ETHICS: THE ROOT OF COMPLIANCE
What it is.
Why it matters.
How to get more of it.

Higher Education Compliance Conference
by Michael Josephson Josephson Institute of Ethics

What grade would you give
The ethics of society as a whole
The ethics of the college-age generation.
The ethics of your student population.
The ethics of your institution as a whole
The ethics of faculty at your institution.
Which is the bigger problem: Compliance or Ethics

Compliance
Ethics

If we solved all compliance problems would we also solve all or most of our ethical problems?

If we solved all ethical problems would we also solve all or most of our compliance problems?

Ethics Is Bigger Than Compliance

Compliance is about doing what you are required to do by laws or rules.

Ethics is about doing what you should do because it is right.
**Big E ethics**
- core principles about moral right and wrong; what it is to be a good and worthy person/institution

**Little E ethics**
- laws and rules (compliance ethics); gifts, conflicts of interest, etc. The Professional Code of Conduct

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**Why be ethical?**

- It's the smart thing to do – avoid criminal and civil penalties, trust and credibility are critical business assets, good companies attract top talent.
- It's the right thing to do – individuals and organizations have a moral responsibility to be ethical
- It leads to a personally gratifying and sustainable personal life.

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**Do these employees expect to be commended or condemned?**

The biggest risk is bad judgment
Don't let your career or the well-being of your company depend on the tip of a 2X4.

Sometimes a warning is enough to avoid unnecessary risk.

Sometimes it's wise to warn even about obvious risks.

Don't drive off the dock.
Risk Factor: People sometimes do really dumb things

The antidote: training, supervision and discipline

Warren Buffet:

“I look for three things in a new hire: energy, creativity and integrity. But if you don’t get the last thing, the first two will kill you.”

Find people with a moral compass and you won’t have to emphasize compliance.
Everybody thinks it can’t happen here…

Until it does.

How many employees have the power to make decisions that can create legal liability or damage the reputation of your institution?

The Law of Big Numbers

In every organization of size there are bound to be some people with bad judgment or weak character – and they may be working for you.
When the “I” isn’t straight, it can make a big difference in the end

Risks are created or eliminated by the choices and conduct of individuals

Cost of Rutgers Scandals

- $1.2 million settlement agreement for Tim Pernetti to resign as athletics director amid the fallout of the men’s basketball scandal.
- $475,000 settlement for Mike Rice, who was fired April 2 after a videotape showed the basketball coach physically abusing and berating his players in practice.
- $420,000 payout to general counsel John Wolf, who was pressured to resign for advising to suspend rather than fire Rice.
- $150,000 to Hill + Knowlton Strategies, a crisis management firm hired in the wake of the Rice scandal.
- $70,000 paid to Parker Executive Search, to identify candidates and perform background checks during a six-week search that resulted in the appointment of embattled incoming AD Julie Hermann.
- The $2.3 million doesn’t include the $575-an-hour rate the university has agreed to pay the law firm Skadden, Arps.

Penn State scandal costs exceed $44 million
BOLD ASSERTION #1

If we create a positive ethical culture that nurtures and demands a high level of integrity, respect, fairness and kindness, the likelihood of major incidents damaging your institution’s reputation and draining its resources is sharply reduced.

BOLD ASSERTION #2

We can identify culturally accepted attitudes and behaviors that subject the institution to financial and reputational risks.
BOLD ASSERTION #3
No matter how culturally entrenched, we can sharply reduce dangerous and damaging conduct almost immediately and eventually convert it to a minor concern if we devise and implement an effective detection and enforcement system.

BOLD ASSERTION #4
Once behavioral norms change, the culture will follow.

BOLD ASSERTION #5
Someone with the authority to reduce unacceptable risks already knows about but accepts or looks the other way at conduct that should be eliminated.
So what is ethics?

Ethics is not just a factor to consider – it's a ground rule

"Perhaps "unethical" was the wrong word; I meant sort of complex — legally complex ...

