

Compliance in a Box: An Overview of the Fundamentals for Rookies, and a Refresher for Veterans

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Presented by



Deena King, CCEP, CISA
The University of Texas at Tyler
Chief Compliance Officer
deenaking@uttyler.edu



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Presented by



Terry Stringer, CCEP

HP

Head of the Ethics and Compliance,
Office Center of Excellence

terry.stringer@hp.com



3

Presented by



CJ Wolf MD, CHC, CCEP, CIA, COC, CPC

Healthicity

Senior Compliance Executive

cj.wolf@healthicity.com



Disclaimer: Nothing in this presentation should be construed as legal advice nor relied upon as legal expertise.

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Polling Question:

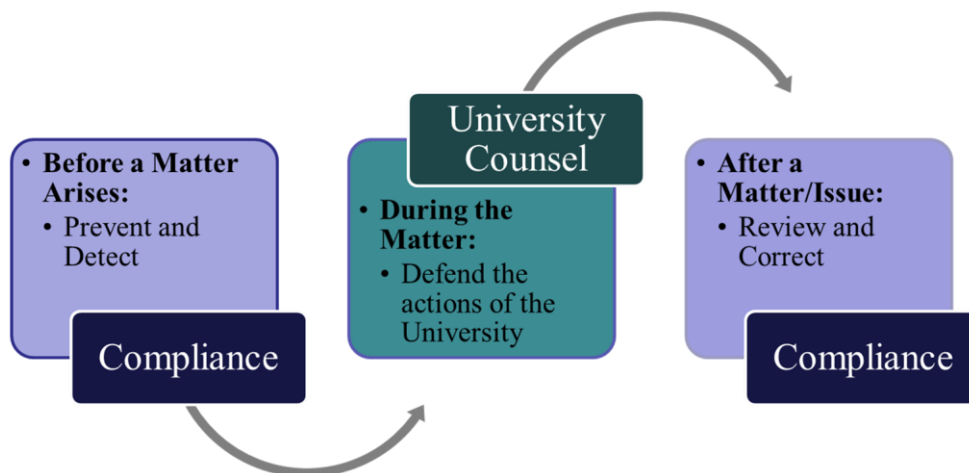


What best describes your role in your organization?

- a) Chief Compliance Officer
- b) Director level
- c) Manager level
- d) Consultant
- e) Subject matter expert

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Legal and Compliance – Different, But Aligned



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Compliance Why, What and How



Why (as Context) +
What + How = “Compliance”

The Genius of the “And”

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Compliance “Why”

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Laws and Regulations Protect...



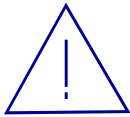
Reputation



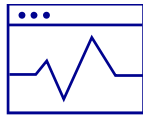
Buildings



Lawsuits



Safety



Data Loss



Financial Losses



Loss of Life

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Our “WHY” at HP



We will be a **catalyst** for **Integrity**

- We promote a culture of integrity as the HP Way
- The guardrails that ensure we WIN the right way

We will Promote **Trust** in HP's Brand from

- Our Customers and Partners
- Our leaders
- Our Employees



Raising a Concern

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Our “WHY” at HP



We will Inspire Trust by promoting
Organizational Justice

- Providing a safe place to Speak Up
- Ensuring multiple avenues that Listen Up
- Issues Reported to us are Followed Up



Raising a Concern

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Why in Healthcare?



Quality of Care—frequently it affects patients' lives

- “Driving for Quality in Acute Care: A Board of Directors Dashboard”
<https://oig.hhs.gov/fraud/docs/complianceguidance/RoundtableAcuteCare.pdf>
- “Driving for Quality in Long-Term Care: A Board of Directors Dashboard”
<https://oig.hhs.gov/fraud/docs/complianceguidance/Roundtable013007.pdf>
- “Corporate Responsibility and Health Care Quality: A Resource for Health Care Boards of Directors”
<https://oig.hhs.gov/fraud/docs/complianceguidance/CorporateResponsibilityFinancial%209-4-07.pdf>

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Why in Healthcare?



- Health and Human Services Office of Inspector General has exclusion authority
- Can exclude from participation in Federal Health Care Programs...a.k.a. the “kiss of death”

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Compliance “What”

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Polling Question



Which industry do you work in?

