

CEP

MAGAZINE

A PUBLICATION OF THE SOCIETY OF
CORPORATE COMPLIANCE AND ETHICS

THE EVOLUTION OF BRAZILIAN COMPLIANCE

(P10)



PEDRO RUSKE FREITAS

INTEGRITY PROMOTION DIRECTOR,
THE OFFICE OF THE COMPTROLLER GENERAL,
BRASÍLIA, BRAZIL

The draft CCPA regulations
reviewed: Key takeaways (P16)



Teaching your staff to be
accountable (P24)

Get the \$ for your budget (P30)

Insights from the Delaware
courts on board oversight of
compliance programs (P36)

GET THE \$ FOR YOUR BUDGET

by Mónica Ramírez Chimal



Mónica Ramírez Chimal

MBA

(mramirez@asserto.com.mx) is Partner and Founder of her own consulting firm, Asserto RSC, in Mexico City, Mexico.

If we had a list of the most asked questions, this would undoubtedly be one of the top five: How can I get money for the compliance budget? For other areas it is easier. They can demonstrate the return the money has when the company gives them money. You gave us one million dollars, we sold 1,000 items minus costs/expenses, so here is our profit. And upon that, the numbers can be analyzed, improved, and adjusted. But how can compliance do it?

The answer is not so simple. I've seen that some companies set performance indicators for compliance, such as number of reviews versus number of people in the area, or how long a review takes. But do these indicators really reflect the efficacy, productivity, or value compliance gives to the company? For us to get money (or more money) for the budget, we have to show the value compliance gives to the

company. So our value is dependent on the results of our revisions and observations.

We are measured by intangible value, so that's why it is so difficult to show or demonstrate why the company should invest in us.

Here are a couple of ideas for you to think about. These ideas show what compliance can do to show its value and to improve the area so the CEO and board members can see our true value.

What is expected from compliance?

Do you know what the CEO and board members expect from compliance? And most importantly, do they know what compliance is? Because if they do not understand what compliance is and what it does, it is very unlikely that you are going to have their support. On the other hand, if they understand the compliance function, but they don't

know what you are doing, they won't know or recognize when you are succeeding.

Consider: When we do not understand something or perceive it as something that does not generate value, we tend to brush it aside.

The good news: This problem can be solved. Talk with the CEO and the board to get their perceptions of what compliance is and what they expect from the function. After gathering these results, it will be easy for you to clarify for them what compliance is and what it is not. Aligning their perceptions with what compliance is will help them to see compliance as it should be.

Use simple language

If you say, "In compliance we do background check-ups for due diligence," or, "The cause for this observation is the willful blindness employees have and the failure to screen names through the OFAC list," or "Don't we have an NDA?" No wonder people won't understand what you are doing. Your specialized vocabulary is limited to the people that do what you do. So pay attention and explain the terminology.

Your written and spoken language must be bulletproof. That is, anyone in the company should be able to understand you. From the custodial staff to the CEO, your vocabulary should be simple so that your message is understood. It is of no value that you carried out great revisions or that you detected risks if no one understands how this could affect them and the company. Here is something that could help you. When you talk, observe the people in front of you and their nonverbal language. Are they frowning? Do they have their arms crossed? Do

they break eye contact? Those details tell you that the person is either not understanding, or they are rejecting what you are saying.

In that moment, stop and ask your colleagues if they understand what you are saying, or say it in other words. Keep in mind that we understand with reasons, not with impositions, so be kind, patient, and explain everything.

Establish strategic alliances

We, as compliance professionals, get the information we need to carry out our work from other areas. Other sources of information are needed to complete our tasks. So what are you doing in order to have more allies?

Simple things can help. Take your time to chat with others when you are making your morning coffee, or participate when there is a birthday celebration, a cake, or any activity organized by the company. You will have exposure. Show yourself as you are, and even better, share personal things. If you do this, you will build trust and empathy, and people will see you as a human being, not as a police officer or judge. Replicate this with clients, suppliers, and authorities. You are going to be surprised how this action can give you the opportunity to have more sources of information. If done correctly, at some point people will reach out to you.

Submit reports with value

Companies have many different types of reports, so how can you make yours stand out? The key is to know the company's processes, mission, vision, values, strengths, and vulnerabilities; the laws the company has to comply with;

and the observations of external advisors, auditors, and internal audits. Everything counts, because compliance is a global function that needs to have these answers in order to connect the dots.

Anyone can tell that something is wrong, but getting to the root of it is another story. Only the person who knows the company in detail can get to the root of the problem and address it. Once you have identified the real problem, your intimate knowledge of the company will allow you to provide more accurate recommendations, which increases the probability of successful resolutions that are more likely to succeed than isolated observations.

