



# Report Card for Your Compliance Program

*How to start or continue measuring your  
program's quality and effectiveness*

SCCE Higher Education Conference

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# Presenters



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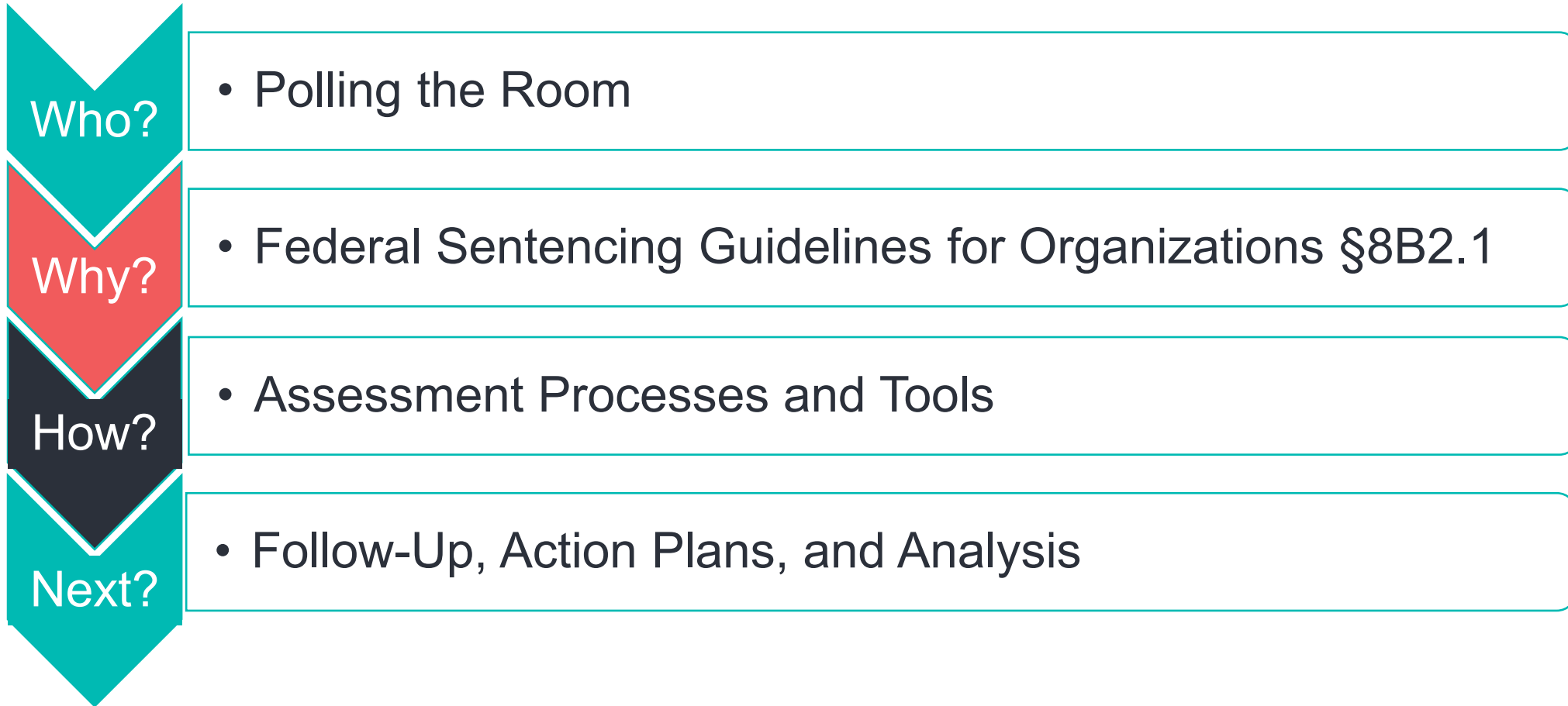


**Kyra Castano, CIA**  
**Manager**  
**Risk Advisory**  
**Baker Tilly**

# Learning Objectives

- Discuss hot topic compliance risks present in higher education and understand how these risks could impact your institution
- Understand what TCNJ and other institutions are doing to measure program quality and effectiveness
- Learn how to create action plans after self, peer, or consulting reviews

# Agenda



**Who?**

The background is a solid teal color. On the right side, there are several overlapping circles of varying shades of teal, creating a layered, abstract effect. The circles are centered vertically and extend from the right edge towards the center of the frame.

