**Chapter 6**

**Managing Ethics and Legal Compliance**

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**Chapter Outline**

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**Teaching Notes - Discussion Questions**

***1. Think about the impact of the U.S. Sentencing Guidelines. Would organizations have tried to drive ethical behavior among employees without government encouragement?***

The Sentencing Guidelines clearly motivated organizations to develop the formal systems prescribed in the guidelines. There were almost no formal “ethics offices” prior to the early 1990s, except perhaps in the Defense Industry as a result of the Defense Industry Initiative, which inspired the Sentencing Guidelines.

Probes to Stimulate Discussion:

* Do you think that encouraging ethical behavior among employees is at all related to government regulations in general?
* What might the attitude be toward ethics of a company that is being basically “forced” to adapt these measures by the government?

***2. After reading about how a number of large companies try to encourage ethical behavior, what stands out? What approach is most unique? Which one do you think is most effective? Which one would make the biggest impression on you, if you were an employee?***

***3. Imagine that it is your responsibility to select an ethics officer for your organization. What qualities, background, and experience would you look for? Would you ever be interested in such a position? Why or why not?***

Generally, insiders who have held line management positions, who are thought to be fair, trustworthy, and credible, and who have a good relationship with the top management team, are thought to make the best ethics officers. The General Counsel may not be the best choice, because a lawyer is trained to, first and foremost, protect the company. Employees may not feel that they can go to this person with a problem, especially if it involves misconduct at higher levels. An ethics officer needs to have an internal as well as an external focus. She or he must be concerned about fairness to employees and customers, as well as protecting the organization from outside attack.

Probes to Stimulate Discussion

* "What sorts of ethical issues will an ethics officer in your organization have to decide or resolve?"
* "Is there technical knowledge required? How could a non-technical person acquire the knowledge necessary to resolve issues?"
* "Is a background in the law essential?"
* "Could a young person -- under age 35 -- do the job, or would employees be more comfortable with an older person?"
* "What kind of experience within your company would make the most well-rounded ethics officer?"
* "How could outsider gain credibility within your organization?"
* "Is there anything which could bar an insider from the job of ethics officer?"

***4. What are the advantages of having an ethics office or officer report to a company's chief executive officer, the legal department, human resources or audit? What are the disadvantages?***

The ethics officer should report to the CEO or to the Board. Reporting to a single department suggests that the ethics office is strictly about obeying the law, or auditing for compliance. In fact, ethics management should involve all of those departments and should be part of the overall organizational culture. That is best accomplished, if the top management team is directly involved and takes ethics as their responsibility.

Probes to Stimulate Discussion

* "Think about the mission of all of the departments listed -- legal, audit, human resources, the CEO -- what are the risks associated with raising an issue with each of the departments?"
* "What advice could each provide?"
* "What protection could each provide?"

***5. Think about an organization where you have worked. What kinds of ethical dilemmas are unique to that organization? To that industry? What might be the best way to prepare employees to deal with those issues?***

Probes to Stimulate Discussion

* "Is your industry regulated? By whom?"
* "What do the regulators think are the biggest problems in your industry?"
* "Is there something in your corporate culture that could put your company at increased risk for an ethical problem?"
* "Is there any aspect of your company or industry that has been criticized by the media or the public?"

***6. Think about all of the communication opportunities provided by social media. How could an organization use social media like Facebook, Twitter and the like, to promote ethical behavior and communicate the organization’s values? What are the advantages and dangers of those media?***

***7. Which of the following exist in the organization? Mission or values statement, policy manual, code of conduct, ethics training (who conducts it), hotline? Are they consistent and credible?***

Probes to Stimulate Discussion

* "Do all employees receive copies of the policy manual, values or mission statement, conduct code?"
* "Does everyone receive ethics training?"
* "Have you ever read the policy manual or conduct code, or other materials relating to ethics?"
* "Is your company saying one thing in its printed materials and doing another?"
* "Who conducts ethics training in your organization? Are they -- to the best of your knowledge -- ethical?"
* "Who answers the company hotline? Who resolves the issues raised on the hotline? Is the hotline confidential?"

