

Case Western Reserve University Executive Compliance Committee

The Compliance Continuum

Case Western Reserve University
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Higher Education as a Regulated Industry

“Higher education is a regulated industry. Colleges and universities are regulated entities. The law and governments touch virtually everything colleges and universities do, frequently with a heavy hand. Institutional autonomy has been limited by requirements of institutional compliance. Deference has been diluted by oversight. Academic freedom has been constrained by a maze of federal regulations.”

Stephen S. Dunham
General Counsel, The Johns Hopkins University

Compliance in the News Academia

Patient Data Landed Online After a Series of Missteps

October 5, 2011

The New York Times

Yale Is The Subject of Title IX Inquiry

March 31, 2011

The New York Times

Admissions scandal brings down University of Illinois president

September 23, 2009

The CHRISTIAN SCIENCE
MONITOR

Princeton Litigation With Donor Costs Tens of Millions

2008

Senate Committee Looking at UMDNJ

February 5, 2006

The New York Times

Current Trends

- Department of Education, Office of Civil Rights, Title IX
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules
- Department of Education Program Integrity Rules
- False Claims Act / Whistleblower Actions
- NCAA
- Foreign Corrupt Practices Act
- Export Control
- Social Networking

Higher Education, Higher Expectations

The very nature of an institution of higher learning requires a strong foundation built on integrity, ethics, and compliance with the law.

In an economic environment in which the return on investment in a university education is being seriously questioned in some quarters, it is imperative that institutions of higher education not only perform effectively from a business perspective, but that they present an image of impeccable integrity.

An effective Compliance and Ethics Program can enable an organization not only to out-perform its peers but to out-behave them.

Continuum of a Compliance and Ethics Program



Development

Implementation

Integration

Maturity

Sustainability

Case Western Reserve University

Code of Conduct

In addition to actions such as fines or imprisonment for noncompliance with applicable laws and regulations, consequences to the University at-large may include the following:

- 1) an increase in federal audits,
- 2) significant penalties,
- 3) a reduction or loss of research funding,
- 4) shutdown of projects,
- 5) additional oversight and monitoring by the government,
- 6) a compromise of professional integrity, and
- 7) risk to the University's reputation

Development

Development

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- Emphasis on design of the program
- Use the Federal Sentencing Guidelines as a roadmap
- Evaluate peer institutions and best practices
- Design governance and framework
 - Roles and responsibilities
 - Reporting structure (e.g., General Counsel, Internal Audit, etc.)
 - Oversight (e.g., Board of Trustees, Executive Compliance Committee)
 - Develop mission statement
 - Determine committee structure and membership
 - Establish the Compliance Office including personnel and budget

Implementation: Tone at the Top

Development

Implementation

Integration

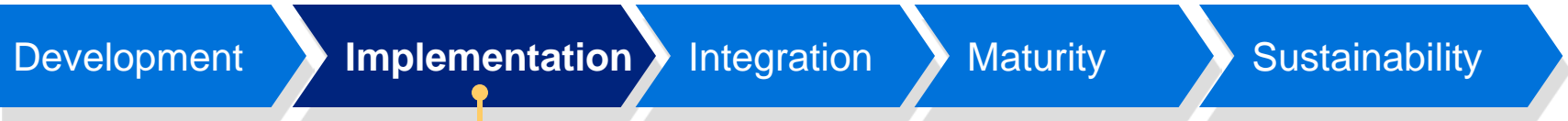
Maturity

Sustainability

Leadership sets the Tone at the Top

- Emphasize executive buy-in and support
- Use communication vehicles to promote the program
- Demonstrate personal commitment and visible willingness to let values drive decisions
- Create a value-driven atmosphere of ethics, integrity, and legal compliance
- Reflect values in dealings with third parties (e.g., affiliates, vendors, contractors)
- Articulate expectation that others will do the same

Implementation



- Raise awareness and continue outreach with key stakeholders and constituents
- Manage relationships with existing compliance personnel
- Communicate with executive sponsors and participate in various leadership forums
- Creation of various communication tools (e.g., hotline, website, compliance committees, and distribution lists)

Integration

Development

Implementation

Integration

Maturity

Sustainability

- Coordinate supporting tools as appropriate (e.g., website, policies, code of conduct, compliance hotline, compliance training, new hire orientation)
- Integrate with existing management functions such as risk management and internal audit
- Provide information on emerging regulatory areas and support key compliance initiatives
- Provide a centralized report summarizing compliance activities across the University
- Continue to benchmark with peer institutions and participate in external training

