



THE BEST OF BELA SERIES

Turning ECCP Guidance into Practice:

What Experts Say
What Peers Are Doing
Resources to Fast Track Improvements



U.S. Department of Justice
Criminal Division
Evaluation of Corporate Compliance Programs
(Updated September 2024)

THE OVERVIEW

The 2024 ECCP Update



THE LATEST

The September 2024 update to the Department of Justice's [Evaluation of Corporate Compliance Programs](#) (ECCP) brings significant changes that will impact compliance programs across industries.

Understanding these changes and their implications is essential for staying compliant and ensuring your organization remains prepared to defend its compliance program if needed.

THE PURPOSE OF THE DOJ ECCP

The Evaluation of Corporate Compliance Programs (ECCP) is a set of guiding principles used when deciding to what extent to prosecute a company for wrongdoing—namely, by asking three important questions:

- Is the corporation's compliance program well designed?
- Does the program have the resources and support it needs to do its job?
- Does the program work in practice?

Key Areas of Focus

This is the first Evaluation of Corporate Compliance Programs Update since March 2023, and the purpose of this update is to provide new and revised scope of inquiry around several key areas including:

- Speak-up culture
- Anti-retaliation
- Artificial intelligence (AI)
- Risk assessments
- Program resourcing
- Continuous improvements
- and more

Resources

DOJ ECCP 2024 Update

Download the latest [DOJ guidance here](#)

E-Book: ECCP Updates

Learn about the full scope of guidance in the ECCP. [Download the e-book here](#)

2023 to 2024 Comparison

Check out the changes between the March 2023 and September 2024 updates. Get a quick view of new and updated language in the 2024 update. [Read the markup here](#)



A FULL LIST OF ETHISPHERE RESOURCES

“

This is a massive opportunity for the E&C leaders to say: ‘The government is very clear about what it’s looking for, and here is our opportunity to position our program for success.’”

Erica Salmon Byrne, Chief Strategy Officer and Executive Chair, Ethisphere

in



2024 ECCP UPDATE

Key Highlights





In the following section, read about the key changes within the update, along with expert insights, data, and resources to enable you to position your program for success.

Key Highlights

SPEAK-UP CULTURE AND ANTI-RETALIATION

RISK ASSESSMENTS

NEW TECHNOLOGY AND ARTIFICIAL INTELLIGENCE

STAFFING, STATURE, AND RESOURCES

CONTINUOUS IMPROVEMENTS

SPEAK-UP CULTURE AND ANTI-RETALIATION

The Guidance

In the September 2024 update, companies are expected to do the following to foster a speak-up culture:

- Encourage and incentivize employees to speak up, and conversely, look to see if there is anything discouraging employees from speaking up
- Measure employee willingness to report and train employees on internal and external reporting channels
- Ensure an anti-retaliation policy is in place
- Train employees on both internal and external anti-retaliation and whistleblower protection policies, procedures, and laws
- Determine if employees who reported misconduct are treated differently than the employees who were involved in misconduct but did not report it

Insights

This focus on speak up is not new; the DOJ has been discussing building a strong speak-up culture to support voluntary disclosure for some time now.

The language used, though, especially around both internal AND external mechanisms to raise concerns, is amplified compared to prior iterations of the ECCP.

Some of the language around external reporting mirrors what we have seen in the human rights sector, with a focus on listing external channels in your discussion around raising concerns.

Given the breadth of the DOJ's remit, however, this expansion is notable.

Peer Practices

74% of World's Most Ethical Companies honorees measure their ethical culture through a standalone ethical culture or compliance program perception survey

- *For those using employee engagement surveys, that number jumps to **92%***

82% World's Most Ethical Companies honorees incentivize their employees to act ethically through formal recognitions and a communication of the recognition or award

51% of World's Most Ethical Companies honorees follow up with reporters to see if they felt retaliation

93% of employees say they would report workplace misconduct if they witnessed it. But when the moment of truth arrives, only **50%** actually report. The most common reasons cited are fear of retaliation and professional harm.

