LRN® *Inspiring Principled Performance*®

The Ethics & Compliance Program Effectiveness Report

2023
Global Standards Edition

Introduction

Since 2014, LRN has published an annual Ethics & Compliance Program Effectiveness Report. These reports reflect the input of ethics and compliance professionals from around the world, filtered through insights we have gained from our research as well as our work with thousands of companies and organizations worldwide. Our goal in publishing these reports is to identify the critical differentiators that make some ethics and compliance (E&C) programs more effective than others.

Given the wealth of data and insights that we have gathered over the years, we are issuing a special report that looks at how E&C programs have performed during the past four years, from 2020 to 2023. This period encompasses "before" and "after" the COVID-19 pandemic, worldwide political upheaval, and the start of the war in Ukraine. Analyzing whether organizations relied upon their E&C programs to weather these challenges, what changes they made to adapt, and what trends are emerging as a result yielded robust insights into why some E&C programs are effective and others less so.

Moreover, our 2021, 2022, and 2023 datasets included a sizable and growing number of responses from E&C professionals outside of North America. The most recent 2023 report is based on a survey of nearly 1,860 ethics and compliance professionals at companies and organizations around the world. Taking an international perspective is particularly important given the global impact and reach of the crises of the past several years. No corner of the globe has been immune to the impact of the pandemic, political unrest, or the war in Ukraine and their ongoing effect. Understanding how E&C leaders and organizations around the world have responded is essential.

Key findings

This report identifies five major differentiators between high-impact and less-effective programs that our data shows over the four-year period.

High-performing programs

1. Rely on values
2. Are embedded in decision-making
3. Are accessible and relevant
4. Innovate in training design and delivery
5. Prioritize personal responsibility

Our data also provides two additional insights that are important to note. As our research has expanded globally, we see a clear convergence of best practices across countries and regions. Anyone who has attended E&C conferences or virtual events in Europe, the Middle East, Africa, or Asia-Pacific as well as North America will know that there is general agreement on the necessary components of an E&C program—including company policies, code of conduct, training, audit, tone at the top, and other essential elements. Although there are a few regional differences in how these foundational elements are implemented, there are no alternate models of what an ethics and compliance program generally looks like, or what it is designed to do. A more interesting question is why some programs succeed in shaping their organizations' ethical culture and some are less impactful. This report offers important insights into that question.

Another key insight is how broadly US regulations apply to organizations worldwide and have thus helped shape the development of E&C programs everywhere. Any organization doing business in the US, using the US financial system, listing on US stock exchanges, or with other touchpoints to the US may face prosecution in the US as well as its home country. For example, a few years ago, US regulators successfully prosecuted an Asian company that used a bank in the UAE that was a branch of a US financial institution as part of a bribery scheme. Even minimal US contacts are enough to assert jurisdiction. In the past 10 years, nearly half of all US prosecutions under the Foreign Corrupt Practices Act have been against non-US companies.

This trend is accelerating, both in the anti-corruption area and now in the areas of trade controls and sanctions. Increasingly, corporate malefactors face prosecution in multiple jurisdictions, but particularly the US. As a result, resources such as the Department of Justice (DOJ) guidance on Evaluating Corporate Compliance Programs (ECCP) are broadly relevant—not just in the US—and have come to represent the cutting edge in regulators' expectations for compliance programs worldwide. Consequently, this report maps the best practices discussed in the ECCP.

In the past 10 years, nearly half of all US prosecutions under the Foreign Corrupt Practices Act have been against non-US companies.

The broad reach of US regulatory enforcement

Over the last 10 years, **47%** of all US FCPA prosecutions involved non-US companies.

The trend is accelerating. In the first six months of 2023, **5 out of the 7 FCPA** prosecutions concluded by the US Department of Justice and Securities and Exchange Commission involved non-US companies.

Non-US companies account for **9 out of the 10 largest fines** paid to settle Foreign Corrupt Practices Act cases brought by the Department of Justice since the statute was enacted in 1977.

Prosecutions of non-US companies are not limited to the FCPA: In the first six months of 2023, British American Tobacco, a UK company, accounted for **92% of the fines** imposed by the US Department of the Treasury for sanctions violations.

2016
VimpelCom Limited
(Netherlands)
$795M

2017
Telia Company AB
(Sweden)
$1.01B

2019
Telefonaktiebolaget LM
Ericsson (Sweden)
$1.06B

2020
Goldman Sachs Group, Inc.
(United States)
$3.3B

2021
Deutsche Bank AG
(Germany)
$122.9M

2022
Glencore plc
(Switzerland)
$700M

2014
Alstom S.A.
(France)
$772M

2013
Total S.A.
(France)
$398M

2018
Petróleo Brasileiro S.A.
– Petrobras (Brazil)
$1.78B

2015
BHP Billiton
(Australia)
$25M

What do highly effective ethics and compliance programs do differently?
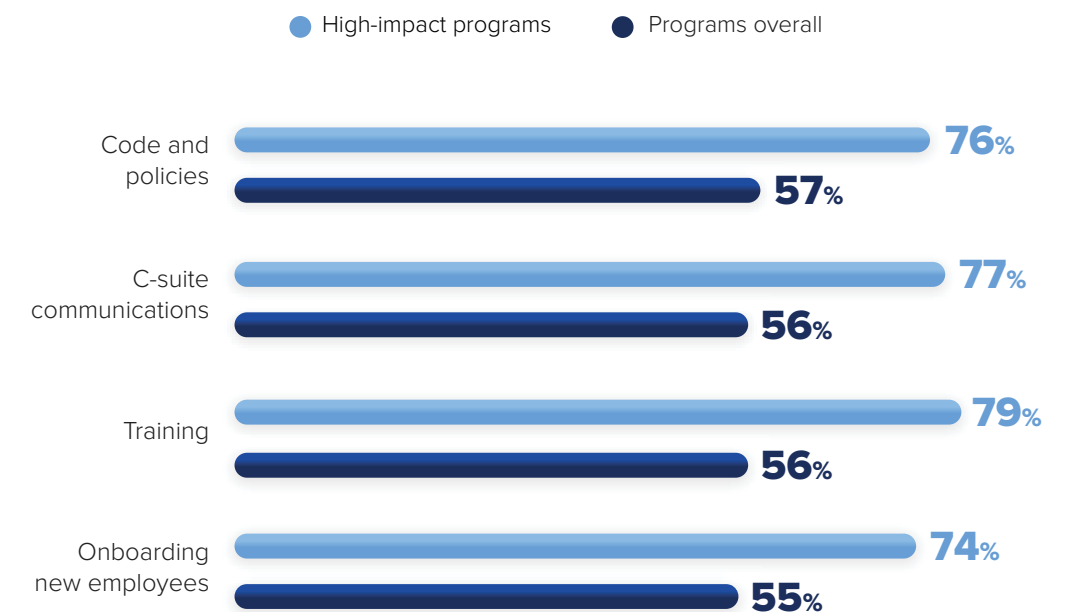
Five key differentiators.

1

High-performing programs rely principally on values to motivate and guide ethical and compliant behavior

Year over year, our findings show that E&C programs that place emphasis on values are significantly more impactful and effective than those relying principally on rules to guide behavior.

In high-impact programs, values underlie critical decision-making and enhance employees' ability to make ethical decisions in challenging or ambiguous situations. As we say at LRN: rules are good, values are better. This is particularly true when it comes to encouraging ethical behavior.

Moreover, our findings over the past four turbulent years confirm this. Looking back to pre-pandemic results, our 2020 report showed that highly impactful programs rely on values as the principal means of motivating leaders and employees towards ethical behavior by wide margins over less-effective ones.

Rate the degree to which your E&C program focuses on company values as well as rules in the following areas
(2020: % "To a great degree")

● High-impact programs   ● Programs overall

Code and policies
76%
57%

C-suite communications
77%
56%

Training
79%
56%

Onboarding new employees
74%
55%

Our subsequent research in 2021, 2022, and 2023 conclusively confirmed this approach despite the severe challenges posed to organizations by the pandemic, political discord, and the war in Ukraine. We saw that organizations met these challenges by relying upon their ethical values to motivate and guide employees—particularly in high-impact programs—and across all programs surveyed.

Values help companies navigate complex challenges

"Our organization has emphasized our company values, rather than rules and procedures, to motivate employees to do the right thing in difficult circumstances."

