

rather a letter from the OIG expressing a qualified opinion as to whether it appears that the entity is in conformance with its CIA. Thus, the compliance officer and entity who take their CIA obligations seriously and work in good faith to comply with all their requirements is more likely than not to emerge from the CIA unscathed.

On the other hand, organizations who shirk their responsibilities under their CIAs may very well draw the OIG's and then perhaps as well the DOJ's attention. Given their limited resources, like all enforcement agencies, the OIG and the DOJ will focus on the most egregious cases. In the final analysis, while the Government action in the Tenet matter certainly raises serious issues and additional risks for organizations, I do not believe such actions are necessarily the wave of the future.

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## Using the Ethics Survey

*The Council of Ethical Organizations believes that a critical component of assessing a compliance program is doing an objective assessment of the ethics and compliance environment within the organization. This article explores how one organization has been able to effectively use the Ethics-Compliance Survey—a Council designed tool - to conduct such an assessment and help change organizational culture.*

The Ethics-Compliance Survey, developed by the Council of Ethical Organizations helps address a fundamental requirement under the Federal Sentencing Guidelines—the need to monitor compliance with the Company's written standards of ethical and compliant behavior. Because the Ethics-Compliance Survey is designed to assess the company's overall compliance environment, it makes a useful complement to auditing and monitoring programs that target specific processes and controls. Repeated over time, the survey can measure the effectiveness of compliance programs in changing corporate culture.

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The Ethics-Compliance Survey, measures compliance using five scales:

- **Company Ethics**—the extent to which employees are likely to exercise good judgment and observe professional and ethical standards **not** clearly decided by written policy.
- **Company Policies**—the extent to which employees are likely to comply with written organizational policies, as distinct from professional standards and informal standards of good judgment and sound ethics.
- **Ethical Concerns**—the extent to which employees will raise ethics and compliance concerns through appropriate organizational channels.
- **Information Issues**—the extent to which employees place an appropriate emphasis on maintaining the privacy of members' protected health information.
- **Leadership Ethics**—the extent to which employees believe that the organization and its leadership are committed to high ethical standards.

In addition to these validated components, the company may add "back page" questions where employees can describe their level of responsibility in the company, their division, length of employment, etc., and can provide information on their experience of the compliance program. For example, you may ask employees to state whether they remember attending compliance training and how they learned about the code of conduct. Finally, employees are able to provide comments.

At Blue Cross and Blue Shield of North Carolina (BCBSNC), we use the results to help us update key elements of the compliance program:

- **Code of Conduct.** While the contents of the code are governed largely by legal and regulatory concerns and the ethical principles implicit in the company's mission and values statements, the survey helps determine emphasis. For example, the introductory letters by the chairman of the audit committee and the CEO reflect the issues and needs identified in the most recent survey. Examples used to illustrate code topics are selected based on issues identified through the survey, as well as issues identified through other sources, for example, the company's *Making the Right Choices* ethics hot line.
- **Training.** After each survey, we consider what the survey scores and employee comments mean for the training topics and case studies, how and when training is delivered, the involvement of line and senior management, etc.
- **Communications.** Along with frequently asked compliance questions and hot line calls, surveys help shape the themes of compliance communications with staff.

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In addition, as described below, survey results may be used to develop action plans in various areas from the company.

How can you approach the survey results to assure their effective use in your company? The formula for success is straightforward—understand the results, communicate the results, and act on the results.

## Understand the Results

The Council reports results at the company level and then cross-tabulates them based on its key back page questions—for example, level of employment, area in the company, length of employment. The company is also provided de-identified employee comments. Results may be analyzed in several ways:

- Company level scores identify broad themes and issues for the entire company. An easy example: if all employees are not aware of the hot line, the effectiveness of the compliance communications and training programs needs to be evaluated.
- The survey also provides more nuanced information. If employees are not willing to report ethics and compliance concerns (based on scores of the Ethical Concerns scale), answers to other questions may help you understand the problem: Do they believe their supervisor will listen to their ethical concerns (a question in the Ethical Concerns scale)? Do they fear retaliation for using the hot line or do they lack knowledge of the code and/or hot line (potential back page questions)? Look at the cross-tabulations: Does the problem exist across the company or in some specific division or level of employment?
- Finally, although individual employee comments may not be generally representative, they should be reviewed carefully for the information and insights they contain. The comments can:
  - Provide insight into survey scores. For example, if several employees comment on the difficulty of both following policies and meeting production goals, you may gain some understanding as to why scores on the Company Policies scale are lower than expected.
  - Provide insight into the culture of particular business units.
  - Explain why employees may be reluctant to use your company's hot line or other reporting mechanisms.
  - Provide recommendations for improvements in business processes and management practices at the company and divisional levels.
  - Provide general or specific reports of code violations.

