

CEP Magazine – February 2021 Recognize (and grow!) compliance and ethics leadership in your organization

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We all know that leadership engagement is important for a successful and effective compliance program. Deloitte has described tone at the top as “the first ingredient in a world-class ethics and compliance program,”^[1] the U.S. Department of Justice has clear expectations on the need for “Commitment by Senior and Middle Management,”^[2] and the practical reality for most organizations is that employees listen, and change happens, when leaders and managers sincerely talk about the importance of compliance.

But a key challenge that organizations sometimes face is how do they get leaders and—oftentimes, more challenging—mid-level managers engaged in compliance? In this short article, I will share some information about an awards program that my group recently launched that was designed to engage supervisors, managers, and leaders and recognize those employees who set the ethics and compliance “gold standard” that we want others to follow.

The importance of consequences

The Department of Justice’s *Evaluation of Corporate Compliance Programs* expects that compliance programs should guide people to do the right thing and ensure there are consequences based on how employees act. The word “consequences” often suggests a punitive approach, but I believe they can also be positive for those who meet and exceed expected standards as they relate to compliance and ethics. This Department of Justice guidance addresses both types of consequences in the section on “Incentives and Disciplinary Measures” by saying that one of the hallmarks of the “effective implementation of a compliance program is the establishment of incentives for compliance and disincentives for non-compliance” and that “some companies have also found that providing positive incentives—personnel promotions, rewards, and bonuses for improving and developing a compliance program or demonstrating ethical leadership—have driven compliance.”^[3]

In addition to having incentives and disciplinary measures, it is important to communicate about these consequences throughout the organization to ensure employees are clear on the desired and/or required behaviors and those that are undesired and/or forbidden. (Interestingly, the Department of Justice highlights the need for both incentives and disciplinary measures, but only encourages prosecutors to consider whether a company communicates that “unethical conduct will not be tolerated” and not whether the company communicates about those individuals who are worthy of recognition for their positive contributions.)

With these thoughts in mind, we decided to create an incentive program in which we could promote the types of “ethical leadership” that the Department of Justice refers to and communicate to all our employees about what we expect from our supervisors, managers, and leaders when it comes to compliance. Included in the incentive

program is an awards program called the Leading With Integrity Awards, in which we recognize five employees in supervisor, manager, or leadership roles from across the Americas (Canada, the US, and Latin America) who consistently demonstrate ethical leadership.

The award nomination process

Rather than letting the compliance team or others in our Americas headquarters decide who should be considered for one of the awards, we invited the employees (using an online survey that we made available in English, Canadian French, Spanish, and Portuguese) from throughout the Americas to nominate one or more supervisors, managers, or leaders who set examples for ethical leadership and building and sustaining a culture of compliance. We were pleasantly surprised by the response to this initiative and received several hundred nominations from across the Americas within the relatively short nomination window. The nomination window opened around one month before our annual Ethics and Compliance Week and closed around 10 days before the start of our Ethics and Compliance Week, so we had time to review all the nominations and select the winners.

The selection criteria

We developed a short set of FAQs for our employees and included the criteria that would be used to decide the five winners. We wanted our winners to be leaders in demonstrating a consistent, proactive approach to integrity and the building and sustaining of a culture of compliance. We considered the following criteria.

- **Be the example:** Supervisors, managers, and other leaders need to act and think with integrity at all times, especially since their behavior, decisions, and actions will be viewed by other employees as appropriate to follow and replicate. Leading With Integrity Award winners are expected to do the right thing when no one is watching, act in accordance with our code of conduct, and hold themselves accountable to the highest standards.
- **Speak up:** A culture of compliance and integrity requires that our supervisors, managers, and other leaders continuously speak up about the importance of compliance and integrity. Winners are expected to be vocal supporters and leaders of integrity and our compliance program, and regularly talk about compliance and integrity with employees.
- **Building a culture of integrity:** Supervisors, managers, and other leaders can influence and support our employees and culture in many ways, including assessing candidates for integrity and leadership, developing and cascading performance goals relating to integrity, and providing training and education to other teammates about key topics within their areas of responsibility. Winners are expected to be leaders who influence not only their own teams but also help to make the organization a better and more ethical place to work for all of us.