● High-impact programs   ● Programs overall

98% **82%**
2021

95% **78%**
2022

94% **84%**
2023
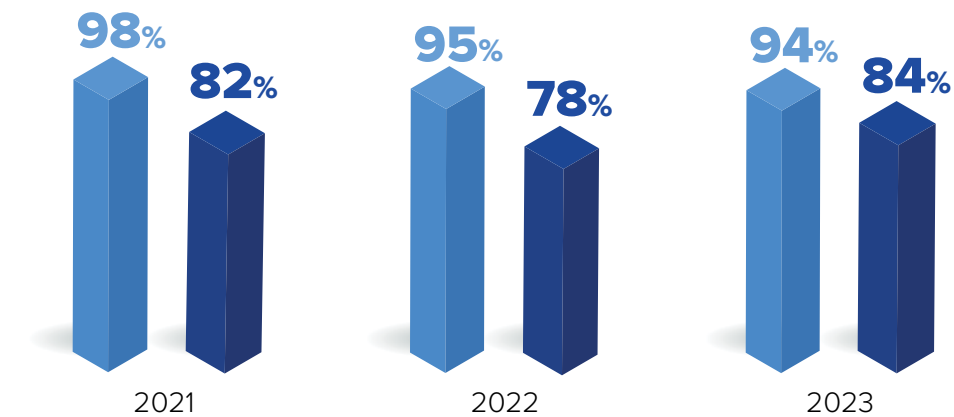
As the pandemic took hold, our 2021 report showed that 80% of E&C professionals surveyed reported that ethics and compliance played a key role in shaping their response to COVID-19, despite speculation that E&C would fade into the background in the face of business pressures. Employees, leaders, and E&C teams rose to the challenge. They relied on company values to deal with uncharted territory as the 2021 report's case studies on p. 8, 10, and 14 illustrate for Dell, Braskem, and the World Bank.
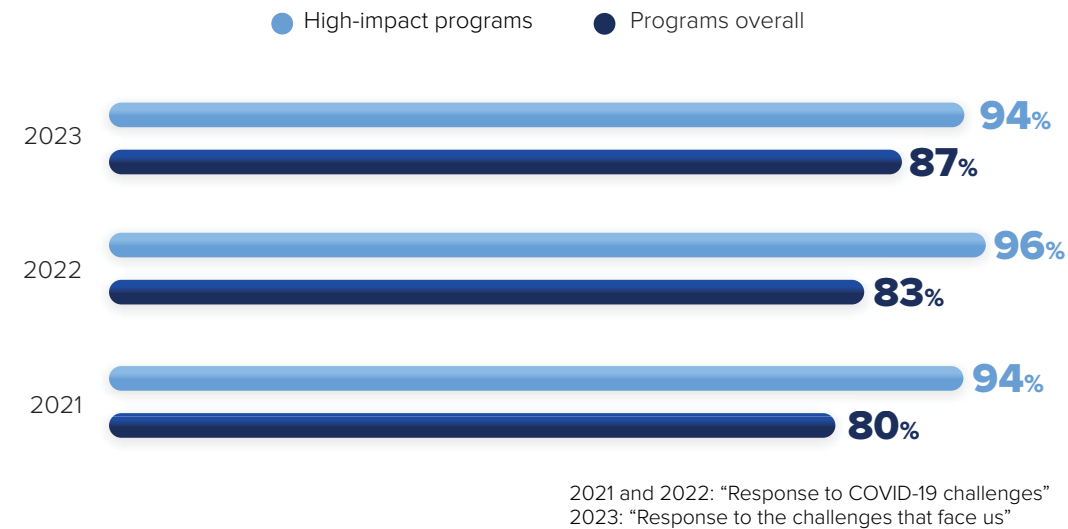
We also saw that organizations' ethical culture grew stronger as a result of their experiences coping with the pandemic. These trends continued—and to an even greater degree—in 2022. Then in 2023, a year that has been described as marked by "perma-crises," programs continued to strengthen, suggesting that values-based programs will continue to outperform. More significantly, the gap between high-performing programs and those that are less impactful narrowed in both areas as all programs met the challenges of the pandemic.

"Ethics is knowing the difference between what you have a right to do and what is right to do."

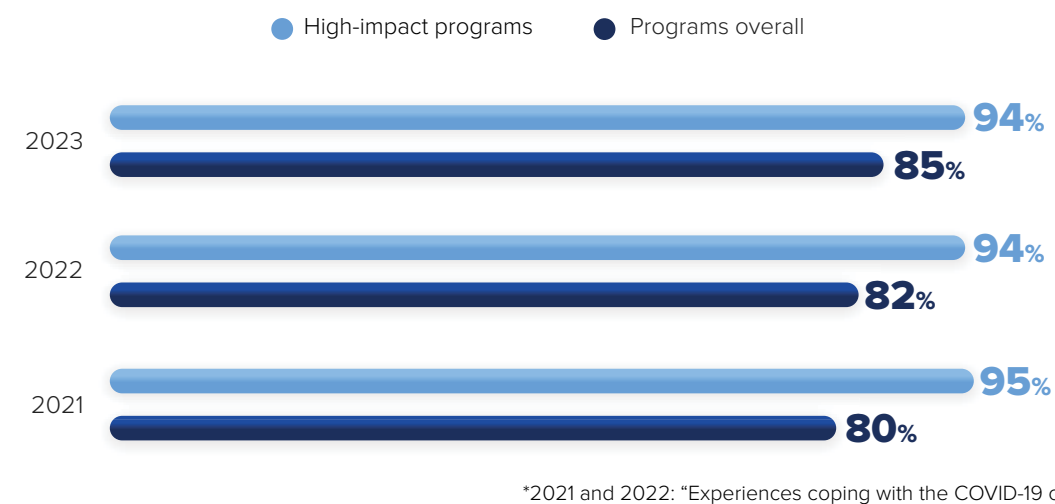—Potter Stewart, former US Associate Supreme Court Justice

E&C considerations play an important role in shaping companies' responses to challenges

● High-impact programs ● Programs overall

2023
- 94%
- 87%

2022
- 96%
- 83%

2021
- 94%
- 80%

2021 and 2022: "Response to COVID-19 challenges"
2023: "Response to the challenges that face us"

Ethical culture grows stronger
"Our ethical culture is stronger as a result of our experiences." *

● High-impact programs ● Programs overall

2023
- 94%
- 85%

2022
- 94%
- 82%

2021
- 95%
- 80%

*2021 and 2022: "Experiences coping with the COVID-19 crisis"

Thus, reorienting and reinventing an ethics and compliance program based principally on rules and sanctions by shifting it towards values as well as rules is an investment that can pay substantial dividends in the long term. It enhances impact and helps employees deal with gray areas and new challenges. As the late Associate Supreme Court Justice Potter Stewart once said, "ethics is knowing the difference between what you have a right to do and what is right to do."

Benchmark of Ethical Culture

LRN's research, summarized in our Benchmark of Ethical Culture report, found that employees in organizations with strong ethical cultures are much more likely to make ethical decisions in the face of pressure to meet timelines, quotas, and targets than those in organizations with weak ethical orientation—a significant risk reduction. These organizations also experience a greater willingness of employees to report wrongdoing when observed.
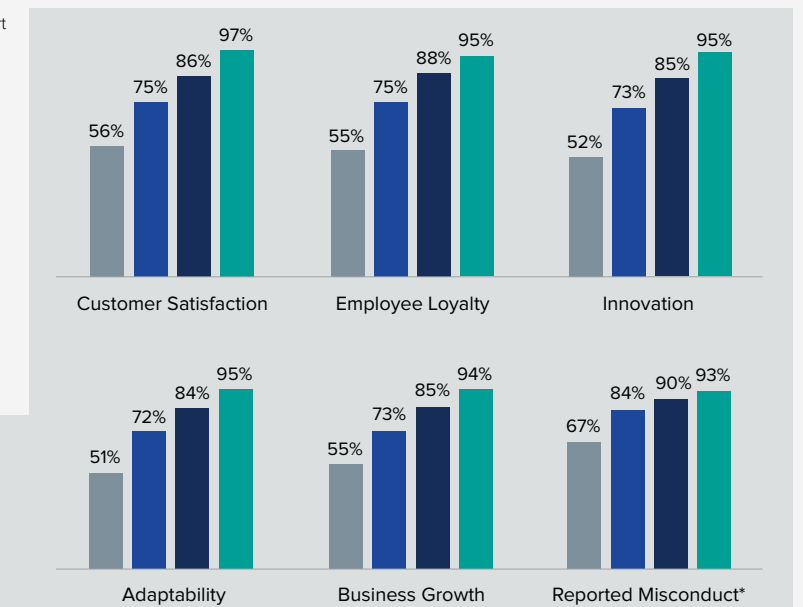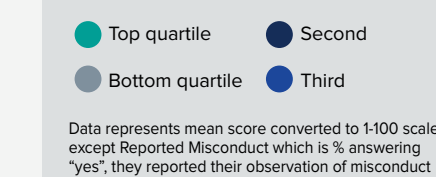
Beyond these key ethics and compliance objectives, our research found that ethical culture underpins successful performance across a variety of traditional business metrics. These organizations outperform in measures including customer satisfaction, growth, innovation, adaptability, and employee loyalty.

The value of values

Data from LRN's *2021 Benchmark of Ethical Culture* report

Key insights:
- Values-based corporporate governance reduces misconduct and helps employees excel in their work.
- Organizations with the strongest ethical cultures outperform across traditional business metrics.