When we do not understand something or perceive it as something that does not generate value, we tend to brush it aside.

Compliance protects the company, and the only way to protect it is by knowing it well. Otherwise, how would you do it? So study, learn, and double-check important information so that you can provide punctual, accurate, intelligent observations and — the best part — make real, useful recommendations.

Compliance is not another employee; it is an advisor

Compliance should be part of meetings about new products or services and part of weekly progress meetings with directors. Compliance must be preventive, proactive, and show initiative, but with knowledge of the cause. Compliance should never speak on a matter without having sufficient knowledge of the situation. Compliance does not assume. Voicing a point of view without knowing the details will make you lose credibility and other people's trust. It is better to say, "I don't know, but give me time, and I will see to it," than to make a bad decision or say something that could compromise the situation.

Voicing a point of view without knowing the details will make you lose credibility and other people's trust.

Compliance should have the courage to speak up when it is necessary, so if you haven't yet been invited to meetings, ask the relevant people to invite you. Make this your challenge: that the other areas consult with you on any issue. That will be a good sign

when someone says, "Wait, we need compliance's feedback."

Involve employees

When you are carrying out a revision or when you validate your observations, always involve the employees. Treat them with respect; give them their importance. Use phrases such as, "You are the expert on this topic; could you help me with...?"

Denoting that they are the experts and you are not will help you to look humble. This simple gesture will open many doors for you. It will also save you from resistance. In addition, validate observations from the lowest job position to the highest. Accepting observations from all job positions shows you respect each employee and their role. And if you are open to listening to their opinions, well, they will see it is your priority to improve the company. Being flexible and cooperative will also help you to have more allies.

Make your training effective and impactful

Employees go through so many training sessions. Compliance should do something different in order to have more of an effect on employees. In this way, employees will have in the forefront of their minds that compliance is there when needed. Compliance will be seen as trustworthy and of high value.

So make your training fun, short, and to the point. You can use roleplay scenarios, real-life cases, or games. Your training should be practical and empathic so the message is sent and compliance is remembered. Your goal is that people should ask,

"When is the next compliance training?" or, "I learned this at compliance training!"

Use reminders so people don't forget you between training sessions. You can do several things, such as hang posters, ask the IT area to help you install a short message that pops up when employees turn on their computers (e.g., Compliance is your personal advisor: ask us!), organize a competition between areas about the code of conduct's content or a specific policy, etc. Be creative! Learning doesn't have to be associated with boring, or compliance associated with being strict police or judges.

Set alerts, indicators, red flags

Set any kind of alert that is free and that helps you to be informed in real time. Ask the IT area to help you set alerts, indicators, or red flags. (As you can see, it is important that you make one of your best friends the IT area.) Remember my point about knowing the whole company? Well, here is another positive benefit of doing so. By knowing the whole company, you can identify if there are already alerts, indicators, or red flags in each area. If so, ask that they are shared with you. If not, design and implement them.

By doing this you will have firsthand, immediate knowledge of anything that is happening in the company. This is preferable to having a situation where the CEO calls you to ask your opinion about that recent event, and you answer, "Is that really happening? I didn't know." Set another goal: less "I don't know" and more "I do know." Being informed in real time about what is happening will help you to give a faster and



more well-informed opinion about that issue. And this will likely mean that you are perceived as someone proactive, preventive, and responsible.

Have an outstanding team

No matter the size of your team or where it is, you should stand out.

Organization, discipline, and communication are vital. There is no room for, “We don’t know what to do, because the chief compliance officer is sick,” or, “We don’t know where that file or report is.” All these comments denote bad communication and show that there is a concentration of function on the boss. Your team should work with or without you

by knowing the compliance plan, why and when to do it, what to ask for, and where to go.

Compliance’s second in command should be able to step in if it is necessary and should be able to talk with the CEO or board. In addition to results, compliance needs to show that the entire team is reliable, updated, confident, independent, and trustworthy. A solid united image!

There is another important thing to keep in mind: Compliance is the example to be followed. All members of the team should therefore lead by example, regardless of their job position within compliance. Your team should be the first ones to comply

with all the internal and external rules. Everything that governs the area must be completed, updated, and kept in order.

Compliance facilitates

Let’s be honest. It is of no use that compliance is invited to meetings of other areas or that it has the support of the CEO if it does not have an agile response time to give its opinion or to solve an issue. Many times, compliance’s value is not seen, because people believe it obstructs processes or delays the solution to issues.

