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Conflict Resolution in the Workplace

Don’t be afraid of opposition. Remember, a kite rises against, not with, the wind.

-Hamilton Wright Mabie

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I. INTRODUCTION

Conflict is a natural facet of all human relationships. In the workplace, different types of relationships abound, creating a high potential for conflict. There is also a lot at stake in the workplace, as ignoring the conflict can deteriorate relationships and negatively impact organizational culture. Further, unresolved workplace conflict is a breeding ground for litigation. Resolution of workplace conflicts can not only improve productivity, encourage growth, and improve morale, but also avoid costly and time-consuming litigation. As a result, employers are beginning to turn to mediation to resolve workplace conflict, maintain a productive workplace, and avoid litigation. See Mediation Gains in Employment Disputes as Arbitration Declines, The National Law Journal (June 9, 2008).

II. THE QUESTION: WHAT IS CONFLICT? (10 min.)

a. A Dictionary Definition

Conflict noun \ˈkän-flık\ - a. Competitive or opposing action of incompatibles: antagonistic state or action (as of divergent ideas, interests, or persons); b. mental struggle resulting from incompatible or opposing needs, drives, wishes, or external or internal demands.

http://www.merriam-webster.com/dictionary/conflict

b. Elements of Workplace Conflict

Workplace conflict certainly falls within the dictionary definition of conflict set forth above: it is a condition among workers that involves opposing or incompatible views, interests, needs, or external or internal demands. The unique elements of workplace conflict include:

1. Interdependence. When conflicts arise in the workplace, each party to the conflict usually needs something from the other and may be or feel at a disadvantage if they do not receive it. For example,

2. Blame. The key difference between a mere disagreement and workplace conflict is that the parties stop focusing on their differing views/interests/needs, and the issue becomes about the parties. Each party blames each other for causing the problem.

3. Emotion. Another element of workplace conflict is that it involves emotions. Typically, the parties are angry.
4. Disruptive. The final element of workplace conflict is that it involves behavior that disrupts job productivity and performance.


c. Is Conflict in the Workplace Good or Bad?

1. Traditional View. Dominant until the 1940s, the traditional view of conflict is that all conflict is harmful and must be avoided. While outdated, some employers (and more employees, including managers) continue to ascribe to this view of conflict. However, avoiding conflict does little to actually resolve the conflict and creates a “win-lose” situation. See infra Section IV(a).

2. Human Relations View. Prevalent from the late 1940s to the 1970s, the human relations view of conflict is that conflict is a natural and inevitable outcome in any group. As such, this view encouraged acceptance of conflict and gave birth to the term “conflict management.”

3. Integrationist View. In the mid-1970s, a new approach to workplace conflict arose. The integrationist view of conflict is that it is not only a positive force in a group but that it is absolutely necessary for a group to grow and perform effectively.


III. Types and Sources of Workplace Conflict (10 min.)

a. Workplace Conflict Ripe for Mediation

1. Harassment Complaints. Consider for a moment the following statistics: In 2011, 30,512 harassment charges were filed with the EEOC. In the past five years alone, the number of harassment charges increased by one third. EEOC, Harassment Charges EEOC & FEPAs Combined: FY 1997 – FY 2011, available at http://www1.eeoc.gov//eeoc/Statistics/enforcement/
In 2010, for the first time since the EEOC became operational since 1965, retaliation under all statutes (36,258 charges) surpassed race (35,890 charges) as the most frequent basis for filing charges. In 2011, retaliation charges again surpassed all others as the most frequent charge filed with the EEOC. EEOC, Charge Statistics FY 1997 Through FY 2011, available at http://www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm. While the vast majority of these charges result in dismissal, an employer must nonetheless expend considerable time and money defending against such claims. Workplace mediation could avoid some of these complaints.

i. Employer’s Duty to Prevent and Respond to Harassment Complaints. Under federal and New York state law, an employer has a duty to prevent and respond promptly to harassment complaints. This duty includes implementing a written policy prohibiting workplace harassment, training managers and other employees on their rights and responsibilities under the law, promptly investigating complaints of harassment, and taking adequate remedial measures when harassment is found. See Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998) and Faragher v. City of Boca Raton, 524 U.S. 775 (1998) (establishing an affirmative defense to employer’s vicarious liability for harassment).