● Top quartile ● Second
● Bottom quartile ● Third

Data represents mean score converted to 1-100 scale, except Reported Misconduct which is % answering "yes", they reported their observation of misconduct

Customer Satisfaction: 56%, 75%, 86%, 97%
Employee Loyalty: 55%, 75%, 88%, 95%
Innovation: 52%, 73%, 85%, 95%
Adaptability: 51%, 72%, 84%, 95%
Business Growth: 55%, 73%, 85%, 94%
Reported Misconduct*: 67%, 84%, 90%, 93%

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*Source: LRN's 2021 Benchmark of Ethical Culture report*

2

High-performing programs are embedded in the decision-making process of their companies

When ethics and compliance programs started developing in the wake of the establishment of the US Sentencing Commission in 1984, many started as an obscure part of company legal departments, mainly responsible for annual ethics training. Today, E&C programs have matured, and regulators' expectations have grown. A critical hallmark of an effective program is if it is embedded into the business of the operation or, put another way, "operationalized." As the 2023 Department of Justice Evaluating Corporate Compliance Programs (ECCP) asks, *"Have managers tolerated greater compliance risks in pursuit of new business or greater revenues? Have managers encouraged employees to act unethically to achieve a business objective, or impeded compliance personnel from effectively implementing their duties?"*

Making tough choices based on E&C considerations is a good indication of whether an E&C program is embedded in the decision-making of an organization and meets the DOJ's focus on effectiveness. Our data for the past four years shows steady improvement, particularly for high-performing programs, in this important area.

This data shows a 20% increase from 2020 to 2023 for high-performance programs over others, and that the gap between high-performing and less impactful programs has widened. In other words, high-performing programs have operationalized their programs more rapidly and increasingly play a role in strengthening their organization's ability to make difficult decisions that strengthen ethical culture.

> "In the past year, my organization's consideration of ethics and compliance risks or factors led to us substantially modify or abandon a business initiative."

● High-impact programs ● Programs overall

2020: 49% / 42%
2021: 60% / 40%
**2022:** 67% / 48%
2023: 69% / 52%
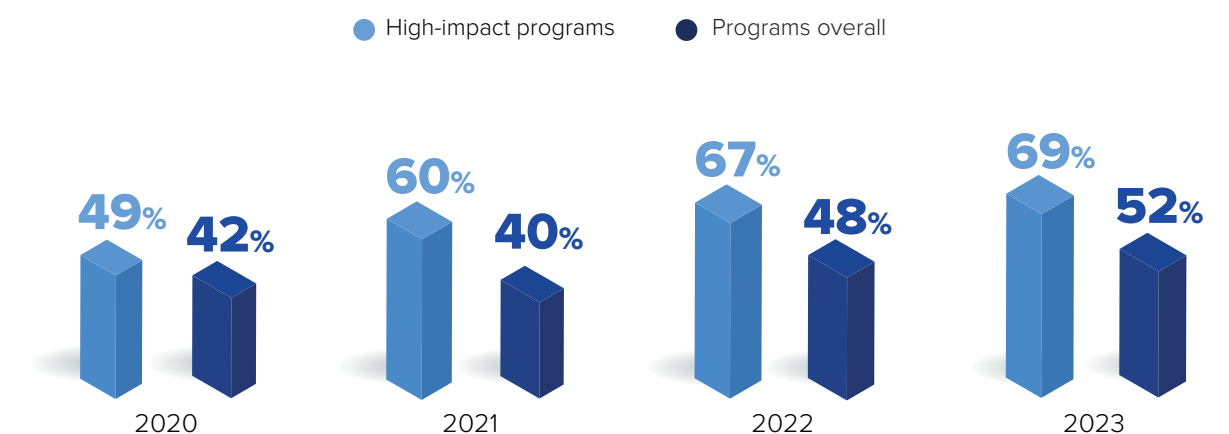
Another factor that significantly demonstrates the reach and impact of an E&C program is the role of the board and senior leadership. As the ECCP notes: *"...the company's top leaders—the board of directors and executives—set the tone for the rest of the company. Prosecutors should examine the extent to which senior management have clearly articulated the company's ethical standards, conveyed and disseminated them in clear and unambiguous terms, and demonstrated rigorous adherence by example."*

Our data again demonstrates that high-performing programs have leaders that incorporate ethics and compliance considerations into their decisions, consistent with regulators' expectations. For example, in 2021, when asked, "Has your senior leadership integrated ethics and compliance considerations into their decision-making?" executives from companies with high-performing programs responded in the affirmative by a wider margin.

Has your senior leadership integrated ethics and compliance considerations into their decision-making?
(2021: % = answer choice selected)

● High-impact programs   ● Programs overall

Senior leadership
84%
71%
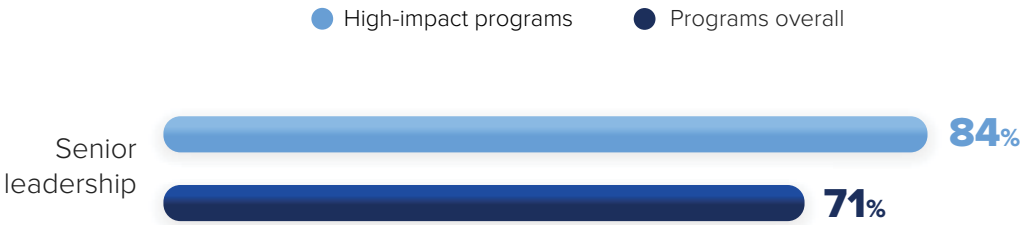
Our data over the past four years suggest the majority of E&C functions have the ability to raise issues or concerns directly to the board of directors, reflecting the DOJ's expectation that there be *"sufficient autonomy from management."* In 2023, 82% of programs overall enjoyed such autonomy, indicating that boards take their role in overseeing ethics and compliance seriously.

One trending best practice that we identified in 2020—refocusing E&C program elements to enhance accessibility and comprehension by employees—has emerged as an important characteristic of high-performing programs. This shift has been driven in part by remote work during the pandemic and by Department of Justice ECCP updates that posed questions about program accessibility and impact: *"How has the company communicated its policies and procedures to all employees and relevant third parties? If the company has foreign subsidiaries, are there linguistic or other barriers to foreign employees' access? Have the policies and procedures been published in a searchable format for easy reference? Does the company track access to various policies and procedures to understand what policies are attracting more attention from relevant employees?"*

In 2020, E&C programs started to simplify and placed a priority on critical resources such as making policies more broadly available, accessible, and relevant. In 2023, our data showed that this trend accelerated. Further, 80% of our survey respondents reported making changes to their E&C program to accommodate those working remotely and on a hybrid basis by focusing on simplicity and access.

3

High-performing programs make it easy for employees to access resources and place a premium on relevance

High-impact differential

7.5*x*
Have translation capacity for non-English speakers in their hotline

7*x*
Integrate related control and approval procedures into policies

7.1*x*
Have a code of conduct and policies that are searchable and web-based as a high priority

7.2*x*
Offer mobile-compatible E&C training

6.6*x*
Incorporate chat bots or other "live" features in the code of conduct that allow questions from employees

6.5*x*
Enable personalized learning options tailored to role, region, or seniority

