

Higher Education Compliance Year In Review

2020 SCCE
Higher Education Compliance Conference



1

Welcome



MARISA ZUSKAR

HIGHER EDUCATION SENIOR DIRECTOR
HURON CONSULTING GROUP

2



Agenda

Year In Review

1. Covid-19
2. Foreign Influence & Academic Espionage
3. Student Safety & Campus Culture
4. Data & Technology



1 COVID-19

Covid-19

Transitioning Higher Education

When Covid-19 hit the United States, many colleges, universities, and academic medical centers promptly responded by sending students and staff home, creating new challenges when operating in a mostly virtual environment.

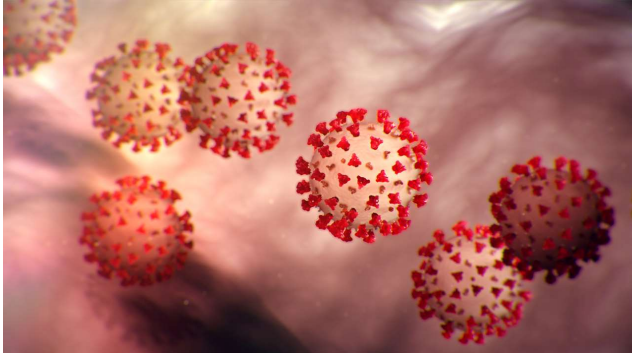


Image retrieved from <https://www.cdc.gov/media/dpk/diseases-and-conditions/coronavirus/coronavirus-2020.html>

Example Compliance Concerns:

- Anti-Discrimination Act Requirements
- Academic Integrity & Inclusion
- Research Enterprise Operations

Covid-19

Potential Risk: Anti-Discrimination Acts

Transitioning to a virtual environment requires preparation and forethought to maintain compliance with equal opportunity requirements:

American Disabilities Act (ADA)

Prohibits discrimination against individuals with disabilities in all areas of public life.

Title VII of the Civil Rights Act

Prohibits discrimination based on race, color, national origin, religion, and sex, including pregnancy

The Age Discrimination in Employment Act

Prohibits discrimination based on age, 40 or older

The Genetic Information Nondiscrimination Act

Prohibits discrimination based on genetic information with respect to health insurance and employment

The Rehabilitation Act

Requires reasonable accommodation and non-discrimination based on disability

Covid-19 Anti-Discrimination Acts Regulations

The Equal Employment Opportunity Commission (EEOC) recently issued guidance on anti-discrimination laws and Covid-19

- EEOC Chair Janet Dhillon issued a statement about **unlawful national origin and race discrimination against Asian Americans and people of Asian descent** in the workplace during the pandemic.
- The EEOC posted information to inform the public of the **continued enforcement of the nation's employment non-discrimination laws** while ensuring activities are consistent with public health guidelines.

Higher education institutions must maintain anti-discrimination measures, even in a virtual environment.

Covid-19 Potential Risk: Academic Integrity & Inclusion

Many institutions have transitioned to a pass-fail grading system, with some instructors showing particularly lenient course expectations and grading standards.

University of Illinois Urbana-Champaign

- A University of Illinois at Urbana-Champaign professor has "scaled back her expectations" for students particularly for those who may have contracted the virus.

Columbia University

- Responding to Covid-19, Columbia moved classes online and announced a mandatory pass/fail policy.
- Students will either pass a course or fail it, with no option to petition for a letter grade.

University System of Georgia

- The University System "trusts faculty to grade students effectively and maintain high academic standards" and not implement alternative course evaluation measures.

What is the Compliance Impact?

Covid-19

Academic Integrity & Inclusion Compliance

There are benefits and consequences for changing academic evaluation mechanisms *and* for maintaining the status quo. Your approach may have both short-term and long-term compliance impacts as it pertains to academic integrity and inclusion.



