Creating a Culture of Compliance

February 28, 2020
Fetzer Center at Western Michigan University
9:00 a.m. – 2:00 p.m.
Creating a Culture of Compliance

Welcoming Remarks
Western Michigan University President
Dr. Edward Montgomery
Agenda:

- 9:10 – 10:00 Introduction and Context: Carrick D. Craig, General Counsel-Chair, Compliance Committee, WMU

- 10:00 – 10:45 Policies Management: Jessica Swartz, Associate General Counsel, Chair University Policy Committee WMU and Steve Weber, Research Contracts Administrator, WMU

- 10:45 – 11:00 Break

- 11:00 – 12:30 Compliance in Higher Education – Marisa Zuskar, Huron Consulting

- 12:30 – 2:00 Buffet Lunch/Panel Discussion-Lessons from the Private Sector: Bronwen Taylor, Vice President, Compliance and Risk Management, Stryker; Melissa Rix, Compliance Specialist, Gibson Insurance; Tracy Gauthier, Assistant Director of Compliance, Greenleaf Trust
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INTRODUCTION AND CONTEXT
Carrick Craig
General Counsel – Chair WMU Compliance Committee
Western Michigan University
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Why compliance? Why now?

– Ever increasing regulations
– Ever increasing oversight
– Major losses at universities arising out of failure to comply
– Episodic/Ad hoc compliance is no longer a strategy
– It is now a front and center issue
– Universities are behind the curve
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The Higher Education Compliance Alliance (HECA) provides the higher education community with a centralized repository of information and resources for compliance with federal laws and regulations.
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• Why is it important?
  – Protects financial assets – fines, lawsuits, legal fees
  – Protects reputation – Nassar, Sandusky
  – Promotes ethical behavior – it is good for its own sake
  • Many compliance officers have “ethics” in their title as well
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• What is compliance? What do we mean by compliance?
  – Compliance with external requirements: laws, regulations, accreditation requirements
  – Compliance with internal requirements: policies, procedures, bargaining agreement, contracts
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Compliance at WMU . . .

• Historically a very ‘siloed’ approach, for example . . .
  – Athletics – Assoc. A. D. Compliance Services
  – Research – IACUC, HSIRB, Export Control, Assoc. Dir. Research Compliance
  – Academic Affairs – Institutional Research/HLC, Immigration Compliance
  – Business and Finance – Corp Reporting, HR (I-9, FLSA, etc.), Clery
    • Compliance in isolation
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• Silo Model
  – Compliance is one person’s job in each department
    • Personality driven – does THAT person do a good job with compliance?
  – Builds no momentum
  – Creates no cross-campus culture
  – No synergies with other offices
  – Few people want it, and most run from it
  – There is only a “down side”
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• Solution?
  – Chief Compliance Officer approach – many programs to certify compliance officers
    • Common in the private sector
    • Not many universities in Michigan have CCO
    • Only MSU has a dedicated CCO
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Campus

Published: July 5, 2018

ACTING CHIEF COMPLIANCE OFFICER NAMED FOR NEW MSU OFFICE

Contact(s): Emily Guarrant

Interim Michigan State University President John Engler appointed Nicholas Wittner to lead the university’s new Office of Enterprise Risk Management, Ethics and Compliance. Wittner is professor of law in residence at the MSU College of Law and an authority on organizational compliance.

