Print, post, and pray just won't make it anymore regarding ethics codes.

Eth

New World

An ethics architecture is needed. Here are some guidelines.

By Tim Hatcher

It has been said many times: The world has forever changed. Terrorist attacks on the World Trade Centers, the Pentagon, Bali, in the Middle East, and elsewhere have transformed the sociopolitical arena. The collapse of Enron, WorldCom, and other corporate giants has shaken the U.S. economy. Even the sacred world is on tremulous ground. Wrong doings by religious figures amount to a moral lapse among the world's faiths.

As a result, the way we plan for, carry out, and think about business has been severely tested. The initial general reaction of business to shattering events wasn't surprising: It circled the wagons by limiting travel in favor of communication technologies and bolstering security—obvious and essential responses. Facing the unknown, many companies did the best they could with what knowledge and skills they had. A few tried to go back to business as usual; others determined that wasn't possible. So instead of reverting to the status quo, they understood they must be better prepared for an unsure future and not become another Enron, or a victim of another Enron.

Many companies have seized the opportunity to reinforce their corporate values, culture, and climate and focused a laser beam on ethics. As businesses scramble to check their ethics' pulse, they have begun enforcement crusades by revisiting current regulations, such as the 1991 U.S. Federal Sentencing Guidelines, and they've rushed to comply with new laws such as the Sarbanes-Oxley Act of 2002. Peripherally, the exposure of criminal and morally reprehensible acts by some of the Catholic priesthood hasn't had as direct an influence on business as did the collapse of Enron, but it has confused some employees spiritually—a side often overlooked but vitally important to an ethical workplace.

Training reacted well, but…

It stands to reason that because training is a function of business and business has changed, so has training; at least, that's the assumption. But how has training really been affected? The evidence shows that in general, training reacted well by quickly ramping up and offering safety and security-related training, analyzing existing crisis-management systems, helping establish risk-management and governance procedures, and increasing ethics training and development or revising ethics codes. Not to demean the significance of those actions, but it's vital to recognize that they were primarily knee-jerk reactions to anxious management facing unprecedented and potentially devastating events and an uncertain future. No doubt such actions of short-term value impressed management and kept many companies afloat, but few long-term strategies were implemented by training or HRD departments. What has been lacking are the strategic issues that businesses must address in this altered business climate—namely, long-term and substantive changes in character and values development, as well as sustainability of ethical organizational climates and cultures. Only a handful of organizations have weathered the turbulence—such as Southwest, the only major airline not to lay off employees after 9/11. Southwest stood firm through its dedication to people development. If the workplace learning and performance function is to live up to its full potential of strategic relevance to organizations, then systems and processes must be put in place to create and sustain companies' ethical values, culture, and climate—not just a code of ethics or another half-day of ethics training.

Functions other than training certainly contribute to an ethical climate, but it's increasingly obvious that lapses in ethical judgment, well illustrated by Enron, resulted, in part or perhaps largely, from poorly designed or implemented people development systems such as rewards, communications, hiring, leadership development, t&d, and performance management.

We must move beyond talking about ethical culture and values to implementing specific systems that proactively reinforce ethical and responsible values through measures, rewards and punishments, and employee learning and development. Having a code of ethics and ethics training isn't enough. A May 2002 *Conference Board* survey of 100 U.S. corporate ethics executives found that more than half of respondents said that even if Enron's senior management had received extensive ethics training (which they didn't), it would've made little or no difference. According to Stuart Gilman, president of the Ethics Resource Center—a not-for-profit organization offering business ethics consulting and resources, headquartered in Washington, D.C.—employee training is common, but ethics training for upper-level management isn't. A culture of "anything goes as long as it makes money" prevails over even the best training or most sophisticated code of ethics. It's ironic that Enron had a highly developed code of ethics that was suspended by the board of directors as "off-balance-sheet" financial structures were created—the same financial structures that eventually led to the company's collapse.

So, what distinguishes an Enron from a Southwest Airlines? Enron and its ilk mistakenly separated compliance from values. They tended to reduce ethics to a checkmark on an audit report or the number of employees trained. Says Gilman, Enron's compliance-oriented code of ethics wasn't based on values, but on three Ps—print (a code of

> A culture of "anything goes as long as it makes money" prevails over even the best training or most sophisticated code of ethics.

ethics), post (on bulletin boards and the company Website), and pray (that employees read and adhere to it). So, even if a company has a well-developed code of ethics and does plenty of ethics training, people consistently doing the right thing is hit or miss if the focus isn't on values and on systematically building a culture and climate that encourage and reward ethical behaviors. Values are hard to teach, but they can be reinforced and ethical behaviors can be rewarded. Sticking with the example of Enron, managers were rewarded more for making the deal than doing the right thing. At companies such as Royal Dutch Shell, meeting financial targets results in rewards but so does managers' values-based performance. At Guardsmark, a Memphis-based security firm, ethical leaders are developed by example through executive modeling. Guardmark's code of ethics is rewritten annually, with input from employees, and applies to all team members. In those and many other companies, values are becoming an integral part of employee and management development and assessment.

