



world compliance

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## Preventing Corruption

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Guidelines for preventing corruption

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### **Guidelines for preventing corruption**

The objective of this paper is to provide a guideline for the creation of an effective set of rules and processes that will aid in reducing the incidence of corruption within an organization. In addition the paper will also:

- Provide a roadmap on how to manage the situation when it arises.
- Provide a consistent methodology towards combating corruption.
- Promote an environment in which organizations can raise awareness among their members concerning corrupt activity and the damaging effects, both from an ethical as well as personal liability perspective

Although there isn't a standard international definition for corruption, for the papers purposes corruption includes extortion, fraud, bribery, collusion and deception. Not only are these behaviors unethical but they are most probably a criminal offense in most jurisdictions.

### **Prohibiting corruption**

The first rule of engagement is to ensure that organizations adopt a single standard and adhere to it where ever these do business. To achieve consistency, the anti corruption guidelines should include the following elements:

- Develop a mission statement that clearly delineates that the organizations members must not be involved in the illicit activities mentioned earlier. This is irrespective of whether the activity was conducted for their benefit or for the benefit of an employer or third party.
- Implement a requirement that encourages members to report any illicit activity the moment they become aware of it to the appropriate persons within the organization.
- Require that senior management conduct proper investigations into all illicit activity, when they become aware of it.
- Clearly state how illicit (corrupt) activity is a breach of the professional body of rules and furthermore that it constitutes a criminal offense which may incur personal criminal liability.



### **Activities involving Corruption**

The following activities exemplify what are likely to be breaches in both professional conduct as well criminal offenses. They are characterized by a member either knowingly or recklessly engaging in any of the following activities:

- Giving, offering, accepting or soliciting a bribe
- Participating in a dishonest activity as a precursor to a corrupt activity that breaches anti competition laws
- Preparing, hiding and or approving work for materials or service that do not either meet the organizations product quality standards or quantities contracted
- Providing, inaccurate, misleading and or false information
- Purposely withholding information
- Making false, misleading or inaccurate invoices, records or claims for variances, time extensions or payment requests,
- Refusing or failing to approve work, delaying approvals dishonestly
- Refusing payment, failing or delaying payment dishonestly
- Purposely ignoring evidence of corruption whether directly or indirectly responsible for the corruption

### **Disciplinary action**

Organizations need to deal severely with any corrupt activities to ensure the well being and continued health of its members. Members who are suspected of involvement in corruption must be investigated and sanctioned if found guilty. Disciplinary proceedings should follow a strict set of rules, in a fair and reasonable manner which is consistent with the rule of law. Conversely, the person under investigation should be allowed the opportunity to defend themselves.

In order to impose a penalty, the organization must ensure that the standard of proof be proportionate with the severity of the penalty. The standard of proof must be beyond a reasonable doubt if the penalty is either expulsion or suspension. For lesser penalties, the organization should base their decision



on a balance of probability. An organization may choose to regard a criminal conviction as sufficient proof of an illicit activity and not require further independent investigation.

The organization should consider the following factors when imposing the severity of penalties:

- The penalty imposed on a member who is convicted of corruption should be congruent with the severity of the offense. In those cases where there isn't mitigation, the conviction should automatically result in the member's expulsion from the organization.
- In the case of senior staff members that purposely ignore evidence of corruption, these should be treated as seriously as if they had actually participated in the corrupt activity. Depending on the circumstances, the penalty may be as severe as the one levied on the person who actually committed the illicit activity.
- For the most serious of circumstances, the penalty should be expulsion, while lesser offenses for junior staff will be based on the extent of any mitigation.
- The more senior the position within an organization, the greater the responsibility to act and behave in an ethical and responsible manner. This is especially true considering the influence they wield over those reporting to them. In most cases of corruption and depending on the severity of the case, expulsion is usually the recommended action to be taken for an offending senior member.
- The organization must consider all mitigating circumstances when assessing lesser penalties. For example, age and experience of a staff member (particularly a junior member), the degree and active or passive involvement, whether the subject was coerced or pressured are all important factors to be considered.
- The organization must also consider whether the rules and guidelines were clear and well publicized, and whether there was a reporting mechanism in place for the member to act upon.
- The organization must also take into account whether the member called attention to the corrupt activity, admitted to and or cooperated with the investigation.



- A member should not be disciplined if they were coerced into the corrupt activity to avoid the risk of injury or death to themselves or another member.

### **Taking disciplinary action**

An organization should take disciplinary action as soon as possible independent of criminal prosecution or conviction. The following are guidelines to employ in deciding when to initiate disciplinary action:

- As illustrated earlier, extortion, fraud, bribery, collusion and deception are likely to be criminal offenses in all countries. Therefore it is a reasonable expectation that evidence of corruption would be referred to the authorities for investigation and possible prosecution. In these cases, the organization would not normally begin any disciplinary action until the investigation and prosecution had finalized.
- The organization (at their discretion, whether there is doubt as to the authorities effectiveness in handling the matter and or time it will take to prosecute) may initiate disciplinary action without waiting for the outcome of the criminal investigation and prosecution.
- The organization should also consider proceeding with the disciplinary action if they consider that the evidence was sufficiently strong to merit an investigation in the first place. For instance, in the case where authorities decide not to proceed due to circumstances that are unrelated to the strength of the evidence of corruption, specifically, citing national security.

### **Promoting awareness**

The organization is responsible for clearly communicating and widely advertising the rules prohibiting corrupt activity. This should include a list explaining what activities are considered corrupt in addition to detailing the disciplinary and criminal sanctions likely to emanate from said activity. This will help to ensure that members do not participate in any corrupt activity due to ignorance of the rules and guidelines.



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