# Polling the room

- Mentimeter Link

# Compliance program stage of life

- What stage of life is your compliance program in?



new born



terrible twos



elementary



teenager



#adulting



early bird special

# Institution type

- Is your institution public, private, or other?





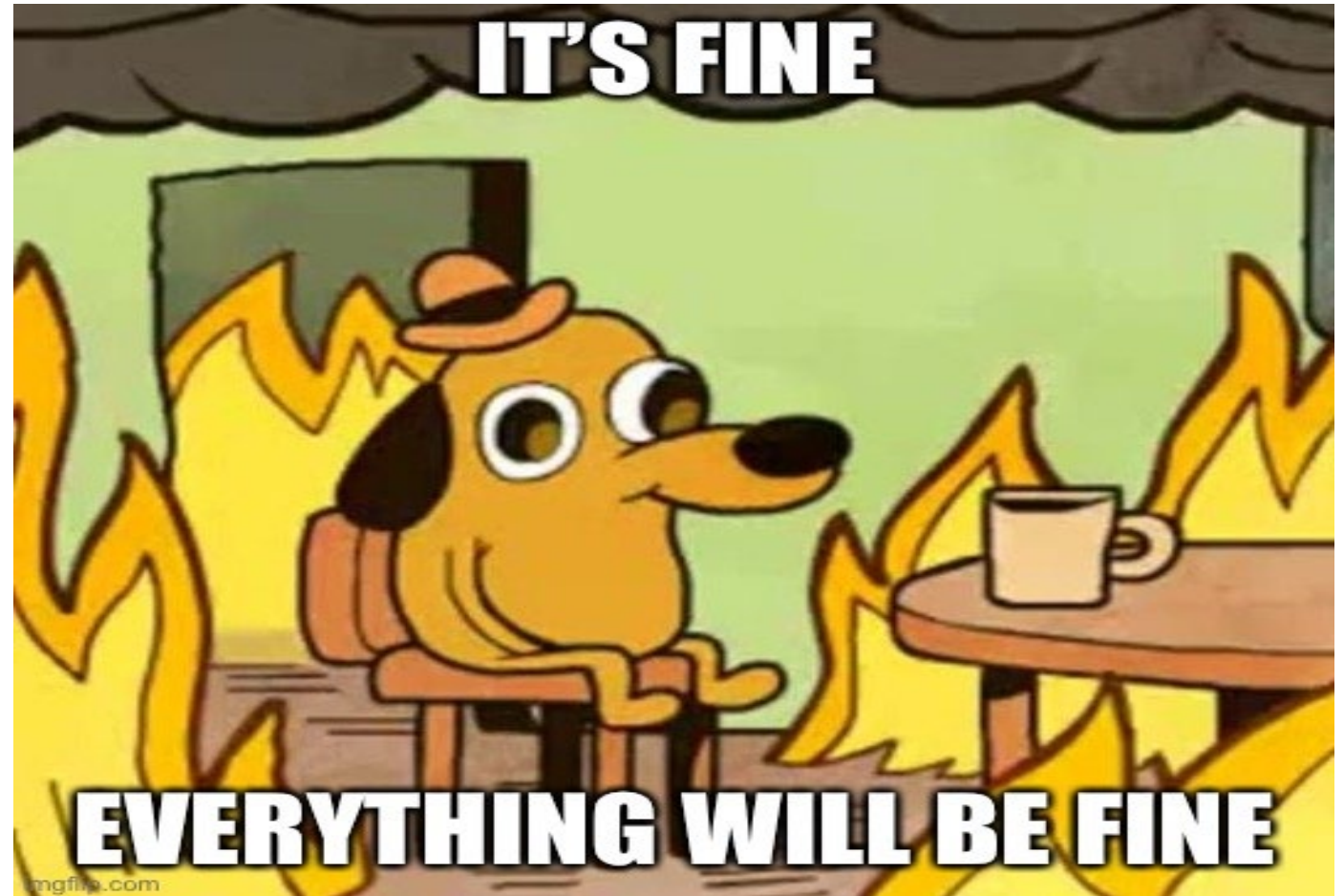
