Integrity and Compliance
Board of Visitors
FY2020 Annual Report

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Introduction and the Year-in-Review

Welcome to the Annual Report of VCU's Integrity and Compliance Efforts for fiscal year (FY) 2020. Since the creation of this report in 2012, the goal has been to provide information to the Board and broader university community related to the impact of VCU's Ethics and Compliance Program and provide highlights of external ethics and compliance events related to higher education. Building on a solid foundation, the program is modeled and supported by various regulatory drivers, industry best practices, and, at its core, rooted in the minimal requirements from Chapter 8 of the Federal Sentencing Guidelines (FSG). Benefitting from the work of a well-established and trusted compliance partner network along with Presidential and Board level support, the program is available to all and helps inform decision making. Highlights herein showcase universitywide integrity and compliance activities and outcomes geared toward maintaining a community prepared to live our values and, when necessary, identify, call out or report suspected wrongdoing and appropriately address misconduct when substantiated.

The purpose of this report is two-fold.

- To support the Board in fulfilling its obligation as the university's governing authority by providing the information needed on aspects of the university's integrity and compliance activities. This charge comes from widely accepted governance practices and more directly from the Federal Sentencing Guidelines and is addressed with the following language, **"[The] Governing authority shall be knowledgeable of and exercise reasonable oversight with respect to the implementation and effectiveness of the ethics and compliance program"**.

- To assist with transparency, integrity and commitment throughout the university, as related to ethics and compliance matters. By this report collecting and analyzing the prior year's activities and outcomes, management is provided with relevant and timely information that assist with defining and measuring our culture of ethics and compliance.

These activities and outcomes are reported on because it is important to keep awareness high through communications around the information established from collected data. This report serves as a supplement to the established quarterly Board reporting occurring throughout the year. This permits, and thereby promotes, more discussion time during Board meetings -- as is also expected by the FSG:

> *The organization shall take reasonable steps to communicate periodically and in a practical manner its standards and procedures, and other aspects of the ethics and compliance program, to the individuals referred to in a subparagraph (B) [the governing authority] by conducting effective training programs and otherwise disseminating information appropriate to such individuals' respective roles and responsibilities.*

Current Landscape and Industry Trends

This year, the ethics and compliance profession remained active both in the regulatory compliance space and in the ethical treatment of individuals' arena. The industry had much to examine through the federal government's activities, public demand for accountability and changes in response to the unanticipated and unprecedented COVID-19 pandemic. The full impact of COVID-19 on the compliance industry may not be known for quite some time; however, relevant and timely reports to the Board of Visitors (BOV) will continue as needed throughout FY21. Aside from COVID-19, the public demand for transparency, accountability and commitment to change centered on social justice; providing fertile ground for organizations to examine an ethical approach to expectations and effectiveness directly impacting individuals. Given the attention garnered by ethics and compliance professional associations and others to date, this will likely remain an area of further study for the industry in FY21.

Throughout the year Ethics and Compliance Officers remained focused as the Department of Justice (DOJ) again updated their guidance for evaluation of compliance programs, which along with multiple publications, recognized the ethics and compliance function as a value to be considered central to business strategy. DOJ also provided clarity around programs and compliance officers being resourced and empowered to function effectively. DOJ plainly stated that there is no rigid formula for effectiveness and "…size, industry, geographic footprint, regulatory landscape, and other factors, both internal and external to the company's operations that might impact its compliance program." The three questions the government is to ask, before assessing whether an effective program should receive credit in the form of reducing an organization's culpability score, were clearly stated as:

1. *"Is the corporation's compliance program well designed?"*

2. *"Is the program being applied earnestly and in good faith?" In other words, is the program adequately resourced and empowered to function effectively?*

3. *"Does the corporation's compliance program work" in practice?*

This long awaited, formalized clarity for the ethics and compliance community, in combination with the routine factors affecting ethics and compliance programs, helps focus the profession and function on actively adapting and fine-tuning to federal expectations for the third time in the last four years. VCU's program monitors and adapts to these expectations in order to keep the program in a position of strength to demonstrate effectiveness. Below are highlights that put this report in the context of the ethics and compliance landscape within a broader sense and attuned to higher education, specifically.

From the regulatory front, changes, new emergency regulations and additional guidance at the federal and state levels responding to COVID-19's impact required significant attention across all industries. Specifically affecting the higher education industry were regulations and guidance focused on employment, research administration, student travel, web accessibility, privacy of student records, et cetera. As colleges and universities moved operations to virtual work and instruction, web accessibility and accommodations were again revisited.

Despite the attention COVID-19 required, business as usual was expected by constituents and the federal government remained exceptionally active in its impact on higher education. Universities experienced increased scrutiny on nearly every aspect related to:

- international affairs;
- changes to Section 117 reporting details (related to foreign funds in American universities) were accompanied by formal investigations into multiple universities for their international dealings;
- tracking and planning for proposed changes to Title IX's prohibited sexual misconduct requirements; and,
- an intense coordination demand at the state and federal level related to Title IV state authorization and reciprocity at the state level for long coming compliance requirements.

Related highlights include:

- Section 117: an expansion of the type of financial information now required in reporting from foreign sources (gifts to foundations);
- Title IX: the scope of qualifying complaints requiring investigation as Title IX matters narrowed and changed the way colleges and university conduct hearings;
- State authorization for the purposes of Title IV eligibility changed how institutions determine student location for state authorization and reciprocity agreement purposes, given a lack of uniformity in how states define the term "resides." Now, all programs must list the states where the program meets, does not meet, or no determination has been made on whether the program meets licensure requirements in each state. Institutions must also disclose when a program does not meet licensure requirements in a state where a student is located.

Resulting from these regulatory changes and other events throughout the year, is the demand for relationship transparency, commitment and integrity expectations permeating all activities for all organizations. Stakeholder expectations continue to climb and the interconnectedness of nearly everything requires a diligent, intentional and thoughtful approach.

Closer to Home: Inside VCU

This cycle, even with increased attention on the national scale relating to undue foreign influence, the varied regulatory compliance requirements, and responding to unanticipated and uncontrollable external influences, VCU's compliance and ethics community kept a solid pace of accomplishment and engagement while testing their range of adaptation and agility skills. The Global Education Office, Human Resources, Environmental Health and Safety, complex or COVID-related research activities and those involved in distributing CARES Act funds found themselves most disrupted in their previously planned annual work. Becoming much more on the front lines of real time response, these areas took the challenges, new and old, in stride to continue on as efficiently as possible.

Broadly speaking, throughout the year, compliance partner relations indicated a willingness to improve in areas of need even with limited resources. Required reporting outputs and the conclusions drawn from data analysis remain steady. Additional Compliance Advisory Meetings were held as well as email check-ins and one on one meetings with Integrity and Compliance Office (ICO) staff to ensure support and effective communication and prioritization of institutional commitment and obligations. VCU continues to assess and improve practices for a stronger values-based culture of ethics and compliance.

Student voices and the voices of our surrounding community continued to call for action related to social justice and the ethical treatment of others. Fiscal year 2020 proved fertile for values and ethics-based opportunities. Multiple efforts have centered on safety and wellness; to highlight a few, President Rao announced a charge to transition our public safety model from policing our community to equitably and more holistically fostering the safety and well-being of every individual on our campuses through a series of targeted reforms and community involvement. VCU will forge a new transdisciplinary model for campus safety and wellness with the goal of addressing and promoting health equity under former Chief of Police, John Venuti, as he resumes the Chief role to lead this charge. This cycle also saw a clear demand that our student constituents receive assurances that university leadership remain open to scrutiny and accountability around curriculum choices and university decision making, many of which related to social justice related themes, topics and initiatives. This gave rise to an empowered Interim Chief Diversity Officer for the Health Sciences campus, Dr. Kevin Harris; providing allotted time and effort to commit to affecting change with the students and university leaders, as the situation requires. This was brought to the attention of leadership by an active student engagement movement and reinforces the trend spotted years prior, that ethics and compliance programs in higher education were beginning to envelop more student-impact issues.

Commitments to relationship and transactional transparency and integrity remained dominant, providing a promise for ethics and compliance with our values and institutional polices to be reviewed, and improved in light of matters that are and should be central to business strategy. These challenging times in the international space brought about many opportunities for organizations to display true commitment and accountability to values and ethics based decision making and rise above those choosing to do otherwise. Terms like "undue foreign influence" and "academic espionage" loomed large this cycle; keeping relationships and potential for individual and institutional conflicts of interest and commitment relevant. Scrutiny from federal government's interest, by way of Title IV funding conditions, in improper foreign and domestic influence provides an opportunity to assess commitments to relationship transparency and international activities. Efforts to update resources and bring awareness to this issue took place this year through two values and compliance focused groups discussing all dynamics of this topic and maintaining VCU's global approach to supporting academic freedom as reflected in all employee communications from the Provost and VP of Research, and in annual compliance training.

VCU has matured this year into further examining the data and information gleaned from monitoring reported concerns. A shift in this report is noted by separating out performance management related data within the reported concerns content to determine how this highly productive area with significant documentation improvements over the last three years might affect overall institutional information. These distinctions are noted throughout the Reported Concerns Section but do not indicate significant differences. The largest difference was seen in benchmarking, wherein VCU becomes more aligned with national benchmarking data as opposed to looking significantly better after removing performance management type concerns.