7.7*x*
Offer "just in time" training triggered by internal systems such as expense reporting, travel, or procurement
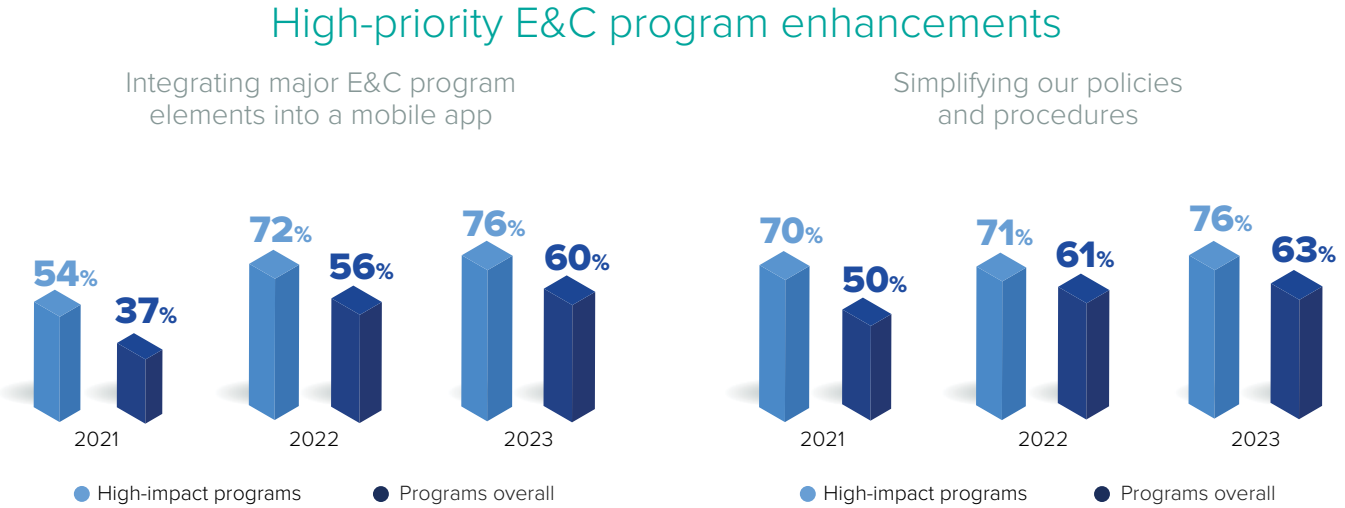
7.4*x*
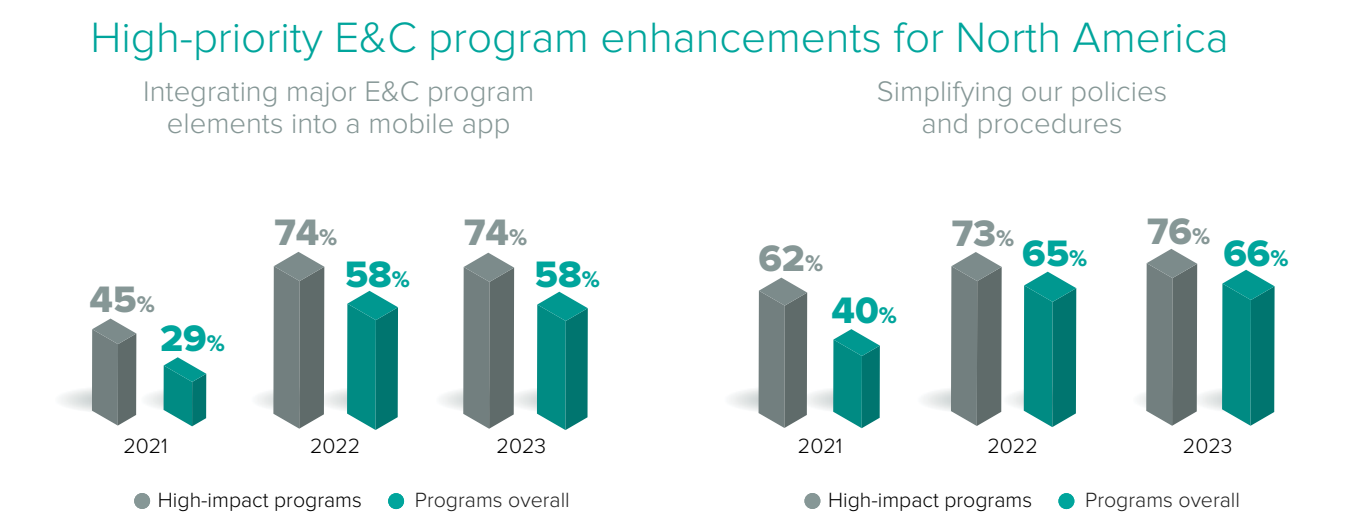Collect and analyze data metrics that provide real-time insight into program impact

Data compares 2023 high-impact program results to that of less-effective programs

Compared to those that haven't adjusted to changing workforce models, these programs focused on employee access, made it easier for employees to comply, and prioritized the data and analysis that enables them to measure impact and continuously improve. In 2023, they were, on average, seven times more likely to attend to key issues of accessibility, simplicity, and relevance as compared to others.
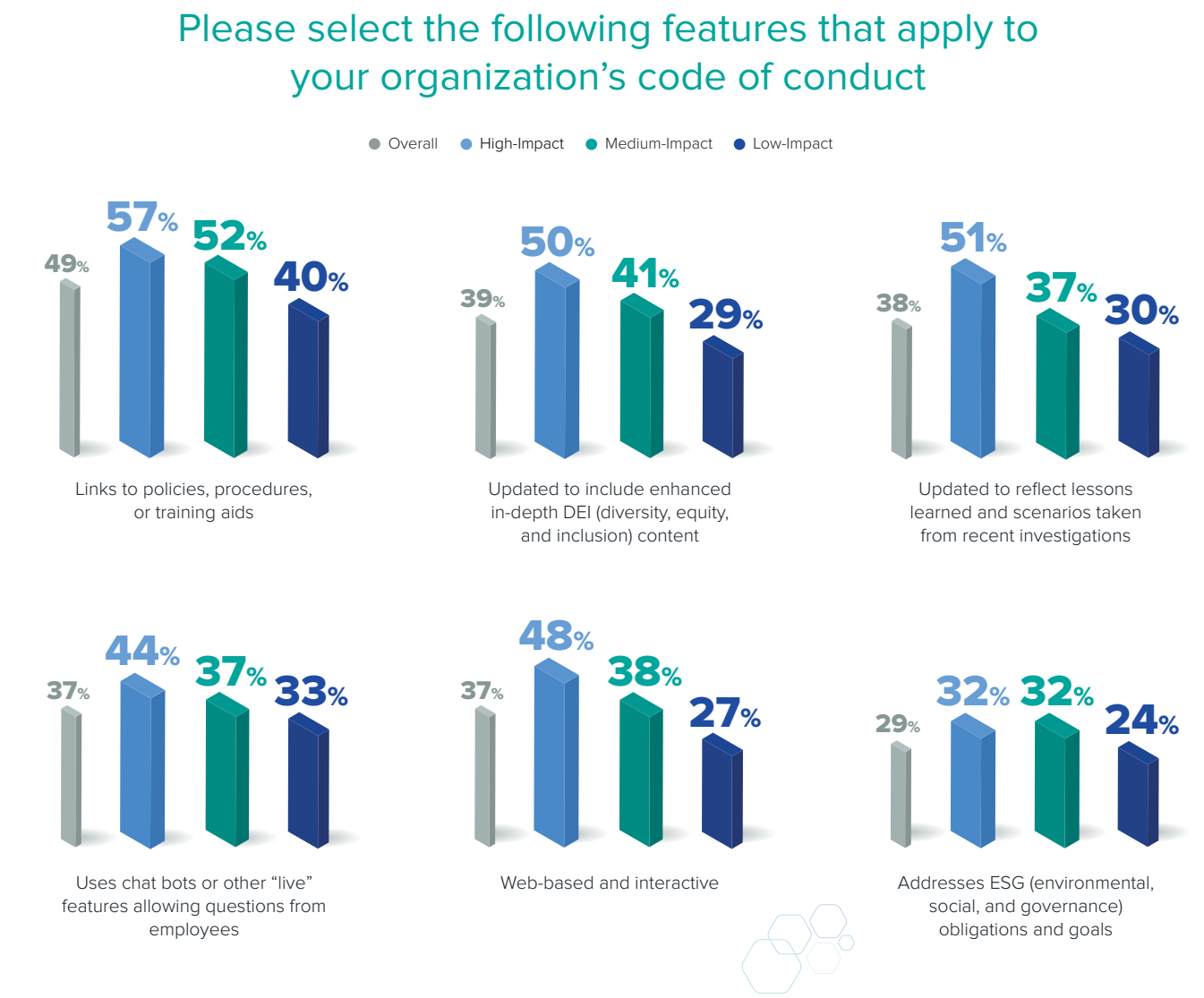
The COVID-19 crisis accelerated the trend towards employee focus and catalyzed changes in E&C programs, as companies adapted practices, technology, and procedures to support the needs and realities of a more virtual work environment and respond to changing risks. High-performing programs lead the way.

High-priority E&C program enhancements

Integrating major E&C program elements into a mobile app

- High-impact programs
- Programs overall

Simplifying our policies and procedures

- High-impact programs
- Programs overall

In terms of priorities, our 2023 survey showed that programs are planning to invest in a more employee-centric approach to ethics and compliance, particularly in North America.

High-priority E&C program enhancements for North America

Integrating major E&C program elements into a mobile app

- High-impact programs
- Programs overall

Simplifying our policies and procedures

- High-impact programs
- Programs overall

In the important area of codes of conduct, our 2023 data noted progress but showed that there was room for improvement, even among high-performing programs.

Please select the following features that apply to your organization's code of conduct

- Overall
- High-Impact
- Medium-Impact
- Low-Impact

Links to policies, procedures, or training aids — 49%, 57%, 52%, 40%

Updated to include enhanced in-depth DEI (diversity, equity, and inclusion) content — 39%, 50%, 41%, 29%

Updated to reflect lessons learned and scenarios taken from recent investigations — 38%, 51%, 37%, 30%

Uses chat bots or other "live" features allowing questions from employees — 37%, 44%, 37%, 33%

Web-based and interactive — 37%, 48%, 38%, 27%

Addresses ESG (environmental, social, and governance) obligations and goals — 29%, 32%, 32%, 24%

These results are confirmed by our 2023 Code of Conduct Report. It documents that there is substantial room for improvement in the area of codes, even among leading global companies. While by far the most common format for a code of conduct is a digital PDF, more and more companies are beginning to put their codes into a web-based format. The key driver of this trend is the desire to extract meaningful data on employees' interactions with the code, something that cannot be done with a PDF. In addition, a well-designed web-based code will be more engaging, interactive, and accessible. 72% of high-performing programs in 2023 indicated that improving their codes was a priority.

Training is a critical component of any E&C program and has evolved, over time, away from an emphasis on content using long, complex "lectures" towards a focus on how employees learn best. Some employee-focused training program features—such as tailoring learning to an employee's role, region, or seniority, and offering shorter, more relevant training—have started to emerge as best practices over the past three to four years and gained traction during the COVID-19 crisis.

