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Resolving Workplace Conflicts
Mediation can help you make the best of a bad work environment

Richard Berman
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(07-06) 04:00 PDT 07/06/08 -- In many modern workplaces, conflict is as common as PDAs and paper clips. If you're in one of these challenging work environments, telling your boss off and hitting the road might feel good but in today's uncertain economy there's no guarantee that there will be another job waiting for you. As a result, employees in a down market often feel the need to "grin and bear it" if problems arise at the office because they don't feel comfortable asking for help in defusing a tense situation. "The irony is that people who bring up issues may actually be more protected during layoffs," says Kathryn Schear, a San Francisco-based dispute resolution specialist who mediated more than 500 cases in her five years with the Equal Opportunity Employment Commission (EEOC). "But it's important to go about it the right way and talk to the right people."

As a first step, you need to determine how serious a conflict really is before deciding how to handle it. "Creative conflict can actually be a good thing, and companies that don't have any conflict are in big trouble because they're probably out of ideas," says Rick Brenner, a Boston-based consultant who specializes in workplace disputes. "Where it becomes a problem is when it turns truly toxic and destructive and actually starts hurting the organization."

So what defines a "truly toxic" situation? In most cases it's where ad hominem attacks are the norm — in other words, when a boss or co-worker degrades and insults you. Keep in mind, however, that you may have some company at the receiving end of abuse. Brenner says that, "if the situation involves the boss, you're probably not the only one being treated badly. When you're feeling under attack it can be difficult to notice that other people are in the same boat."

Certain situations — such as sexual harassment and discrimination in violation of state and federal equal protection codes — are fairly cut-and-dried, but even if a particular pattern of behavior doesn't run afoul of the law, that doesn't mean that you're out of luck. If you work in a union shop, there is a built-in mechanism for recourse, but Schear says that non-union employees have fewer options. "It's always best to talk to a third party, but be careful who you go to," she says. In particular, she says that internal human resources professionals are not always the best place to start. "HR people are great multi-taskers, but they may not be skilled in dispute resolution. In addition, they are trained to document every complaint, so they aren't necessarily going to be a neutral player."

Schear also says that a lawyer isn't always the best person to start with either. "In the workplace it's not really about the law — most cases are very gray and most workplace disputes aren't simple black/white situations," she says. "Lawyers can be good to bring into the process as needed, but they don't always focus on the right issues."

So what are employees supposed to do when they have problems with their supervisors but are scared of the potential repercussions of complaining about their bosses and don't want to see an attorney? One answer is mediation, a process that lets individuals resolve their problems with the help of a third-party facilitator. Unlike arbitration, which is binding and follows legal protocols, mediation relies on a wide range of techniques to identify and fix problems. These can include face-to-face dispute resolution sessions, exercises to overcome interpersonal conflicts and even novel techniques to get people behaving in new ways.

If this sounds too "out there" for the real world, Schear points out that companies such as Coca-Cola have implemented an internal alternative dispute resolution program, and employers such as Home Depot are talking about creating similar programs. "These kinds of problems are simmering pots, and HR departments are too busy, and the courts are too busy, to really deal with them effectively," she says. "Mediators can provide a way to handle these kinds of disputes fairly."

In a slow economy, employers are in a strong position because they know that their workers want to hold on to their jobs. Yet despite having the upper hand, they often participate in mediation and other forms of alternative dispute resolution for one simple reason: it's far more cost-effective than doing nothing or heading to litigation. "There is a high cost to a company if someone is frustrated," Schear notes. "People start leaving early, taking long leaves, and generally cease being productive. Avoiding or ending these kinds of conflicts is important."

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