# Compliance assessment

- Have you assessed your compliance program?



# Support and resources

- Do you feel like you have support and resources to do an assessment of your program?



# Program assessment concerns

- What are your biggest concerns surrounding your compliance program assessment?



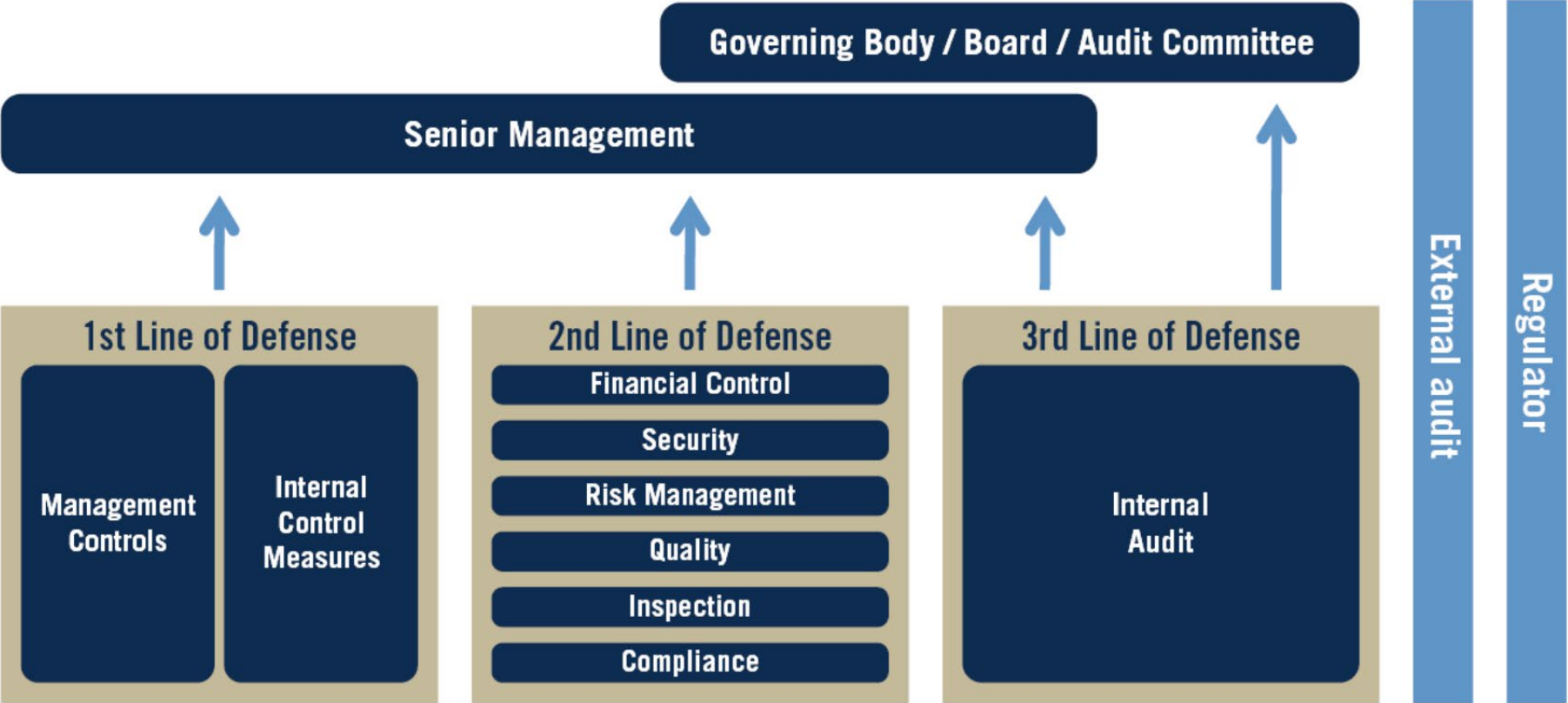
# If your compliance program was a superhero...

