

# If They Can't Understand Them, They Won't Follow Them

THE ART OF DRAFTING EFFECTIVE COMPLIANCE PROGRAM POLICIES

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## Speakers

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## Overview



Well-drafted policies are the infrastructure of an effective compliance program



If employees and volunteers can't understand compliance policies because they are too "legal," the likelihood of them following the policies is greatly reduced



Well-drafted, easy to understand policies will enhance the overall effectiveness of the compliance program

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## Introduction

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Writing policies and procedures isn't the most exciting part of a compliance professional's job, but it is essential

Regardless of the size of the organization or whether it is "for profit" or "not for profit" it is essential to have compliance policies people can understand

Policies should be a work horse rather than a show horse

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# What we think our policies sound like

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# What others think our policies sound like

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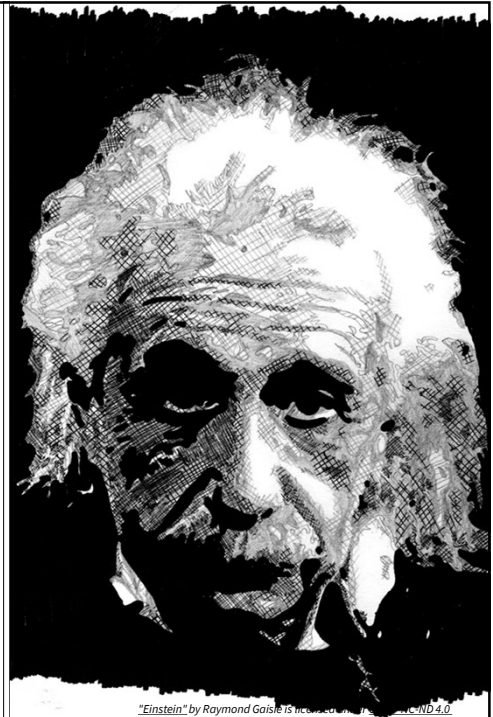
Or maybe

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“If you can’t  
explain it simply,  
you don’t  
understand it well  
enough.”  
◦Albert Einstein



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# Why do we need policies?

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<b>Rules</b>	Set forth the rules (legal, regulatory and organizational) everyone must follow
<b>Expectations</b>	Set expectations in terms of behavior and what is expected, appropriate and lawful
<b>Evidence</b>	Evidence to “outside world” (courts, regulators, stakeholders, etc.) the organization is committed to doing the right thing.
<b>Consistency</b>	Ensure consistency
<b>Guidance</b>	Allow management to guide operations without constant management intervention

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# Poll

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In your organization, what is the primary purpose for compliance policies?

- A. Set forth the rules and regulations the organization must follow
- B. Educate staff on what is expected of them
- C. Have something to show the regulators/accrediting authority
- D. Implement the strategic plan

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# Purpose and Payoff

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## PURPOSE

Meet legal/regulatory requirements

Address an identified area of risk

Establish acceptable norms for behavior/actions

Evidence to courts, regulators, etc. the organization is committed to doing the right thing

## PAYOFF

Clear understanding by all stakeholders of what is expected

Protection for the organization against rogue employees

Increased efficiency in operations

Risk mitigation

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Rules and Regs  
and Risks  
(oh, my!)

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# What policies are needed?

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## Compliance with applicable laws, rules, and regulations

Accreditation

Federal

State

- Multi-state organizations may have different policies based on local laws



## Identified organizational risks

Risk Assessments

Surveys

Regulatory enforcement

Incident reports

Past disciplinary actions

Technology, etc.

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# Let's get to work!

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## Drafting policies

- Standard format
- Documented
- Enforceable
- Readable
- Understandable



The palest ink is better than  
the best memory."

~Chinese Proverb

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# Sample Format

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Title

Policy Statement

Legal/Regulatory reference

Procedure

Adoption/Review date

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# Sample Format – Electronic

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<small>HEADING</small>	<b>PURPOSE:</b>
<small>PARAGRAPH</small>	Why are we doing this? Every policy must have a purpose, which tells the reader the objective or intention of the policy.
<small>HEADING</small>	<b>POLICY:</b>
<small>PARAGRAPH</small>	What are we going to do? Statement(s) that describe the requirements of the policy.
<small>HEADING</small>	<b>OPERATIONAL DEFINITIONS:</b>
<small>PARAGRAPH</small>	This section should be used to define such terms that may not be understood by everyone. If none, then delete this statement.
<small>HEADING</small>	<b>PROCEDURE:</b>
<small>PARAGRAPH</small>	How are we going to do it? This section details the step-by-step actions to be taken.
<small>HEADING</small>	<b>References:</b>
<small>PARAGRAPH</small>	List any sources or regulatory citations used or referenced in creating this policy. If none, then delete this statement.
<small>HEADING</small>	<b>Links to Related Documents:</b>
<small>PARAGRAPH</small>	Include electronic links to related policies, procedures or supporting documents. If none, then delete this statement.

