

Sarbanes-Oxley Tu

Incorporate emerging best practices and new

Ten years ago, the enactment of the Sarbanes-Oxley Act forever changed the landscape of nonprofit accountability. Today, the anniversary presents an opportune time for organizations to revisit the act and its implications.

Even for organizations that made necessary adjustments when the law was enacted, a reexamination will allow leaders to incorporate the latest tools and best practices for accountability.

Raising the Bar on Nonprofit Ethics

Since the Sarbanes-Oxley Act was enacted in response to corporate scandals, including Enron, Tyco, and WorldCom, many of its provisions relate only to publicly-traded companies. However, the law's intent to raise public confidence in the accuracy and integrity of financial reporting rang true throughout the nonprofit sector. It prompted significantly higher standards, in the form of state laws and best practices, among nonprofits.

The provisions of the Sarbanes-Oxley Act that directly apply to nonprofits are: Organizations must have policies against intentionally destroying key documents if needed in a federal investigation; they also are prohibited from retaliating against whistleblowers.¹

Opening Lines of Communication

While the law prevents potential backlash against whistleblowers, its greater implications compel organizations, first, to empower employees to report suspected misconduct. To do this, many organizations, like Alliance for Children and Families member Holy Family Institute, Pittsburgh, are implementing independent whistleblower hotlines that allow reports to be made anonymously to an objective third party.

"We adopted a hotline because we wanted to be able to give our employees an entirely neutral way of reporting on any concerns they might have about organizational issues," says Sister Linda Yankoski, CEO of Holy Family Institute. "We believe that, for employees who would be very reluctant to confront a co-worker, raise an issue with a supervisor, or even come forward to the director of human resources, it is important to have an anonymous, safe way to report issues of concern."

Holy Family Institute offers a hotline through FEI Behavioral Health, Milwaukee, which is affiliated with the Alliance under the parent organization Families International. FEI recently added the compliance and ethics hotline to the range of workplace solutions and products it provides.

"The FEI Compliance and Ethics Hotline substantially limits potential loss, liabilities, and risk for an organization because it provides early detection and proper response to employee concerns, says Ted Ucen, president of FEI. "Early problem identification can save an organization's reputation and we feel it's important to offer a product that builds stakeholder trust and reflects positively upon an organization's integrity."

FEI works with the organization's designated compliance and ethics staff to customize and develop secure reporting protocols. Then, the compliance team is given a toll-free telephone number to distribute among the organization's staff and stakeholders, including consultants, contractors, and volunteers.

"Because of its connection to the Alliance, choosing FEI as our provider allows us the opportunity to partner with individuals who understand work in human services and the nonprofit sector," says Yankoski. "Our sense is that they understand the types of issues that might come forward in our organization."

Creating a Comprehensive Response

While making a hotline available is a component of claim reporting ethics, it is only one piece of the puzzle.

"Whistleblower lawsuits are becoming more and more common," says Kathryn Vanden Berk, JD, nonprofit attorney in Chicago. "Nonprofits must be sure to implement measures to prevent employee retaliation and promote transparency."

In a Nonprofit Law column published in the *Alliance for Children & Families Magazine* in 2008, Vanden Berk offered guidance for what to include in a sound whistleblower policy:

Code of Conduct. Establish the general expectation that your organization requires ethical conduct of its leaders and staff.

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tools for compliance

Reporting Process. Require employees to report observations of unethical behavior and provide multiple avenues for submitting a concern.

Investigation. Appoint an individual within the organization to serve as the compliance officer and authorize that person to fully investigate all reports.

No Retaliation. Protect good faith whistleblowers by prohibiting adverse employment action against him or her.²

FEI's Process

FEI helps organizations implement commitments contained in their whistleblower policies. Its hotline provides transparent follow-up that is conducted by master's- and doctorate-level counselors with specific training in interviewing.

After an employee or stakeholder submits a concern, a confidential interview is conducted with the whistleblower to document the facts and conjectures regarding the issue or concern.

The organization's designated compliance and ethics officer receives a formal report over the phone within one business day of the initial call. FEI also can serve as a conduit between the organization and the whistleblower, should he or she request to track the investigation process.

Throughout the administration of the claim, FEI remains objective and refrains from interpreting company policy or making commitments about the organization's actions.

