

Flip! Doing Compliance Better

*Has a More Efficient Strategy Been Right in Front of
Us All Along?*

SCCE Higher Education Compliance Conference

Anaheim, CA
June 10, 2022

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Questions We Plan to Answer

- Everyone who is a veteran in compliance knows about the “seven elements.” But have we been using them the right way?
- How might our compliance programs be more efficient if we flipped our current strategy?
- Might it be time to consider the parable of the Winchester House and how we can strategically reengineer our compliance programs to do compliance better?

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Poll Question #1

- Are you using the “seven elements” in your compliance program?
 1. Yes
 2. No



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Poll Question #2

- How often do you use at least one of the “seven elements” in your day-to-day compliance operations?
 1. Multiple times a day
 2. Every day
 3. Once a week
 4. Every few weeks
 5. Annually



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Brief Discussion

- What do you think it means to be “strategic” in your compliance programs?

(Please raise your hand and speak loudly 😊.)

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Strategic Compliance (Operational)

The “Seven Elements” as an Institution-wide
Compliance Strategy



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Thousands of Rules!

- **Ten Thousand Commandments 2020**

- An Annual Snapshot of the Federal Regulatory State
- <https://cei.org/10kc2020>

“Since 1993, when the first edition of *Ten Thousand Commandments* was published, agencies have issued **107,712** rules.”

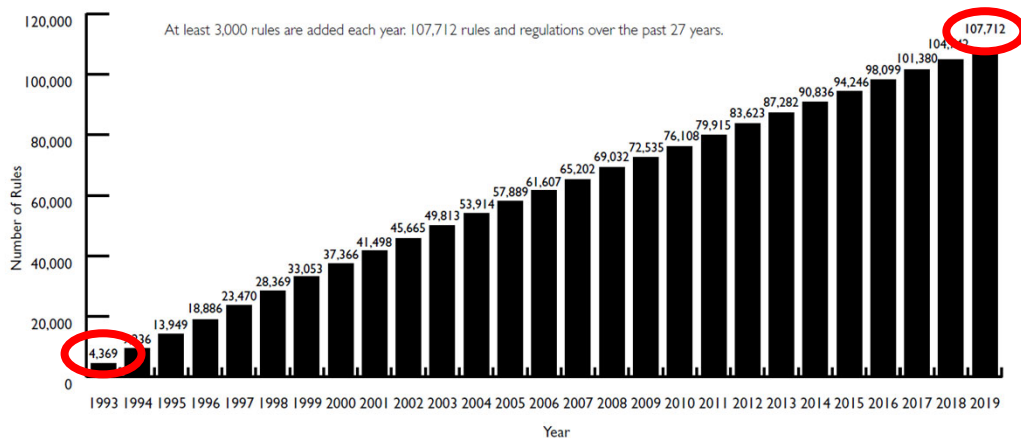
“Since the Federal Register first began itemizing them in 1976, **204,802** final rules have been issued.”

*From Ten Thousand Commandments 2020, page 49; Used with permission



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Figure 13. Cumulative Final Rules Published in the *Federal Register*, 1993–2019



Source: National Archives and Records Administration, Office of the Federal Register.

*From Ten Thousand Commandments 2020, page 49; Used with permission



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The Winchester House

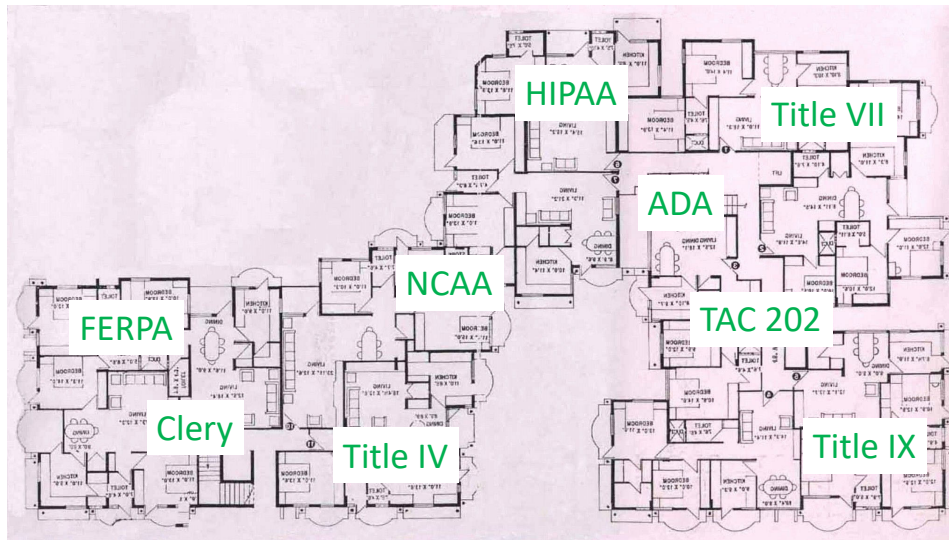
“From 1886 to 1922 construction seemingly never ceased as the original eight-room farmhouse grew into the world’s most unusual and sprawling mansion.”



