Section 6 Subject 6.6 **Policy 6.6.0**	Compliance Policies Endowment **Endowment Compliance Plan**	08/06/12- Originated - Reviewed w/ changes - Reviewed w/o changes - Effective Compliance Office - Author

Endowment Compliance Plan

Policy

The University of Texas Medical Branch is committed to conducting its business in an ethical and law-abiding fashion. We are intolerant of fraud, abuse, waste, or other violations of any applicable federal, state, or local laws, and regulations. We will maintain a business culture that builds and promotes compliance consciousness and encourages employees and faculty to conduct all University business with honesty and integrity. Our commitment to compliance includes: communicating to all employees, faculty, consultants, and independent contractors clear business ethical guidelines to follow; providing general and specific training and education regarding applicable laws, regulations, and policies; and providing monitoring and oversight to help ensure that we meet our compliance commitment. We promote open and free communication regarding our ethical and compliance standards and provide a work environment free of retaliation.

Responsibility and accountability for actual compliance with laws, regulations, and policies rests with each individual employee. The department chairman/head or leader of each operating unit is accountable for ensuring that their subordinates are adequately trained and for detecting noncompliance with applicable policies and legal requirements when reasonable management efforts would have led to the discovery of problems or violations.

To promote compliance and implement an institutional compliance program we have developed an Office of Institutional Compliance (OIC). The OIC is responsible for developing an institutional compliance program that will promote compliance with all applicable legal requirements, foster and help ensure ethical conduct, and provide education, training, and guidance to all employees and faculty. Our institutional compliance plan and program is designed to prevent accidental or intentional noncompliance with applicable laws and regulations; to detect such noncompliance, if it occurs; to discipline those involved in noncompliant behavior, and to prevent future noncompliance.

Our compliance program has been developed to include the seven requirements of an effective compliance program included in the Federal Sentencing Guidelines.[1] These requirements are:

1 Commentary. U. S. Sentencing Guidelines § 8A1.2.

Policy, continued

1. Establish compliance standards and procedures to be followed by employees and faculty that are reasonably capable of reducing the prospect of criminal conduct;
2. Assign high-level personnel of the organization to have overall responsibility to oversee compliance with such standards and procedures;
3. Use "due care not to delegate substantial discretionary authority to individuals who the organization knew, or should have known through the exercise of due diligence, had a propensity to engage in illegal activity;"
4. Communicate effectively compliance standards and procedures to all employees by requiring participation in training programs or by disseminating publications that explain in a practical manner what is required;
5. Take reasonable steps to achieve compliance with standards by utilizing monitoring and auditing systems reasonably designed to detect criminal conduct and by having in place and publicizing a reporting system whereby employees and other agents can report criminal conduct by others within the organization without fear of retribution;
6. Consistently enforce standards through appropriate disciplinary mechanisms, including discipline of individuals responsible for the failure to detect an offense; and
7. Take all reasonable steps to respond appropriately to detected offenses and to prevent further similar offenses.

The policies and procedures contained in this program are intended to establish a framework to help ensure compliance but are not to be considered all-inclusive.

Standards of Conduct Guide

The University of Texas Medical Branch is committed to conducting UTMB business with integrity and in compliance with applicable laws. UTMB has developed a *Standards of Conduct Guide*. The purpose of the *Standards of Conduct Guide* is to communicate to all UTMB employees and students an expectation and requirement of ethical conduct and compliance with applicable laws, policies, rules, and regulations. The *UTMB Standards of Conduct Guide* is a framework within which all employees are expected to operate. The *UTMB Standards of Conduct Guide* represents policies of UTMB, the University of Texas System and the *Rules and Regulations of the Board of Regents of the University of Texas System*, known as *Regents' Rules and Regulations*. This booklet does not include all general compliance issues, nor does it contain the special compliance issues that are job specific. Instead, the *UTMB Standards of Conduct Guide* should be regarded as a set of guiding principles that apply to every UTMB employee.