Conduct a Risk Assessment to Manage Compliance



Pros of Pass-Fail Grading

- Moving toward a pass-fail grading system helps to **bridge the accessibility gap** that some students and staff may experience as they transition from on campus to a virtual platform.

Cons of Pass-Fail Grading

- Interfering with institutional merit may have long-term **impacts on academic accreditation**.
- Influencing grade point average calculations may impact **student scholarships, graduate school applications, credit transfers, and employment prospects**.

Covid-19

Potential Risk: Research Enterprise Operations

Questions and concerns arise as researchers, administrators, and leadership navigate a new and virtual landscape, especially in terms of regulatory compliance



Image retrieved from <https://www.huronconsultinggroup.com/expertise/higher-education/research>



Covid-19 Research Enterprise Regulations

Major granting agencies, such as the National Institutes of Health (NIH) and National Science Foundation (NSF), have issued updated guidance for sponsored research:

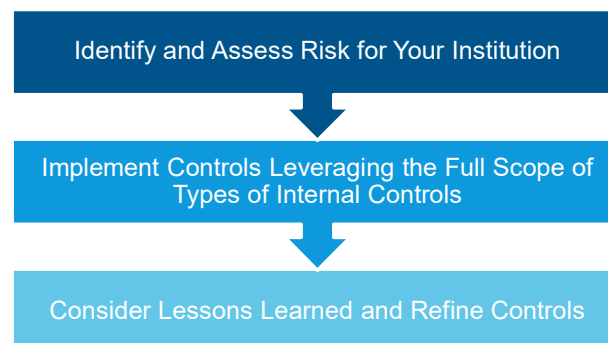


Image retrieved from <https://www.huronconsultinggroup.com/expertise/technology/click-portal-solutions>

Covid-19 Compliance: Recommendations

Covid-19 poses several challenges to colleges, universities, and academic medical centers:

“Rather than creating crisis-specific capabilities with limited shelf lives, leading institutions will leverage this experience to implement, mature and expand models that support improved risk assessment, associated mitigation and decision making.”



2

FOREIGN INFLUENCE & ACADEMIC ESPIONAGE

13

Foreign Influence & Academic Espionage Issue Identification: Introduction

Federal intelligence, security, and science agencies and members of Congress have expressed increasing concern regarding various forms of **foreign interference on research** performed at U.S. universities.



Accountability

- Conflict of commitment
- Conflict of interest
- Double dipping of financial support
- Theft of U.S.-funded research and IP



Transparency

- Dual loyalties of employees/colleagues re their affiliations outside the U.S.
- Investigators relying on multiple sources of financial and in-kind support to conduct research



Research Integrity

- Scientific overlap
- Violation of IP licenses to the industry entity if IP leakage occurs
- Export control requirements, including “deemed exports”

14

Foreign Influence & Academic Espionage

Harvard University

- Chairman of Harvard University's chemistry department was arrested for failing to disclose millions of dollars in research funding from China.
- The chairman misled the DOD and NIH about participation in foreign engagement and unreported foreign income.
- Dr. Charles Lieber was arrested and charged with lying to the U.S. government



Other Notable Cases

Yangying Ye (Boston University) - Lied on her visa application, omitting that she is a lieutenant in China's People's Liberation Army (PLA).

Zaosong Zheng (Beth Israel Medical Center) - Attempted to steal 21 vials of cancer cells he had taken from a colleague's laboratory at Beth Israel Deaconess Medical Center

Image retrieved from <https://www.npr.org/2020/02/14/806128410/harvard-professors-arrest-raises-questions-about-scientific-openness>



15

15

Foreign Influence & Academic Espionage

Agency Responses

U.S. Department of Education

"This is about transparency...If colleges and universities are accepting foreign money and gifts, their students, donors, and taxpayers deserve to know how much and from whom. Moreover, it's what the law requires."

Betsy DeVos
U.S. Secretary of Education

Institutional Think Tanks

"China's expropriation of American technology is an example of how it leverages its influence among universities, corporations and diaspora communities to further strategic objectives."