Additionally, a few more annual notables at VCU include:

- The demands on student disability units significantly increased for a third consecutive year, while resources to address this demand remained steady on the health sciences campus but decreased on the Monroe Park campus. This remains an area to watch given the hiring freeze and return to campus under unusual circumstances

- All-employee annual compliance training completion rate is at 93% for core employees (sans part time and student workers) and at 99% for those deemed in a position of trust for annual interest disclosure purposes

- Policy maintenance still requires attention with 40% of policies remaining out of date

- Interest disclosures and assessments for conflicts of interest and commitment hit an all-time best by having 99% of selected individuals complete their interest disclosure questionnaire in a central electronic system housed in the Integrity and Compliance Office; additionally, similar NCAA required reporting is now overseen through this system; pilots continue in administrative and academic units along with conflict management plan training

  o for the second year, all conflicts of interest inquiries were raised in a proactive, guidance seeking, capacity, meaning *before* the transaction was committed to or completed

- Examination and analysis of reported concerns data provided two significant opportunities this year. One, to annualize data, where possible, accounting for the COVID-19 disruption; and two, to compare to data when excluding HR employee performance related matters.

- Over 360 reported concerns received consistent treatment and severity ratings

  o more often than not, reports were made directly to the appropriate office having expert staff charged with addressing the matter

  o matters raised through the Helpline were re-routed within 1 business day almost 100% of the time

- The substantiation rate is at an all-time high at 66% for substantiated and at 72% when including partially substantiated outcomes

- For the second year running, all substantiated allegations were responded to with some form of discipline and all discipline was documented in the centralized system

- The anonymity rate when reporting misconduct remains consistently low compared to industry peers but elevated by VCU standards and is something to watch when looking at the result of annualized data:

  o this year's rate was slightly elevated to 16%, from a record low of 10% in the prior year

  o when annualized, data indicates anonymity rates of 19% for all reports, and 28% when excluding strictly HR performance management issues

- Risk assessment activities included reviews for state compliance status attestations; required policies and ongoing compliance trainings.

These highlights demonstrate continuing program improvements within VCU's already existing Speak-Up-Listen-Up culture. Additional data supported details and conclusions are contained in the **Reported Concerns Analytics and Benchmarks** section and support the narrative of effective training. Training is an opportunity to bring clarity to VCU's expectations and available resources and to enhance accuracy in issue spotting.

These are the selected highlights for a year in review as it is not practically feasible to cover all contributions and accomplishments in an introduction or within a single report. The remainder of this report covers more compliance program detail as to specific topics and impacts on VCU for FY20. Please share comments or questions with the Executive Director of Audit and Compliance Services, or the University's Chief Ethics and Compliance Officer, or ucompliance@vcu.edu .

Reported Concerns Analytics and Benchmarks

Each year, enhancements are made to the maturity of the data analysis around reported concerns. This year, the impact of COVID-19 on employee conduct and behavior metrics yielded inspiration to examine data from new angles and consider it against peer group benchmarks. VCU has reached new heights with Human Resources' efficiencies, related to performance management data in the ethics and compliance platform software system. This prompted two pathways in which data driven metrics were analyzed this year:

1. all reported concerns of employee behavior that did not meet expectations; and,
2. the reported concerns in the first path, but excluding performance management related reports.

The objective in splitting and comparing data was to determine whether data quantities from HR's efficiencies skewed VCU data related to allegations of misconduct and the results of this approach are noted throughout this report. It is important to note that HR addresses staff behavior matters only. Faculty matters are included in the university-wide system.

Also, to demonstrate the impact of COVID-19, where possible, select data points are provided from an annualized perspective using a timeframe of July 1, 2019 through February 2020. These unprecedented circumstances create a challenge comparing metrics from FY20 with FY19; therefore, this report conveys the usual *overall* data analysis and takes into consideration when data may have been skewed by these anomalous months by citing annualized data points. Studying these changes helps identify trends prior to, and after, the COVID-19 disruption. The ICO continues monitoring for associated patterns and practices of misconduct despite the disruption.

Undoubtedly, the COVID-19 disruption marked an interesting trend nationwide in the reporting of concerns. Nationally, the time period of March - June was of note, averaging an overall 24% decrease in reports made.[1] At VCU, there was a significant reporting decrease of 46% during this time. Interestingly, a majority of VCU's reports are about in-person events wherein human to human contact takes place and runs afoul of university expectations of professional conduct. When the university ramped down and had a sparse staff on campus, accompanied by the focus COVID-19 demanded, the impact is seen in the reporting decrease.

Overall, the number of reports to, and utilization of, all reporting mechanisms decreased by 12% in FY 2020 after a period of steady increase since FY 2017. In FY 2020, the university's ethics and compliance partners and the VCU Helpline received and managed 366 reports compared to 416 reports in FY 2019. Even annualized data indicates an 8% decrease overall in reports (381). Duration, or time to reach a final conclusion or *outcome*, increased across all units. At the close of this year, 48 cases remained open; an increase of 30% from 37 open cases in the prior year. The increase in open cases may be attributable to

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[1] Fox, T. and Winterburn, P. (2020, June 30). *Global Helpline Data: Benchmarking Trends since March 2020*. Convercent

an overall increase in the complexity of reported concerns and thereby coordination and collaboration with appropriate internal expertise along with needed reprioritization because of COVID-19's disruption. Given this result and the comparison to external benchmarks, the time to reach a final outcome will receive more frequent monitoring and escalation along with root cause analysis aimed at better identification and understanding of legitimate or uncontrollable challenges.
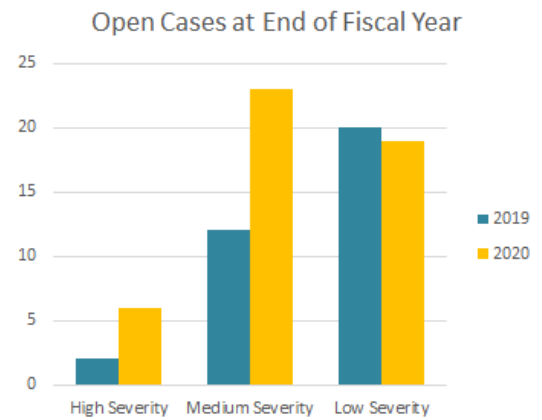
Overall, there was a slight decrease of 6%, or 5 reports, in the total number of reports made directly to the ICO; however, when annualized the picture shifts. Of the 79 reports to the ICO, 70 reports had been made prior to March

1, 2020; which, annualized, represents a 25% increase in reports made directly to the ICO. This is notable because it significantly changes the overall data, which was reflecting at a 12% decrease in quantity of reports to this independent option when compared with last year until accounting for the COVID-19 disruption. This may be the quantitative result of the qualitative finding from *VCU's 2019 Ethical Culture and Perceptions Survey* which identified that employees were less comfortable reporting concerns to their managers than was indicated in the 2017 version of the same survey. Additionally, the survey identified employees were most confident they would be protected from retaliation if reporting through the VCU Helpline which is independently managed by the ICO. The rate of anonymous reports:

- increased in FY 2020 to 16% from 10% in FY 2019 which may be an indicator of decreased trust in the environment; and
- when annualized, data indicates anonymity rates of 19% for all reports, and 28% for reports excluding performance management issues.

The trend of increased anonymous reporting was also noted in global benchmark surveys; therefore, the increase in anonymous reporting in FY 2020 may be demonstrative of broader trends in employee reporting behavior outside of VCU's environment.

Breakdown of Reports to All Trusted Advisors Based on Independence

Fiscal Year	FY2017	FY2018	FY2019	FY2020
Reports to Independent Option – *ICO*	81	62	84	79
Reports to Independent Option – *Internal Audit*	7	11	6	6
Reports to Management Option – *Compliance Partners*	185	292	326	281
Total Reports	273	365	416	366
% Reported to *Audit and Compliance Services – as the only structurally independent option*	32%	20%	22%	23%

Universitywide Reported Concerns - Employee Behavior

366	Total number reported concerns	256	Number of reported concerns, excluding performance management	↓	12%	Total reports universitywide from FY2019	Severity			
							235 Low		14	High
							116 Medium		1	Critical

Total Number of Reported Concerns by Fiscal Year

- FY2017: 273
- FY2018: 365
- FY2019: 416
- FY2020: 366

Total Reports

Reporter Anonymity

- 21% Anonymous
- 79% Not Anonymous

Excludes Performance Management

Overall Substantiation Rate

Outcome

- 24% Unsubstantiated
- 58% Substantiated
- 3% Partially Substantiated
- 15% Other

Annualized Universitywide Reported Concerns - Employee Behavior

381	Annualized total reported concerns	↓	8%	Annualized total Reports Universitywide From FY2019

105
Annualized reports to the ICO, as the independent option

25%
Increase from FY2019

Reporter Anonymity

- 28% Anonymous
- 72% Not Anonymous

Annualized; Excludes Performance Management
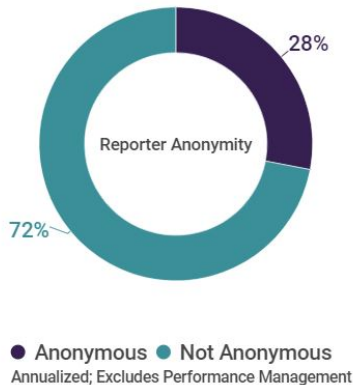
Anonymity Rate by Comparison

- **Global Benchmark Average - 49%**
- **VCU Internal Benchmark - 13%**
- **FY2019 - 15%***
  *excluding performance management