<https://www.winchestermysteryhouse.com/sarahs-story/> Used with permission.

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Hypothetical Floor Plan of WH

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Laws and Regulations

Flip!

For now, all laws and regs are “off the table”

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Strategic Tip #1

Start with an overall goal for your compliance program, then move to strategy (no laws...at least not yet).

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Flip!

Goal:

Prevent, find, and fix compliance issues



“How?”

Strategy



(to be continued)

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Goal of Compliance Programs



PREVENT



FIND



FIX

(PFF)

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Goal ???s That Create Strategy

- How do we prevent?
- How do we find?
- How do we fix?



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Management Principle

Lead with questions, not answers.

- Jim Collins

Good to Great, p. 74

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Traditional “Seven Elements”*

- 1) Implementing written policies, procedures and standards of conduct.
- 2) Designating a compliance officer and compliance committee.
- 3) Conducting effective training and education.
- 4) Developing effective lines of communication.
- 5) Conducting internal monitoring and auditing.
- 6) Enforcing standards through well-publicized disciplinary guidelines.
- 7) Responding promptly to detected offenses and undertaking corrective action.

Let's discuss:

- How do we prevent?
- How do we find?
- How do we fix?

*Based on OIG guidance



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Strategic Tip #2

When developing a strategy, focus on supporting PFF *and* lead with questions (that will probably lead to “seven elements”-like answers).



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“How” – Leading with Questions

P
R
E
V
E
N
T

- 1) How do we know what to comply with? How do we assess the risks of these requirements?
- 2) How do we determine who is responsible for these compliance requirements? Overseeing? Strategizing? Managing? Doing?
- 3) How do we operationalize compliance with standards, policies, and procedures?
- 4) How do we communicate and train on compliance expectations and processes?

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“How” – Leading with Questions

P

- 5) How are we implementing, promoting, and enforcing compliance in our organization?

F
I
N
D

- 6) How do we know that what we are doing is working? Are we “in compliance”?

F
I
X

- 7) How are we improving our compliance programs?
- 8) How can we ensure our compliance programs are successful?

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Answer? The “Seven Elements”*

- 1) Implementing written policies, procedures and standards of conduct.
- 2) Designating a compliance officer and compliance committee.
- 3) Conducting effective training and education.
- 4) Developing effective lines of communication.
- 5) Conducting internal monitoring and auditing.
- 6) Enforcing standards through well-publicized disciplinary guidelines.
- 7) Responding promptly to detected offenses and undertaking corrective action.

*Based on OIG guidance



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Shhh...

Please do not tell anyone! 😊

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Strategic Tip #3

Collaboratively design a compliance strategy that supports PFF and works for your organization (and is “in compliance” with FSG, DOJ, COSO, etc.)



Sample Strategy

The Ohio State University (5 areas; 10 activities; 2 elements)

1. Risk assessment and abatement
 - Regulatory inventory
 - Risk assessment
 - Planning
2. Communication
 - Policies
 - Training
3. Operational controls
4. Evaluation
 - Testing
 - Monitoring
5. Issue response and reporting
 - Three activities



* Maps to DOJ 2020 Compliance Guidance



From Gates Garrity-Rokous
Vice President and Chief
Compliance Officer

Poll Question #3

Where is The Ohio State University “finding” (primarily)?

1. Risk assessment and abatement
2. Communication
3. Operational controls
4. Evaluation
5. Issue response and reporting



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Poll Question #4

Where is The Ohio State University “fixing” (primarily)?

1. Risk assessment and abatement
2. Communication
3. Operational controls
4. Evaluation
5. Issue response and reporting



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Ohio State and “Preventing”

Where is The Ohio State University “preventing” (primarily)?