The Hoover Institution
Stanford University

U.S. Commerce & Export Controls

"Certain entities in China, Russia and Venezuela have sought to circumvent America's export controls, and undermine American interests in general, and so we will remain vigilant to ensure US technology does not get into the wrong hands"

Wilbur Ross
U.S. Secretary of Commerce

U.S. House Armed Services Committee

"China's strategic investment in our institutions of higher learning has long been a concern. This is especially true where China appears to be targeting institutions doing research with the Department of Defense in an effort to obtain sensitive information."

Rep. Mac Thornberry (TX)
Member, House Armed Services Committee



16

16

Foreign Influence & Academic Espionage Compliance: Recommendations



3

STUDENT SAFETY & CAMPUS CULTURE

Student Safety & Campus Culture

Introduction

Ensuring a safe and welcoming culture for students of all backgrounds can be a compliance challenge. Taking a proactive stance on issues related to Title IX, mental health, and sorority and fraternity life can help keep students safe.



Image retrieved from <https://www.usnews.com/education/blogs/international-student-counsel/2014/05/22/follow-security-tips-to-stay-safe-on-campus-as-an-international-student>

Quick Facts

- **41.9%** of undergraduate students reported feeling so depressed that it was difficult to function at least once during a 12-month period
- **63.4%** of undergraduate students reported feeling overwhelming anxiety at least once during a 12-month period
- Since 2015, **30** students have died as a result of hazing by fraternities and sororities



19

19

Student Safety & Campus Culture

Potential Risk: Student Mental Health

Iowa State University was found to be partially responsible for a student's suicide after the counseling center may have been ill-equipped to provide the resources the student needed.

- The student was never referred to the school's licensed psychologist and may have been misdiagnosed.
- A previous Iowa Supreme Court decision ruled that preventing a student's suicide was beyond the control of the school.



Image retrieved from <https://hbr.org/2018/10/ais-potential-to-diagnose-and-treat-mental-illness>



20

20

Student Safety & Campus Culture

Potential Risk: Sorority and Fraternity Life

In 2019, the family of a **Cornell University** freshman filed a lawsuit against the school and the Phi Kappa Psi fraternity after the student died after participating in a fraternity pledge ritual.

- The lawsuit alleges that the university failed to take appropriate actions when confronted with fraternity hazing in the past.
- Cornell's Interfraternity Council has banned all registered sorority and fraternity events

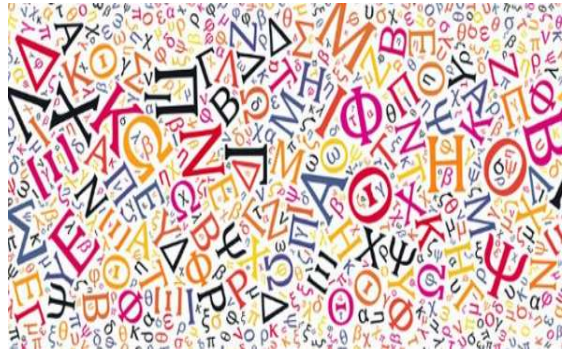


Image retrieved from <https://www.montclair.edu/student-services/2019/04/02/whats-that-greek-life/>

Student Safety & Campus Culture

Campus Safety on the Horizon

The COVID-19 pandemic presents another new threat to student safety.

- Beloit College plans to change the structure of its academic schedule to a “module-based semester” for the Fall 2020 semester.
- Students will enroll in two half-semester classes at a time, rather than four full-semester classes.
- The school hopes this will make it easier for students and faculty to transition between remote and in-person learning as needs change



Image retrieved from <https://elearningindustry.com/now-time-create-effective-virtual-learning-experiences>

Student Safety & Campus Culture

Compliance Impact: Regulatory Response

National Council on Disability

Offered new recommendations to Congress, the US Department of Education, and the US Department of Health and Human Services regarding resources and guidance for colleges and universities student mental health programs and resources.

