Non-profit organizations are governed by a complex set of federal, state, and local laws and regulations. Generically labeled mandates, these rules constitute a list of “must dos” for all such entities. Failure to comply with the mandates could have adverse consequences, including loss of tax-exempt status and forced dissolution of the organization.

The term mandates also has been extended to apply to internal requirements of policies, procedures, and sound operating principles. These requirements are imposed by the organization on itself, and become part of its unique culture of accountability to its various stakeholders.

Creighton University Mandates:

A summary of legal mandates, that apply to Creighton, was prepared by the Office of the General Counsel and are included in the sources section. That summary includes both external mandates, such as state law, and federal laws and regulations, and internal mandates, such as the University Statutes, Guide to Policies, and the Faculty and Employee Handbooks. Some additional considerations:

• Since Creighton is a tax-exempt entity under IRC § 501(c)(3), it is required by regulation to make its annual tax return available to the public. In providing access, the identities of individual donors are kept confidential. The regulations allow for internet publication, at websites such as GuideStar.com (both financial statements and tax returns)

• In addition to the emerging issue of UBIT discussed in the mandates, an additional issue of Congressional concern for non-profits is self-dealing and private inurement. Since the justification for non-profit status is that private individuals do not benefit from the residual success of a tax-exempt owner, unlike shareholders in a corporation, non-profits that provide inappropriate benefits to employees (such as unreasonably high compensation, private benefits, or related party transactions), donors, board members and others are at risk of being fined and possibly losing their exempt status.

• Creighton issues audited financial statements to provide lenders, venders, possible donors, regulatory agencies, and others with information about the financial solvency of the institution. In preparing these financial statements, the university must comply with generally accepted accounting standards (GAAP) as promulgated by the accounting profession and overseen by the SEC. When bonds are issued, additional compliance with federal and state regulatory agencies may be required.

Ex Corde Ecclesiae:

As stated in our mission statement, Creighton is “dedicated to the pursuit of truth in all its forms and is guided by the living tradition of the Catholic Church.” In recent years Catholic universities in the United States have struggled with the apparent conflict between proper adherence to Church teachings and the need for faculty to exercise the academic freedom of inquiry that is essential to a modern university. Pope John Paul II issued the Apostolic Constituion “Ex Corde Ecclesiae” (from the heart of the Church) on August 15, 1990. This decree summarizes the Church’s attitudes toward and expectations of Catholic universities. A
copy is included in the sources. An Apostolic Constitution is the highest level of decree issued by a pope, one level higher than an encyclical.

Of particular note in Ex Corde are the General Norms contained in Part II. These norms are applied at the local level (i.e., by the local bishop) and are to be incorporated into the governing documents and statutes of each Catholic university. Some of the more relevant include:

- **Article 2 – Nature of a Catholic University**
  - Community of scholars dedicated to research, teaching and service in accordance with its cultural mission
  - Catholic universities, as Catholic, inform and carry out research, teaching and other activities with Catholic ideals, principals and attitudes
  - Catholic universities must make known their Catholic identity and through its structure and regulations, provide the means to preserve this identity
  - Catholic teaching and discipline are to influence all activities, and any official actions or commitments are to be in accord with the university’s Catholic identity
  - Catholic universities have the autonomy necessary to develop their distinct identities and pursue their unique missions

- **Article 4 – The University Community**
  - Responsibility for maintaining and strengthening Catholic identity rests with the administration but is shared by all in the university community
  - All teachers and administrators, at the time of their appointment are to be informed of the Catholic identity and their responsibility to promote, or at least to respect, that identity
  - All Catholic teachers are to be faithful to, and all other teachers are to respect, Catholic doctrine and morals in their research and teaching. “Catholic theologians, aware that they fulfil a mandate received from the Church, are to be faithful to the Magisterium of the Church . . . “
  - Non-Catholic teachers should not be allowed to constitute a majority
  - Curriculum should include formation in moral and religious principles and the social teachings of the Church, and include in the professions an appropriate ethical formation in that profession.

**Jesuit Discernment Process:**

In 2004 the Jesuit Conference (the coordinating group of the 10 U.S. Jesuit Provinces) engaged in a process of discernment by inviting all Jesuits to reflect on the future of the order’s engagement in the United States. After several years of prayer, discussion, reflection, and meetings, including exposure to the wider communities involved in Jesuit ministries around the United States, a Renewed Way of Proceeding was prepared (contained in the sources section). This Recommendation to the Father General is a request for approval of a new way for the Jesuits to engage in their mission in today’s world. Although the Recommendation has not been formally accepted, indications are that Fr. Adolfo Nicolas, the new Father General, will do so.

The approach taken in the Recommendation is in some respects a precursor to the issues discussed in the recently concluded Thirty-Fifth General Congregation of the Society of Jesus. Changes in governance structures will facilitate national and global cooperation in addressing the
needs of forced migrants, inner city populations, indigenous populations and the globally destitute. These changes will create new pathways for individual institutions to be part of this national and global response that will be guided by the Jesuit way of proceeding. The Recommendation also emphasizes that the Society sees its role as assisting Jesuit sponsored institutions in keeping their Jesuit identity clear. Institutions in the past were Jesuit because there were a sufficient number of Jesuits present and in leadership positions to insure that the entity operated in conformity with the Society’s expectations. In the future, the institutional commitment to retain its Jesuit identity will rest on its leadership (whether lay or Jesuit), guided by the norms implemented through this Recommendation.

Several key elements contained in the Recommendation include:

- Restructuring of provincial boundaries – the current Wisconsin Province, which Creighton’s Jesuit Community, would be combined with the Chicago and Detroit Provinces into a north central province; the current 10 Provinces would be reduced 5
- Expanded authority for the Moderator of the Jesuit Conference – the current role is one of convener, but the expected future role will be similar to a “super” provincial, thus enabling the identification and implementation of plans for national priorities
- Shifting of Jesuits to ministries will be facilitated – the blurring of provincial boundaries and responsibilities in deference to national concerns will result in Jesuits from (for example) Creighton University being reassigned to a role of expanded responsibility in a different province or nationally

AS Fr. Schlegel indicated in his Convocation 2008 Address, “The Society of Jesus’ transition in leadership and, perhaps, emphasis should be exciting for all of us engaged in a Jesuit sponsored enterprise. In partnership we can embrace the change and move forward together.” Recognizing that in many respects Creighton University is already is acting in compliance with the recommended norms, the Jesuit Identity Committee of the Board of Directors is drafting a letter of endorsement and intention that would indicate Creighton supports the Recommendation and intends to be among the first institutions in the United States to implement it.

Comments:

The expanding list of external and internal mandates can make compliance difficult. One function of the internal auditor is to insure that policies and procedures are being followed appropriately. The university apparently has a mutually satisfactory relationship with the Archbishop Curtis. However, the Archbishop has reached the mandatory retirement age, and a new bishop in all likelihood will be installed within the next year or two. As the documents become available from the Thirty-Fifth General Congregation, and the Recommendation is accepted, expanded dialogue will be needed to address what changes, if any, are required.

Sources:

Office of General Counsel, “Legal Mandates”
John Paul II, “Ex Corde Ecclesiae”
U.S. Provincials of the Society of Jesus, Preliminary Recommendation of the United States Assistancy to Father General, “Responding to the Call of Christ”