Standards of Conduct Guide, continued

The *UTMB Standards of Conduct Guide* applies to all UTMB employees, including administration, faculty, fellows, residents, and students. Moreover, the *Standards of Conduct Guide* is applicable to physicians not employed by UTMB but serving on UTMB Hospitals medical staff as well as university and hospital subcontractors, independent contractors, and consultants.

Compliance Organization and Oversight

Responsibility for oversight of the Endowment Compliance Plan rests with a multi-disciplinary Endowment Compliance Committee (ECC), whose membership is appointed by the Executive Institutional Compliance Committee (Executive ICC). Minutes of all ECC meetings are maintained in a confidential manner and will be provided to the Executive ICC on a quarterly basis.

The President will designate an individual ("Designee") from the Development Office to be accountable for the day-to-day implementation of the Endowment Compliance Plan.

The Designee will chair the ECC and, with assistance of the ECC, perform the following functions:

1. Prepare and submit to the Executive ICC an annual report that summarizes the ECC's progress. This annual report is also submitted to UT System and certifies UTMB's endowment compliance;
2. Recommend the creation of new and revisions to current endowment policies and procedures;
3. Develop and implement necessary changes in practice or procedures that assures adherence to established policies;
4. Mandate the completion of training programs regarding endowment compliance as needed;
5. Develop practical monitoring tools to optimize compliance;
6. Prepare reports to the Executive ICC on the status of current and newly adopted policies, procedures, and related materials;
7. Communicate regularly with the Executive ICC on new and emerging issues;
8. Provide oversight of endowment compliance auditing and assurance activities, make recommendations regarding appropriate action, and recommend disciplinary action for non-compliance;
9. Receive and review annual endowment reports from UTMB

Compliance Organization and Oversight, continued

endowment-funded areas;

10. Prepare annual reports to endowment donors; and
11. Review endowment accounts.

Endowment Compliance Plan, Policies and Procedures

The goal of the UTMB Endowment Compliance Plan is to provide guidelines that promote understanding and compliance with applicable laws, rules, and regulations related to endowment compliance.

The objectives of UTMB's Endowment Plan are to ensure:

1. Adherence to UT System Gift Acceptance procedures associated with the establishment of endowments;
2. Adherence to the terms of the Official Endowment Agreement;
3. Oversight of endowment accounts;
4. High quality annual reports are provided to donors;
5. Develop and conduct endowment compliance training programs;
6. Establish a monitoring program for endowments;
7. Conduct an endowment reporting plan; and
8. Certify endowment compliance via an annual report to the UT System.

Adherence to the Compliance Program as a Requirement for Promotion for Faculty and as an Element for Evaluating all Employees

Faculty

Adherence to the UTMB institutional compliance program is a part of each faculty member's annual evaluation and is also used as a criterion for promotion in academic rank. It is understood that the Appointment Promotion and Tenure Committee of each UTMB school should consider participation in compliance training and any involvement in compliance infractions as a part of the promotion evaluation process.

Managers and Supervisors

Managers and supervisors include all individuals who have as part of their job descriptions the supervision of any UTMB employee. The promotion of and adherence to the institutional compliance program by all management and supervisors is considered an integral part of their job performance. At UTMB, employees' awareness of and adherence to the institutional compliance program should be used as an element or measurement tool in the evaluation process for continuing employment and promotions.

- **Education and Training**
  Managers and supervisors are required to ensure and verify that employees complete all mandatory and elective training

Adherence to the Compliance Program as a Requirement for Promotion for Faculty and as an Element for Evaluating all Employees, continued

assigned to the employee including compliance training at UTMB. Managers and supervisors should inform employees that UTMB will take disciplinary action for violation of policies, procedures, and regulatory requirements, or for failure to complete mandatory training requirements. Moreover, employees are informed that strict adherence to the laws, regulations, and policies are a condition of employment.