"THIS MIGHT NOT BE ETHICAL. IS THAT A PROBLEM FOR ANYBODY?"

Drawing by Vistar; (c) 1987 The New Yorker Magazine, Inc.
You can’t avoid ethical responsibilities by ignoring them

“MISS JOHNSON WILL NOW PASS OUT THE MORAL BLINDERS.”

Why do we have to talk about something that is so obvious?

Bagger Vance
If you change your perspective you change the way you experience the world.

Three stonemasons were asked what they were doing.
- The first man replied: “I am making bricks from this stone.”
- The second said: “I am making the foundation for a building.”
- The third answered: “I am building a cathedral.”

So what? What difference does it make how a person looks at his work?

The Parable of the Master Carpenter

Do you see the arrow?
Do you see the arrow?

FedEx

Do you see the arrow?

FedEx

What does your arrow say about you?

What values are critical to you personally?

What values are critical to your firm?

How do you assure that everyone in your firm upholds your values?

What is your responsibility to your clients to assure that they conduct business ethically as well as legally?
How many arrows are there?
How much larger is the car in back compared to the car in front?

Circle the largest car
Ethics is about right and wrong and how an honorable person should behave.

Values refers to all important beliefs. Ethics refers only to beliefs about moral right and wrong.

Values Are Different Than Ethics

There’s a big difference between what you have a right to do and what is right to do.
Justice Potter Stewart, U.S. Supreme Court

- Ethics requires us to give up the idea that an act is proper simply because it is permissible or that an act is ethical so long as it is legal.
- An ethical person often chooses to do more than the law requires and less than the law allows.
Ethics is not about the way things are. It’s about the way they ought to be.

Beyond Legalism

In today’s environment, a narrow legalistic mentality will not only be inadequate, it can substantially increase risks.

Fueled by new laws and intense public cynicism, journalists, regulators, and prosecutors have become more creative and aggressive in bringing charges that can result in huge costs irrespective of technical legalities.

If you could interview the people who would date and might marry your children, what qualities are essential to you?
But what does this have to do with the ethics in your organization?

What does management want from employees?
What do employees want from their managers?
What does the public want and expect from its universities?
The Five Principles of Public-Service Ethics

- **Public Interest:**
  - Public office is a trust to be used only to advance public interests, not personal gain.
  - Make decisions on the merits, using only proper criteria without partiality or prejudice and unimpeded by conflicts of interest.
  - Conduct government openly, efficiently, equitably, and honorably so the public can make informed judgments and hold public officials accountable.
  - Honor and respect democratic principles and observe the letter and spirit of laws in good faith.
  - Safeguard public confidence in the integrity of government by avoiding the appearance of impropriety and conduct unbecoming a public official.

**The Six and the Five**

- **Public Service Ethics:**
  - Respect
  - Responsibility
  - Truthfulness
  - Caring
  - Citizenship

**The Five Principles of Public-Service Ethics:**

- Public Interest
- Objective Judgment
- Accountability
- Democracy
- Respectability

2012 Report Card on Values and Conduct of American Youth

In 2012, the Josephson Institute of Ethics conducted its 9th study of the ethics of American youth.

The 2012 initiative surveyed more than 23,000 high school students in all demographics, including public, private, and charter schools.
And they lie and cheat

I sometimes lie to save money: 38% (33% females; 45% males)
I cheated during a test at school in past year: 51%.
I lied to a teacher about something significant in past year: 55% (51% females; 59% males)

The theft rate is alarming

Stole something from a store in past year: 20% (17% females; 23% males)
Stole something from a parent or relative in the past year: 18% (15% females; 21% males)
Stole something from a friend in the past year: 14% (10% females; 19% males)

Alcohol
- Binge drinking 32% of 12th graders, 14% of 9th graders had 5 or more drinks on at least 1 day during the past 30 days.
- 19% of high school boys, 7% of middle schoolers were drunk at school at least once in past year.

