

2017 ANNUAL COMPLIANCE PROGRAM REPORT



2017

Continually advancing a culture of compliance

The Office of Vice President & General Counsel, through its compliance program, supports the ATSU mission by promoting compliant and ethical behavior by all stakeholders and continually advancing adherence to local, state, and federal laws and regulatory requirements.

2017 Annual Compliance Program Report

CONTINUALLY ADVANCING A CULTURE OF COMPLIANCE

PURPOSE

ATSU is committed to the highest standards of ethical behavior and integrity. The Office of Vice President & General Counsel, through its compliance program, promotes a culture of compliance and ethics by increased awareness, communication, and supportive accountability. As higher education faces changing, complex laws and regulations, the Office of Vice President & General Counsel seeks to be a supportive partner and adviser, providing assistance and resources to help the University meet its legal and ethical obligations.

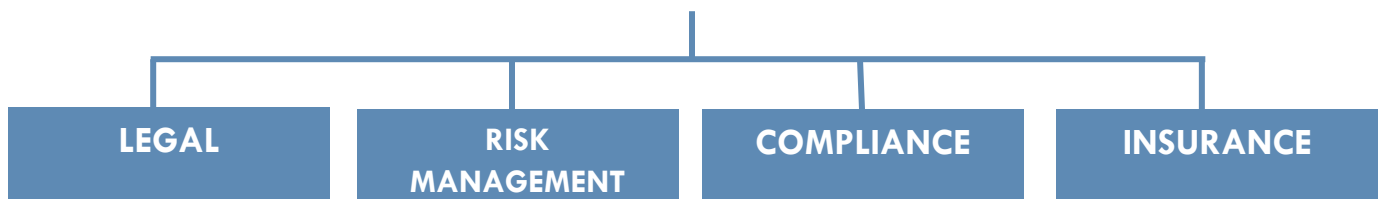
This Annual Compliance Program Report will: 1) explain the structure and roles of the Office of Vice President & General Counsel; 2) define “culture of compliance” and describe key elements of the compliance program; 3) highlight compliance accomplishments since the inception of the compliance program; and 4) list projected compliance endeavors.

“Act as if what you do makes a difference. It does.” – William James

OFFICE STRUCTURE AND ROLES

The Office of Vice President & General Counsel consists of Matthew Heeren, JD, vice president & general counsel (serving as chief compliance officer), Dawn Shaffer, compliance manager, and Ashlea Costello, executive assistant. The Office of Vice President & General Counsel is responsible for risk management, compliance, insurance, and all legal matters affecting the University.

OFFICE OF VICE PRESIDENT & GENERAL COUNSEL



The Office of Vice President & General Counsel welcomes dialogue and questions about any of these areas. Listening, valuing the perspectives of others, and problem solving are values of the Office of Vice President & General Counsel.

CULTURE OF COMPLIANCE

Compliance affects every member of the ATSU community, as a quick review of this list of compliance areas will demonstrate.

ethics · recruitment · hiring · termination · employee complaints/disputes · immigration · employee benefits · discrimination · harassment · disability discrimination · student complaints/disputes · sexual misconduct · financial aid · medical malpractice · intellectual property · student records · campus safety · environmental health · occupational safety · cyber security · lobbying · contracts · drug and alcohol abuse · records retention · gift acceptance · accreditation · data privacy · weapons on campus · free speech · research · animal welfare · fundraising · patient privacy · identity theft · fraud · campus crime

Beyond mere adherence to laws and regulations, the goal is to create a **culture of compliance** across the entire University. This excerpt from ATSU's Compliance Program Communications Plan provides further explanation.

ATSU is striving to create a “culture of compliance,” which, at a basic level, promotes ethical conduct and supports adherence to laws and University policies. Options are provided for members of the University community to report suspected wrongdoing. But, beyond that, a culture of compliance encourages individuals to seek guidance when the right course of action is unclear. It encourages individuals to speak up when mistakes have been made. It creates confidence and trust in the process to self-report mistakes and to encourage others to self-report. A culture of compliance understands speaking up can be difficult, but knows the University needs this to happen. It gives a voice to everyone, regardless of position or title, and holds everyone accountable for their actions. A culture of compliance does this while providing protection from retaliation for good faith reports or questions.