- Is your program more Batman or Ironman?



# Defense model - Definitions

## The Three Lines of Defense Model



Institute of Internal Auditors' Three Line of Defense Model

# What does this even mean?



# Quick reminders

- ***Compliance and Ethics Programs*** are programs designed to assure compliance using mechanisms to prevent, identify, and correct wrongdoings within an institution.
- ***Leadership*** may include, but is not limited to, board members, audit committee members, the president of the university, provost or other authority management.
- ***Standards and procedures*** may include, but are not limited to, the standards of internal and external controls put in place to limit the likelihood and impact of risk conduct.
- ***Organization/Program*** = Your institution
- ***Size*** depends on the scope of your campus. Some institutions may have a scope of 3 different campus locations, hospitals or professional schools. Smaller scopes may meet the requirements with less formality and fewer resources than what would be expected for larger institutions.

**Why?**

The background of the slide features a series of concentric, overlapping circles in various shades of red and pink, creating a dynamic, layered effect. The circles are centered on the right side of the frame and extend towards the left, partially overlapping the text area.



# U.S. Federal Sentencing Guidelines for Organizations, §8B2.1

- The Guidelines in 2004:
  - Set out a uniform sentencing policy for convicted defendants in the United States federal court system
  - Reflect that the organization (the institution) holds a degree of responsibility for the actions of its employees, even if the institution was not aware or approved of their actions
- The Guidelines in 2023:
  - Focus on both the “rules” and “compliance” AND the role of ethics and culture
  - Place greater responsibility on leadership and oversight

# U.S. Federal Sentencing Guidelines for Organizations, §8B2.1

- Meeting the Guidelines may result in benefits such as:
  - A reduced sentence to institutions convicted of a federal crime if that organization can demonstrate that notwithstanding the violation, it had an effective Compliance and Ethics Program in place
  - Outlining the appropriate punishment for an organization that is convicted of a crime (e.g. community service, probation, fines, etc.)
  - Prosecutors considering lowering the level to which an organization can demonstrate its commitment to producing a workforce culture committed to compliance

# Compliance officers

## Compliance Officers



What my friends think I do



What my mom thinks I do



What society thinks I do



What coworkers think I do



What I think I do



What I really do

**PowerDMS**  
Redefining Document Management

# U.S. Federal Sentencing Guidelines for Organizations

In order to have an effective compliance and ethics program an organization shall:

1. Exercise due diligence to prevent and detect criminal conduct; and
2. Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law

Compliance programs shall be reasonably **designed**, **implemented**, and **enforced** so that the program is generally effective in preventing and detecting criminal conduct.

## Federal Sentencing Guidelines Elements

The elements are a basic outline for an effective compliance program, but no single program fits every institution because of scope, structure, and mission.

- **Your compliance program isn't perfect? NO PROBLEM!**



# Federal Sentencing Guidelines Elements

1. Designing program **structure** and **oversight** with high level personnel
2. Implementing **policies** and **procedures**
3. Conducting **training** and **education**
4. Conducting internal **auditing** and **monitoring**
5. Developing effective **reporting** lines of communication
6. Consistently enforcing standards with **disciplinary mechanisms**
7. Responding to offenses with **corrective action**



# U.S. Department of Justice (DOJ)

The March 2023 document is meant to assist prosecutors in making informed decisions as to whether, and to what extent, the compliance program was effective at the **time of the offense** and is effective at **the time of a charging decision or resolution**, for purposes of determining the appropriate

1. form of any resolution or prosecution;
2. monetary penalty, if any; and
3. compliance obligations contained in any corporate criminal resolution (e.g., monitorship or reporting obligations).

