# Compliance Essentials Workshop

**Communications & Training**

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# U.S. Federal Sentencing Guidelines

*§8B2.1(b)(4)*

*(A)   The organization shall take reasonable steps to communicate periodically and in a practical manner its standards and procedures, and other aspects of the compliance and ethics program, to the individuals referred to in subparagraph (B) by conducting effective training programs and otherwise disseminating information appropriate to such individuals' respective roles and responsibilities.*

*(B)   The individuals referred to in subparagraph (A) are the members of the governing authority, high-level personnel, substantial authority personnel, the organization's employees, and, as appropriate, the organization's agents.*

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# What does a "Compliance Officer" really do?



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# The Problem: A Not So Unfamiliar Training Scenario



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# Importance of Targeted Communication

- It's not enough to **educate employees** about their responsibilities, provide them with **written guidance**, and **warn them of the consequences** if they stray
- We must **expand the scope** of the "**communications**" discussion in at least <u>two ways</u>:

  - First: our **explicit** compliance messaging **must appeal broadly** to workers' **best values and aspirations**, engaging and **activating those values** so that they are expressed in workplace **compliance decisions**

  - Second: **acknowledge, and harness**, powerful drivers of **ethical behavior** that, while not usually thought of as communications channels nevertheless send **unmistakable messages** which employees **internalize** and **act upon**

*Source:* Scott Killingsworth, *Modeling the Message: Communicating Compliance through Organizational Values and Culture,* The Georgetown Journal of Legal Ethics (2012)

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# Communication Practices To Consider

- Promote a **culture of compliance** where employees are encouraged to **speak up**, and seek **guidance** and **clarification**

- Continually remind employees of their **obligations** to **report misconduct**
  - E.g. Hotline, manager, in-person

- Flow down relevant information to all stakeholders on **emerging risks** and **changes** in organizational **risk appetite**

- Integrate messaging regarding **ethics**, compliance and **integrity** regularly

- Utilize all communication channels – intranet, email, newsletters, social media

"Culture, more than rule books, determines how an organization behaves."
- *Warren Buffett*

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## Communication Practices To Consider

- **Tone From the Top & Middle**: Messaging and involvement from **Senior Leaders** and **Management** is paramount

- Employ a **"cascade"** approach to ensure messaging is **flowing down** to employees at all levels

- Multinational organizations should consider **cultural nuances** and **practices** to ensure appropriateness

- Critical that employees have **ready access** to guidance around **policies**, **procedures** and **controls**

"The more consistent and pervasive the messaging within an organization – explicit messaging and, crucially, messaging through behavior –the more likely employees will internalize the corresponding values, principles, will frame decisions in terms of those values, and will put them in action."
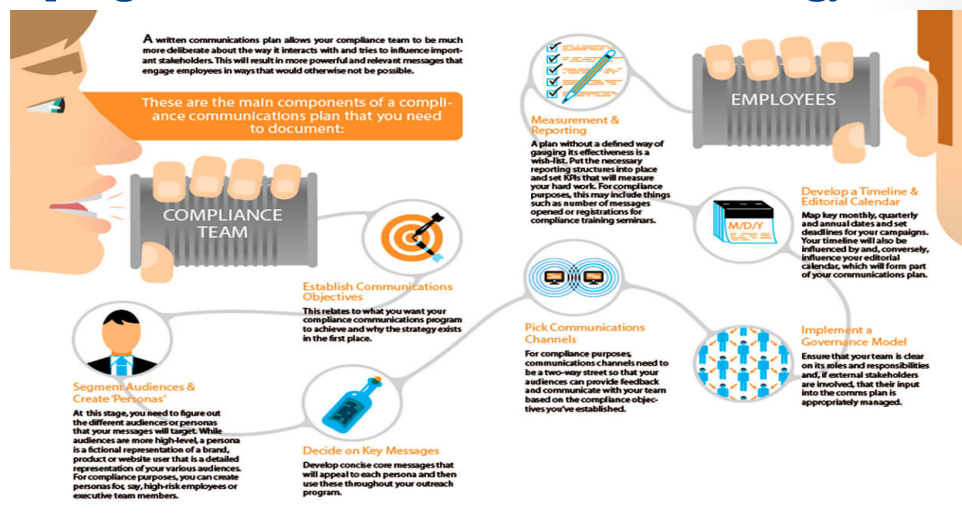- *Scott Killingsworth*

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## Developing A Communication Plan & Strategy



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## Importance of Engaging Training

- **One** out of **every three** employees say that **uninspiring content** is a **barrier** to their learning. We need to try to **develop training programs** that **entertain** and **inform**.