The substantiation rate (see Appendix A for definition), for all reports, decreased to 61% from 72% in the prior year. The rate equates to 49% when excluding performance management issues which remains higher, although more closely aligns with, current national benchmarks (see chart below). Substantiation rates exceeding global and education industry benchmarks may indicate employees are well informed

about university expectations and are empowered to speak up when those expectations are not being met. It additionally points to effective investigative procedures.[2]
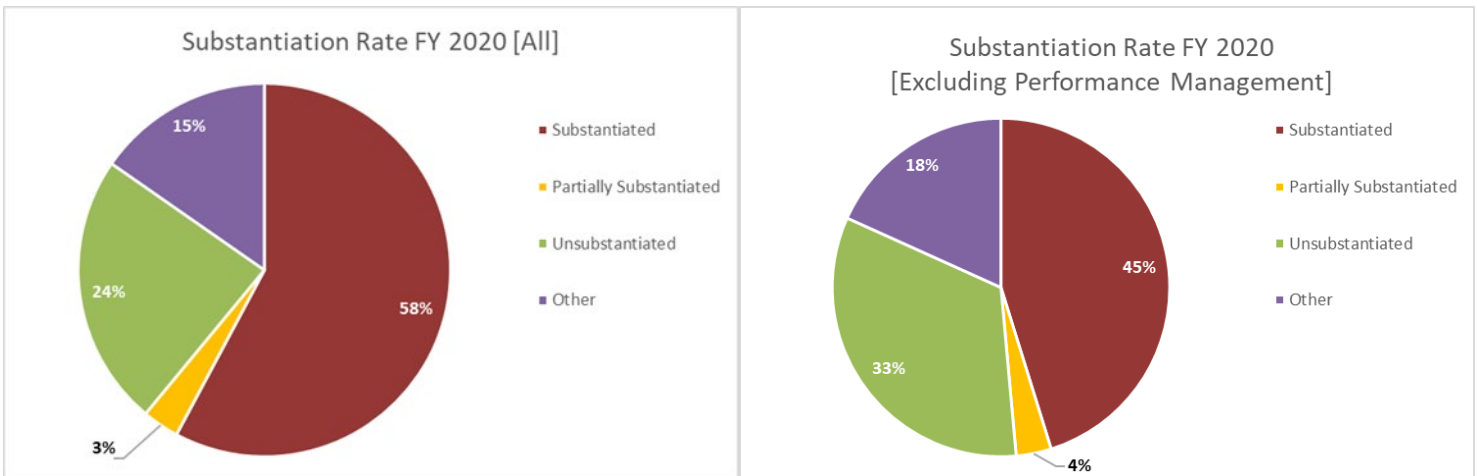
Reports classified as Human Resource-related, consistent with VCU's prior data and national trends, continue to represent the largest volume of these reported concerns at 63%, with a 62% substantiation rate. Both reflect a slight decrease from FY 2019 when Human Resources-related reports comprised 68% of all reports with a 72% substantiation rate. The decrease in the proportion of Human Resources-related reports is likely due to an increase in Equity-related reports, which comprised 19% of all reports in FY 2020 as compared to 13% in FY 2019. A decrease in the proportion of reports that were Human Resources-related was also observed in global benchmarks. The decrease in substantiation rate is likely reflective of the decrease in the university's overall substantiation rate. When performance management reports are excluded from analysis, 48% of reports are Human Resources-related and 28% are Equity-related with substantiation rates of 63% and 10%, respectively.

FY 2020 TOP 10 PRIMARY ISSUE TYPES REPORTED

Employee Relations [110]

Ethics Violation [81]

Discrimination based on Protected Class [45]

Health or Safety/Security Concerns [21]

Sexual Misconduct [20]

Waste, Misuse or Theft of Resources [20]

NCAA Violations [11]

Academic Concerns [10]

Abuse of Power, Authority or Control [9]

Conflict of Interest [6] / Retaliation or Retribution [6]

Allegations classified as equity-related topics saw a decline in substantiation rate for the second consecutive year from 17% in FY 2019 to 10% in FY 2020. The 10% substantiation rate remains below the university benchmark of 25%; however, it is likely that the FY 2018 of 42% rate is abnormally high and has skewed the benchmark accordingly. Additional training may be necessary to educate employees on the

[2] Penman, Carrie; *2020 Risk and Compliance Hotline Benchmark Report* Navex Global

Preventing and Responding to Discrimination and *Sexual Misconduct/Violence and Sex/Gender Discrimination* policies.

The university, again as in prior years, positively exceeded global ethics and compliance industry benchmarks for per capita reports of concern, demonstrating a university environment that supports a speak-up culture and providing increased visibility of issues and events in order to identify patterns and practices of unethical conduct. Per capita reports at 3.13 fall just below educational industry peers at 3.73 as identified by the current case management electronic system, but exceed the benchmark for all industries of 2.0. A study conducted at George Washington University, *Evidence on the Use and Efficacy of Internal Whistleblower Systems* (Stubben, Welch; 2018), found that an increased volume of reports was associated with decreased government fines and litigation settlement amounts and may be a "result from internal [whistleblower] systems providing relevant and actionable information to management about issues arising within the organization and/or serving as a deterrent against inappropriate activities."
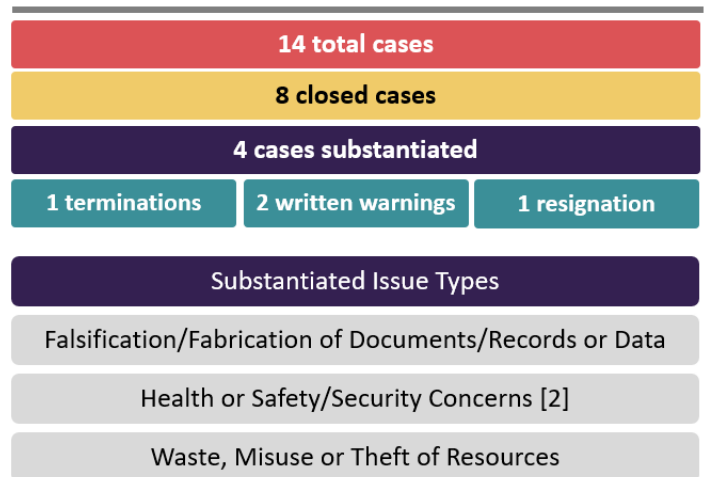
Metric	2020 Navex Global Survey	FY 2020 Convercent Benchmark	VCU Internal Benchmark	FY 2020 Data (All / Excludes Performance Management)
Cases per 100 employees	2.0 (Median)	3.73	3.02	3.13 (all)
Anonymous Reports	59%	39%	13%	16% / 21%
Direct Contact Reports vs Helpline Reports	43%	9%	80%	82% / 76%
Substantiation Rate	43%	39%	62%	61% / 49%
Most Common Allegation Type	Human Resources – 65%	Not available	Human Resources – 67%	Human Resources – 63% / 48%
Concerns of Retaliation	1.10%	Not available	4%	3% / 4%

*Benchmarking Note: Metrics collected are presented in comparison with a university benchmark for the respective metric; calculated using the average of all available data from the preceding three FY cycles which does not include the year of this report. Metrics are also compared to available industry benchmarks in two ways: 1.) data collected and analyzed annually by Navex Global's *2020 Risk and Compliance Hotline Benchmark Report* and 2.) benchmark data supplied by VCU's ethics and compliance platform vendor, Convercent, using an education industry peer group.

Additional enhancements in FY 2020 included implementation of standardized severity rating criteria (Appendix B) for consistent classification of reports and associated analysis. Overall, designation of criteria demonstrated increased severity with 36% of reports rated as medium/high/critical (45% when excluding performance management) as compared to FY 2019 with 25% of reports rated as medium/high/critical (32% when excluding performance management). This metric will be monitored and benchmarked going forward.

Analysis of critical and high severity reports revealed four substantiated cases (50% substantiation rate with six cases in progress) at the close of the fiscal year. All matters were addressed with documented disciplinary action designed to prevent recurrence of misconduct. In total for FY 2020, 13 reports were rated as high severity and one rated as critical demonstrating an increase from FY 2019 where eight reports were rated as high severity (75% substantiation rate). This may indicate increased levels of trust that the university will address serious reports of potential misconduct or, it may indicate an emerging trend that critical and high severity cases are on the rise - it is too soon to tell but this will remain an area to watch throughout FY2021. Due to the number of open cases at year-end, any comparison to prior year's substantiation rates for the most severe cases would not be well evidenced.

Critical/High Severity Concerns

| 14 total cases |
| 8 closed cases |
| 4 cases substantiated |

| 1 terminations | 2 written warnings | 1 resignation |

| Substantiated Issue Types |
| Falsification/Fabrication of Documents/Records or Data |
| Health or Safety/Security Concerns [2] |
| Waste, Misuse or Theft of Resources |

Planned enhancements for the future include exploring reported concerns data with performance management reports excluded to more readily identify and analyze noncompliance with university policy. Additionally, separate benchmarks will be created to monitor changes.

Ongoing Monitoring & Assessing Compliance Risks

Selected areas with marked increase in demand (usually in the form of regulator scrutiny) or accomplishment are included in this section. A well-recognized risk assessment report adds substance and context. Context is provided by organizational culture and factored in throughout. VCU's culture is established on a base of integrity and ethics which means this work is not only to stay out of trouble, but to also build on that foundation to drive VCU's success. In that spirit, this report focuses on current activities, successes and notable areas wherein opportunity exists.

Additional DOJ-Updates related details (as prior referenced in the Year-in-Review Section):

In June 2020, the Department of Justice released additional guidance related to evaluation considerations for ethics and compliance programs. This reinvigorated interest was brought front and center in 2017 when DOJ released their *Evaluation of Corporate Compliance Programs* and again in April 2019 with updated guidance that highlighted considerations for establishing effectiveness. The 2020 additions focused on:

- Adequate resources and empowerment to function effectively

- Dynamic state of continuous improvement

- Shorter, more targeted training methods

- Effectiveness of communication and training

- Tracking access to policies to understand what policies employees are receiving attention from employees

- Testing awareness of helpline and other reporting mechanism

- Third-party risk management

- Data resources and access – sufficient access to information to allow for timely and effective monitoring

- Monitoring consistency of disciplinary actions

- Adaptation of program based on lessons learned from identified misconduct or from similarly situated organizations

All of these are solid considerations for meeting the expectations of an effective program.[3] These elements are considered and help inform program activity and initiatives moving forward.