RISK ASSESSMENTS

The Guidance

In the 2024 guidance, risk assessment figures prominently:

- Risk identification and assessment should account for emerging internal and external risks, and mitigating factors
- If the company is using new and emerging technologies, they should conduct a risk assessment for its use and implement controls to mitigate the associated risks
- Determine if the risk management process is reactive or proactive and how does it inform the compliance program
- Allocate compliance resources based on risk, with greater scrutiny given to higher-risk areas
- Periodically review the risk assessment using continuous access to operational data and information
- Based on the review, make updates in policies, procedures, and controls

Insights

The 2024 ECCP asks if companies periodically review their risk assessment and whether they have a process for incorporating lessons learned from their own risk management issues or from those of other companies operating within the same industry and/or geographical region.

It is clear from the text of the document that a risk assessment must be an ongoing process and not a one-and-done; arguably even an annual process should be augmented by periodic check-ins as the business evolves and lessons are learned.

The increased emphasis on a dynamic risk assessment process that informs the continued improvement of the compliance program requires a close look at your existing processes to ensure best practices. Ignoring these updates could lead to increased regulatory risk, fines, or even reputational damage.

Peer Practices

90% of World's Most Ethical Companies honorees have an **organization-wide risk assessment** focusing on ethics and compliance

51% of World's Most Ethical Companies honorees assess their ethics and compliance risks **annually**

55% of World's Most Ethical Companies honorees conduct due diligence **before entering** into any third-party relationship, regardless of risk level



NEW TECHNOLOGY & ARTIFICIAL INTELLIGENCE (AI)

The Guidance

The DOJ is interested in mitigating risks that arise from new technologies like artificial intelligence (AI). Guidance includes:

- An assessment of the impact of new technology to comply with the law
- Management of risks around emerging technologies are built into the broader enterprise risk management strategy
- Negative/unintended consequences are curbed and deliberate misuse is mitigated
- Monitor use of new technologies to ensure its compliance with laws and the company's Code of Conduct
- Controls are in place to ensure technology is used for its intended purposes
- Assess the new technology with a determined human-baseline
- Train employees on new technologies
- Emphasis on reporting and communication lines as a general factor for whether a program is well designed and integrated into the company's operations and workforce

Insights

This is one of the most detailed sections of the update with a total of 10 questions that ask companies how they identify and manage risks with potential compliance implications, especially around the use of AI within the business.

Like all of us, the DOJ is clearly grappling with how to navigate this new technology. The emphasis is on both the risks and opportunities AI presents and sets a clear expectation around the extent your organization is using AI in its products, and if those products cause harm, the compliance team's involvement in vetting those products will be subject to scrutiny.

Peer Practices

35% of employees are intentionally using AI monthly or more often to assist with their work

Only **18%** reported knowing that their employer has an official policy about acceptable uses of AI

50% of employees say their employers have no such policy on AI, and **32%** said they were unsure

Source: [American Psychological Association 2024 Work in America Survey](#)



STAFFING, STATURE AND RESOURCES

The Guidance

- The people responsible for compliance should have the sufficient qualifications, seniority, and stature (both actual and perceived)
- Companies should measure the commercial value of their investments into compliance and risk management
- Compliance personnel should have knowledge of and access to relevant data when they need it
- Data analytics should be used to streamline processes and measure program effectiveness, manage data quality, and measure the accuracy, precision, and recall of data analytic models
- How do the assets, resources, and technology available to the compliance and risk management functions compare to others in the company?
- Is there a balance between the use of technology and resources for identifying and capturing market opportunities vs. detecting and mitigating risk?

Insights

It is a huge boost to the function, with expectations that E&C teams have 'sufficient qualifications, seniority, and stature (both actual and perceived)' within the organization and the data, resources and technology needed to mitigate risk.

The DOJ emphasized that any delta in technology investments for revenue generating activities compared to compliance/risk will be looked at carefully and with a jaundiced eye. If you're fighting to get dashboards like sales has, this is a useful addition.

Additionally, in Section 2: "Does the company have a mechanism to measure the commercial value of investments in compliance and risk management?" This emphasizes how you're managing risk within your organization matters. The Guidance now asks about the actual and perceived stature of the people running the program. This is significant.