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## Who should author the policy?

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### **Subject matter expert**

Familiar with regulatory requirements

Understands the goal of the regulations/laws



### **Familiar with organizational processes**

Gather input from those impacted by the policy



### **Should you have a lawyer draft the policy?**

Why or why not?

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## Know your audience!

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Write them for "my people"



Plain English



8<sup>th</sup> grade reading level



Policies are molded and shaped by the regulations but they do not have to read like a regulation.



Policies should communicate, not confuse.



Define terms – don't assume the reader is familiar with or understands key concepts or terms

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## Gather Resources

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Review relevant rules, regulations, and laws

Review position statements from professional organizations

Phone a friend!

- Review policies of other organizations
- But remember, YOUR policy must be tailored to YOUR organization!



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## ABC's of Effective Policy Writing

- Nancy Flynn,  
The ePolicy  
Institute

## Accuracy

- Be right.
- Use proper grammar and punctuation.
- Present accurate, reliable and trustworthy information and rules.

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## ABC's of Effective Policy Writing

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# Brevity

- Keep policies short
- Cover just one subject in each policy rather than a massive document that covers everything
- If the policy requires a Table of Contents it is too long!
- Less is more

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## ABC's of Effective Policy Writing

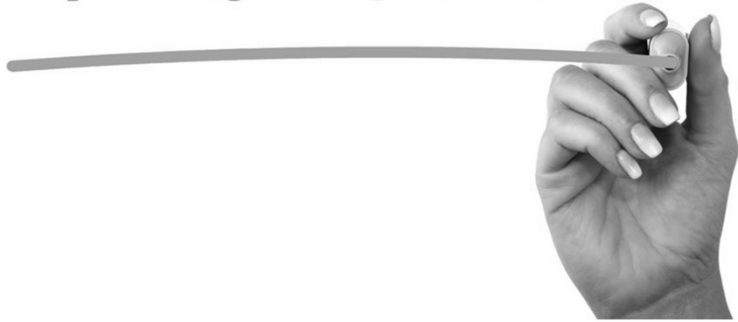
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# Clarity

- Employees will not struggle through a difficult to read and understand policy.
- Make it hard for employees to get it wrong because the policy is so crystal clear.

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# APPROVAL PROCESS



## Policy on Policies

- Sets standards for format, scope,
- Defines the process
- Establishes authority for approval
- May include policy steering committees

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## Approvals



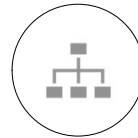
STAKEHOLDERS



COMMITTEES



EXECUTIVES



BOARD

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# Implementation

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## Central Location

Policies can't influence behavior if no one knows where to find the policy.

Beware of hard copy binders that do not get updated.



## Communication

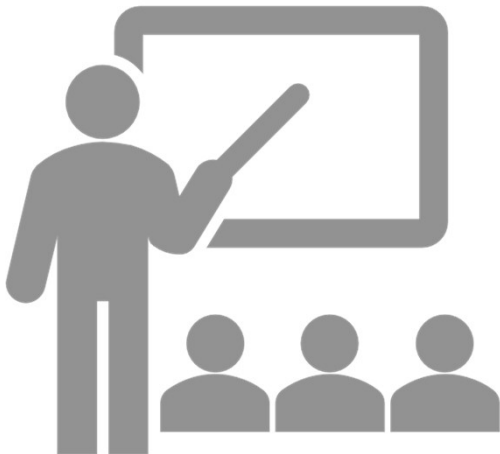
Standard methodology for communicating the policy to **those who are impacted by the policy**. (intranet, departmental meetings, newsletter, compliance training, etc.)



## Confirmation

Each employee should attest to receipt of the policy, and acknowledge that they understand and will follow the policy.

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# Training

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Use policies as a resource and training aid.

Policy training is on-going.  
◦ Not one and done.

Should you provide written copies to employees during training?  
◦ Why or why not?

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## Training Methods

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**Computer based  
learning**



**Blast emails**



**Bulletin boards**



**Live  
presentations**

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## Poll

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What training method have you found most effective for policy compliance?

- A. Computer based learning
- B. Blast emails
- C. Bulletin boards
- D. Inservices
- E. Presentations at meetings
- F. Other (please describe)

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## Evaluating Training Effectiveness

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Survey

Monitoring for compliance

- Issues reports

Pre and post tests



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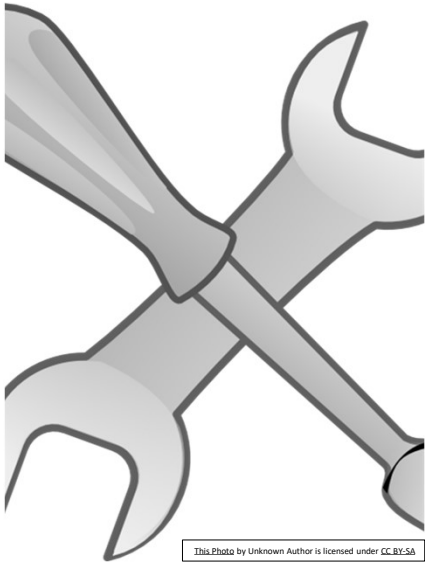
## Polling Question

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How do you maintain your policies?