Non-Routine Government Reviews

Monitoring external state or federal agency inquiry, review, investigation, or audit activities and facilitating a unified and appropriate response to external regulators' requests is always of high priority.

This section highlights significant government reviews conducted; the results of the reviews; and university remediation plans to prevent recurrence of any identified issues where applicable. This section does not include routine compliance reviews, or activities related to compliance with accreditation requirements.

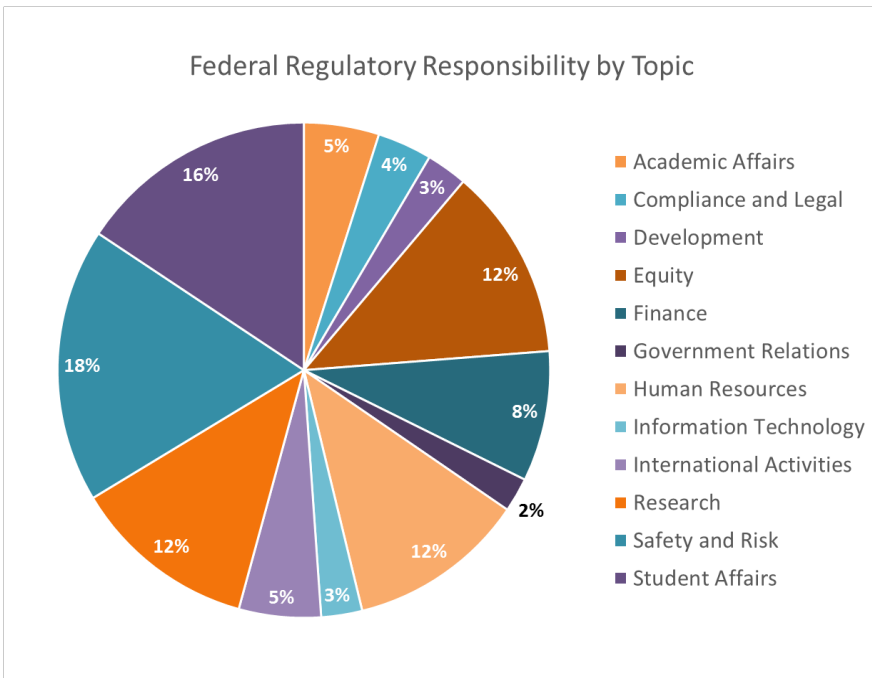No fines, debarments or resolution agreements were levied or agreed to this year.

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[3] Adapted from https://www.bakerlaw.com/alerts/doj-makes-important-changes-to-its-guidance-on-evaluating-compliance-programs , last visited August 12,2020.

This year, an external whistleblower complaint prompted an NIH inquiry around peer-reviewed articles and the research activities of one individual. After extensive internal investigation and regulator response time, the allegations were deemed unsubstantiated. This inquiry did reveal a minor publication error, since corrected, and some areas wherein the institution could provide additional messaging and communications related to new, or more junior, researchers around publication planning and NIH integrity requirements and guidance related to the peer review process. This work is being taken on by both management and the subject of the complaint to create messaging for the new and rising generation of scientists.

Regulatory Reporting Monitoring

Despite COVID-19's disruption, full compliance with required federal reporting to external authorities was maintained without issue. On a quarterly basis, compliance risk owners at the senior leadership level self-attest to timely, accurate and complete reporting throughout the year.

Federal Regulatory Responsibility by Topic

- Academic Affairs
- Compliance and Legal
- Development
- Equity
- Finance
- Government Relations
- Human Resources
- Information Technology
- International Activities
- Research
- Safety and Risk
- Student Affairs

New this year is the program's assistance toward documenting ownership and risk assessment driven by state regulatory and legal compliance requirements. This is represented by a catalog of state and legal compliance requirements, a gap assessment for state-required policies and timely readiness queries for newly passed legislation. This activity is designed to prevent noncompliance and aid in resource allocation assessment. This will be reported on next year due to a COVID19-oriented delay.

Quarterly and monthly meetings with operational owners of compliance risks occur through the Compliance Advisory Committee. Deeper assessments with individual unit leaders provide forums for communication of expectations and updates; data assessment and trend lines; inner network group discussions; and support for day-to-day operations. Internal Audit is included as a compliance partner in an effort to inform overall strategy and scope for specific audits.

Lastly, compliance with § 23.1-401.1 of the Code of Virginia, *Constitutionally protected speech; policies, materials, and reports; report*, required both the annual report creation, posting and filing as well as meeting notifications and postings for filed lawsuits. This year, like last year, required notice of one filed lawsuit alleging violations of protected speech to be provided to certain state legislators and the Governor and to be posted at www.freespeech.vcu.edu in accordance with the Code's compliance requirements. This case is related to School of the Arts, Qatar Campus, activities.

Federal Regulating Bodies and Compliance Matters

International Activities

As mentioned earlier, the federal government's interest in international affairs related to universities nationwide has significantly increased. Aside from the direct response to the COVID-19 shut down and return to campus, there was no more active compliance area than international affairs this year. It required a significant investment from multiple offices to look discuss matters such as:

- peer review activities within NIH;
- unsuspecting professor engagements in or with Confucius Institutes;
- funding supplied to researchers and universities for grants, contracts, sponsored programs, tuition payments, gifts (even those gifts made through foundations) or other contracts made to universities both public and private;
- resulting conflicts of interest or commitment at the individual and institutional levels; and
- visa compliance related to changes and interpretations.

Due to the growing attention, the Provost and VP of Research convened several compliance partners in a representative capacity to discuss issues throughout summer and fall, 2019. After an initial assessment and deploying university wide communications, the group determined a smaller working group (Security Workgroup) was needed for a deeper assessment of VCU's activities in relation to both government agencies and nonprofit organizations recent recommendations focused on core competencies, emerging trends and best practices. The work of this group remains ongoing and a preview indicates opportunities in a more centralized approach to these areas and an increase in strategic communications to assist VCU in maintaining a strong position for compliance effectiveness and enforcement regardless of the level of scrutiny from any given federal administration at any time. Close attention continues to be paid

to the current investigations at other institutions in order to learn from the specific mistakes of, or the government's interest in, others.

Special Note: The awareness of international security-related activities extends well beyond the more widely known 'undue foreign influence' concerns driving much of the Federal government's recent concerns aimed at institutions of higher education. While the working group's focus was more leaning toward the timely undue foreign influence component, the prevalence in other compliance risk areas for which other activities are in progress is unavoidable. The specific topics examined by this working group was heavily based on Association for Public and Land-Grant Universities' May 19, 2020, *Actions to Address Security Concerns about Security Threats and Undue Foreign Government Influence on Campus* and Council on Governmental Organizations' January 14, 2020, *Framework for Review of Individual Global Engagements in Academic Research*.

Collaboration and centralized coordination will be critical to remain effective with this university investment in assessment and to be determined commitments moving forward. The group remains committed to sharing resulting recommendations, supported by leadership, with the appropriate risk owner, or noting where ownership of identified risk is in question. The endeavors of the working group have further deepened the understanding of institutional processes, practices, existing policies and the in need for enhancements and policy decision making.

Lastly, The Office of Research and Innovation provides university wide export compliance support and optional Foreign Corrupt Practices Act training for the university. Placement of proactive messaging provides timely information as to resources, travel warnings, recommended safety precautions and identifies online resources, on-demand information and an optional, no cost, clean laptop loaner program.

Individuals traveling to destinations that have US sanctions or other export restrictions are deemed high risk and receive customized guidance on compliance requirements. Currently a travel committee is assembled to review institutional policies around permissive and funded travel parameters.
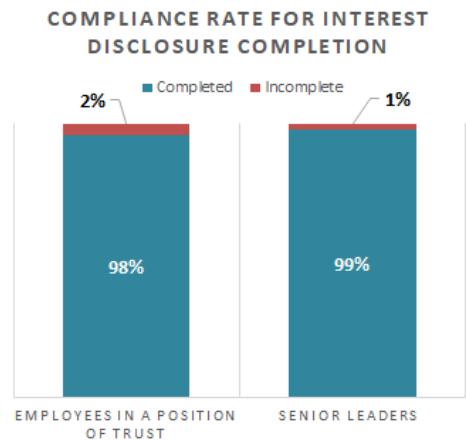
Conflict of Interest and Commitment & Annual Compliance Training

Relationship and transaction transparency and the resulting issues from undisclosed, or disclosed interests but unmanaged conflicts, have always provided attention grabbing headlines in government, nonprofit, private sector and academia. In this age of interconnectedness, immediacy, on-demand information, collaborations, entrepreneurial endeavors and expected transparency, public scrutiny remains intense alongside expectations for greater monitoring and accountability.

For these reasons, a standalone Conflicts of Interest (COI) training course was developed and implemented as the university's annual ethics and compliance training requirement for all employees. This module also included specific mention of COI related to international collaborations and the potential

for undue foreign influence since this was an identified area of risk. The completion rate, with a passing quiz score, for all employees is 92%; and those employees designated as holding a position of trust are at 99% complete.

Additionally, fully implemented interest disclosure occurred for employees identified as holding a position of trust. This was aided by a centralized electronic disclosure questionnaire and assessment tools, helping VCU to ensure a workplace free from unmitigated conflict, bias or improper influence from its most powerful and influential employee population.

