Culture of Compliance
What is THAT?

COMPLIANCE AND ETHICS WEEK
AWARENESS, RECOGNITION, REINFORCEMENT
TEXAS A&M UNIVERSITY-CORPUS CHRISTI
NOVEMBER 5, 2019

Janet U. Gordon
System Ethics and Compliance Officer
Compliance: Conforming to a rule, such as a specification, policy, standard or law*

*Wikipedia
Federal Sentencing Guidelines

1. Established standards and procedures
2. Oversight and interest by high level personnel
3. Adequate education and training of personnel
4. Effective lines of communication
5. Consistently enforce standards through discipline
6. Internal monitoring of compliance programs
7. Appropriate response and corrective action plans
8. Periodic risk assessments

*Drawn from chapter 8 of the Federal [Criminal] Sentencing Guidelines, “Sentencing of Organizations”*
Established Standards and Procedures

• Are there established standards and procedures within your division?
• Which office is responsible for providing oversight of these documents?
• Are these documents easy to locate?
• Are the mandates identified in these documents being followed?
• How are new employees being made aware of these documents and the mandates identified within?
• Is succession planning being thought about for a smooth transition of departmental responsibilities?
Oversight and Interest by High Level Institutional Personnel

• Do high level university official demonstrate an interest in, and oversight of established standards and procedures?

• Who are these high level officials?

• How are such interest, oversight and support being demonstrated?
Adequate Education and Training

• What type of educational requirements are identified for the individuals responsible for oversight of the risk mitigation process?
• How are individuals selected for completing training?
• How often is training being conducted/provided?
• How is the completion of such training being monitored?
Effective Lines of Communication to Report Compliance

• Do employees know how, where, and to whom compliance risks are reported, without fear of retaliation?

• Who informs new employees of their responsibility associate with reporting?

• You must advertise and promote the confidential Risk, Fraud and Misconduct Hotline tool for reporting compliance issues.
Consistently Enforce Standards through Discipline

• Managers should provide the appropriate disciplinary action for any violation of compliance issues, including corrective actions.
• Are corrective actions consistent per violation?
Internal Monitoring of Compliance Programs

• The institution will monitor, audit, and evaluate program effectiveness; and also maintain a system to report misconduct or seek guidance without fear of retaliation.

• The compliance committee will help monitor the operation side of compliance issues and will report any violations.
Federal Sentencing Guidelines

Appropriate Response and Corrective Action Plans

• The institution will provide quick response to any compliance violations.

• The CEO, Compliance Officer and/or Compliance Committee should work together with the appropriate Division Head to develop an action plan to prevent future occurrences of the violations.

• Is there a plan of action template developed for a deviation of standards?

• Who monitors the action items identified?
Federal Sentencing Guidelines

Conduct Periodic Risk Assessments

• How often are department risk assessments conducted?
• Who is responsible for conducting these assessments?
• Who is responsible for providing follow-ups on action items identified during the assessments?
• What types of corrective actions, if any, are taken when the identified risk is not mitigated in a timely manner?
# Measuring Effective Compliance

<table>
<thead>
<tr>
<th>1 (Inert)</th>
<th>2 (Emerging)</th>
<th>3 (Growing)</th>
<th>4 (Mature)</th>
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</thead>
<tbody>
<tr>
<td>Few or no policies and procedures</td>
<td>Underdeveloped or unenforced policies and procedures</td>
<td>Policies and procedures developed to cover substantive operations</td>
<td>Policies and procedures promulgated, implemented and periodically reviewed and updated</td>
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<tr>
<td>Constituents including high-level personnel not consciously interested in compliance</td>
<td>Constituents ambivalent or partly resentful about compliance requirements but growing in awareness of its importance</td>
<td>Constituents understand the importance of compliance and their responsibilities for compliance and ethics</td>
<td>Constituents invested in compliance; high level personnel oversee it</td>
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<td>No compliance structure, officers or committees</td>
<td>Constituents begrudgingly cooperate with regulators and newly established compliance officers and committees</td>
<td>Constituents open with regulators and compliance officers and committees</td>
<td>Constituents proactively engage with regulators and compliance officers</td>
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<tr>
<td>Ad hoc, sporadic, or non-existent training in ethics and compliance</td>
<td>Training activities in development and early stages of application</td>
<td>Training activities developed and administered at appropriate levels</td>
<td>Training activities periodically updated, efficiently administered and recorded</td>
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<td>Lacking or broken and mistrustful communication over ethics and compliance</td>
<td>Constituents realize the need to communicate about ethics and compliance</td>
<td>Improving lines of internal communication; developing mechanisms for reporting</td>
<td>Clear, efficient, and open internal communication mechanisms and attitudes</td>
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<td>No systematic approach to compliance</td>
<td>Compliance programs developed or evaluated as problems arise</td>
<td>Establishment of compliance programs</td>
<td>Ongoing operation and monitoring of established compliance programs</td>
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<tr>
<td>Ad hoc, inconsistent, inadequate or lacking reactions to violations</td>
<td>Reactive “put out fires” mentality; realizing need to respond appropriately to violations</td>
<td>Developing mechanisms and procedures for discovering and responding to violations</td>
<td>Appropriate responses and corrective actions implemented when violations are discovered</td>
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<td>Little awareness of risk</td>
<td>Compliance and risk receive attention when a violation occurs</td>
<td>Establishment of enterprise risk assessment framework</td>
<td>Risks identified, anticipated, avoided, and/or mitigated on a continuous basis</td>
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</table>
Culture of Compliance

