

TRAVIS WAUGH

**FULLY
COMPLIANT**

**COMPLIANCE
TRAINING
TO CHANGE
BEHAVIOR**

COMPLIANT

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Acknowledgments

This book can only begin with a sincere thank you to the many individuals whose perspective made it possible. I've been creating compliance training courses and tutorials for more than a decade, but without the other voices found in this book, I would have little worth writing on the subject, and even less worth reading.

In addition to the venerable experts who graciously agreed to be interviewed for this book, and the researchers whose work offered evidence-based suggestions for influencing employee behavior and measurably reducing misconduct, the pages to come are influenced heavily by the individual learning and compliance practitioners that I've had the opportunity to commiserate with in recent years.

The best part of speaking, writing, and facilitating courses on compliance has been the chance to meet these thoughtful people and see that we are all struggling with the exact same issues. All of us have experienced a stubborn SME who insists on adding more and more legal content to an already bloated tutorial, instead of boiling the message down to its most relevant components. We all know the feeling of reading a dry policy or law and struggling to imagine how it will ever become an engaging or useful course. We've all sat through a tutorial that we know is doing nothing more than checking a box, and we know how frustrating that can be.

These shared conversations provide much-needed emotional support and encouragement, allowing us all to return to the office rejuvenated, reminded that we are not alone, and ready to keep fighting for the worthy cause of better, more relevant compliance. I could not have written this book confidently unless I knew that I wasn't speaking only for myself. I believe that the opinions found on the following pages are the opinions of every well-intentioned learning and development professional who has found themselves forced to compromise on what they know is best for

their learners, in the name of some abstract sense of required compliance. Hopefully, this book will offer tangible techniques that can help shift that compromise in the future, allowing us to continue meeting the letter of the law, but only in a way that course developers can feel proud of and participants can genuinely learn from. With a strategic approach and a dogged commitment, we can help our organizations quit using compliance training only to comply, and start using it to make a real difference.

To all these noble practitioners, I say thank you for your continued efforts to make compliance training the best that it can be. Hopefully this book will help.

Finally, I'd like to thank my wife, who gave me the time and space to write this book during the same year we prepared for and welcomed our first child. I dedicate this book to him, in hopes that his generation will never know what it feels like to suffer through a boring, irrelevant compliance tutorial.

Introduction

The Call for a Better Kind of Compliance

In a Dallas conference room in 2017, a large group of likeminded professionals gathered to discuss learning and development at their organizations. The event was dubbed a “learning best practices forum,” and there was no shortage of best practices on display. Proud teams shared snippets from their latest online tutorials—including branching ethical scenarios, game show parodies, and evocative true stories—all featuring professional actors, tight scripts, and polished production value. Other groups shared how they had weaved their employees’ learning needs seamlessly into their internal systems and onboarding processes, or branched their learning paths to focus each learner on relevant, timely content that maximized their limited attention. A team from a large computer manufacturer revealed a custom-built video game that combined the priorities of a new company-wide initiative with material on core sales and management skills and a slew of required compliance subjects. The game provided a challenging, highly interactive experience in which the learners encountered everything they were required to learn in a context that felt realistic, useful, and fun.

At the end of each presentation, the audience cheered and congratulated their peers. The participant questions were knowledgeable and engaged, showing the audience’s eagerness to absorb the lessons on display and apply them back in the workplace. It was the kind of gratifying, reaffirming focus on learners and learning that one might expect from an Association for Talent Development conference filled with instructional designers and learning professionals. Only these attendees weren’t learning professionals. They were lawyers.

Welcome to the Ethics and Compliance Initiative's two-day Training Best Practices Forum for head legal counsels, compliance officers, risk management directors, and auditors. These attendees are the subject matter experts charged with ensuring organizational compliance, and for whom completion percentages and participation hours were once the only learning metric for which they would be judged. And yet, they readily applauded the learner-centered approach on display over those two days in Dallas, and they left demanding more.

Understanding who these people are, and why they'd chosen to spend those two days together in Dallas, can tell us a lot about the state of compliance training today, and provide a telling glimpse of where it's headed. But before we peek too far ahead, let's clarify exactly what compliance training is.