Drugs
- 26% of students were offered, sold or given drugs at school in the past year.
Bullying
According to the survey, what is the percentage of High School students who:

- Say that physical violence (fighting, bullying, intimidation) is a "big problem" at their school. 34%
- Admitted they bullied, teased, or taunted someone in the past 12 months. 50%
- Say they had been bullied, teased, or taunted in a way that seriously upset them. 47%
- Do not feel very safe when they are at school. 24%

Rape
- 12% of high school girls said they had been forced to have sexual intercourse at least once in their lives.

Sex
- 18% of high school boys, 13% of girls has sexual intercourse with at least 4 different partners.

Pregnancy
- 14% of high school girls say they were pregnant at least once in their lives.

It's even worse than it looks

Admit they lied on at least one question: 30%

Experts agree that dishonesty on a survey invariably understates negative behaviors and attitudes.
What can be done about it?

What can be done to increase ethics?
- Ethics training – online and classes
- Assessments
- Establishing and ethical culture
  - HR policies – hire for character train for skills
  - TEAM – teach, enforce, advocate, model
  - Best possible result decision making

Establishing an Ethical Culture
How does a healthy body deal with an infection (an antigen)?

Our immune system consists of white blood cells which produce antibodies which attack, surround and consume the antigen.

In a healthy organization detrimental attitudes and behavior are surrounded and overcome by values-driven employees who act as anti-bodies.

In a healthy organization most forms of misconduct are prevented or limited without any need to report the activity.

An ethical culture is a pervasive organizational climate that promotes ethical conduct and discourages unethical conduct.

Ethical values are in the DNA of the organization. It's easier and more rewarding to do the right thing than the wrong thing. Everyone is expected to be concerned with discerning, doing, and requiring others to do the right thing.

An ethical culture exists when formal and informal incentives:

Nourish and promote ethical conduct such as honesty, moral courage, respectfulness, responsibility, fairness, caring and good citizenship and

Discourage and prevent unethical conduct such as deceit, disrespect, unaccountability, unfairness, selfishness and lawlessness.
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Teach, Enforce, Advocate, Model

T.E.A.M.
Effective
Ethical
Best Possible Result

Outcome: Decision-Making

Actions are the result of choices
Attitudes are the result of choices
Choices create consequences
Each change in attitude or actions creates different consequences
Good choices create good consequences
Good choices produce good results. Better choices create better results. The best choices produce the best possible result.

Rational Decision-Making Versus Rationalizations

The difference between a rational decision and a rationalization is based on when the reasoning process takes place.

In a rational decision one reasons first in order to reach a conclusion.

In a rationalization the reasoning process is used to justify a conclusion or decision.

When confronted by an approaching bear

*I don't have to out run the bear...*

*I just have to out run you!*
If you want to know how to live your life, think about what you’d like people to say about you after you die – and live backwards.

“Our souls are not hungry for fame, comfort, wealth or power. Our souls are hungry for meaning, for the sense that we have figured out how to live so that our lives matter, so that the world will be at least a little bit different from our having passed through it.” - Harold Kushner

What you’re doing won’t make a difference.

It does to this starfish.
WHAT WILL MATTER
By Michael Josephson © 2003

Ready or not, some day it will all come to an end. There will be no more sunrises, no minutes, hours or days. All the things you collected, whether treasured or forgotten will pass to someone else. Your wealth, fame and temporal power will shrink to irrelevance. It will not matter what you owned or who you were, or who you knew, or what side of the tracks you lived on at the end. It won't matter whether you were beautiful or brilliant. Even your gender and skin color will be irrelevant.

So what will matter? How will the value of your days be measured? What will matter is not what you bought but what you built, not what you got but what you gave. What will matter is not your success but your significance. What will matter is not what you learned but what you taught. What will matter is not your competence but your character. What will matter is not how many people you knew, but how many will feel a lasting loss when your gone. What will matter is not your memories but the memories that live in those who loved you. What will matter is how long you will be remembered, by whom and for what. Living a life that matters doesn’t happen by accident. It’s a matter of circumstance but of choice. Choose to live a life that matters.