



THE OHIO STATE UNIVERSITY

## Investigations Infrastructure and Corrective Actions

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Office of University Compliance and Integrity

### Goal

Provide investigation assessment tools that will facilitate the growth and maturity of your investigation program

### Agenda

- **Explore** how to centrally track wide-ranging and complex allegations of legal and policy violations
- **Practice** using materiality ratings and clear protocols for effective stakeholder coordination and efficient leadership reporting
- **Discuss** how to formalize corrective actions in a compliance program

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## Two Types of Investigations



### External Investigations

- Conducted by regulator or external law enforcement.
- Examples investigators include:
  - Office for Civil Rights,
  - State Ethics Commission,
  - State and Federal Inspector General's Office, and
  - Federal Bureau of Investigation

### Internal Investigations

- Conducted by organization employees or outside counsel.
- Examples of investigators include:
  - Human Resources,
  - Internal Audit,
  - Compliance,
  - Outside law firms, and
  - Specialized consultants.

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## How do we ensure we are effectively conducting wide-ranging, complex investigations?

NPR

**Duke Pays Whistleblower Millions In Research Fraud Case**  
Duke University is paying the U.S. \$112.5 million to resolve allegations that it violated the False Claims Act by submitting falsified research data ...  
Mar 25, 2019



Los Angeles Times

**UC investigates university involvement in college admissions scandal**

... President Janet Napolitano has ordered an internal investigation into any UC involvement in the nationwide college admissions scandal.  
Mar 13, 2019



BI Business Insider

**Ohio State Marching Band Investigation Reveals Sexual Harassment - Business Insider**

Ohio State University Marching Band Investigation Reveals Disturbing Culture Of Sexual Harassment. Peter Jacobs. Jul 24, 2014, 8:12 PM. The letter F. An ...  
Jul 24, 2014



The Detroit News

**MSU: Nassar internal probe report doesn't exist**

Lansing — Michigan State University cannot release an "investigative report" on an internal probe into its handling of criminal activity by former ...  
Dec 8, 2017



USA TODAY

**DOJ: Harvard University professor lied about work for the Chinese government**

Lieber, who specializes in nanoscience and is principal investigator of Harvard's Lieber Research Group, has received more than \$15 million in ...  
Jan 28, 2020



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## Effective Organizational Investigations

**Promote a culture of integrity and appropriately engage leadership**

**Stop misconduct and identify systemic issues and process breakdowns**

**Mitigate risk and demonstrate internal control to external regulators**



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## U.S. Sentencing Guidelines §8B2.1

Implementing written policies, procedures, and standards of conduct



Leadership Engagement and Appropriate Delegation



Diligence in Hiring



Communication and Training



Testing and Monitoring



Alignment of Incentives



Responding promptly to detected offenses and undertaking corrective action



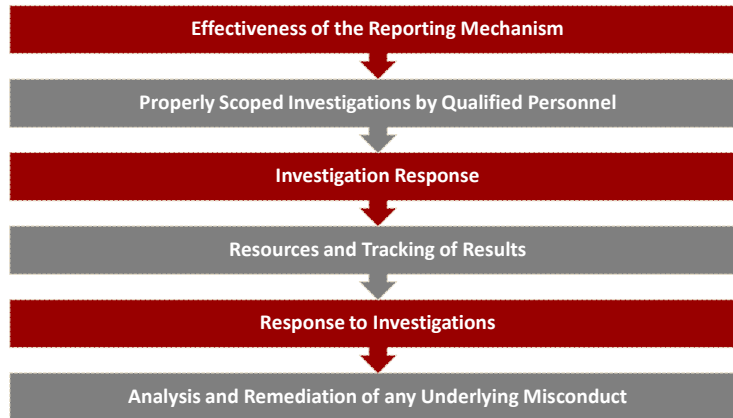
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## DOJ Evaluation of Corporate Compliance Programs

Confidential Reporting Structure, Investigation Process, and Continuous Improvement