A Working Definition

In many organizations, compliance training has become an umbrella term for everything we feel compelled by some external entity to teach our employees. This single word, *compelled*, may best capture the essence of how we and our learners intuitively experience compliance training courses and tutorials: These are the subjects we have been *compelled* to teach and learn, whether we want to or not.

Unfortunately, this sense of obligation has pervaded the tone and quality of most compliance training content developed over the last several decades, especially as the coinciding boom of e-learning technologies has allowed the learning profession to soak audiences with irrelevant content more efficiently than ever before. However, reducing the definition of compliance training to merely *required training* does not capture the intention at the heart of most compliance mandates, nor does it capture the real value that compliance training could and should deliver to organizations.

In practice, organizations create many compliance training courses to avoid the legal risk of failing to comply with a specific legal mandate. However, that's just one of the risks that good compliance training should strive to address, and it's not true that everything currently called "compliance training" has been specifically mandated by some regulatory agency

or law. To account for the full scope of modern compliance, we need a broader definition.

Instead, the following definition can explain the phrase *compliance training* as it will be used as shorthand throughout this book: Compliance training is any learning course or program designed to manage a specific legal risk *and* cultivate an ethical and accountable culture.

Whether required by law or not, any training course or tutorial may be considered compliance if it has been implemented primarily to manage the risk of unsafe, unethical, or unjust behavior in the workplace, and the dramatic costs such behaviors can generate. This risk is managed through specific training—a course on how to responsibly make a purchase or trade stocks or protect customers’ private data, for example. It is also managed more broadly, by building a culture in which all employees are accountable and empowered to make sound ethical decisions.

Any training program designed primarily to manage risk, whether legal or ethical, will lend itself to the same predictable challenges and opportunities, which we will explore throughout this book.

Beyond One Form of Training

While this working definition offers sufficient focus for our conversation, it also provides flexibility by not restraining our discussion to a particular form of training. Tutorials and other online training formats will be a frequent topic of discussion due to their prevalent use in addressing large-scale compliance training needs, but the core tips we will explore should be equally relevant to in-person classes, webinars, informal training, microlearning, or any other form of learning and development best suited to your audience and organization.

Competing Terms

It’s worth noting, from the breadth of our working definition, that not all compliance training is actually about compliance, at least not in the sense of complying with a specific policy or law. Code of conduct or ethical behavior training is often lumped in with compliance, even though they’re

seldom mandated by an external agency or a specific law. In certain cases, it can be difficult to see what a good compliance course was created to comply with.

Good compliance officers are building learning and compliance programs that serve a higher, broader purpose than merely ensuring organizational adherence to predetermined and mandated requirements. Instead, they are trying to build robust, resilient cultures that are capable of regulating themselves.

Indeed, many compliance professionals now hasten to brand their industry as Ethics and Compliance or Ethics and Governance or simply Risk Management, and opt for titles like chief integrity officer or senior ethics champion, which focus more on the culture and behaviors they are trying to cultivate and less on the mandates with which they are trying to comply. However, while integrity learning or ethics learning may be a more fitting title for our ultimate aspirations, the phrase *compliance training* is still ubiquitous in the learning industry for describing all manner of required tutorials and courses. To capitalize on this familiarity, we will use this term throughout this book.

The Problem With Traditional Compliance Training

The compliance experts who gathered that week in Dallas had all cleared their busy calendars and flown to Texas to solve a problem—one that threatened to alienate them from their organizations, marginalize their best laid plans, and render their traditional programs ineffective. That problem was training.

Compliance training, as traditionally implemented in many organizations, contains three existential flaws that will require a dramatic change of approach in the years ahead: It's unsustainable, it's detrimental to behavior, and it's failing to effectively manage risk.

Unsustainable

Adding a new course or new tutorial to address every new policy, risk, or legislative action may have once felt like a responsible risk management strategy. After all, you wouldn't want your employees to make a costly mistake, only to discover that your company's training programs had

never addressed the subject. Without an applicable course in place, your company's legal defense may crumble as you're unable to claim in court that the bad actor should have known better. The corporation ignored the risk, a lawyer or judge might argue, and that negligence could make you collectively responsible for what comes next.

