501

IDEAS FOR

YOUR COMPLIANCE
～❦ AND ❦～
ETHICS PROGRAM

Lessons from 30 Years of Practice

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services of a competent professional person should be sought (from a Declaration of
Principles jointly adopted by a Committee of the American Bar Association and a
Committee of Publishers).*

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Foreword

I first met Joe Murphy over a decade ago when we were chance seat partners on an airplane headed to one of the first compliance conferences in New Orleans. The two of us discussed many things on that flight but one lasting first impression has remained with me: Joe Murphy is a man of experience, intelligence, kindness, professionalism, and forethought. Through my many interactions and conversations with and about Joe, I am often reminded of a famous quotation, "If I have seen further, it is by standing on the shoulders of giants." This quote is often attributed to Sir Isaac Newton; however, its origins have an ancient history and meaning that predates Newton's use of the words.

The quotation embodies concepts regarding the transfer of human knowledge. Human knowledge and its understanding are a complex and cumulative affair. The passage of knowledge from those who have achieved it (as well as the wisdom associated with it) to those who have a need to learn is a hallmark of Joe Murphy's life. Joe's book, *501 Ideas for Your Compliance and Ethics Program*, embodies this ideal.

The conventional wisdom in this day and age is that the compliance and ethics profession is nascent. We are said to be members of a growth industry and members of an evolving professional group. As members of the new profession, we have an acute need to learn. The profession will likely change at a rapid pace, and our challenge as members of this new profession is to learn, master, and implement without error. Joe Murphy has given us an invaluable gift, a compilation of his thoughts and ideas based on his lifelong

learning. We now have the duty to absorb it and pass it forward in the spirit in which it is given. Joe, thank you for this precious gift: you are a "giant" in both word and deed. Your foresight and generosity have permitted us to see further.

Odell Guyton
Co-chair, Society of Corporate
Compliance and Ethics (SCCE)
Advisory Board

What This Book Is About

Welcome to *501 Ideas for Your Compliance and Ethics Program*. If your job includes responsibility for any part of a compliance and ethics program, this book is meant for you. Whether you are only dealing with antitrust compliance in the U.S., or manage a comprehensive ethics and compliance program throughout the world, this book is designed to be your easy companion.

In this book I offer you a variety of ideas for your program. Perhaps you will be able to use hundreds of them, or maybe there will be just a few that meet some difficult challenges you are facing. Even better, maybe some of the ideas here will inspire you to come up with new ideas that drive your program to increased effectiveness. My goal here is to make your life as a compliance and ethics professional easier by giving you a handy source of ideas for your program.

I believe this will be especially valuable for those charged with the day-to-day task of making compliance and ethics a reality in their organizations. I should also explain what this book is not intended to do. It is not a treatise on the whys and wherefores of compliance; there are other good books on the market that do this well. It is definitely not a checklist of things every program has to do. The government and other sources already offer this kind of guidance, in such places as the U.S. Sentencing Commission's Organizational Guidelines and Australia's compliance program standards, AS 3806-2006. This book is also not intended to be a list of "best practices" that only gold standard companies embrace; for the most part, the items listed here are intended neither to be minimum standards for programs, nor a list of the requirements for top notch programs. It is not expected that any company would do everything in this book. Rather, the ideas listed here are intended as bite-sized nuggets to help compliance and ethics people do their jobs more effectively.

For the most part, I have omitted advocacy, analysis, and judgment from the list. If you, the reader, want to know in more detail why these ideas work or how to do them effectively, for most of the ideas I have provided source references for more background and detail. These are primarily sources I have worked with personally—materials I have written and articles from *ethikos*, which I co-edit. I leave it up to you to determine which steps you think will work in your company or organization.

This book does not offer legal advice or interpretation. For at least some of these ideas, you will want to consult with legal counsel who have compliance and ethics expertise. You will want to be sure any particular idea is legal in your jurisdiction, and determine whether there are restrictions such as those that may be found in privacy and labor laws.

I have included a variety of practical ideas, but I am certain there are many more great ideas out there waiting to be shared with others. If you have any you would like to share and have included in future editions of this book, please contact me at the e-mail address below. I would also like to hear of your experiences in trying any of these ideas, and perhaps include what you learned from trying them for the future guidance of others.

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501 Ideas for Your Compliance and Ethics Program

A. U.S. Organizational Sentencing Guidelines ("USSGs") Item 1, codes and policies

Ideas on compliance-related policies and on enhancing your code of conduct. These address part of USSGs item 1.