ii. Implement Anti-Harassment Policy and Complaint Procedure First. An employer should have a written policy in place prohibiting harassment in the workplace that provides a mechanism for reporting harassment. Further, the policy’s complaint procedure should be the employer’s first step in resolving a harassment complaint. EEOC, Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors (June 18, 1999), available at http://archive.eeoc.gov/policy/docs/harassment.html#V.

iii. Use Conflict Resolution as a Tool for Resolving Conflict Post-Investigation. Even when an employer fulfills its legal obligations and either takes effective remedial action in response to a finding of unlawful harassment or determines that no unlawful harassment or other policy violation took place, the employer may still have to deal with conflict between the parties. Conflict resolution can be used by
employers to return the parties to a productive work relationship, to avoid a lawsuit from an employee dissatisfied with the outcome of the investigation, and to avoid post-investigation claims of retaliation.

2. **Disputes Between Employees.** A successful business is dependent upon its employees working productively together. Mediation is an excellent tool for resolving interpersonal conflict between co-workers to between managers and subordinates. Instead of hoping parties work out their differences on their own (and waste precious time, energy, and money in the interim), an employer can set the stage and provide the opportunity for the parties to communicate and agree on how they are going to work together effectively in the future.

3. **Poor Performance.** Employees tend to respond to disciplinary action with fear and defensiveness. While disciplinary action certainly has a place in performance management, adding mediation to the performance management process can improve results. Mediating conflict arising from poor performance allows the supervisor and employee the opportunity to explain their side of the story and to agree on a solution that removes any barriers and improves performance.

4. **Terminations.** Certain termination decisions carry with them a risk for litigation. Mediating the termination and entering into a mutually satisfactory severance agreement is more likely to avoid litigation than simply terminating an employee or offering a “take it or leave it” severance agreement. Through mediation, an employee is provided with an opportunity to be heard, and may even be able to understand why the termination is necessary.

b. **Sources of Workplace Conflict.** There are many sources of conflict in the workplace, including but not limited to:

1. Lack of information
2. Different interpretations of the same information
3. Miscommunication or misunderstandings
4. Assumptions or expectations
5. Emotions
6. Change
7. Role incompatibility  
8. Role ambiguity  
9. Distribution of workload  
10. Limited resources  
11. Different treatment  
12. Deadline pressures  
13. Personality differences  
14. Lack of recognition  
15. Different values, goals or styles  
16. Power struggle within the organization  
17. Unresolved conflicts  
18. Others?

IV. RECOGNIZING EMPLOYEE CONFLICT STYLES AND BEHAVIOR (THOMAS-KILMANN MODEL)  
(10 min.)

a. Competing. This conflict style is assertive, uncooperative, and power-oriented. When competing, an individual pursues his or her own concerns at the other person’s expense, using whatever power seems appropriate to win his or her position. Competing might mean standing up for your rights, defending a position you believe is correct, or simply trying to win. “Win-Lose.”

b. Accommodating. This conflict style is unassertive and cooperative. When accommodating, an individual neglects his or her own concerns to satisfy the concerns of the other person. Accommodating might take the form of selfless generosity or charity, obeying another person’s order when you would prefer not to, or yielding to another’s point of view. “Lose-Win.”

c. Avoiding. This conflict style is unassertive and uncooperative. When avoiding, an individual does not immediately pursue either his or her own concerns or those of the other person. He or she does not address the conflict. Avoiding might take the form of diplomatically sidestepping an issue, postponing an issue until a better time, or simply withdrawing from a threatening situation. “Lose-Lose.”

d. Compromising. This conflict style is intermediate in both assertiveness and cooperativeness. When compromising, the objective is to find an expedient, mutually acceptable solution that partially satisfies both parties. Compromising falls on a middle ground between competing and accommodating, giving up more than
competing but less than accommodating. Likewise, it addresses the issue more directly than avoiding, but does not explore it in as much depth as collaborating. Compromising might mean splitting the difference, exchanging concessions, or seeking quick middle-ground positions. “Win some-Lose some.”

e. **Collaborating.** This conflict style is assertive and cooperating. When collaborating, an individual attempts to work with the other person to find a solution that fully satisfies the concerns of both. It involves identifying the concerns underlying an issue and finding an alternative that meets these concerns. Collaborating might take the form or exploring a disagreement to learn from each other’s insights, with the goal of resolving some condition that would otherwise have them competing for resources, or confronting and trying to find a creative solution to an interpersonal problem. “Win-Win.”