“Professor Wittner’s deep background in legal, regulatory and policy compliance makes him the
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• Alternate Solution: Compliance Committee
  – U of M Ethics, Integrity and Compliance Committee (EICC)
    • https://compliance.umich.edu/
  – This is the approach WMU took
    • https://wmich.edu/compliance/
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- Membership on Committee: Chair Carrick Craig, General Counsel, JD, Sandy Streb Vice, CPA
  Chairperson: Director, Internal Audit, Members: Jason Barnes, Associate Director, Advancement Services, Richard Burton, IT Security, Administration, Senior Adriana Cardoso Reyes, Assistant Director, Institutional Accreditation/Planning, Margurite Clay, Director, Human Resources Services, Carrie Cumming, Registrar, Jayne Fraley-Burgett, Director, Disability Services for Students, Shashanta James, Director of Financial Aid/Scholarships, Anna Kniffin, Assistant Director, Financial Accounting/Reporting, Carol LaLonde, CPA, Assistant Director of Corporate Reporting and Taxation, Greg Lozeau, Director, IT Security/Privacy, Suzie Nagel-Bennett, Vice President, Student Affairs/Dean of Students, Lee Ryder, JD, Associate Director, Immigration Services, Jeff Stone, Deputy Athletic Director, Dr. Carol Sundberg, Director, Unified Clinics, Dr. Steven Weber, Research Contract Administrator, Mark Weiss, Director, Environmental Health/Safety, Dr. Evelyn Winfield-Thomas, Executive Director, Institutional Equity, Dr. Norman Hawker, JD, Faculty, Professor, Finance and Commercial Law
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- Broad cross section of units with compliance obligation headed by a JD and CPA
  - Most common for compliance to rest with lawyer and/or accountant
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So, where does compliance begin?

– Federal Criminal Sentencing Guidelines (FSG) – Chapter 8 – Sentencing of Organizations

• Having an effective compliance plan in place acts as a mitigating factor in sentencing
• “The two factors that mitigate the ultimate punishment of an organization are: (i) the existence of an effective compliance and ethics program; and (ii) self-reporting, cooperation, or acceptance of responsibility.”
• Therefore, if you want any relief from sanctions – have a compliance plan
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• FSG are now the de facto standard for compliance programs
• FSG’s contain an eight step plan to create an “an effective compliance and ethics program” and those steps are . . .
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• Step 1: Conduct Risk Inventory and Assessment
  – Assess both likelihood and severity
  – Create Heat Maps/Compliance Matrices
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• Step 2: Assign Compliance Responsibility
  – To a unit or position not a person – getting away from personality driven compliance
  – Who owns this responsibility and accountability

• Step 3: Document Standards, Policies, and Procedures
  – Stay tuned for the next presentation on policy management
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• Step 4: Communicate Standards, Policies and Procedures
  – Don’t keep them on a shelf – published on a website, searchable, **useable**, well known to staff and faculty
  – The only thing worse than not having a policy, is having one and not following it

• Step 5: Implement, promote, and enforce
  – Publish them, shout it from the mountain top (or IDK, maybe convene a compliance summit) and then hold the institution accountable – not just the individual
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• Step 6: Monitor, Audit, Report:
  – Repeat after me: Compliance is a journey, not a destination – constant review (listserves, webinars, annual conferences)
  – Monitor compliance – see the physical (or virtual) document, disclosure, etc.; Be as transparent as possible

• Step 7: Continuous Improvement
  – Update based on review – ensure periodic review
  – 2015 matrices should not be identical to 2020 matrices
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• Step 8: Develop a strong and continuing culture of compliance
  – Get buy in at every level of the organization
  – Training, continuing education, and updates
  – This event is part of that culture
    • Visit the compliance website
    • Review the matrix for your area
    • If there are errors or omissions, let us know – we want to know
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• Compliance does not live in isolation – it is not ‘silenced’
  – Four legs of the table
    • Compliance
    • Policy Management
    • Risk Management
    • Ethics
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• Each element is essential to achieving the true objective of compliance
  – Organizational excellence that attracts the best “employees” and “customers”
  – It is never compliance for the sake of compliance – we comply to reach an end, compliance is never the end in itself
• That “end” is an organization that doesn’t just meet minimal compliance obligations but exceeds those minimums and fosters a pro-active, best-practices, ethical environment that encourages and promotes a (wait for it): CULTURE OF COMPLIANCE
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• What's next for the WMU Compliance Committee?
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2021 – The Year of Compliance Training!
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• Panel Discussion: Lessons from the Private Sector
• Many compliance regimes begin their lives with a focus on the private, for-profit sector. Non-profits, including higher ed, benefit from that status. See for example the CCPA . . .
• So let’s see what we can learn from our private sector compliance partners
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