

CREATING AN ATMOSPHERE OF COMPLIANCE

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Why Compliance?

- In the mid 1970s, United States Securities and Exchange Commission (SEC) investigations determined that more than 400 U.S. companies to making questionable or illegal payments to foreign government officials, politicians and political parties.
- The Foreign Corrupt Practices Act (FCPA), passed in 1977, marked the early beginnings of “compliance programs” in the United States.

The Foreign Corrupt Practices Act

In an effort to restore faith in American business, in December 1977 the FPCA was signed into law as an anti-bribery provision.

- The FPCA made it “unlawful for a U.S. person, and certain foreign issuers of securities, to make a **corrupt payment** to a foreign official for the purpose of obtaining or retaining business for or with, or directing business to, any person.”
- The law also requires publicly traded companies to **maintain records** that accurately and fairly represent the company’s transactions.
- Additionally, it requires these companies to have an adequate systems of **internal accounting controls**.



What Is “Compliance”?

Compliance means conforming with stated requirements. At an organizational level, it is achieved through management processes which:

- Identify the **applicable requirements** (defined for example in laws, regulations, contracts, strategies and policies),
- Assess the **state of compliance**,
- Assess the **risks and potential costs** of non-compliance against the projected expenses to achieve compliance,
- And hence prioritize, fund and initiate any **corrective actions** deemed necessary.

Why Risk?



- Risk is a factor in prioritizing and decision-making.
- Who makes the compliance decisions?
- What is the scope of your authority?



How Do You Determine Risk?

Many factors, including:

- How likely is a compliance issue in this area?
- What are the possible impacts/consequences?
- What is the timing and cost to resolve?



Compliance Assessment Differs By Industry

Any activity to determine directly or indirectly that a process, product, or service meets relevant standards and fulfills relevant requirements.

Compliance assessment activities typically include at least one of the following:

- Testing (test system prior to implementation)
- Oversight
- Inspection (engineering typically)
- Auditing (financial typically)
- Certification (professional & product certification)
- Registration
- Accreditation

Definition of 'Compliance Officer'

- An employee whose responsibility includes ensuring that the company complies with its outside regulatory requirements and internal policies. This may include:
 - Reviewing and setting standards for outside communications by requiring disclaimers in emails
 - Examining facilities to ensure that they are accessible and safe.
 - Developing or updating internal policies to mitigate the risk of the company breaking laws and regulations,
 - Leading internal audits of procedures.

- Expected to provide an objective view of company policies. Influence by other employees, including management and executives, to overlook infractions may result in significant fines or even business closure.

- Larger companies typically have a Chief Compliance Officer (CCO) to direct compliance-related activities.



Health Human Service – Office of Inspector General

HHS - OIG Compliance Program (2003)

Seven Elements of a Sound Compliance Program:

- ▣ Standards and **Policy/Procedures** - create a culture of integrity
- ▣ **Oversight** – designation of a high-level employee
- ▣ Education and **Training**
- ▣ Auditing and Monitoring
- ▣ Reporting of Potential Issues
- ▣ Enforcement and Discipline
- ▣ **Response and Prevention**

Other industries have since added elements such as:

- ▣ Compliance **Metrics** to assess program effectiveness
- ▣ Compliance Leadership as a part of executive performance reviews
- ▣ Prompt, Balanced and effective decisions regarding compliance activities, that may require **Compliance Committee** involvement.



So Where Does This Leave Us?

What Do We Have To
Comply With?

How Do You Know That Your University Is “Eligible” for TIV Participation?

- **Current Program Participation Agreement (PPA)**
 - PPA is signed by our president and Department of Education (ED)
 - By signing the PPA, we agree to comply
 - PPA states we’re approved to administer specific Title IV programs
 - It includes effective date and expiration date
- **An approved Eligibility and Certification Approval Report (ECAR) / e-App**

What Are We Responsible For?

Who Is Eligible for SFA?

An eligible student....

In an eligible program.....

At an eligible institution!



Eligibility to Participate in the Title IV SFA Programs

Three Types Of Eligibility

- Institutional Eligibility to participate
- Program Eligibility to participate
- Student Eligibility for aid

Please Note: *Every 6 years, the U.S. Department of Education (ED) recertifies the institution's eligibility to participate in the Title IV SFA programs at the institutional and program level.*

What Is “Institutional Eligibility”?

These are the eligibility requirements and standards for the university to be approved to participate in the Title IV financial aid programs.

Compliance Issues in this area can place the institution’s eligibility for all students at risk.

