

## Compliance Today – November 2019 Why does the invitation get lost in the mail?

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By Mary Ellen McLaughlin, MS, CHC, CPC

Mary Ellen McLaughlin ([maryellen.mclaughlin@revintsolutions.com](mailto:maryellen.mclaughlin@revintsolutions.com)) is a Vice President, Compliance Officer with Revint Solutions in Chadds Ford, PA.

- [linkedin.com/in/mary-ellen-mclaughlin-ms-cpc-chc-15164712](https://www.linkedin.com/in/mary-ellen-mclaughlin-ms-cpc-chc-15164712)

Everyone should understand how critical a strong compliance function is to an organization, as evidenced by the numerous published articles and guidance available at our fingertips. The one thing that these resources do not tell us, however, is how to convince the leaders of a given organization to invest in compliance.

As compliance leaders, we have a few factors working against us right from the start. Let's remember, the compliance department is non-revenue generating and can cost the organization significant dollars:

- Staff salaries come out of revenue
- Oftentimes we recommend repayment of funds
- Sometimes we advocate for process change that can negatively affect revenue

Quite often, compliance provides the “hard answers” organization leaders do not want to hear. Therefore, compliance is often not invited to the table when important decisions are being made. This puts us on our heels, and we must react to problems instead of being able to provide proactive alternatives.

The most recent guidance related to “compliance effectiveness” was published in April 2019 by the Department of Justice.<sup>[1]</sup> They issued an update to the Evaluation of Corporate Compliance Programs that outlines what “prosecutors should consider in conducting an investigation of a corporation, determining whether to bring charges, and negotiating plea or other agreements.”<sup>[2]</sup> According to the DOJ, organizations should ask:

- Are audit functions conducted “at a level sufficient to ensure their independence and accuracy”?
- Is the staff empowered and positioned to “effectively detect and prevent misconduct”?
- Where is the compliance function housed (legal, finance, independent)?
- What are the resources (human and financial) dedicated to the compliance program?
- Where does the compliance officer fit into the leadership structure with respect to compensation, rank or title, reporting line, and access to key decision-makers?
- What is the quality and experience of the compliance officer and staff?
- What is the reporting system, and does the compliance officer have direct access to the board of directors?

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