1   **Value statement.** Include compliance and ethics points in the company values statement, such as a commitment to integrity. This can also be incorporated into the company's mission statement. (See Sigler & Murphy, *Interactive Corporate Compliance: An Alternative to Regulatory Compulsion* (Westport, CT: Quorum Books, 1988): 82; Roach & Davis, "Establishing a Culture of Ethics and Integrity in Government," *ethikos* 21 no. 2 (Sept./Oct. 2007): 1, 3.)

2   **Index.** Include an index in the code, so employees can find specific information and answers to questions. (See Murphy & Swenson, "20 Questions to Ask About Your Code of Conduct," *ethikos* 17 no. 1 (July/Aug. 2003): 7-8.)

3   **Q&A.** Include Q&A in the code, to provide examples and answer common questions. (See Murphy & Swenson, "20 Questions to Ask About Your Code of Conduct," 17 *ethikos* no. 7 (July/Aug. 2003): 8; Singer, "UPS Translates and Transports an Ethics Code Overseas," *ethikos* 14 no.6, (May/June 2001): 1-2.)

4   **Reader-friendly formatting.** Use formatting elements that appear in popular media publications. These would include pullouts, bullets, graphics and illustrations. For a pullout you take key language from a page and put it in a highlight box so even casual readers will see it. Bullets are used to emphasize important elements in the code. Likewise, graphics and illustrations are used to make the code more interesting and draw attention to key points.

5   **Famous quotes.** Use quotes from inspirational leaders at various points in the code. (See Singer, "How the World Bank Revised its Code of Conduct," *ethikos* 15 no. 3, (Nov./Dec. 2001): 4, 6.)

6   **Reference information.** Include in the code contact details for sources of further information related to code provisions. For example, the code could include related policies and guides, Web sites, and e-mail and phone numbers of subject-matter experts. (See Singer, "Packaging an Ethics Code: Altria Learns That One Size Doesn't Fit All," *ethikos* 18 no. 4 (Jan/Feb 2005): 4, 7; Walker, "New Code Requirements: Preliminary Answers to Some Emerging Questions," *ethikos* 18 no. 2, (Sept./Oct. 2004): 1, 5.)

7   **CEO letter.** Have a letter from the CEO endorsing the code and compliance program, in his or her own language, and using a personal story as part of the endorsement.

8   **Code as a constitution.** Treat the code like a constitution, setting out the important elements common to most or all employees, to cover fundamental points. (See HHS, "OIG Compliance Program Guidance for Pharmaceutical Manufacturers," *Federal Register*, 68, no. 23 (May 5, 2003): 731, 733.)

9   **Test comprehension.** Test the reading comprehension level of the code. Will employees understand what they are supposed to do?

10 **Involvement in creating the code.** Have directors, managers, and employees at all levels be involved in the development of the code. (See HHS, "OIG Compliance Program Guidance for Pharmaceutical Manufacturers," *Federal Register* 68, (May 5, 2003): 23,731, 23,733.)

11 **SME input.** Have the risk area subject matter experts (SMEs) review the code to ensure their risk areas are appropriately covered. (See Singer, "How the World Bank Revised its Code of Conduct," *ethikos* 15 no. 3 (Nov./Dec. 2001): 4-5.)

12 **Online comment period.** Put the draft code online and invite all employees to provide input and comments. (See Singer, "How the World Bank Revised its Code of Conduct," *ethikos* 15 no. 3 (Nov./Dec. 2001): 4-5.)

13 **Regional advisory councils.** For multinational companies, have national or regional advisory councils provide input on the code so it is consistent with various cultures and national requirements. (See Singer, "UPS Translates and Transports an Ethics Code Overseas," *ethikos* 14 no. 6 (May/June 2001): 1.)

14 **Regional sections or supplements.** Add local sections or supplements to the code to meet different regional or national legal requirements and cultural elements. (See Singer, "UPS Translates and Transports an Ethics Code Overseas," *ethikos* 14 no. 6 (May/June 2001): 1-2.)

15 **Code for non-managers.** Do a separate code for non-management employees, e.g., retail store clerks, manufacturing plant workers. (See Singer, "Packaging an Ethics Code: Altria Learns That One Size Doesn't Fit All," *ethikos* 18 no. 4 (Jan/Feb 2005): 4.)