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Does your organization suffer from compliance prejudice?

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Compliance prejudice is a preconceived opinion or a bias against an organization's compliance program that is not based on reason or actual experience. Although the word *prejudice* may suggest an unfair perception of a compliance program, one cannot help but acknowledge the fact that there are instances when prejudice may be founded on certain known facts or experiences. Compliance prejudice is counterproductive, and it's a major challenge faced by compliance professionals. However, the questions that should be of concern to compliance professional are: What are the causes of the prejudice against the compliance program? What are the likely effects of the prejudice on compliance program implementation? What are the possible ways of dealing with compliance prejudice?

Overcoming the inevitable challenges of compliance prejudice requires an understanding of the answers to the above questions.

Causes of compliance prejudice

The ability to keep an open mind as compliance professionals is the beginning of how to understand this subject. A lot of compliance professionals are stigmatized as a result of prejudice. Some are known by malicious nicknames because of prejudice. Organizations struggle to maintain an effective compliance program, changing compliance vendors and officers intermittently with nothing to show for it. When companies organize opportunities like compliance coffee meetings, compliance boot camps, or compliance picnics, employees attend for the fun of it, not due to a conviction that the learning outcomes will be useful or assist them in the effective discharge of their duties. There are several possible causes of compliance prejudice.

Reporting to satisfy personal vendettas

One of the causes of compliance prejudice is the misuse or abuse of a compliance program as a tool for revenge by either management or some unscrupulous employees within an organization. This is a deliberate misuse of compliance for selfish motives, contrary to objectives of the compliance program. As you may be aware, in compliance, what is of importance is the message, not the messenger. Therefore, a person may blow a whistle or report a violation of ethics or the code of conduct against a public, known adversary within an organization, and the compliance department is obligated to investigate the allegation regardless of the party that has reported the violation.

When we talk about the compliance violation report, the emphasis is not on the righteousness or standing of the petitioner but on the propriety or conduct of the person whom the report is made against. Several factors can induce whistleblowing or filing a violation report, including envy, sectional interest, tribal sentiments, tussle for promotion and relevance, an attempt to silence opposition over benefits sharing, or a disagreement among former or co-violators. In an organization where you have a vacant position that is open for promotion and there are three people being considered for the position, it is not unlikely that a petition may be lodged against two out

of the three candidates. Obviously, the objective is for the two people to be disqualified.

As a compliance professional, you may smell some mischief or have your suspicions; however, you are not allowed to be distracted by the motive of the petitioners. The focus of the compliance professional is the merit of the petition. Once the merit is established, a case is made against the offending parties. But on the eve of a promotion, if two out of the three candidates are dropped because of a compliance infraction, it may leave a sour taste in the mouths of other employees. This may be seen as a deliberate act to frustrate the career of the affected employees.

The affected employees become prejudicial toward the compliance program, because their competition used it against them. The motive is wrong, but the action is right. Not only will the affected employees have a wrong notion about compliance, but their sympathizers too may share their view. Where this is the case, the compliance professional should, at the commencement of investigation, give the affected employees a high level of assurance and win their confidence that no harm or ill is intended, and that the petition will be disregarded if no merit is found. The compliance professional should let those under investigation know that the process is a function of the office. If, after the investigation, the employees are found guilty of the violation, then the training arm of the compliance department should take note of this and ensure that subsequent trainings address any misgivings caused by the compliance action.

Retaliation against employees who take different positions

Compliance prejudice is certain when management decides to use compliance against a member of staff because that employee is taking a position against the company. A good example of this is when labor union leaders are victimized for not accepting an offer or proposal from management or when the union mobilizes its members against management. Management may decide to look into the conduct of union leaders for any infraction of the company's rules. Ordinarily, no matter the level of transparency and objectivity in the investigation of a union leader, every indictment is seen as victimization. Despite this obvious bias, management still uses this as a potent weapon at their disposal to get back at the union leaders in some cases.

Miscommunication and misconceptions

Another cause of compliance prejudice is the lack of proper communication of the compliance program and objectives. Whenever there is a gap in compliance communication, either through program advocacy, training, or the conduct of the board of directors, there is bound to be prejudice. Each time people are allowed to fill in the gaps, there is bound to be a misconception, which is a major recipe for bias and prejudice. Compliance communication must be clear, concise, and consistent. As you speak to training slides, make sure that you are speaking to the minds of your audience. Speaking above the heads of your audience does not serve the purpose of compliance communication. Your audience should be able to recognize themselves in your speech or presentation. Every question must be answered openly, or it will give room for conjectures. Another aspect of communication that is worrisome for a compliance professional is when the non-verbal communication of management suggests something contrary to what compliance is saying. In this case, what you will get is a distorted message or communication. Employees of the company may not know what to follow or the proper application of the rules.

The program doesn't consider culture

Compliance prejudice may be caused by failure to acknowledge certain cultural realities of the society where the company operates. This is an ideal case of "dead on arrival." The compliance program must be designed to appeal to the culture of the society the company operates in. The virtues in a compliance program that align with

that of the society should be emphasized and celebrated with the people. It will simply mean you share a common identity in areas of common concern. The imposition of a compliance program will give birth to prejudice. Placing an embargo on certain cultural practices will only lead to resentment. A good example of this is a gifting culture. When giving gifts is part of the culture, prohibiting gifts or setting an unrealistic gifting threshold may not serve the corporate gift policy. Organizations must learn to strike a balance.

Inconsistency in the resolution of issues

In a situation where you have the same violations but different verdicts, prejudice may arise from such actions. Whenever employees are in doubt as to what the decision of compliance will be on any given matter, then you know that employees have a tainted view of the compliance program. The process or processes leading to any decision must be known, and the outcome should be predictable to a very large extent. Inconsistency in resolution of issues often erodes trust, which is an essential element in compliance program administration.

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