

Designing and Executing an Effective Higher Ed Compliance Program with Limited Resources

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Introduction

TWU, You, Foundations, and the
Agenda

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About Texas Woman's University

- Public University
- Founded in 1901
 - “Girls Industrial College”
- Located in Texas
 - Denton 12,490
 - Dallas 1,431
 - Houston 1,365
 - Total: 15,286



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About Texas Woman's University

- Part- and Full-time Faculty/Staff: 1,318
 - Adding GA, Adjunct, Students: 2,901
- Graduate/Undergraduate: 5,206/10,080
- Women/Men (1972): 88%/12%



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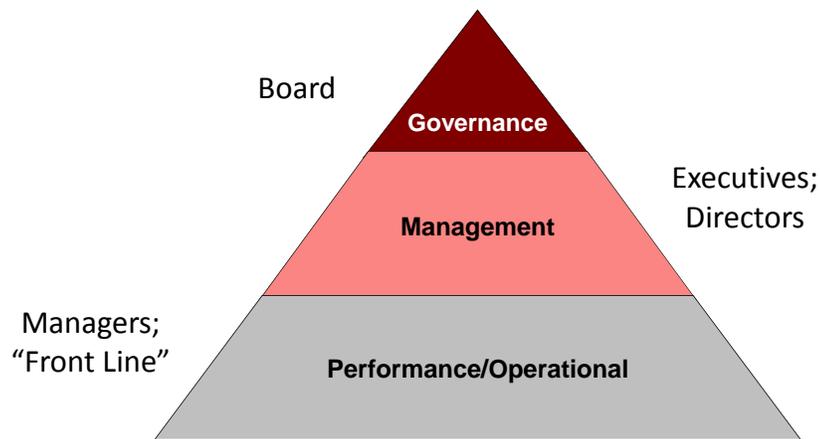
Tell us about you: Survey

- 1 – How many of you are new?
- 2 – How many of you are experienced and looking to redesign or re-engineer?
- 3 – How many of you just did not want to go to another session?

Tell us about you: Survey

- 1 – Board of Regents/Trustees?
- 2 – Cabinet/Senior Executive?
 - Including “Compliance Officer”
- 3 – Director?
- 4 – Manager?

Typical Organizational Hierarchy



Management Principles

Outside-Inside-Out™ methodology

- The Arbinger Institute

Seek first to understand, then to be understood.

- Stephen R. Covey

The Seven Habits of Highly Effective People

Discussion Framework

- Multi-level Perspective
 - Where are you in the process?
 - What are you doing?
 - What are you asking from others?
 - Which underlying management principles are at play?

Agenda

- Infusing the “Seven Elements”
 - How to make them work for you at all levels of a compliance program
- “Hub and spokes” approach
- Role of famous names and management principles

The “Seven Elements”

...and why they are *fundamental* to an effective compliance program

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The “Seven Elements”

1. Written standards, policies, and procedures.
2. Compliance “administration” (i.e. a compliance officer, etc.).
3. Communications, training, and education.
4. Monitoring and auditing.
5. Reporting and investigation.
6. Enforcement and discipline.
7. Response and prevention.

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The “Seven Elements”: Survey

Do you use the “seven elements” at your school (in some form)?

- 1 – Yes
- 2 – No

The “Seven Elements”: Survey (cont.)

Do you use them at more than one level (Board, Executive Team, Directors, Managers)?

- 1 – Yes
- 2 – No

The “Eight Steps” at TWU¹

- | | |
|--|------------------------------------|
| 1. Identify Requirements/Assess Risk | 5. Implement, Promote, and Enforce |
| 2. Establish/ Modify Compliance Organization | 6. Monitor, Audit, and Report |
| 3. Document Standards, Policies, and Procedures | 7. Continuous Improvement |
| 4. Communicate Standards, Policies, and Procedures | 8. Leadership/Corporate Culture |