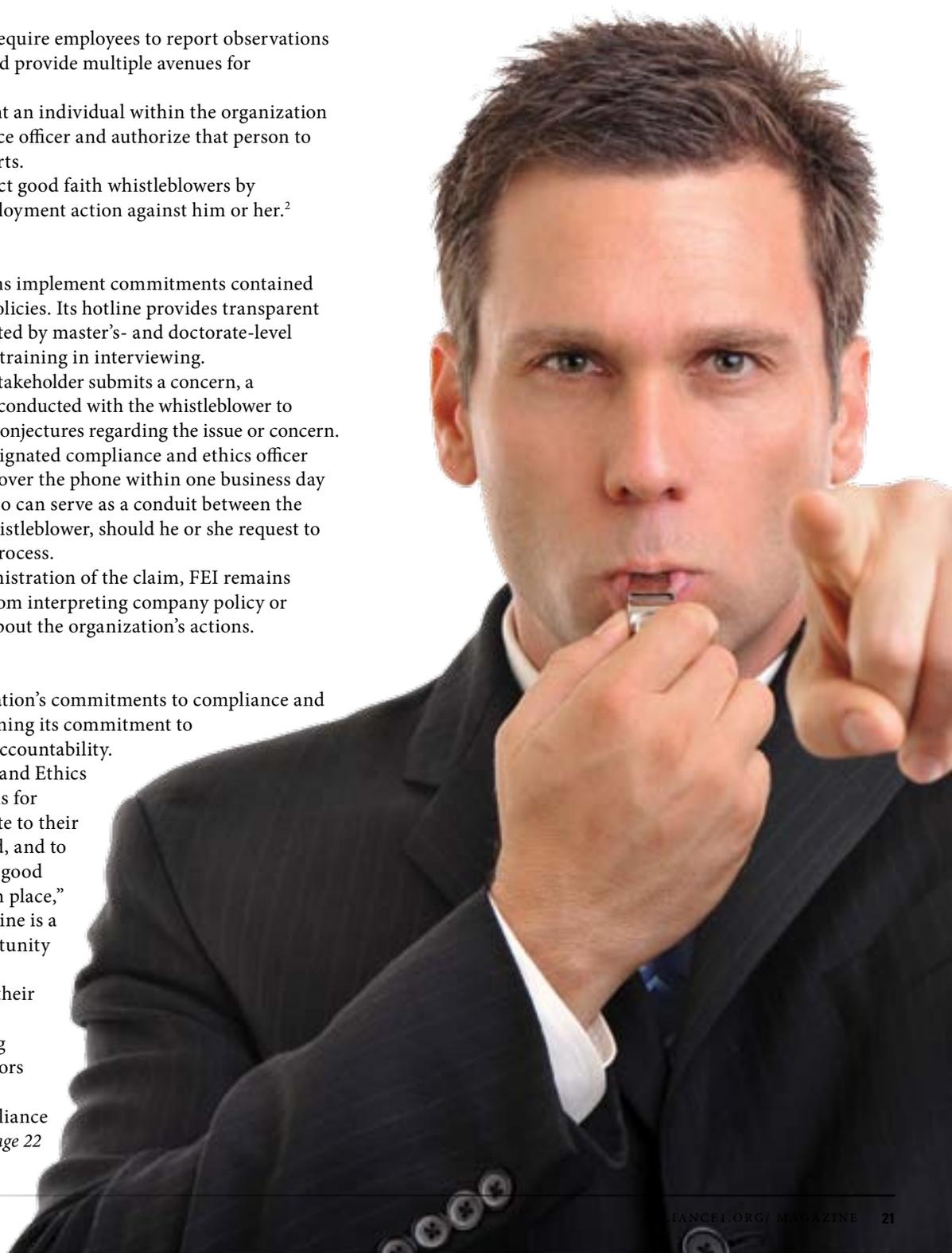
Benefiting Everyone

Revisiting an organization's commitments to compliance and ethics is a way of reaffirming its commitment to strong governance and accountability.

"The FEI Compliance and Ethics Hotline provides a means for nonprofits to demonstrate to their stakeholders, their board, and to the world that they have good management practices in place," says Yankoski. "The hotline is a great, economical opportunity for any agency to add a compliance function to their organization."

In addition to assuring credibility among investors and the general public, a credible, complete compliance

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Partnering with FEI Features Additional Return

Explore opportunities for additional revenue, exposure, and marketing

FEI Behavioral Health has more than 30 years of experience providing services that help resolve individual and workplace challenges. It also is an industry leader in providing crisis management services in the areas of preparedness, response, and recovery.

Because of FEI's deep-rooted partnership and affiliation with the Alliance within the Families International interconnected group of organizations, Alliance members can:

- provide their staff with valuable employee benefits that promote physical and behavioral health and well-being by purchasing FEI's products and services at a discount;
- join FEI's employee assistance program or crisis management provider networks to earn revenue and expand their local client bases; and
- collaborate with FEI in marketing and sales, whereby FEI markets their products and they earn a commission for selling FEI's services.

In addition to receiving direct savings and additional revenue through

these channels, investments in FEI return to members of the Alliance in the form of a social and capacity-building dividend.

Learn more about FEI at feinet.com.

and ethics reporting system also reassures staff within an organization.

"When employees feel that they have an opportunity for feedback, it leads to a trusting workplace," says Yankoski. "The ethics hotline allows employees to be able to express concerns, feel confident that they will be heard, be reassured that their concerns will be fully investigated, and that they will get feedback about the issue they raised." ■

Learn more about Holy Family Institute at hfi-pgh.org.

ENDNOTES:

1. Read The Sarbanes-Oxley Act and Implications for Nonprofit Organizations, revised and released by BoardSource and Independent Sector January 2006, at boardsource.org/clientfiles/sarbanes-oxley.pdf.
2. Read the column "New Form 990 Requires Attention to Three Policies" from the Fall 2008 *Alliance for Children & Families Magazine* and view a sample whistleblower policy at mag.allianceinfo.org/content/nonprofitlaw/fall08/newform990.



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