- | | |
|-----------------------|---------------------------------|
| a) Consulting | g) Information Technology |
| b) Energy | h) Insurance |
| c) Financial Services | i) Manufacturing and Production |
| d) Government/Policy | j) Pharma/Medical Device |
| e) Healthcare | |
| f) Higher Education | |

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Compliance Program Content



Approximately
70% of
compliance
comes from
just being an
employer

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What We Value



Integrity at HP

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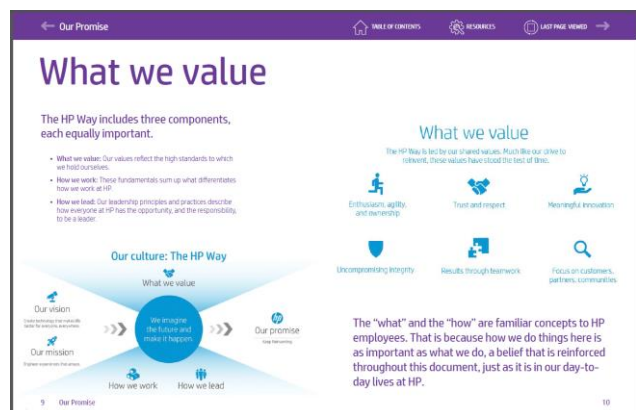
What We Value at HP



Integrity at HP – Our Code of Conduct

- What we Value
- The Risks We Face

Describes How We Will
Aspire to Our Vision and
Our Promise And Fulfil
Our Mission



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What We Do



ECO Policies



Conflicts of Interest Policy



HP Global Privacy Policy



Contingent Worker Code of Conduct



Anti-Corruption Policy



HP Privacy Statement



Global Business Amenities Policy



Confidential Information Policy



Fraud Mitigation Policy and Framework



Partner Code of Conduct

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Compliance Program Content-- Healthcare



OIG Compliance Guidance Documents by provider type:

- Nursing Facilities
- Hospitals
- Pharma/Med Device
- Ambulance
- Physician Practices
- Medicare+Choice
- Hospice
- Durable Medical Equipment
- Third-Party Medical Billing Companies
- Clinical Laboratories
- Home Health

<https://oig.hhs.gov/compliance/compliance-guidance/index.asp>

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Compliance “How”

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Polling Question



Does your organization use the “seven elements of effective compliance programs?”

- a) Yes
- b) No
- c) N/A or Don't Know

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FSG as “How” – A Framework



U.S. Sentencing Guidelines on Effective Ethics and Compliance Programs (§8B2.1) often called the “Federal Sentencing Guidelines” or FSG can be viewed as the *de facto* framework of institutional compliance

§8B2.1. Effective Compliance and Ethics Program

(a) To have an effective compliance and ethics program, for purposes of subsection (f) of §8C2.5 (Culpability Score) and subsection (b)(1) of §8D1.4 (Recommended Conditions of Probation – Organizations), 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.

Such compliance and ethics program shall be reasonably designed, implemented, and enforced so that the program is generally effective in preventing and detecting criminal conduct. The failure to prevent or detect the instant offense does not necessarily mean that the program is not generally effective in preventing and detecting criminal conduct.

(b) Due diligence and the promotion of an organizational culture that encourages ethical conduct and a commitment to compliance with the law within the meaning of subsection (a) minimally require the following:

- (1) The organization shall establish standards and procedures to prevent and detect criminal conduct.

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FSG: The 17 “Shall’s”



Examples:

- ...an organization **shall** exercise due diligence to prevent and detect criminal conduct...
- The organization **shall** establish standards and procedures...”
- The organization **shall** take reasonable steps to communicate periodically and in a practical manner...
- The organization's compliance and ethics program **shall** be promoted and enforced...

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The HCCA-OIG “Seven Elements”



1. Standards, Policies, and Procedures
2. Compliance Program Administration
3. Screening and Evaluation of Employees
4. Communication, Education, and Training
5. Monitoring, Auditing, and Internal Reporting Systems
6. Discipline for Non-Compliance
7. Investigations and Remedial Measures

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Other Interpretations



U.S. Department of Justice Guidance (12 elements)

Designed?