Compliance should facilitate. And to do so, it should be well prepared and organized. It should also prioritize and be flexible. When an emerging issue appears,

compliance should be there. Yes, this means that your compliance plan is going to be delayed, but you can't disregard what is happening. So, be there!

The \$ will be easily obtained for your budget when...

Your results are of value. This is your indicator. When the other areas, the CEO, or the board start calling you for your opinion, feedback, or advice, it means that your work is of value to

them. If compliance is effective, people will see you as their ally; they will see that with compliance, the company grows and everybody wins.

The key is to have a complete vision of the company, be yourself, and anticipate any risk that the company could face. In this way, the value that compliance has won't be questioned, and the support for more resources will be given without questions asked. 

Takeaways

- ◆ Getting the money for the compliance budget depends on knowing the whole company (e.g., processes, strengths, and vulnerabilities) in order to provide real, useful recommendations.
- ◆ Understand how the CEO and board members perceive compliance and what they expect from it. An unfavorable perspective could cause lack of support.
- ◆ Invest time to develop strategic alliances with other areas. Use simple language and make sure to involve employees when carrying out revisions and validating your observations.
- ◆ Set alerts to gather facts on a real-time basis and respond faster to the issues facing the company, and then compliance will be seen as the facilitator.
- ◆ Put compliance in the forefront of everyone's minds by using reminders; having practical, empathetic training; and building a team that leads by example.

SCCE & HCCA 2019–2020 BOARD OF DIRECTORS

EXECUTIVE COMMITTEE

Art Weiss, JD, CCEP-F, CCEP-I

SCCE & HCCA President
Chief Compliance & Ethics Officer, TAMKO Building Products LLC, Joplin, MO, USA

Robert Bond, BA, CompBCS, FSALS, CCEP

SCCE & HCCA Vice President
Partner, Notary Public at Bristows LLP, London, UK

Walter Johnson, CCEP, CCEP-I, CHC, CHPC

SCCE & HCCA Second Vice President
Assistant Privacy Officer, Inova Health System, Falls Church, VA, USA

Samantha Kelen, MBEC, CCEP

SCCE & HCCA Treasurer
Chief Ethics and Compliance Officer, Cardinal Innovations Healthcare, Charlotte, NC, USA

R. Brett Short

SCCE & HCCA Secretary
Chief Compliance Officer, UK HealthCare/University of Kentucky, Lexington, KY, USA

Louis Perold, CCEP, CCEP-I

SCCE & HCCA Non-Officer of the Executive Committee
Global Compliance Manager, Jabil, Pretoria, South Africa

Lori Strauss, RN, MSA, CPC, CHC, CHPC, CCEP, CHRC

SCCE & HCCA Immediate Past President
Assistant Vice President Hospital Affairs, Chief Compliance Officer, Stony Brook Medicine, Stony Brook, NY, USA

EX-OFFICIO EXECUTIVE COMMITTEE

Gerard Zack, CCEP, CFE, CPA, CIA, CRMA

Chief Executive Officer, SCCE & HCCA, Minneapolis, MN, USA

Stephen Warch, JD

SCCE & HCCA General Counsel, Nilan Johnson Lewis, PA, Minneapolis, MN, USA

BOARD MEMBERS

Kristy Grant-Hart

Founder and Managing Director, Spark Compliance Consulting, London, UK

Odell Guyton, CCEP, CCEP-I

SCCE Co-Founder, Compliance & Ethics Professional, Quilcene, WA, USA

Gabriel L. Imperato, Esq., CHC

Managing Partner, Nelson Mullins Broad and Cassel, Ft. Lauderdale, FL, USA

Margaret Hambleton, MBA, CHC, CHPC

President, Hambleton Compliance, LLC, Pasadena, CA, USA

Shin Jae Kim, CCEP, CCEP-I

Partner, TozziniFreire Advogados, São Paulo, Brazil

Jenny O'Brien, JD, CHC, CHPC

Chief Compliance Officer, UnitedHealthcare, Minnetonka, MN, USA

Judy Ringholz, RN, JD, CHC

VP of Compliance and Ethics, Jackson Health System, Miami, FL, USA

Daniel Roach, JD

Chief Compliance Officer, Optum360, LLC, Eden Prairie, MN, USA

Greg Triguba, CCEP, CCEP-I

Principal, Compliance Integrity Solutions, Mill Creek, WA, USA

Debbie Troklus, CHRC, CHC-F, CCEP-F, CHPC, CCEP-I

Senior Managing Director, Ankura Consulting, Chicago, IL, USA

Sheryl Vacca, CHC-F, CHRC, CCEP-F, CHPC, CCEP-I

Chief Risk Officer, Providence St Joseph Health, Renton, WA, USA