Peer Practices

Of the World's Most Ethical Companies, the job title held by the person responsible for the E&C program:

- Ethics and/or Compliance Officer: **43%**
- Chief Ethics and/or Compliance Officer: **34%**

Backgrounds of individuals in E&C:

- Attorney: **99%**
- Investigations: **95%**
- Auditor: **88%**
- Data Analytics: **76%**

Annual Compliance Budget	NUMBER OF EMPLOYEES							
	<1000 Employees	1000-4999 Employees	5000-9999 Employees	10k-15k employees	15k-25k Employees	25K-50K Employees	50K-100K Employees	>100K Employees
<\$50K	0	8%	0%	0%	0%	0%	0%	0%
\$50K-\$150K	20%	14%	3%	0%	0%	0%	0%	0%
\$150K-\$250K	10%	5%	0%	0%	0%	3%	0%	0%
\$250K-\$500K	10%	14%	10%	0%	9%	0%	6%	3%
\$500K-\$1M	20%	14%	13%	5%	3%	15%	3%	0%
\$1M-\$5M	40%	30%	50%	50%	47%	58%	34%	24%
\$5M-\$10M	0%	14%	10%	36%	22%	13%	16%	29%
>\$10M	0%	3%	13%	9%	19%	13%	41%	44%

Annual Compliance Budgets

Click on the image to zoom in.

Source: [The Sphere](#)

CONTINUOUS IMPROVEMENT

The Guidance

- Companies should be rewarded for updating and improving their programs based on their response to misconduct and how they addressed reports of misconduct over time
- Policies should reflect lessons learned (either the company's own, or those of similar companies) and address the use of emerging technologies
- Training and communications should be tailored to the needs, interests, and values of employees and should address and incorporate lessons learned by the company or similar companies
- Companies should have access to data and information to identify potential misconduct or deficiencies in the compliance program
- Reviews of vendors should be timely and vendor risks should be evaluated over the course of the relationship

Insights

In addition to inquiring into how and how often a company is measuring its culture of compliance, the 2024 update added the same “how and how often” question to the measurement of compliance program effectiveness. You have to measure both culture and program effectiveness, show how frequently you do so, and the methods by which you measure.

This is a massive opportunity for ethics and compliance leaders to use these ECCP updates to say: “Yes, I understand we hope to never be in front of the government, but on the off chance we are, the government is very clear about what it's looking for, and here is our opportunity to position our program for success.”

It's also important to note the emphasis on improvements based on lessons learned—both from internal or peer examples.

Peer Practices

42% of World's Most Ethical Companies honorees review access metrics for their policies on a quarterly basis

55% of World's Most Ethical Companies honorees conduct due diligence before entering into any third-party relationship, regardless of risk level



2024 ECCP UPDATE

5 Ways to Fast-Track Improvement s



1

Measure Your Current Compliance Program

Conduct an internal audit to ensure your program aligns with the updated guidance.

START HERE:

Compliance Program Self-Assessment

Learn how your program compares and gain actionable insights: [take this free program self-assessment](#).

BELA Members:

Compare your practices against peers across 240+ E&C program datapoints in The Sphere.

2

Update Policies and Procedures

Revise any policies that are impacted by the changes.

START HERE:

Ethicast: How Do I Create a Policy on Policies?

Hear how to approach policy creation in an effective way. [Watch now](#).

BELA Members:

Check out the new Ethisphere Essentials on Written Standards – Policies in the BELA Member Hub and review policies of peers.

3

Measure Your Culture

Learn if you have a speak-up culture of compliance.

START HERE:

Learn about the 8 Pillars of an Ethical Culture

Check out [this guide](#) to understand elements of a robust culture.

BELA Plus & Pinnacle Members:

Talk with your Engagement Director about your Ethical Culture Accelerator Assessment benefit.

4

Leverage Technology

Address expectations, including monitoring and reporting.

START HERE:

Ethicast: Driving Ethics & Business Integrity with Data.

Learn how Uber uses data in their ethics and compliance program. [Watch now](#).

BELA Members:

Check out the BELA Member Vendor Engagement Survey Report to learn about potential partners.

5

Learn from Peer Practices

Fast track your program with peer learnings.

START HERE:

Spotlight on Unum: Elevating Ethics Across an Organization.

Learn about Unum's E&C program [here](#).

BELA Members:

Visit the BELA Member Hub and access 300+ program examples contributed by peer companies.

2024 ECCP UPDATE

Additional Resources



2024 ECCP Resources

01

DOJ ECCP 2024 Update

Download the latest [DOJ guidance here](#)

04

E-Book: ECCP Updates

Learn about the full scope of guidance in the ECCP.