1. Electronic policy management system
2. Other electronic document management system
3. Shared electronic folders
4. Paper copies in binders
5. Other method (please describe)

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## Maintenance

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Establish a schedule to ensure each departmental policy is reviewed at least annually

- Is it still relevant?
- Have processes changed?
- Have the laws/regulations changed?
- Has everyone been trained?

When a policy needs to be revised, consider departmental input to the policy committee to ensure theory matches practice.

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## Archiving

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### Retired policies

- Secure location
- Maintained per retention schedule
- Able to produce if needed



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## Potential Landmines

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### Templates can be dangerous

- Often contain extra “stuff” that does not really apply and deter staff from taking the time to read and understand the policy
- May outline the applicable law or regulation without actually describing how the organization plans to comply
- May contain language that makes compliance for your organization impossible
- Don't be afraid to be original



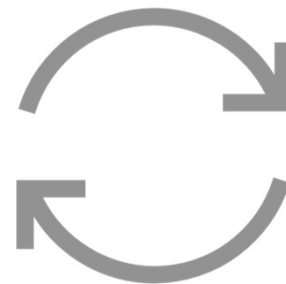
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## Potential Landmines

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### Policy drift

- As organizations move forward often processes or actions continually change to accommodate and it is essential to ensure the policy is revised to accurately depict what is actually happening or should happen.



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## Potential Landmines

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Not having input from the front lines during the drafting process

- Impedes buy-in and effectiveness
- These are the people who know the work and will be responsible for complying with the policies

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## Potential Landmines

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Falling prey to the temptation to “over policy”

- Not every task or initiative requires a policy
- Sometimes, common sense or law can prevail

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## Potential Landmines

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### Contradicting policies

- Lead to staff confusion
- Accrediting body survey issues
- Be cautious of system vs. entity level policies
- Hint – all policies should pass through policy committee to ensure consistency

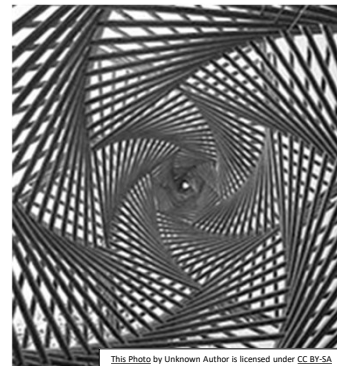
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## Potential Landmines

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### Too much detail

- Increased chance for inconsistencies
- Difficult to implement
- Decreased chance for compliance



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## Potential Landmines

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### Unrealistic expectations

- Your policy may be beautifully written, but can it be implemented?
- System policies need to account for differences between entities
  - Applications
  - Reimbursement methodologies
  - Processes
- The policy has to make sense for the stakeholders and be implementable

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## Avoiding the Landmines

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### Consistent Processes

- Policy development
- Maintenance
- Review

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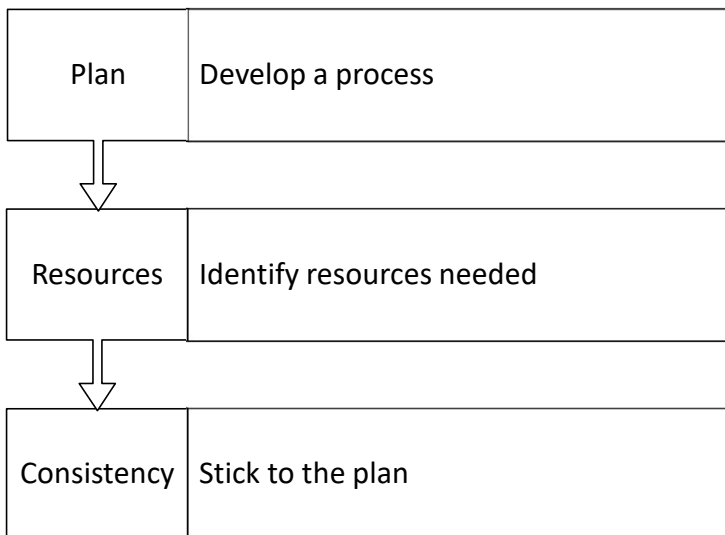
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## Avoiding the Landmines

### Engage Help

- Subject matter experts
- Front line staff
- Education department
- Marketing (review for clarity)

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Policies don't have to be painful!

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# Questions?