- Not only is fun training **more enjoyable** for the learner; it's **more effective**, translating into **less money spent** on retraining.

  *Source: Train Like a Champion Infographic*

IF YOU COULD COMPLETE COMPLIANCE TRAINING

THAT WOULD BE GREAT

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## 2020 Guidance: "Effective" Compliance Programs

- Significantly, the DOJ calls out the **criticality of training and communications** in an effective program

- Includes specific "Training & Communications" guidelines

- Highlights the importance of **critical touchpoints** between training, communications and other compliance program areas to ensure program *effectiveness*

"Another hallmark of a *well-designed program* is **appropriately tailored training and communications**"

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## Polling Slide

- Has your Compliance Function actively integrated the guidelines related to Training & Communication in the DOJ's June 2020 *Evaluation of Corporate Compliance Programs?*
  - Yes
  - No, but we are working on it

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## 2020 Guidance: Critical "Training" Touchpoints



1. Evolving Updates

2. Gatekeepers

3. Experience & Qualifications

4. Third-Party Management

TRAINING

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## "Training Touchpoint": Evolving Updates

- Expectation of **continuous improvement** through awareness of company changes

- **Risk assessments** and **gap analyses** help inform which areas of risk may need to updated in policies/procedures or practices

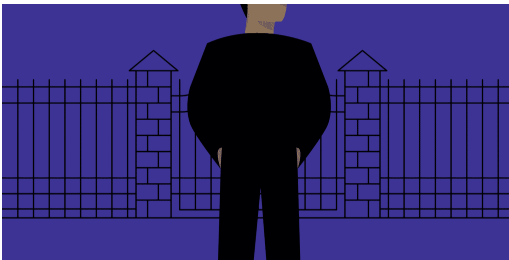- **Include findings** in training to keep employees apprised of **changes and expectations**



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## "Training Touchpoint": Gatekeepers



- Employees with **approval authority** or **certification responsibilitie**s should be well informed through targeted training

- Training geared towards **identifying misconduct** and procedures around **escalating concerns** will help preserve the **integrity** of the internal control framework

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## "Training Touchpoint": Experience & Qualifications of Personnel

- Proactively assess whether personnel have **appropriate experience** and **qualifications** to effectively manage their roles

- Perform **ongoing monitoring** to evaluate whether any **changes in risk profile** necessitate a change in resources with **increased experience**

- Prioritize **investing in ongoing training** and development of compliance and **gatekeeping personnel**



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## "Training Touchpoint": Third-Party Management

- To mitigate risk, maintain familiarity with your **third parties' qualifications** and perform **ongoing monitoring** of the relationship

- **Avoid check the box training**: engage, interact and discuss to ensure understanding

- Provide **periodic, targeted training**, e.g. anti-corruption & bribery, to level set expectations and help deter misconduct

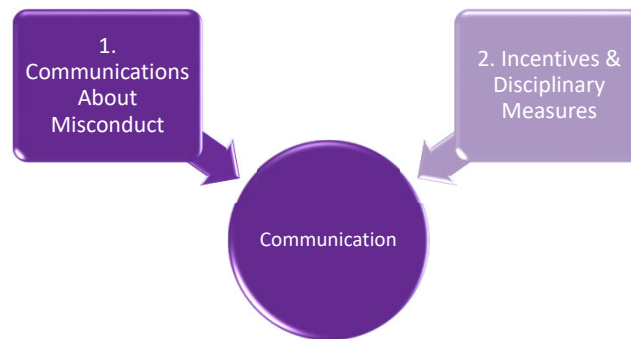- Obtain **certifications of compliance**



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## 2020 Guidance: Critical "Communication" Touchpoints

1. Communications About Misconduct

2. Incentives & Disciplinary Measures

Communication

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## "Communication Touchpoint": Management of Misconduct

- Publish clear, **company-wide communications** that make clear that **unethical conduct** will not be tolerated and will bring swift consequences, regardless of the position or title of the employee

- Consider how to **encourage deterrence** (e.g. publicize disciplinary actions versus provide positive incentives for good behavior)



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## Educate the BoD and Leadership on the Benefit of Investing in Communication & Training



- Compliance is often viewed as a **cost-center**; reframe as "**Revenue Protection Center**"

- Prepare to **demonstrate value** in investing in training and communication resources

- Educated employees, **clear policies** and procedures, a robust **code of conduct**, and frequent messaging are necessary tools to **mitigate misconduct** and help prevent unnecessary fines, penalties or reputational harm resulting from **misconduct of bad actors**

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## Polling Slide

- Are you satisfied with the budget that your function has been allocated to maintain an effective compliance program?
  - Very satisfied
  - Satisfied
  - Neither satisfied nor unsatisfied
  - Very unsatisfied
  - Unsatisfied

