



DEFINITIVE GUIDE TO

ETHICS & COMPLIANCE TRAINING

How to get measurable value through your ethics and compliance training program

OVERVIEW

The *Definitive Guide to Ethics & Compliance Training* is a comprehensive resource full of tips, advice and examples to help organizations develop cost-effective, high-value, engaging and successful ethics and compliance (E&C) training programs.

A strong E&C training program is the foundation of an open, ethical and productive culture. It offers a strong return on investment by helping organizations establish key legal defenses and avoid litigation. It can also help prevent misconduct, improve employee engagement and trust, strengthen alignment around a set of core values, mitigate risk and promote adherence to compliance objectives.

This guide is divided into three main sections: PLAN, IMPLEMENT and MEASURE. You'll find the tools and information you need to develop a strong E&C training strategy, implement a multiyear education plan, deploy training to advance your program goals, address your most pressing risks, and measure, evaluate and improve your training effectiveness.



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INTRODUCTION

Why Is Ethics & Compliance Training Important?

In today's business environment, compliance programs of all sizes need to demonstrate the value of every dollar they spend. Unfortunately, the return on some compliance initiatives—such as training—is difficult to measure. As a result, executives may not understand the value that a well-run training program delivers and conclude that it should be scaled back or, worse, eliminated entirely.

Contrary to being a “nice to have,” an effective E&C training program is critical to running a productive, reputable and successful organization. With complex regulations and a legal environment that is constantly shifting, few have mastery of this content, yet all need to protect their organizations. So it can be a challenge for compliance professionals to articulate the magnitude of legal, financial and reputational risk that exists without effective training.

5 Objectives Your Organization Can Achieve with Training.

- » Create a culture of ethics and respect
- » Prevent misconduct
- » Establish a legal defense in the event of a misstep
- » Manage reputation
- » Avoid litigation

The Value of a Culture of Ethics & Respect

A strong ethics and compliance training program is tied to improvements in organizational culture. An E&C training program built around a well-defined code of conduct and fine-tuned to the organization's values and risk profile can help articulate who the organization is, define its best version of itself and bind stakeholders to that vision. When board members, executives, management and all other employees receive E&C training, the entire organization can appreciate the commitment to its culture of ethics and respect.

In each of the three annual E&C training benchmark reports that NAVEX has published, the top objective for compliance professionals pursuing an effective training solution has been creating a culture of ethics and respect.

Organizational pride and buy-in to an ethical culture often radiates beyond the physical barriers of the office and extends deeply into employee communities, across the organization's market and industry and into positive press and regulatory relationships. Recognition as an ethical place to work tends to be self-fulfilling by attracting and retaining high-quality executives, employees, partners and customers.

What Is Ethics & Compliance Training?

For the purposes of this guide, E&C training includes conduct, compliance, employment law and information security training. This broad definition includes topics as diverse as workplace harassment, wage and hour, code of conduct, cyber security and anti-bribery and corruption. Further, all forms of training on E&C topics—including eLearning, email, in-person, virtual, blended and instructor-led—are also included.

The Value of a Solid Legal Defense

Today's enforcement environment is intense and very active on all fronts. Whether it is new regulations, new interpretations or simply stepped-up enforcement of existing laws, compliance departments are feeling the pressure.

In fact, 48 percent of respondents to NAVEX's 2015 Ethics & Compliance Benchmark Report said that their training program had been used as part of a defense for their organization in a lawsuit or agency action—or to help secure a better position in a settlement. On average, survey respondents noted that their training program had been used in a defense setting four times in the past three years.

Training mandates—whether in laws and regulations or incorporated into settlement terms presented by government enforcement agencies—have become commonplace. Enforcement agencies around the globe increasingly

\$23.1 billion	The Department of Justice (DOJ) collected more than \$23 billion in fines, penalties and settlements in 2015. ¹
5%	A typical organization loses 5 percent of its annual revenue to fraud, an average of \$150 million per organization. Applied to the estimated 2016 gross world product, this figure translates to a global fraud loss of nearly \$6.3 billion. ²
\$1.5 billion	Claims under the Foreign Corrupt Practices Act (FCPA) are showing continued highs, with more than \$1.5 billion collected in fines and penalties in fiscal 2016. ³
89,385	89,385 private-sector discrimination charges were reported to the Equal Employment Opportunity Commission (EEOC) in fiscal 2015, continuing the trend of <i>sky-high private-sector enforcement actions</i> . ⁴
8,954	Fair Labor Standards Act (FLSA) cases hit a record high in fiscal 2015, with 8,954 filings. ⁵
\$51M	In 2016 a whistleblower received \$51 million for sounding the alarm to the DOJ about improper gifts and grants at a technology company that had retaliated against him for his reporting. ⁶
\$246M	The Department of Labor's Wage and Hour Division (WHD) collected and distributed nearly \$250 million in unpaid back wages. In fiscal 2015 WHD found violations in 79 percent of agency-initiated investigations. ⁷

1. U.S. Department of Justice Office of Public Affairs (3 December 2015). "Justice Department Collects More Than \$23 Billion in Civil and Criminal Cases in Fiscal Year 2015." <https://www.justice.gov/opa/pr/justice-department-collects-more-23-billion-civil-and-criminal-cases-fiscal-year-2015>.

2. Association of Certified Fraud Examiners (2016). "2014 Global Fraud Study." <http://www.acfe.com/rtn2016/about/executive-summary.aspx>.

3. U.S. Securities and Exchange Commission (2015). "SEC Enforcement Actions: FCPA Cases." <https://www.sec.gov/spotlight/fcpa/fcpa-cases.shtml>.

4. U.S. Equal Employment Opportunity Commission (2016). "Enforcement." <https://www.eeoc.gov/eeoc/enforcement/>.

5. Law360.com (12 January 2016). "FLSA Class Actions to Hit a Record High in 2016." <http://www.law360.com/articles/745603/flsa-class-actions-to-hit-record-high-in-2016>.

6. Chris Isidore (2 March 2016). "Whistleblower Wins \$51 Million in Kickback and Bribery Case," <http://money.cnn.com/2016/03/02/news/companies/whistleblower-olympus-medical-equipment>.

7. U.S. Department of Labor, Wage and Hour Division (2016). "Wage and Hour Division Statistics." <https://www.dol.gov/whd/data/index.htm>.



Think Twice About “Check-the-Box” Training

In *EEOC v. Management Hospitality of Racine*, the court let stand a jury verdict of \$5,000 in compensatory damages and \$100,000 in punitive damages in part because the employer used canned, generic videotaped harassment training. The court made clear that poor-quality training does not qualify as a good-faith defense under federal law.

acknowledge that training is necessary to help reduce the likelihood of legal violations and to educate employees about what is expected of them.