In the area of training, how has your ethics and compliance program responded to the COVID-19 crisis?

(Select all that apply)

(2021: % selected)

● High-impact programs   ● Programs overall

Customizing training and communication to address risks specific to the COVID-19 crisis
61%
52%

Using shorter, more targeted training courses or videos
50%
36%

Tailoring and targeting training have been best practices recommended by the ECCP guidance since 2019. *"Companies have invested in shorter, more targeted training sessions to enable employees to timely identify and raise issues to appropriate compliance, internal audit, or other risk management functions... [Prosecutors should ask] has the company provided tailored training for high-risk and control employees, including training that addresses risks in the area where the misconduct occurred? Have supervisory employees received different or supplementary training? What analysis has the company undertaken to determine who should be trained and on what subjects?"*

4

High-performing programs innovate in designing and delivering training

Interestingly, as we included more non-US respondents in our survey—first in the UK and Europe in 2021, and then for Asia-Pacific in 2023—the level of adoption of tailored training and just-in-time practices decreased slightly, possibly indicating that these regions are less proactive in this area.

Does your E&C training program have the following features?

Personalized learning options tailored to role, region, or seniority

● High-impact programs ● Programs overall

49% **36%** 2020
49% **35%** 2021
42% **36%** 2022
43% **35%** 2023

"Just in time" training triggered by internal systems such as expense reporting, travel, or procurement

● High-impact programs ● Programs overall

38% **28%** 2021
42% **33%** 2022
39% **30%** 2023
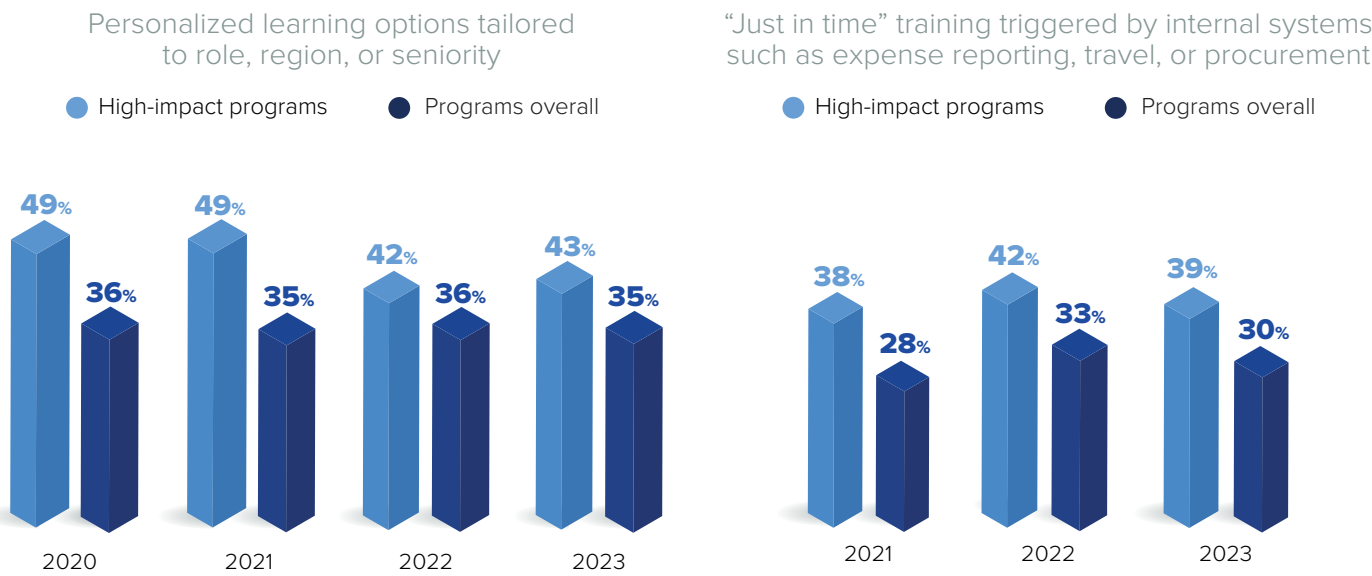
Offering training that is accessible on mobile devices is another program feature for which we would expect to see greater adoption, especially in a post-COVID environment and given the greater emphasis on accessibility by regulators. Indeed, our data showed a spike in adoption in 2021 led by high-performing programs, and lower levels of adoption in 2022 and 2023. As employees return to offices, there may be less of an incentive to make training accessible on mobile devices. And, as noted in other sections of this report, we have expanded our global data set and as result, the percentage of high-impact programs has decreased.

Is your training available on mobile devices?

● High-impact programs ● Programs overall

38% **33%** 2020
59% **42%** 2021
48% **41%** 2022
41% **35%** 2023
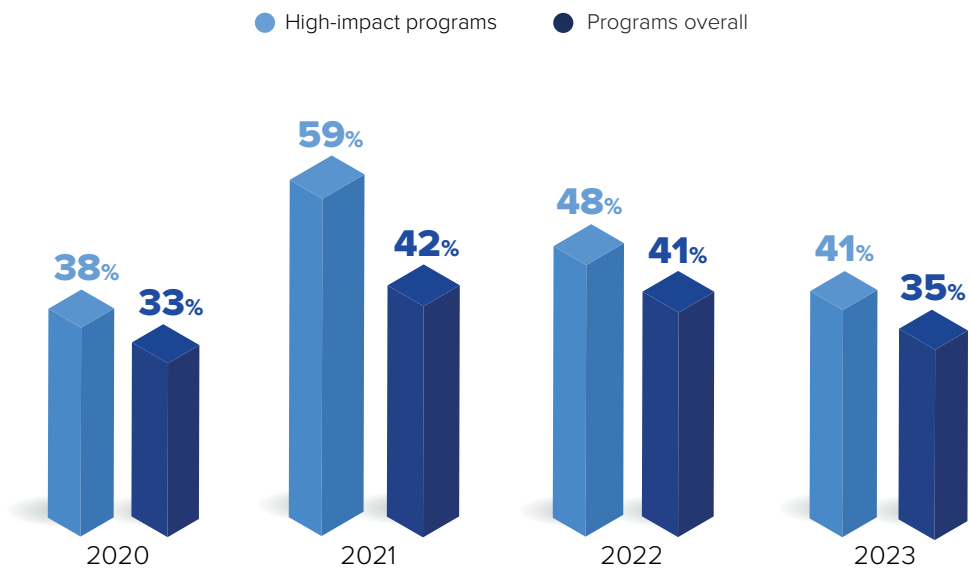
Another innovative training feature that has seen greater adoption more recently is "test out," as companies focus on the employee experience. Testing employee knowledge levels to determine if they have mastered basic content and are ready to move to a higher level of training can enhance employee engagement. It also helps E&C programs answer the ECCP questions, *"How has the company measured the effectiveness of the training? Have employees been tested on what they have learned?"* "Test out" is now being used by more than half of our 2023 survey respondents, a significant increase over levels of adoption in 2020.

Do you offer a "test out" option for employees to demonstrate competency?

● High-impact programs ● Programs overall

27% **18%** 2020
55% **50%** 2023
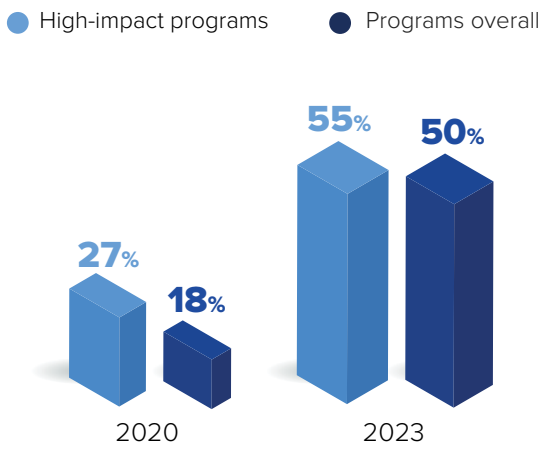
Finally, high-performing programs are leading the way in using data analytics to understand how employees interact with E&C training. Robust data analytics can provide real-time insights into what areas of content employees have not mastered and what segments of the employee population are most at risk as a result. Training analytics can include training time, course satisfaction ratings, difficult topics and questions, and employee comments using an integrated dashboard.
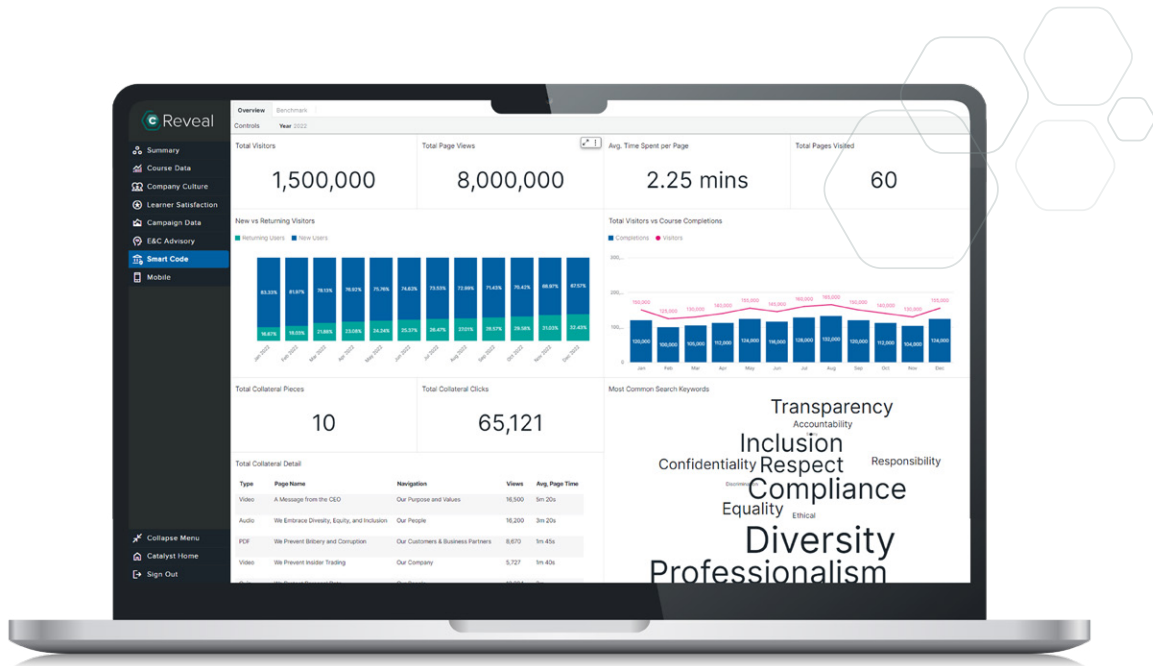
Including a short ethical culture survey at the end of courses—typically for code of conduct—that takes the pulse of employee sentiment without the need for a company-wide annual survey is also emerging as a best practice. Such a feature provides a real-time answer to the ECCP's question *"How often and how does the company measure its culture of compliance?"*