Maturity

Development

Implementation

Integration

Maturity

Sustainability

- Move beyond a “check-the-box” mentality
- Integrate compliance with strategic and business processes
- Increase involvement in audits and investigations
- Provide compliance and ethics training
- Update Senior Management and the Board of Trustees on the program
- Create an atmosphere of trust and open communication
- Drive complaints to the Compliance Hotline and communicate policy of non-retaliation
- Continual interaction with the Office of the General Counsel to provide knowledge and advice concerning existing and emerging legal, regulatory, and policy issues that are relevant to operational issues

Sustainability

Development

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Sustainability

- Maintain access and regular interactions with senior executives and the Board of Trustees
- Conduct periodic benchmarking, peer assessments, and internal/external audits
- Communicate regular compliance messages and commitment from Senior Executives (“Tone at the Top”)
- Reinforce the concept that “Compliance is everyone’s job”
- Embed compliance in all line and staff functions; compliance is not the sole province of the Compliance Officer
- Include compliance and ethics in performance management, discipline, and reward systems
- Provide widespread and robust compliance and ethics training
- Integrate compliance and ethics into the day-to-day functioning of the University

Case Western Reserve University Strategic Plan

“Five years hence, Case Western Reserve University will enroll students of measurably higher quality and attract significantly larger research investments. Our constituents will report markedly improved levels of satisfaction with all manner of campus support and services. Our alumni will participate more actively in the life of the University.”

Barbara R. Snyder
President, Case Western Reserve University
“Forward Thinking” Strategic Plan for 2008-13

Ethical Behavior as a Core Value at CWRU

Ethical Behavior is well-integrated into business planning and processes at CWRU

Core Values

Integrity and Transparency

- Ethical Behavior

It is also an integral part of business processes and planning:

Strategic Goals

Community

- Better Engage Alumni
- Strengthen relationships with stakeholders at the state, federal, and international level

Integrity and Transparency

- Strengthen the climate of equity, transparency, and accountability.

Strategic Academic Alliances

- Social Justice and Ethics

Higher Education, Higher Expectations

An effective Compliance and Ethics Program can enable an organization to out-perform its peers.

- More attractive to potential students
- Increased alumni involvement and donor support
- Enhanced opportunities for grants, sponsored projects and research
- Greater willingness of peers to enter into inter-institutional partnerships and agreements
- Reduced risk of targeting by plaintiffs' lawyers
- Encourage early warning and containment of whistleblower reporting (internal / external)
- Support regulators' positive view resulting in reduced likelihood and severity of action

Building a Compliance Community

- Outreach to key stakeholders and compliance contacts
- Reinforce commitment through executive communications (Tone at the Top)
- Coordinate compliance efforts across the University
- Enhanced status for compliance professionals
- Sharing of new developments and best practices
- Provide senior leadership and the Board of Trustees with a comprehensive view of the University's compliance activities
- Embed compliance into existing business processes
- Assess compliance efforts and University-wide performance

Compliance is Everyone's Job

- Compliance is everyone's job at every level
- Tone at the Top (and middle) is crucial
- A survey by the Corporate Executive Board of more than 600,000 employees in 140 companies demonstrates that organizations with weak ethical cultures experience far more misconduct than those with strong ethical cultures.
- In an ethical culture, employees feel comfortable speaking up and voicing their concerns, and they trust their colleagues will do the same.
- To make this happen leadership has to set a tone that inspires trust in their own ethics and in their willingness to hear and respond to concerns. This will help counter employees' fear of retaliation for reporting misconduct.

Tone at the Top

Managers are responsible for setting the tone at the top:

- Communicate directly and honestly with employees
- Create an environment where employees feels comfortable reporting misconduct
- Emphasize a commitment to compliance is more important than a commitment to results; the means is equally as important as the end
- Employees must feel they are part of a team that values them and encourages them to be ethical.
- They must be convinced that senior management is committed to compliance
- The compliance and ethics program should be reflective of the university's fundamental values and the senior leadership's meaningful commitment
- Employees must be persuaded that the university's commitment to its ethical culture is sincere
- Being a good role model; employees will follow the examples of their bosses

Compliance & Ethics

“An aggressive and successful program does not merely ensure that the organization meets all regulatory requirements, but also embeds values-based business conduct into their culture, thus creating an ethical work environment that leads to more productive and profitable organizations.”

Diana Lutz

“Build a Values-Based Ethics
and Compliance Program”

Compliance and Ethics Magazine, February 2009

Conclusion

When integrated into University Operations, the Compliance and Ethics Program adds value and enhances performance.

It offers a very real opportunity to provide Transformational Leadership and Results.



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