“Admitting your mistakes doesn’t make you weak. It makes you credible.” – Rick Warren

The ATSU compliance program incorporates elements of an effective compliance and ethics program described in the Federal Sentencing Guidelines (United States Sentencing Commission Guidelines Manual, Section 8B2.1). While this source may seem strange at first glance, the Federal Sentencing Guidelines are the accepted standard for compliance programs not only for corporations but also for higher education. Effective compliance and ethics program elements include:

1. Implementing written policies, procedures, and standards of conduct;
2. Designating a compliance officer and compliance committee;
3. Conducting effective training and education;
4. Conducting internal monitoring and auditing;
5. Enforcing standards through well-publicized disciplinary guidelines; and
6. Responding promptly to detected offenses and undertaking corrective action.

The Office of Vice President & General Counsel has developed a Compliance Program Strategic Plan, which supports the 2016-20 University Strategic Plan. Following are the initiative and goals of the Compliance Program Strategic Plan.

Compliance Program Strategic Plan initiative

Culture of Compliance

Supporting ATSU's mission and vision by promoting compliant and ethical behavior by all stakeholders and continually advancing adherence to local, state, and federal laws and regulatory requirements.

Compliance Program Strategic Plan goals

- 1) Essential personnel University-wide aware and accountable; and
- 2) Continuous improvement of compliant practices University-wide.

The complete Compliance Program Strategic Plan, including objectives and metrics, is available upon request.

ACCOMPLISHMENTS

In 2015, the Office of Vice President & General Counsel initiated an intentional, systematic approach to compliance modeled after the Federal Sentencing Guidelines. Following are highlights of the compliance program since that date.

1. **COMPLIANCE MATRIX.** Starting with a matrix of the National Association of College and University Attorneys/Higher Education Compliance Alliance, a custom ATSU Compliance Matrix was created. The ATSU Compliance Matrix ("Matrix") includes federal, state, and local laws and regulations, and ATSU-specific requirements, with reporting deadlines. The Matrix is organized by responsible ATSU departments, including Academic Affairs; Advancement; Finance; Financial Services; Human Resources; Research, Grants, & Information Systems; Student Affairs; and the Office of Vice President & General Counsel. The compliance manager worked with departments to review and refine the Matrix and ensure its accuracy and clarity. The compliance manager utilizes the Matrix to initiate deadline reminders and monitor status. The Matrix continues to be updated and the process improved. A copy of the Matrix is available upon request.
2. **RISK MANAGEMENT AND COMPLIANCE COMMITTEE.** The committee structure was modified for increased efficiency, providing for ATSU leadership involvement with risk management and compliance without increasing administrative burden. A newly chartered Risk Management and Compliance Committee ("Committee") includes members of the President's Cabinet, the dean or a designee from each school, and other key stakeholders. The Committee will serve in an advisory capacity to the University compliance program and will continue to oversee the biennial University Risk Management ("URM") process. A rotating agenda for the Committee will alternate between URM and non-URM years. The agenda incorporates objectives of the Compliance Program Strategic Plan. The Committee is co-chaired by the vice president & general counsel and compliance manager.
3. **CODE OF ETHICAL STANDARDS.** An entity's code of ethical standards is a foundational policy in support of its mission and commitment to ethics and integrity. The ATSU General Order, Code of Ethical Standards ("Code"), has been rewritten to make it more robust and reflective of best practices. Once approved by the president, the updated Code will be featured in future trainings and other communications.

ACCOMPLISHMENTS (CONT.)