Thus, training should be an area of focus for all programs given the level of innovation taking place, particularly amongst high-performing programs and regulators' emphasis on training design and impact.

What methods does your training program use to measure effectiveness and impact?
(2023: Select all that apply)

● Programs overall

Method	%
Data metrics from our training system such as length of time to time master topics, error rates, retake, or quiz results	46%
End-of-course user surveys	45%
Content quizzes during, at the end, or subsequent to training courses	44%
Focus groups	39%
Root cause analysis of misconduct incidents to identify training failures	36%
Training competitions	33%
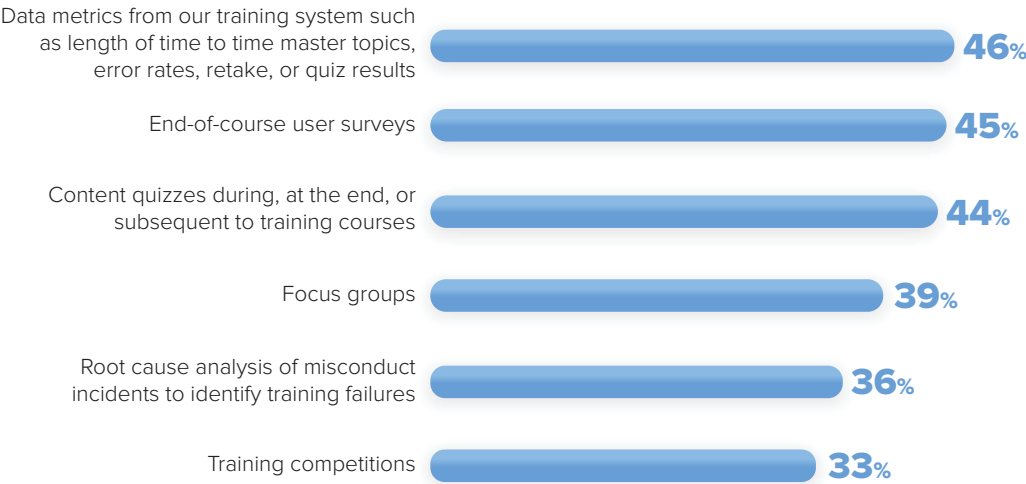
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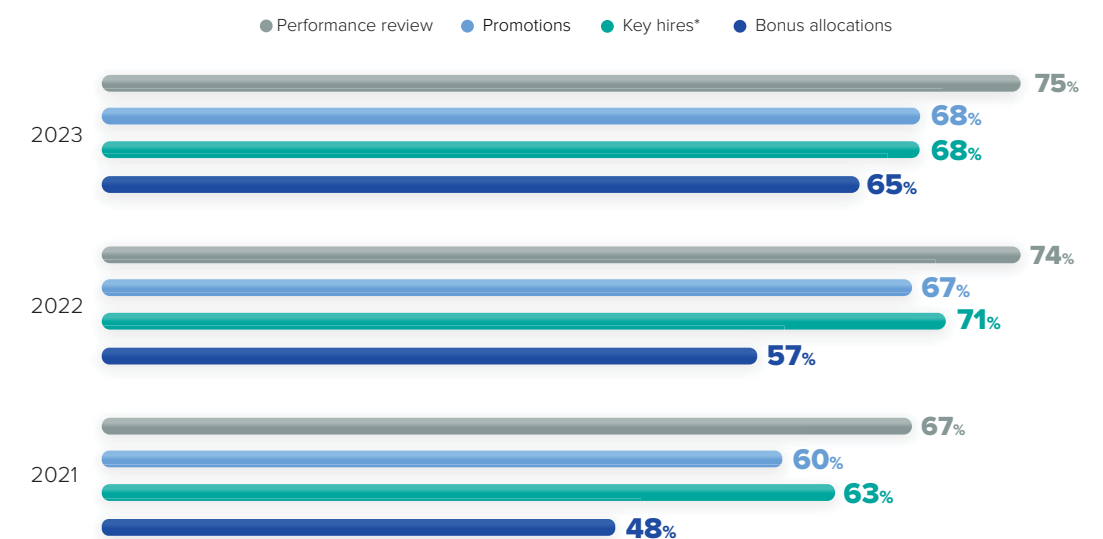# High-performing programs focus on personal responsibility for ethical and compliant conduct

Our research over the past three years shows that including ethics and compliance behavior as a factor to be taken into for performance reviews, promotions, key hires (such as managerial, executive, or control functions), and bonus allocations is now a well-established best practice, particularly for E&C programs in North America.

"My organization has formal requirements that executives' and employees' ethical behavior is evaluated as a significant factor in..." (North America programs overall)

● Performance review　● Promotions　● Key hires*　● Bonus allocations

2023
- 75%
- 68%
- 68%
- 65%

2022
- 74%
- 67%
- 71%
- 57%

2021
- 67%
- 60%
- 63%
- 48%

*Hiring for managerial, executive, or control functions

The level of adoption of this important best practice is significantly lower, however, when we look at global data—even *decreasing* year-over-year (a reflection of the *increasing* globalization of our research year-over-year). This suggests that the DOJ's emphasis on this aspect of E&C programs deserves more attention globally.

"My organization has formal requirements that executives' and employees' ethical behavior is evaluated as a significant factor in..."
(Programs overall — Globally)