***8. Is senior management committed to ethics? How do you know? What could they do differently or better?***

Probes to Stimulate Discussion

* "Do senior managers ever write articles on ethics for company communications (newsletters or magazines)?"
* "Do they ever reference ethical behavior in speeches or orientations?"
* "Is any senior executive "known" for his or her integrity?"
* "Is there a senior executive who is especially trusted by employees?"

***9. Are leaders at all levels held accountable for their ethical conduct? If so, how? If not, why not? What would you recommend?***

Probes to Stimulate Discussion

* "Can you think of any employees within your organization who have been fired or disciplined for their behavior or for unethical conduct? How did you find out about it?"
* "How long after the problem occurred did it take for them to be disciplined? Who actually did the firing?”
* "How did other employees interpret the discipline -- what messages did it send?"
* "Has anyone been commended for his or her high ethical conduct? What form did the praise or commendation take? How did other employees interpret it -- what messages did it send?"

***10. What recommendations would you make for handling frivolous calls to the hotline?***

There may be some frivolous calls. But, our experience suggests that these are rare. The best thing to do is to handle each call as if it were serious, because most of them are serious requests for information or serious reports of violations. Generally, if an employee calls, the issue is not frivolous to him or her, even if it seems so to you. The focus should be on fairness to all concerned, when an accusation is being made.

The best ethics programs consider any call to be relevant. In other words, if the issue seems to be a human resource issue, the person called the ethics office for a reason. To that person, the human resource issue (usually a fairness concern) is an ethical issue. The ethics office needs to take responsibility for handling the call, even if it is in conjunction with HR professionals.

Probes to Stimulate Discussion

* "How would you define a frivolous call?"
* "Are problems relating to human resource issues -- arguments with supervisors, for example -- frivolous?"
* "Could employees calling with frivolous complaints be penalized? Should they be? Should their managers be notified?"

***11. Does the organization evaluate its ethics initiatives? How? If not, why not?***

Probes to Stimulate Discussion

* "Have you ever received an employee survey that has tried to assess your attitudes toward ethical issues?"
* "Have you ever participated in employee focus groups that have involved ethics?"
* "Have you ever read about any ethics evaluation efforts in your company newsletter or magazine?"
* "Have your company's senior executives ever distributed reports on how the organization's ethics program is doing?"

***12. Would you characterize the ethics efforts in this organization as taking a values, compliance, or combination approach? Is it effective? Recommend improvements.***

Probes to Stimulate Discussion

* "Has senior management spoken publicly about ethics initiatives?"
* "Have they issued any printed material on ethics?"
* "Is the program receiving senior attention?"
* "Do senior executives and middle managers participate in ethics training programs?"
* "Are only the company's lawyers involved in the ethics program?"

***13. How would you raise an ethical concern in this organization? List all of the resources available to you. Which ones would you be likely to use? Why or why not?***

Probes to Stimulate Discussion

* "How would the following people/departments react, if you were to raise an ethics issue: your manager, your manager's manager, the legal department, the human resources department, the audit department, the ethics officer/department, the chief financial officer, the head of public relations/communications, the head of your division/department, the president of your organization, the CEO, the board of directors?"
* "If you had to go outside of your chain of command, who would you approach and why?"
* "Under what circumstances would you approach any of the above?"

***14. Imagine that you are the CEO of a small manufacturing company. An employee has dumped toxic waste in a nearby stream. Who would you call into your office and what would you want to know? Develop a short-term and long-term action plan for dealing with the crisis. Who would you communicate with and why?***

Obviously, you would need to talk with the employee and decide how to handle the issue as a personnel issue. Was it an accident or was it intentional? Your response in terms of dealing with the employee will depend on what you learn. But, first you would need quick help from anyone in the organization with expertise in environmental issues, especially the nature of the toxic waste, and how dangerous it is. You should immediately call your local and/or state environmental protection agency for help. Your goal should be to try to prevent health problems in the community and work with environmental experts to do so. You may also want to speak with the press openly to avoid speculation and unnecessary fear.