1. Risk assessment and abatement
2. Communication
3. Operational controls
4. Evaluation
5. Issue response and reporting

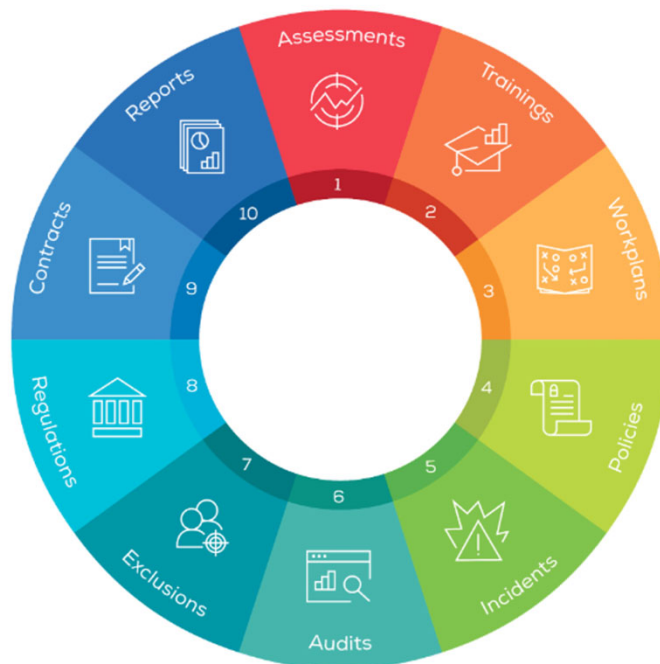


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Sample Strategy

Healthicity (10 keys)

1. Assessments
2. Trainings
3. Workplans
4. Policies
5. Incidents
6. Audits
7. Exclusions
8. Regulations
9. Contracts
10. Reports



<https://www.healthicity.com/10-elements-effective-healthcare-compliance>

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Sample Strategy

informed360 (9 elements)

1. Leadership/Culture
2. Organization/Structure
3. Risk Management
4. Policies, Procedures, Records
5. Communication
6. Training
7. Confidential Reporting / Investigations
8. Remediation
9. Monitoring/Measurement



<https://www.informed360.com/>

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Sample Strategy

BYU (8 elements)

1. Assess risk
2. Policies/procedures
3. Oversee/assign
4. Screen out bad actors
5. Communicate & train
6. Monitor, evaluate, and publicize hotline
7. Promote & enforce
8. Respond/prevent violations



From the Brigham Young University Office of Integrity and Compliance

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Compliance Strategy at UT Tyler¹

1. Identify Requirements/Assess Risk
2. Establish/ Modify Compliance Organization
3. Document Standards, Policies, and Procedures
4. Communicate Standards, Policies, and Procedures
5. Implement, Promote, and Enforce
6. Monitor, Audit, and Report
7. Continuous Improvement
8. Leadership/Corporate Culture

¹ Adapted from *Compliance in One Page, 2nd Edition* ©2020. All Rights Reserved. Used with permission. This approach utilizes FSG, DOJ, COSO, and IIA "Three Lines of Defense."



Compliance Activities: The Picture Version²



² Adapted from *Compliance in One Page, 2nd Edition* ©2020. All Rights Reserved. Used with permission.

Where is it?

- A compliance website?
- An annual audit?
- The annual plan?
- A compliance workshop/brown bag?
- Hotline and hotline case management?
- A Title VII investigation?
- Post-investigation remediation?
- Compliance inventory (all those rules!)?
- Quarterly meetings with the Board?
- Outside activities reporting?



Adapted from Deena King, *Compliance in One Page*, 2nd Edition, ©2020. All Rights Reserved. Used with Permission.

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Laws and Regulations

Time to put them
back on the table!

LOTS OF LAWS
AND
REGULATIONS

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Goal:

Prevent, find, and fix compliance issues



How:

Strategy



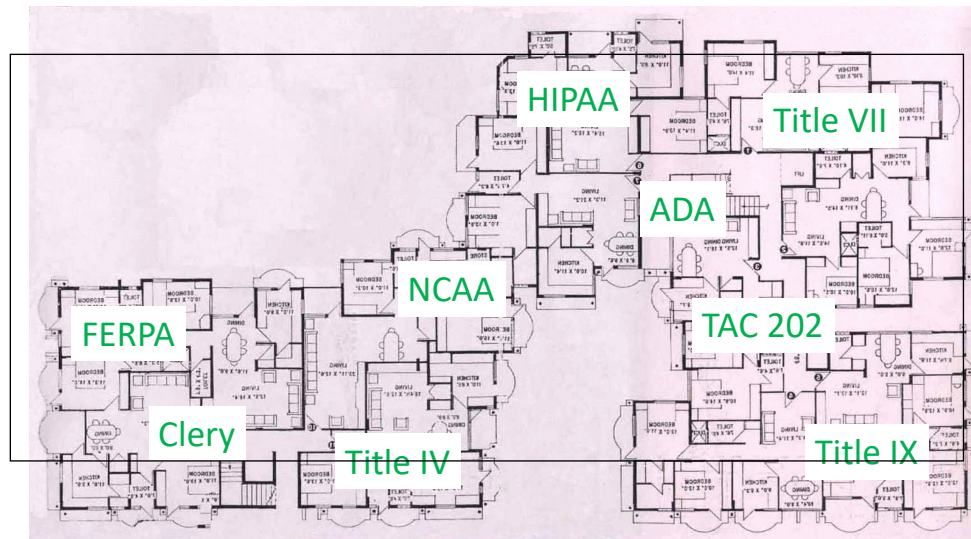
“What?”

- 1) How do we know what to comply with? (Laws!) How do we assess the risks of these requirements? (Risk!)

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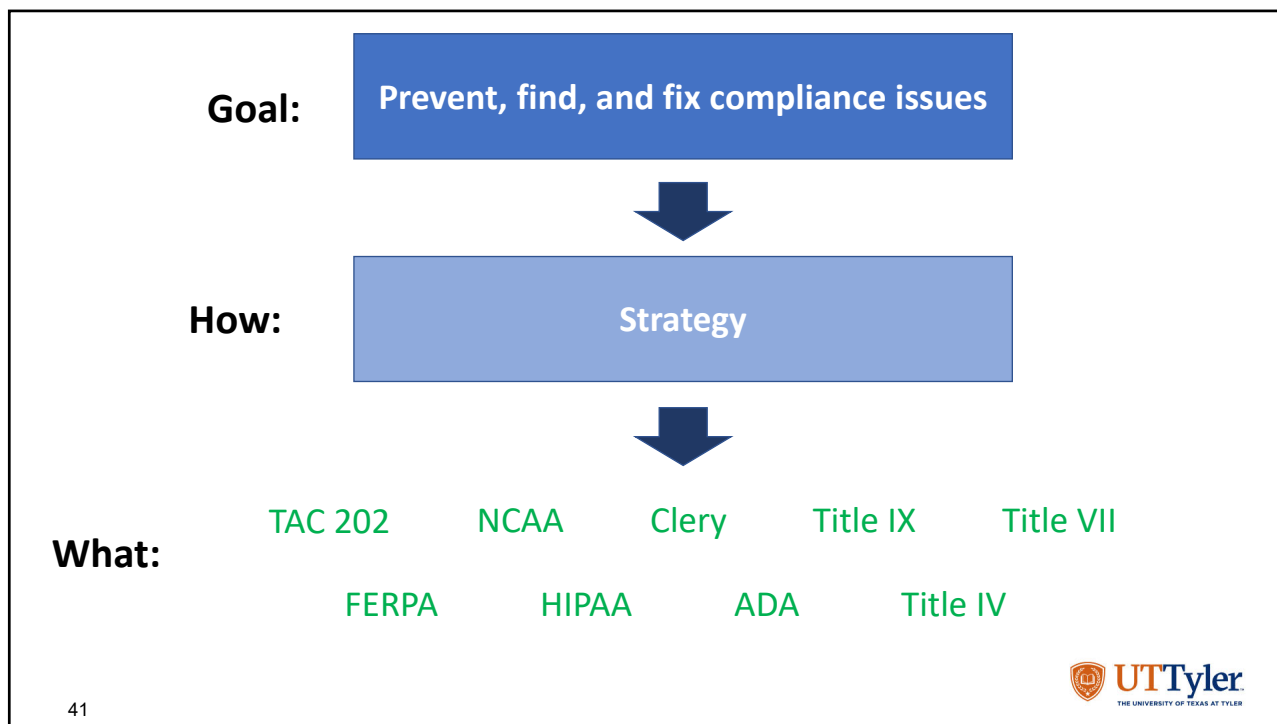