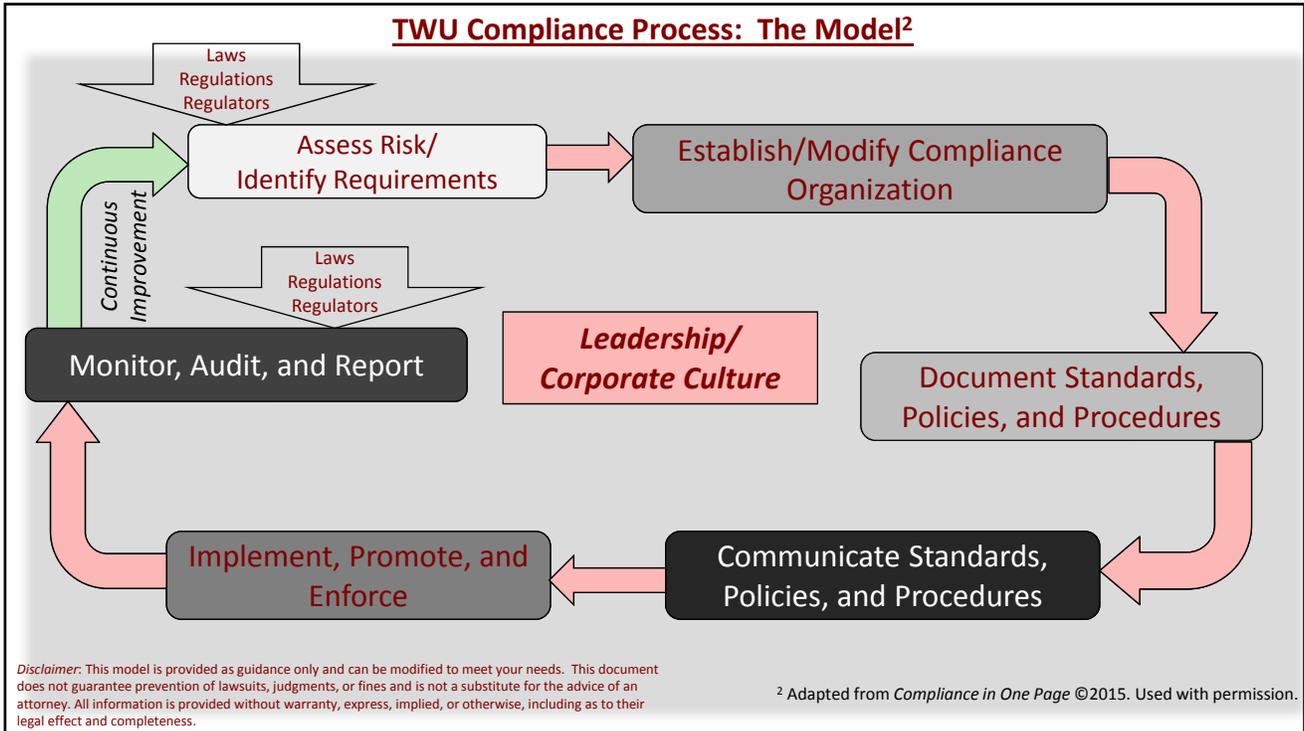
¹ Adapted from *Compliance in One Page* ©2015. Used with permission.

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Rationale for the Modifications

- Identify Requirements/Assess Risk
 - Identify Requirements: A principle of accountability and program management
 - Assess Risk: *The organization shall periodically assess the risk of criminal conduct and shall take appropriate steps to design, implement, or modify each requirement (USSG §8B2.1.c)*
- Leadership/Corporate Culture
 - *Governing authority shall be knowledgeable and shall exercise reasonable oversight (USSG §8B2.1.b.2.A)*
 - *Promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law (USSG §8B2.1.a.2 and §8B2.1.b)*

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Effectiveness Key #1

- The adoption of the seven elements from the FSG by ALL major subject-specific compliance programs helps infuse compliance into the culture and puts everyone on the same page
- Infuse the “Seven Elements” from Top to Bottom



Management Principle

Give a man a fish, you feed him for the day; teach him how to fish, you feed him for a lifetime.

- Eastern Proverb

Adapted by Stephen R. Covey in *Principle-Centered Leadership*

Infusing the “Seven Elements” (8 Steps)

- Governance
 - Know the 8 steps
 - Receive reports on “successes” for each step
- Management
 - Introduce Board and Cabinet to the process
 - Use the 8 steps to design and implement the University Compliance Program
 - Train compliance partners to use the 8 steps
- **Operations (KEY!)**
 - Use the 8 steps to create subject-specific programs via one-on-one's, workshops, and self-assessments

Discussion:

The “Seven Elements” (8 Steps)

- Governance, Management, Operational
 - Where are you in the process?
 - What are you doing?
 - What are you asking from others?*
 - Which underlying management principles are at play?