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# Educate BoD & Leadership: Tips

- **"The Early Bird Catches the Worm"** – emphasize importance of **proactive** versus **reactionar**y efforts

- **"Speak their Speak"** – present numbers, figures, and objective data to demonstrate ROI

- Highlight **recent enforcement actions** and related settlements

- Connect dots between **compliance**, **due diligence** and **M&A**

- Highlight **risk assessment** and/or **audit finding result**s to the need for funding to address remediation or mitigation

> If you think compliance is expensive, try non-compliance.
>
> Former U.S. Deputy Attorney General Paul McNulty

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# The Cure: The "4 W's + How" Approach

- Fundamental framework to develop a comprehensive training strategy

**4 W'S + HOW**

#1 WHO TO TRAIN

#2 WHAT SUBJECT MATTER TO TRAIN ON

#3 WHEN TO TRAIN

#4 WHY TRAIN

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## The 5W's + H: Who to Train

High-risk and employees in control functions

New Employees

Training Audience

Board Members, Third-Parties (e.g. agents, intermediaries & business partners)

Supervisory Employees and Individual Contributors

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## The 4W's + How: What Subjects Matter to Train On

Core Curriculum

Lessons Learned form prior compliance incidents

Address Risks related to areas where misconduct has occurred

Risk Management Function related training

Sample subjects
- Anti-Bribery Corruption
- Conflicts of Interest
- Data Privacy
- Ethical Decision-Making
- Financial Fraud
- Code of Conduct
- Policies & Procedures
- Anti-trust/Competitive Intelligence

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## The 4W's + How: What Subjects Matter to Train On

- Do not apply **a one size fits all approach** to a training curriculum

- Determine your **core curriculum** based on your **organization's needs** and **risk appetite**

- Consider **timing** and **frequency** of pushing out training topics

- Maintain **relationships** with **key functions** (e.g. Finance, HR, Audit) to learn of case studies or examples that should be incorporated

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## Polling Slide

- How often does your Compliance function review and refresh its training plan curriculum?
  - Every Quarter
  - Twice A Year
  - Annually
  - Ad Hoc

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# The 4W's + How: When to Train

Consult internal data such as risk assessments, audit findings to structure real0life training content

In response to questions and concerns from employees and other re identifying compliance or ethics issues

Be deliberate about your training content

Consult internal data such as risk assessments, audit findings, investigation findings, and exit interviews to support a targeted training approach

Remediation, onboarding, new risks or event specific topics arise

Take time to evaluate whether general versus focused training is appropriate

Supplement training schedule with ad hoc subject matter that may arise

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# The 4W's + How: Why Train



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"All of these compliance rules and regulations are such a bother. I never thought we actually had to read our policies and procedures."

- **Compliance** and ethics **training** help employees understand the **rules of the road** in your organization

- Enhances ability to identify potential **compliance** issues before a violation occurs

- Prevent **misconduct** and encourages **strong corporate governance** and a healthy organizational culture

- Bring awareness to proper methods to identify and report any compliance **violations** they may **witness or be aware of**

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# The 4W's + How: How to Train

- The most successful compliance programs use a **hybrid approach** to their training and communication methodology; engagement using **different mediums** is **critical**

| Microlearning | Gamification and Incentivization | Case Studies | Blended Learning |
|---|---|---|---|

- Impactful, yet **fun methodologies** allow for **effective connection** with stakeholders
- Importantly, in light of COVID-19, **innovative approaches** will help to maintain **attention** and **increase retention**
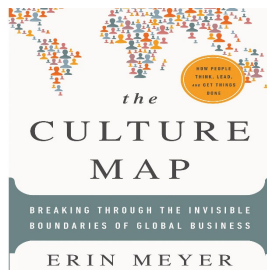
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# The 4W's + How: How to Train

- Be mindful of **audience size**, level of sophistication and **subject matter expertise**

- Multinational organizations should consider **cultural nuances** and **native language** in message preparation

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CULTURE
MAP

BREAKING THROUGH THE INVISIBLE
BOUNDARIES OF GLOBAL BUSINESS

ERIN MEYER

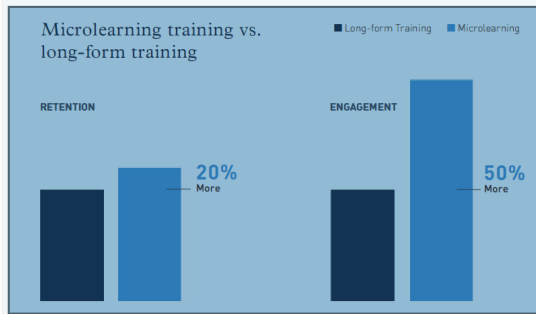- Ensure employees are **tested** on what they have learned, obtain **certifications of completion**

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# Microlearning

Breaks content into short, stand-alone information bursts. Teaching style is tailored to match our brain's working memory and attention span.