AT Tyler Strategic Way

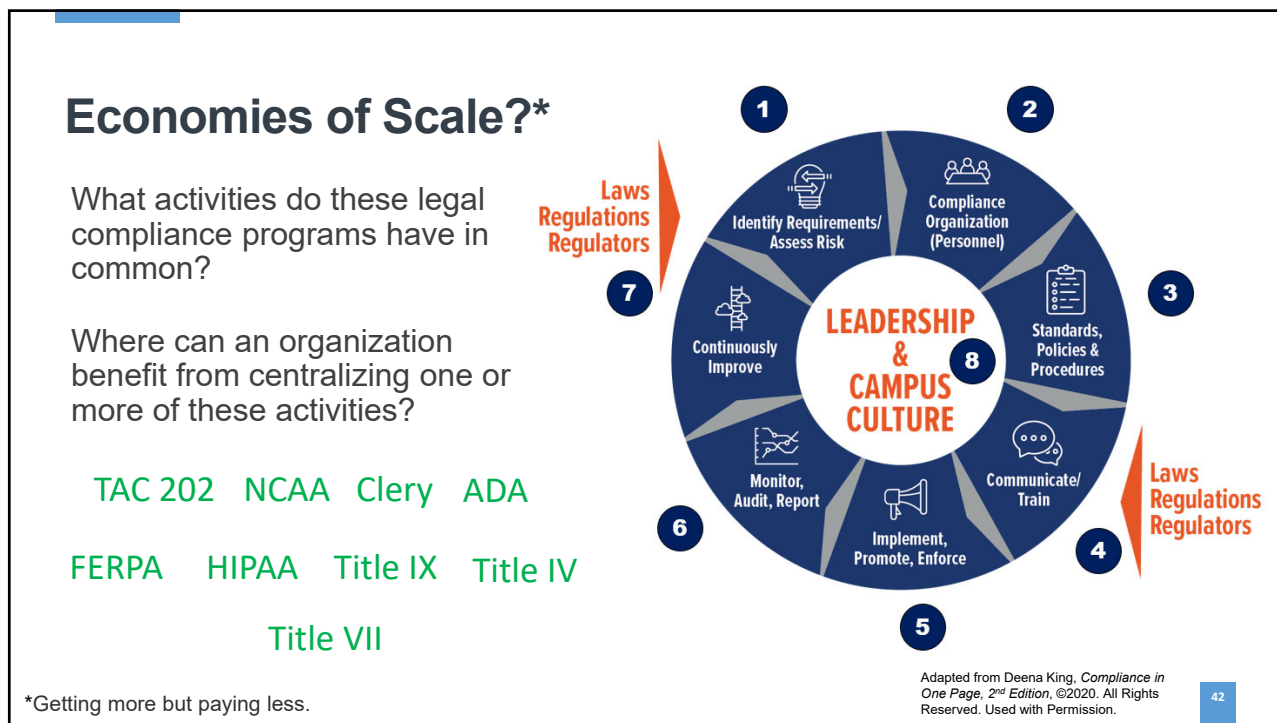
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Poll Question #5

How many training/learning management systems on your campus (or system)?

1. One
2. Two to three
3. Four to five
4. More than five



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Poll Question #6

How many hotlines are on your campus (or system)?

1. One
2. Two to three
3. Four to five
4. More than five



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What other activities can be centralized or what existing activities can be leveraged?



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Strategic Tip #5

Apply the compliance strategy you adopt campus wide (“scalability”).