COMPLIANCE RATE FOR INTEREST DISCLOSURE COMPLETION

All Disclosure Types [count]

Outside Activity [278]

Personal Services [45]

Relationship within our Organization [44]

Potential Conflict of Interests - Immediate Family [29]

Outside Financial Interest [26]

Athletically-Related Outside Income and Benefits [22]

Gifts or Services Received [10]

Gifts or Services Given or Donated [8]

Other Potential Conlicts of Interest [8]

University wide implementation of the required training course and questionnaire were conducted in accordance with existing conflict of interest review protocols and university wide policy draft, both of which are informed by the state's Conflicts of Interest Act compliance requirements; a national best practices assessment recently updated in FY19; and practical refinements identified in VCU pilot programs. The resulting questionnaire went to 776 employees - inclusive of 669 employees identified as holding a position of trust and 107 athletics department employees under specific NCAA requirements as well.

In total, 280 employees disclosed 470 interests in all disclosure type categories. Disclosure Types are defined in Appendix C.

Thirty-one percent of the President's Cabinet members, or 5 of 16, disclosed 14 interests in total. A majority of which were related to Outside Activities and none of which were prohibited.

For members of senior leadership, 31 (of 72), or 43% employees had a total of 65 interests to disclose, see detailed charts below:

Disclosure Type	Number of Disclosures by Senior Leadership (n=72)
Outside Activity	48
Relationship Within Our Organization	8
Potential Conflicts of Interest - Immediate Family	3
Gifts or Services Given or Donated	2
Outside Financial Interest	2
Personal Services	2
Grand Total	**65**

COI-related inquiries directed to the ICO continue to rise in complexity year over year; however, this is the second year that inquiries were *all* proactive rather than post commitment or post transaction. Individuals are now provided with the assessment tools, reporting forms and the more advanced guidance the maturing environment has demanded. This shift toward permissiveness indicates that awareness and understanding of COI matters has reached a new positive maturity point.

100%
PROACTIVE
INQUIRIES

Operational units assessing highly specific disclosures for conflict management are Athletics and Research.

- The Athletics NCAA-required processes have been reconciled into the universitywide electronic solution for centralized coordination and independent oversight of required reporting.
- Research-specific practices have been fully intact and operational by research expertise for more than a decade.

This past fiscal year, matters were as expected with no atypical occurrences or notable changes for both operational units.

Universitywide Policies

The Policy Program educates and supports the university community with the policy development and approval process. This cycle continued policy reviews for accuracy, feasibility and streamlining content to reduce quantity and improve quality of existing policies and gap assessment for needed policies. As a new enhancement, the program began open consultation hours for policy drafters to discuss any aspect of policy development or need aiming to increase drafting collaborations.

Currently, 40% of all policies remain out of date. Approximately 50% of these are under active review. To assist policy owners with keeping policies current, advance notice of six months is provided prior to the triennial deadline and are escalated to members of management and leadership once past due. To further a more strategic approach to ensure VCU has the updated policies it needs, an independently driven gap assessment project remains in progress this cycle and will be incorporated into an overall risk-based rating project to address VCU's policy needs. This will provide necessary feedback to not only prioritize updating out of date policies, but also work toward the policies VCU should have in place.

The Top 5 viewed policies in FY 2020 were:

- *Honor System*
- *Student Code of Conduct*
- *Sexual Misconduct/Violence and Sex/Gender Discrimination*
- *Tuition Benefits, Educational and Training Opportunities*
- *Faculty Promotion and Tenure Policies and Procedures*

POLICY MANAGEMENT
FY 2020

166
total policies

WEBSITE
total unique visits
~21,900

30 Governance phase completed

32 Past due In-development

16 New or substantively revised

6 Consolidated, retired, removed

# Virginia's Freedom of Information Act (FOIA)

Over the last few years, implementing FOIA training has resulted in a more educated population with better coordinated institutional responses. Responses have reached a maturity point wherein disclosing necessary information with minimal redactions helps fortify VCU's commitment to transparency in all dealings. As a public state agency, VCU has five days to respond to all FOIA requests.

This year saw an 8% decrease in requests, most likely attributable to the COVID-19 disruption but also due to
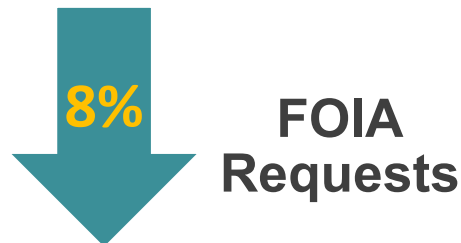
8% FOIA Requests

intentional training efforts resulting in a more confidently responding staff in handling FOIA requests and leadership valuing transparency and prioritizing clarity when responding to the media and the public's inquiries. Trends in the use of the Act included:

1. Journalist and media requests doubled again in FY 2020 (same as in FY 2019 from FY 2018)

2. Activist groups requesting information related to local and regional community projects; specifically in the form of emails and records between various VCU faculty, staff and leadership with Dominion.

3. Employee and student requests related to administrative processes remained steady

FOIA Requesting Parties

- Current and Former Employees
- Current and Former Students
- Legal Representation
- Media
- Interest Group
- Third Party Requestor (not fitting other choice)
- Vendors

4. Main topics of interest were substantial, both in terms of their complexity and the public's interest in how VCU engages with or impacts the community in Richmond and beyond. Topics included:

    - administrative investigation results;
    - athletic department contracts;
    - community relations;
    - parking, transportation and GRTC; and
    - procurement transactions.
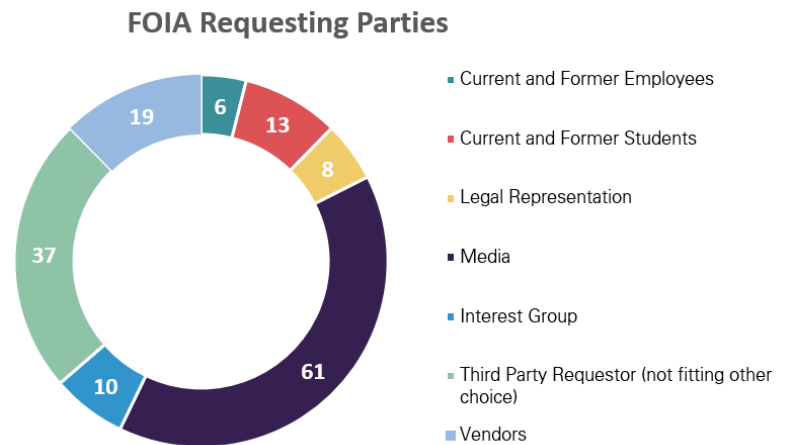
Projections for FY 21 - Continued interest is anticipated in the following areas:
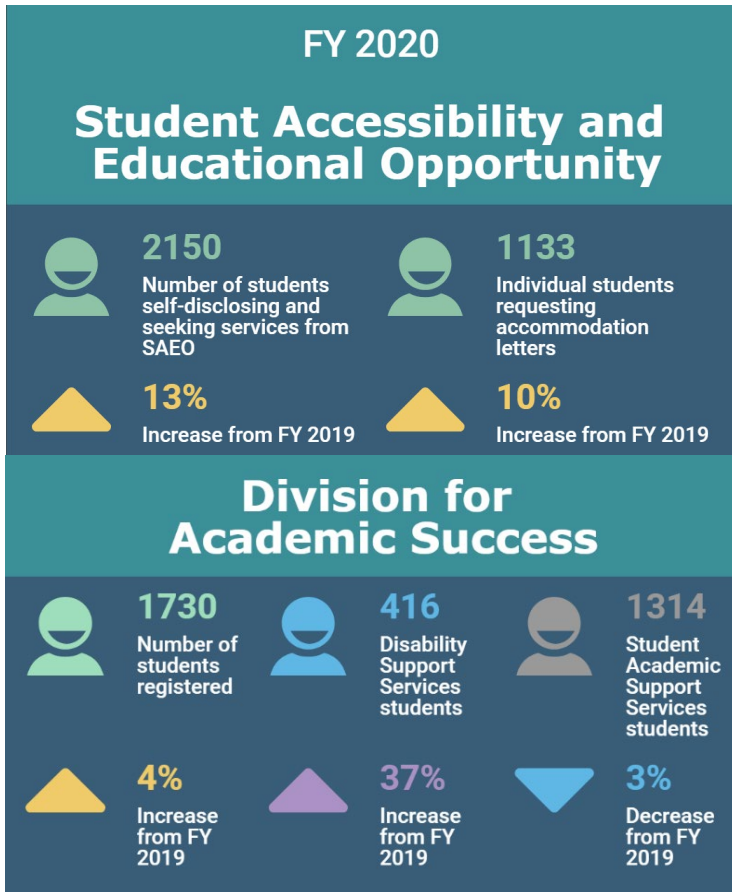
- tracking students using technology (significant national media interest/FOIA requests in FY 2020 in the RamAttend pilot program)

- the university's COVID response

- police funding

- VCU's relationship with the community both in terms of engagement and footprint - particularly related to VCU's Master Plan progression

Student Related – Select Highlights

A growing trend in higher education ethic and compliance programs is the evolution from an employee-centric approach to one that includes students. Both intentional messaging to the student population and relevant data points are also included in assessing the effectiveness for ethics and compliance programs. With this in mind, notable statistics from the Office for Student Conduct and Academic Integrity (OSCAI)

within the Division of Student Affairs and the Health Science's Division for Academic Success (comprised of Student Academic Support Services and Disability Support Services) are included below. Once a university benchmark is established, these data points will be integrated into the traditionally reported data points and benchmarked as part of standardization of ethics and compliance efforts.