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*Squirrel!*



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*Squirrel!*



## Organization of Investigative Infrastructure at Ohio State

<b>Office of University Compliance and Integrity</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> Any issues as needed or requested</li> <li>• <b>Oversight:</b> General Counsel; Board of Trustees' Audit and Compliance Committee</li> </ul>			
<b>Human Resources Employee &amp; Labor Relations</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> Human Resources policy issues</li> <li>• <b>Oversight:</b> Office of Human Resources</li> </ul>	<b>Medical Center HR Employee &amp; Labor Relations</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> Human Resources policy issues</li> <li>• <b>Oversight:</b> Office of Human Resources/Med Center HR</li> </ul>	<b>Athletics Compliance</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> NCAA/Big 10 violations; Athletics policy issues</li> <li>• <b>Oversight:</b> Department of Athletics; OUCI</li> </ul>	<b>Medical Center Compliance</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> Healthcare regulatory and policy issues; ethics issues</li> <li>• <b>Oversight:</b> Office of Legal Affairs; OUCI</li> </ul>
<b>Research Compliance</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> Research misconduct; other research policy issues</li> <li>• <b>Oversight:</b> Office of Research; OUCI</li> </ul>	<b>Student Conduct</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> Code of Student Conduct violations</li> <li>• <b>Oversight:</b> Office of Student Life</li> </ul>	<b>Internal Audit</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> Financial wrongdoing and control violations; B&amp;F policy issues</li> <li>• <b>Oversight:</b> Office of Business and Finance</li> </ul>	<b>Chief Information Security Office</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> Information security breaches</li> <li>• <b>Oversight:</b> Office of the Chief Information Officer; OUCI</li> </ul>
<b>Office of Academic Affairs</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> Rule 3335-5-04 faculty misconduct</li> <li>• <b>Oversight:</b> Provost</li> </ul>	<b>Office of Institutional Equity</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> Harassment, discrimination, and sexual misconduct</li> <li>• <b>Oversight:</b> Office of Institutional Equity; Provost</li> </ul>	<b>Office of Legal Affairs</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> Ad hoc issues</li> <li>• <b>Oversight:</b> General Counsel</li> </ul>	<b>Police Department</b> <ul style="list-style-type: none"> <li>• <b>Investigates:</b> Criminal Incidents</li> <li>• <b>Oversight:</b> Department of Public Safety</li> </ul>



## Investigations Rating Methodology & Protocol

### Materiality Ratings

Rating	Public Interest	Subject Position	Regulatory
5	Major reputational topic; of immediate interest to the general public	Concerns unit or senior leader	Regulatory debarment or shutdown
4	Potential for significant publicity; of interest to the general public	Concerns management of some seniority	Regulatory probation/ongoing supervision
3	Potential for publicity; could be of interest to the general public	Concerns staff or faculty	Regulatory warning letter or equivalent
2	Small potential for publicity; no known interest to the general public	Concerns staff or faculty	Advisory letter or other indication of ongoing interest
1	No potential for publicity; no known interest to the general public	Concerns staff or faculty	No regulatory enforcement interest

### Action Steps Summary

<b>5 Key stakeholders advised; investigation coordinated by OUCI</b>
Investigations Team Member: Consult OUCI, investigation TBD
OUCI Responsibility: Consult Senior VP & General Counsel, coordinate investigation
Additional Responsibility: Senior VP & General Counsel to inform key stakeholders as appropriate
<b>4 Appropriate Senior Leaders advised; investigation overseen by OUCI</b>
Investigations Team Member: Consult OUCI, investigation TBD
OUCI Responsibility: Notify Senior VP & General Counsel, oversee investigation
Additional Responsibility: Senior VP & General Counsel to inform Senior Leaders as appropriate
<b>3 Management advised; OUCI and Unit collaborate on investigation</b>
Investigations Team Member: Consult OUCI, perform investigation themselves
OUCI Responsibility: Notify university leaders as appropriate, monitor
Additional Responsibility: None
<b>2 Unit oversees investigation</b>
Investigations Team Member: Notify OUCI, perform investigation themselves
OUCI Responsibility: Monitor
Additional Responsibility: None
<b>1 Local investigation</b>
Investigations Team Member: Notify OUCI, perform investigation themselves
OUCI Responsibility: Monitor
Additional Responsibility: None