* Outside-Inside-Out™

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Leveraged Compliance Programs

Steps 1, 2, 5, and 6

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Step 1

Identify Requirements/ Assess Risk

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1. Identify Requirements/Assess Risk

Effective compliance and ethics programs must be able to identify compliance risks. A process must be established to identify all compliance requirements applicable to the organization and to evaluate the risk these compliance requirements pose to the organization's success.³



³ *Compliance in One Page*, p. 7

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Identify Requirements: Survey

Do you use the Higher Education Compliance Alliance matrix?

- 1 – Yes
- 2 – No

Identify Requirements: Survey (cont.)

Do you use a third party service to assist with identifying compliance requirements?

- 1 – Yes
- 2 – No

Step 1 at TWU

- Identify Requirements
 - Higher Education Compliance Alliance (HECA)
 - Compliance Matrix – Federal
- Assess Risk
 - TWU Risk Management Database

Higher Education Compliance Alliance

- The Higher Education Compliance Alliance was created by the National Association of College and University Attorneys (NACUA) to provide the higher education community with a centralized repository of information and resources for compliance with federal laws and regulations.
 - <http://www.higheredcompliance.org/>

HECA Compliance Matrix

The HECA Compliance Matrix provides a comprehensive list of key federal laws and regulations governing colleges and universities. It includes a brief summary of each law, applicable reporting deadlines, and links to additional resources. Users can sort by topic area or by date to plan for upcoming reporting requirements. Users can also filter by topic, to limit the matrix to certain topics of interest (i.e. athletics or human resources).

HECA Compliance Matrix

- 37 Compliance Areas
- 262 Statutory Summaries
- Summaries include:
 - Topic (Area)
 - Statute
 - Regulations
 - Statutory Summary
 - Reporting Requirements & Deadlines
 - Additional Resources
 - Reporting Deadlines

Sample HECA Summary

Topic (Area)	<i>Campus Safety</i>
Statute	Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and Violence Against Women Act - 20 U.S.C. § 1092(f)
Regulations	34 C.F.R. § 668.41(e)34 C.F.R. § 668.46
Statutory Summary	Any institution that participates in federal financial aid programs must collect information with respect to campus crime statistics and campus security policies of the institution. The institution must annually distribute to current students, employees, and (upon request) prospective students or employees, an annual security report (ASR) containing various statements of institutional policies, descriptions of programs, and campus crime statistics.
Reporting Requirements & Deadlines	By October 1 of each year, an institution must distribute its ASR to all enrolled students and current employees. The ASR must also be submitted to the Department of Education by October 1 of each year.
Additional Resources	
Reporting Deadline(s)	10/10/2016

Effectiveness Key #2

Leverage EXISTING management and operational resources and expertise
(i.e. “Don’t reinvent the wheel”)

Identify Requirements at TWU

- Put the HECA Compliance Matrix into MSAccess
- Plan to use it for future self-assessments and compliance reviews
- ***Use it as a foundation for Step 2*** (Organization—the next topic)

Assess Risk: Survey

Do you perform an annual risk assessment, or participate in an enterprise risk assessment?

1 – Yes

2 – No

Assess Risk at TWU

- TWU Ethics and Compliance Hotline
- Operational Compliance Committee
 - Risk Assessment
- TWU Compliance Risk Management Database
 - Track Risks
 - Assess Risks
 - Plans to report to Board
 - Use Risk Assessment results in annual planning

Management Principles

Begin with the end in mind.

- Stephen R. Covey

The Seven Habits of Highly Effective People, p. 95

Technology Accelerators.