LL14
HH15

Centers for Disease Control

Provided specific guidance for higher education institutions during the COVID-19 pandemic for how to keep students and staff safe

Title IX

Instituted major changes including requiring cross examinations in sexual misconduct hearings, narrowing types of misconduct covered under Title IX, and allowing colleges to require "clear and convincing evidence" to determine whether sexual assault occurred.

Student Safety & Campus Culture

Compliance: Recommendations

Self-Assess

- In what areas do you lack resources to adequately respond to and prevent students' concerns about their safety and well-being on campus?
- Do you have specific resources or reporting processes for students who feel unsafe or unwell on campus? Are students aware of them and of how to use them?

Implement Controls

- Publish clear enforcement actions for social organization infractions, including closure
- Campaign for student awareness of mental health resources
- Develop and deploy suicide prevention protocols

Adopt and Adapt

- Remain flexible and open to a variety of options to continue to meet student needs, even while in a virtual environment
- Evaluate and refine policies or procedures that are not meeting the needs of the campus community

Slide 23

HH14 Nope, that's exactly what we are looking for. Federal Guidance and definitions

Hilary Houlette, 4/27/2020

HH15 Checking out the CDC for fall campus openings is a good place to start:

<https://www.cdc.gov/coronavirus/2019-ncov/community/colleges-universities/index.html>

Hilary Houlette, 4/27/2020

4

INFORMATION & DATA SECURITY

25

Information & Data Security Introduction

Information security has long been a compliance focus for higher education institutions. Universities receive and maintain massive amounts of student data, with varied levels of institutional oversight and limited regulatory guidance on data management.



Image retrieved from <https://images.app.goo.gl/FrQXssz5vApLWMMY7>

Example Compliance Concerns:

- Data and Technology Security
- Student Data Privacy

26

Information & Data Security

Cyber-Attacks

There has been an increase in cyber-attacks on universities, often due to aging IT infrastructure and low IT budgets.

Specific security controls are not always defined (example: FERPA), but schools can be liable for data breaches if there are not “reasonable methods” of safeguards in place.



Monroe University

- Subjected to a large-scale ransomware attack that left the university without access to their website, learning management system & email. Ransom was for \$2M in bitcoin, it is unclear if it was paid out.

Image retrieved from <https://images.app.goo.gl/gG9YPf8mWZXbuFUY6>

Information & Data Security

‘Zoombombing’

With the transition to online learning, ‘Zoombombing’ has emerged as major disruption occurring at universities across the country - bad faith actors infiltrate Zoom meetings and post racist, sexist, pornographic, or other hate speech under anonymous titles / names.

Arizona State University (ASU)	University of Southern California (USC)
<ul style="list-style-type: none">• Professor was conducting an online lecture with 150+ students• During the lecture, students noticed pornographic backgrounds being used by anonymous Zoom users• Soon thereafter, the chat feature was overrun with inappropriate comments	<ul style="list-style-type: none">• USC has reported multiple instances of abuse on the Zoom platform• Many of these complaints involved unknown parties entering the lectures and posting inappropriate content

Information & Data Security

Data Privacy & FERPA

The University of Virginia is facing criticism for its use of student data in the admissions process. Concerns were raised in 2017 and resurfaced in 2019.

- UVA has been using student data to 'watchlist' students who have "certain qualities or relationships"
- Advocates for demographic admissions have compared this to the national college admissions scandal
- Data was shared between the Office of Institutional Advancement & the Office of Undergrad. Admissions



Information & Data Security

Compliance: Recommendations

Conduct A Self-Assessment:

- What are your risk areas in Information and Data Security?
- How is data protected within and across your institution?
- Does the increase in technology to facilitate virtual work increase your risk?

Preventative Actions:

- Understand and evaluate access and use of sensitive data
- Identify and review information flows between departments and units to ensure compliance with regulations
- Review current policies and procedures and consider updates that place more emphasis on data privacy in areas not currently covered



THANK YOU



© 2018 HURON CONSULTING GROUP INC. AND AFFILIATES. ALL RIGHTS RESERVED.