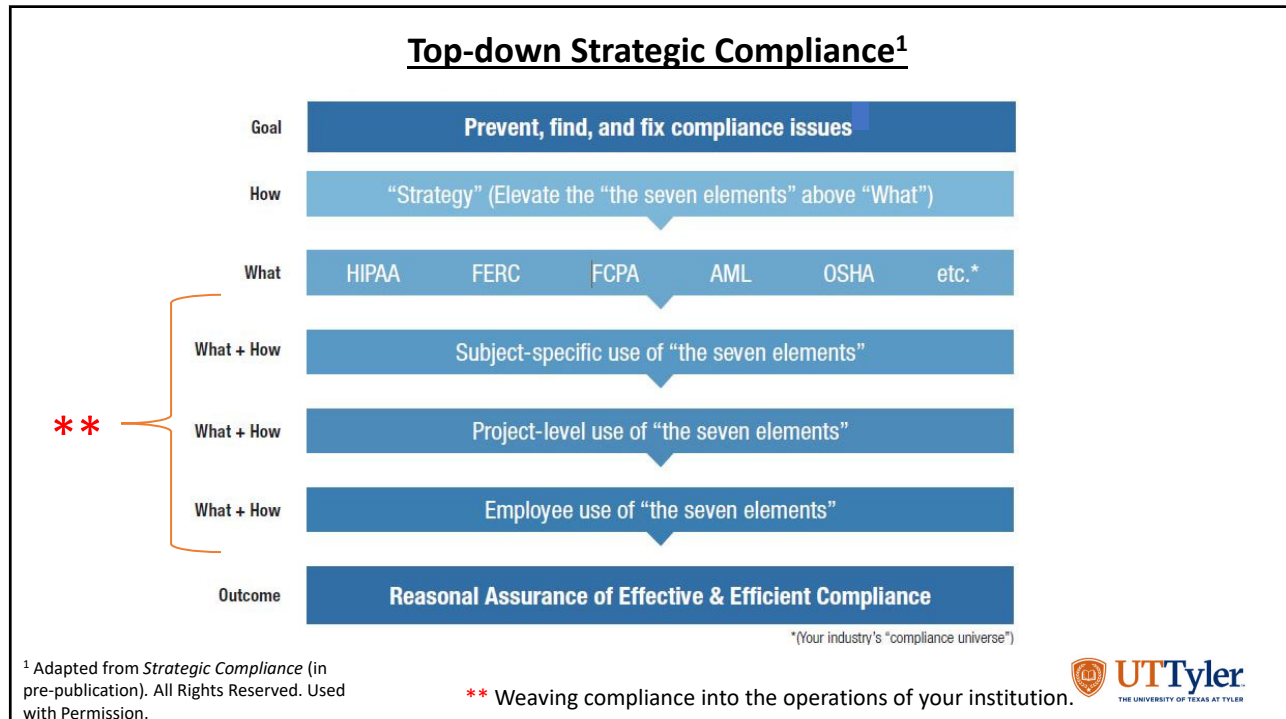


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Empower Compliance Experts/Leaders with Strategy



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Two Models

- The Ohio State University
 - Shared Compliance Framework
 - compliance.osu.edu
- The University of Texas at Tyler
 - The UT Tyler Compliance Process Model
 - uttyler.edu/compliance



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Example: Information Security Compliance

The Questions that Lead to the Strategy

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Activity 1: Identify Requirements/ Assess Risk

- How is the Information Security Officer keeping up-to-date on the legal and regulatory requirements in her area?
- Is she maintaining an inventory of these requirements?
- Does the Information Security Officer assess the risk to the organization of these legal obligations?

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Activity 2: Establish/Modify Compliance Organization

- Does the Information Security Officer have adequate staff to operationalize the legal and regulatory requirements in her area?
- Does she evaluate staffing legal and regulatory requirements on a regular basis?

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Activity 3: Policies and Procedures

- Is the Information Security Officer working with her executive to ensure relevant standards and policies are kept up-to-date?
- Does the Information Security Officer have all the necessary procedures, processes, programs, checklists, etc. in place to ensure the organization is in compliance with information security legal and regulatory requirements?

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Activity 4: Communicate and Train

- Is the Information Security Officer communicating legal and regulatory expectations and best practices to the organization on a regular basis?
- Does the Information Security Officer conduct regular training on legal and regulatory expectations and best practices at least annually?

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Activity 5: Implement, Promote, Enforce

- Has the Information Security Officer implemented legal and regulatory policy? Procedures?
- How is information security promoted organization-wide?
- How are information security violations enforced?

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Activity 6: Monitor, Audit, and Report

- How is the Information Security Officer monitoring security?
- How often is information security audited? Do they ever do self-audits/assessments?
- How are information security violations and practices reported and to whom?
 - Is leadership kept informed of specific risks?

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Activity 7: Continuous Improvement

- Is the Information Security Officer adjusting and improving legal and regulatory policies, procedures, and practices:
 - After an audit?
 - After a failure?
 - As part of an annual plan?

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Element 8: Leadership and Culture

- Is the Information Security Officer getting the support she needs for her executive?
 - From the entire executive team?
 - From the Board?
- Is the Information Security Officer getting cultural support? Is she doing what she can to shape the organizational culture?
- What actions is the Information Security Officer taking to improve leadership and cultural support for her program?

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Strategic Tip #6

Apply the compliance strategy you adopt to compliance program elements (more “scalability”).