- Jim Collins

Good to Great, pp. 145-163

Technology Accelerator Examples

- MS Access
 - TWU Risk Management Database
 - TWU Compliance Management Database
 - TWU Compliance Action Plan Database
- PsychData (more on this later)
- Lighthouse (“ “ “ “)

Infusing Step 1

- Governance
 - Responsible for understanding their Institution and its compliance risks.
 - Sets expectations for reports on compliance requirements and risk assessment measures
- Management
 - Ensure board and executive management are informed on how the institution is identifying compliance requirements and assessing risk
 - Design and implement identify requirements and risk assessment process
 - Provide risk assessment tools and coaching

Infusing Step 1: Continued

- Operations
 - Include operations personnel in the “identify requirements/risk assessment” process
 - Keep up-to-date on requirements via subject-specific professional organizations

Discussion:

Step 1: Identify Requirements/Assess Risk

- Governance, Management, Operational
 - Where are you in the process?
 - What are you doing?
 - What are you asking from others?*
 - Which underlying management principles are at play?

* Outside-Inside-Out™

Step 2

Establish/ Modify Compliance Organization

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Step 2: Establish/Modify Compliance Organization

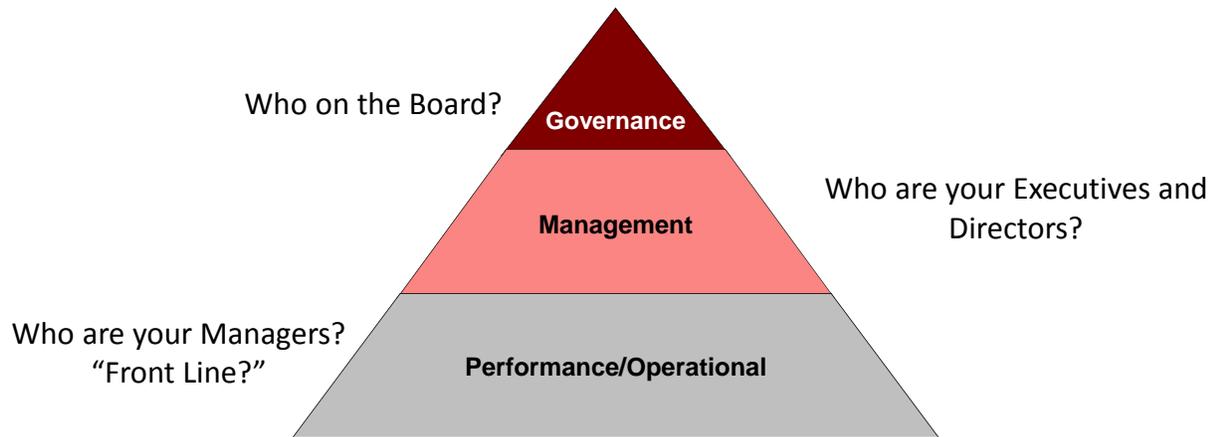
Compliance responsibility must be assigned. Executives and managers should have the authority and resources necessary to achieve compliance in their respective areas. Compliance coordinators, partners, and/or subject-matter experts should also be identified.⁴



⁴ Compliance in One Page, p. 7

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The “Who” of the Compliance Organization



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Compliance Organization: Survey

Do you have an organization in place at all three levels?

- 1 – Yes
- 2 – No

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Compliance Organization: Survey (cont.)

Do you use compliance committees?

1 – Yes

2 – No

Higher Education Compliance Alliance (HECA)

HECA Compliance Areas

- Academic Programs
- Accounting
- Accreditation
- Admissions
- Athletics
- Auxiliary Services
- Campus Safety
- Contracts & Procurement
- Copyright & Trademark
- Disabilities
- Diversity / Affirmative Action
- Environmental Health & Occupational Safety
- Ethics
- Export Controls
- Financial Aid
- Fundraising & Development
- Governance
- Grants Management
- Health Care & Insurance
- Housing
- Human Resources: Discrimination
- Human Resources: Employee Benefits
- Human Resources: Recruitment Hiring & Termination
- Human Resources: Retirement
- Human Resources: Unions
- Human Resources: Wages
- Immigration
- Information Technology
- Intellectual Property & Technology Transfer
- International Activities & Programs
- Lobbying & Political Activity
- Privacy & Information Security
- Program Integrity Rules
- Research
- Sexual Misconduct
- Tax

“Hub and Spokes”

Higher Education Compliance Alliance



37 Federal Compliance Areas

Management Principles

First who...then what.