• Compliance Committee
• Compliance Plans
• Affinity Groups
• Stakeholder Groups
• Policy/Rule/Regulation Updates
• Fraud, Waste and Misconduct Hotline
• Compliance Reviews (51.971)

Why do we care???
Culture of Compliance

CDC details problems at Texas A&M biodefense lab


- Sep 5, 2007 (CIDRAP News) – The US Centers for Disease Control and Prevention (CDC)
  • yesterday released a lengthy list of safety violations it found in an investigation of a
  • biodefense laboratory at Texas A&M University, where research on dangerous pathogens
  • was suspended 2 months ago after problems came to light.
  • On Jun 30 the CDC ordered the lab to stop all work on "select agents and toxins" while it
  • investigated reports of lab workers infected with the category B bioterrorism agents Brucella
  • and Coxiella burnetti. The new CDC report says the lab's suspension will continue until the
  • safety problems are corrected.
Texas A&M fined $1 million for lab safety lapses

cidrap.umn.edu/news-perspective/2008/02/texas-am-fined-1-million-lab-safety-lapses

- Feb 21, 2008 (CIDRAP News) Officials at Texas A&M University announced yesterday that
- the US Department of Health and Human Services (HHS) has accepted the school's offer to
- pay a $1 million fine in connection with a 2007 report on several safety violations at its
- biodefense laboratory.
- Elsa Murano, who became Texas A&M's new president about 6 weeks ago, told reporters
- yesterday at a press conference that she proposed the large fine so that the university could
- more quickly resume its biodefense work, which has been on hold since the US Centers for
- Disease Control and Prevention (CDC) suspended work at the lab in July 2007.
30 Fast Facts About The College Admissions Scandal

https://www.forbes.com/sites/zackfriedman/2019/03/

Author: Zack Friedman

- The U.S. Attorney in the District of Massachusetts charged 50 people in federal court as part of a …
- Many parents apparently paid $200,000 and up to $6.5 million to have their children admitted to …
- Television stars Felicity Huffman (Desperate Housewives) and Lori Loughlin (Full House, Fuller …
- Both actresses were charged with conspiracy to commit mail fraud and honest services fraud.
UW-Madison Settles Federal Research Dispute For $1.5M
Spokesman Said Matter Was A 'Technical Accounting Issue'
By The Associated Press
• Published: Friday, March 22, 2019, University of Wisconsin-Madison officials have decided to settle allegations they overcharged the federal government for research projects for **$1.5 million**.
• According to federal prosecutors in Madison, the university generated rebates and discounts with supply and equipment vendors but didn't credit the savings to the federal awards, amounting to overcharging the federal government.
Baylor hit with $2M fine from Big 12 for sexual assault scandal

Dive Brief:

• The Big 12 athletic conference announced Tuesday that it will fine Baylor University $2 million for "reputational damage to the conference and its members" resulting from a high-profile sexual assault scandal that involved the Texas university's football team, ESPN reported. The institution is now in full compliance with the league, according to the Dallas Morning News.

• Baylor is said to have implemented more than 100 recommendations from law firm Pepper Hamilton that would allow the university to receive its full revenue distribution of around $14.3 million from the conference, though the Big 12 board will continue to withhold the funds for 18 more months.