Employers with effective programs (not just those that “check the box”) find that implementing a well-run, properly funded training program helps them build critical legal defenses, limit damages and in some instances avoid criminal prosecution.

The Value of Good Faith

While legal standards vary, there are common strategies that organizations can use to build a compliance-based defense. Courts, juries and enforcement agencies are looking to reward organizations that make a substantial, good-faith effort to comply with the laws and get their employees to do the same. Good faith is not a onetime training exercise—it’s about long-term value gained through training, engagement and then training again.

Some of the program features that are generally required to establish legal defenses include:

- » Robust, organization-specific policies and a clear, easy-to-understand code of conduct
- » Policies that are distributed to everyone in the organization on a regular basis, with employee attestation
- » Periodic and effective training that is topic specific and covers the organization’s most pressing risks
- » A clear reporting mechanism that generally includes an anonymous hotline
- » Consistently and fairly enforced rules
- » A system to monitor for and prevent retaliation
- » Monitoring, auditing and improving the program regularly

Eliminating even one of these critical program features can be highly problematic for an organization.

Training Helps Build Important Legal Defenses

» **Lowers or Eliminates Damages**

The U.S. Supreme Court decision in the *Faragher and Ellerth* cases (1998) permits employers to avoid some or all potential liability in harassment claims provided they periodically train managers and employees on the organization’s policies and their rights and obligations under the law.

» **Lowers or Eliminates Punitive Damages**

The U.S. Supreme Court in *Kolstad* (1999) held that employers can avoid punitive damages in discrimination actions if they can show that the conduct at issue was contrary to the employer’s “good-faith efforts to comply with Title VII.”

» **Can Reduce up to 95 Percent of Fines**

Under the Federal Sentencing Guidelines, both public and private organizations can avoid up to 95 percent of potential fines and penalties assessed for violation of federal laws—including laws like the FCPA and the Dodd-Frank Wall Street Reform and Consumer Protection Act—if those employers can show that they had an effective E&C program in place.

» **Can Result in a Deferred Prosecution Agreement or Declination to Prosecute**

The U.S. Securities and Exchange Commission (SEC) announced in September 2016 that it would not prosecute a U.S. company for potential violations of the FCPA because the company both had voluntarily shared evidence with the SEC and DOJ of an FCPA violation at one of its subsidiaries and had a strong E&C program in place. The company's efforts to self-police and to openly pursue a culture of ethics and compliance impressed the SEC and DOJ and resulted in no legal action or penalties.

» **Essential for Federal Contractors**

The Federal Acquisition Regulations were amended in 2007 and 2008 and now affirmatively require most organizations doing business directly or indirectly with the federal government to adopt a code of business ethics and conduct and to train all employees on its provisions. Contractors that fail to comply with these requirements could face withheld payments, loss of a fee award or even debarment, suspension or other disciplinary action.

Create Value with Effective Training

Effective, high-quality employee compliance training can dramatically reduce the likelihood of wrongful conduct taking place, and it can help an organization show that it has taken deliberate steps to educate its workforce and protect itself from ethical failures across key legal risk areas.

When properly trained employees make good decisions, organizations can avoid such costs as:

- » Legal fees required to defend the organization
- » Damage to reputation or brand
- » Loss of business
- » Loss of trust, both internal and external
- » Loss of productivity (time spent by managers and employees who are affected or involved)
- » Negative impact on culture
- » Higher employee turnover
- » Negative impact on recruitment

The dollars saved—and costs avoided—can add up quickly. It is important to educate business leaders about how E&C training can help protect their organizations from legal, financial and reputational risk



“Increased enforcement has cost unprepared employers not only substantial amounts of money but also irreparable damage to their reputations. Investing in high-quality compliance training programs now will help save your organization from costly litigation, lost management time and harmful publicity later. The costs associated with just one major litigated enforcement effort could fund your compliance efforts for a quarter century.”

Garry G. Mathiason
Senior Shareholder, Littler Mendelson



PLAN

Create Your Training Program Strategy

Getting the most out of your E&C training program requires effective planning. Your plan should be constructed around a clear understanding of where your program stands, well-defined objectives for where you want it to go, a secured budget to get you there and the specific risks your organization needs to be aware of to maintain compliance and reach your objectives.

Understand Your Training Program's Maturity

Before you can decide where you want your program to go, you must first identify where your existing program is on a maturity spectrum. Understanding the program's current stage of maturity will inform your program objectives, identify weak spots and determine how much budget you will need to get to the next level of program sophistication.

The 4 Stages of Program Maturity

1. **Reactive:** Programs that address issues as they arise, with no formal plan.
2. **Basic:** Training on basic topics only.
3. **Maturing:** Programs with a basic plan for the year that covers a handful of topics with limited risk and role-based topic assignments; effectiveness measures are limited to completion rates and qualitative feedback.
4. **Advanced:** A sophisticated multiyear training plan that covers a variety of topics assigned to specific audiences based on need and risk profile. It includes live and e-learning, short- and long-form courses and a variety of engaging formats, and a disciplined approach to reporting and measuring training effectiveness that focuses on training outcomes.

