



Handbook of Operating Procedures

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COMPLIANCE WITH LAWS, REGULATIONS, CONTRACTUAL OBLIGATIONS, AND POLICIES

A. Purpose

The University of Texas System has called upon each UT System institution to carry out a proactive compliance program. This program is to be effective within the institution's culture as well as responsive to UT System standards as outlined in:

- the *1998 Action Plan to Ensure Institutional Compliance* approved by The University of Texas System Board of Regents, and
- UT System [UTS119](#) *Institutional Compliance Program*.

The purpose of this policy is to define the processes and responsibilities associated with this program.

B. Persons Affected

This policy applies to each University of Texas-Pan American employee, whether a member of the administration, faculty, or staff.

C. Policy

The University of Texas-Pan American endeavors to fulfill all of its responsibilities to the people of Texas in an environment based on ethical behavior and compliance to applicable laws and rules. This statement embodies the mission of the Institutional Compliance Program at UT Pan American.

The commitment to uphold an ethical environment and to obey applicable laws and rules is generally a straightforward responsibility that rests directly upon each University administrative, faculty and staff member.

Public employees who, in good faith, raise questions about compliance issues or cooperate in the evaluation of compliance questions are protected from retaliation by their employing agencies by a Texas State Law known as the "Whistleblower Act" ([Texas Government Code 554.002\(a\)](#)) and by University of Texas System policy ([UTS 131](#)).

D. Definitions

1. Compliance Questions include questions relating to:



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- a. Activity that may be illegal or fraudulent;
- b. Possible financial misstatements, or accounting or auditing irregularities;
- c. Possible conflicts of interest, or conduct that may be dishonest or unethical; or,
- d. Possible violations of the University's code of conduct, or other laws, rules, or regulations.

2. Difficult Compliance Questions:

Difficult compliance questions are not common, but they are important to understand. They happen when management is inattentive to compliance questions and/or overrides the efforts of others to address them. These are the issues likely to do most harm to the University.

Some examples of management inattention to compliance questions and/or override of efforts to address them include:

- a. A supervisor agrees with a compliance question raised by a faculty or staff member, but indicates that the priority at the moment is something else. Over time the question raised never becomes a priority.
- b. A supervisor responds to a compliance question in a way that neither validates nor invalidates the issue, but rather leaves it hanging indefinitely.
- d. A supervisor listens to the question or issue presented, but does not address it, suggesting instead that the responsibility lies elsewhere, beyond the sphere of his or her control.
- e. A supervisor gives a definite response to a compliance question, but one that is inconsistent with an applicable law or rule.

3. Unlawful Retaliation:

Unlawful retaliation is defined as follows: any action that adversely affects the employment or other institutional status of an individual (including discharging, demoting, suspending, threatening, harassing, or in any other manner discriminating against an employee in the terms or conditions of employment), that is taken by the



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institution or its employee because the individual has, in good faith, raised a question concerning a possible violation of a law, rule, policy, or procedure, or of inadequate response thereto, or has cooperated in good faith with an evaluation of such a question.

E. Responsibilities

1. Compliance Responsibilities Shared by all Administrative, Faculty and Staff Members

In simplest terms, the Compliance Program is about doing the right thing. A good approach is to ask whether the institution would be proud of a given situation if it became the focus of public attention.

Toward this end, every administrative, faculty, and staff member should:

- a. Learn the compliance requirements applicable to their jobs;
- b. Obey these requirements;
- c. Raise questions and issues related to compliance as soon as they become aware of them; and,
- d. Cooperate fully and truthfully in evaluations of compliance questions.

Employees acknowledge these responsibilities each year on the Annual Individual Compliance Acknowledgement.

2. Additional Compliance Responsibilities of Supervisors

Supervisors - whether Executives, Deans, Department Chairs, Directors, or others - have additional compliance responsibilities. These include:

- a. Create a positive compliance atmosphere where management is attentive to compliance questions, and does not override the efforts of others to address them.

In this atmosphere all should feel encouraged to raise compliance questions as outlined in this policy, and supervisors at all levels should take comfort in realizing that their staff takes the initiative in pursuing answers to these questions.

Any form of retaliation against those who act in good faith in raising compliance



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questions or cooperating in evaluations of such questions is prohibited.

