The Complete Compliance and Ethics Manual 2024
Ethics at Every Level: Safeguarding Your Organization from Misconduct

by Bob Woolverton[1]

There may come a time when you read a news headline related to misconduct in your industry. It seems like no industry has been immune to ethical scandals. We've experienced ethical scandals in business, government, sports, non-profits, and even religious organizations. The misconduct may lead to catastrophic financial loss for thousands of people or a complete company collapse. Some scandals have resulted in prison sentences for executives. Others have caused innocent people to die. Here are some examples:

- "SEC Charges Kenneth L. Lay, Enron's Former Chairman and Chief Executive Officer, with Fraud and Insider Trading," SEC press release (July 8, 2004)[2]
- "Skilling Gets 24 Years for Fraud at Enron," *The Washington Post* (October 24, 2006)[3]
- "FBI Arrests Volkswagen Executive on Conspiracy Charge in Emissions Scandal," *The New York Times* (January 9, 2017)[4]
- "Wells Fargo Fined $185 Million for Fraudulently Opening Accounts," *The New York Times* (September 8, 2016)[5]
- "OxyContin maker to plead guilty to federal criminal charges, pay $8 billion, and will close the company," CNN (October 21, 2020)[6]
- "Messages Show Boeing Employees Knew in 2016 of Problems That Turned Deadly on the 737 Max," *The Washington Post* (October 18, 2019)[7]
- "Boeing Charged with 737 MAX Fraud Conspiracy and Agrees to Pay over $2.5 Billion," U.S. Department of Justice press release (January 7, 2021)[8]

Your reaction to such headlines might be like mine years ago, when I read headlines related to my industry. I assumed ethical misconduct like that would never happen in my workplace. After all, I know the people I work with, and I trust them. We share a similar set of values; they're honest, trustworthy, and have integrity—that's part of the reason I get along with and respect my coworkers. You probably have the same feelings about your workplace. But unless you understand how organizational culture can shift and learn to recognize the red-flag warnings of shifting workplace culture, it can happen in your workplace.

Not everyone aspires to be a workplace hero. But if you could prevent a coworker from walking off a cliff, wouldn't you want to? If that proverbial cliff is unethical conduct that may result in a coworker being terminated, going to prison, or results in the collapse of your entire company, or results in the death(s) of innocent people, wouldn't you want to be prepared to prevent that crisis? And yet, preventing that crisis doesn't necessarily require a whistleblower. Sometimes it's merely voicing a question at the right time: Are we doing the right thing?

Recognizing a change in organizational culture can be tricky because often, the change occurs slowly. It's the proverbial frog in the pot of boiling water. The urban myth says if you put a frog in a pot of boiling water, it will immediately jump out. But if the frog is placed in water at a comfortable temperature that is gradually heated to boiling, the frog is unable to detect the gradual increase in temperature until it's too late. A shift in your organizational ethical climate can be like the water temperature as it gradually heats to boiling.

A culture change may spawn in the lower levels of an organization or may be driven from the executive level. Changes that occur at lower levels of the organization can often do so because executive leadership is ethically neutral. The executive level or managerial level is not communicating any message(s) about ethics; they are not setting any ethical standards or using any rewards or punishments to ensure ethical standards are adhered to. Therefore, even though an ethical crisis may originate at lower levels of the organization, the executive and managerial levels are also culpable if they have been, at best, ethically neutral or worse, morally mute.

Ethical Influence Begins at the Top

Let's begin our workplace ethics journey with a look toward the executive level. At the executive level, we expect leadership. There are a variety of definitions of leadership, and each is comprised of many varied elements. The elements of effective leadership are like the pieces of a jigsaw puzzle. It takes many distinct pieces to complete a focused image of the entire puzzle. Yet, if some pieces are missing, you can usually figure out what the picture should be. Leadership qualities are the same way. An executive leader may have *most* of the distinctive characteristics of effective leadership. But even with some deficiencies in a few areas, they can still be an effective leader.

But how do we define or recognize an effective, ethical leader? There has been little empirical research on the ethical component of leadership. However, in recent years, many business schools and professional associations have emphasized ethics. In business schools, there have been discussions on understanding different philosophies for deciding what is right. You may remember some of the curriculum from your academic years that included consequentialism, deontological, and virtue ethics approaches. Those are great tools for ethical decision-making and ensure an issue is viewed from every angle. But is there enough discussion about ethical awareness, recognizing ethical disengagement, and, ultimately, ethical action in the workplace?

In larger organizations, lower-level employees may never see or interact with the executive leader face-to-face. In such cases, the employees only know the executive by reputation. That reputation may result from public relations information or actions and outcomes of the whole organization (i.e., corporate philanthropy). However, effective image management and even philanthropic acts in the executive's private life may not reveal an accurate picture of the leader. Case in point: Kenneth Lay, the former chairman of Enron. Employees of Enron loved and admired Lay. High-level employees close to him considered him a man of integrity. In his private life, Lay was highly philanthropic in the Houston community. He donated money to the ballet, symphony, museums, the United Way, and the NAACP, just to name a few.[9]

However, there was another side to Kenneth Lay. "He has been described as an arrogant gambler who valued risk-taking and boosting the firm's stock price above all."[10] That description of Kenneth Lay leads us to the crux of the problem seen far too often at the executive level—prioritizing profits above all else. These are situations where in ethics-speak, the ends justify the means. In the pursuit of profits, Enron executives engaged in bookkeeping shenanigans designed to conceal losses and inflate the company's stock price. As a result, one Enron executive, Clifford Baxter, committed suicide, executives Jeff Skilling and Andrew Fastow went to prison, and Kenneth Lay was convicted of financial crimes but died of an apparent heart attack before sentencing. Enron's stock price plummeted from $90 a share to $1 a share before Enron declared bankruptcy, causing 20,000 employees to lose their life savings.

The Board of Directors Prioritizes What's Important

When we think about ethical leadership, culpability begins at the very top. It begins with the board of directors. The board of directors needs to be alert for signals that profits are being prioritized above everything else. When asking CEOs about their board's expectations of them as the CEO, on more than one occasion, the response has been a long pause, followed by an uncertain question: "Make a lot of money?"

Profits are the lifeblood of all businesses. But the primary function of a business is to provide a service or product that consumers want or need and fulfilling that function efficiently and effectively, resulting in profits. Providing good service to your customers is crucial to gaining their loyalty and retaining their business. Profits are a result of doing what you do better than the competition.

There is a saying in the business world that says, "I don't want your money; I want your business." The idea is that a business will make more money in the long run by earning a customer's loyalty and continued business than by price-gouging them on one transaction today. The board of directors needs to be certain that the CEO understands that profits are not the only measure of business success.

Ethical workplace behavior modeling begins at the executive level and trickles down through the organization to the lower levels. Researchers have defined ethical leadership as "the demonstration of normatively appropriate conduct through personal actions and interpersonal relationships, and the promotion of such conduct to followers through two-way communication, reinforcement, and decision-making."[11]

A leader's behavior should be evaluated by followers as honest, fair, and altruistic rather than selfish. When followers evaluate the leader as ethically genuine, the leader becomes a legitimate source of perceived workplace expectations and sets the tone for the ethical culture of the organization. On the contrary, if followers do not evaluate the leader as ethical, any ethical proclamations from the executive level will be met with employee cynicism. In such an environment, employees will be cynical about corporate codes of conduct, believing they are in place only to protect top management from blame and using the employee as the scapegoat for violating the rules. Or they may view new compliance programs as window dressing because the content of the new compliance program is inconsistent with their day-to-day experience.