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## Poll Question #2

### Anonymous Complaint

**Received:** 4/26/2020

**Organization/Unit:** Athletics (Men's Basketball)

**Please provide a detailed description of this matter:** My teammate, Michael Jordan, gave me the name of a tutor that will write papers for me. I texted the tutor to see if she could write my English paper for me and she said that it would cost \$200 per paper. She offered to write it for free if I gave her tickets to the Michigan game. She said it was okay because she's done this for lots of other players, including football players. I've already promised all of my Michigan tickets to my family and friends and I'm mad that I can't get the tutoring services for free like the other guys. I sent an email about this to the Athletic Director and she hasn't responded.

The day after I reported this issue to the Athletic Director, my Coach told me that I'm not starting anymore. I think this is retaliation for reporting an issue.

**How would you rate this issue?**

- A. 1
- B. 2
- C. 3
- D. 4
- E. 5



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## Investigation Program Development

### Effective Investigation Program: Framework

Leadership Engagement	Reporting Mechanism	Planning/Scope	Qualified Personnel	Response	Tracking	Communication
<ul style="list-style-type: none"> <li>Leadership notified and updated</li> <li>Decisions framed effectively for leadership</li> </ul>	<ul style="list-style-type: none"> <li>Anonymous reporting mechanism publicized</li> <li><b>Compliance function has full access</b></li> </ul>	<ul style="list-style-type: none"> <li>Complaints assessed consistently</li> <li>Protocol to determine investigator</li> <li>Interview/Reporting protocols</li> </ul>	<ul style="list-style-type: none"> <li>Regular investigative training</li> <li>Independent skilled investigators with appropriate expertise</li> </ul>	<ul style="list-style-type: none"> <li>Timing metrics implemented</li> <li>Evidence analyzed consistently</li> <li>Corrective actions implemented consistently</li> <li>Root cause analysis performed</li> </ul>	<ul style="list-style-type: none"> <li>Information gathered used/analyzed effectively</li> <li>Corrective actions are tracked/audited</li> </ul>	<ul style="list-style-type: none"> <li>Outcomes are communicated internally and externally if necessary</li> <li>Value of concern reporting communicated/demonstrated</li> </ul>

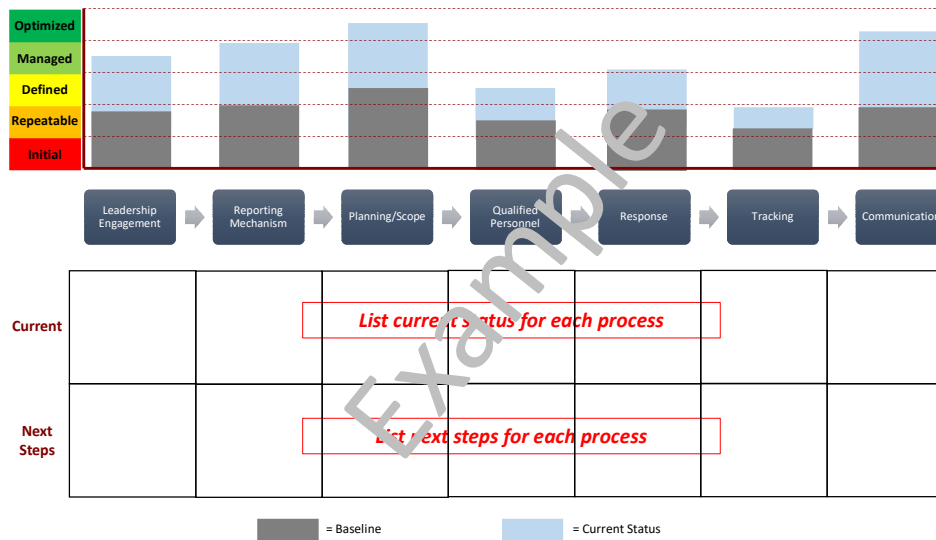
### Effective Compliance Program: Maturity Assessment

