Part Two
Ethical Issues and the Institutionalization of Business Ethics

Chapter 4
The Institutionalization of Business Ethics
Institutionalization in Business Ethics

- Three dimensions of institutionalization
  - **Voluntary practices**: Beliefs, values, and voluntary contractual obligations of a business
    - *Philanthropy*: Giving back to communities and causes
  - **Core practices**: Documented best practices, often encouraged by legal and regulatory forces and trade associations
    - The *Better Business Bureau* can provide direction
  - **Mandated boundaries**: Externally imposed boundaries of conduct (e.g. laws, rules, regulations and other requirements)
Legal Compliance

• Government established laws/regulations
  ➢ Set minimum standards for responsible behavior
  ➢ Stakeholders demanded laws involving consumer safety and environmental protection
  ➢ Laws help businesses determine what society believes at a certain time, but laws change
    ➢ Telling employees to ‘obey the law’ is meaningless without training in legal risk areas
Elements of an Ethical Culture

- Culture
- Values, Norms, Artifacts, Behavior
- Voluntary Actions, Governance, Core Practices, Legal Compliance
Types of Laws

- **Civil law** defines the rights and duties of individuals and organizations
  - *Individuals (in court) enforce civil laws*
- **Criminal law** prohibits specific actions and imposes punishments for breaking the law
  - *State or nation enforces criminal laws*
Well-Implemented Ethics Program and Strong Cultures Reduce Risk

Mandated Requirement for Legal Compliance

• Laws establish the basic ground rules for responsible business activities
  ❖ Five categories of laws
    ➢ Regulating competition
    ➢ Protecting consumers
    ➢ Promoting equity and safety
    ➢ Protecting the environment
    ➢ Incentives to encourage organizational compliance programs to deter misconduct
Laws Regulating Competition

- Laws passed to prevent monopolies, inequitable pricing, and other practices that reduce or restrict competition
  
  - Sometimes called **procompetitive legislation** because they encourage competition and prevent activities that restrain trade
Laws Protecting Consumers

- Consumer protection laws require businesses to provide accurate information about products and services and follow safety standards
  - The FTC’s Bureau of Consumer Protection guards against unfair, deceptive, or fraudulent practices
  - The FDA regulates food safety, human drugs, and tobacco, among other things

- Groups with specific vulnerabilities have higher levels of legal protection
Laws Promoting Equity and Safety

- Title VII of the Civil Rights Act
- Equal Employment Opportunity Commission (EEOC)
- Affirmative action programs
- The Equal Pay Act
- Americans with Disabilities Act
- Occupational Safety and Health Administration (OSHA) makes inspections to ensure a safe working environment
Gatekeepers and Stakeholders

- **Trust** is the glue that holds businesses and their stakeholders together

- **Gatekeepers**: Overseers of business actions
  - Accountants, regulators, lawyers, financial rating firms, auditors
  - Critical in providing accurate information to stakeholders
Accountants

- Measure and disclose financial information to the public
  - Assure accuracy
- Some accountants have not adhered to their stakeholder responsibilities
  - Excessive focus on growth and profits
  - Conflicts of interest
Risk Assessors

- Assess financial risk and express that risk through letter ratings from “AAA” to “C”
  - Problems with risk models and violations of codes of conduct led to inaccurate ratings
  - Misled investors and stakeholders

- Regulators believe more oversight is needed for credit-rating firms
The Sarbanes-Oxley (SOX) Act

- Established a system of federal oversight of corporate accounting practices
  - Public Company Accounting Oversight Board (PCAOB) authority to monitor accounting firms that audit public companies
  - Reduces conflict of interest and increases accountability
  - Some legal protection for whistleblowers
  - Jumpstart Our Business Startups (JOBS) Act
Dodd-Frank Wall Street Reform and Consumer Protection Act

- Seeks to improve financial regulation, increase oversight, and prevent excessive risk-taking, deceptive practices and lack of oversight
- Created new offices
  - The Office of Financial Research
  - The Financial Stability Oversight Council
  - Consumer Financial Protection Bureau (CFPB)
- Instituted a whistle-blower bounty program
Federal Sentencing Guidelines for Organizations

- FSGO urges organizations to develop and implement compliance programs
  - Guidelines apply to all felonies and class-A misdemeanors committed by employees
  - Philosophy that legal violations can be prevented through organizational values and commitment to ethical conduct
  - 2012 proposed amendments call for increased penalties for certain types of security fraud
Highly Appropriate Core Practices

- Focus on sound organizational practices and integrity for performance measures
  - Not a focus on individual morals
- Most ethical issues are non-financial
  - The Sarbanes-Oxley Act and Dodd-Frank Act provide standards for financial performance
  - The Integrity Institute developed a model that standardizes measures of non-financial performance
Voluntary Responsibilities

- Business’s contributions to stakeholders
  - **Four major benefits to society**
    - Improves communities quality of life
    - Reduces government involvement
    - Develops employee leadership skills
    - Helps create an ethical culture
  - **Cause-related marketing**: Ties an organization’s product(s) to a social concern through a marketing program
  - **Strategic philanthropy**: The synergistic and mutually beneficial use of core competencies and resources to deal with stakeholders, benefit the company and society
Institutionalization in Business Ethics

- Involves embedding values, norms, and artifacts in organizations, industries, and society
- Failure to understand highly appropriate core practices provides the opportunity for unethical conduct
- Institutionalization of business ethics has advanced rapidly over the last 20 years