Institution-wide Compliance Assessment: What It Is and Why You Need to Do It

June 3, 2020

Today’s speakers

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Learning objectives

- Understand the key elements (e.g., structures, processes, key activities) and benefits of performing an institution-wide compliance program assessment.
- Discuss the role of the compliance function, as well as other stakeholders, in executing an institution-wide compliance program assessment.
- Learn how to leverage the results of a compliance program assessment within the organization's risk management framework to provide value to institutional stakeholders.

Agenda

- Institution-wide compliance assessment basics
- Assessment roles and responsibilities
- Tools and frameworks
- Providing value
- Lessons learned and key takeaways
POLLING QUESTION
Does your institution have a centralized, institutional compliance program?
A. Yes
B. No, but we are considering establishing an institutional compliance program
C. No, and we have no plans at this time to create an institutional compliance program
D. Unsure

Institution-wide compliance assessment basics
INSTITUTION-WIDE COMPLIANCE ASSESSMENT BASICS

Introduction to institution-wide compliance assessments

Primary objectives of compliance assessments are to:

- **Evaluate the effectiveness and alignment** of an institution’s compliance structure and processes with the institution’s current and future needs
- **Inform decision-making** for institutional leadership

The engagement team **assesses the structure** of the institution’s compliance function relative to **industry leading practices and federal expectations** for compliance programs via a combination of documentation review and interviews of stakeholders.

INSTITUTION-WIDE COMPLIANCE ASSESSMENT BASICS

Benefits of compliance assessment

1. **Enhance strategic compliance oversight and improve alignment of resources** with strategic priorities
2. **Evolve compliance monitoring** and improve responsiveness to compliance and strategic needs
3. Gain clear and **optimized roles and reporting structures**
4. **Expand collaboration efforts** across various compliance functions to drive improvements across the institution
5. **Communicate roles and expectations** for the institution’s compliance function to better position itself to support the institution in the future
Benefits of a compliance program assessment at the University of Tennessee (UT)

Having an independent, outside assessment:

- Provides assurance to executive management
- Helps evaluate how you are doing now (current state), but also provides insight into where you need to be headed (future state)
- Helps achieve objectives that require executive management buy-in and support

Overview of UT’s compliance program

The UT Institutional Compliance program was formed in 2008 at the request of the Board of Trustees’ Audit Committee.

Component of the Office of Audit and Compliance, operates independently.

The program forms the organizational infrastructure and reporting mechanisms to support a “culture of compliance” at the University.

The program is built on the standards established by the Federal Sentencing Guidelines.
Overview of UT’s compliance program

- The main duty is facilitating the compliance risk assessments that are performed at each of the campuses, institutes, and System-level
- The office maintains a list of the regulations that represent the greatest compliance concerns
- This broad list spans a wide spectrum of compliance concerns and is approximately 440 in number
Overview of UT’s compliance program

A primary tenet of the compliance program is that an individual is assigned primary responsibility for compliance at each campus and institute for each regulation in our “compliance universe”

We perform a comprehensive compliance risk assessment at each campus and institute every five years

We facilitate Campus- and System-level committees

Reports presented to the Audit and Compliance Committee

In summary, the program provides management assurance that:

- Regulations with potentially significant compliance risk have been identified
- Individuals have been assigned responsibility for compliance
- The University has made a good faith effort to identify our compliance risks
- Risk mitigation plans have been developed and are being tracked where appropriate
POLLING QUESTION

What are your compliance priorities right now during COVID-19?