As we'll explore in part 1, these legal pressures create a strong incentive to include more courses in our catalogs and more details in each course. But even if the exhaustive approach makes sense from a lawyer's risk management point of view—which we'll soon see it might not—it's no longer tenable as a realistic option. There are simply too many compliance subjects in our complex, global economy than we could ever address for every member of our audience. The idea of “hitting everything” is simply impossible, unless we want to dedicate our full business strategy to compliance, leaving no time for selling, or manufacturing, or whatever else it is you've actually hired your employees to do.

To thrive in this rapidly evolving compliance landscape, we're going to have to make more strategic decisions about what to train, when, and who needs training, even when that training is mandatory. One-size-fits-all learning was never really possible in the first place, but the growing scope of compliance is making that more obvious at every level of our organizations.

Detrimental to Behavior

The huge scope of corporate compliance subjects, and the pressure to create exhaustive training as a means of preparing a potential legal defense, has necessitated some less-than-ideal courses. And those compromises have taken a toll on our learners.

We all know how time consuming and potentially costly proper user analysis can be. It takes time to get out and work with users to determine what they really need. Unfortunately, the constant flood of new compliance subjects has left little time for any meaningful dialogue with the people who will ultimately be subjected to our training. Instead, we take the slides and notes from a subject matter expert, pretty them up the best we can, implement the course and enroll as many users as possible, and move on as

quickly as we can to the next course in the long list of compliance subjects that demand our learning and development attention.

If that sounds familiar, you're likely not surprised to hear that not all these courses are hitting the mark. Instead, learners see compliance as little more than a calculated exercise to protect their company's leadership from future blame. They believe that they are only an afterthought in the compliance endeavor, and far too often, they are right.

Unsurprisingly, this old brand of compliance is terrible for morale, and counter-productive at decreasing the behaviors it's ostensibly designed to address. As *Slate* magazine summarized from a 1999 study of 10,000 employees across six organizations, ethics and compliance programs that employees believe are intended "only to protect top management from blame" are the least effective in achieving their stated goals. Employees can easily surmise their executives' motivation for the training from the program's tone and structure, and if that motivation appears to be only self-preservation, those employees will "ignore, or even rebel against, the lessons of the training" (Anderson 2016).

Failing to Effectively Manage Risk

A legal defense is only as strong as its weakest link. Unfortunately, for many compliance-based risk management programs the weakest link is often training.

Even if your organization has great policies and enforcement mechanisms, a training course or tutorial that shows a lack of investment, regard for the learner, or behavioral purpose could undermine the credibility of everything else your compliance team has put in place. This company was clearly only checking a box for the sake of checking a box, a savvy judge may deduce, and that doubt may prompt dangerous cynicism toward your entire program.

Indeed, the most intelligent policies, laws, and official guidance are already asking for more than mere training, as we will explore in the following chapters. Laws that truly hope to change behavior are asking for "rigorous" and "effective" training in an effort to prevent the lip-service tutorials of the past. These progressive laws state that training can't just exist, but that it

must be proven effective through measurement or an appeal to established pedagogical best practices. Think of all the compliance tutorials you've sat through as a participant in your career. How many would meet either of those measures?

Through the years, the compliance training programs that many organizations have employed have become too much about compliance, and not nearly enough about learning. While preparing your company to win a legal defense or mitigate the cost of a settlement is nice, wouldn't it be better to stay out of court in the first place? Instead of training that allows us to say "See, we told them not to," what if we could tell them not to in a way they could hear and apply? Wouldn't it be nice to actually change behavior?

How This Book Will Help

Learning professionals have been boasting for years that we hold the keys to real behavior change, and at least some compliance officers are starting to take note.

By skipping out on analysis, design, and evaluation, quick and cheap compliance courses have been successful only at mitigating risk after misconduct occurs. If we want to deliver the kind of value that justifies the continued existence of learning and development, we have to build learning experiences that change real behavior, helping our compliance officers avoid risk by diminishing the chance of misconduct in the first place.