Probes to Stimulate Discussion

* "Who are the stakeholders in this situation?"
* "Who on your staff (which kind of job) could you count on to handle each stakeholder group?”
* "Does your strategy for coping with the disaster address the needs of all stakeholders?”
* "Does your plan include being forthright, accepting responsibility, and making some sort of restitution to effected stakeholders?"

***15. Evaluate the ethics program at your organization from the perspective of “fit.” Has the ethics program been designed to “fit” the organization’s overall culture? If so, how? If not, what could be done to make the program a better fit?***

* “What are the three most key values in your organization?”
* “Are workers rewarded for exhibiting those values?”
* “Is your organization’s ethics program consistent with what your company rewards?”

***16. Think about your own positive, memorable, “peak experiences,” when it comes to ethics. Be prepared to discuss those with others in your class and to think about the conditions that would make it possible for such experiences to happen more regularly at work. Or, if you do not have much work experience yourself, interview someone who has and ask these questions. Be prepared to report back what you learned from the interview.***

## In-Class Exercises

**Case #1 – What is Wrong with This Picture?**

*You are a management consultant, who has been asked by Green Company to help design an ethics communication and training program for all Green Company employees. Your meetings to date have been with the head of human resources, and your contract with the company has been negotiated with him. Once the papers have been signed, you begin your research and are quickly stymied by Green's corporate counsel. He says that you will not be allowed to ask employees about ethical dilemmas that have occurred at Green. He specifically asks that you get your information from other sources, such as press accounts of problems in the industry, or from other organizations with which you have worked. In addition, the head of human resources has told you that you will be unable to meet the three most senior executives, because they are busy negotiating a large acquisition. You will have access to other high-level managers, who can tell you what they think the seniors want. You are instructed to write a code of conduct for the company and a mission statement, and prepare presentations on corporate expectations and values for the seniors to give to employees sometime next month. .*

Case-Based Questions and Possible Answers:

***1. Based on what you know about developing ethical cultures and programs, identify the problems presented by this case.***

There are three big problems. First, you are being denied access to employees and, therefore, the real ethical dilemmas in the company. As a result, it will be next to impossible for you to develop a program that addresses real issues. While you will be able to develop some materials, based on press accounts and publicly available documents about the industry, nothing you develop will be specific to the organization. The second problem is the unavailability of senior management. If this issue is not important enough for senior managers to focus on, then there will be little commitment from the executive ranks for whatever you develop. A third problem involves you, as an outsider, developing a corporate mission statement and code of conduct. It would be difficult enough for an insider to accomplish that; it will be almost impossible for an outsider to write something that reflects an intimate knowledge of the organization. And that kind of intimate knowledge of organizations is the only way a statement or code can ring true with employees.

***2. Why do you think the corporate counsel has responded in this way? What will be your response to him, if any?***

The corporate counsel is being paranoid about disclosure of company information ("dirty linen") to an outsider. Of course, that issue could be circumvented by having you sign a nondisclosure agreement. However, some company lawyers feel that it is still risky to have an outsider privy to company "secrets." What you could do, is inform the corporate counsel that you are not interested in what has happened. You are only interested in what could happen. That kind of response can allay the fears of some lawyers.

***3. As a consultant, what are your ethical obligations, if any?***

Your obligations are to help an organization and do no harm. Fiddling around with a company's ethics communications and training can do major damage, if you cannot develop a realistic program and if you do not have senior management commitment. The situation described in the case is a very dangerous one, and the consultant should proceed with great caution.