A. CARES Act
B. Online education
C. Reimbursements to students
D. All of the above are priorities
E. Other

INSTITUTION-WIDE COMPLIANCE ASSESSMENT BASICS

Impetus for conducting an assessment at UT

Need for an independent review of the effectiveness of the structure and processes of the University system’s institutional compliance program, including:

- Review of the governance structure for the UT system’s institutional compliance function
- Assessment of the organizational structure of the compliance program, including: program governance, composition and responsibilities of the various compliance committees, and responsibilities of campus compliance officers
- Inclusion of the Federal Sentencing Guidelines of Organizations related to Effective Compliance and Ethics Program requirements as it applies to the UT system’s Institutional Compliance Program
Institution-wide compliance assessment process

- Evaluate organizational structure and responsibilities
- Review relevant documentation (e.g., job descriptions, compliance and risk management tools and methodologies, policies and procedures)
- Interview stakeholders to gather feedback on compliance program effectiveness
- Analyze program relative to industry leading practices, organizational structure, and Federal expectations for compliance programs

Assessment considerations for institutions wanting to implement a university-wide compliance program

- Review existing compliance management activities across the university’s many operational areas
- Understand perspectives of senior leadership regarding structure and alignment of compliance governance and oversight functions
- Develop a roadmap for formalizing and enhancing existing processes into an evolved, university-wide compliance program
- Facilitate conversation on recommended holistic institutional compliance approaches with executive stakeholders
Assessment roles and responsibilities

**Assessment team**

<table>
<thead>
<tr>
<th>INTERNAL</th>
<th>EXTERNAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Self-assessment performed by compliance team</td>
<td>• Compliance leaders from other institutions</td>
</tr>
<tr>
<td></td>
<td>• Subject matter experts (e.g., professional services, associations)</td>
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<tr>
<td></td>
<td>• Combination of institutional leaders and subject matter experts</td>
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</tbody>
</table>
Key university stakeholders involved in assessment process

Members of university compliance program team
Audit and compliance Board committee members
Compliance-related committee/council members
Compliance leadership at other campuses or system schools
Key members of senior leadership

Interviewees included in UT’s assessment

Audit and Compliance Committee members  Vice President for Research and Outreach  Director of Institutional Compliance
Chancellors  General Counsel  Compliance Officer, Office of Sponsored Programs
Assistant or Associate Vice Chancellors  Executive Vice President  Institutional Compliance Officers
Chief Financial Officer  Vice Provost for Faculty Affairs  Chief Audit and Compliance Officer
Treasurer  President  Compliance Administrator
Has your institution conducted an assessment of its institutional compliance program?

A. Yes, recently
B. Yes, but it is probably time to do so again
C. No, but are planning to do one soon
D. No, and we currently do not plan to do so
E. Unsure or not applicable

Tools and templates
Technical considerations for compliance assessments

Three Lines of Defense model

Federal Sentencing Guidelines

Collaboration with stakeholders to best meet institutional needs

1st Line of Defense
Day-to-day management of risks
- All University Units (i.e., business owners)
- Manage day-to-day compliance activities
- Implement procedures and monitoring processes to mitigate compliance risk
- Maintain internal controls

2nd Line of Defense
Oversight, monitoring, and/or advising
- Institutional Compliance
- Compliance Oversight Functions (e.g., IRB, IACUC, biosafety)
- Enterprise Risk Management
- Office of General Counsel
- Office of Risk Management
- Establish overarching policy and process for compliance management
- Oversees and monitors certain compliance areas
- Identify compliance trends and opportunities
- Initiate change, integration, and operationalization of mitigation strategies

3rd Line of Defense
Independent and objective assurance
- Board of Trustees
- Office of Internal Audit
- External Audit
- Regulator
- Senior Management
- 1st Line of Defense
- 2nd Line of Defense
- 3rd Line of Defense

Collaboration with stakeholders to best meet institutional needs
Important elements of a compliance program: Federal Sentencing Guidelines

- Prevention and detection of criminal conduct
- Leadership oversight of the compliance program
- Reject individuals with a history of misconduct from leadership positions
- Effective training on compliance program
- Monitoring of the mechanism used for reporting
- Positive reinforcement/punishment for misconduct
- Initiate investigations in a timely manner
- Implement periodic modifications to compliance program

Tools and templates to support analysis: Collaboration with stakeholders

- Maturity models
- Surveys and questionnaires
- Frameworks
- Matrices to synthesize information and identify themes
Example survey questions