- DOJ does not use any rigid formula to assess the effectiveness of corporate compliance programs.
- DOJ notes that individualized determination in each case that considers various factors including, (e.g., scope, structure, and mission)
- There are, however, common questions that may be asked in the course of making an individualized determination.
  1. Is the compliance program well designed?
  2. Is the program adequately resourced and empowered to function effectively?
  3. Does the compliance program work in practice?

**How?**

The background features a series of overlapping, semi-transparent circles in various shades of gray, creating a layered, tunnel-like effect that draws the eye towards the right side of the frame.

# What did TCNJ do?

- Received the charge
- Gained top-down buy-in
- Developed a self-assessment tool
- Achieved full Cabinet participation
- Compiled data and assess internal awareness
- Requested assistance from an industry peer
- Received a peer assessment
- Reviewed the assessment
- Created an action plan based on the information from the self and peer assessment
- Rise, Wash, Repeat



WHAT DID TCNJ DO?

# TCNJ Self Assessment Tool

The screenshot displays a web-based interface for a 'Multi Choice Compliance Self Assessment Tool'. The page title is '2020 Compliance Self Assessment Tool' and it is identified as 'Section 1 of 5'. The content is titled 'INTRODUCTION' and 'Ethics & Compliance Program Self-Assessment'. It outlines the purpose of the assessment, which is to ask three fundamental questions about the design, implementation, and effectiveness of the compliance program. It provides instructions on how to get the most value out of the assessment, including reading questions carefully and selecting appropriate responses based on a 5-point scale. The scale ranges from 1 (Strongly Disagree) to 5 (Strongly Agree), with 'N/A' for non-applicable topics and 'I don't know' for uncertain responses. The instructions emphasize completing sub-sections at one time before reviewing to avoid biased answers.

Multi Choice Compliance Self Assessment Tool

Questions Responses Settings

Section 1 of 5

## 2020 Compliance Self Assessment Tool

### INTRODUCTION

#### Ethics & Compliance Program Self-Assessment

The guidance sets out to ask three fundamental questions:

1. Is the compliance program well designed?
2. Is the compliance program being implemented effectively?
3. Does the compliance program work in practice?

How to Get the Most Value Out of the Assessment:

When reading, consider that the questions referencing "the Unit" are specific to the unit in review, whereas the questions referencing "the College" are specific to the college as a whole.

When completing the assessment, honesty is key. If you believe the program does not fully satisfy the questions, check the corresponding number that represents "Disagree" or "Strongly Disagree" so you are able to come back and identify an area for improvement. As you are well aware, the smallest missed opportunities in an effective Compliance program can evolve into the largest underlying causes for problems.

Begin by reading the "Questions to Consider" for each section to help frame the question sets and provide background on what exactly is being evaluated.

Go through the questions from top to bottom, as many build on previously discussed topics. Read each question thoroughly before answering to make sure you understand what is being asked – many can be interpreted multiple ways when skimming through.

Please select the appropriate number that corresponds with your answer. Selecting 1 implies "Strongly Disagree", selecting 2 implies "Disagree", selecting 3 implies "Neither Agree nor Disagree", selecting 4 implies "Agree", and selecting 5 implies "Strongly Agree". Mark "N/A" if the topic does not apply to the program (e.g. third-party management), or if you are unsure mark "I don't know" as a response. If you answer using "1-5", be prepared to elaborate and provide documentation if requested. Complete entire sub-sections at one time before reviewing to avoid biased answers.

WHAT DID TCNJ DO?

