



# President's **FOCUS**

## *Monthly Report to the Board*

December 2016

### **Impacts: Compliance**

According to a US Senate report last year, there was a 56 percent increase in the number of federal laws applying to higher education from 1997 to 2012. This has increased the role of compliance offices on most college campuses and Montgomery College is no exception. The College has grown substantially in the last five years in the sophistication of its oversight roles. In 2012 the College was one of the first community colleges in the nation to establish a compliance office. It now has increased responsibilities with a staff of five, including a Chief Compliance Officer who reports directly to me. MC's program was established using the recommendations of the US Sentencing Commission's Federal Sentencing Guidelines, considered the established standards in the profession. Now the Office of Compliance is responsible for oversight, monitoring, and coordination of regulatory compliance.

#### **Range of Compliance Requirements**

The College is bound by hundreds of federal, state, and county statutes related to a wide variety of topics. Some of them are directly observable and easily understandable as they relate to the student experience: whether students of different races can study free of discrimination; how our institution's members are informed of crimes on campuses; and whether our classrooms are accessible to students with disabilities. Some may be less apparent, but no less important: how



thoroughly students' financial information is protected; whether employee records are maintained confidentially; whether grants are being managed thoroughly and consistently by faculty and staff. As higher education regulations have ballooned over the last decade and enforcement has become more comprehensive, the work of compliance has become more complex. Not only are there fines that can be incurred, impacts to bond ratings, or the risk of reputational damage are also very real.

Compliance is now a field to which institutions of higher education devote significant time and resources. The scope of functions that fall under compliance is broad, but some major responsibilities include: helping to ensure that an organization abides by the array of rules and regulations to which it is subject; identifying risks to an organization and designing methods to protect against such risks; building awareness through training and education programs; and resolving difficulties that may arise in the process of responding to such rules and regulations. A strong compliance program researches the regulations by which an institution is required to abide, communicates these expectations clearly to its personnel, and puts in place mechanisms for investigation of violations and proper remedies. When done thoroughly and professionally, compliance provides more protection for students, faculty, and staff because it increases awareness of the rules by which the institution operates. Additionally, it protects the institution itself from complaints about the adequacy of its regulations or consistency in applying them.

When the College's Office of Compliance began work in 2012, an assessment of compliance risk identified 36 separate requirements that needed attention. Most of those have been addressed through the efforts of the office in conjunction with those on campus most closely connected to individual areas of compliance. We continue to give attention to all of these requirements.

### **Progress at Montgomery College**

In the last four years, Montgomery College has undertaken dozens of processes that have reduced our risks in several areas: new standards, policies, and procedures have been instituted to better protect minors on our campuses, to ensure that crime is reported quickly, and to enable employees to report fraud without fear of retribution. New employees are now more thoroughly vetted with increased screenings and background checks, and compliance orientation briefings have been put in place for new administrators. Education and training are a significant part of compliance and the College has invested substantial energy in establishing awareness among employees of the



rules to which the College is bound. Since the beginning of fiscal year 2015, nearly 900 faculty and staff have taken a training course in an area of compliance. The most frequently taken so far has been the Family Educational Rights and Privacy Act (FERPA) for Higher Education training. In the current fiscal year, a popular new training on Transgender Students on Campus, has already been taken by 270 people. In addition to trainings, the office has instituted other tools to increase compliance: specific timelines for disclosures, a comprehensive website with compliance standards, contacts and resources, and a regular newsletter.

Compliance is strengthened when employees can report suspected lapses, so the College established a confidential reporting line for anyone to report suspected financial fraud, and a policy protecting reporters from retaliation. The College has also put in place working groups for our areas of highest compliance risk, such as Title IX and Clery Crime Reporting. Such groups respond appropriately to any compliance omissions, taking steps to come into compliance, including any needed changes to programs that increase compliance with the law. The College is currently considering an employee code of ethics and code of conduct, an effort with extensive involvement of our college participatory governance system. The Federal Sentencing Guidelines for strong compliance programs recommends having such a code. Data management is another pillar of compliance: this past year the Office purchased a new data management system that supports the complexities of a growing compliance program. The program will support the College's ability to identify, track, monitor, and assess compliance risk.

### **National Trends**

In a National Association of College and University Attorneys (NACUA) survey of chief legal officers last year, 98 percent of them rated compliance among the more challenging issues their offices face. Seventy percent of them attributed their need for additional personnel in part or entirely to compliance responsibilities. The increasing requirements of Title IX imposed by the US Department of Education's 2011 Dear Colleague letter explain some of the increased activity around the regulation, according to the Peter Lake, Director of the Center for Excellence in Higher Education Law and Policy at Stetson University College of Law. In August of 2016 there were over 200 institutions of higher education under investigation for Title IX violations, according to the *Chronicle of Higher Education*—with six of the institutions being Maryland colleges or universities. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of



sex in any federally funded education program or activity. In addition, the Maryland legislature passed legislation in 2015 (MD House Bill 571) requiring that all institutions administer a sexual assault climate survey and that the sexual assault policies of higher education institutions comply with the federal 1972 Amendments. The College's Office of Compliance has taken several diligent steps in this area including assigning a Title IX coordinator who is responsible for monitoring and evaluation this area, setting up an audit of our own Title IX efforts, and increasing education and awareness of the regulations so that prevention becomes the norm rather than investigation. All MC students were invited to participate in the sexual assault climate survey this year and 1,973 responded. The results and recommendations were submitted to the Maryland Higher Education Commission in May.

A recent publication on compliance trends, by the NACUA anticipates that—in addition to Title IX issues—increased compliance is likely to be seen in the areas of international programs, and research. Since Montgomery College has several active international programs and received \$11 million in public grant funding last year, these two trends also deserve our increased attention. The same NACUA analysis predicts “an increased imposition of fines and other penalties” by regulatory agencies and governing authorities in the coming years, which means that the College's increasing attention to compliance is an important investment. While the goal of our institution is 100 percent compliance, the nature of the field is such that new areas of compliance are always arising. Additional areas of future compliance relate to transgender rights, IT accessibility, and mental health services and the prevention of violence.

### **Organizational Culture**

I have talked a lot about the College responding to formal, external laws and regulations around compliance. But at the heart of compliance is nurturing an organizational culture in which ethical behavior and integrity are fundamentally rooted in the workplace. This is the ideal toward which the College strives, and has made substantial progress over the past five years. Several components contribute to an ethical climate: a strong program of education and awareness, a compliance team that is informed and knowledgeable about the latest requirements, mechanisms for auditing one's own program, and prompt, thorough protocols in place for managing violations. MC has all of these in place and we are consistently ahead of our peers in integrating new areas of compliance into our functions. Ultimately our mission of serving our students and the community



depends upon our ability to run multiple, complex systems in ways that are transparent and accountable to our stakeholders. Encouraging our employees to share in this responsibility also creates a work environment in which conversations about ethics are robust and public. Compliance will continue to be a significant responsibility at the College and our faculty and staff's engagement in the process will only increase. Our progress in establishing a respected compliance office that teaches employees about their roles has been laudable. I am confident that in the coming years this office will evolve to meet the varied demands of regulations as they are enacted, and, in the process, will continue improve our institution.

### **Questions for Discussion:**

1. What stood out to you in this report?
2. Why do you think compliance has attracted so much attention in the last two decades?
3. Do you have insights about any future challenges for compliance in higher education?