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**Example:
The Hotline**

Same Questions
Same Strategy



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Hotlines: Using the Compliance Activities

1. Identify Requirements/Assess Risk
2. Establish/ Modify Compliance Organization
3. Document Policies and Procedures
4. Communicate Policies and Procedures
5. Implement, Promote, and Enforce
6. Monitor, Audit, and Report
7. Continuous Improvement
8. Leadership/Corporate Culture

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Imagine a world...



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Strategic Tip #7

Provide tools, templates, and training so compliance experts/leaders can implement the common strategy in their areas.

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Handouts

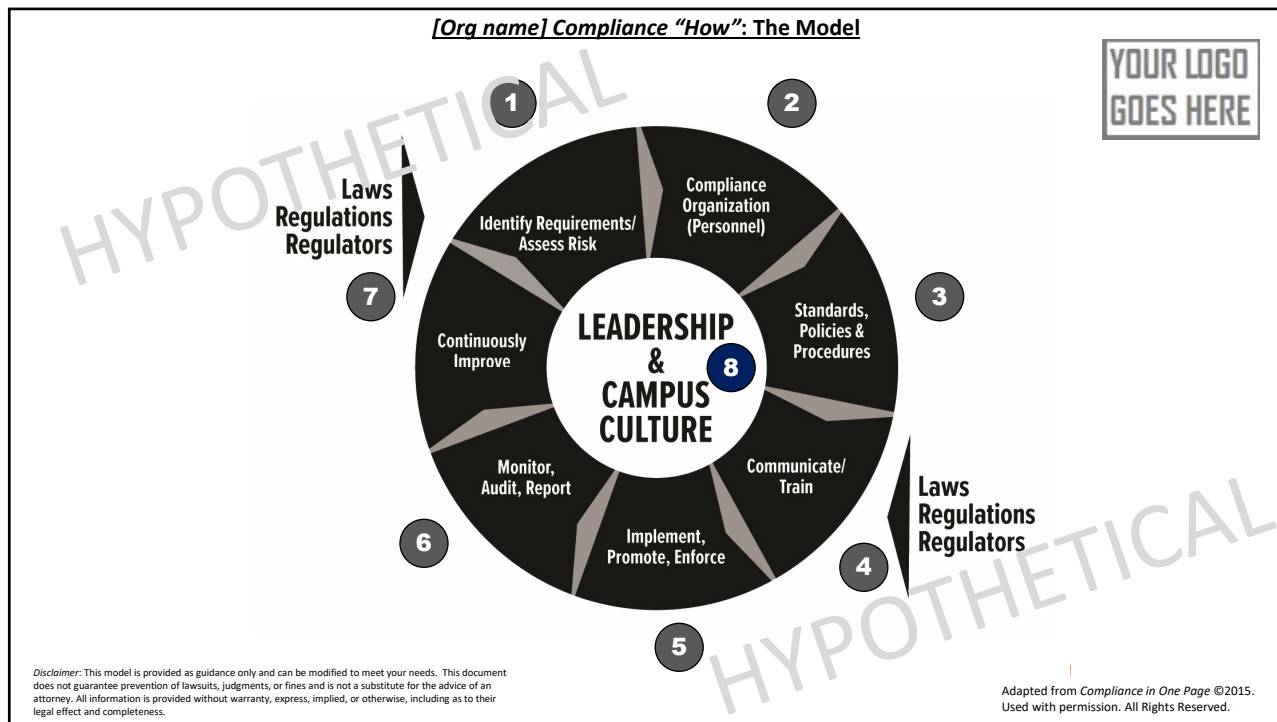
- UT Tyler Main Campus Compliance Program - Executive Summary
- A sample “one page” board/executive dashboard



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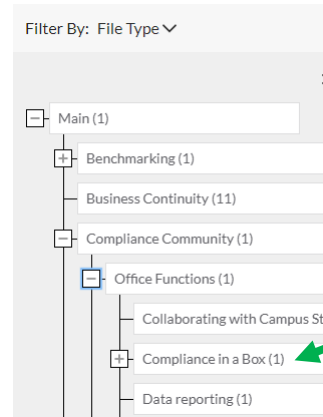
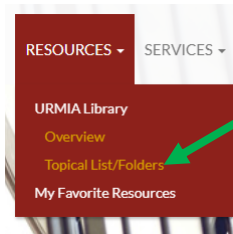