*People who take the time to complete the survey want to learn about the results. I recommend that you promptly communicate the results to everyone in the company.*

Taken as a whole, the comments provide a human look into the company. Read and ponder them carefully. Do not discount comments because of the anger of the respondent or the occasional inability to write articulately. If you can listen properly, you may learn how to talk to the company in a way that will hit home with your employees.

## Communicate the Results

People who take the time to complete the survey want to learn about the results. I recommend that you promptly communicate the results to everyone in the company—to employees, management, and the company's compliance governing committees, including the Board of Directors' committee responsible for compliance. Principles of effective communication include:

- **Honesty.** Share both positive and negative results in a straightforward manner.
- **Respect employee confidentiality.** If you promise to maintain the anonymity and confidentiality of employee who make comments on the survey, keep your promise.
- **Clarity.** Survey results will raise several issues that need to be communicated and addressed. To avoid confusion, present the issues clearly by focusing on the most important messages and by integrating them into the overall compliance training and communication programs.

*If you communicate results with honesty, clarity, and specificity, you should be poised to create effective plans to improve the ethical and compliance environment, not just in elements of the compliance program, but also in management practices across the company.*

- **Creativity.** To help your company "get it," develop interesting ways of communicating survey results. After receiving our first survey results, we presented a skit to management staff on employee fear of retaliation. Characters in the skit were based on types of responses we saw in the comments. During the skit, these characters—the fearful employee, the potential whistleblower, the cynic, and the happy employee—dramatized employee concerns. This appeared to be effective in raising the consciousness of managers and set the stage for the changes in management practices that we requested.

- **Specificity at the stakeholder's level of responsibility.** By this I mean that, to the extent possible, survey results should be communicated in a way that speaks to each stakeholder's ability to act. Communications to the Board and the compliance committees should provide a high level assessment of the compliance environment and address elements of the compliance program and management systems (for example, employee evaluation processes) that can improve the environment. Communications to

management should focus on division-specific results, as well as relevant overall results.

To be sure of delivering a consistent but relevant message to each division, in the current survey cycle we are developing a two-page report for each division with the following sections: (1) a chart comparing company and division scores for each year of the survey, (2) an assessment of the division's strengths and weaknesses, (3) a summary of employee comments pertinent to the division, and (4) recommendations.

## Act on the Results

If you communicate results with honesty, clarity, and specificity, you should be poised to create effective plans to improve the ethical and compliance environment, not just in elements of the compliance program (described at the beginning of this article), but also in management practices across the company. Ideally, Compliance and its business partners in HR and the management team will develop action plans at the divisional, management, and employee levels.

- Address weaknesses in the ethics and compliance environment. For example, if employees perceive that unethical behavior is rewarded, work with HR and management to address this perception through education and appropriate action on improper conduct. Ensure that the performance evaluation system incorporates specific compliance and ethics elements.
- Based on the specific communication of results, work with each division to develop action plans, then incorporate these actions in annual plans and in the performance evaluations of management and staff.
- Respond to employee suggestions, complaints, and reports of code violations. Pass on the suggestions and ensure that, if valid, they are addressed in the division's action plan. Appropriately investigate allegations of code violations.

Frequently, the survey identifies symptoms—for example, employees in a division may express an unusually high fear of retaliation for raising compliance and ethics concerns—but diagnosis and treatment may require further research by Compliance or HR and the management of the business unit. Collaboration on this effort can also be included in the annual plan.

## Conclusion

Some employees may think that completing the ethics survey is a waste of time. A frequent comment on the ethics survey is that "I've put my neck on the line, and nothing will happen." You can refute this cynicism in part by honestly reporting results. However, don't stop there. You'll be much more effective if you demonstrate that employees' survey responses made a difference. Take specific actions based on the results, tell employees about your actions, then report on the effectiveness of those actions. As with all compliance communications, your messages should be honest and focused.

For BCBSNC, the Ethics-Compliance Survey, is an important tool in assessing the company's ethics and compliance environment and the effectiveness of Compliance and its business partners in improving that environment. It is a way of measuring our commitment to one of our Guiding Principles: *We will act with honesty and integrity at all times. We will say what we are going to do—and then do what we say.*

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