- b. Address promptly the compliance issues that come to their attention.
 - c. Manage compliance risks in their respective areas of responsibility. Where designated by the Institutional Compliance Committee, this management will include the development and implementation of formal institutional education and monitoring plans.
3. Compliance Support Services Office

The Compliance Support Services office supports University departments, managers, and members of the campus community in their day-to-day participation in the Institutional Compliance Program. The office offers support in the following areas:

- a. Evaluation of compliance questions
- b. Assessment of compliance risks
- c. Assistance in the development and implementation of institutional education and monitoring plans to mitigate compliance risks in high risk areas
- d. Reporting of compliance activities to the Institutional Compliance Committee and UT System.

The Compliance Support Services office is supervised in its operation by the Institutional Compliance Officer.

4. Institutional Compliance Officer

The Institutional Compliance Officer is responsible to The University of Texas System for a risk-based process that builds compliance consciousness into daily business processes, monitors the effectiveness of those processes, and communicates compliance issues to appropriate administrative officers for corrective, restorative, and/or disciplinary action.

5. The Institutional Compliance Committee

The voting members of the Institutional Compliance Committee are the President, each of the Vice Presidents the Institutional Compliance Officer, a member of the Faculty Senate, and a member of the Staff Senate. The Chief of Staff and the Director of



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Compliance Support Services serve the committee as non-voting staff members. The President serves as the Chair of the Committee. The Vice Presidents are the responsible parties at the Executive level for compliance in their respective divisions.

The Committee has two main duties: First, it provides guidance and direction for the compliance program. Second, it follows up to ensure appropriate actions are taken where improvements are needed to reduce to acceptable levels the potential impact and probability of occurrence of non-compliance. Thus it is a policy and disciplinary action committee that provides oversight and assists the Compliance Officer in carrying out those duties that the Compliance Officer cannot perform alone because they require line management authority.

F. Procedures

1. What to Do When Faced With a Difficult Compliance Question

Raising compliance questions with one's supervisor and his or her chain of command should usually resolve them. However, further steps described below are necessary for the occasional difficult compliance questions that come up from time to time.

It is vital that administrative, faculty and staff members who face a difficult compliance question persist and pursue an answer through one of the following channels:

- a. higher level managers within their chain of command;
- b. the Compliance Support Services Office (956-665-2652);
- c. the Institutional Compliance Officer 956- 665-2110; or,
- d. the anonymous compliance hotline 1-877- 507-7320.

In cases where higher level managers within an employee's chain of command do not provide a satisfactory resolution, pursuing an answer through one of the remaining channels is obligatory. It is part of the process that will permit the University to address a difficult compliance question early, before it grows into a situation more problematic to resolve.

2. Calling the Anonymous Compliance Hotline - What to Expect



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A company independent of the University operates the anonymous compliance hotline. It provides an alternative channel for administrative, faculty and staff members to raise difficult compliance questions. Trained interviewers answer the number 24 hours per day, seven days per week. Calls are taken in either English or Spanish. Issues raised are reported by the end of the next business day to the Compliance Support Services office, which evaluates the questions raised (as described in Subsection F.4). The hotline reports are also distributed automatically to the Institutional Compliance Officer

Callers to the hotline first hear a recording that welcomes their call, and then explains that, as an independent third party, the interviewers will not be able to provide immediate answers to questions, provide advice, or offer an opinion. The recording directs callers to stay on the line if they want to make a report.

The interviewers will communicate questions and concerns raised to the Compliance Support Services office.

Answers will be provided to callers who wish to remain anonymous through the following procedure:

- a. The interviewers provide callers with a reference number for their call.
- b. Callers who prefer to remain anonymous are requested to call back in approximately two weeks; identifying themselves by the reference number they have been supplied.
- c. When they call back, anonymous callers can receive short answers to questions raised in their initial call. They may also be asked to supply additional information if needed in the evaluation of the question.

3. What to Do If Faced With a Concern About Possible Retaliation

Employees who believe that they have been retaliated against should seek redress through established institutional grievance processes. (See *Handbook of Operating Procedures* [Section 6.2.8 Faculty Grievance](#) and [Section 7.7.1 Grievances of Employees](#)) In addition, they should inform the Institutional Compliance Officer.