V. **MEDIATING EMPLOYEES’ CONFLICTS: A STEP-BY-STEP GUIDE (30 min.)**

a. **Pre-Mediation Steps**

1. **Ask: Is the Conflict Ripe for Mediation?** Not all workplace conflicts should be handled in the same way. In particular, when an employee makes a complaint of discrimination, harassment or retaliation against another employee, that type of conflict should be handled in accordance with the Employer’s EEO policies. As set forth above, while mediation can supplement the employer’s investigation and resolution of such a complaint, the mediation process should not supplant the employer’s written policy and complaint procedure for handling these complaints.

2. **Help Employees Analyze their Response to the Conflict.** Assuming that the conflict does not raise EEO concerns, a manager, HR professional, or third party neutral can help employees analyze their response to the conflict. Is their response helping or hindering a solution to the conflict? Collaboration is best for most work situations. Encourage employees to adopt a more appropriate response to the conflict.
3. **Select a Mediator.** As much as we would like employees to resolve conflicts on their own, when a conflict is negatively affecting the operations of the business, it is necessary to intervene and facilitate the conflict resolution process.

4. **Implement an Interest-Based Conflict Resolution Process.** Although there are different approaches to managing conflict in the workplace, this training focuses on an interest-based conflict resolution process. Also referred to as “principled negotiation” or “negotiation on the merits,” this method of conflict resolution is particularly useful in the workplace and is based on the following tenets:

   i. **People:** Separate the people from the problem.
   ii. **Interests:** Focus on interests, not positions.
   iii. **Options:** Generate a variety of possibilities before deciding what to do.
   iv. **Criteria:** Insist that the result be based on some objective standard.

5. **Document.** Finally, be sure to document the conflict and the steps you took to resolve the conflict.

   b. **Step 1: Set Ground Rules.** The mediator should establish the ground rules for the meeting. This may require the mediator to “call out” a party when he or she is not abiding by the rules, to ask a party to listen first, then speak, or to redirect the conversation to address the issues, not the people. Here are some examples of ground rules:

   1. We agree to treat each other calmly and respectfully.
   2. We agree to attack the issues, not the people with whom we disagree.
   3. One person speaks at a time.
   4. We will make a sincere effort to listen to one another and to try to understand the other person’s viewpoint before responding.
   5. Our discussion will remain confidential.
   6. We will not judge, attack or belittle the other person.
   7. We agree to talk directly with the person with whom there are concerns (no gossip, backstabbing).
   8. Any other ground rules the parties agree on.
c. **Step 2: Uncover Interests.** Step 2 of an interest-based conflict resolution process requires us to gather facts and identify the parties’ interests, issues and positions. But what do these terms mean? And how do we get past positions to identify interests?


   i. **Interests.** A party’s interest is the wants, needs or desires that a party seeks to satisfy or the fears or concerns that a party seeks to allay.

   ii. **Issues.** The issues in a conflict are those matters that the parties need to resolve in order to resolve their conflict. Interests define the issues. The basic issue in a conflict lies not in opposing positions, but the conflict between each side’s needs, concerns and fears.

   iii. **Positions.** A position is one party’s opinion of a solution or way of resolving an issue. Arguing over positions is unproductive. When two parties negotiate from positions, they tend to lock themselves into those positions. As more attention is paid to positions, less attention is given to addressing the underlying interests of the parties and agreement becomes less likely. Parties are more likely to, at most, compromise and meet somewhere in the middle of the two positions. More often, it leads to a breakdown of negotiations. As mediators, you can play a very important role in mediating conflict by helping parties identify the issues, and separate their interests from their positions.

As these definitions reveal, parties with differing positions may nonetheless be able to resolve the issues between them because behind opposing position lies shared and compatible interests, as well as conflicting ones. Roger Fisher & William Ury, *Getting to Yes: Negotiating Agreement Without Giving In*, 40-42 (Second Ed. 1991).

2. *Revealing Employees’ Interests.* When facilitating a conflict, it is your role to help the parties identify the interests behind their positions. This can be accomplished by asking the parties “why” and “why not”?

   i. **Why?**
      
      a. *Why are you taking this position?*
b. Why do you believe this will make you better off?

c. Why is this important to you?

ii. Why Not?

a. Why is the other party’s position not acceptable to you?