- **Inform Employees**
  Managers and supervisors are responsible for informing employees of compliance policies and procedures specifically related to their job function and appropriately monitoring employees to help ensure adherence to policies and procedures.

Risk Assessment

The ECC will work with the Development Office to ensure adherence to the Endowment Compliance Plan. Under the leadership of the Designee, the ECC shall conduct at least annually an endowment risk assessment to assess issues that could impact UTMB ability to meet its mission and objectives. More specifically, members of the ECC will review and update policies and procedures; review progress made to improve education and information to new and established endowment managers; review endowments that are being underutilized; and define criteria for and give special attention to prominent endowments to ensure compliance with their gift agreements. Where needed, members of the ECC will develop and implement action plans for their areas of responsibility to ensure endowment compliance.

Compliance Monitoring

Under the leadership of the Designee and in consultation with the Endowment Compliance Committee, each UT System institution and UT System Administration should design and establish a monitoring plan based on its risk assessment. The plan should include a description of activities that will be performed in order to identify and reduce non-compliance for endowments.

Reporting Violations or Questionable Conduct

Employee's Responsibility

It is every employee's responsibility to report suspected violations of laws, regulations, policies or questionable conduct. Remaining silent and failing to report any violation or potential violation that a person knows or should have known of, may subject a person to disciplinary action up to and including termination. UTMB has established methods for employees to report, confidentially and anonymously, any questionable conduct or possible violation(s). Individual employees may discuss concerns with their supervisor or directly with the CCO by contacting the OIC directly at: 409-747-8700. Additional methods for reporting are described below.

All employees with questions regarding the Endowment Compliance Plan or other compliance requirements in general are encouraged to seek answers and/or clarification from the OIC.

Reporting Violations or Questionable Conduct, continued

Fraud, Abuse and Privacy Hotline (1-800-898-7679)

UTMB has established a dedicated Fraud, Abuse and Privacy Hotline as an internal reporting mechanism for reporting suspected waste, abuse, fraud, or other illegal conduct of UTMB employees, students, vendors, or independent contractors. The UTMB Fraud, Abuse and Privacy hotline is available 24 hours a day, 365 days a year by calling 1 (800) 898-7679.

Individuals may also report suspected fraud, waste, and abuse involving state resources to the State Auditor's Office's Hotline at 1-800-TX-AUDIT (1-800-892-8348). The State Auditor's Office provides additional information at its website.

Confidential and Anonymous

UTMB will ensure the anonymity, to the extent allowed by law, of individuals who report violations or questionable conduct. All reported allegations or concerns will be investigated confidentially.

Intentional False Accusations

UTMB will consider it a serious violation of UTMB policy for employees to intentionally make false accusations. Such false accusations may result in disciplinary action, up to and including termination, against the accuser. All reports to the UTMB OIC should be made in good faith and with the best of intentions.

Non-retaliation Policy

Employees are encouraged to freely discuss and raise questions to managers or to any appropriate personnel about situations they may feel are in violation of applicable laws, regulations, rules, policies, and procedures. Moreover all UTMB employees have a personal obligation to report any activity that appears to violate applicable laws, regulations, rules, policies, and procedures. Employees wishing to remain anonymous may file a report via the UTMB Fraud, Abuse and Privacy Hotline (800-898-7679). UTMB shall not intimidate, threaten, coerce, discriminate against, or take any retaliatory action against any individuals who in good faith report suspected wrongdoing to their supervisor or through the UTMB Fraud, Abuse and Privacy Hotline.

Response to Allegations, Identified Problems, and Audit Outcomes

Investigation

All reports of potential violations of laws, regulations, policies or questionable conduct, from any source, shall be logged and presented to the CCO. The CCO will authorize, direct and/or conduct the investigation. A report of the investigation, including findings and recommendations, will be created. A summary report of all investigations will be provided to the Executive ICC periodically. Investigations resulting in extensive corrective action and/or disciplinary action shall be reviewed and approved by the CCO prior to implementation. The Executive ICC will be informed of these actions and following discussion may direct further action.

