses.
- Evaluate the current financial performance of the program, establish key performance metrics that can inform both short-term and long-term operational goals, and develop criteria for periodic evaluation by stakeholder campus units.
- Develop appropriate cross-divisional lines of communications, systems of organizational checks and balances, and an organizational configuration to ensure appropriate program oversight by executive stakeholders.
- Evaluate the current role of UHS' Occupational Health Services as an insourced provider to confirm that the original rationale for insourcing these services still applies and that it currently provides a cost-effective occupational health care alternative.

Injury Management

We identified three areas where there is an opportunity to strengthen processes and internal controls related to injury management, ultimately resulting in reduced injuries and injury-related costs:

- There is an opportunity to identify, optimize, strengthen, and document roles and responsibilities associated with consulting units involved in injury prevention and workers' compensation administration in order to more consistently and effectively provide subject-matter expertise and reach timely resolution. Currently, roles and responsibilities (including decision-making protocols and authorities) may not be assigned or optimally assigned, may overlap, may be unclear to those involved, and/or may not be clearly and formally documented. Consulting and support units include Disability Management Services, Environment, Health & Safety, University Health Services, and both central and regional Human Resources, each providing general guidance, support, and specific recommendations to department management, department safety staff, and employees regarding injury prevention, leave administration, employee accommodation, and return-to-work issues.
- There is an opportunity to ensure that all injury claims are addressed timely and brought to closure with appropriate actions. Due to the volume of injuries, resource constraints, and the issues noted above regarding diffuse roles and responsibilities, we understand that it is challenging for campus consulting and support units to maintain a system of controls to ensure all injury claims are appropriately addressed. We believe there is an opportunity for management to consider leveraging data reporting capabilities of the campus' Employer

First Report injury reporting system (EFR) and the third-party administrator's injury maintenance system (iVOS) to monitor the status and aging of all open injury cases in order to ensure that cases are appropriately resolved.

- There is an opportunity to design and implement feedback processes to ensure that injury situations are fully and permanently mitigated by departments. We understand that, as currently designed, there are limited incentives for managers and supervisors in individual departments to consistently prioritize injury prevention and administration. There is also an opportunity, particularly for departments with higher incidences of workplace injuries, to reinforce and track the training of managers, supervisors, and employees in injury prevention and reporting requirements and standards.

Management has provided action plans that, if implemented, should address the items identified in our report.

SUMMARY OF OBSERVATIONS & MANAGEMENT RESPONSE AND ACTION PLAN

Workers' Compensation Program Costs

Each campus has made choices over time concerning how it locally administers the systemwide workers' compensation program and these choices, collectively, contribute to the variations in overall workers' compensation costs between campuses. The workers' compensation assessment rate for Berkeley has been consistently the highest across all ten campuses in the system (excluding medical centers) and Lawrence Berkeley Lab for each of the past seven years.

For fiscal year 2021-2022, the Berkeley assessment rate (\$1.35 per \$100 dollar of covered payroll) is 29% higher than the rate at the next highest campus location (UCLA - \$1.05) and three times (200%) higher than the two locations with the lowest rates (Irvine - \$0.45 and Lawrence Berkeley National Lab - \$0.42). If the campus were to reduce the number and cost of claims and associated program costs to have an assessment rate similar to UCLA (\$1.05), the projected program costs and total CBR assessment would be lower by approximately \$4 million.¹ Optimistically, if the campus were to reduce program costs and associated CBR assessments to the current systemwide median of approximately \$0.86 (Santa Barbara - \$0.87 and Riverside - \$0.85), the projected program costs and total assessment would be lower by approximately \$6.9 million.²

Understanding the root causes of why Berkeley comparatively has the highest workers' compensation insurance program costs (per dollar of covered payroll) across the system is complex. Our audit identified certain performance indicators that may point to multiple contributory factors for the relatively high workers' compensation program costs.

1. *Experience Modification Factor.* The external insurance actuary employed by UCOP for the workers compensation program rates Berkeley's recent experience modification factor at 150. All other things being equal, this actuarial metric indicates that Berkeley's claims history and associated costs are 50% greater than our peers. A campus with a claims history that is at the systemwide average would be rated at 100.
2. *New Claims.* Comparatively, Berkeley has had greater numbers of new claims each year relative to other campuses (third highest in the system in FY2020), although this was somewhat mitigated in FY2021 – likely due to many employees working remotely during COVID.