3. Identifying and Agreeing Upon the Issue(s). Once you have explored the parties’ positions, interests and issues, have the parties agree on the issue. In other words, define the problem in terms of the parties’ interests (needs, desires, etc.). Now the parties have an issue to attack (rather than a person) and it’s time to brainstorm options for mutual gain.

d. Brainstorm Options for Resolving the Conflict

1. Separate Brainstorming Options From Deciding. Judgment hinders imagination. Therefore, it is useful to separate the process of thinking up possible outcomes from the process of selecting among them. Brainstorm all options before making any decisions or passing judgment. It may be useful to physically move the parties so they are facing the problem (imagine classroom-style seating with the issue posted on a dry-erase board). Remind the parties of the ground rules they agreed-upon (and enforce them throughout the brainstorming session), in particular the no criticism rule and remaining open minded to other possible solutions to the problem.

2. Record All Ideas Where the Parties Can See Them. You will need to record all ideas that are tossed out during the brainstorming session, and it helps to do so in full view of all the parties. This gives the parties a sense of collective achievement, reduces repetition and helps stimulate other ideas.

3. Broaden the Options. Another way to stimulate more ideas/options, is to ask the parties to be more specific about general ideas that are raised. You may also ask the parties to nominate ideas that they think are best and invent ways to improve those ideas.

4. Look for Mutual Gain. This can be done by identifying shared interests. It can also be done by looking for items that are low cost/value to one party
and high benefit to the other and dovetailing these interests to create a solution.


e. Selecting a Solution

1. **Use Objective Criteria.** By this stage, the conflict may be resolved. Both sides better understand the position of the other and a mutually satisfactory solution may be clear to all. However, if the conflict is not resolved, the parties must select a solution. If necessary or available, develop objective criteria for selecting options. The criteria can be fair and objective standards or fair procedures. Such criteria may include: custom, the employer’s policy and procedure, budgetary restraints, resource availability, efficiency, costs, equal treatment, and/or letting someone else decide.

2. **Select an Option Using Objective Criteria.** Ultimately, you want to help the parties choose the best option (or combination of options) that meets their respective needs.


VI. OVERCOMING ROADBLOCKS TO CONFLICT RESOLUTION (10 min.)

The biggest roadblock to conflict resolution in the workplace is people. It is difficult for people to handle conflict without emotions, perceptions and misunderstandings getting in the way. Overcoming roadblocks to conflict resolution, therefore, requires us to **separate people from the problem.** A mediator can assist the parties to do so by dealing directly with the following people problems: perceptions, emotions, and poor or no communication.

a. Overcoming Perceptions.

1. **Avoid Assumptions.** People tend to assume another person’s intent, and when conflict arises, people will assume the worst. One way to overcome the parties’ perceptions is to agree, at the outset, that “if any of us has a question or concern about the other’s intent or actions, we will take time to step back and think about the situation before automatically making assumptions and getting angry or defensive.”
2. **Put Yourself in their Shoes.** By actively listening for and validating the interests behind the parties’ positions, parties can move beyond perceptions to understanding. To encourage the parties to try on the other side’s story, the mediator may:

   i. Provide the parties with an equal opportunity to **tell their story**

   ii. Encourage **active listening** by both parties

   iii. Tell the parties to **withhold judgment** while the other party tells his or her story and to try to **understand their point of view**

3. **Avoid the Blame Game.** Parties in conflict tend to blame the other party for their problem. To overcome this perception, mediators can encourage the parties to separate the facts from the other party. For example:

   **Instead of blaming:** You are unreliable! You never hand in status reports on time and you make me look bad to my boss!

   **Encourage the parties to state the facts underlying the problem:** I did not receive your status report on Friday. This is the third time this month that I did not receive your status report on time. I need the status report by Friday in order to report to report our department’s progress to my manager on Monday. I want your advice on how I can get your status report in time for my meeting with my manager on Monday.

b. **Emotions**

1. **Help the Parties Recognize and Understand Theirs and the Other Party’s Emotions.** When emotions are creating a roadblock to conflict resolution, encourage the parties to take a moment to identify and voice their feelings. Are they nervous, hurt, fearful, or angry? By verbalizing their emotions, the parties should get a sense of their own and the other party’s emotions. The mediator can then ask what is causing the emotions? This allows each party to express their emotions, to acknowledge the other party’s emotions as legitimate, and to move beyond their emotions to identify issues and their interests.
2. **Allow a Party to Let Off Steam if Necessary.** One way to overcome emotions in conflict resolution is to allow one or both parties to release negative emotions. The mediator can facilitate this process by encouraging a party to remain calm, actively listen, avoid interrupting, and resist any urge to walk out while the other party airs their grievances.