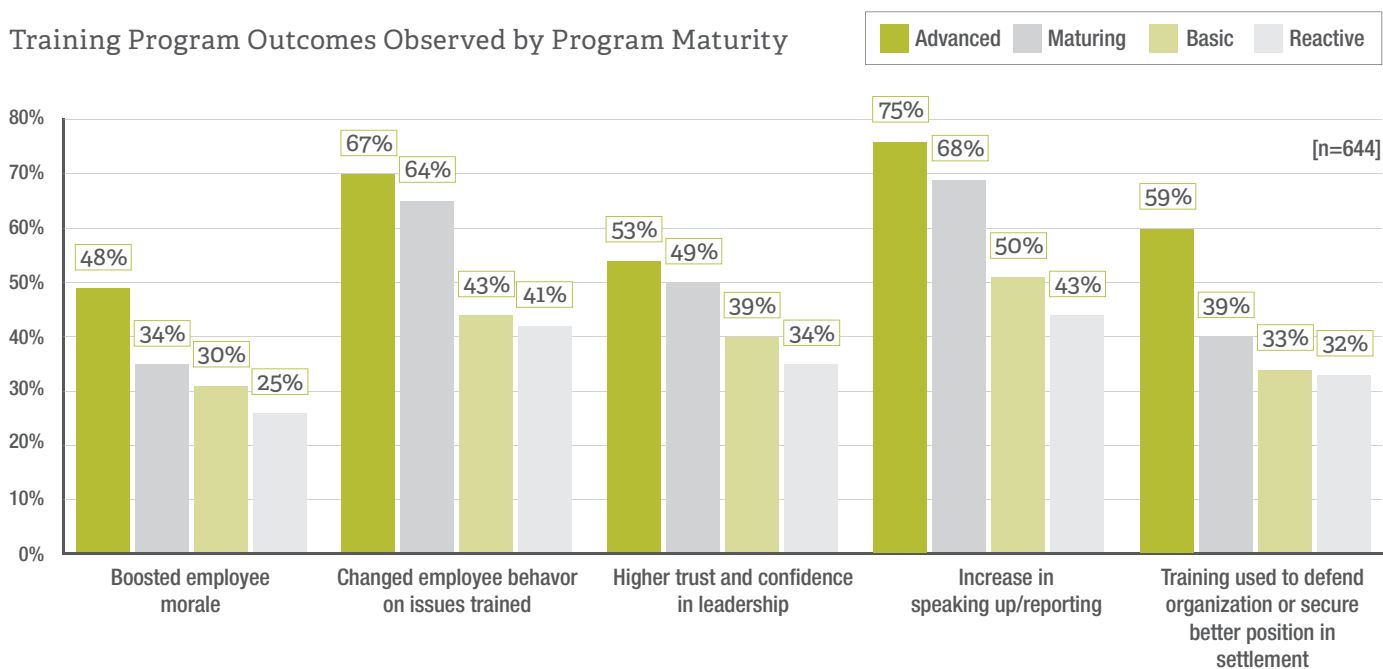
Less mature programs struggle to deliver even the most basic results. For these organizations, training efforts may backfire and drive negativity and employee cynicism. For details about these stages, see our *2016 Ethics & Compliance Training Benchmark Report*.

As programs become more mature, they perform better and provide a much stronger return on investment. Organizations with advanced training programs:

- » Offer engaging, contemporary and legally vetted E&C training
- » Address organizational risk profiles and long-term objectives
- » Train on a greater number of topics across a broader spectrum of risks
- » Deliver more-meaningful and relevant educational experiences
- » Improve learner engagement and reduce learner fatigue with dynamic programs
- » Optimize limited seat time for individual audiences within the organization
- » Embrace practices that enable frequent reinforcement of key messages
- » Measure for insights, outcomes and program improvements
- » Openly communicate the organization's vision and build the case for the budget necessary to execute on the plan

The *2016 Ethics & Compliance Training Benchmark Report* demonstrates significantly higher program satisfaction and outcomes across five core program objectives based on program maturity.

Training Program Outcomes Observed by Program Maturity



Advanced and maturing programs see far better results on key indicators such as increased employee morale, positive behavior change, trust in leaders, increase in speaking up and the use of training as a defense to help protect the organization.

Notably, for maturing and advanced programs, success is not linked solely to total dollars available or employees' dedication to the programs. Rather, organizations that are focused on program improvements (such as education planning, risk-based training and more-accurate effectiveness measures) at higher rates report significantly stronger program outcomes. These behaviors are at the heart of program success.

As you evaluate your program's maturity level, identify the features of successful programs and the actions you need to take to advance your program to the next level of maturity. You likely won't be able to work on all the features of highly functioning programs right away, but by starting down the path you will have a tremendous impact on your program's effectiveness.

Establish Your Program's Objectives

Clear objectives are critical to the success of any important business initiative, yet most organizations do not define exactly what they hope to achieve with respect to training initiatives. When organizations define focused, measurable objectives, they can elevate their programs to the next level of sophistication.

Ask yourself and other key stakeholders, *What do we hope to achieve with our organization's training program?* According to our *2016 Ethics & Compliance Training Benchmark Report*, 70 percent of respondents said that creating a culture of ethics and respect was among their top-three objectives, while another 60 percent identified complying with laws and regulations.

Be realistic about your objectives and make changes that will help you achieve them. If, for example, you want to improve employee morale with a training program, a one-time training on workplace harassment is not likely to get you there, even if it addresses an urgent issue. To be successful you must adjust the way you approach training on this topic.

As you build and evolve your training program, keep your high-level objectives in mind and ensure that others who participate in key decisions understand them, as well. Unfortunately, many programs fail to achieve their objectives because they allow other considerations to drive program decisions.

Common Program Pitfalls That Undermine Efforts

- » Not educating key decision-makers about program objectives
- » Not having an established budget for training-program activities
- » Not educating executives about the value delivered by training-program efforts
- » Allowing cost rather than effectiveness to drive decisions about which training to deploy
- » Not assessing program results against program goals
- » Not updating or deploying refreshed training to learners
- » Not seeking additional budget if needed to improve program effectiveness

Your program objectives may change over time as the organization evolves and business conditions shift. It is also important to remember that your training program will never be “finished.” Training is an ongoing commitment to your employees and your organization; and as your organization and the environment around you change, the program must adapt. Periodically check and adjust your objectives against the realities of the markets in which you operate.

By staying focused on your training program’s objectives, even as new risks and training needs emerge, you are more likely to build a powerful and successful training program.

Build to Your Unique Organizational Character

Take stock of how your training program is currently working and meeting the needs of your employee audience.

Answer these questions to get started:

- » What training methods are being used, and how successful are they?
- » What training methods are most effective for your audiences?
- » Is training mandatory or optional? Do you need to change this?
- » How old is the current content? Who will update it?
- » Are you planning any technology enhancements that could expand delivery options?
- » Are current vendor relationships meeting your needs?
- » Have you considered emerging trends?

Be careful to not limit yourself to what you are used to. You may find that learners are interested in receiving content in new ways (mobile versus traditional desktop), that they want more just-in-time resources or that they prefer higher-quality training. Incorporate learner feedback into your program evaluations and use it to inform decisions about the future state of your program.

One specific segment of the workforce that needs to be accounted for is the growing millennial population. Millennials will represent 50 percent of the workforce by 2020 and are already influencing the environments of many organizations.

Ask employees across all generations and functions how you can improve program elements to make a lasting impression and effectively deliver your message. This may require your willingness to experiment with new trends, such as video podcasts, microlearning or internal social media sites. By considering your employees’ needs, you will ensure that training is rewarding for them and, in turn, for the organization.



The “millennial mindset” has been widely documented as preferring content that is higher quality, shorter, on-demand, self-paced, social/collaborative and mobile. Millennials will represent 50 percent of the workforce by 2020.