Critics of values development declare "there's no way to teach ethical values. People come to organizations with their values already intact." Gilman responds that may be true, but HR has a responsibility to shape employee expectations and companies *can* mold employees' behaviors because expectations form behaviors; as behaviors change, so do values.

The role of training—and this is important—is to develop positive behaviors through clear ethical expectations. And training can do more than establish expectations: It can set up behavioral objectives through performance-based training that shows employees exactly what behaviors and attitudes are expected. Performance-based training tied to HR-related reward structures, such as annual performance appraisals, can help employees attain and master ethical behaviors and seek rewards for behaving in an ethical manner.

In addition, a system of ethical checks and balances is an important phase in the development of a values-based culture. Several HR-related activities can be arranged into a systematic approach to build an ethical climate. That approach, called an ethics architecture, is based on a synthesis of current approaches to corporate ethics and is designed to keep companies from becoming another Enron, though it's not a guarantee.

Sarbanes-Oxley Act

The Sarbanes-Oxley Act of 2002 establishes new governance and ethical business practices for publicly traded firms and CPA firms and auditors, as well as attorneys, brokers, dealers, investment bankers, and financial analysts who work for publicly traded companies. It may also apply to contractors of publicly traded firms.

The act requires companies to create an accounting oversight board made up of independent financial experts to oversee all accounting functions, with a myriad of requirements for registered public accounting firms, such as annual inspections. It also mandates significant changes for insider trading policies; audit committees; SEC reporting; and financial document control, retention, and destruction. Insider stock trades are prohibited during pension-fund blackout periods, while penalties for Employment Retirement Income Security Act reporting and disclosure violations are greatly increased. It prohibits loans to executives and directors and places limits on extraordinary payments.

Whistle-blowers are protected from dismissal, demotion, suspension, threats, discrimination, and harassment. Companies should have procedures such as hotlines for confidential and anonymous communications with whistle-blowers.

Better communications, higher standards for performance, and an ethical corporate culture are needed to support accounting, finance, and other professionals in their efforts to comply with SOX. CEOs and CFOs must formally certify the accuracy of financial reports, and companies will need to ensure that all employees assess and manage risks as appropriate to their positions. For example, job descriptions and performance appraisals may need to be reviewed for related tasks, limits of authority, and accountability. In addition, because CFOs can be subject to huge fines and prison terms for any misrepresentations, their skills, knowledge, and qualifications should be thoroughly examined, validated, and documented.

See the American Institute of Certified Public Accountants **aicpa.org/sarbanes** and the Securities and Exchange Commission FAQ site **http://sec.broaddaylight.com/sec/index.html**

Building an ethics architecture

Compliance and values. An ethics architecture starts by identifying all compliance and values drivers—items that create the need for a focus on ethics. They include compliance, laws, rules, regulations, principles, and best practices. An example is the U.S. Federal Sentencing Guidelines. But more than compliance, there needs to be a focus on values that the organization considers critical to success, such as trust and loyalty. These values originate from the industry, the company, the culture, and employees and can be operationalized in a clear code of ethics.

Strategies. The combination of compliance and values drivers creates the need for strategies, which are company-specific expectations, practices, knowledge, skills, attitudes, procedures, and tools that help guide ethical behaviors among employees.

Practice areas. These are job activities or whatever HR job, task, or responsibility structures the company has in place. For each practice area, identify how each strategy and driver affect each employee's activities and responsibilities. For example, the value of trust for an instructional designer might include this description: "Following up with subject matter experts helps build trust between HRD and production."

In addition, practice areas include a description of how and how often an employee might be potentially exposed to a compliance or value driver. Under practice area, we could investigate to what extent the Sarbanes-Oxley Act, for example, affects instructional designers.

Knowledge, skills, attitudes make up each practice area; KSAs support each strategy. An instructional designer, for example, working on building trust needs knowledge of negotiation, interpersonal skills, and a collegial attitude.

Ethics is a technical field with competencies, approaches, and specific tools to apply content to the everyday business world.