- ● Performance review ● Promotions ● Key hires* ● Bonus allocations

2023
- 57%
- 51%
- 54%
- 45%

2022
- 69%
- 62%
- 64%
- 52%

2021
- 72%
- 66%
- 68%
- 52%

*Hiring for managerial, executive, or control functions

When we isolate high-impact programs, we do see consistent adoption year-over-year even in our global dataset. We also see a growth in the percentage of high-impact programs that connect ethical conduct to bonus allocations.
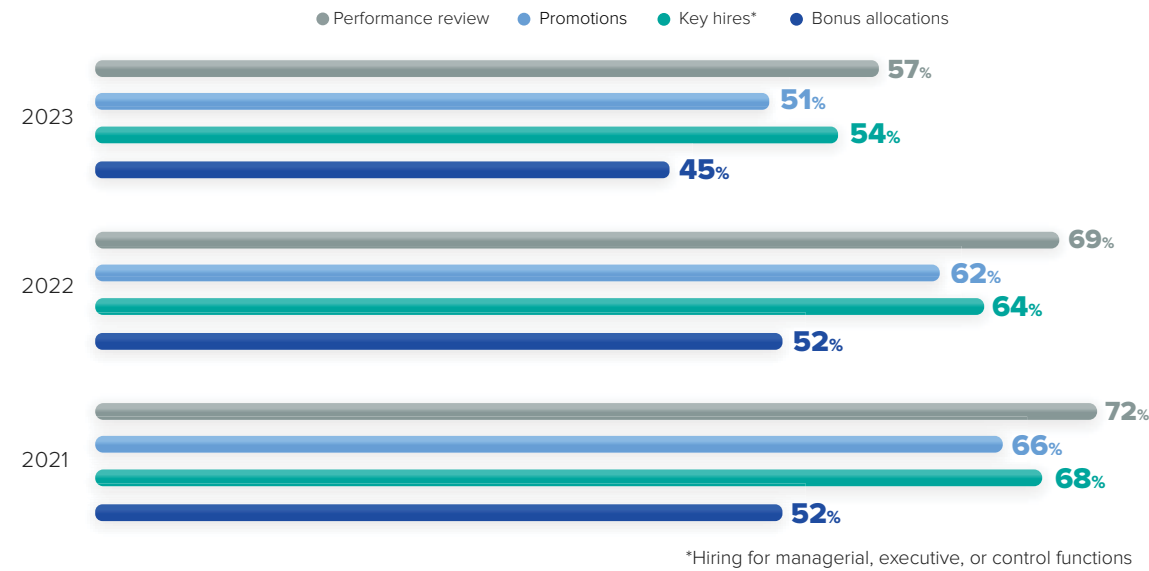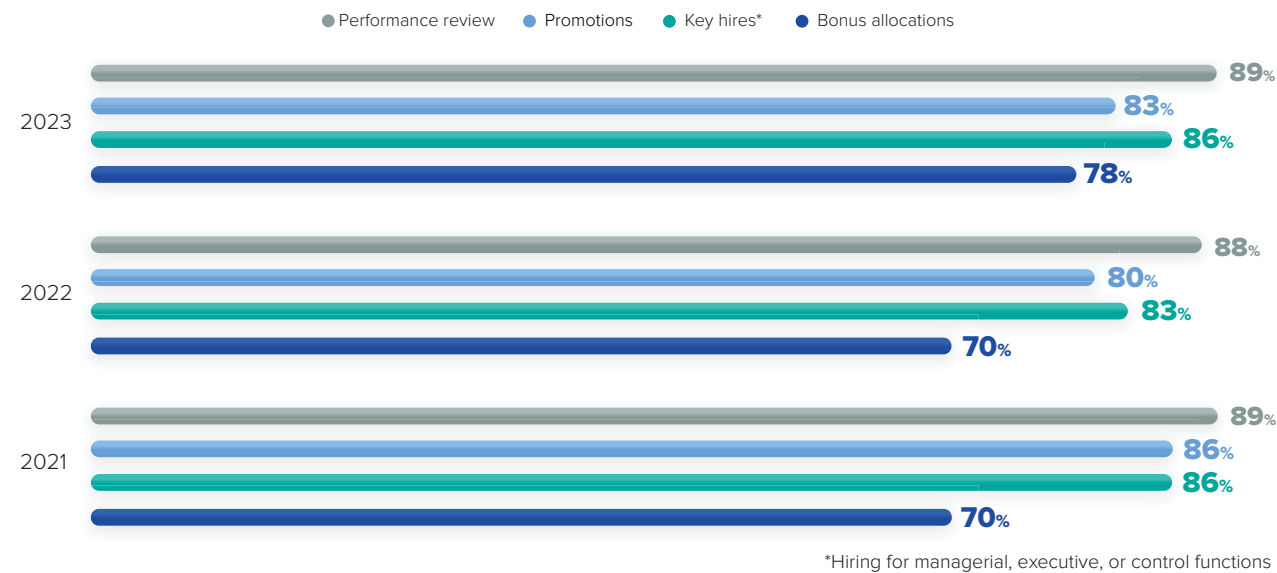
"My organization has formal requirements that executives' and employees' ethical behavior is evaluated as a significant factor in..."
(High-impact programs — Globally)

- ● Performance review ● Promotions ● Key hires* ● Bonus allocations

2023
- 89%
- 83%
- 86%
- 78%

2022
- 88%
- 80%
- 83%
- 70%

2021
- 89%
- 86%
- 86%
- 70%

*Hiring for managerial, executive, or control functions

Perhaps more significant is our data showing that organizations, particularly those that are high-performing in North America, walk the talk of accountability by disciplining or terminating senior executives and high-performing employees for unethical behavior. Our data shows this practice increased by nearly 20 percentage-points between 2021 and 2022 among North American high-impact programs, and nearly 15 percentage-points when looking at programs overall across the same time period. Since it's unlikely that executives and high performers are engaging in greater levels of misconduct now compared to a few years ago, this increase is a meaningful indicator of the importance of organizational justice.

Accountability for ethical conduct — North America
"In the past year, has your organization disciplined or terminated a senior executive or excellent performer for unethical behavior?" (% "Yes")

- ● High-impact programs ● Programs overall

2023
- 56%
- 49%

**2022**
- 52%
- 41%

2021
- 35%
- 27%
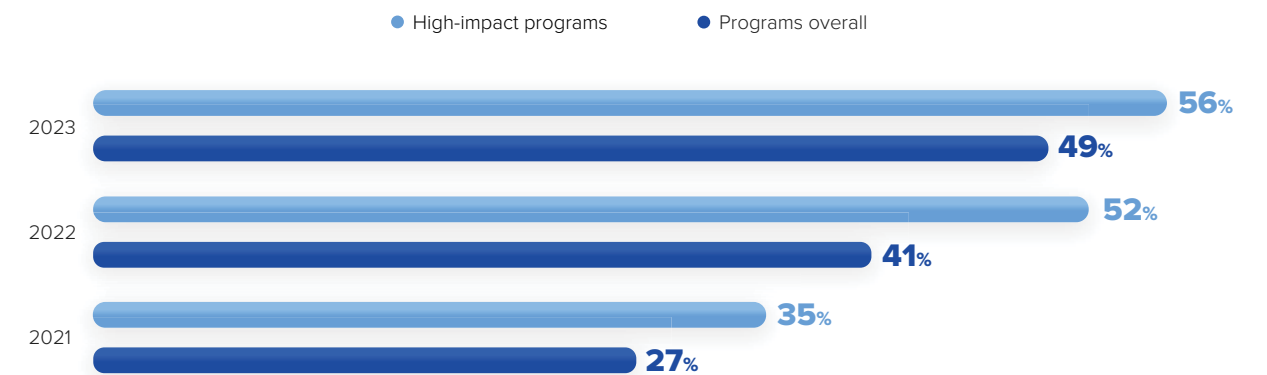
Note: Question provided *Yes, No, Not applicable,* and *I don't know* answer choices

These data trends foreshadowed the Department of Justice Criminal Division's policy priority, announced in September 2022, of focusing on personal accountability for corporate misconduct. In a major speech, Deputy Attorney General Lisa Monaco stated, *"Going forward, when prosecutors evaluate the strength of a company's compliance program, they will consider whether its compensation systems reward compliance and impose financial sanctions on employees, executives, or directors whose direct or supervisory actions or omissions contributed to criminal conduct."*
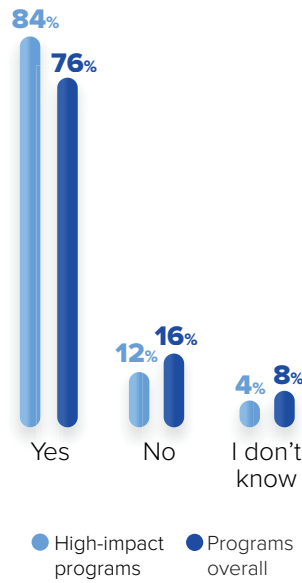
My organization has policies that allow "clawback" of bonuses, severance, or other rewards if a board member, executive, or employee commits serious misconduct.
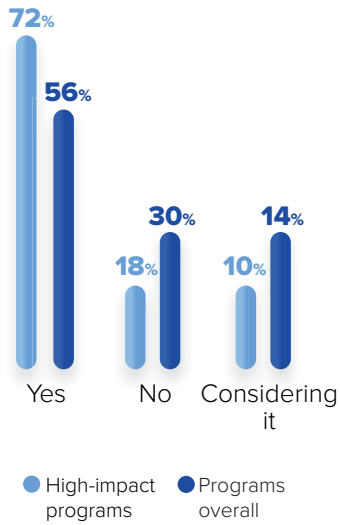
In the past year, has your organization disciplined or terminated a senior executive or excellent performer for unethical behavior?
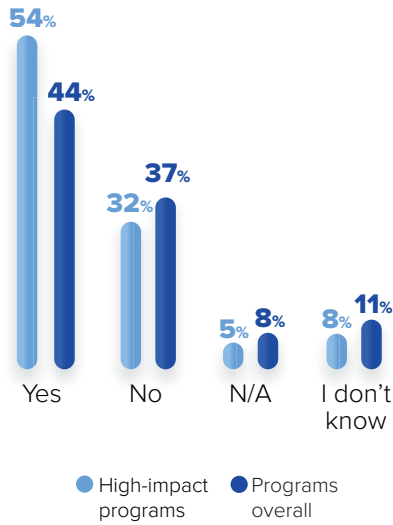
IF YES: Was the individual subject to "clawback", i.e., forfeiture of any bonuses, golden parachutes, compensation, or other benefits as a result of their unethical behavior?

