

Higher Education Compliance Year In Review

**2019 HCCA
Higher Education Compliance Conference**

1



Welcome

Luanna Putney, Chief Ethics & Compliance Officer,
University of California, Merced



Marisa Zuskar, Higher Ed Consulting Senior
Director, Huron

2



Agenda

Year In Review

1. Admissions Challenges
2. Sponsored Research Compliance
3. Campus Safety
4. Foreign Influence

1

Admission challenges

Admission Challenges

College Admissions Scandal: Introduction



Eight institutions and fifty individuals—parents, exam administrators, college advisors, and athletic coaches—are under investigation by the DOJ for involvement in the US’s largest college admissions scandal.

- Students admitted with **false credentials** or received **exam assistance**.
- Bribes ranged from **\$15K to \$6.5M**
- Admitted students mostly unaware of their parents’ actions.

Sources: US Attorney District of Massachusetts, [Investigations of College Admissions and Testing Bribery Scheme](#), March 12, 2019; USA Today, [Fake disabilities, photoshopped faces: How feds say celebrities, coaches and scammers got kids into elite colleges](#), March 12, 2019



5

5

Admission Challenges

College Admissions Scandal: An Example

Yale University



As a result of the admissions scandal, Yale...

- Rescinded admission of one student admitted under false credentials.
- Announced an internal review of their admissions system with assistance from external investigators.
- Instituted new policies to perform a central review of student athletes by the Director of Athletics office, instead of accepting verification by each coach.

Sources: Yale Daily News, [Salovey announces Yale actions in response to admissions scandal](#), March 15, 2019; Yale Office of the President, [Frequently Asked Questions Related to Admissions Fraud Scheme](#), March 26, 2019



6

6

Admission Challenges Affirmative Action: Introduction



The discussion of preferential treatment based on racial or socioeconomic status has ignited intense public controversy.

- **Lawsuit against Harvard** filed by Students for Fair Admissions going to trial.
- Similar lawsuit accuses UNC-Chapel Hill of **using race “at every stage” of the admissions** process.
- Recent **conservative shifts** in Supreme Court.

Sources: Inside Higher Ed, [Affirmative Action Fight Shifts to UNC](#), January 22, 2019; Slate, [Affirmative Action Is About to Face a Judicial Assault](#), February 12, 2019; The Boston Globe, [In Harvard affirmative action case, judge appears skeptical](#).

Admission Challenges Affirmative Action: An Example

Texas Tech University



Texas Tech University’s medical school has ended consideration of race in selecting candidates for admission.

- Showcases the Trump administration’s pursuit to limit the consideration of race in admissions.
- Civil rights groups argue that this agreement does not promote equal opportunity for minorities.

Sources: NPR, [Texas Tech Medical School To End Use Of Race In Admissions](#), April 9, 2019; Inside Higher Ed, [OCR Tells Med School to Stop Considering Race in Admissions](#), April 10, 2019

Admission Challenges

Compliance Impact: Regulatory Response

In response to the admissions scandal, California's state legislature has proposed six new laws:

Strengthening Checks and Balances on Special Admissions	Banning Preferential Admissions for Donors & Alumni	Phasing Out Use of the SAT & ACT
Regulating College Admissions Consultants	Prohibiting Fraudulent Tax Write-Offs	Auditing Risks of Fraud in Admissions

Several states have replaced affirmative action programs with systems that guarantee a certain percentage of top high school students admission into public universities.

Source: Assembly member Phil Ting, [Assemblymembers Propose College Admissions Reform & Oversight](#), March 28, 2019



9

9

Admission Challenges

Compliance Impact: Institutional Action

Conduct A Self-Assessment:

- Do you perform regular internal reviews of current admissions policies across the student life-cycle?
- Is a closer examination of students admitted through special situations warranted?

Preventative Actions:

- Conduct regular review of affirmative action programs to ensure compliance
- Exert more oversight / reform over students designated as athletic recruits
- Establish processes / automated flags to identify and focus review on high risk applications (e.g. special admits, those that name campus donors)

Sources: NPR, [Why The College Admissions Scandal Hurts Students With Disabilities](#), March 14, 2019; The Chronicles of Higher Education, [We Asked 20 Elite-College Admissions Deans About the Bribery Scandal. Here's What They Said.](#), March 19, 2019; Assemblymember Phil Ting, [Assemblymembers Propose College Admissions Reform & Oversight](#), March 28, 2019



10

10

2

Sponsored Research Compliance

11

Sponsored Research Compliance Introduction

Several compliance violations related to sponsored research, both programmatic and administrative, continue to come to light.