***4. How will you proceed?***

Many consultants would find a way to develop something in a situation like the one described in this case. However, if the corporate counsel remains adamant that you receive no information from employees, and if you are unable to meet with senior management, and if you are to receive no help from the inside with a mission statement and code of conduct, you should probably resign the account. The task is impossible. And while you may be doing management a short-term favor by sticking your finger in the ethics dike, you will be doing them (and all employees) a long-term disservice by developing something without their help. It is one almost sure way to destroy a company's credibility.

## Case #2 – Georgia-Pacific

1. **What behavior do you think a system such as Market-Based Management might drive?**

Koch Industries, the parent of Georgia-Pacific, created Market-Based Management (MBM), as a holistic approach to management that enables organizations to succeed long term, by applying the same principles inside the company that allow free societies to prosper. MBM, in turn, requires a culture centered on specific attributes. These attributes set the standards for evaluating policies, practices, and conduct; establishing norms of behavior; and building the shared values that guide individual actions. In short, this approach drives long-term thinking and ethical behavior throughout the organization.

1. **The case describes how a number of senior managers were dismissed after the acquisition. How could employees interpret this? Does this help drive ethical culture?**

There is perhaps nothing more dramatic than seeing employees leave, to drive home the idea that the company is taking ethics and integrity (or other values) very seriously. This is really where the rubber meets the road.

1. **What is more challenging to fix: a knowledge gap or a values gap?**

Traditionally, a values gap is much more difficult to address. You can always teach someone knowledge – it is a rational, cognitive exercise. But values are deeply held beliefs that drive behavior. That is much more difficult to tackle and the reason why so many companies try to hire people, whose values align with the company values.

1. **What could a hiring manager ask a candidate, to determine if there is good values fit between the organization and the candidate?**

A hiring manager could use what is known as “behavioral event” interview questions, to determine values fit. Behavioral event questions are generally framed like this: “Tell me about a time…when you encountered a difficult dilemma. What happened and what did you do?” The theory behind this type of interrogation is that the best predictor of future performance is past behavior. So, if an interviewer asks questions that encourage a candidate to describe a situation and how he/she reacted to it, the interviewer should be able to determine the candidate’s values and make the judgment, as to whether or not the candidate’s values and the organization’s values are aligned. (Georgia-Pacific (and many other organizations) calls these SBOs – Situations, Behaviors, and Outcomes)

1. **What do you think are the strongest benefits of this approach?**

It is an excellent way to hire people who have values that align with the organization’s – and creates a strong culture as a result.

**Additional Resources:**

**1. Ask a Local Company for Materials or a Guest Speaker**

Many companies are willing to share the materials they have developed to increase their employees' awareness of ethical issues. You or your students can contact various corporations and request copies of their mission/values statements, policy manuals, and codes of conduct. It is an interesting exercise to compare statements, codes, and manuals from various companies and look for clues about what is important to each organization, what ethical problems they may be anticipating, etc.

Another idea is to ask corporate representatives to talk about their own highly ethical organization. Students will believe them more than they will believe you. They can demonstrate how their organizations train employees in ethics and compliance, and how they do all of the other things necessary to create a strongly aligned ethical culture. A corporate representative discussing or demonstrating the program is very valuable for students.

**2. DVD – *Ethics: The Fabric of Business***

The Society for Human Resources Management has produced a DVD entitled "Ethics, The Fabric of Business: A Case Study of Lockheed Martin Corporation," that focuses on Lockheed Martin, one of our profiled organizations. Follow this link for more information: <http://www.shrm.org/about/foundation/products/Pages/EthicsDVD.aspx>

**3. Online Video: *The Surprising Truth about What Motivates Us***

This online video is ingenious and entertaining – an artist illustrates the 10-minute video, as the narrator is talking. And it describes research that shows that higher rewards only incentivize certain kinds of work. When cognitive creativity or productivity is required, high rewards actually deter high performance. People who are doing cognitive work respond best to autonomy, mastery, and purpose. Great video that could be used in a number of chapters!

<http://www.ritholtz.com/blog/2010/05/the-surprising-truth-about-what-motivates-us/>