# TCNJ Self Assessment Responses

Search the menus (Ctrl+)											
Timestamp											
A	B	C	D	E	F	G	H	I	J	K	L
Timestamp		1 Does the Unit's compli	2 Is the Unit's program c	3 Has the Unit analyzed	4 Is the risk assessment	5 Is the Unit's complianc	6 Is the Unit's complianc	7 Does the Unit use met	8 Does the Unit collect in	8.1 List the information/r	9 Has the collected infor
9/29/2020 14:53:27	Campus Safety and Security	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	server logs, data traffic, u	Yes
9/30/2020 15:07:24	Enrollment Management	Yes	Yes	Yes	Yes	Yes	Yes	I don't know	Yes		Yes
10/2/2020 22:18:10	Facilities Management*	Yes	Yes	Yes	Yes	Yes	I don't know	Yes	Yes	change order percentage	No
10/3/2020 9:25:43	College Advancement	Yes	Yes	Yes	Yes	Yes	No	Yes	No		Yes
10/3/2020 14:51:15	Academic Affairs*	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	e.g., Research Miscondu	Yes
10/5/2020 14:31:44	Student Afflars	Yes	No	Yes	Yes	Yes	No	Yes	Yes	Program reviews (extern	Yes
10/5/2020 15:18:22	Office of General Counsel	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Please see hard copy	Yes
10/8/2020 7:48:03	Diversity Equity and Inclusion*	Yes	No	N/A	Yes	I don't know	Yes	No	No		No
10/6/2020 15:04:07	Treasury	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Procurement Card audits	Yes
10/6/2020 15:56:50	Human Resources*	Yes	Yes	I don't know	N/A	N/A	N/A	Yes	N/A		I don't know
10/8/2020 13:54:35	Information Technology	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes
	No		2					2	1	2	2
	I don't know			1		1		1	1		1
	N/A			1	1	1	1	1	1	1	

# Compliance Maturity Model

- Capability Maturity Models have been developed not just for compliance programs but for many other fields and areas.
- Compliance Maturity Models provide:
  - A useful means for assessing your compliance program against recognized standards
  - A method for identifying “next steps” required to advance your compliance program
  - A process for measuring progress against internal and external benchmarks
  - A tool that can be used to measure progress in specific compliance areas and projects or your overall compliance program

[Capability Maturity Model \(CMMI\) \(tenstep.com\)](https://tenstep.com)

# On the cutting edge: emerging issues and best practices for ensuring effective compliance program

Authored by: Robert Roach, Jordan Segall, and Scott Kahn

1. **Ad Hoc:** Procedures are usually informal, incomplete and inconsistently applied - *Newborn*
2. **Fragmented:** There are some compliance controls in place, but they are not consistent across the organization. Often limited to certain areas or managed in “silos” (e.g., Finance, FCPA, etc.) - *Terrible Twos*
3. **Defined:** Compliance controls and procedures are documented and standardized across the organization - *Elementary/Teenager*
4. **Mature:** Compliance procedures are an integral part of business processes and periodic reviews are conducted to assess effectiveness of the program - *#Adulting*
5. **Optimized:** Regular review and feedback are used to ensure continuous improvement towards optimization of compliance processes; elements are often automated, which are more effective at preventing compliance failures and ultimately less costly than manual controls focusing on detection - *Early Bird Special*

[On the cutting edge: Emerging issues and best practices for ensuring effective compliance programs | COSMOS Compliance Universe \(compliancecosmos.org\)](#)

# On the cutting edge: emerging issues and best practices for ensuring effective compliance program

- Authored by: Robert Roach, Jordan Segall, and Scott Kahn
- Developed a set of CMM templates following the Federal Sentencing elements of an effective compliance program.
- Template on the right assess the first FSG element - Designing program **structure and oversight** with high level personnel