PwC (2011), *Millennials at Work: Reshaping the Workplace*

Plan for Known Challenges

Part of building program discipline is planning for regular challenges to ensure that your progress is not disrupted by preventable setbacks. The 2016 Ethics & Compliance Training Benchmark Report showed that organizations across the board face similar training-program challenges now and potentially in the coming years:

- » Limited hours available for training
- » Evolving risk areas
- » Demand for updated training formats and delivery methods that engage with increasingly interactive and on-the-go learners
- » A fluid regulatory environment that necessitates frequent updates to training content
- » Insufficient or stagnant budgets and limited program staff adding an additional dimension to challenges

Identify the challenges and barriers that are most likely to impede the success of your initiatives. Work with stakeholders to determine how best to address and overcome these challenges.

Secure Your Budget

Securing a dedicated budget allows you to facilitate a multiyear program in which your risks can be best addressed. It can also help safeguard organizational buy-in for the duration of the program. Don't put yourself in a position where you build a multiyear training program only to have its budget slashed by people who do not understand the program's value.

Although constructing an E&C training program often involves many stakeholders in the organization, it is important to align program leadership with budget authority. As noted at the beginning of this paper, training is not a “nice to have” option but a critical element of a successful E&C program. Therefore it is essential that those with budget control are intimately tied to the training-strategy definition and have committed to its expected outcomes.

Further, the full program requires buy-in to reach the objectives you set. The pursuit of an effective training program is based on courses that build on the learnings of one another and produce an attributable outcome. This requires a program budget—not a series of budget requests for individual courses as they appear on a calendar. A training program is not a “one and done” single course. More often a training program represents a recurring investment that delivers results best when maintained over multiple years. The lack of a defined multiyear budget increases the chances of program inefficiencies.

Even if your organization is not yet convinced of the value of a multiyear training program, a multiyear budget estimate is a critical component of careful planning and good use of dollars. Ideally, a single team or individual owns both the program definition and the budget; but if not, an internal program champion can help ensure its prominence and funding in budget meetings. In some

cases, a training solution vendor can work with program administrators to showcase expected training value and the return on program investment.

Identify & Prioritize the Risks Facing Your Organization

When defining the scope of your training program, it is important to identify the key E&C risks facing the organization. This may include known regulatory or compliance risks but also extend into employee behaviors and actions not defined by laws or easily categorized within standard practices.

In many cases, organizations may be subject to regulations and vulnerable to risks about which they know little. Don't assume that you fully understand your organization's risks. After conducting a thorough risk assessment, you are likely to discover some risks that are new or that have become more significant since the last time you completed an assessment. Here's how to get a picture of your organization's risk profile:

- » Research regulations and enforcement trends tied to your industry
- » Review ethics and compliance-related benchmarking reports
- » Meet with internal subject-matter experts such as your general counsel and compliance team
- » Talk with key business leaders about the legal and compliance challenges they face
- » Understand the legal obligations related to training (what specific topics to train on and how frequently)

 [Review our overview of mandatory training laws](#)

It is also a good idea to consider investing in a professional risk assessment conducted by a consultant or an attorney. E&C assessments can help you identify the drivers of risk:

- » Your industry
- » Your location
- » Your network of partners, buyers, sellers, supply chain, contractors, vendors and other third-party engagements
- » The regulatory environment
- » Enforcement trends
- » Changes in your business (acquisitions, right-sizing)
- » How you conduct business
- » The education, backgrounds and diversity of your workforce
- » Internal drivers (culture, local customs, leadership)
- » Internal trend data (litigation, hotline data)
- » Your reputation

Once you have identified your risks, you need to analyze and prioritize them. A risk profile is unique to each organization, and not all risks are created equal. For one organization the risk of bribery and corruption may be very high due to the nature of its business; for another that risk may be incidental. These two organizations would approach education on this topic in very different ways.

As you work to prioritize and assess your identified risks, consider the following:

- » Likelihood and frequency
- » Potential impact of both time of money
- » The organization's risk tolerance and objective (avoid, reduce, transfer, retain)

If you can weigh the likelihood and frequency of each risk and the impact it could have on the organization in terms of time, money, resources and reputation, you can better align scarce training resources with the magnitude of the risk presented. A risk rating can help determine the depth and length of training, the frequency and the tools you need to develop to support your learners.

If your organization has an existing E&C program or you are reassessing an existing program, be sure to review your risks and training objectives within the context of your larger organizational compliance strategies. With your priority topics in hand, you can create your risk-based compliance training program.

Plan a Multiyear Training Program to Fit Your Organization

Once you have identified your program objectives, approach, budget and risks, you are ready to build the foundational elements of your training plan.

Key Elements of an Effective Multiyear Education Plan



Topics

Identify and prioritize risks and learning objectives



Audience

Identify the groups that need to be educated about each topic



Timing

Determine the timing of communications to optimize your limited training hours



Frequency

Determine how often you will deploy training on a particular topic, guided by your organization's risks and tolerance level



Depth & Duration

Determine how best to balance your risks and training needs against the realities of your resource limitations; prioritize training depth and duration to maximize impact



Centralize Management

Create a single resource through which your multiyear training program can be managed and assessed

Topics

Use Your Risk Profile to Select Training Topics

The first element of your plan is to use the risk profile you developed during your risk assessment to define the topics you need to cover first. At this stage simply list the primary topic areas to address in your training program. Many organizations find that their list is fairly robust. If you have access to peer organizations, benchmark your program against theirs to help identify risk areas you may have missed while conducting your risk assessment. It is not uncommon for organizations in moderately regulated industries to identify 10 to 20 topic areas they need to address.

Most organizations find that they have a set of core training topics that don't change much from year to year. The *2016 NAVEX Ethics & Compliance Training Benchmark Report* found that the most common training topics are code of conduct, conflicts of interest and workplace harassment. Organizations generally offer training on these topics multiple times each year. On average, according to the survey, organizations train on approximately 12 topic areas during a typical two- to three-year training cycle.

Audiences

Identify, Segment & Understand Your Audiences

One of the most significant financial investments made by the ethics and compliance function in an organization is the time employees spend training on E&C topics.

Segmenting audiences according to risk is not only a wise thing to do but also an important activity if you want a more effective training program. Segmenting your audiences by risk will help ensure that employees receive the most appropriate and relevant training for their role. Your program can avoid unnecessary costs (in terms of both program costs and seat time), and your learners are likely to react positively to the experience.

Determine whether you will segment audiences and, if so, how you will proceed. If you have not segmented learners before, start with simple groupings: all employees, senior leaders, managers, non-managers, board of directors and third parties. Once that's working smoothly, consider an advanced approach—a granular segmentation within the groups to vary depth, duration and frequency on specific topics.