Historic Fine for Penn State

Identifying a football culture that protected athletes and officials, the Education Department will fine Penn State U nearly $2.4 million for failing to notify students about assistant coach charged with sex abuse and for failing to disclose other campus crimes.

By: Jake Hess
November 4, 2016

Penn State football fans on campus

Bringing to an end a five-year investigation into sex offenses involving a former assistant football coach, the U.S. Department of Education announced Thursday that it will fine Pennsylvania State University nearly $2.4 million for failing to comply with federal crime disclosure laws.

The fine covers 11 findings that the university violated the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and the Drug-Free Schools and Communities Act.
Culture of Compliance

University of Montana assessed $1M Clery Act fine ...

https://www.educationdive.com › news › university-of-montana-assessed-1...

Cached

Oct 4, 2018 - The Department of Education fined the University of Montana nearly $1 million for its ... Mistakes in Clery Act reporting procedures can cost a college ... two attorneys specializing in higher education compliance issues wrote ...
Culture of Compliance

- Safety
- Lawsuits
- Data Loss
- Reputational Harm
- Loss of Life
- Financial Loss
Leadership and Tone at the Top
  – From the top down help set the tone of the Institution’s compliance program, living and sharing its values, and serving as a trusted advisor to Institutional leadership, including the President and Provost

Communication
  – Translating the rules into practical guidance, particularly during periods of change, and effectively communicating this guidance to employees and a University’s distributed units.

Work across a Decentralized Environment
  – Working cross functionally to embed the Compliance function vision, strategy, and principles into the organization’s culture and day to day operations.

Effective Learning and Development
  – Develop and embed effective compliance training strategies with operational staff

Know the Institution
  – Have a deep understanding of the Institution and its strategic objectives in order to provide practical, achievable guidance, foster meaningful relationships, and build and sustain trust.

*Compliance as a Change Agent Presentation, SCCE Higher Education Compliance Conference, June 2019*
Culture of Compliance -- Ethics

- Rules and Regulations
- Values
- Research
- Moral Principles
- Ethical Practices
- Rules of Conduct
Principles of Ethical Conduct
System Policy 07.01

Board Members and System Employees shall conduct themselves in a manner that strengthens the public’s trust and confidence by adhering to the following principles:

- Honesty, accountability, transparency, respect, trust
- Integrity of the highest caliber
- Conduct that is indisputable and beyond approach
- Openness and fairness
- Commitment to Compliance
Board members and system employees:

- Shall be honest and ethical in their conduct and the performance of their duties
- Shall adhere to all applicable laws, regulations, system policies and regulations and member rules and procedures
- Shall protect and conserve system resources and shall not use them for unauthorized activities
- 14 “shall”s in this policy including the last one….shall be subject to disciplinary action up to and including dismissal upon violation of any of the foregoing.
Culture of Compliance--Ethics

• Ethics involves learning what is right and wrong, and then doing the right thing.
• Most ethical decisions have extended consequences; ethics requires weighing the consequences of alternative courses of actions.
• Most ethical situations are not black or white, but rely on reasoning through conflict situations using some standard of guidance.
• Most ethical decisions have personal implications.
• Ethical decisions should respect the rights of those who are affected by our actions.

From Prof. Steven Mitz blog post “Morality v. Ethics in Society” 10/27/2015
Culture of Compliance--Ethics

• Ethics are
  – Inherently subjective
  – By nature, relational/social (not what you do by/to yourself)
  – Easier said than done; we don’t always behave how we think we’ll behave

• Shared institutional values?
  – Individual values/morals may (and will) differ
  – Agreement on a set of representative ethics requires real engagement, listening

*Taken from “An Ethical Journey” Presentation by Deborah A. O’Connor and Kathleen A. Sutherland, 06/10/2019*
Culture of Compliance -- Ethics

Causes for Unethical Behavior

– Following boss’s directives
– Meeting overly aggressive objectives
– Helping the organization survive
– Meeting schedule pressures
– Be a team player (“group think”)
– Rationalizing that others do it
– Resisting competitive threats
– Advancing own career

*Taken from “An Ethical Journey” Presentation by Deborah A. O’Connor and Kathleen A. Sutherland, 06/10/2019
System Ethics and Compliance Office

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