4. **TRAINING.** A Compliance Program Communications Plan (“Communications Plan”) has been developed and is beginning to be implemented. The Communications Plan contains a primary message (creating a culture of compliance) and a secondary message (compliance with specific legal and regulatory mandates). The Communications Plan identifies target audiences and training topics. A software program, GoAnimate, was used to create an animated training video for ATSU’s Board of Trustees describing the Board’s role and responsibility for compliance under the law. Similar videos are being created for the University community, including overviews of compliance, risk management, and “ATSU and the Law.”
5. **GUIDELINES FOR REGULATORY VISITS.** Guidelines for Regulatory Visits (“Guidelines”) were developed in the event a regulatory agency representative arrives on campus for an inspection/visit. The Guidelines describe the process by which key ATSU personnel will be quickly notified and provide detailed guidance for interactions with regulators throughout the visit. The President’s Office and President’s Cabinet have approved the Guidelines and will review them on an annual basis. The Guidelines will be distributed to relevant offices as a reference.
6. **THE JEANE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT (“Clery Act”).** ATSU Annual Security Reports (“ASRs”) were meticulously rewritten to comply with a new Campus Security Handbook published by the Department of Education in 2016. It was no small undertaking as there are now over 111 required ASR policy statements, including many in response to the Violence Against Women Act. In compliance with the Clery Act, ATSU now publishes 15 separate ASRs – one for each campus, the St. Louis Dental Education and Oral Health Center (St. Louis Dental Center), and each ATSU-School of Osteopathic Medicine in Arizona distance site. It is crucial all ASR policy statements conform to actual practices; the Clery Compliance Committee will assist in evaluating the ongoing accuracy of ASR language.
7. **EMERGENCY OPERATIONS PLAN (“EOP”).** A priority risk identified in the 2016 URM process was an emergency or disaster affecting the health and safety of the University and/or disrupting its business operations. The Office of Vice President & General Counsel assumed responsibility for leading the Emergency Operations Committee in writing a new, comprehensive, University-wide EOP aligned with FEMA’s Incident Command System and Department of Homeland Security’s National Incident Management System. Twenty-two incident-specific action plans (e.g., active shooter, fire, earthquake) were developed and incorporated into the plan. This was a multifaceted, detailed undertaking involving many individuals. The new EOP has been approved by the president. The vice president for finance & administration/CFO is now responsible for implementation, training, and dissemination to the University community.
8. **HIGHER EDUCATION OPPORTUNITY ACT (“HEOA”).** A thorough review of HEOA disclosure requirements was performed. Certain disclosures are required on ATSU’s consumer information web page; others are to be disseminated to students and/or employees by email or other direct method. A comprehensive consumer information matrix was developed and used to verify and improve compliance with HEOA. The Office of Vice President & General Counsel and Communication & Marketing collaborated to restructure ATSU’s consumer information web page making content easier for users to locate. The new web page will be published live in early 2018.

ACCOMPLISHMENTS (CONT.)

9. GRAMM-LEACH BLILEY ACT (“GLBA”). ATSU’s Financial Information Safeguards policy (50-326) was rewritten in compliance with GLBA. The process also contributed to the formation of ATSU’s Information Security Council to oversee the enhancement of ATSU’s information security efforts.
10. AMERICANS WITH DISABILITY ACT, WORKFORCE REHABILITATION ACT. A committee chaired by the vice president & general counsel retained The Paciello Group to assess the accessibility of ATSU’s website for persons with visual and hearing disabilities. The Paciello Group report has been received, and accessibility improvements are underway.
11. ENVIRONMENTAL AUDIT. In an ongoing effort to maintain compliance with environmental standards, the Office of Vice President & General Counsel retained Foth Infrastructure and Environment LLC (“Foth”) to travel to the Arizona campus to inspect labs, clinics, and potential hazardous waste sites. Foth had already performed similar audits of the Missouri campus in 2014 and the St. Louis Dental Center site in 2015. Foth recommendations are being implemented by the applicable facilities and school/college personnel. Foth is developing standard operating procedures and training for disposal of hazardous waste, universal waste, and electronic waste.
12. DIGITAL MILLENNIUM COPYRIGHT ACT (“DMCA”). The vice president & general counsel has been designated as the official DMCA agent to whom individuals may report alleged copyright infringement on the atsu.edu network or domain. ATSU’s designation of its DMCA agent and contact information for making such reports have been posted on the U.S. Copyright Office online DMCA registry and on ATSU’s website.

