



COMPLIANCE OFFICER ROLE CENTRAL TO AN EFFECTIVE PROGRAM

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The Department of Health and Human Services Office of Inspector General (OIG) guidance states that the Compliance Officer should serve as the focal point for compliance activities. A Compliance Officer must have authority to review all documents and other information relevant to compliance activities. Impeding the Compliance Officer from acting upon information received through a hotline would be in direct contradiction of this. The OIG noted that "upon reports or reasonable indications of suspected noncompliance, it is important that the Chief Compliance Officer or other management officials initiate prompt steps to investigate the conduct in question." The OIG advises that in some circumstances, the compliance officer should work closely with legal counsel, who can provide guidance regarding such issues.

Upon receipt of hotline reports that suggest noncompliance, it is important that the Chief Compliance Officer or other management officials initiate prompt steps to investigate the allegation in question to determine whether a material violation of applicable law or the requirements of the Compliance Program has occurred.

Depending upon the nature of the alleged violations, an internal investigation will probably include interviews and a review of relevant documents. In certain instances, organizations should consider engaging outside counsel, auditors, or compliance experts to assist in the investigation. Records of the investigation should contain documentation of the alleged violation, a description of the investigative process, copies of interview notes and key documents, a log of the witnesses interviewed and the documents reviewed and the results of the investigation (i.e., any disciplinary action taken and the corrective action implemented). While any action taken as the result of an investigation will necessarily vary depending upon the organization and the situation, one should strive for some consistency by utilizing sound practices and disciplinary protocols. Further, after a reasonable period, the Compliance Officer should review the circumstances that formed the basis for the investigation to determine whether similar problems have been uncovered.

In conducting an inquiry into possible wrongful acts, the Compliance Officer should take appropriate steps to secure or prevent the destruction of documents or other evidence relevant to the investigation. If the organization determines that disciplinary action is warranted, it should be prompt and imposed in accordance with the organization's written standards of disciplinary action.

On occasion, management may interfere with the Compliance Officer carrying out his or her responsibilities to investigate possible wrongdoing. Frequently, we have been asked what should be done if the Compliance Officer has interference from management. If the Compliance Officer is not properly empowered, supported, and/or is excluded from receiving information necessary to carry out the role, serious consideration should be given to moving to another job within the organization or elsewhere after every effort has been made to educate the executive leadership on the benefits and obligations of an effective Compliance Program. If the Compliance Officer can prompt a change in attitudes that is the best service that can be performed. However, if all fails, then it is foolish for the Compliance Officer to mortgage a reputation and risk becoming part of a serious problem.