A more granular segmentation might include such factors as:

- » Risk exposure
- » Departments
- » Industry and business units
- » Location, region and facility
- » Languages
- » New hires and promotions
- » Interactions with customers, government officials, third parties and the media

Always take into consideration subgroups within your audience. Some people have learning constraints, require translation or have location needs. Consider compliance training that will best reach your learners. Sometimes that means being creative and using multiple formats to get your message across.

When constructing training groups, be sure to include your third parties. Recent high-profile third-party ethics failures have shown that third-party risk is your risk. Be sure to train your contractors, vendors and entire supply chain on key topics, including code of conduct, Foreign Corrupt Practices Act, cybersecurity and other critical topics.

E&C Training & Your Board of Directors

The U.S. Federal Sentencing Guidelines state: “The organization shall take reasonable steps to communicate periodically [about]...aspects of the compliance and ethics program, to board members by conducting effective training programs and otherwise disseminating information appropriate to such individuals’ respective roles and responsibilities.”

This standard applies equally to public and private organizations. Boards help set the tone at the top, and they need training on the issues that are unique to their role and relevant to their organization. Just like employees, boards of directors should be trained on the organization and its culture, values and programs. According to the [2016 Ethics & Compliance Training Benchmark Report](#), only 58 percent of organizations surveyed train their board members on E&C issues. Of those that do train, only 20 percent offer training to new directors.

Training can help ensure that directors understand the exact nature of the oversight that is expected of them, which is critical as many board members lack the experience needed to confidently oversee corporate compliance and risk management. So before asking for their oversight, train them on what that oversight entails.

In-person training, usually as part of a scheduled board meeting, where directors can discuss and debate issues such as program oversight responsibilities and culture management, can be very effective, though many organizations offer online training. It’s important to note that board reporting—briefing the board on the status and success of your compliance program—is an important part of board engagement but is not considered training.

Tips for Identifying & Accommodating Training Needs

- » **Language Barriers**
When training in multiple languages, offer written or simultaneous translation or subtitles.
- » **Learner Locations**
When training employees and third parties who work off-site or cannot be physically present, offer online training, remote dial-in training or recorded versions of training sessions.
- » **Personal Disabilities**
Make reasonable accommodations for those who may have difficulty accessing the same content as others.
- » **Lack of Computer Access**
Make training available on kiosks, PCs, tablets or mobile devices. Provide adequate time for completion and make training available anytime, anyplace, at any pace.
- » **Generational Variance**
Draw on multiple training strategies to reach all audiences. Consider using methods that appeal most to your workers, and if necessary consider offering resources in multiple formats.

Timing

Determine the Right Timing for Effective Training Results

Some organizations conduct training throughout the year, whereas others deploy training in smaller windows of time. Your culture and organizational needs will dictate the plan that is right for you. Getting this critical step right will help ensure that learners have the time and capacity to complete the training you are deploying.

To determine the best time to roll out training, consider the following tips:

- » Be considerate of busy periods
- » Space out communications so that employees have time to digest and recharge
- » Promptly and proactively address issues that arise
- » Conduct gifts and gratuities training during the holiday season
- » Hold code-of-conduct attestation and training at the same time each year for consistency
- » Consider legal obligations

Frequency

Determine the Right Training Frequency Based on Risk & Tolerance Level

Little concrete guidance is available to inform decisions about training-topic frequency. It is widely accepted that training on a risk area should not be a one-time event; employees need to be reeducated about the risks they face in their roles.

For all the topic areas listed in the 2016 Ethics & Compliance Training survey, more than 70 percent of employers trained on a given topic at least every two years, with most conducting training on critical topics every year.

Deciding how often you should train is not an exact science. There are best practices, anecdotal experiences and some legal guidance, including the Federal Sentencing Guidelines, as well as important federal and state employment laws.

Although there is no single universal standard, there are two simple terms—*periodic* and *effective*—that can be found in a wide array of regulations and guidance.

Periodic Training

Periodic refers to ongoing training on a recurring basis. It is not a one-time event. Periodic training can occur on a set cadence, or it can vary over the course a training cycle. Many organizations find that they are training on their most critical topics every 12 to 24 months, offering a refresher or burst learning in an off year. For secondary risks areas, many organizations train every 18 to 36 months but communicate regularly about these areas and offer frequent but less extensive training solutions.

Periodic training for managers has been the law in California since AB1825 was adopted.⁸ It has also long been the position of the Equal Employment Opportunity Commission that employers should provide employees and managers with periodic training.⁹ And in *Romano v. U-Haul International*, punitive damages were available because the employer did not have “an active mechanism for renewing employees’ awareness of the policies through...specific education programs.”¹⁰ In fact, periodic training is becoming the norm rather than the exception in the broader compliance space.¹¹

Effective Training

Effective refers to training that covers the appropriate information, improves employees’ understanding of the organization’s policies and expectations and ultimately helps change culture and behavior. “Check-the-box” training—training that employees tune out and non-mandatory training that employees never take—all are hallmarks of a truly ineffective training program.

The most important thing is delivering the right message to the right audience at the right time. Be sensitive to busy times, space out communications so that employees have time to digest the information, and promptly and proactively address every issue that arises.

8. SHRM (2015). *What Employers Are Required by California AB 1825 to Provide Sexual Harassment Prevention Training to Supervisors?*

9. EEOC (1999). *Enforcement Guidance on Vicarious Liability for Unlawful Harassment by Supervisors*, No. 915.002.

10. 233 F.3d 655 (2000). *Romano v. U-Haul International*.

11. Federal Sentencing Guidelines (2004). *Section 8B2.1(b)(4)(A)*.

“Moving...audiences from unawareness to action requires anywhere from seven to 15 exposures—and sometimes more.”

Brad Phillips, Mr. Media Training

Depth & Duration

Maximize Impact by Balancing Needs with Realities

Most programs do not have the ability to roll out full-length training on every risk area every year. So organizations must make important decisions about the length of content they will deploy. Shorter courses will not deliver the same depth and learning experience as longer courses, so organizations should keep in mind their risk profile as they make these important decisions.

Tips for Depth & Duration

- » Increase depth and duration in relation to risk exposure
- » Know what training and communications resources you have available to you
- » Consider seat time
- » Reflect on the learning objective (foundational training, refresher, awareness, periodic reminder)
- » Consider all the planned touchpoints for this audience on this topic and other topics
- » Define what is realistic to expect of learners
- » Identify gaps and opportunities to bridge those gaps with broad-topic education or microlearning refresher content
- » Ensure alignment with larger organizational E&C initiatives

Consult with legal and compliance professionals if you have questions about establishing the appropriate duration.