1. Ad Hoc	2. Fragmented	3. Defined	4. Mature	5. Optimized
There is no formal compliance structure.	Senior management and board encourage compliance but are not consistent in providing necessary support.	A compliance structure has been established, with accountability assigned to key risk area officers.	.	Network of identified compliance officers/partners representing every significant operation is in place, and they meet regularly to coordinate compliance activities.
There is no independent oversight.	A senior compliance committee may exist, but compliance activities are reactive and in silos.	The senior compliance committee meets at least quarterly, receives regular reports from the chief compliance officer, and actively plans for compliance contingencies.	Reporting by risk area officers to the chief compliance officer is timely and consistent.	Leadership (including the senior compliance committee) considers compliance a strategic priority. Compliance risk scenarios have been identified, assessed, and mapped to compliance controls, which are updated at least annually.
Accountability is not defined.	Individuals may be aware of compliance responsibility but are not formally appointed.	A chief compliance officer or other individual with day-to-day responsibility for compliance is appointed.	The chief compliance officer has independent and direct access to the board or audit committee and makes regular reports on compliance activities to the board/audit committee.	The board/audit committee and executive management show a demonstrated commitment to compliance throughout the organization.
Compliance risks are not understood.	Compliance risks are understood but not formally documented.	A process is in place for identifying compliance risks and developing mitigation plans by assigned risk area officers.	Compliance risk assessments and mitigation plans are completed by risk area officers on a regular, timely, and consistent basis	Compliance, risk management, and internal audit have implemented integrated work plans. Integrated functions are supported by automated processes.

**What to look for?**

# Critical Risks in Higher Education

1. Insufficient data privacy and cybersecurity procedures
2. Inaccurate external reporting practices
3. Noncompliance with institutional policies for procurement card usage
4. Ineffective conflict of interest, ethics, and compliance reporting processes
5. Noncompliance with the Americans with Disabilities Act
6. Insufficient minors on campus policies and practices
7. Untimely Title IX investigations
6. Noncompliant environmental health and safety programs
7. Noncompliance with FERPA/privacy regulations
8. Poor Financial Competency



# Key Performance Indicators (KPIs)

- Create or review your compliance charter to evaluate if it can answer the DOJ's 3 questions
- Establish key performance indicators to measure data points overtime and create a gap analysis
- Examples include:





# Higher Education Compliance Alliance (HECA)

- Compliance Matrix that lists key federal laws and regulations governing colleges and universities
- Publicly available matrix that includes a brief summary of each law, applicable reporting deadlines, and links to other resources

