

Ethics and Compliance

Developing Your Organization's Program

By Victoria Wessler

(Note: The information contained in this article is for general information only and does not represent legal or regulatory advice)

It is all too common to hear of companies and their executives being investigated for unethical business practices or violations of regulatory requirements.

These highly publicized investigations damage reputations, minimize the public's trust, send stock values plummeting, and if the company is found guilty, may result in severe financial penalties for the organization and possible prison sentences for employees. A majority of these problems are caused because the organizations involved have failed to clearly and consistently communicate to and rigorously enforce with its employees the organization's standards of ethical conduct and regulatory compliance. They have not created a culture where integrity is at the forefront of all business decisions and actions.

In an effort to reduce the likelihood of ethical lapses and breaches in regulatory compliance, many organizations are developing business ethics and compliance programs. There are five factors that generally influence a company to voluntarily develop, implement and manage an ethics and compliance program:

Key influences

- (1) To promote the company's standards of business conduct and regulatory compliance and educate employees about their responsibility to behave ethically and in full compliance with the policies, procedures, laws, rules and regulations which govern its business.
- (2) To prevent and detect wrongdoing and provide systems for the reporting, investigation and resolution of such actions within the company.
- (3) To support the company's commitment to ethical conduct and regulatory compliance during a government investigation to show that an alleged inappropriate act was outside of the company's approach to good corporate citizenship, thereby demonstrating that the act was limited to that employee and not the corporation.
- (4) To reduce the possible fines and penalties levied if the company is found guilty of inappropriate conduct.
- (5) To enhance the company's reputation as a good corporate citizen with its shareholders, customers and general public.

Well-designed ethics and compliance programs are those that educate the employees about the company's legal and regulatory issues while providing guidelines for ethical decision-making. In addition to supporting regulatory and legal compliance, the program should promote the organization's values as a basis

for forming decisions based on good business practices.

The most effective ethics and compliance programs are those that begin with the full and enthusiastic support of top management and the board of directors. Once the program is created and implemented, the board must take an active, consistent role in monitoring the program and holding management accountable for managing the organization in full compliance with the program's standards.

For all companies

Contrary to popular thought, these programs are not just for large corporations. Smaller organizations can and should develop ethics and compliance programs as a part of their corporate governance process. And these programs are not just for publicly held companies. Many privately held organizations, nonprofits and not for profits are taking steps to develop business ethics and compliance programs.

While there is no lack of well qualified consultants to assist an organization in this activity, these programs can be developed internally in a cost and time effective manner by using a variety of commercially available manuals, publications, web-based training programs and videos. These resources can guide an organization's management in developing operational policies and procedures, writing a code of conduct, conducting training programs and creating a compliance committee.

There is also the need to establish a communications system for employees to use to obtain guidance on ethics and compliance issues, as well as for the confidential reporting of possible violations. Whether the program is developed internally or with the use of external assistance, the organization's legal counsel should review it prior to implementation.

Companies that voluntarily develop ethics and compliance programs are making a wise decision. An effective program can educate employees about their legal and regulatory responsibilities, prevent violations of the law, encourage good decision making, serve as proof to government investigators that the company has a commitment to ethical business conduct and compliance, and may mitigate fines and penalties imposed by a government agency. But perhaps, most important, is that these programs encourage employees to do the right thing and provide a system for supporting a culture of integrity that is ultimately the best management strategy for any business.



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Given the increasing demands of the government, general public and business community for companies to operate in an ethical and legal manner and the significant consequences for not doing so, it is clearly in the best interest of any organization to develop, implement and manage an ethics and compliance program. Those organizations who choose to operate without such programs are putting their employees, board members, reputation and, in the long run, the very survival of their business at risk.

INFORMATION LINK

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