The selection process

We created a cross-functional panel of senior leaders from different internal functions and from different areas of our organization (including representatives from Canada, the US, and Latin America). A trio of people from our law department had whittled down the hundreds of nominations to a suggested short list to try to make the selection panel's job easier by scoring each nomination using a four-point system for each of the three categories described above.

By engaging senior leaders from different areas of the organization to be on the decision panel, we were also able to find another way of engaging different leaders in our compliance program and to give them detailed visibility into the many things that our managers, supervisors, and leaders are doing to support compliance. The selection

panel had to make some tough decisions, but our short list of 25 or so candidates and the things each of those candidates did to support compliance also meant they could not make a bad decision either. In the end, the selection panel identified winners from Canada, the US, and Latin America and picked individuals who were at different levels and had different roles within the organization.

Announcing the winners

One of our many highlights from our 2020 Ethics and Compliance Week was a virtual leadership panel that I hosted with our CEO, chief financial officer, chief human resources officer, and one external board director. The discussion was very engaging, and the panel presented another way to engage senior leadership and allow our employees to hear directly from them on integrity and compliance. We also used this virtual panel as a way to announce the names of the five winners. We not only wanted to recognize the winners with trophies engraved with their names, but we also felt that it would mean a lot to each of the winners (and communicate a message to the rest of our employees) to hear the CEO and one of our external directors announce the names of the winners on a video conference with almost 1,100 employees in attendance.

Shortly after the leadership panel concluded, I sent each of the winners an email congratulating them and copying their manager, the senior executive for their department, and our global general counsel. Each winner responded that they were “humbled” to be selected. Humility is what I now consider to be a key characteristic of what makes an effective and ethical leader.

Gain continued commitment to compliance

In announcing the \$3 billion fine paid by Wells Fargo in connection with its account fraud scandal, the Department of Justice news release described the wrongdoing as illustrating ““a complete failure of leadership at multiple levels’” and that “‘Wells Fargo traded its hard-earned reputation for short-term profits.’”^[4] It is apparent that leadership at all levels of an organization sets the tone and expectations for what is and is not acceptable and whether standards of behavior will spiral up or spiral down. Incentives and recognitions can be an effective way to reinforce the importance of ethical leadership within your organization and share real examples of what such behavior looks like. The benefits of such recognitions are not just for the award winners but are also for the rest of the organization, which receives a clear message that ethical leadership and compliance are important and will be noticed and recognized. It also makes good financial sense: The total cost of five trophies plus shipping is cheaper than a \$3 billion fine.

Developing and launching an awards program is time-consuming and involves a lot of work and coordination. At the same time, we found a cost-effective way in which we could engage our employees and leaders at various different stages in the awards process and recognize some of our many supervisors, managers, and others who help make sure we have an effective compliance program. While time, energy, and a little money are invested into an awards program, significant returns on these investments can be generated and will continuously engage and encourage more supervisors, managers, and leaders to proactively engage in your compliance and ethics program.

Takeaways

- Leadership engagement at all levels in an organization is key for a successful and effective compliance program.
- While leadership engagement is important, many organizations struggle with getting leaders—particularly mid-level managers—engaged in compliance.

- Creating an incentives or reward program for leaders can help encourage ethical leadership throughout an organization.
- Recognizing leaders at different levels and in different locations can promote ethical leadership in multiple locations and not just the corporate headquarters.
- An awards program can be a cost-effective way to communicate the importance of ethical leadership compliance to all employees.

1 Deloitte, *Tone at the top: The first ingredient in a world-class ethics and compliance program*, September 2014, <https://bit.ly/33BLYBd>.

2 U.S. Dep't of Justice, Criminal Div., *Evaluation of Corporate Compliance Programs* (Updated June 2020), 10, <http://bit.ly/2Z2Dp8R>.

3 U.S. Dep't of Justice, Criminal Div., *Evaluation of Corporate Compliance Programs*, 13.

4 U.S. Department of Justice, "Wells Fargo Agrees to Pay \$3 Billion to Resolve Criminal and Civil Investigations into Sales Practices Involving the Opening of Millions of Accounts without Customer Authorization," news release, February 21, 2020, <https://bit.ly/36x03zX>.

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