Recommendations – Corrective Action

When an instance of non-compliance has been determined and confirmed by the CCO, a corrective action plan will be submitted to the CCO. The corrective action plan will focus on implementing changes in internal processes to improve, prevent, or detect compliance inadequacies. The CCO may notify and meet with the department Chair and/or the department management, the affected faculty member(s) or employee(s) and explain the corrective action to be implemented. The corrective action plan may include one or all of the following elements:

1. Specific areas requiring compliance attention;
2. Requirement of additional training;
3. Ceasing problematic process;
4. Change in policies and procedures;
5. Repaying overpayments;
6. Reporting to the appropriate governmental authorities;
7. Further audit and/or investigation;
8. Determining whether the problem is systematic; and
9. Disciplinary action.

Response to Allegations, Identified Problems, and Audit Outcomes, continued

Disciplinary Action

Disciplinary action may be imposed as a part of a corrective action plan for all UTMB administration, faculty, house staff, and employees.

Obligation to Report

Reports or allegations that may constitute intentional violation or reckless disregard of criminal, civil, or administrative law shall be referred to UTMB legal authorities for investigation and disposition. If the investigation produces credible evidence that provides a reasonable basis to conclude that a violation of law may have occurred, UTMB shall promptly provide all information to the appropriate legal authorities for a determination of prosecution. UTMB will refund appropriate overpayments to payers identified through compliance monitoring activities, investigations, or other reviews.

Disciplinary Action and Appeal

UTMB will impose disciplinary action on employees who fail to comply with applicable laws, regulations, and policies. The seriousness of the violation will determine the level of the disciplinary action.

Faculty –

Disciplinary Action

- Recommendation of disciplinary action related to compliance issues. The UTMB Executive ICC may make recommendations related to disciplinary action of faculty regarding compliance violations up to and including termination. Disciplinary action and termination will be conducted according to *Rules and Regulations of the Board of Regents* of the University of Texas System

- **Recommendation of summary dismissal**
  Reports or allegations that may constitute an intentional violation or reckless disregard of criminal, civil, or administrative law shall be given to UTMB legal authorities for investigation and disposition. Notwithstanding the foregoing, following the determination that a reckless disregard or intentional violation of law has occurred, the Dean of the appropriate school of the faculty member may recommend to the President to proceed with charges for termination, depending upon the nature of the conduct. Procedures for termination shall be according to the *Rules and Regulations of the Board of Regents of the University of Texas System.*

Appeal

- Appeal of a UTMB disciplinary action shall be according to the appeals procedure in Section 6 of the *Rules and Regulations of the Board of Regents of the University of Texas System*. No other internal appeal process is available to a disciplined faculty other than as provided by the

Non-employee Medical Staff

Disciplinary Action

- Disciplinary action administered to non-employee medical staff will follow the guidelines as outlined in the UTMB Medical Staff By-laws.

Appeal

- Non-employee Medical Staff are subject to the appeals procedures outlined in the UTMB Hospitals Medical Staff By-laws.

Disciplinary Action and Appeal, continued

House Staff

Disciplinary Action

- Disciplinary action administered to house staff is in accordance with the UTMB House Staff Work Agreement and the Office of the Associate Dean for Graduate Medical Education.

Appeal

- Appeals for disciplinary actions administered to house staff are in accordance with the UTMB House Staff Work Agreement.

Administrative and Professional Staff

Disciplinary Action

- Administrative and professional employees are subject to the same disciplinary process as faculty.

Appeal

- Administrative and professional employees are subject to the same appeals procedures and corrective actions (where applicable) as those governing faculty.