BEST PRACTICE:

Frequency for critical risk areas:

- » Full-course training at least every 12 to 24 months
- » Augment with less formal methods of education on a regular basis
- » Train a wide audience

Frequency for secondary risk areas:

- » Communicate regularly
- » Increase frequency and reduce intensity of solutions
- » Train only those employees affected by risk areas



“The organization shall...communicate periodically and in a practical manner its standards and procedures, and other aspects of the compliance and ethics program... by conducting effective training programs and otherwise disseminating information appropriate to such individuals’ respective roles and responsibilities.”

U.S. Federal Sentencing Guidelines

Centralized Management

Manage Your Training Program through a Single Resource

The highest-performing education programs are centrally managed with a single asset. This allows program owners to lay out topics, courses, audiences, target timelines and training objectives in a logical and sequential manner. Similar to a project management tool, you can design detailed schedules that optimize learner hours, note milestones and targets, create multiple pathways specific to individual roles or audiences, and set well-defined measures of success.

A Centralized Multiyear Education Plan Sample

COURSE	AUDIENCE	TIMING											
		2017				2018				2019 <small>B=Bursts</small>			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
<small>(red=higher risk; orange= medium risk; purple= lower risk)</small>													
WORKPLACE HARASSMENT PREVENTION	V1: Managers		60			B					60		
	V2: Managers		120			B					120		
	V3: Employee		30-45								30-45		
CYBER SECURITY	All Employees	30			B			30				B	
	+ Manager												
BRIBERY & CORRUPTION	Limited Audience				45					45			
CONFLICTS OF INTEREST	All Employees		30				30						
TOTAL BY QUARTER (MINUTES)		30	90	0	45	0	30	30	0	45	60	0	0
TOTAL BY YEAR (MINUTES)		165				60				105			
TOTAL BY YEAR (HOURS)		2.75				1				1.75			



IMPLEMENT

Operationalize Your Training Program

In the PLAN section of this guide, you defined your organization's risk profile, prioritized your risks and determined the appropriate audiences. In this section you'll begin the process of implementing your formal education plan. Below are tips for choosing training methods and determining the format and the right approach to buying or building your training solution. As always, consult your organization's legal counsel when finalizing your training program.

Key Elements to Implement an Effective Multiyear Education Program



Focus

Maintain focus on your core objectives and policies, including your organization's Code of Conduct and program objectives



Methods

Determine which education methods (live, online, documents, multimedia) to use, as well as learner preferences



Options

Discover how to buy solutions for your training requirements

Focus

Review & Update Your Code of Conduct & Other Policies

Your training priorities should stay focused on the organization's core policies. They should not operate in isolation. To integrate your training with larger organizational objectives, start with the policy of all policies: your organization's Code of Conduct.

Your Code of Conduct is your organization's constitution. It informs every other policy, procedure and rule in place for your employees. It also defines your corporate culture. It tells employees what is expected of them, reinforces your organization's values and articulates the integrity, respect and accountability that is your cultural foundation.

Before you can map training to your Code of Conduct, you must ensure that it is accurate and up-to-date. In some cases, the first step to aligning your training with your Code is aligning your Code with your organization's current values.

Consider these two questions when evaluating your Code of Conduct: Is it current? Is it compelling?

Is It Current?

The regulatory world is changing faster than ever. Your Code documents need to keep pace so that your training can keep pace. Consider when the last time your Code of Conduct was updated and then consider all the regulatory, legal and social issues that have surfaced since that time. Is your Code still accurate? Does it address the organization's stance on recent and emerging issues that employees need to know?

Is It Compelling?

Your organization has a mission and a set of values that guide that mission. Those values need to be distilled in your Code in a way that informs readers about what they are to do while also inspiring them to actually do it. This inspiration should resonate in your training to reinforce the organization's messaging and continue cultivating its culture. Updating the look and feel of your Code and its structure is important.

Methods

Match Your Training Methods & Formats with Your Audience & Objectives

Selecting the training methods that you will use is a very important part of the process. Ideally, you will focus not only on your risks but also the needs of your learners. Ultimately, you want learners to engage with the content and retain it.

Formality and Informality

Training methods can be formal (such as live and online training sessions) or informal (group discussions or success story sharing), full length or short form. You can use a combination of formal and informal methods for individual audiences or teams. The idea is to make the most of a learner's limited time and ensure that your messages are delivered effectively.

Although training programs are unique to each organization, most successful training programs share

a common set of core fundamental practices. For example, most organizations in the *2016 Ethics & Compliance Training Benchmark Report* said that they used both online training (75 percent) and in-person training (69 percent), suggesting that blended learning is occurring with great frequency.

Ideas for formal methods include:

- » Online training
- » In-person training
- » Blended learning
- » Video or animated training content
- » Microlearning refresher or gap-filling training
- » Gamification or competitions within training sessions
- » Mobile accessibility
- » Special training events

Ideas for informal methods include:

- » Case studies
- » "Did you know" fun facts
- » Newsletters
- » Hallway and cafeteria monitors
- » Posters and brochures
- » E&C program stats
- » Polling questions
- » Topical articles or Q&A
- » Social and collaborative learning
- » Meeting-in-a-box: short PowerPoint with participant handout
- » Ethics Moments learning opportunities and talking points
- » Manager-led materials

An effective education program uses many different methods

- » Live and online training
- » Awareness (posters, bursts, wallet, cards)
- » Targeted communications (emails, newsletters)
- » Documents (policies, code of conduct, materials for staff meetings)

Optimizing Online Training for Learner Retention

As you select training methods, evaluate whether they will help you address two important challenges that face virtually all training programs: knowledge retention and combatting learner fatigue. There are multiple methods for encouraging knowledge retention and addressing learner fatigue, including integrating a mix of training formats.

The 2016 Ethics & Compliance Training Benchmark Report also showed that many organizations (60 percent) invest in and prefer a variety of training-content formats. The two most referenced formats include live video and animation, which not only allow trainers to deliver content in the format individual audience members prefer but also help drive engagement and retention.

Another formatting option is to integrate periodic microlearning, or burst learning, into the program. Generally, microlearning experiences last two to eight minutes and focus on one or two key points, acting as a refresher for longer courses or to fill in learning gaps. Microlearning has become increasingly popular, as compliance professionals are tasked with covering more topics with limited seat time and improving retention and awareness throughout the year.

Additional Options for Engaging with Today's Learners

Recently, there has been a flurry of activity in the training world about new approaches—including everything from gamification to mobile-enabled courses. Some of these tools and strategies can enhance your training program, but you need to be critical about the trends you incorporate and whether they make sense in the culture and context of your program.