¹ Based upon on our analysis of UCOP Risk Services calculations, approximately \$1.406 billion in covered annual payroll for the campus was used by UCOP for their FY2021-2022 assessment rate calculations. If the campus targeted reducing costs to obtain a future assessment level similar to UCLA (\$1.05 per \$100), then the annual total amounts assessed via the CBR would be reduced from \$19.0 to \$14.8 million.

² Similar to the previous footnote, assuming \$1.406 billion in covered annual payroll, a future assessment rate of \$0.86 would represent a reduction in CBR assessments of approximately \$6.9 million (\$19 million vs \$12.1 million).

3. *Open Claims.* Similarly, Berkeley not only has relatively high numbers of new claims annually, but also has relatively high numbers of open claims at year end. For both FY2020 and FY2021, Berkeley had the second highest number of claims at year end.
4. *Total Loss Days.* Perhaps most noteworthy, Berkeley also had very high total loss days (cumulative number of days the employee is away from work) for each of the past four years. Taken together, points 2, 3, and 4 suggest that not only does Berkeley have high numbers of new claims but that its internal end-to-end processes are slow to resolve and close cases in a timely and efficient manner, resulting in additional and extended costs.

We note that while the potentially most relevant performance indicators are identified above, these can be expanded or refined by management to support more in-depth analyses. Expansion or refinement may include identifying performance indicators over time, refining the performance indicator components (number of loss days, types of claims, etc.) and performing more in-depth cost rate comparisons with other campuses.

5. *Limited Awareness, Knowledge and Monitoring.* In our discussions with management across various units, we found limited awareness and knowledge of the recent performance metrics and accordingly we infer that the level of management attention and monitoring of this program is an opportunity for improvement. Related to this, we note that because of the dispersed accountabilities across different campus departments and absent a singular “process owner” with the appropriate authority, the development and oversight of program metrics and objectives has potentially not been a feasible undertaking.
6. *Occupational Health Services.* Berkeley is one of two campuses and one lab that insource its workers’ compensation occupational health services (UC Berkeley insources to University Health Services). Alternatively, four campuses outsource to an external health care provider and four outsource to their medical center or clinic. We observe that University Health Services’ occupational health program costs, as reflected in workers’ compensation rates, have substantially increased in the past five years (\$0.10 per \$100 covered payroll for FY2018, 2019, and 2020; \$0.18 in FY2021; and \$0.26 in FY2022³) and may now represent a significant portion of the overall workers’ compensation payroll assessment differential relative to other campuses. University Health Services is fully reimbursed by UCOP for its occupational health program costs. These costs are then charged back to the campus as a component of the workers’ compensation program payroll assessment. We were unable to identify an appropriate system of checks and balances to ensure that occupational health costs are periodically reviewed for reasonableness as a CBR component and whether the campus may yet reach an inflection point where occupational health should again be outsourced, as it is at other campuses.

Based upon the audit work performed, we believe there is a timely opportunity for management to further study the current operations of the campus workers’ compensation program in the following areas:

³ It is possible that part of the increase for FY2021 and FY2022 relates to COVID programs and expenses, but this was outside the scope of our audit.

- Evaluate the multiple current drivers that contribute to the current high assessed composite benefit rate premiums for the program and determine what programmatic changes should be affected to bring incurred program costs in line with other campuses.
- Evaluate the current financial performance of the program, establish key performance metrics that can inform both short-term and long-term operational goals, and develop criteria for periodic evaluation by stakeholder campus units.
- Develop appropriate cross-divisional lines of communications, systems of organizational checks and balances, and an organizational configuration to ensure appropriate program oversight by executive stakeholders,
- Evaluate the current role of UHS' Occupational Health Services as an insourced provider to confirm that the original rationale for insourcing these services still applies and that it currently provides a cost-effective occupational health care alternative.

Management Response and Action Plan

Management agrees that there is an opportunity to assess the campus organization and processes pertaining to workers' compensation program administration. Under the joint leadership of the Associate Chancellor, the Vice Chancellor for Finance, the Vice Chancellor for Administration, and with the collaboration of the Vice Chancellor for Student Affairs and the Vice Chancellor for Research, management will convene a cross-divisional working group to perform the necessary analyses and to guide decision-making. The group will formalize the scope of the review and analysis within the current fiscal year. The scope is anticipated to include injury prevention and management programs, as well as the handling of workers' compensation claims, with a focus on end-to-end process design and accountabilities, organizational structure, and cost analyses.