RATING	OVERSIGHT/GOVERNANCE	CONTROL DESCRIPTION	REPEATABILITY
Optimized	Leadership oversight is pro-active	Controls in place; regular risk-based testing	Strategies to make processes more efficient
Managed	Leadership oversight is active	Controls in place; ad hoc testing	Reevaluation and updating of methods
Defined	Leadership oversight is continuous	Controls in place to cover requirements; no testing	Uniform processes and repeatable
Repeatable	Leadership oversight is sporadic	Some but not all controls in place; some controls outdated	Highly dependent on actions and know-how of people close to the issue
Initial	No leadership oversight	No institutional controls	ad hoc

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## Investigation Program Development Assessment

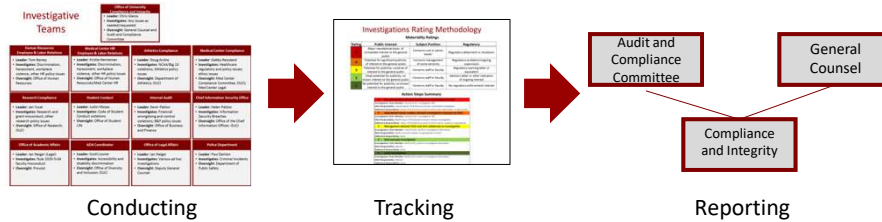


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## Investigations Oversight and Governance



- |  | Conducting  | Tracking   | Reporting  |
|--|---|--|--|
| <b>Investigative Teams</b>                           | <ul style="list-style-type: none"> <li>Plan and lead investigations for complaints in defined subject areas</li> <li>Document findings</li> <li>Recommend corrective actions</li> </ul>   | <ul style="list-style-type: none"> <li>Track investigations in defined subject area, and regularly report new investigations and progress on existing investigations to University Compliance and Integrity</li> <li>Monitor implementation of corrective actions</li> </ul>             | <ul style="list-style-type: none"> <li>Provide information as necessary to unit leadership and OUCI</li> <li>When appropriate, leader of unit overseeing investigative team reports to the Board</li> </ul>                  |
| <b>Office of University Compliance and Integrity</b> | <ul style="list-style-type: none"> <li>Plan and lead investigations when other teams need or when requested by senior leadership</li> <li>Provide consultation and/or direct oversight on material investigations as needed</li> <li>Administer EthicsPoint hotline and assign issues to appropriate teams</li> </ul> | <ul style="list-style-type: none"> <li>Assign materiality ratings to matters, and coordinate with investigative teams to follow protocols</li> <li>Receive regular reports from investigative teams</li> <li>Maintain central tracker of investigations across the university</li> </ul> | <ul style="list-style-type: none"> <li>Report material matters to the General Counsel and the Board of Trustees' Audit and Compliance Committee</li> <li>When appropriate, facilitate reporting to senior leaders</li> </ul> |

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## Poll Question #3

**Who should conduct root cause analyses following investigations at an institution?**

- A. Internal Audit
- B. Compliance
- C. Office of Legal Affairs/General Counsel
- D. Department/Unit under Investigation
- E. Other/Multiple Offices



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## Corrective Actions and Root Cause Analysis

### Resolution Information

- Track actions taken to ensure follow through and consistency
- Identify ownership of corrective action

### Root Cause Analysis

- **When should you conduct a root cause analysis?**
- Factors contributing to issue/concern
- Identify ownership of root cause analysis

### Communicating Outcomes

- Public investigation reports?
- Public investigation data?
- Communicate corrective action to stakeholders



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## Questions?

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