Chart 1: My organization has policies that allow "clawback"...
- Yes: High-impact programs 72%, Programs overall 56%
- No: High-impact programs 18%, Programs overall 30%
- Considering it: High-impact programs 10%, Programs overall 14%

● High-impact programs ● Programs overall

Chart 2: In the past year, has your organization disciplined or terminated...
- Yes: High-impact programs 54%, Programs overall 44%
- No: High-impact programs 32%, Programs overall 37%
- N/A: High-impact programs 5%, Programs overall 8%
- I don't know: High-impact programs 8%, Programs overall 11%

● High-impact programs ● Programs overall

Chart 3: IF YES: Was the individual subject to "clawback"...
- Yes: High-impact programs 84%, Programs overall 76%
- No: High-impact programs 12%, Programs overall 16%
- I don't know: High-impact programs 4%, Programs overall 8%

● High-impact programs ● Programs overall

This increasing focus on ethical behavior also resulted in recent amendments to the ECCP, which notes, *"The hallmark of effective implementation of a compliance program is the establishment of incentives for compliance and disincentives for non-compliance."*

The Department of Justice also implemented a new pilot program involving clawbacks of financial compensation in the event of corporate misconduct that has two main components. First, every corporate settlement of a DOJ misconduct investigation will include a requirement that the company develop and deploy compliance-promoting criteria within its compensation and bonus systems— including clawback provisions to recoup bonuses and compensation in the event the recipient participated in misconduct. Second, if and when a company uses its clawback procedures to penalize wrongdoers, the pilot program will provide fine reductions to those companies.

Our 2023 data indicates that many E&C programs, particularly ones that are high performing, have already implemented and are utilizing clawbacks to penalize misconduct.

It should be noted that the Securities and Exchange Commission originally proposed clawback rules in 2015 (but did not implement them until 2022), thus giving issuers notice of its intent to do so.

"The hallmark of effective implementation of a compliance program is the establishment of incentives for compliance and disincentives for non-compliance."
—US Department of Justice, Evaluation of Corporate Compliance Programs

Conclusion

Looking back over the past four years of LRN's research on what makes E&C programs effective yields actionable insights for organizations and their E&C teams. Values provide the engine that motivates employees to do the right thing, even when not required by the rules. The challenges of the pandemic helped to embed ethics and compliance into corporate decision-making, a trend that continues. With few exceptions, programs are evolving in the same direction, towards an emphasis on impact rather than activities and a focus on making it easier for employees to gain the guidance they need in real time. Ensuring that there is personal accountability for misconduct and aligning corporate incentives to support that objective is increasingly common.

But our data also documents some developments that have not received the attention they deserve. The convergence of worldwide practices shown in our data regarding the structure and function of E&C programs points towards the evolution of a global standard. But program structure and program implementation are two different tasks. The high and rising percentage of non-US companies prosecuted for anti-bribery or sanction and trade control violations graphically demonstrates the price that can be paid when E&C programs do not have a seat at the table when critical business decisions are made—or when their overall impact is low. We look forward to continuing to develop these insights for the benefit of the E&C community going forward.

Methodology

Using methodology and insights we have developed over our 29 years working in this space, we analyzed the data and information these practitioners provided to determine the critical differentiators that make some E&C programs more impactful than others.

How we quantify program effectiveness

LRN's Program Effectiveness Index (PEI) is a proprietary framework for analyzing the impact of E&C programs. Notable for its unconventional approach to program effectiveness, the PEI measures outcomes across three areas of critical workplace behavior rather than measuring program activities (such as the number of employees trained or hotline reports generated, etc.) to gain insight into ethical culture and how the program works "in practice."

The areas we measure are:

Ethical decision-making: Are the choices employees make animated by values or expediency?

Organizational justice: Are senior executives and high performers held to the same standards of conduct as other employees?

Freedom of expression: Do employees speak up, contribute willingly, and exchange ideas freely?
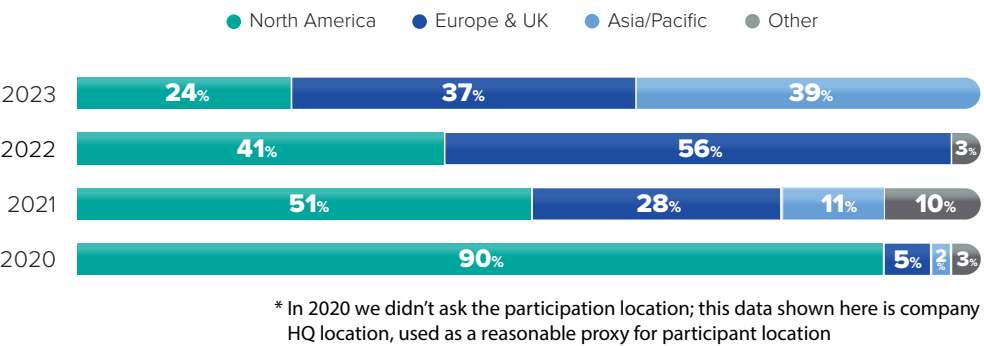
Participant demographics

The survey results presented in this report are based on completed online surveys with a global sample of ethics, compliance, and legal professionals from corporations and organizations with a minimum of 1,000 employees. The vast majority of participants come from global research panels, with the remaining from LRN's mailing list. All survey respondents were pre-screened to ensure their job responsibilities involve development, oversight, or implementation of ethics and compliance and/or legal objectives, policies, or procedures.
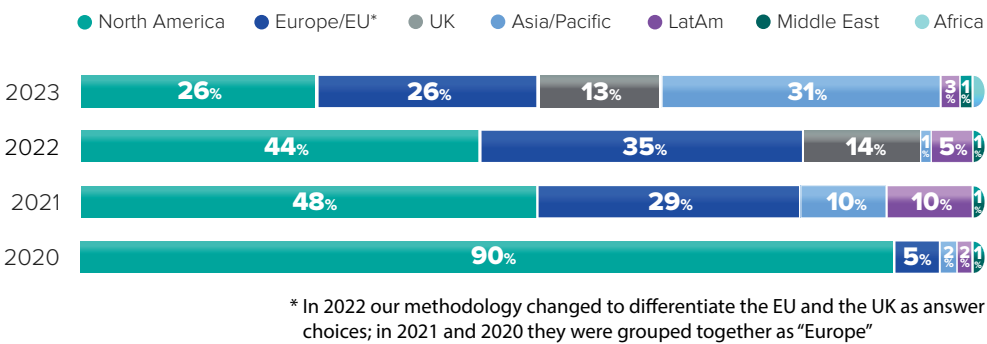
Sample size

Year	# Participants
2023	1855
2022	1164
2021	642
2020	512

Respondent industry	2023	2022	2021	2020
Business Services	7%	7%	7%	5%
Chemicals	3%	3%	2%	1%
Computers & Electronics		6%	4%	3%
Consumer Products & Services	3%	4%	3%	3%
Education	5%	8%	5%	6%
Energy & Utilities	3%	6%	4%	3%
Engineering & Construction	5%	5%	4%	6%
Financial Services	14%	13%	12%	7%
Food, Beverage, Tobacco & Agriculture	4%	3%	2%	2%
Health	7%	11%	6%	10%
Legal Services	3%	2%	11%	7%
Manufacturing	10%	6%	8%	9%
Media & Entertainment	2%	1%	1%	1%
Nonprofit	1%	2%	2%	5%
Pharmaceuticals, Medical Devices & Biotech	2%	1%	1%	5%
Real Estate	1%	1%	1%	2%
Retail	5%	3%	4%	5%
Software & Internet	5%	6%	5%	4%
Telecommunications	4%	3%	2%	3%
Transportation	3%	3%	4%	3%
Travel & Recreation	1%	1%	2%	1%
Wholesale & Distribution		1%	1%	
Other	12%	6%	7%	7%

Participant location

Legend: ● North America ● Europe & UK ● Asia/Pacific ● Other

Year	North America	Europe & UK	Asia/Pacific	Other
2023	24%	37%	39%	
2022	41%	56%		3%
2021	51%	28%	11%	10%
2020	90%		5% 2%	3%

* In 2020 we didn't ask the participation location; this data shown here is company HQ location, used as a reasonable proxy for participant location

Organization HQ

Legend: ● North America ● Europe/EU* ● UK ● Asia/Pacific ● LatAm ● Middle East ● Africa

Year	North America	Europe/EU*	UK	Asia/Pacific	LatAm	Middle East	Africa
2023	26%	26%	13%	31%	3%	2%	1%
2022	44%	35%		14%	5%		
2021	48%	29%		10%	10%		
2020	90%			5%	2%	2%	

* In 2022 our methodology changed to differentiate the EU and the UK as answer choices; in 2021 and 2020 they were grouped together as "Europe"

Organization size (## EE)

Legend: ● < 1,000 ● 1,000 - 5,000 ● 5,000 - 10,000 ● 10,000 - 50,000 ● >50,000

Year	< 1,000	1,000 - 5,000	5,000 - 10,000	10,000 - 50,000	>50,000
2023		41%	22%	20%	17%
2022	2%	49%	24%	13%	13%
2021		41%	21%	23%	15%
2020	22%	38%	16%	24%	

* In 2020 the largest employee size was > 10,000; in later years we provided the 10,000-50,000 and > 50,000 answer choices

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