CEP Magazine – June 2019
Want to avoid scandals? Build a compliance program

By Nicholas Mineo, JD, CCEP, and Paul Moskal, JD, CCEP, CCEP-I

Nicholas Mineo (nmineo@coreconsultancyllc.com) and **Paul Moskal** (pmoskal@coreconsultancyllc.com) are Co-Directors of CORE Consultancy LLC, in Buffalo, New York, USA.

Everything seems perfect. You own a successful company. You have taken great pains to hire competent managers and draft thoughtful policies. You are accessible to your employees; your company culture is strong, and recruits are eager to join your team. Your company, profitable and widely admired, is ready for years of prolonged and sustained growth.

Then it happens…

The phone rings and you learn your company now faces a government subpoena requiring the production of sensitive documents, or the local media is asking for a statement on a forthcoming scandalous story. Perhaps, human resources (HR) informs you an employee has come forward with serious and credible allegations against a leading executive.

In a moment's notice, the company you've worked so hard to build is mired in scandal. Now, thoughts of being named one of the best employers in the area shift to worries about loss of business, public condemnation, reputational damage, fines, diminished employee morale, and employee flight. In the face of public scandal, worst-case scenarios suddenly become very real and possible.

Unfortunately, you have joined a seemingly endless parade of companies facing a painful, embarrassing, and costly corporate scandal. Regardless of the scandal's source (e.g., a rogue employee, a third party), your good intentions and policies failed to detect or prevent the unthinkable from happening. In today's business world, it is evident that if an organization lacks a culture supporting the rule of law and ethical decision-making, then it is almost assuredly on a path to eventual scandal. When scandal breaks, clients, the government, and public opinion will hold your organization liable for the culture and behavior.

The path to ethical business culture

No company is perfect. And every company will make mistakes to varying degrees during its lifetime. Knowing this, the best path to fostering an ethical business culture, rooted in integrity and minimizing risk, lies in the creation of a corporate compliance program. Well-designed compliance programs provide the tools beyond aspirations necessary to build an infrastructure that promotes an ethical culture.

Though compliance programs are not new (they have existed in heavily regulated industries such as healthcare, insurance, federal contracting, and financial services for decades), they are gaining in popularity across industries not required by law to have a compliance program. Indeed, well-read organizations understand that having a robust compliance program is considered a mitigating factor in determining criminal and civil culpability under the Federal Sentencing Guidelines. Increased government scrutiny and client expectations are driving enhanced anti-bribery and anti-corruption compliance. Forward-thinking companies in all industries have realized the value of having an independent compliance program. The resultant compliance programs

mirror how companies' general counsels' offices evolved in the 1980s from an unnecessary luxury to an irreplaceable mainstay within the C-suite of an organization. The costs of not having a compliance program in the face of corruption or scandal far outweigh the costs of building and maintaining one.

It's not that companies with organized compliance programs are ethically superior or immune to problems, but rather that they are equipped to identify and deal with risks before they escalate to serious threats. Often, these companies have built their compliance programs in response to mistakes made (all companies make them). In the wake of their error, they chose to develop and implement a robust and independent compliance program to avoid problems and serve as a differentiator in today's increasingly competitive marketplace.

This document is only available to members. Please log in or become a member.

Become a Member Login