Classified Employees

Disciplinary Action

- Disciplinary action related to classified employees will be administered in accordance with the disciplinary action provided for in the *UTMB Institutional Handbook of Operating Procedures (IHOP) Policy 3.10.1 Discipline, Dismissal and Appeal for Classified Employees*. Any recommendations of disciplinary action shall be managed pursuant to IHOP and the *Rules and Regulations of the University of Texas Board of Regents.*

Appeal

- Appeal for disciplinary action administered to classified employees is in accordance with the appeals procedure provided for in *IHOP Policy 3.10.1 Discipline, Dismissal and Appeal for Classified Employees*.

Non-employment or Retention of Sanctioned Employees

UTMB prohibits the employment of the following individuals:

1. Persons known to be under investigation related to health care violations;
2. Persons convicted of a criminal offense related to health care or research; or
3. Persons, listed by a federal or state agency as debarred, excluded, or otherwise ineligible for participation in federally funded programs.
4. UTMB prohibits the retention of the following individuals:
5. Persons convicted of a criminal offense related to health care or research; or

Non-employment or Retention of Sanctioned Employees, continued

6. Persons listed by a federal or state agency as debarred, excluded, or otherwise ineligible for participation in federally funded programs.

UTMB Human Resources (HR) screens the list of all employees monthly against the federal and state lists of persons who are debarred, excluded, or otherwise ineligible for participation in federally funded programs. UTMB HR checks references and verifies education and certification credentials of all new employees prior to employment. UTMB Purchasing department is responsible for ensuring that vendors used by UTMB are not ineligible.

Responding to Inquiries

If any member of the UTMB workforce receives an oral or written inquiry regarding UTMB's compliance with any law or regulation, from any source whether governmental or private, the employee shall immediately notify the OIC prior to responding in any way to the inquiry.

OIC staff will:

- Indentify the person or entity making the inquiry;
- Verify the authority for the inquiry;
- Determine the nature of the inquiry.

Record Creation and Retention

Policy 2.1.4 Records and Information Management and Retention. UTMB has adopted the following standards to assist the CCO with oversight of all documents required by law and necessary to its operations:

1. Institutional Compliance Program investigation files shall include the following information: (a) alleged violation; (b) investigative process; (c) copies of interview notes; (d) key documents; (e) log of witnesses interviewed; (f) documents reviewed; (g) results of the investigation; and (h) corrective action implemented, as needed.
2. No employee may enter false or misleading information into UTMB records;
3. Records shall be organized in a manner that facilitates prompt retrieval;
4. All records shall be stored in a safe and secure manner for the period required by federal and state law or by UTMB policy, whichever is longer;
5. Records shall be destroyed when no longer needed to be retained under federal and state law or UTMB policy, whichever is longer;
6. Adequate records shall be developed and maintained to document UTMB's compliance with all applicable laws;
7. The confidentiality and security of records shall be appropriately

Record Creation and Retention, continued

assured and adhered to based on federal and state laws and UTMB policies; and,

8. No employee may destroy or alter any UTMB record if the CCO or appropriate designee has notice of any pending litigation or governmental investigation, litigation, claim, negotiation, audit, open records request, administrative review, or if any other action involving such record is initiated before the expiration of the retention period and subsequent destruction of such record.

Revisions to Endowment Compliance Plan

This compliance plan is intended to be flexible and readily adaptable to changes in regulatory requirements. The ECC shall review the plan at least annually to assure that it remains current and effective. Changes to the plan may be proposed by members of the Executive ICC, ECC, departments, or individual employees. Any recommendations for changes to the plan must be approved by the ECC. All changes to the compliance plan must be consistent with the Institutional Handbook of Operating Procedures and the *Rules and Regulations of the Board of Regents of the University of Texas System.*

References

Federal Sentencing Guidelines
UTS 117 *Endowment Compliance Plan System-Wide Standards and Guidelines*
UTS118 *Statement of Operating Policy Pertaining to Dishonest or Fraudulent Activities*
Standards of Conduct Guide
Medical Staff By-laws
IHOP 2.1.4 Records and Information Management
IHOP 3.10.1 Discipline, Dismissal and Appeal for Classified Employees