A	B	C	D	H	I	J	K	L	M	N	O	P	Q
Item ID	Topic	Statute Name	Statute 1	Statute IDs	Regulation 1	Regulation 2	Regulation 3	Regulation 4	Regulation 5	Statutory Summary	Reporting Requirements	Deadlines	Additional Resources
1785	Academic Programs	Age Discrimination Act of 1975	<a href="#">42 U.S.C. §§ 6101-6107</a>	1692	<a href="#">34 C.F.R. § 110</a>	<a href="#">45 C.F.R. § 90</a>	<a href="#">45 C.F.R. § 617</a>			Prohibits discrimination based on age in educational or academic programs or activities that receive federal financial assistance.  Prohibits retaliation for filing a complaint with OCR or participating in a mediation or investigation of a violation, or for advocating for a right protected by the Act. Provides broad nondiscrimination protection in employment, public services, and public accommodations (including colleges and universities) for individuals with disabilities.  Requires reasonable accommodations (e.g., a modification or adjustment to the status quo inherent in the program or activity) to allow a qualified person with a disability to participate fully in the educational or academic programs and activities of the university.		Not Applicable	<a href="#">Human Resources</a>
1786	Academic Programs	Americans with Disabilities Act of 1990	<a href="#">42 U.S.C. §§ 12101-12119</a>	1701	<a href="#">28 C.F.R. § 35</a>	<a href="#">28 C.F.R. § 36</a>	<a href="#">29 C.F.R. § 1640</a>	<a href="#">29 C.F.R. § 1630</a>		Enforced by multiple federal agencies, including the U.S. Department of Justice, U.S. Department of Labor, U.S. Department of Education, and the U.S. Equal Employment Opportunity Commission. Among other things, requires the following annual disclosures to enrolled and prospective students: f) diversity statistics; g) retention rates; h) employment placement data; and i) fire safety report. c) transfer of credit policies; Requires disclosure of the course schedule along with the International Standard Book Number (ISBN) of every required and recommended textbook and supplemental material and retail price information to all prospective and enrolled students. <li style="list-style-type: none">		Not Applicable	<a href="#">Disabilities and Accommodations</a>
1882	Academic Programs	Higher Education Act: Institutional and Financial Assistance Information for Students	<a href="#">20 U.S.C. 1032</a>	1605	<a href="#">ED 34 C.F.R. § 688 subpart D</a>						No deadline is mandated, but October 1 annually is suggested.		<a href="#">HECA Compliance Obligations</a>
1883	Academic Programs	Higher Education Act: Textbook Information	<a href="#">20 USC § 1015(b)</a>	1636	<a href="#">34 C.F.R. § 600 subpart D</a>	<a href="#">34 C.F.R. § 668 subpart D</a>				Requires disclosure of the course schedule along with the International Standard Book Number (ISBN) of every required and recommended textbook and supplemental material and retail price information to all prospective and enrolled students. <li style="list-style-type: none">	No deadline is mandated, but October 1 annually is suggested.		<a href="#">HECA Compliance Obligations</a>
3392	Academic Programs	Higher Education Opportunity Act Sections 152 and 153	<a href="#">Public Law No. 110-315</a>	1766						Sections 152 and 153 require the following disclosures to enrolled students: c) transfer of credit policies; ...  f) diversity statistics; g) retention rates; h) employment placement data; i) fire safety report; ... k) along with the course schedule, the International Standard Book Number (ISBN) of every required and recommended textbook and supplemental material and retail price info ...	No deadline is mandated, but September 1 is suggested.		<a href="#">HECA Compliance Obligations</a>
1790	Academic Programs	Section 504 of The Rehabilitation Act of 1973	<a href="#">29 U.S.C. § 701</a>	1665	<a href="#">34 C.F.R. § 104</a>	<a href="#">45 C.F.R. § 84</a>				Disclosures c) - k) must be available to prospective students as well. Prohibits discrimination on the basis of disability at any federally-funded institution. This covers admissions, recruitment, educational and/or academic programs and services, housing and non-academic programs and services such as counseling, placement, physical education and athletics, student clubs and organizations. This list is not exhaustive. Prohibits discrimination on the basis of sex in education programs or activities receiving federal financial assistance including employment.		Not Applicable	<a href="#">Disabilities and Accommodations</a>
1887	Academic Programs	Title IX of the Education Amendment of 1972	<a href="#">20 U.S.C. §§ 1681-1688</a>	1635	<a href="#">28 C.F.R. §§ 42.201-42.235</a> <a href="#">42.601-42.613</a>	<a href="#">34 C.F.R. § 106</a>	<a href="#">29 C.F.R. § 1604</a>	<a href="#">45 C.F.R. § 86</a>		Any grievance records relating to a Title IX violation or complaint must be retained for the period of time cited in state law for personal injury actions.		Not Applicable	<a href="#">Sexual Misconduct Discrimination and Affirmative Action</a>
1791	Academic Programs	Title VI of the Civil Rights Act of 1964			<a href="#">28 C.F.R. §§ 42.101-42.112</a>	<a href="#">28 C.F.R. § 50.3</a>	<a href="#">34 C.F.R. § 100</a>	<a href="#">45 C.F.R. § 80</a>		Prohibits discrimination based on race, color, or national origin in educational and/or academic programs or activities receiving federal financial assistance.		Not Applicable	

# Resources

- **EVERYONE IN THE ROOM!**
- **EVERYONE AT THIS CONFERENCE!**
- **Society of Corporate Compliance and Ethics (SCCE)**
- Association of College and University Auditors (ACUA)
- Association of College and University Policy Administrators (ACUPA)
- National Association of College and University Attorneys (NACUA)
- University Risk Management and Insurance Association (URMIA)



# Questions?