Student Accessibility and Accommodations

FY 2020

Student Accessibility and Educational Opportunity

2150
Number of students self-disclosing and seeking services from SAEO

13%
Increase from FY 2019

1133
Individual students requesting accommodation letters

10%
Increase from FY 2019

Division for Academic Success

1730
Number of students registered

4%
Increase from FY 2019

416
Disability Support Services students

37%
Increase from FY 2019

1314
Student Academic Support Services students

3%
Decrease from FY 2019

The Student Accessibility and Educational Opportunity (SAEO) Office on the Monroe Park Campus and the Division for Academic Success (DAS) on the Health Sciences Campus work together to provide equal access to the university's educational programming and activities to students with disabilities. The SAEO Office is a resource for the Monroe Park Campus students and in particular, for individuals with disabilities requesting reasonable accommodations to receive services and obtain the protection of Section 504 of the Americans with Disabilities Act. This year continued a rapid increase in demand bringing about a 169% increase since just four years ago. The DAS also provides disability support services and academic support services to students on the Health Sciences Campus.

Overall, student disability support services saw increased demand in accommodations requested (including housing and emotional support animals) and in Testing Access Center use. Considering available data due to the COVID-19 disruption, during the academic year SAEO proctored 4146 exams prior to the university transition to online instruction, exceeding the number of proctored exams in the same time period in 2019 (3223).

The trend of increased utilization is expected to continue and as such, due to staff reductions and budget constraints, SAEO anticipates needing to prioritize student-centered services and reduce effort into developing programming for university departments.

DAS also experienced an overall increase in demand from students requesting disability support services. With the transition to online instruction due to COVID, DAS experienced increased requests from faculty and staff to assist with the transition off-set by the 3% decrease in requests for academic support services, likely attributable to the changed environment.

Effectiveness Statement

Outside threats to compliance are not threats to the effectiveness of an organization's Ethics and Compliance Program. This was never more felt than this past fiscal year. Effectiveness is the concept from which all key performance indicators, reporting elements and initiative setting should stem. Maintaining focus on program effectiveness in an ever-changing regulatory landscape, with shifting societal demands and needs while facing competing interests and priorities with finite resources, will always challenge every organization. This means, program support during implementation requires:

- established level of institutional commitment

- appropriate resourcing

- all employees held accountable

- on demand and accessible information

- continual and ongoing risk assessment

- interdisciplinary and enterprise-wide collaborations

- transparent and timely communications with key stakeholders

- leaders to fully embrace program objectives

- risk-informed and values-based ethical decision making

Apart from the challenges organizations of similar scope and complexity experience, (generally relating to communication, documentation and accountability in roles and responsibilities) no newly discovered patterns or practices of systemic misconduct have been identified this fiscal year. However, further progress of ethics and compliance initiatives continue to be impacted by competing priorities in other areas.

Supporting an approach based in industry best practice and adjusted for organizational risk-tolerance and appetite and empowering dedicated expert resources to systematically translate obligations and expectations into appropriate actions that drive positive outcomes, requires sustained commitment to integrity and accountability at the highest levels.

Programs unable to demonstrate effectiveness are not given full credit by the federal government during inquiries, investigations, or proactive self-reporting when misconduct is suspected or found. The goal of a program is to demonstrate effectiveness in order to receive favorable interactions or a reduction in culpability score for the organization should misconduct be found. For this reason, it is critical that risk identification continue to receive appropriate attention and response while the operational and function components of VCU's ethics and compliance program undergoes periodic assessments (internal and external) of program design and function.

This year was the first year wherein annual initiatives (see Appendix D) were set in accordance with recommended enhancements to the program from the 2019 external review by Ethisphere, an independent third party marketplace leader in assessing effectiveness of Ethics and Compliance Programs and Program Design across industries. This review concluded in several accolades and identified areas of most need within VCU's program; mainly in the communication and training of management personnel and program design areas. Initiative setting also reflects identified areas of need stemming from assessing risks throughout the prior FY.

Ethics and Compliance Program Resources and Structure	Employee Perceptions of VCU's Ethical Culture	Written Standards	Training & Communications
Risk Assessment, Monitoring & Auditing	Enforcement, Discipline & Response	Employee Knowledge of Ethics and Compliance Concepts	Senior Leader Perceptions of the Compliance Environment

These review results, response plan and progress toward continuous improvement was, and continues to be, reported on to the Board of Visitors in fulfilling their governance role specific to program progress and organizational commitment to support the program.

Overall, the Ethics and Compliance Program continues to operate from a position of strength in:

- supporting creation and maintenance of clear expectations;

- supplying reporting mechanisms to identify perceived or actual misconduct;

- identification of risks;

- ensuring resources are dedicated to assist with appropriate responses to misconduct with an aim to prevent recurrence when identified; and

- reporting to the governing authority on matters of progress and of concern.
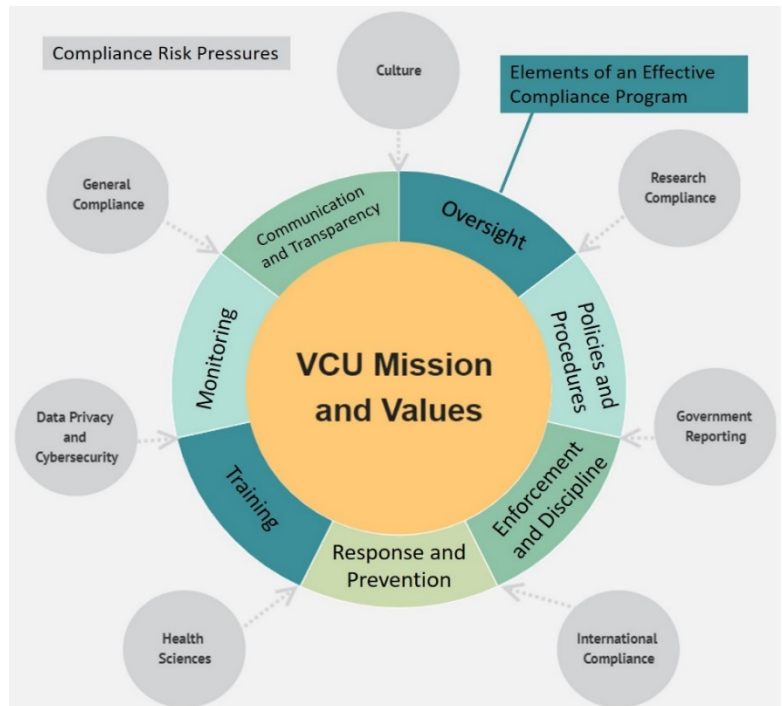
Additionally, the network of trusted advisors, known as compliance partners, and the continued commitment by Compliance Advisory Committee members adds to the strength of VCU's capacity for ethics and compliance program effectiveness.

Lastly, the role of management to enforce expectations and set the tone at the top of integrity in all operations remains critical. These efforts ultimately combine to increase value to VCU as it strives to meet its mission of excellence and in upholding the public's trust. Industry benchmarks continue to identify that changes bring pressures and an increase in pressures require deliberate diligence in supplying messaging around values. With increasing pressures (e.g.; regulatory and public demands), an effective program with solid foundational elements will continue to require deliberate design, formal structure and the time and the agility to respond to changing demands whether from industry, regulation, or specific to the needs of VCU.

Appendix A

Definitions for Report Outcome Classification

A report is classified as **_Substantiated_** when, after inquiry or investigation, violations of expectations, policy, regulation, or law are found. When this occurs, the ICO is available to consult in the development of a corrective action plan for appropriate parties.

A report is classified as **_Partially Substantiated_** when, after inquiry or investigation, a violation of expectations, policy, regulation, or law is found but other allegations—or elements of an allegation—contained in the report were unsubstantiated. When this occurs, the ICO is available to consult in the development of a corrective action plan for appropriate parties.

A report is classified as **_Unsubstantiated_** when, after inquiry or investigation, no violations of expectations, policy, regulation, or law exist.

Reports that contain general questions rather than concerns or specific allegations; are not related to current VCU employees or during employment with VCU; or include allegations later withdrawn by the reporter and ICO determines that no further investigation is necessary are classified as **_Other_**.

Reports that contain insufficient information to proceed with additional inquiry or investigation are classified as **_Not Enough Information_**.

Appendix B

Severity Criteria

Criteria used to classify the severity of misconduct allegations (referred to throughout as "reported concerns")

Critical
- Potential financial impact of $500,000+
- Repeated nonconsensual sexual contact
- Repeated abusive lack of self-control (physical or verbal)
- Recurrence of high severity offenses after formal warnings or other disciplinary action taken
- Recurrence of ineffective execution of corrective action plan by Management or Leadership for high severity offenses

High
- Harm to others, including threat of harm
- Nonconsensual sexual contact
- Potential financial impact of $50,000 - $500,000
- Repeated significant noncompliance with state or federal regulations, or accreditation standard
- Repeated significant conflict of interest concern
- Abusive lack of self-control (physical or verbal)
- Repeated abdication of job duties by management or leadership positions
- Ineffective execution of corrective action plan by Management or Leadership
- Recurrence of medium severity offenses after formal warnings or other disciplinary action taken
- Recurrence of ineffective execution of corrective action plan by Management or Leadership for medium severity offenses

Medium
- Senior Leadership as subject
- External Agency Notice
- Retaliation
- Abuse of Power
- Significant or repeated-minor noncompliance with state or federal regulations, or accreditation standard
- Significant or repeated-minor conflict of interest concern
- Raised concern internally first and was not resolved
- Subject had same or similar concerns reported previously
- Multiple reports about the same issue
- Related to law enforcement personnel conduct
- Significant or repeated safety concerns
- Sexual misconduct (not including nonconsensual contact)
- Potential financial impact of $5,000 - $50,000
- Recurrence of low severity offenses after formal warnings or other disciplinary action taken
- Recurrence of ineffective execution of corrective action plan by Management or Leadership for low severity offenses

Low
- Performance management concerns
- Minor noncompliance with state or federal regulations, or accreditation standard
- Minor safety concern
- Minor conduct issues (unprofessional or uncivil behavior/comments)
- Minor conflict of interest concern

Appendix C

Descriptions for Interest Disclosure Types

Athletically-Related Outside Income and Benefits: Includes income and benefits from sources outside the institution; the use, directly or by implications, or the institution's name or logo in the endorsement of commercial products or services for personal gain; or outside compensation or gratuities from athletic shoe, apparel or equipment manufacturers in exchange for use of such merchandise during practice or competition.