Some examples of these requirements include:

- Must be an **Eligible Institution** – defined by U.S. Dept of Education
- Must have Legal **Authorization by State(s)**
- Must be **Accredited**
- Must Comply with Additional Institutional Eligibility Factors and Regulations, including:

Consumer Information Requirements/Student Right To Know
Incentive Compensation
Campus Crime Reporting
Financial Standards
Enrollment Status Reporting for federal loan borrowers

Administrative Capability
Misrepresentation
Reporting on Foreign Gifts
Annual A-133 audits
Additional Locations

What is “Program Eligibility”?

An academic program must be an “eligible program” in order for the students in that program to be eligible to for Title IV aid.

Compliance Issues in this area generally impact the program’s aid eligibility.

Examples of Program Eligibility Requirements Include:

- ❑ The program must lead to a degree or certificate.
- ❑ The program must be approved on the ECAR (*the Dept of ED’s Eligibility and Certification Approval Report*)
- ❑ In general, must meet the minimum of one academic year in length, as measured in credits and weeks.
- ❑ Must meet the new definition of credit hour (*Carnegie unit or equivalent*).
- ❑ Program-level State approvals (and accreditation)
- ❑ Have a compliant financial aid Satisfactory Academic Progress Policy at least as strict as the university’s academic standards for that program.
- ❑ Certain program structures (*deviating from semesters*) have limited eligibility.



What is “Student Eligibility”?

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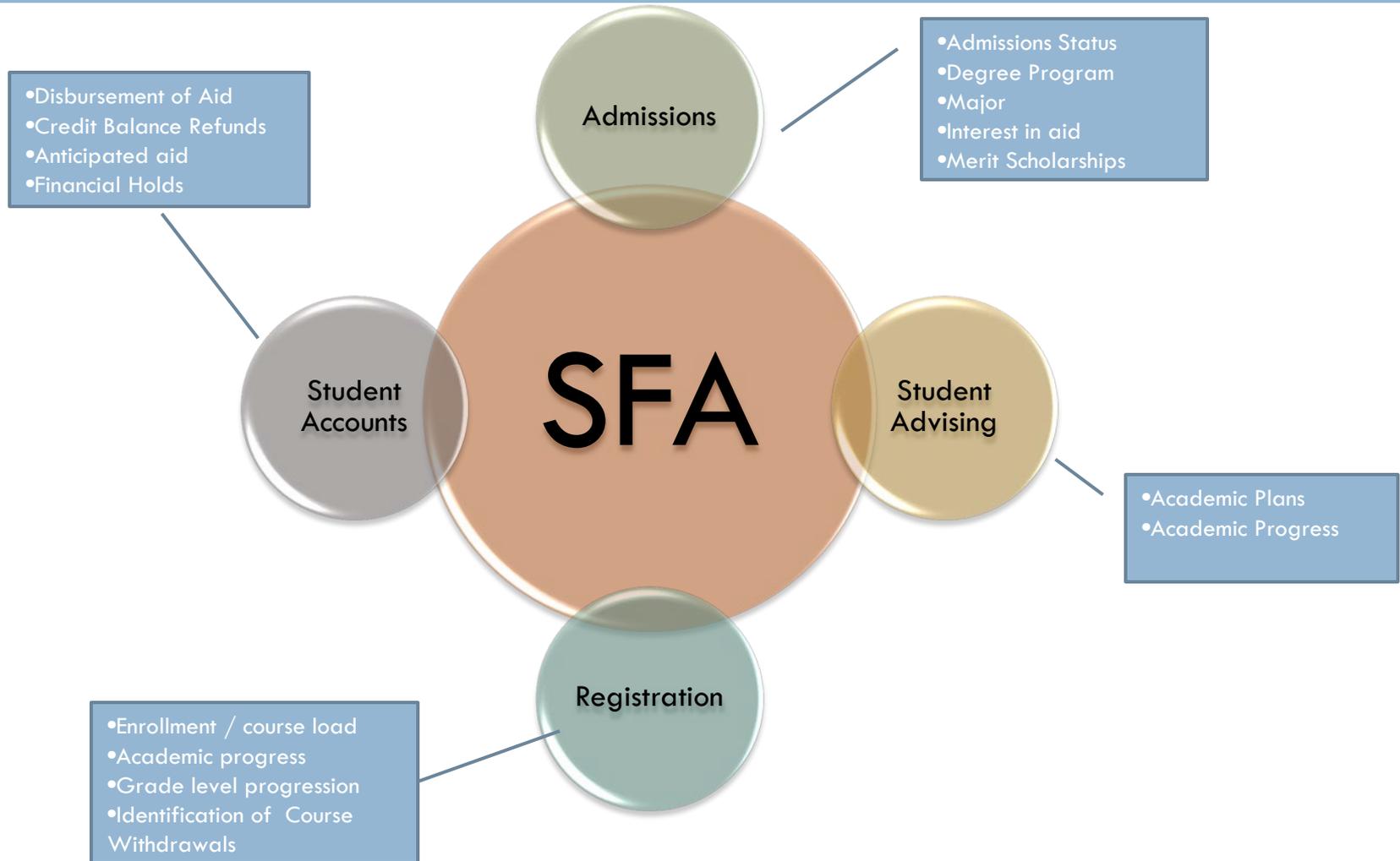
There are specific eligibility factors that are handled individually for each student as appropriate.