<table>
<thead>
<tr>
<th>Question</th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
<th>Don’t Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>The compliance function adds value and helps the university accomplish its objectives.</td>
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<tr>
<td>I know where to find the university’s confidential or anonymous mechanisms (e.g., hotline) to report misconduct.</td>
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<td>Hotline reports are kept confidential and only shared on a need-to-know basis.</td>
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<tr>
<td>I can make a report or seek guidance regarding potential misconduct without fear of retaliation.</td>
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<tr>
<td>Compliance responds quickly and appropriately to allegations of misconduct.</td>
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Example matrix

<table>
<thead>
<tr>
<th>Key Elements</th>
<th>Work Steps</th>
<th>Assessment Questions</th>
<th>Assessment Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standards and Procedures</td>
<td>(1) Review the university's practices by interviewing key officials to discuss procedures and reviewing current policies. (2) Perform gap analysis/assessment against expected policies compared to major regulatory requirements. (3) Review the university's policy governance practices (i.e. policy-on-policy).</td>
<td>(1) Are compliance expectations included in a written code of conduct or code of ethics? (2) Has the compliance program been implemented within the organization? (3) Does the compliance program provide guidance to employees and others associated with the university on how to identify and communicate compliance issues to compliance personnel?</td>
<td></td>
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<tr>
<td>Communication and Education</td>
<td>(1) Check the university's training procedures, and determine whether or not they are adequate. (2) Understand who is subject to training, what training they receive and compare it to the training that is required. (3) Review training materials for consistency with regulatory expectations and university policy. (4) Test that a subset of employees have received the required trainings.</td>
<td>(1) Is there evidence of compliance training program which includes the Code of Conduct/Ethics; expectations of the compliance program; and how the compliance program operates? (2) Are there accessible mechanism(s) for the governing board, management, employees and others associated with the university to communicate compliance related concerns to the responsible compliance position? What examples exist of how the Compliance Officer discusses those points? (3) Do the accessible mechanisms include methods for anonymous or confidential communication?</td>
<td></td>
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</table>
**Example framework***

<table>
<thead>
<tr>
<th>Number</th>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Written policies and procedures</td>
<td>Does the compliance program describe how potential compliance problems are investigated and resolved?</td>
</tr>
<tr>
<td>2</td>
<td>Designate an employee vested with responsibility</td>
<td>Does the responsible compliance position report to the CEO or other senior staff (and not through the legal department or the CFO)?</td>
</tr>
<tr>
<td>3</td>
<td>Training and education</td>
<td>Are new employees, board members and affiliates trained in compliance so that they could identify circumstances of fraud, waste and abuse?</td>
</tr>
<tr>
<td>4</td>
<td>Communication lines to the responsible compliance position</td>
<td>Are there accessible mechanism(s) for the governing board, management, employees and others associated with the organization to communicate compliance related concerns to the responsible compliance position? What examples exist of how the Compliance Officer discusses those points?</td>
</tr>
<tr>
<td>5</td>
<td>Disciplinary policies to encourage good faith participation</td>
<td>If disciplinary action was taken, was discipline fairly and consistently applied regardless of the perpetrator’s position with the organization?</td>
</tr>
<tr>
<td>6</td>
<td>A system for routine identification of compliance risk areas</td>
<td>Does the organization routinely evaluate potential or actual non-compliance as a result of its self-evaluations and audits?</td>
</tr>
<tr>
<td>7</td>
<td>A system for responding to compliance issues</td>
<td>Does a system or methodology exist to periodically prioritize compliance oversight of activities that are the most serious or most likely to occur?</td>
</tr>
<tr>
<td>8</td>
<td>A policy of non-intimidation and non-retaliation</td>
<td>Are allegations of intimidation or retaliation fully and completely investigated? What history exists associated with investigations of allegations of intimidation or retaliation?</td>
</tr>
</tbody>
</table>