31

Appendix Article References

- U.S. Equal Employment Opportunity Commission. [Coronavirus and COVID-19](#). N.D.
- Inside Higher Ed. [Is Pass-Fail and Equity Issue?](#). April 22, 2020.
- The Chronicle of Higher Education. [‘Don’t Worry About the Class’: How One Professor Responded to a Student with Covid-19 Symptoms](#). April 9, 2020.
- The New York Times. [With Coronavirus Disrupting College, Should Every Student Pass?](#). March 28, 2020.
- Time. [We Need to Defend America’s Research and Science from Foreign Spying](#). February 27, 2020.
- Huron Consulting Group. [Higher Education Covid-19 Response: Enterprise Risk Management](#). N.D.
- Inside Higher Ed. [Foreign Gifts Investigations Expand and Intensify](#). February 20, 2020
- The Washington Post. [House Republicans investigating Chinese influence on U.S. universities](#). May 4, 2020.
- Inside Higher Ed. [The Continuing Danger of Academic Espionage](#). May 5, 2020
- The Diplomat. [U.S. Commerce Department Tightens China Export Controls on Military Use Concerns](#). April 30, 2020.
- Huron Consulting Group. [Shades of Gray: The Evolution of Data Privacy Standards in Higher Education](#). April 15, 2020.
- Inside Higher Ed. [Cyberattacks Mar Start of Academic Year](#). April 15, 2020.
- Inside Higher Ed. [‘Zoombombing’ Attacks Disrupt Classes](#). April 20, 2020
- 14East. [“An Egregious Violation:” Zoombombing Wreaks Havoc on DePaul Class](#). May 5, 2020.
- Inside Higher Ed. [Debate Around UVA ‘Watch List’ Reignites](#). April 14, 2020.
- Washington Post. [At U-Va., a ‘watch list’ flags VIP applicants for special handling](#). May 7, 2020.
- Association of American Universities. [Revised Aggregate Report](#) May 5, 2020.
- American College Health Association. [National College Health Assessment](#) May 7, 2020.
- The Chronicle of Higher Education. [After a Freshman’s Death, Cornell U. Fraternities Ban Some of Their Own Events. But Is the Move Merely Symbolic?](#) March 14, 2020.

32

Appendix

Article References

- Education Dive. [These lawsuits could change the stakes for higher ed](#) May 1, 2020.
- State of New York Supreme Court. [John Tsialas and Flavia Tomasello v. Cornell University, Phi Kappa Psi Fraternity, Inc., New York Alpha of Phi Kappa Psi Association, Inc., Andrew Scherr, Shane Rohe, William Granath, Ryan Berman, Nolan Berkenfeld, Pietro Palazzolo Russo, Felip Hanuch, and John Jacobs](#) May 1, 2020.
- The Chronicle of Higher Education. [A Jury Found Iowa State U. Partially Responsible for a Student's Suicide. Here's What That Could Mean for Other Colleges.](#) April 30, 2020.
- The Chronicle of Higher Education. [Here's a List of Colleges' Plans for Reopening in the Fall.](#) May 2, 2020
- Beloit College. [College announces modules for Fall 2020 as COVID-19 response.](#) May 2, 2020
- National Council on Disability. [A Progress Report](#) April 29, 2020
- Centers for Disease Control. [Interim Guidance for Administrators of US Institutions of Higher Education.](#) May 2, 2020
- The Chronicle of Higher Education. [6 Questions Colleges Are Asking About the New Title IX Regulations..](#) May 8, 2020
- The Chronicle of Higher Education. [What Colleges Need To Know About the New Title IX Rules.](#) May 8, 2020
- The Chronicle of Higher Education. [The Education Dept. Would Like Students Question Their Rape Accusers. At Some Colleges, That's Already How It Works.](#) May 8, 2020.