ON THE HORIZON

The Office of Vice President & General Counsel has projects on deck to keep compliance moving forward at ATSU. Following are projected compliance endeavors. Other areas will be addressed as they emerge.

1. AWARENESS CAMPAIGN. A strategic communications campaign will help promote a culture of compliance. Important campaign components will be: 1) roles and services of the Office of Vice President & General Counsel; 2) ATSU Code of Ethical Standards; and 3) available reporting mechanisms for unethical or illegal behavior. A baseline survey may be used to generate data to assess campaign effectiveness.
2. RISK MANAGEMENT & COMPLIANCE COMMITTEE. The newly restructured Committee will oversee the 2018 URM process. The Committee will support the goals and objectives of the Compliance Program Strategic Plan and serve as subject area experts to help identify and address emerging compliance risks.

ON THE HORIZON (CONT.)

3. **COMPLIANCE PARTNERS.** A comprehensive list of compliance partners (ATSU employees with day-to-day compliance operations responsibilities) will be developed, and the compliance manager will begin one-to-one interviews with compliance partners. These interviews, conducted on an ongoing, systematic basis, will help identify compliance gaps and training needs. The interviews will allow opportunities for communication and problem solving, help create a culture of compliance, and encourage reporting of potential unethical or illegal behavior without fear of retaliation.
4. **CSA TRAINING.** To comply with the Clery Act, designated ATSU Campus Security Authorities (“CSAs”) must be aware of their role and responsibilities and steps to be taken in the event a crime is reported to them, including sexual assault, dating violence, domestic violence, and stalking. There are over 100 ATSU CSAs, many of whom have significant responsibilities and limited time, such as deans and clinicians. Online CSA training is produced in-house by the Office of Vice President & General Counsel. The training developed a few years ago was well-received but is being updated for improved clarity, brevity, and adherence to the law and ATSU procedures.
5. **OTHER TRAINING.** Short, animated videos for employees containing overviews of continued compliance and risk management topics will be developed and disseminated. The Office of Vice President & General Counsel will present live compliance education on each campus annually. In addition, as specific compliance training needs are identified by the Risk Management & Compliance Committee and compliance partners, the Office of Vice President & General Counsel will provide support by facilitating in-house training or by hiring external experts/consultants.
6. **FACULTY AND STAFF HANDBOOKS.** ATSU employee handbooks will be reviewed for compliance with two federal regulations. The National Labor Relations Act (“NLRA”) protects and affords rights to employees who wish to communicate with co-employees regarding terms and conditions of their employment. Guidance from the Equal Employee Opportunity Commission (“EEOC”) pertaining to harassment seems to be inconsistent with recent decisions by the National Labor Relations Board as it interprets the NLRA.
7. **GENERAL DATA PROTECTION REGULATION (“GDPR”).** ATSU is subject to this new European Union (“EU”) regulation because ATSU collects and processes personal data of EU residents as applicants, online students, donors, etc. The regulation requires certain protections for data subjects (e.g., data protection as part of our system design, data breach notifications, informed consent requirements, and right to data erasure). ATSU’s obligations are being researched, and an action plan will be developed.
8. **EMERGING AREAS.** Through literature, conferences, and the input of the Risk Management & Compliance Committee, the Office of Vice President & General Counsel will continue to identify new and emerging compliance and risk areas and take steps to improve compliance and reduce risk in those areas.

AN INVITATION

The Office of Vice President & General Counsel welcomes feedback, questions, or suggestions concerning this report, or anything related to risk management, compliance, or legal matters potentially affecting ATSU. Contact Matthew Heeren, vice president & general counsel (mheeren@atsu.edu; 660.626.2522), or Dawn Shaffer, compliance manager (dshaffer@atsu.edu; 660.626.2004), to continue the conversation.

“View life as a continuous learning experience.” – Denis Waitley