Luckily, as learning and development professionals, we already have all the tools we need to succeed. By putting the learner first, and focusing on proven pedagogical principles, we can prepare our organizations to proactively reduce risk by changing behavior. Instead of treating misconduct as inevitable and seeing training only as a tool to mitigate its costs, we can view misconduct as a problem that can be solved, and turn training into a real solution.

But we can't forget our lawyers, compliance officers, and subject matter experts in the process. Their needs are still valid, their budgets still foot the bill for much of our compliance work, and they still need our help to remain compliant with current policies and laws.

Before we can build something better, we'll need the trust of these key compliance partners, which means we must understand the underlying fears and motivations that drive the design of traditional compliance programs. Part 1 of this book provides that legal foundation, starting with a more thorough look at our unique moment in the history of compliance. By understanding the role that compliance training has traditionally played in responsible risk management, learning professionals can build great new solutions that give our learners what they want, without sacrificing what our compliance subject matter experts need.

With the legal constraints established, part 2 focuses on how we can design learner-centered solutions within those constraints that achieve far more than checking boxes and meeting the letter of the law. By unearthing relevant needs and building behavioral solutions that alter our learners' context, habit, and motivation, we can measurably reduce misconduct and generate far greater return on our compliance investment.

Finally, in part 3, we consider the future of compliance training, and how you can position your organization to continue building on the strong behavioral foundation you will establish in the years ahead. Compliance programs may look very different a decade from now, and learning professionals must help shape that future if we hope to serve the best interests of our learners.

Ultimately, the aim of this book is to achieve a balance between the letter of the law and its spirit, between the sensible protections of good regulations and the free agency of our employees, between our commitment to ethical conduct and our drive to succeed in our core business, whatever it may be. Great compliance training can serve all these needs at once, and it must. When we learn to strike the perfect balance between the law and our learners—as outlined in the following chapters—we can start to make a real difference.

Part 1

THE LAW

Chapter 1

The Relatively Recent History of Compliance

There was a time, not very long ago, when companies were encouraged to do basically whatever they wanted to turn a profit. The barons of the Industrial Revolution were not known for their sense of fairness, safety, or social justice. Buyer beware was the order of the day, and both employees and consumers were expected to navigate the jungle the best they could, on their own.

At the turn of the 20th century, working conditions were atrocious, consumer protections were nonexistent, and the backroom deals of crony capitalism were what it meant to do business. In a global culture absent of any meaningful regulation, prices were fixed or gouged at will, food and drugs were often contaminated, and a simple day's work was a perilous fight for survival. It was, by modern standards, an unjust and irresponsible society. And from that rampant injustice sprung an appetite for change.

The 20th century saw industrial economies in Europe, Asia, and America begin a slew of reforms designed to improve public welfare and working conditions and, more cynically, to placate growing civil unrest among their populations. The resulting century-long rise in regulatory oversight has had a direct impact on nearly every modern industry. Even behaviors that are not directly regulated by specific laws or policies have been affected by this shifting perspective on corporate accountability, as the success of earlier laws have engendered a sense in the general populace that society can and should be fair, and that organizations and individuals that act negligently or unfairly can and should face consequences.

Broadly speaking, today's approach to ethics and compliance can be seen as a gradual trajectory from lower order needs to higher order needs, as our society gradually solved or mitigated old problems and shifted its collective attention to new challenges. For example, our current struggles to achieve equal pay for women and reduce sexual harassment would not be up for discussion if we had not already succeeded in securing the right to vote for women and begun to integrate the workplace. Similarly, if gender disparities and harassment ever become less vexing problems, we will likely uncover previously unnoticed injustices for our society to debate and eventually resolve. The arc of history is long, as Martin Luther King Jr. famously said, but it bends toward justice.

This collective progress wasn't quick or easy, and it isn't always uniform. Governments and organizations may roll out well-intentioned policies and laws to address the most pressing misconduct of their day, only to see their successors roll back those regulations in the name of corporate freedom or individual accountability. In any given moment, the culture around us may appear to be rising to unprecedented heights, or backsliding to new lows. But when seen in the long view, this much is clear: Our collective expectations of corporate conduct have ascended dramatically over the last century, and the cost of misconduct has risen with it.