- Jim Collins
Good to Great, p. 41

Let them become more of who they already are...do everything you can to cultivate [existing] talents.

- Marcus Buckingham & Curt Coffman
First, Break All the Rules, p. 141

Effectiveness Key #3a

- Leverage existing subject-matter experts
 - Empower the “spokes” with the “Seven Elements” (8 Steps)
 - Minimize input on their turf
 - Dozens of “Mini” Compliance Programs
- Do NOT “take over” but DO provide oversight when necessary

Management Principles

Remember, with people, slow is fast and fast is slow.

- Stephen Covey
The 8th Habit, p. 185

Effectiveness Key #3b

- Compliance Committees

- Board
- Executive
- Operational



- Allows cross-functional groups to communicate, share, and advise

Management Principle

If we get the right people on the bus, the right people in the right seats, and the wrong people off the bus, then we'll figure how to take it to someplace great.

- Jim Collins

Good to Great, p. 41

Management Principle

Concentrate on building an organization—building a ticking clock—rather than telling time...take an architectural approach and concentrate on building organizational traits...

- Jim Collins & Jerry Porras

Built to Last, pp. 199-201 (paraphrased)

Infusing Step 2

- Governance
 - Board and executive management are informed and provide input as necessary on the design of the compliance organization
 - Provide adequate resources for the compliance program
 - Develop protocols for leadership's role in the management and operational compliance functions (i.e., committee, delegation)

Infusing Step 2: Continued

- Management
 - Educate board and executive management on Compliance and their role
 - Hire and place effective compliance leaders
 - Identify compliance partners
 - Invite senior leadership and compliance partners to participate
- Operations
 - Participate as compliance partners
 - Assign compliance-related duties as required

Discussion:

Step 2: Establish/Modify Compliance Organization

- Governance, Management, Operational
 - Where are you in the process?
 - What are you doing?
 - What are you asking from others?*
 - Which underlying management principles are at play?

* Outside-Inside-Out™

Step 5

Implement, Promote, and Enforce

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Step 5: Implement, Promote, and Enforce

As stated in the Federal Energy Regulatory Commission's Policy Statement on Compliance, "It is not enough to create a good compliance program on paper; the company must carry through to implement the program with effective accountability."⁵ This includes promoting and enforcing elements of each program as necessary.⁶



⁵ Policy Statement on Compliance, para 16.
⁶ Compliance in One Page, p. 7

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Implement, Promote, and Enforce: Survey

Can your program produce evidence that compliance has been implemented on your campus?

- 1 – Yes
- 2 – No

Implement, Promote, and Enforce: Survey (cont.)

Can your program produce evidence that standards, policies, and procedures are enforced when a violation occurs?

- 1 – Yes
- 2 – No

The “Do It” Step

- CAUTION:
 - Do not jump to “do” *before* you design and plan (Step 3: *Document Standards, Policies, and Procedures*—not discussed today)
 - The FSG (and “seven elements”) are clear:
 - “The organization **shall** establish standards and procedures to prevent and detect criminal conduct.” (§USSG 8B2.1.b.1)
 - A management principle already discussed also applies:
 - Build the clock; then tell time.

The “Do It” Step: Continued

- “Doing” remains key to compliance program effectiveness and is *required* by the FSG
 - “...the compliance and ethics program **shall** be...implemented and enforced” (§USSG 8B2.1.a.2)
- Do what?
 - Conduct trainings
 - Send out emails, newsletters, etc.
 - Act on hotline reports
 - Follow policies and procedures

Effectiveness Key #4:

- Design and plan (Step 3) *before* doing (Step 5).
 - Build the clock; then tell time,
- “Just Do It”
- Keep records each time you execute a step in your program



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Management Principle

Sustained great results depend upon building a culture full of self-disciplined people who take disciplined action.