Compliance issues in this area are specific to and impact the individual student’s eligibility.

Some examples of Student Eligibility requirements are:

- ❑ Must be admitted as a regular students into an eligible program
- ❑ H.S. Diploma or equivalent
- ❑ Minimum enrollment requirements met
- ❑ Meets the verification standards, if selected
- ❑ Makes satisfactory academic progress
- ❑ Disbursement and credit balance rules apply

Who Is Involved with TIV Compliance?





Then Who Is Responsible For TIV Compliance?

Many staff members at the institution are involved and accountable in some way with the Title IV statutory and regulatory requirements:

Financial Aid Office

Registration

Student Affairs

Marketing

Faculty

CFO

President

Admissions Office

Student Accounts

Advising

Campus Security

Academic Deans

Provost Office

Compliance – Where Do You Begin?

- Ensure previous audit findings are corrected
- Ensure new laws and regulations are implemented
- Have safety nets in place in your operations
- Ensure your staff is properly trained ongoingly
- Keep your P&P updated
- Ongoing due diligence
- Consider creating a Compliance Committee

Common Audit Findings

- R2T4 calculation errors
- Pell overpayment / underpayment
- Late return of TIV funds
- Verification errors
- Overawards
- R2T4 not made
- Enrollment status not verified prior to disbursement
- Improper certification of loans
- Credit balances not refunded in a timely manner
- Ineligible students – not meeting SAP
- Repeat finding – failure to take corrective action

Common Program Review Findings

- Verification errors
- Crime Awareness requirements not met
- Credit balances not refunded in timely manner
- R2T4 calculation errors
- R2T4 done late
- Entrance/exit counseling deficiencies
- Account Records inadequate / not reconciled
- Missing/inconsistent information in files
- SAP policy not adequately developed and/or monitored
- Pell overpayment / underpayment
- Enrollment report (SSCR) issues
- Repeat findings or failure to take corrective action

What Is On Both Lists?

- Verification errors
- R2T4 calculation errors
- R2T4 performed late
- Pell Grant underpayment / overpayment
- Credit balances not refunded in timely manner
- SAP issues
- Repeat finding / failure to take corrective action



What Documents Are Typically Requested by an Auditor/Reviewer?

- Policy and Procedure Manual
- Cost of Attendance Budgets
- SAP Policy
- Pell and Loan account information
- R2T4 Policy and process
- List of enrolled students, and withdrawals
- ISIRs and student files
- Access to documents/SIS
- SSCR documentation
- Other

Creating a Compliance Committee

- Is this an appropriate structure for your institution?
- Who needs to be involved in creating the committee?
- Who needs to be included on the committee?
- Is it a working committee?
- Or is the objective monitoring and decision-making (assigning implementation out to others)
- What is the scope of the committee's responsibility?
- What is the committee's accountability?
- Does the committee have authority?



Compliance Tools

- Internal Audits
- Mock Program Review by outside consultant
- NASFAA Self-Evaluation Guide
- Program Review Guide for Institutions on IFAP
- FSA Assessments on IFAP

Compliance Resources

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- SFA Handbook
 - www.ifap.ed.gov
- Department of Education Training
 - <http://www2.ed.gov/offices/OSFAP/training/specific.html>
- 2013 Blue Book published by ED
 - <http://www.ifap.ed.gov/ifap/BlueBook.jsp?year=2013>
- NASFAA's AskRegs database
 - http://www.nasfaa.org/products/ask-regs/Ask_Regs.aspx
- Conferences
- Each other – the community of FA Professionals!



**Create a Compliance Team
that works for your institution!**

Questions/Discussion/ Comments?