That progress hasn't come without a price. Compliance laws and regulations over the last several decades have proven largely effective in reducing the most egregious cases of corporate corruption and fraud. But in the process, they have inadvertently created a set of rules that don't always prompt the desired results. Instead, they have created a risk management game that too many organizations can choose to play the wrong way and still win.

Nowhere is this twin balance of real progress and counter-productive incentives more apparent than in the seminal piece of legislation that still serves as a boogiemaster for today's compliance officers: The Federal Sentencing Guidelines of 1991.

The Organization on Trial

How severely should a person be punished for shoplifting? What about speeding? What about murder? And how standardized should those sentences be?

On one hand, an ethical arbitrator may suggest that all sentences should be completely standardized. Shoplifting is shoplifting, after all. Shouldn't all shoplifters receive the same, fair punishment?

Not so fast, another well-intentioned judge may counter. Fairness and consistency are important legal considerations, but not all crimes are created equal. The fairest sentence for one shoplifting offense may not be the fairest sentence for another. To be truly fair, a sentence should take a range of considerations into account, including what was stolen, why it was stolen, how often the individual has stolen in the past, and how likely they are to steal again in the future.

If you live in a modern democracy, you may find this flexibility more comforting than a draconian system where absolute, irrefutable punishments are set in stone for every crime. Context obviously matters in everything we do, and there is some intuitive appeal to a sentencing structure that allows for the full complexity of life. Unfortunately, complexity brings subjectivity, which brings the potential for bias. An example of this potential bias is the well-documented disparity in U.S. court sentences for similar drug violations between different races.

In addition to bias and racism, subjectivity presents other issues for our legal system. Even well-intentioned, unbiased judges could interpret the same facts of the same case in two very different ways, prompting two dramatically different sentences. Because judicial opinion holds such great weight in our legal system, the sentence you receive could be based less on what you did than on which judge happens to be presiding on the bench. Such randomness and luck can feel anything but fair.

It would be wrong to suggest that America has solved its sentencing problem, but it took a major step toward consistency with the passage of the Federal Sentencing Guidelines in 1984. Along with an acceptable range of

punishments for specific crimes, the standards included a rubric of mitigating and aggravating factors that judges could use to adjust their sentences. Now, at the end of each trial, judges would be left to tally points on a standardized scorecard to determine how severely or leniently their punishment should fall within the defined range. Some of the points on that scorecard could still allow for subjectivity, which is a problem that several subsequent amendments have tried to address, but at least there was a standardized blueprint for sentencing that lawyers and judges could debate and that defendants across the country could trust.

After a string of high-profile corruption cases in the 1980s, lawmakers saw an opportunity to expand the guidelines as a tool to address corporate behavior. The Guidelines for Organizational Sentencing, passed in 1991, served two primary purposes:

- They gave the organization more skin in the game. With clear-cut penalties and fines for each type of infraction, organizations could see the real dollar value of the behaviors they'd been allowing to occur.
- They established acceptable standards for an effective corporate compliance culture, by including mitigating and aggravating factors that incentivized response and prevention practices. Penalties were adjusted up or down depending on how much, or how little, the organization had done to manage the risk.

After defining a clear carrot and stick, the sentencing guidelines gave organizations the freedom and power to self-regulate and manage their risk as they would any other aspect of their bottom line. This reform was impressively effective, largely eliminating the egregious types of fraud, waste, and abuse that were ubiquitous in the 1980s. But by clearly outlining the rules for which organizations would be judged, it also offered a blueprint for how organizations could mitigate the costs of misconduct, whether or not they actually tried that hard to prevent the misconduct in the first place. These rules gave rise to the traditional compliance program, which has yielded great benefits to many organizations, but also produced some unintended consequences.

By defining the mitigating and aggravating factors so plainly, the guidelines created a scorecard for a game that any organization could play and win relatively easily. In the process, they sketched an outline for the modern corporate compliance program, which is still in place at most organizations today.

The Seven Pillars of the Traditional Compliance Program

The seven pillars of the traditional compliance program, lifted directly from the wording of the sentencing guidelines, are often interpreted literally and implemented directly as an organization's primary risk management strategy. They are:

- clear policies and standards
- executive leadership
- reporting channels for misconduct
- regular monitoring and audits
- incentives and performance management
- proactive training and communication
- appropriate response and prevention.