For example, using social media to educate learners about compliance and ethics is an emerging trend area, with organizations taking a variety of approaches:

- » Using tools to set up a private social network for employees; with this kind of social tool, organizations can host conversations and present information
- » Publishing an internal blog that allows employees to join the conversation or comment
- » Using social media tools to connect compliance experts with employees who need help or resources
- » Encouraging employees to create E&C videos (submitted to and reviewed by the compliance department) that can be shared with employees through an internal-only network

Options

Identify the Right Training Solution to Buy

When weighing your training options, remember that not all training is created equal. Training that is described as “effective and engaging” may not live up to the promise. Training that helps you “check the box” will not build trust with your employees and will not be viewed favorably by juries, judges or enforcement agencies.

Providing a training program is not the goal; changing behavior is. This requires careful consideration of your industry, the nature of your work and the learning styles of your employees. Training should be specific to the risks your organization faces while also being relevant to the situations employees encounter day to day.

Effective training solutions help you:

» **Address Specific Risks**

Along with matching training to the needs of your employees, match it to your industry. This will help your organization stay ahead of new regulations and enforcement trends.

» **Engage Learners**

Training should match the learning preferences of your employees. The way you present the content has to fit within the consumption patterns of the employee, or the information will not be retained. This is especially important today, as there are more generations in the workforce than ever before. It is important to accommodate all learners.

» **Deliver Content Effectively**

For instance, training on cybersecurity can address anything from password protection to phishing emails, but it needs to include more than just text on a page. These threats use very tech-savvy techniques and so too should the training.

» **Evaluate Your Options for Training Solutions**

Many organizations today combine some custom content with a heavy reliance on training purchased through third-party vendors. The right vendor offers access to legally vetted, engaging, refreshed, high-quality training that helps organizations meet key program objectives.

As you vet training providers, be critical about both their content and their process for ensuring that it delivers on the promise. Seek out training that is highly regarded by the market and is endorsed by respected E&C organizations, as well as human resources, training and legal firms. Also consider the legal foundation for course content. Are respected law firms or legal organizations or associations vetting and endorsing the content? Are recognized experts and influencers contributing to or validating the content? Do you feel confident that the courseware is current and able to remain up-to-date in a fluid regulatory environment?

Regardless of the approach you take (buy, build or some combination), consider how the training will reflect on your E&C program, as well as your organization's brand, culture and policies. If you are building your own training, infuse the content with these elements. If you are purchasing training, consider the options available to customize it to better reflect your brand and expectations. Top-tier E&C training vendors offer customized settings that enable you to tailor training to your organization—for example, by referencing your organization's policies, hotline/helpline, personnel resources and contact information.

Look for standard and advanced customization settings that include:

- » Your policies in the training, allowing for quick and easy learner access
- » Preferred reporting instructions
- » Your organization's personnel resources and contact information
- » An introduction or farewell from an executive
- » Your logo on every screen within the training content
- » Additional customized course configurations, screens, videos or questions





MEASURE

Monitor & Improve the Effectiveness of Your Training Program

Once your training program is launched, keep careful tabs on its performance. Are you able to mandate training for particular audiences on specific topics? Are your executives and board members receiving E&C training at adequate levels? Is the organization getting measurable value from the program?

A program with a vision and a focus on measurable outcomes will perform better than a build-it-as-you-go approach. A structured program also allows you to absorb the inevitable adjustments to business requirements and changes to topics, audiences and timelines. Keep in mind that a strong multiyear education plan is a living, breathing part of your organization—it should evolve constantly. Continue to revisit the plan at least annually.

Periodic measurement allows you to validate your program's effectiveness, uncover gaps in learning and reveal any training that is not engaging or effective. Setting milestones for measuring performance allows organizations to illuminate and assess their programs; select better training tools, courses and methodologies

if necessary; and review seat time and budgets for more-effective use where applicable.

There are four components of measuring the effectiveness of your multiyear compliance training plan:

1. Goal setting based on measurable outcomes
2. Deciding which metrics matter in defining whether you met your goals
3. Defining how much change in a measurement signals success
4. Selecting the tools you'll use to measure your goals

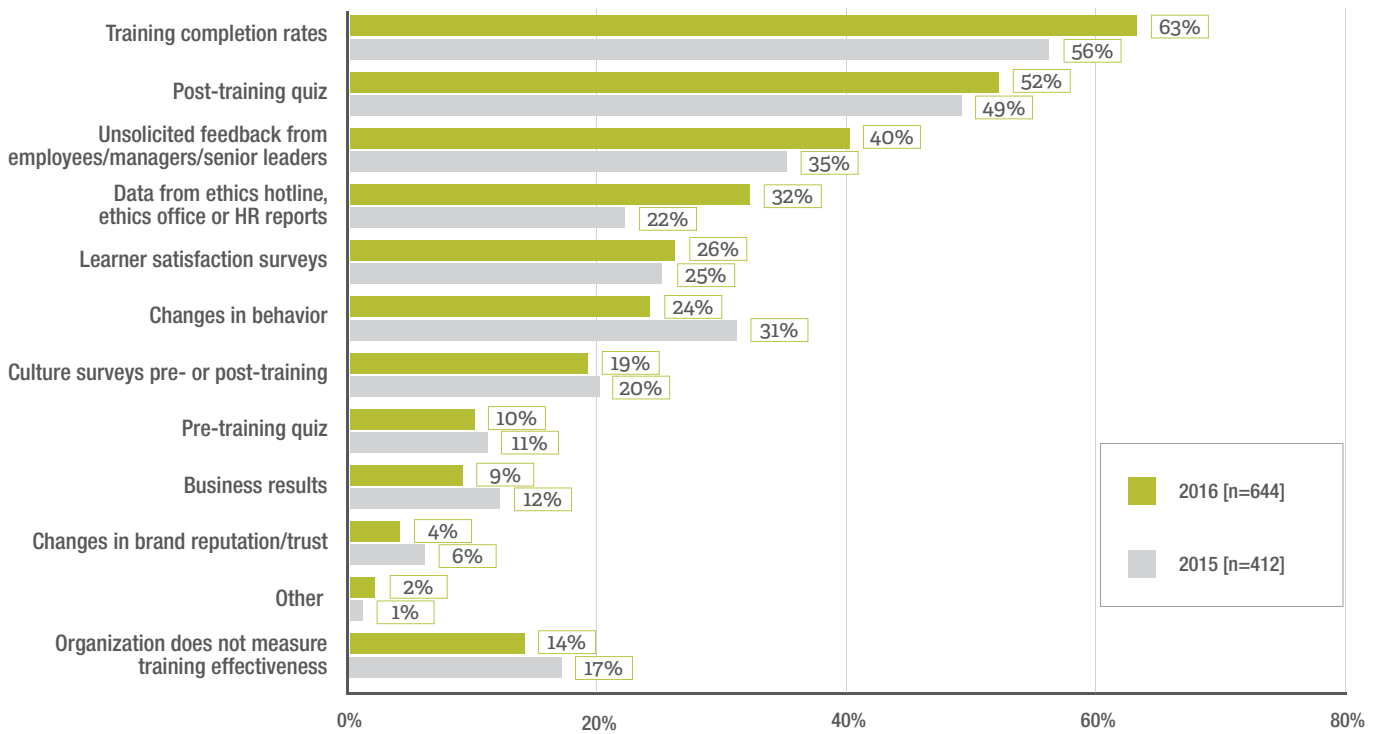
The 2016 Ethics & Compliance Training Benchmark Report revealed that most organizations (86 percent) report undertaking some formal E&C training effectiveness measurement, with completion rate counts and post-training quizzes being the most common approaches. Unfortunately, completion rates don't measure the effectiveness of training. Ideally, learners are quizzed on the topic both before and after the training—and several months later to assess retention rates—which can show the impact of the training program.