Gifts or Services Given or Donated: VCU employee (either personally or in their professional capacity at VCU) gave a gift that might reasonably be perceived as influencing or having the potential of influencing workplace decisions/actions. This includes any entity that conducts business or wishes to conduct business with the university, students/postdocs or employees. This does not include rewards or prizes for random drawings. Gifts and entertainment include anything of monetary value, such as discounts, travel expenses, loans, cash, services, transportation, tickets and gift certificates/cards, which have an individual market value of $20 or more or a cumulative market value of $100 or more over a 12 month period.

Gifts or Services Received: VCU employee accepted gift(s) in their personal or professional capacity that might reasonably be regarded as influencing or having the potential of influencing decision/actions at VCU. This includes any entity that conducts business or wishes to conduct business with the university, job candidate, students or representative of a student (e.g., parent, guardian, etc.). This does not include rewards or prizes for random drawings. Gifts and entertainment include anything of monetary value, such as meals, discounts, travel expenses, lodging, loans, cash, services, transportation, tickets and gift certificates/cards - which have an individual market value of $20 or more or a cumulative market value of $100 or more over a 12 month period.

Outside Activity: VCU employee is an employee, owner, director, officer, partner, contractor to, or agent of any other organization/entity outside of VCU. This also includes serving on a board of directors, advisory board, trade association or industry group, and arrangements to provide outside services (e.g., consulting and paid speaking engagements). Subcategories: second job; side business; freelance work/consulting; service activity; other.

Outside Financial Interest: VCU employee has a financial interest with any entity that conducts business with VCU or could possibly be perceived as influencing their university decisions. This includes direct financial interests not previously disclosed as an Outside Activity such as ownership, real estate/property, intellectual property/royalties, stocks/bonds, or equity (regardless of business value), and indirect financial interests such as reciprocal relationships or arrangements.

Personal Services: VCU employee has utilized university employees or students/postdocs to perform any personal services for them, whether paid or unpaid (e.g., house/pet sitting, yard work, editing, etc.)?

Potential Conflicts of Interest – Immediate Family: VCU employee has someone in their immediate family involved in activities, or has relationships that could possibly be perceived as a conflict of interest with respect to VCU. Immediate family member means spouse or domestic partner, parent, child, sibling, aunt/uncle, niece/nephew, grandparent or grandchild. For example, they work for, or are associated with an organization that does business with the university; they have a relationship with a board member or senior leader at VCU or someone in your reporting chain.

Relationship within our organization: VCU employee has a personal, family, social, or business relationship with a student/postdoc or other VCU employee with whom they have oversight of – or perceived influence over – their employment or academic activities. Examples of employment activities include performance evaluations, salary decisions, promotion, work assignments, etc. Academic activities include admissions, grades, coursework, registration/overrides, etc.

Other Potential Conflicts of Interest: VCU employee is involved in any other activity that could possibly be perceived to influence their university decisions or detract from their university responsibilities. Consider the various activities and interests that they, their family members and close friends are involved in, and whether they could be reasonably viewed by others to unfairly influence your decision-making in the workplace. If in doubt, this disclosure process can provide an objective review to identify competing interests and guidance on how to properly manage any identified conflicts. If the situation is not a conflict of interest or commitment, this disclosure can help remove the potential perception of wrongdoing. Remember, actual or perceived conflicts of interests and commitments have the potential to undermine our credibility and the trust of others. Having a conflict is not necessarily wrong or bad, but not disclosing the situation can result in wrongdoing or the perception of wrongdoing.

Appendix D

Current FY Annual Initiatives

(Typically approved at Board of Visitors meeting in May)

FY 2021 Ethics and Compliance Program Risk Based Initiatives

Each year, initiatives are selected, or mature, in order to reduce potential wrongdoing, increase the likelihood that when wrongdoing does occur it will be made known to management and increase the likelihood that VCU will responsibly handle suspected and substantiated wrongdoing, thus preserving the public's trust and the integrity and reputation of a responsible university.

Maintenance of VCU's Ethics and Compliance Program is substantively driven by the Federal Sentencing Commission's Sentencing Guidelines, Chapter 8, which provide the basic and necessary minimum elements of an effective Ethics and Compliance Program; it is also driven by our own mission and values reflected in our Code of Conduct and university policies; sound business sense; risk acceptance and the needs of the organization. Continually playing an integral role in setting and upholding accountability within VCU's culture and overall risk mitigation processes, the Compliance and Ethics Program provides advisory resources to all departments; reporting mechanisms to all employees, students and visitors; and regularly solicits interactions from a cross section of stakeholders helping progression and monitoring of ethics and compliance based activities. Based on providing these services throughout FY 2020, the initiatives for FY 2021 reflect a balance of capacity, prioritization and where a devotion of additional resources is necessary to address, or continue, assurance of compliance requirements; ethical behaviors; and overall institutional integrity. Most of the topics below traverse multiple years due to the scope and size of the efforts. Year over year progress is made and any obstacles to these plans are shared with the Audit, Integrity and Compliance Committee of the Board of Visitors as the university's governing authority.

Note: These activities reflect known data points and information established from the collaborative relationships with Ethics and Compliance Partners and other key stakeholders.

FY 2021 Initiatives:

Continue providing the BOV and Senior Leadership (as applicable) timely reports of successes; efficiencies; challenges; obstacles; and violations of ethics and compliance matters. Consider formal resolutions for program requirements and organizational need.

More specifically focused on:

Effectiveness Review of Ethics and Compliance Program
- Maintain progression and updates to response plan from Ethisphere's findings and recommendations – includes cooperation and collaboration with compliance partners and key stakeholders
- Complete self-assessment and results comparison with the national Ethics and Compliance Initiative cohort and industry leading practices

Integrity and Compliance Office Reporting to BOV Audit, Integrity and Compliance Committee
- Bolster issues and events reporting with enhanced analytics insights and benchmarking from central case management platform; solicit and incorporate stakeholder input; establish frequency of reports
- Finalize program insights reports and the dashboard's format - includes ethics and compliance metrics informing maturity ratings; solicit input; and establish risk appetite – working toward standardized quarterly or biennial reporting

COI Program Enhancement - Enhancements are needed regarding policy approval, consistent use of electronic solution for disclosures and management plans; in particular, compliance with more than 10 federal regulations, accreditation standards, and best practices in organizational governance, risk, and ethics and compliance industries. Utilization of an enhanced process of interest reporting contributes to both the Board and the departmental charter compliance by providing required assurances to the Audit, Integrity and Compliance Committee of the BOV.

- Fully implement policy and software solution for disclosing interests and managing conflicts
- Creation and execution of training to topic, policy requirements, electronic system and role
  - School and unit level employees reviewing, clearing and mitigating conflicts
  - Institutional Ethics and Compliance Committee Members
- Continue guidance responding to disclosures and proactive avoidance inquiries or response to disclosed institutional conflicts and conflicts of commitment - includes role based training
- Continue as Commonwealth's liaison for mandated state disclosures and training

Employee Ethics and Compliance Training and Accountability
- Execute training to broader audience and oversee functional or operational compliance program plan development by applicable compliance partners
- Provide risk identification and assessment training to applicable compliance partners
  - establish accountability process for assessment results and integration into ERM
- Integrate ethics related actions and other positive ethics incentives into performance evaluations - initial phase, pilot cohort
- Execute annual employee compliance training – includes reflexive content based on initial assessment of knowledge base accompanied by role and duration of employment
- Develop and conduct role-based training for managers: Anti-retaliation

- Continue in person participation in new employee orientations and new chair training / development; online content delivery; and other custom requests to individual units

Gap and Risk Assessment Activities & Response
- Continue oversight of case handling for all reported concerns for efficient, consistent and coordinated institution response
- Continue quarterly oversight monitoring for timely compliance reporting through responsible parties outlined in Compliance Calendar: Federal Regulatory Reporting Requirements
- Support unique compliance needs in the university's areas of international activity, health care activity; and other elevated risks - reinforced with policy creation and revision
- Formalize internal workplace investigation standards through policy approval
- Identify risk owners for enhancing third party programs (volunteers, visiting scholars, vendors, etc…) - explore decentralized risk and accountability model and centralization feasibility for identification; screening; tracking and reporting
- Reconstitute Compliance Advisory Committee and begin Senior Leadership Level Committee to review and respond to advanced ethics and compliance metrics geared toward effectiveness and risk ownership, management and intelligence based on established maturity model ratings

Government Relations Non-Routine Visits: Continue independent oversight and support to university community in preparation for, and in response to, regulator inquiries, reviews and investigations

Policy Program – for all universitywide policies
- Create methodology to measure and manage effectiveness of existing policies
- Recommend and oversee policy development to address identified risks
- Continue universitywide quarterly updates: seminal policy changes, reminders and tips for compliance
- Continue gap assessment based on size, scope and complexity of university, and industry trends and standards
- Continue support in policy creation, drafting, revision and required governance processes

Continued Participation and Resource Support and Guidance to various ethics and compliance-oriented groups and committees
- National Prominence - Contributing member for think tank partnership with Ethisphere to create Higher Ed cohort data comparisons of plans; and contributing member in national university compliance leaders group
- State Prominence – Ethics and compliance work in Higher Education cohorts: contributing member to state-specific cohort; founding member for public school-specific cohort
- Continue serving as the second line of defense support to all operations units with VCU
- Work toward being utilized as a strategic business partner
- Participation and leadership provided to over 15 universitywide committees and taskforces
- Active memberships and participation with external groups – Society of Corporate Compliance and Ethics – Higher Education Section and General Section; Ethics and Compliance Initiative; Association of College and University Policy Administrators

- The commitment to internal staff development remains as well as support for maintaining current industry certifications
- Internal workplace investigations
  - Oversight of alleged misconduct reports / non-compliance Issues
  - Conduct investigations when suspected patterns or practices of misconduct, non-compliance, or unduly sensitive issues arise
- State Regulatory Coordinator (liaison to Commonwealth for VCU)
- Agency Coordinator for Conflict of Interest Disclosures to the Commonwealth

As a reminder, this committee receives a status update of FY20 Initiatives along with these proposed Initiatives for FY21 at the May 2020 meeting and receives the FY20 Integrity and Compliance Annual Report at the September 2020 BOV Meeting.