Injury Management

The primary focus of our audit was the local administration of the systemwide workers' compensation program. As part of our audit inquiry procedures associated with workers' compensation claims, we considered related workplace injury prevention and management processes, which involve not only the efforts within individual departments but also certain central campus units that provide consultation and support services, including those mentioned below.

Based on observation and inquiry with stakeholders in these units, we identified three areas where current processes and controls should be studied by senior management to better achieve overall injury prevention and management objectives, particularly for those units with higher historical patterns of injury claims.

Roles and Responsibilities for Consultation and Support Units in their Work with Individual Departments: Several central campus units, including Disability Management Services, Environment, Health & Safety, People & Culture, Berkeley Regional Services, and Risk Services, provide consultation and support to individual department management, safety staff, and employees regarding injury prevention, reporting, case management, leave administration, employee accommodation, and return-to-work requirements. Their services focus on prevention and administration of employee injury, regardless of whether the injury results in a workers' compensation claim.

While overall roles and responsibilities of these consulting units with respect to workers' compensation cases may be defined, in practice we understand from stakeholders that roles and responsibilities (including decision-making protocols and authorities) may not be assigned or optimally assigned, may overlap, may be unclear to those involved, and may not be clearly and formally documented. As a result, it is not always evident from case to case who among these units is responsible for which decisions or whose advice, if conflicting, should prevail. Occasionally, conflicting advice may be provided by different consultants within the same consulting and support unit. At times, consultants may be assigned to a case without having prior expertise in the type of injury involved or knowledge of the affected department's operations. The lack of role definition and responsibility assignment can create confusion on the part of the supervisor and employee, and may result in less than optimal decisions and outcomes for the employee and for the campus.

We believe there is an opportunity to identify, strengthen, and document roles and responsibilities associated with consulting and support units involved in injury prevention and administration. We also believe there is an opportunity, particularly when working with departments with more frequent cases of workplace injuries, to better harmonize (operate together) and optimize the roles and responsibilities of the campus consulting units supporting injury cases to more consistently and effectively provide subject-matter expertise and reach timely resolution. This can ultimately reduce costs associated with injury management.

Ensuring that All Injury Claims are Addressed Timely and Brought to Closure with Appropriate Actions: Due to the volume of injuries, we understand that it is challenging for campus consulting and support units to maintain a system of controls to ensure all injury claims are appropriately addressed, including initial assessment, case assignment, administration of

injury, return of the employee to work, and case closure. Most emphasis is placed on the initial handling of the Employee First Report of Injury (EFR), and less so on prioritizing claims or following through to ensure all injury claims are handled effectively from the consulting and support units' perspective and ultimately, the campus' perspective. As such, there is a risk that although injury cases may be initially handled effectively, there may be inadequate or ineffective follow-up by staff assigned to the case, resulting in potential delays in returning the employee to work or inadequate continued mitigation of the cause of injury, both incurring additional claim-related costs.

We believe there is an opportunity for management to consider leveraging data reporting capabilities of the EFR and iVOS systems to monitor the status and aging of all open cases, regardless of whether the injury results in a workers' compensation claim, to ensure progress is made by the assigned staff to bring the case to resolution and as the basis for further management action.

Identifying Opportunities to Design and Implement Feedback Processes Related to Departments: Currently, adjustments are not made in composite benefit rate payroll assessments at the department level to account for higher historical patterns of workers' compensation claim costs. We understand from campus consulting and support units that, as currently designed, there are limited incentives for managers and supervisors in individual departments to consistently prioritize injury prevention and administration. These consulting and support units expressed challenges resulting from managers and supervisors not understanding or adhering to minimum individual responsibilities for work-related injuries, in particular their responsibility for sufficiently detailed reporting of injuries in the EFR system. They highlighted the additional work and time required to appropriately triage and administer an injury case when the manager or supervisor provides incomplete information. They also cited as challenging, situations where specific advice or recommendations to department managers or supervisors to reduce future injuries are not fully and permanently implemented.

We believe there may be an opportunity to design and implement feedback processes to ensure that injury situations are fully and permanently mitigated by departments. There is also an opportunity, particularly for departments with higher incidences of workplace injuries, to reinforce and track the training of managers, supervisors, and employees in injury prevention and reporting requirements and standards.

Management Response and Action Plan

Please see management response above.