- Jim Collins

Good to Great, p. 143 (emphasis added)

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Infusing Step 5

- Governance
 - Dedicate personnel and operational resources for implementation
 - Stay informed on program implementation
 - Affirmatively promote compliance culture
 - Take action when necessary to enforce
- Management
 - Keep executive management informed and engaged
 - Proactive communications about the program
 - Facilitate intra-departmental collaboration
 - Facilitate program improvements with compliance partners

Infusing Step 5: Continued

- Operations
 - Assign compliance subject-specific responsibilities
 - Perform subject-specific policies and procedures (“Do It”)
 - Enforce subject-specific policies and procedures
 - Self Assessments of: programs, risk and compliance
 - Make program changes when necessary
 - Provide subject-specific training to the institutional community

Discussion:

Step 5: Implement, Promote and Enforce

- Governance, Management, Operational
 - Where are you in the process?
 - What are you doing?
 - What are you asking from others?*
 - Which underlying management principles are at play?

* Outside-Inside-Out™

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Step 6

Monitor, Audit, and Report

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Step 6: Monitor, Audit, and Report

One of the most powerful components of effective compliance and ethics programs is monitoring. This entails the self-assessment of compliance readiness by the individual operating entity. In addition, an audit function (internal or external) may conduct audits of the overall compliance and ethics program effectiveness or of specific components. In all cases, results need to be reported to appropriate leaders.⁷



⁷ *Compliance in One Page*, p. 7

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Monitor, Audit, and Report: Survey

Do you do compliance audits/reviews?

1 – Yes

2 – No

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Monitor, Audit, and Report: Survey (cont.)

Do you ask internal audit to perform compliance audits?

- 1 – Yes
- 2 – No

Monitor, Audit, and Report: Survey (cont.)

Do you use any monitoring techniques?

- 1 – Yes
- 2 – No

Techniques

- Monitoring
 - Manual
 - Tech
- Self-assessments
 - Self-audit
 - Self-evaluation
- Program Evaluation
 - External
 - Internal
- Audits
 - Internal
 - External

Online Self-Assessment

- PsychData enables compliance partners to self-assess their compliance programs
- Data can be exported into Excel or Access
- Reports can be printed/filed

Sample:

<https://www.psychdata.com/s.asp?SID=170535&ID=EnterData>

(*Feel free to enter fake id/password to view this survey.)

Effectiveness Key #5:

Self-Audit, Self-Monitor = Built-in Accountability

- | | |
|--|--|
| <ul style="list-style-type: none"> • Core Accountability Principles: – Set Clear Objectives → – Assign responsibility → – Monitor progress → – Report on achievement (or failure) → | <ul style="list-style-type: none"> • Compliance Program Step: – Step 1 – Step 2, then 3-5 – Step 6 – Step 6, then 7 (if needed) |
|--|--|

Infusing Step 6

- Governance
 - Follow-up and take necessary action on reports of high-risk areas and ongoing non-compliance
 - Review compliance and audit reports
- Management
 - Report on compliance activities
 - Facilitate and execute a schedule for subject-specific reviews/audits
 - Follow up and monitor ad hoc compliance issues

Infusing Step 6: Continued

- Operations
 - Implement review/audit recommendations
 - Design and implement compliance monitoring
 - Perform self-audits and self-evaluations

Management Principle

Facts are better than dreams...[When] you start with an honest and diligent effort to determine the truth of the situation, the right decisions often become self-evident... You absolutely cannot make a series of good decisions without first confronting the brutal facts.

- Jim Collins

Good to Great, p. 69, 70

Discussion:

Step 6: Monitor, Audit, and Report

- Governance, Management, Operational
 - Where are you in the process?
 - What are you doing?
 - What are you asking from others?*
 - Which underlying management principles are at play?

* Outside-Inside-Out™

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Review

- Infuse the “Seven Elements”
 - How to make them work for you at all levels of a compliance program
- “Hub and spokes” approach
- Role of famous names

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Effectiveness Keys: Review

1. Infuse the “Seven Elements” from Top to Bottom
2. *Leverage existing resources and expertise*
3. a) *Leverage existing subject-matter experts*
b) Facilitate compliance committees



Effectiveness Keys: Review

4. Design and plan; then “Do It” and keep records
5. Apply accountability principles



Overarching Principles

Agility Discipline
 Flexibility Leverage

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Management Principle

Point to tangible accomplishments—however incremental at first—and show how these steps fit into the context of the overall concept...

When you do this in such a way the people see and *feel* the buildup of momentum, they will line up with enthusiasm. We came to call this the flywheel effect.

- Jim Collins

Good to Great, pp. 174-175

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Questions?

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