

ACUA's Institutional Compliance Survey, Part I: How is Higher Ed Doing?

By Ann Hough

The Best Practices Committee conducted its first Institutional Compliance Survey in January with the goal of gauging the trends in organizational awareness, organizational structures, and operational methods of institutional compliance within our member institutions. The article below summarizes the results. Thank you to all who participated.

RESPONDENT BACKGROUND

A total of 23 members responded to the survey; 83 percent of which were from public institutions. The largest portion of the respondents, 41 percent, worked for larger institutions (defined as having more than 20,000 FTEs) and another 27 percent reported working for institutions with FTEs of between 10,000 and 20,000. Most of the responses, both numeric and commentary, indicated that compliance oversight was fairly self-contained within the institution's boundaries. At least two (one state and one international university), however, indicated they were subject to relatively rigorous monitoring by governmental agencies.

ORGANIZATIONAL AWARENESS AND STRUCTURE

It is no secret that institutional compliance is gaining more attention as an area that warrants accountability at high levels within the organization. In her article *Building a Compliance Program in Higher Education Institutions Without Compliance Officers* (College and University Auditor, Spring 2009, page 7), Susan Keller highlights the challenges presented by the inherent diversity of activities conducted in higher education. She writes: "Colleges and universities have been struggling to find the most cost-effective and comprehensive means to tackle diverse sets of compliance requirements at a time when Boards of Directors, management and stakeholders are demanding transparency and accountability and pointedly asking what is being done about compliance."

Ms. Keller continues, "Regardless of the complexity involved in managing compliance, a breach in any of these areas can have serious consequences, including fines, penalties and reputation damage." An institution accustomed to decentralized accountability for compliance activities could find the task of formalizing a more centralized institutional compliance function the practical equivalent of, say, herding cats.

Member institutions' responses to this challenge are evidenced in how long their compliance functions have been in place. In response to the question, "How long has institutional compliance been identified as a separate and distinct function at your institution, with responsibilities identified and assigned to specific individuals/departments/committees?" a full 81 percent of the respondents indicated that their institutions had realized a need for a more defined compliance function more than five years ago. Only 18 percent indicated that the idea of compliance as a function had taken hold in their institutions less than two years ago.

However, there appears to be a difference between realization of compliance as a distinct business objective and implementation of an organizational structure that reflects this. When asked: "Does your institution have a dedicated institutional compliance function? (Dedicated is defined as a function whose sole responsibility is compliance)," only 13 percent of the respondents indicated they had a stand-alone institutional compliance department and another 35 percent indicated that com-



ABOUT THE AUTHOR

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pliance was defined, but embedded in another area (such as audit or legal). The remaining 52 percent indicated that their institutions did not have the dedicated compliance function.

Furthermore, 59 percent of the respondents indicated that staffing dedicated solely to institutional compliance was less than five individuals, and a full 18 percent indicated their institutions had no dedicated staff at all.

ORGANIZATIONAL ACCOUNTABILITY

Given that few institutions disclosed a dedicated compliance function, the question arose as to what other responsibilities the compliance officer or department performs. In response to the question, “Does your institution have a Chief Compliance Officer?” exactly half of the respondents answered yes. But when asked what other positions the designated CCO holds, all respondents indicated that their CCO wears another hat at their institution, the most common being that of Chief Audit Executive.

While the other half of the respondents, those **without** designated CCOs, had similar results, their responses were also revealing.

Absent a designated Chief Compliance Officer, which executive level individual(s) is/are responsible for institutional compliance? Please select all that apply.	
None	11%
General Counsel	21%
Chief Executive Officer	21%
Chief Internal Auditor	42%
Chief Risk Officer	5%
Chief Financial Officer	32%
Chief Operating Officer	16%
Other, please specify	37%

Aside from the obvious eyebrow-raising percentage of those that indicated they had no executive accountability for institutional compliance, the percentages above indicate that the perception of where compliance reasonably fits into the governance structure varies widely within the industry.

Meanwhile, the “Other” category in the table above yielded some interesting results: roughly half of these respondents indicated that the accountability for institutional compliance had been delegated to the academic, rather than administrative, side of the institution – an option not even offered in the survey. Of these, most indicated these individuals on the academic side were also responsible for research, a figure which may be explained by the fact that 52% of the overall survey respondents indicated that their institutions were research intensive, and the exact same number indicated they had medical facilities.

Regardless of the placement of institutional compliance within organizational charts of the institutions, it appears that those held directly accountable are afforded access to the highest levels of governance. Responses indicated that of those executives responsible for compliance, 43 percent reported directly to the Board of Directors or equivalent governing body, and 52 percent reported to the president. A full 74 percent of the respondents reported that their compliance executives have some degree of access to the Board, even if it is not direct reporting.

COMPLIANCE OPERATIONS: CENTRALIZED VERSUS MATRIXED

Regardless of where the ultimate accountability for institutional compliance resides, this individual or department must decide how to distribute some of the operational responsibilities that support the compliance mission, such as the policy setting, monitoring, testing and training. Most auditors would be familiar with the centralized approach, in which staff within a common department venture into the various departments within the university and conduct the test work and reporting necessary to support the mission.

However, given the extremely broad scope of activities taking place as part of university operations, it is not unusual to see a matrix approach, in which each distinct compliance area, or “silo,” has its own assigned accountabilities for compliance operational tasks, using an individual within their own area. The role of institutional compliance in this model is to standardize the operational processes across all department lines and to compile results for analysis and reporting.

Only 35 percent of respondents indicated that the operational aspects of institutional compliance are centralized under one compliance department. The remaining 65 percent, who indicated their compliance function was matrixed, were asked to select a statement which best described the relationship between the compliance silos and the CCO or equivalent executive. The results are below:

If matrixed, which best describes the interaction between the distributed compliance "silos" and the Chief Compliance Officer/responsible executive?	
Formal, representative committee with defined accountability, responsibilities and authority	13%
Formal, representative committee acting mostly as an advisor to the Chief Compliance Officer/responsible executive	20%
Informal advisory/informational committee made up of representatives from functional areas	7%
Dotted line from a compliance delegate in each area to the Chief Compliance Officer	0%
Authority and responsibilities of the Chief Compliance Officer and owner departments not clearly defined	40%
Other, please specify	20%

While the percentages in the first two responses in the chart above are encouraging, there remains the 40 percent who indicated that the authority and responsibilities of the CCO and owner departments are not clearly defined. These results are consistent with that of the follow up question: "Whether matrixed or centralized: has the Chief Compliance Officer been delegated the appropriate authority to enforce operational functions that affect the compliance program?" Fifty-nine percent answered yes to that question.

The survey results indicate that while the status of institutional compliance has been elevated to at least the level of consideration at executive levels in higher education, the degree of organizational structure and resource allocation still varies to some degree. There are, however, many subject- and method-specific topics upon which most compliance professionals agree are contemporary to their mission. In fact, this is one of the primary purposes of the Federal Sentencing Guidelines (FSG). A better understanding of FSG will help auditors assess the quality of their compliance function. For a discussion of the Federal Sentencing Guidelines and how they related to higher education, and the survey responses related to the guidelines, see part two of this article on page 17. ■

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