12

Sponsored Research Compliance Research Misconduct: An Example

Duke University



Duke was found in violation of the False Claims Act and will pay \$112.5 million.

- A coordinator falsified data on 30 grants worth \$200M between 2006-2018 and was fired for embezzlement.
- Twelve research papers have been retracted from publication.

Duke has taken steps to improve research integrity:

Appointed an Associate Vice Provost and Vice Dean for Scientific Integrity

Established an Office of Scientific Integrity

Required science and accountability plans for the School of Medicine

Sources: The Chronicle of Higher Education, [Duke to Pay \\$112.5 Million to Settle Scientific-Misconduct Lawsuit](#), March 25, 2019; Duke Today, [DUKE AND U.S. GOVERNMENT REACH SETTLEMENT](#), March 25, 2019



13

13

Sponsored Research Compliance Conflicts of Interest: An Example

Memorial Sloan Kettering Cancer Center

The chief medical officer of MSK, Dr. José Baselga, failed to disclose millions of dollars of payments from health care companies.



- Dr. Baselga failed to disclose industry ties in 60% of ~180 published research articles since 2013.
- An external investigation found other MSK top executives and board members had profited from relationships with biopharma and other corporate relationships.
- MSK is in the process of a COI and COC policy overhaul.

Sources: Endpoint News, [Outside review confirms top Memorial Sloan Kettering executives flouted conflicts-of-interest policies — report](#), April 5, 2019; ProPublica, [Top Official at Memorial Sloan Kettering Resigns After Failing to Disclose Industry Ties](#), September 13, 2018



14

14

Sponsored Research Compliance Financial Management: An Example

University of Wisconsin-Madison



University of Wisconsin-Madison agreed to pay \$1.5M in fines for overcharging on federal awards.

- The University improperly accounted for rebates and credits that should have reduced costs allocable to federal grants and awards.
- The University failed to comply to its own accounting standards and OMB cost principles.

Sources: US Attorney's Office Western District of Wisconsin, [University to Pay \\$1.5 Million to Settle False Claims Act Allegations](#), March 21, 2019; Wisconsin State Journal, [UW-Madison settles with U.S. government for \\$1.5 million over 'technical accounting issue'](#), March 21, 2019



15

15

Sponsored Research Compliance Compliance Impact: Institutional Action

Conduct A Self-Assessment:

- Have you conducted a review of internal controls impacting financial compliance in sponsored research?
- How is the scientific integrity of research studies monitored and regulated at your institution?

Preventative Actions:

- Exert appropriate oversight of study teams and labs performing research
- Allow for appropriate hotlines / communication channels to escalate concerns
- Respond quickly to internal allegations or concerns of research fraud
- Perform regular reviews of internal controls and financial management practices

Source: JDSupra, [When Research Misconduct Violates the False Claims Act: Lessons from Duke's \\$112.5M Settlement](#), April 3, 2019



16

16

3

Campus Safety

17

Campus Safety Introduction

Questions have risen around how universities report and handle allegations of sexual assault, freedom of association, and gender discrimination.

- The **Clery Act** has resurfaced in importance, with the recent issues in universities **reporting and managing sexual assault** cases.
- Administrators are grappling with **unsafe off-campus activities** that leave undergraduates vulnerable and **jeopardize the fairness** of single-sex organizations



Sources: The Chronicle, [Stalking, Domestic Violence Crimes on the Rise at Duke, According to Clery Act Report](#), September 21, 2018; The Kansas City Star, [Missouri Senator Dangles Threat to Mizzou Funding over its Title IX Policies](#), February 22, 2019; Forbes, [Understanding the Dueling Lawsuits Against Yale and Harvard Over Fraternities and Sororities](#), February 19, 2019; The New York Times, [Women Sue Yale Over a Fraternity Culture They Say Enables Harassment](#), February 12, 2019

18

Campus Safety Title IX: An Example

Harvard University



Students have sued Harvard for discouraging single-sex social clubs.

- Harvard has banned members from these organizations from holding campus-wide leadership positions.
- Students want the university to end sanctions against single gender organizations, arguing this violates their constitutional right to free association.

Source: Forbes, [Understanding the Dueling Lawsuits Against Yale and Harvard Over Fraternities and Sororities](#), February 19, 2019;

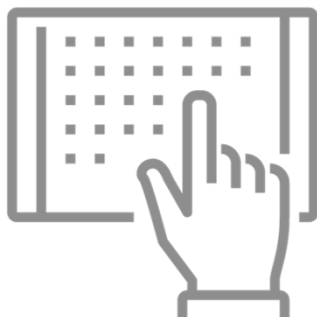


19

19

Campus Safety Clery Act: An Example

Green River College



Green River College was found to have violated the Clery Act and is facing a \$250,000 fine.