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BEG. DATE – END DATE	1	2	3	4
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">YOUR LOGO GOES HERE</div> <div style="border: 2px solid blue; border-radius: 50%; padding: 10px; margin: 10px auto; width: 80px; text-align: center;"> [Org name] Action Plan for [time period]: Status </div>	<div style="background-color: #cccccc; padding: 5px; text-align: center;">1</div> <div style="background-color: #cccccc; padding: 5px; text-align: center;">Identify Requirements/Assess Risk</div> <ul style="list-style-type: none"> ● Compliance inventory and process to keep it current* ● List of high compliance risks and a process to keep it current ● Projects/programs in place to address these risks ● Risk Mgt Action Plans 	<div style="background-color: #cccccc; padding: 5px; text-align: center;">2</div> <div style="background-color: #cccccc; padding: 5px; text-align: center;">Establish/Modify Organization</div> <ul style="list-style-type: none"> ● Board/Regent Compliance Committee in place ● Chief Compliance Officer ● Compliance Leadership Group (mid-level) ● Network of compliance SMEs ● "Mt. Working Groups" as needed 	<div style="background-color: #cccccc; padding: 5px; text-align: center;">3</div> <div style="background-color: #cccccc; padding: 5px; text-align: center;">Standards, Policies, and Procedures</div> <ul style="list-style-type: none"> ● Mission; Value ● Code of Conduct ● Policies ● Procedures and SOPs ● SME Compliance Programs ● Processes to create/maintain all of the above 	<div style="background-color: #cccccc; padding: 5px; text-align: center;">4</div> <div style="background-color: #cccccc; padding: 5px; text-align: center;">Communicate/ Train</div> <ul style="list-style-type: none"> ● Annual Conference ● One-on-Ones ● Online Training ● Websites; Newsletters ● Email blasts ● Processes to create/maintain all of the above
<div style="background-color: #cccccc; padding: 5px; text-align: center;">Required Program Activities</div> <div style="background-color: #cccccc; padding: 5px; text-align: center;">Governing Documents:</div> <ul style="list-style-type: none"> ● System Compliance Charter (pre-existing) ● [Org name] Compliance Charter <div style="font-size: small; margin-top: 5px;"> Key (bold=on deck to complete): ● Completed ● Partial/In process □ To Do (Gap) </div>	<div style="background-color: #cccccc; padding: 5px; text-align: center;">5</div> <div style="background-color: #cccccc; padding: 5px; text-align: center;">Implement, Promote, and Enforce</div> <ul style="list-style-type: none"> ● Compliance action plans ● IDs and annual performance eval include compliance responsibilities ● Visible leadership support □ "Compliance Week" ● Enforcement mechanisms - Investigations, etc. 	<div style="background-color: #cccccc; padding: 5px; text-align: center;">6</div> <div style="background-color: #cccccc; padding: 5px; text-align: center;">Monitor, Audit, and Report</div> <ul style="list-style-type: none"> ● Hotline Case Management □ Executed Risk Mgt Plans □ Executed Review Plans ● Appropriate reporting to executives and regulators ● Outside Activity Disclosures □ Regular compliance program audits/evals 	<div style="background-color: #cccccc; padding: 5px; text-align: center;">7</div> <div style="background-color: #cccccc; padding: 5px; text-align: center;">Continuous Improvement</div> <ul style="list-style-type: none"> ● Appropriate changes made when compliance program gaps are identified ● Audit/Review recommendations implemented ● Staff professional development 	<div style="background-color: #cccccc; padding: 5px; text-align: center;">8</div> <div style="background-color: #cccccc; padding: 5px; text-align: center;">Leadership/ Campus Culture</div> <ul style="list-style-type: none"> ● Leadership that supports compliance and ethics with necessary resources and decisions ● A culture that supports compliance and ethics □ Regular Culture Survey
	As of [date goes here]			

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“Compliance in a Box”



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In conclusion...



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Strategic Tips - Summary

1. Start with an overall goal for your compliance program, then move to strategy.
2. While developing a strategy, lead with questions (that will probably lead to “seven elements”-like answers).
3. Collaboratively design a compliance strategy that works for your organization.
4. Put laws back on the table, then centralize repeatable activities that many compliance areas share. Automate whenever possible.

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Strategic Tips - Summary

5. Apply the compliance strategy you adopt campus wide (“scalability”).*
6. Apply the compliance strategy you adopt to compliance program elements (more “scalability”).
7. Provide tools, templates, and training so compliance experts/leaders can implement the strategy in their areas.

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Questions?

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Thank you!

Deena King via LinkedIn

<https://www.linkedin.com/in/deena-king-4b2b017/>

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