[Download the e-book here](#)

02

ETHICAST Podcast

As news of the update broke, we went live with insights on what this update will mean for your E&C program.

[Catch the episode here](#)

05

2023 to 2024 Comparison

Check out the changes between the March 2023 and September 2024 updates. Get a quick view of new and updated language in the 2024 update.

[Read the markup here](#)

03

On-Demand Webinar

Ethisphere Chief Strategy Officer Erica Salmon Byrne provides a deep dive on some of the particular aspects of the update—including risk assessments, AI, anti-retaliation policies, and whistleblower protection—in a special on-demand webinar.

[Access here](#)



BELA MEMBERS

Improvement Resources

Immediately Access:

1,300+
BELA Hub resources

300+
member-contributed program
materials

400+
Ethisphere reports, data cuts,
toolkits and resources



“

The DOJ does not want you to wait, you need it now and if we do not have the built-in efficiencies that BELA supports, we grind our maturity to a halt because we are researching and investigating what we need to do rather than having tools that we can take action on quickly... this accelerates our timetable from 3 years to 1 year.”

- Global Head of Integrity & Compliance, Multinational Software Company

in

Excel with Peer Experience

Optimize Teams and Learn from Leaders:

50+ Peer-sponsored roundtables focused on key challenges with leaders across industries

Exclusive working groups and reports highlighting best practices

Earn professional credits at the Global Ethics Summit and free access to masterclasses, webinars, and other events.



MATT GALVIN
Counsel, Data Analytics and Compliance
for the Department of Justice, Criminal
Division, Fraud Section



GLENN LEON
Chair, Fraud Section, U.S. Department
of Justice Criminal Division



“

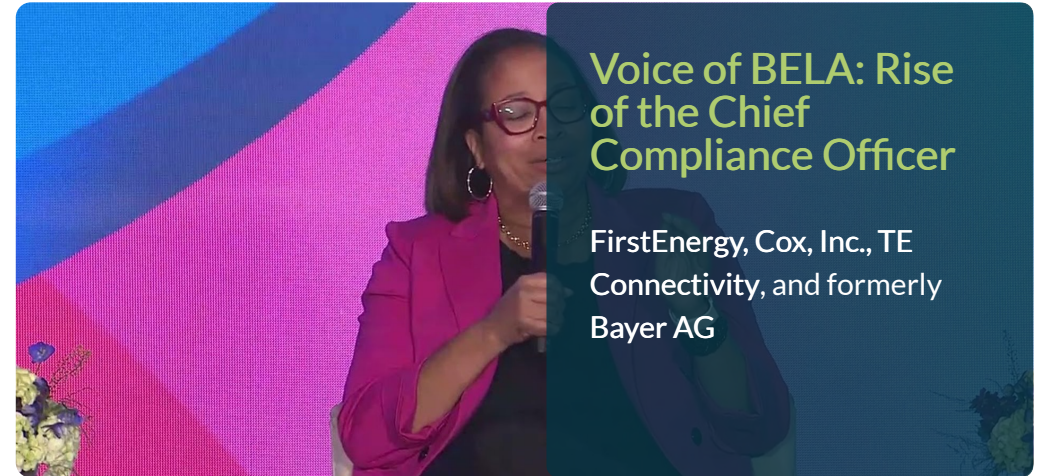
We are getting an overall 200% return on time savings and cost savings.

Through the consolidation of BELA benefits and speed of moving from concept to implementation, we may have saved 6 months of work and contributed to higher employee satisfaction and retention.”

- Global Head of Integrity & Compliance, Multinational Software Company

in

EXPERT INSIGHTS AT THE GLOBAL ETHICS SUMMIT



ETHISPHERE

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Ethisphere® is the global leader in defining and advancing the standards of ethical business practices that fuel corporate character, marketplace trust, and business success. Ethisphere enables companies to advance business performance through data-driven assessments, benchmarking, and guidance. Ethisphere honors superior achievement through its World's Most Ethical Companies® recognition program, provides a community of industry experts with the Business Ethics Leadership Alliance (BELA), and showcases trends and best practices in ethics with Ethisphere Magazine.

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Request Access to the BELA Member Hub

BELA is the all-in-one subscription curated for the modern Ethics & Compliance leader. Whether you are starting to build your ethics & compliance program, or you have been an industry leader for years, BELA can help you reach and stay at the pinnacle.



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