Procedures and tools. An organization must have those in place to encourage ethical behaviors. Procedures include such processes as performance appraisals to establish and reward ethical behaviors and means by which unethical behaviors are handled. Tools can be a written code of ethics, a mission statement that includes values, or ethics training.

Evaluation. Ongoing evaluation ensures that the ethics architecture is actually sustaining ethical behaviors.

Real-world actions

Here are several key initiatives of some leading companies.

Model ethical behavior. Companies such as Guardsmark use modeling as a leadership strategy, in which a leader shows through actual behaviors how he or she wants mentees and other key employees to behave.

Use hiring and training to build the culture and climate. A recent survey by the National Association of Colleges and Employers found that an organization's integrity and ethical business practices are the most important criteria for potential employees in choosing an employer. To ensure that your company is attracting top talent, learning professionals need to make ethics come alive within the culture by relying on company-specific scenarios and learning programs that highlight ethics—not canned training programs. Include stories on the rewards of ethical behavior and positive outcomes of ethical values in orientation. Talk up ethics in recruitment and all hiring activities. Make the ethics culture visible to all stakeholders.

Marriott International, a leading worldwide hospitality company, teaches values such as trust in orientation and has new employees take a Business Integrity Self-Test to instill awareness of the meaning of ethics within Marriott.

Make ethics a professional trainer competence. Although certification and degree programs are beginning to professionalize the field, training has been guilty of a fair amount of charlatanism, in which the medium has been the message; in which, if training is developed well, any warm body can teach content. Some companies still believe that an employee doesn't have to be an expert to be a good trainer as long as he or she has been through a train-the-trainer program. Gilmer of the ERC says training professionals need to have expert knowledge in ethics—that ethics is a technical field with competencies, approaches, and specific tools to apply content to the everyday business world.

A trainer doesn't have to start increasing ethics skills and knowledge from scratch; plenty of resources are available. The Ethics Resource Center offers guidelines, consulting, and training; professional associations such as ASTD offer guidance on developing and using ethics codes and training. It's time for the training profession to revisit its established competencies to ensure that ethics-related knowledge and skills are required for training professionals.

Revamp and create new ethics codes and policies. Several organizational ethics standards that training professionals can use include two international standards for corporate ethics: SA 8000, developed by Social Accountability International **cepaa.org**, and AA 1000, developed by the Institute for Social and Ethical Accountability **accountability.org.uk.** The International Organization for Standardization's ISO 14000 Environmental Management Standards **iso.ch/iso/eu/ISO9000-14000/index.html** is a good set of standards. Additionally, the Open Compliance and Ethics Group Project, a coalition of recognized business and thought leaders, is developing standardized guidelines and best practices for corporate-wide ethics.

Emphasizing the strategic capabilities of training may finally become a reality. Training professionals can add real value by helping establish an ethical climate and culture in their organizations. But as we've learned, ethics training isn't enough. A strategic ethics architecture is required so that ethics becomes a core value and institutionalized. TD

Tim Hatcher *is associate professor of HRD at the University of Louisville and the author of* Ethics and HRD: A New Approach to Leading Responsible Organizations. *He lives in Louisville, Kentucky; hatcher@louisville.edu.*

U.S. Federal Sentencing Guidelines

Like individuals, organizations can be found guilty of criminal conduct, fined, sentenced to probation, ordered to make restitution to victims, and exposed to applicable forfeiture statutes (United States Sentencing Commission, 1991). Because companies can be held responsible for employee actions, and, historically, sentencing had been inequitable based on the crime, in 1991 the United States Sentencing Commission (judicial branch) established U.S. Federal Sentencing Guidelines to mitigate the potential fine range (up to 95 percent) if a company can demonstrate an effective ethics program to "prevent and detect violations of law."

Objectives of the guidelines are to develop a "good corporate citizenship, fairness in corporate sentencing, and incentives for companies to initiate crime-controlling actions." The guidelines' two primary purposes of "just punishment" and "deterrence" should be reflected in a company's ethics compliance program, including

- compliance standards and procedures reasonably capable of reducing the prospect of criminal activity
- high-level staff involved in oversight
- due care in delegating substantial discretionary authority
- effective communication to all levels of employees
- reasonable steps to achieve compliance, including systems for monitoring, auditing, and reporting suspected wrongdoing without fear of reprisal
- consistent enforcement of compliance standards, including disciplinary mechanisms
- reasonable steps to respond to and prevent further similar offenses upon detection of a violation.

For an overview, visit United States Sentencing Commission **ussc.gov.** For a thorough understanding of the guidelines and Sarbanes-Oxley Act, consult a qualified attorney.