Best Practice: Capture 5 Levels of Measurement

Level 1: Reaction	Were participants pleased? Was it engaging?
Level 2: Learning	Did participants remember the training? Did skills, knowledge or attitudes change?
Level 3: Behavior	Did training result in behavior change? Are learners more likely to do the right thing?
Level 4: Results	Did the training create business value? Did morale, productivity and attitudes improve?
Level 5: ROI	Were costly E&C violations averted? Which of the Level 4 items can be quantified?

[Download a Sample Reference Guide to Measure Your Training Effectiveness](#)

How do you measure training effectiveness?



Several performance assessment gauges are not linked to individual courses, topics, quizzes or other quantitative measures but to fairly qualitative changes at the organization.

The 2016 Ethics & Compliance Training Benchmark Report shows that highly structured and advanced training programs see higher levels of desired outcomes than do more-basic programs. These programs see far better results on key indicators, such as increased employee morale, positive behavior changes, trust in leadership, increases in speaking up, and the use of the training program to defend the organization or secure a better position in a settlement.

The key to obtaining these outcomes is not directly correlated to higher-cost programs or those with more-dedicated employees. Rather, the organizations that reported better program outcomes focused on clear program goals, measured for insight and initiated program improvements based on those measurements.

An E&C program and training in particular involves many stakeholders in the organization. When there are positive changes in employee morale, ethical behavior, a speak-up culture and employee retention due to an effective training program, showcase successes and celebrate wins within the organization. Metrics are meant to be shared, and an ethical culture demands transparency.

CONCLUSION

Ethics and compliance training is one of the most important elements of an effective compliance program. Done properly and executed with excellence, a training program can reduce risk, drive desired compliance behaviors and improve company culture and employee morale. But executing a program at this level takes structure, commitment and investment.

Training is also a key aspect of your organization's broader compliance ecosystem, which includes all of its E&C activities.

While training may be viewed as a stand-alone component of the compliance ecosystem, it can complement each of the other components. As noted earlier, your Code of Conduct is the foundational policy document on which your policies and training should be based. It is important that you are confident in your Code and that you can build training around its objectives. Further, if you want to be sure that your employees understand your workplace harassment policies, a training course with real-world scenarios can add interest to your policy documents and improve understanding and awareness. Alternatively, if your incident management solution reveals emerging trends from within your workforce regarding wage and hour complaints, you can offer recurring wage and hour employment law training.

To successfully overcome the challenges that lay ahead (doing more with less, modernizing training programs, covering more risk areas and improving the quality of content), organizations must strive to advance their training programs. A multiyear E&C education plan is a valuable roadmap for delivering the right risk- and role-based learning. Carefully planned E&C education improves audience engagement, saves money and has a positive impact on your organization's culture, reputation and bottom line.



ADDITIONAL RESOURCES

NAVEX offers many valuable resources related to improving your ethics and compliance training strategies. Visit our resource center at www.navex.com/resources to find these tools and more:

- » **Benchmark report:** [2016 Ethics & Compliance Training Benchmark Report](#)
- » **Benchmark report:** [2015 Ethics & Compliance Training Benchmark Report](#)
- » **Online courseware library:** [Browse our full library of training options and topics](#)
- » **Online training courseware catalog:** [Go beyond awareness. Create the best defense—change behavior](#)
- » **Business case:** [By the Numbers: Making the Business Case for Employee Compliance Training](#)
- » **Legal brief:** [Mandatory Training Laws Overview](#)
- » **White paper:** [Six Lessons that Redefine Focused Compliance Training](#)
- » **Webinar:** [Five Ethics & Compliance Training Stats that Will Surprise You](#)

ABOUT NAVEX'S TRAINING SOLUTIONS

NAVEXEngage™, NAVEX's ethics and compliance online training solution, is built on decades of experience in the compliance, conduct, employment law and information security training marketplace.

We offer:

- » Online training courses that feature multiple formats, lengths, means of access and audience targets
- » Courseware content that is relevant, global and engaging, developed in collaboration with industry-leading law firms Baker McKenzie and Littler Mendelson
- » Learning management technology and flexible course delivery options to meet the training, reporting, certification and management needs of organizations of all sizes and complexities
- » Risk assessment, culture assessments and multiyear training-program development that helps organizations ensure that their training program is tightly aligned with their organizational risks and objectives
- » In-person training designed for your organization and delivered by our advisory and training teams, who have decades of compliance industry experience and many years of consulting on training topics that matter to you, your leadership and your board of directors
- » The endorsement of the Association of Corporate Counsel, the leading professional association of more than 34,000 attorneys who work in the legal departments of corporations, as their E&C online training vendor of choice
- » The exclusively endorsement of the Society for Human Resources Management and its 285,000 members since 2007

To learn more about our NAVEXEngage training solutions or to schedule a demonstration of any of our online courses, visit www.navex.com/training or call us at +1 (866) 297 0224.

NAVEX's comprehensive suite of ethics and compliance software, content and services helps organizations protect their people, reputation and bottom line. Trusted by 95 of the FORTUNE 100 and more than 12,500 clients, our solutions are informed by the largest ethics and compliance community in the world. For more information, visit www.navex.com.



AMERICAS

5500 Meadows Road, Suite 500
Lake Oswego, OR 97035
United States of America
info@navex.com
www.navex.com
+1 (866) 297 0224

EMEA + APAC

Vantage London – 4th Floor
Great West Road, Brentford TW8 9AG
United Kingdom
info@navex.com
www.navex.com
+44 (0) 20 8939 1650