There is nothing wrong with the pillars themselves, or with the results they have achieved. However, they are also responsible for most of compliance training's worst problems. In their clarity and absoluteness, they make it too easy for executives and compliance officers to confuse the means with the ends, focusing all their efforts on managing legal risk by complying with these seven pieces of guidance, instead of trying to influence behavior and meet the spirit that gave rise to the guidance.

Worse still, by dialing up the costs of ignoring risk, the guidelines created a sort of risk management arms race, where every risk is identified and addressed with the same comprehensive set of tools, prompting more policies, more executive committees, more reports, and more required training. As a direct result, we are now drowning our learners in a sea of compliance training.

And the compliance training boom shows no sign of abating.

The Scope of Modern Compliance Training

The modern organization must manage many risks. Each new mistake that captures the wrong kind of headline seems to demand a new training course, while responses to old mistakes remain entrenched forever in legacy tutorials. The result? An ever-expanding genre of compliance training that fills corporate learning catalogs beyond their effective capacity.

In their 2015 Cost of Compliance Survey, Thomson Reuters warned of regulatory fatigue in the face of increasing, sometimes overlapping domestic and international rules. The survey revealed concern from compliance officers over their ability to meet increasing compliance demands and their anxiety over the personal liability they could face by failing to fully comply.

At the Georgia Institute of Technology alone, where I work as an instructional technologist, a recent campus survey revealed 71 separate compliance training subjects. This is a nearly impossible target to meet effectively, especially given the constraints of the average training and development budget and the available time for employees to step away from work for training. And that's not even to mention the burden that 71 compliance courses would place on our learners' finite and overtaxed attention spans.

If we have any hope of success in crafting compliance training programs that better meet the real needs of our learners and our organizations, we need to find opportunities to consolidate subjects and reduce redundancies between courses. To begin making the right connections, we must understand the scope of compliance training in its broadest sense.

While specific laws and policies may be countless and continuously shifting, especially across countries and industries, the same seven themes emerge again and again—consumer protections, employee protections, civility and diversity, responsible stewardship, fraud and corruption, data privacy and cyber security, and ethics and integrity. When we talk about using compliance training as a tool to reduce misconduct, we're talking about making a measurable difference in one or more of these seven areas. If we get all seven right, we have little to fear as an organization. But a single poor decision, habit, or mistake in any one of these categories can be devastating to an organization's mission.

The Seven Central Themes of Modern Compliance

In the modern organization, compliance training is typically implemented to manage risk in these seven core areas of organizational accountability.

Consumer Protections

Modern compliance subjects include courses on food handling and sanitation, truth in advertising, required financial disclosures for loans and investments, requirements for safe materials in manufacturing, and patient safety regulations for pharmaceutical companies and health care providers.

Employee Protections

Modern compliance subjects include the broad range of employee safety courses mandated by groups like the Occupational Safety and Health Administration (OSHA). They also include Fair Labor Standard Act (FLSA) courses regarding overtime regulation and hour reporting, child labor laws, the right to take job-protected leaves for qualified reasons as established by the Family Medical Leave Act (FMLA), and due-cause protections to protect employees from unlawful firing.

Civility and Diversity

Modern compliance subjects include anti-bullying, anti-discrimination, and anti-harassment training, especially on the basis of gender, race, religion, age, nationality, or sexual orientation. Courses may apply these subjects generally across all relationships, or with a focus on hiring, vendor selection, management practices, team building, customer service, or any other area where a lack of inclusion and civility or the perception of prejudice poses a risk.

Responsible Stewardship

Modern compliance subjects include courses preventing the misuse or abuse of public or private resources and courses on specific environmental regulations, such as those in the automotive or utility industries. In many locations and industries, this category also includes courses on broader environmental concerns including sustainability, recycling, and waste reduction.