*Source: New York State Office of Medicaid Inspector General

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**Example maturity model**

<table>
<thead>
<tr>
<th>Level 5: Optimized</th>
<th>Level 4: Managed</th>
<th>Level 3: Defined</th>
<th>Level 2: Repeatable</th>
<th>Level 1: Initial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Processes continually improved upon through incremental and innovative advancement.</td>
<td>Management uses defined metrics to monitor and control processes.</td>
<td>Processes are defined, documented, and communicated.</td>
<td>Processes are repeatable, possibly with consistent results.</td>
<td>Processes are ad hoc, rarely defined, and dependent on individual accountability.</td>
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**Standards and Procedures** | **Due Diligence** | **Oversight and Delegation of Authority** | **Communication and Education** | **Monitoring and Auditing** | **Enforcement and Discipline** | **Response and Prevention** |
Polling Question

How has COVID-19 affected your institution's focus on compliance?

A. My institution is more focused on compliance
B. My institution is less focused on compliance due to competing priorities
C. No change
D. Other
Enhancements made to UT’s compliance program as a result of the assessment and recommendations.

- Increasing management involvement in verifying compliance priorities, including the campus Chancellors’ cabinets and the system President’s staff.
- Establishing the analysis and reporting infrastructure for addressing strategic compliance concerns at both the campus and system level.
- Improving senior management feedback to include executive management and compliance officer supervisors; previously, we only collected feedback from the compliance officers.

Enhancements made to UT’s compliance program as a result of the assessment and recommendations, cont.

- Clarifying the role of institutional compliance to collaborate with the various campuses and institutes in compliance initiatives – now have the directive to do this.
- Coordinating involvement with the Enterprise Risk Management (ERM) process.
- Discussing with the Board Audit and Compliance Committee “re-awakened” the emphasis on ERM at the system level.
Combined office including internal audit, ERM and compliance

- Synergies in strategic executive leadership requirements
- Similar areas of focus and reporting, monitoring capabilities, and requirements
- Need for cross-campus relationship and influence
- Independence considerations
- View of compliance as "policing"
- Need for cross-campus relationship and influence
- Balance of leadership time and resources among the various components

Hybrid office of ERM and compliance

- Combined focus of risk and compliance to drive organization discussion and management
- Limited experience related to monitoring activities
- Balance of time and resources between the various components
- Need to establish and build influence with Board and senior leaders
Stand-alone office of compliance

- Dedicated and clear focus on compliance and ethics program
- Fewer synergies may carry heavier resource requirements
- Must ensure appropriate reporting lines are in place
- Need to establish and build relationships and influence
- Lack of automatic integration with ERM

POLLING QUESTION

Where does your institutional compliance program reside?

A. Umbrella organization with Internal Audit and ERM
B. Umbrella organization with just Internal Audit or ERM
C. Standalone institutional compliance office
D. Other or not applicable
Lessons learned and key takeaways

Potential outcomes from an institution-wide assessment

Enhance strategic compliance oversight
- Involve senior leaders in strategic compliance considerations
- Streamline the risk assessment process

Evolve compliance monitoring and analytics

Expand collaboration efforts and communicate roles and expectations for the Office of Institutional Compliance
- Expand opportunities for sharing leading practices across the university’s system
- Coordinate ERM efforts with compliance and internal audit activities
LESSONS LEARNED

Possible institution-wide assessment challenges

1. Obtaining buy-in from the compliance program and institutional leadership
2. Selecting the right assessment team
3. Identifying the right interviewees and sequencing interviews effectively
4. Considering assessment team and interviewee availability
5. Keeping interviews focused

Key takeaways

- Gain institution-wide buy-in from the start
- Involve the right stakeholders
- Compare against leading practices and standards for compliance programs
- Monitor implementation of recommendations
Additional resources

- Higher Education Compliance Alliance (HECA) compliance matrix
- Organization for Economic Co-operation and Development (OECD) Council’s Good Practice Guidance on Internal Controls, Ethics, and Compliance
- United States Sentencing Commission (USSC) elements of an effective compliance program
- United States Foreign Corrupt Practices Act (FCPA) hallmarks of an effective compliance program
- New York State Office of Medicaid Inspector General Compliance Program Assessment Form

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