- The U.S. Department of Education found that the college inaccurately tracked crime statistics, and failed to publish fire and safety reports and develop a drug-prevention program.
- Green River lacked administrative capability to adequately administer adequate Clery Act-compliant programs.
- This fine was reduced from \$574,500.

Source: [Seattle Times, Green River College Appealing \\$574,000 Fine for Federal Violations](#), October 4, 2018



20

20

Campus Safety Compliance Impact: Regulatory Response

Current DOE proposals to change Title IX have been considered duplicative of or hindering existing university efforts.

Focus is shifting from rights of the accuser to rights of the accused.

Schools cannot investigate using “single investigator” or “investigator-only” model	Adopts the Clery Act definition of sexual assault	Appeals must be available to both parties
Explicitly requires basic due process of accused students	Requires written notice of allegations and an equal opportunity to review all collected evidence	Implement the right to cross-examination, subject to “rape shield”

Sources: USA Today, [Students Afraid to Study Abroad Under Title IX Proposal](#), February 7, 2019; ; NPR, [Former Title IX Official Outlines Changes to How Colleges Handle Sexual Assault Cases](#), November 19, 2018.; Association of American Universities, [Higher Education Associations Comment on Department of Education’s Proposed Title IX Rule](#), January 30, 2019; U.S. Department of Education, [Secretary DeVos: Proposed Title IX Rule Provides Clarity for Schools, Support for Survivors, and Due Process for All](#), November 16, 2018.



Campus Safety Compliance Impact: Institutional Action

Conduct A Self-Assessment:

- What precautions are taken to prevent Clery Act and Title IX violations?
- Are practices in place to allow for timely response, including institutional reporting?

Preventative Actions:

- Require staff and students to take Title IX training courses.
- Implement policies, procedures and tools to encourage prompt reporting.
- Develop policies and procedures in alignment with guidance from the Handbook for Campus Safety and Security Reporting. Promote and support campus safety awareness campaigns.
- Create safe and inclusive spaces for students on campus.

Sources: Clery Center, [Compliance Overview of Title IX, DFSCA, and FERPA](#); U.S. Department of Education, [Handbook for Campus Safety and Security Reporting](#).



4

Foreign Influence

23

Foreign Influence Introduction

Internationalization diversifies college campuses and promotes cross-cultural engagement, but also presents new risk areas and compliance concerns.



- Federal intelligence, security, and science agencies and members of Congress have expressed increasing concern regarding various forms of **foreign interference on research** performed at U.S. universities.
- National Institutes of Health has referred **several allegations regarding foreign influence in biomedical research** to federal investigators.

24

Foreign Influence An Example

MD Anderson Cancer Center

Foreign scientists were ousted after concern that China was trying to steal U.S. scientific research.



- The NIH notified MD Anderson of five ethnically Asian scientists who had **foreign conflicts of interest or unreported foreign income**.
- Concern has arisen that racial profiling is used to target researchers.
- Dozens of institutions across the country have been **notified by the NIH** of similar concerns of inappropriate foreign influence.

Source: Houston Chronicle, [MD Anderson ousts 3 scientists over concerns about Chinese conflicts of interest](#), April 19, 2019



25

25

Foreign Influence Compliance Impact: Regulatory Response

The Section 1286 of the FY 2019 National Defense Authorization Act (NDAA) requires the Department of Defense to work with academic institutions performing defense research to:

Support protection of intellectual property, controlled information, key personnel, and information about critical technologies relevant to national security	Limit undue influence, including through foreign talent programs, by countries to exploit science, technology, and innovation enterprise	Support efforts toward development of domestic talent in relevant scientific and engineering
---	--	--

Source: U.S. Congress, [H. R. 5515](#), January 3, 2018



26

26

Foreign Influence Compliance Impact: Institutional Action

Conduct A Self-Assessment:

- What is your inventory of current campus security-related activities?
- Are reviews of grant controls and COI/COC included in your audit plan?

Preventative Actions:

- Conduct an education campaign to encourage disclosure of foreign support.
- Communicate with faculty about potential security threats and provide reminders of federal and university disclosure and export controls requirements.
- Consider implementation of additional campus policies and practices, such as international research committees, to bolster security and mitigate risk.

Source: University of California Berkeley Research, [Research Compliance](#), n.d.



27

27

Thank you

© 2018 HURON CONSULTING GROUP INC. AND AFFILIATES. ALL RIGHTS RESERVED.

28