Fraud and Corruption

Modern compliance subjects include broad courses guarding against conflict of interest and nepotism, insider trading, bribery, price collusion, and improper gifts. In more regulated industries—such as finance, insurance, utilities, and college athletics—this category includes specific rules and protections designed to ensure fair market conditions

within each industry. For example, this includes courses on Federal Energy Regulatory Commission (FERC) rules governing the fair sales and distribution of electricity to the grid, and courses on National Collegiate Athletic Association (NCAA) rules governing what is and is not allowed when recruiting a student athlete.

Data Privacy and Cyber Security

Modern compliance subjects include courses on the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or the Family Educational Rights and Privacy Act (FERPA), which protect consumer privacy and ensure responsible safeguards for medical and educational records, respectively. More recently, this category has added broader courses on how to prevent and respond to cyber security threats, how to report system breaches, and how to safely handle PII (personally identifiable information) that may be collected from an organization's customers, affiliates, or employees.

Ethics and Integrity

Modern compliance subjects include courses on your organization's code of conduct or ethics policies, as well as broader courses supporting ethical decision-making among management, bystander intervention training, and anti-retaliation training that encourages employees to report and respond to unethical behavior.

These themes can be a useful tool for categorizing and consolidating our compliance training courses, as suggested in part 3 of this book, but they also speak to the higher-order values that compliance programs and policies are ultimately trying to serve. The goal of all compliance laws and policies is ultimately to create a more just and ethical environment for us all, usually in one of the seven ways shown here. By tracing individual courses and programs back to this shared foundation, we begin to see the real organizational value that good compliance learning can achieve.

This list also underscores the universality of our modern compliance training challenge. Whatever your industry or location, regardless of the specific laws and acronyms with which you are striving to comply, it's difficult to imagine an organization in the world today that wouldn't have risks and needs in each of these seven categories. Many organizations have chosen to manage those risks, at least in part, with mandatory employee training. And so the scope of compliance training only continues to expand.

Compliance at a Crossroads

We will discuss the traditional compliance program further in the following chapters, but it's worth noting here that it has served its function well. We've come a long way over the last century in advancing justice, safety, security, and fairness for our employees and citizens. That progress has been a result of carefully enacted laws like the Federal Sentencing Guidelines for Organizations, lawsuits that leverage those laws to win settlements and spark accountability, and organizations that have chosen to self-regulate in an effort to stave off future regulation and mitigate current legal risks.

These efforts should not be undersold. It is thanks largely to these reactive, legal pressures that worksites are so much safer than they were 50 years ago, that sexual and racial discrimination has been relegated further and further from hiring decisions and housing transactions, and that the Pentagon is no longer paying \$600 for its toilet seats. These are just a few of the benefits that the traditional compliance program has ushered in, and for that we must all be grateful.

However, traditional compliance training may have reached its full potential. The low-hanging fruit has already been plucked, and the remaining challenges are more complex and varied than a simple policy or content-heavy tutorial can address. If we hope to continue our collective progress over the next 10, 50, or 100 years, we are going to need a new approach.

Our broader organizations are beginning to see that need, and so are our lawmakers, as the following examples illustrate.

In 2004, the Federal Sentencing Guidelines for Organizations was amended to specify that “check-the-box” compliance programs would not have a mitigating effect on organizational sentences. If organizations expected to be let off the hook for their employees' indiscretions, they had to show that their programs were designed to create “an organizational culture that encourages ethical conduct and a commitment to compliance with the law” (USSC 2004). This meant proper funding for response and prevention, proper analysis to uncover real areas of risk, and properly designed programs to reduce those risks through actual behavior change. In other words, it required an instructional designer's approach to compliance.

In 2017, the U.S. Department of Justice pressed further still in its Evaluation of Corporate Compliance Programs. The guidance underscored the vital importance of analyzing and remediating the root causes of misconduct, and championed best practices in training and communication to make sure those attempts at remediation stick. Among other considerations, the report emphasized that effective compliance programs should be able to answer questions like:

- “What analysis has the organization undertaken to determine who should be trained and on what subject?”
- “Has the training been offered in a form and language appropriate for the intended audience?”
- “Has the company measured the effectiveness of the training?” (USDJ n.d.).

