

Facilitating University Compliance Using Regulatory Policy Incentives

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As the scope and complexity of higher education regulation has expanded over the years, universities¹ wrestle with managing compliance. Borne out of this struggle, and the escalating risk of liability, are increasingly formal programs intended to track, manage, and otherwise bring order to universities' broad range of compliance obligations.

Congress has recognized the need for organized compliance monitoring in higher education in light of the vast number of obligations imposed. The Higher Education Opportunity Act of 2008 amended the Higher Education Act to require the Department of Education to compile and make public a calendar of all institutional reporting and disclosure requirements.

Although they represent a significant portion of institutional compliance obligations, myriad other day-to-day obligations exist elsewhere in the Higher Education Act and in Department regulation. The Department has demonstrated its interest in facilitating compliance with its regulations through the issuance of various forms of sub-regulatory guidance.

However, the current approach of supplementing statute and regulation with sometimes-extensive sub-regulatory guidance is an inefficient method that creates uncertainty and extra compliance burdens.