Microlearning training vs. long-form training

■ Long-form Training  ■ Microlearning

RETENTION

ENGAGEMENT

20%
More

50%
More

- A 2015 German study: using microlearning yields 20% more retention compared to long-form training

- 50% more employee engagement

- Microlearning is especially useful for **moral** and **ethical reminders** - *Predictably Irrational* author Dan Ariely
- **Due to increased engagement microlearning creates an enormous opportunity for compliance trainers**

*Source:* Steele Compliance Wave. *Microlearning: The New Standard for Compliance Programs* [Whitepaper]

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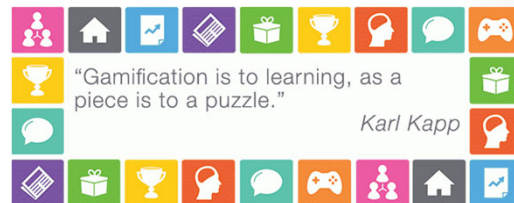Society of Corporate
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# Gamification & Rewards/Incentivization

**Incorporate rewards and penalties to make learners aware of "consequences"**

- Compliance training empowers employees to understand the difference between **right** and **wrong**; the use of **rewards** and **penalties** become an integral part of the compliance training gamification. **Rewards drive positive compliance** and governance and **penalties discourage** the employees from deviating from the regulatory and compliance guidelines.

- Training modules should demonstrate the **consequences** of **breaking compliance policies** by using game elements such as **reducing the earned scores or points**.

**Involve Engaging Themes**

- Storytelling **grabs learner's** attention. For example, during an "Insider Trading" training, the **theme** can be a **corporate snake or ladder** where the hero climbs up the corporate ladder every time he takes a right compliance decision but **goes down when he does not comply** with the insider trading guidelines.

"Gamification is to learning, as a piece is to a puzzle."

*Karl Kapp*

*Source:* https://playxlpro.com/four-tips-to-gamify-online-compliance-training-courses/

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# Using Case Studies



- Case studies are a **practical** and **effective** way to train employees by using **real-life situations or scenarios** as examples, and delivering guidance that promotes **adherence** to an organization's policies and procedures

- Employees are forced to **think through a set of facts** and make determinations to address the **dilemmas** and solve for the **correct outcome**. Through this analysis an employee can learn **what is "right" and "wrong"**

- Effective way to deliver messaging around **prior misconduct** or disciplinary actions for **failure to comply** with company policy, procedure or controls. For example, provide **anonymized descriptions** of real-life scenarios that lead to discipline

- An appropriate methodology to **pose ethical dilemmas.** Present case studies where there are **different paths** to the preferred outcome to **challenge their understanding** and reinforce appropriate decision-making

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# Blended Learning

- Blended learning is simply a combination of **e-learning** and **in-person learning**. Most organizations use this approach as much of their learning is online, yet they still find occasion to yield the benefits of in-person training

- Evidence shows that the **human interaction** component of **in-person training** still has tangible benefits: "Where human interaction was present, it was reported to be linked with **more active behavioral engagement, higher cognitive engagement** and **stronger and more positive emotional engagement** than where human interaction was absent." Hewett, Becker, & Bish (2019)

- Use your **best judgment** to achieve the appropriate **blended balance** for your stakeholders

- **Online training** may be more **cost-effective however in-person training** allows for social interaction **and live instructor feedback**



**IN-PERSON TRAINING**

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# Polling Slide

- Under the blended learning approach, what is the most optimal balance of e-learning versus in-person training?
  - 90% e-learning/10% in-person
  - 70% e-learning/30% in-person
  - 50% e-learning/50% in-person
  - 30% e-learning/70% in-person
  - 10% e-learning/90% in-person

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# How to Measure Effectiveness

**REACTION**
The learner's emotional response to the course

**1**

**LEARNING**
How effectively the learner obtained information from the course

**2**

**BEHAVIOR**
Determining if the training makes an impact on day-to-day behavior

**3**

**RESULTS**
Calculating the business impact of the initiative, including ROI

**4**

- Apply "The Kirkpatrick Model" to measure the effectiveness of the training curriculum

- Developed in the 1950s by Dr. Donald Kirkpatrick

- Integrate prior to, during or after training to determine the value to the organization

- Track participation of employees

- Ensure that employees participate in continuing education to maintain competence

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