In 2018, a joint task force of the United Kingdom, Mexico, Colombia, and Argentina took this focus on behavior even further. Created to stem corruption in the public sector, including costly corruption in the purchasing practices and quality of public school meals, the group began advocating for policies and programs that “focus on specific behaviors and their underlying motivators” to craft solutions that actually change those behaviors. As the *Wall Street Journal* noted in its article on the task force, “The U.K. government’s move to add behavioral sciences research to its arsenal in the fight against corruption puts the country at the forefront of an emerging compliance landscape, one where understanding the drivers of human conduct is encouraged to counter the risk of mechanical, tick-the-box compliance practice” (Stein 2017).

Developments like these—and every new law that wisely requires “rigorous,” “effective,” or “measurable” training, instead of just training—should come as a massive relief to learning and development professionals. By promoting a renewed focus on prevention through real behavior change, regulatory agencies and our organizations’ senior leaders are finally asking learning professionals to do the jobs we were hired to do, and we should be eager to rise to the challenge.

Hopefully, the next century of compliance will be remembered as the era of the learner. To hasten that progress, the majority of this book will

prioritize the learner's needs and perspective, and detail how great learning can most effectively meet those needs to eliminate misconduct before it happens. But we must remember that we aren't starting from scratch. Our work is only possible because of the conscientious work of the women and men who have already dedicated their careers to compliance. These compliance subject matter experts (SMEs) were immersed in their subjects long before we arrived, and they will remain entrenched in their areas of expertise long after our learning projects are done.

Before we can convince our compliance SMEs what good training can do for our learners and our organizations, we need to assure them that these new, behavior-based efforts can still give them everything they need to meet their legal, risk-management requirements. And that buy-in can't be hesitant or half-hearted. If we are to succeed in fixing compliance training, we can't do it alone. We need the invested partnership of all our compliance stakeholders, especially the experts who ultimately own the risks.

So who are these SMEs, what do they want, and how can we convince them to give our learners what they need? Our ability to make great compliance training stick depends on the answers to those three questions, and they will be the focus of the next chapter.

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In his personal life, Travis is an avid sports fan, classic movie buff, and proud father of a one-year-old son. He is motivated by his dogged belief that people are generally good, and always worthy of good learning and development.

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A BETTER KIND OF COMPLIANCE TRAINING

Compliance training succeeds when you balance the needs of not just the organization but also the employees who you hope will learn and change their behavior.

In *Fully Compliant*, Travis Waugh challenges traditional compliance training that simply ensures employees avoid the legal risk of failing to comply with a specific mandate. With an ever-increasing number of compliance subjects to address, such programs are unsustainable. Instead, organizations must design compliance programs that serve a higher, broader purpose and build robust, resilient cultures focusing on integrity and ethics learning. Optimal compliance programs are flexible and create real learning experiences that change real behavior, thus diminishing the chance of misconduct in the first place.

This book connects the three levers of human behavior—context, habits, and motivation—to compliance and how you can pull all three to create holistic training programs that do far more than check a box. It identifies ways to pick up small but meaningful wins in turning around an existing compliance program or designing a new course, which can turn stakeholders from skeptics into learning champions. And it offers an eight-step road map for implementing your own compliance learning plan.

BY PUTTING THE LEARNER FIRST, YOU CAN DEVELOP COMPLIANCE THAT STICKS.

PRAISE FOR THIS BOOK

“If you are looking to radically transform your compliance training, look no further. Travis Waugh lays out science-based solutions for the trickiest compliance problem: behavior change. This book is a must-read for compliance professionals.”

MIA REINI, Senior Manager of Corporate Compliance and Enterprise Risk Management, The Home Depot

“We have struggled for years in ethics and compliance to build training programs that are impactful and effective. Finally, an instructional technologist with a passion for compliance gives us a new, practical road map for developing powerful E&C training through an approach that integrates everything from risk management to behavioral and social psychology!”

EARNIE BROUGHTON, Senior Advisor, Ethics & Compliance Initiative

“In *Fully Compliant*, Waugh lays out a comprehensive strategy to help you create compliance training that effectively engages your audiences while providing measurable outcomes.”

BRANDON CARSON, Author, *Learning in the Age of Immediacy*



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