- | | |
|-------------------------------|---|
| 1. Risk Assessment | 4. Confidential Reporting/Investigation Process |
| 2. Policies and Procedures | |
| 3. Training and Communication | 5. Third Party Management |
| | 6. Mergers and Acquisitions |

<https://www.justice.gov/criminal-fraud/page/file/937501/download>

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Other Interpretations



U.S. Department of Justice Guidance (12 elements)

Implemented?

7. Commitment by Senior and Middle Management
8. Autonomy and Resources
9. Incentives and Discipline

Working?

10. Continuous Improvement, Testing, Review
11. Investigation of Misconduct
12. Analysis and Remediation

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Other Interpretations



Healthicity
(10 Keys)



1. Assessments
2. Trainings
3. Workplans
4. Policies
5. Incidents
6. Audits
7. Exclusions
8. Regulations
9. Contracts
10. Reports

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Other Interpretations



The University of Texas at Tyler¹ (8 Activities)

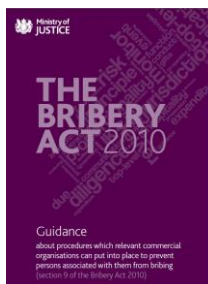
- Identify Requirements/ Assess Risk
- Establish/Modify Compliance Organization
- Document Standards, Policies, and Procedures
- Communicate Standards, Policies, and Procedures
- Implement, Promote, and Enforce
- Monitor, Audit, and Report
- Continuous Improvement
- Leadership/Corporate Culture



¹Adapted from Deena King, *Compliance in One Page*, ©2015. All Rights Reserved. Used with Permission.

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Ethics & Compliance Frameworks Guidance



Good Practice Guidance on Internal Controls, Ethics, and Compliance

Adopted 18 February 2010

This Good Practice Guidance was adopted by the OECD Council as an integral part of the *Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions* of 26 November 2009.



2015 CHAPTER 8

CHAPTER EIGHT - SENTENCING OF ORGANIZATIONS

Introduction/Comments

The guidelines and policy statements in this chapter apply when the convicted defendant is an organization. Organizations can act only through agents and, under federal criminal law, generally are vicariously liable for the offenses committed by their agents. At the same time, individual agents are responsible for their own criminal conduct. Federal prosecutors of organizations therefore frequently involve individual and organizational co-defendants. Convicted individual agents of organizations are sentenced in accordance with the guidelines and policy statements in the preceding chapters. This chapter is designed so that the sentences imposed upon organizations and their agents, taken together, will provide just punishment, adequate deterrence and incentives for organizations to maintain internal mechanisms for preventing, detecting, and reporting criminal conduct. This chapter reflects the following general principles:

First, the court must, whenever practicable, order the organization to remedy any harm caused by the offense. The resources committed to the remedy should be commensurate with the nature and extent of the offense and the organization's culpability in the offense.



Resource Guide to the U.S. Foreign Corrupt Practices Act

By the Criminal Division of the U.S. Department of Justice and the Enforcement Division of the U.S. Securities and Exchange Commission

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HP's 10 Standards



2 HP Standards
Figure 1: Overview

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How We Inspire Trust



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Compliance Why, What and How



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The Genius of the “And”

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Compliance Leaders and “How”



- The benefits of training/urging subject-matter compliance leaders to use all the elements of “How”
- Weaving compliance in the operations of your organization

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Polling Question



When was your organization's last compliance program effectiveness review performed?

- a) We've never performed one
- b) Within the last 12 months
- c) Between 12-24 months ago
- d) More than 24 months ago

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Measuring Effectiveness-- Healthcare



- Not a standard (or is it?)
- Not a checklist
- Not a certification process
- One size does not fit all
- Not meant to be an industry benchmarking tool

Measuring Compliance Program Effectiveness: A Resource Guide

ISSUE DATE: MARCH 27, 2017

HCCA-OIG Compliance Effectiveness Roundtable
Roundtable Meeting: January 17, 2017 | Washington, DC



<https://oig.hhs.gov/compliance/compliance-resource-portal/files/HCCA-OIG-Resource-Guide.pdf>

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Thank you!

Questions??