3. **Respond, But Do Not React to Emotional Outbursts.** Although it is fine to allow the parties to let off steam, the risk of releasing emotion can lead to an emotional reaction that can quickly spiral out of control. Responding to emotions by acknowledging them as legitimate and remaining calm and patient, rather than reacting in kind, will prevent a breakdown in communications between the parties. You may want to have the parties agree as a ground rule that only one person can get angry at a time! Allowing parties to communicate their emotions and acknowledging their emotions as legitimate frees both parties from unexpressed emotion and renders them more likely to work on the problem.

4. **Do Not Postpone.** Although there are some exceptions, such as where a meeting has become hostile and unproductive, do not postpone a meeting simply because strong emotions are expressed. It is better to acknowledge and work past the emotions to get to the issues and interests of the parties.

5. **Consider Symbolic Gestures.** Any man knows that the simple gesture of bringing a red rose to his partner can go a long way to end a fight. Such symbolic gestures have a positive emotional impact on one party and cost the other party very little. Now a flower may not be the appropriate way to end a conflict in the workplace, but an apology or statement of regret can diffuse emotions effectively, even without acknowledging personal responsibility for the action or admitting an intention to do harm.

c. **Miscommunication**

1. **Active Listening.** The failure to listen is a major problem in communication, as people are not paying attention when the other person is talking or are too busy thinking about what they are going to say next, framing their next argument, or considering how to respond to a point, that they forget to listen to what the other party is saying now. To overcome this
communication problem, encourage the parties to use the following active listening skills:

i. Look at the person speaking
ii. Pay attention
iii. Maintain an open mind and suspend judgment
iv. Ask questions
v. Repeat what the speaker says
vi. Listen for the feelings and interests of the speaker
vii. Do Not:
   a. Interrupt
   b. Change the subject
   c. Make up your mind before the person finishes speaking

2. “I” Statements. Using “I” statements (versus “You” statements) places ownership of emotions with the speaker without attributing emotions to, criticizing, or accusing the other person. For example,

   Instead of: You always interrupt me in meetings.

   Encourage an “I” statement: I feel belittled when you interrupt me in meetings.

   As a result, it also avoids the other person becoming defensive.

   Using I statements takes practice, and you can help employees improve their communication by asking them to rephrase their “you” statements into “I” statements by stating how they feel about the issue and what they would like or need using the following template:

   a. I feel ... (state what you are feeling)
   b. About/when ... (the subject or issue)
   c. I would like ... (state what you would like to see happen)

3. Time, Place and Manner Matter. Once you have determined that you need to intervene in a workplace conflict, find a good time and place to talk. The place should be neutral and private and the time conducive to an informal and relaxed discussion (so not 4pm on a Friday, when employees are trying to meet a pressing deadline, etc.). Ideally, you want the parties to agree to the meeting rather than forcing the parties together. Once you have all
interested parties in the room, be sure that everyone understands the role of each individual and agrees to the ground rules. In this way, although you still have issues, interests and positions to contend with, at least all the parties will start out in agreement on the process that will be used for resolving their conflict.


VII. SUMMARY AND REFLECTION (5 min.)

a. Workplace Conflict Resolution Process

1. Identify the sources of conflict in the workplace
2. Understand employees’ responses to conflict
3. When conflict arises:
   i. Find an appropriate time and place to talk
   ii. State your role, confirm ground rules and state what behavior is expected
   iii. Ask for parties’ input one at a time, asking “why” and “why not” to uncover interests
   iv. Get the parties to agree upon the issue(s)
   v. Encourage the parties to generate as many solutions as possible
   vi. Help the parties choose the best option to meet their needs
   vii. Prepare a schedule for implementing the plan
   viii. Help the parties overcome roadblocks to conflict resolution

b. Reflection – Before the end of the day, consider a workplace conflict that you are now or have experienced in the past. How can you or could you have resolved the conflict, using the 6-Step process outlined in this training?