The anticipated effect of providing the upcoming fiscal year's Program Initiatives at the May Meeting, and the Annual Report at the September Meeting, is to assure existing mechanisms keep this committee abreast of efforts demonstrating effectiveness of the Ethics and Compliance Program.

This committee has been deemed, through enacted Charter, to be the appropriate authority to oversee the Ethics and Compliance Program. If there are suggestions or recommendations from the committee, please contact the Executive Director of Audit and Compliance Services or the University Chief Ethics and Compliance Officer.

Appendix E

Prior FY Initiatives Progress Report

(Typically presented at Board of Visitors meeting in May)

STATUS OF
FY 2020 Ethics and Compliance Program Risk Based Initiatives

Maintenance of VCU's Ethics and Compliance Program is substantively driven by the Federal Sentencing Commission's Sentencing Guidelines, Chapter 8, which provide for the basic and necessary minimum elements of an effective Ethics and Compliance Program; it is also driven by our own mission and values reflected in our Code of Conduct and university policies; sound business sense; risk acceptance and the needs of the organization. Continually playing an integral role in setting and upholding accountability within VCU's culture and overall risk mitigation processes, the resulting initiatives were set for FY20 in May of 2019 and this report provides a final status update **as of April 1, 2020** before approving new initiatives for FY21. The May meeting of the Board's Audit, Integrity and Compliance Committee reviews and approves the program's Annual Initiatives (workplan) for the upcoming fiscal year; therefore, this update is needed at the same meeting in order to hold those who run, oversee and contribute to, this program responsible for reasonable progress and effectiveness.

Initiatives herein are designed to reduce potential wrongdoing, increase the likelihood that when wrongdoing does occur it will be made known to management and increase the likelihood that VCU will responsibly handle suspected and substantiated wrongdoing, thus preserving the public's trust and the integrity and reputation of a responsible university.

Selected projects reflect a balancing of capacity, prioritization and where a devotion of additional resources is necessary to address, or continue, assurance of compliance requirements; ethical behaviors; and overall institutional integrity. Most of the topics below traverse multiple years due to the scope and size of the efforts. Year over year progress is demonstrated with a stoplight coloring indicator and any obstacles to these plans are shared with the Audit, Integrity and Compliance Committee of the Board of Visitors as the university's governing authority.

Note: These activities reflect known data points and information established from the collaborative relationships our ethics and compliance partners and other key stakeholders. Those items marked ongoing or holding, are a direct result of a vacancy absorbed turned into a universitywide hiring freeze or the adjustments required as a direct effect from the COVID-19 disruption.

Green: Complete or to be complete within FY
Yellow: Significant progress continues but not complete within FY
Red: No progress of significance or on hold due to unexpected circumstances

<u>FY 2020 Initiatives</u>:

Continue providing the BOV and senior leadership (as applicable) timely reports of successes; efficiencies; challenges; obstacles; and violations of ethics and compliance matters. Consider formal resolutions for program requirements and organizational need.
More specifically focused on:

Effectiveness Review of Ethics and Compliance Program

- `COMPLETE` Prepare comprehensive response to Ethisphere's findings and recommendations – includes exploratory phase with compliance partners and key stakeholders

- `COMPLETE` Complete self-assessment and results comparison with the national Ethics and Compliance Initiative cohort

- `COMPLETE` Report Findings and Recommendation Response to BOV, Cabinet, Compliance Advisory Committee, Enterprise Risk Management Committee, internal ACS, ICO staff and other key stakeholders

- `COMPLETE` Prioritize activities focused on the four key recommendations:
    - Develop Regular Training Program for All Managers
    - Streamline Communication Planning
    - Consider ICO Staffing and Ethics Ambassador Program and Review Reporting Line for CECO
    - Continue Consolidation of Case Management Systems

Integrity and Compliance Office Reporting to BOV Audit, Integrity and Compliance Committee

- `COMPLETE` Bolster Annual Issues and Events reporting results with enhanced analytics insights and benchmarking from central case management platform, includes higher education cohort

- `HOLDING` Provide dashboard format of ethics and compliance metrics informing risk assessment; solicit input; and establish risk appetite – working toward standardized quarterly reporting

- `COMPLETE` Ethisphere's Design and Effectiveness Review Response to Recommendations Plan – see details above

COI Program Enhancement - Enhancements are needed regarding training, policy approval, use of electronic solution for disclosures and management plans; in particular, compliance with more than 10 federal regulations, accreditation standards, and best practices in organizational governance, risk, and ethics and compliance industries. Utilization of an enhanced process of interest reporting contributes to both the Board and the departmental charter compliance by providing required assurances to the Audit, Integrity and Compliance Committee of the BOV.

- `ONGOING` Fully implement policy and software solution for disclosing interests and managing conflicts

    o To include set expectations; required reporting; compliance with required committee review process; and managing of identified conflicts

- `ONGOING` Creation of formal Interest Disclosure Review Committee – to include training on expectations outlined in policy's requirements

- `COMPLETE` Continued guidance responding to inquiries related to proactive avoidance, or response to disclosed institutional conflicts and conflicts of commitment

- `COMPLETE` Continued service as liaison to Commonwealth for mandated state disclosure

Employee Ethics and Compliance Training and Accountability

- `HOLDING` Integrate ethics related actions and other positive ethics incentives into performance evaluations - initial phase, pilot cohort

- `COMPLETE` Execution of annual employee compliance training – includes reflexive content based on initial assessment of knowledge base accompanied by role and duration of employment

- `HOLDING` Develop and conduct role-based training for managers: Anti-retaliation

- `ONGOING` Develop and conduct role-based training for internal workplace investigations

- `COMPLETE` Execution of high profile awareness events during National Ethics & Compliance Week, November 2019 - offered to employees and students

- `COMPLETE` Continued in person participation in new employee orientations and new chair training / development; online content delivery; and other custom requests to individual units

Gap and Risk Assessment Activities

- `COMPLETE` Continue quarterly oversight monitoring for timely compliance reporting through responsible parties outlined in compliance calendar: Federal regulatory reporting requirements

- `COMPLETE` Establish universitywide listing of state Code requirements and execute plan to assess compliance status

- `COMPLETE` Support unique compliance needs in the university's areas of health care activity

- `ONGOING` Standardize core elements of internal workplace investigations - includes training and policy

- `ONGOING` Identify risk owners for enhancing Volunteers Program - explore decentralized risk and accountability model and centralization feasibility for identification; screening; tracking and reporting

- `HOLDING` Reconstitute Compliance Advisory Committee or consider senior leadership level committee to review advanced ethics and compliance metrics geared toward effectiveness and risk ownership, management / intelligence based on a maturity model rating

Government Relations Non-Routine Visits: `COMPLETE` Continued independent oversight and support to university community in preparation for, and in response to, regulator inquiries, reviews and investigations

Policy Program – for all universitywide policies

- `COMPLETE` Continue providing seminal policy reminders and tips for compliance to broader university community
- `COMPLETE` Continued gap assessment based on size, scope and complexity of university, and industry trends and standards
- `COMPLETE` Continued support in policy creation, drafting, revision and required governance processes

Continued Participation and Resource Support and Assistance to various ethics and compliance-oriented groups and committees

- `COMPLETE` National Prominence - contributing member for University Compliance Leaders Group
- `COMPLETE` State Prominence - contributing member to state cohort for ethics and compliance work in higher education
- `COMPLETE` Continue serving as the second line of defense support to all operations units with VCU
- `ONGOING` Work toward being utilized as a strategic business partner
- `COMPLETE` Participation and leadership provided to over 15 universitywide committees and taskforces; some committee involvement holding until vacancy filled
- `COMPLETE` Active memberships and participation with external groups – Society of Corporate Compliance and Ethics – Higher Education Section and General Section; Ethics and Compliance Initiative; Association of College and University Policy Administrators
- `COMPLETE` The commitment to internal staff development remains as well as support for maintaining current industry certifications
- Internal Workplace Investigations
    - `COMPLETE` Oversight of Alleged Misconduct Reports / Non-compliance Issues
    - `COMPLETE` Conduct investigations when suspected patterns or practices of misconduct, non-compliance, or unduly sensitive issues arise
- `COMPLETE` State Regulatory Coordinator (liaison to Commonwealth for VCU)
- `COMPLETE` Agency Coordinator for Conflict of Interest disclosures to the Commonwealth

As a reminder, this committee will be receiving the Integrity and Compliance Annual Report and highlights at the September 2020 meeting.

The anticipated effect of providing the upcoming fiscal year's Program Initiatives at the May Meeting, and the Annual Report at the September Meeting, is to assure existing mechanisms keep this committee abreast of efforts demonstrating effectiveness of VCU's Ethics and Compliance Program.

This committee has been deemed through its enacted Charter to be the appropriate authority to oversee the Ethics and Compliance Program. If there are suggestions or recommendations from the committee, please contact the Executive Director of Audit and Compliance Services or the University Chief Ethics and Compliance Officer.