4. How Compliance Questions Are Evaluated

- a. The Compliance Support Services office receives a wide range of questions. If a question does not relate to compliance and/or if there is a more appropriate process to



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handle it, it is referred. For example:

- i. Faculty grievance process is handled per [HOP Section 6.2.8, Faculty Grievance](#).
 - ii. Staff grievance process is handled per [HOP Section 7.7.1, Grievances of Employees](#).
 - iii. Sexual harassment or misconduct issues are handled per [HOP 2.2.4, Sexual Harassment and Sexual Misconduct Policy](#).
 - iv. Discrimination issues are handled per [HOP 2.2.1, Non-Discrimination Policy](#).
 - v. Management issues not involving compliance are referred to appropriate managers.
- b. Compliance Support Services coordinates the evaluation of questions not referred to in a more appropriate process. These questions are not taken as accusations or allegations, but rather as opportunities to see if improvements can be identified. Consistent with this spirit, questions are evaluated in accordance with the following guidelines.
- i. Members of the campus community are interviewed to obtain an appreciation of the different perspectives from which each question can be viewed. Individuals interviewed are requested to review drafts of the notes resulting from the information provided in their interview(s), and are invited to improve them so that the written record is as accurate a reflection of their point of view as possible.
 - ii. Supporting documentation and other evidence, as appropriate, is sought. Other steps to verify facts may be taken as needed.
 - iii. Efforts are made to reconcile differences with regards to relevant facts.
 - iv. Adversarial interactions are minimized in order to maximize clarity of vision.
 - v. Opportunities to improve the overall level of compliance at the University are sought from the various perspectives and evidence assembled, in collaboration with the members of management.
 - vi. Written reports are prepared in those cases where deemed appropriate to bring



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focus to the questions at hand.

- vii. Results are communicated to the individuals who have raised the question. 1) If the question has been raised anonymously by means of the Compliance Hotline, a summary of the results to date can be obtained approximately two weeks after the question has been raised as described in Subsection F. 2) If the question has not been raised anonymously by means of the Compliance Hotline, communication will occur as the individual raising the question is interviewed, when the resulting notes are finalized, and again at the end of the process.
- viii. Evaluations are conducted as timely as possible, but without undue sacrifice to the conclusiveness of the results.
- ix. Factors including the degree of significance of the question raised and the requirements to reach well supported conclusions are used to make decisions such as whom to interview, the order of interviews, and the extent of effort to expend. Other factors may be considered as well.

The Compliance Support Services office conducts its evaluations under the supervision of the Institutional Compliance Officer, and ultimately, the Institutional Compliance Committee (Subsection E.3 and Subsection E.4).

5. Implementation of New Laws and Regulations

- a. New laws and regulations are often subject to an initial period of rule making and clarification by which the legislative intent becomes fully understood and approaches for best complying are identified. Careful attention, including that of Executive Management, of the initial implementation of new requirements with these characteristics is essential for ensuring that the choice and timing of actions taken and resources expended are in the best interest of the public.
- b. Executives, Deans, Department Chairs, Directors, and other supervisors are responsible for identifying compliance obligations arising from new laws and regulations. Where these obligations are straightforward and their implementation requires no significant additional resources, they should be treated the same as existing laws and regulations.
- c. Where compliance obligations arising from new laws and regulations appear to be subject to an initial period of rule making and clarification of the legislative intent,



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Executives, Deans, Department Chairs, Directors and other supervisors should explore options for the initial implementation and propose a plan to accomplish it for approval by their Division Vice President.

- d. The Vice Presidents should keep the Institutional Compliance Officer and the Institutional Compliance Committee apprised of new compliance obligations in the process of their initial implementation.

6. Laws, Regulations, and Policies That Appear to Have Outlived Their Initial Usefulness

- a. Executives, Deans, Department Chairs, Directors, and other supervisors are responsible for identifying laws, regulations, and policies that appear to have outlived some of their initial usefulness and represent opportunities to improve the value of the institution's service to the public. When they identify such an opportunity, they should propose a change and the reasons for it through normal administrative channels to their Division Vice President, who will be responsible for evaluating it, and deciding whether to submit it for consideration by the Compliance Committee.
- b. Upon approval by the Compliance Committee, the University will submit proposals for the modification and/or elimination of laws, regulations, and policies to the UT System Office of Governmental Relations.
- c. While laws, regulations, and policies are under consideration for modification and/or elimination, the University will continue to obey them, as described in the rest of this policy.

G. Review

The Divisional Head for this policy is the President and this policy shall be reviewed every five years or sooner if necessary by the following Stakeholders:

1. Compliance Officer– Senior Reviewer
2. Institutional Compliance Committee
3. Academic Affairs Executive Team
4. Faculty Senate Chair
5. Staff Senate Chair