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## 'Speak-up' culture can keep problems from becoming violations

By Theresa Defino

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The complaint came in anonymously, recalled Joshua Toas, vice president of compliance at the State University of New York (SUNY) Research Foundation. "My manager harasses me, doesn't let me do X, Y, and Z. It's a violation of policy," the person alleged. "Well, we have 17,000 employees, [and] that's the extent of the complaint. I don't know what campus you're at, what location you're at, what program you're in," said Toas. In this case, the person didn't respond to follow-up questions, even though they were posed through a channel that would have allowed the employee to remain unidentified.

"There's no way for me to conduct an investigation under those circumstances," he added. "I make the assumption that it wasn't really a problem" if the person won't reveal more details, but "there's always this thing in the back of my head" cautioning that maybe there is a real issue.

Training employees and vendors to provide enough information so that a complaint can be acted upon is something that organizations don't always do well, said Jeneeta O'Connor, compliance manager for Memorial Sloan Kettering (MSK) Cancer Center. But it's crucial to ensuring that investigations can go forward using this valuable tool that preserves anonymity, said both O'Connor and Toas during a talk at the 19th Annual Compliance & Ethics Institute sponsored by the Society of Corporate Compliance and Ethics, which publishes both *Report on Research Compliance* and *Report on Supply Chain Compliance.*[1]

Whether the concerns are expressed anonymously through a hotline or online, or raised, perhaps tentatively, through a talk with a supervisor, institutions should have their ears to the ground to hear about possible violations of laws and policies within their own organizations and supply chains. In fact, they should work through multiple channels to create and/or encourage a speak-up culture, argued Toas and O'Connor. This is especially important now that the Department of Justice is routinely pursuing False Claims Act and overcharging cases against universities and research institutions, with settlements worth more than USD 16 million announced so far this year.[2]

## 'Speak-up' culture provides opportunities

SUNY is the "largest public university in the nation," and the research foundation (RF) "is the largest, most comprehensive research foundation of its type supporting research in higher education," with approximately USD 1 billion in annual research funding, Toas explained. RF employees have offices at 30 SUNY campuses and "throughout the world." At the RF, Toas also wears numerous other hats: chief ethics officer, chief risk officer, privacy officer and information security officer.

Noting that RF has "somewhere between" USD 400 and USD 600 million a year in government funding, Toas said it is "really important that when someone sees something that is a violation of our policy, or a regulation, or

some rule that they're very comfortable with being able to come raise that concern, regardless of whether they're right or wrong. We want people to bring things to our attention, to identify potential problems, so we can analyze, conduct an investigation, audit, monitor" or the like.

RF staff "spend a lot of time emphasizing the types of skills in our ethics program in our general leadership program that will encourage people to speak up and make them comfortable to do so," Toas said.

At MSK, O'Connor's areas of focus include "controlled substance compliance, diversion prevention, patient privacy, corporate ethics and values." Her efforts support a speak-up culture and raise the awareness of MSK's compliance department.

At MSK, speaking up "is a really high priority for us," O'Connor said, and is, in general, a "key component" to ensure that a compliance program is "working."

She pointed out that it is important to consider the "very real consequences"—such as "harm to patients"—that can result "when people don't speak up, when you don't have your finger on the pulse and you're not hearing about the things that are happening."