

# HR NEWS

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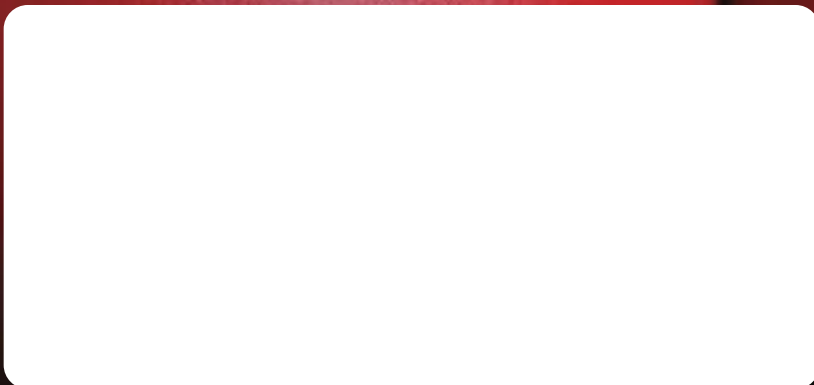
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# An Interest-Based Approach to Workplace Conflict

By Stephen Erickson

Many of us see conflict as a sign of failure—especially in a workplace setting. When conflict begins to contaminate that setting, we have many choices about how to resolve it.

In their book, *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict*, authors W.L. Ury, J.M. Brett and S.B. Goldberg (San Francisco: Jossey-Bass Publishers, © 1989) observe that as a culture, we have tended to address conflict resolution in three general ways. We have asked the question, “Who has more power?” or, in a society of laws and regulations, we have asked “Who is right and who is wrong?” More recently, we have also asked the question, “What are your needs and what are your interests?”

The first question focuses on power, and is often the authoritarian approach of managers and supervisors who respond to conflict with a determined or controlling “I am in charge” attitude. This sometimes works, but in many ways, power-based approaches do not resolve the underlying problems, and the conflict may continue to simmer. With most workplace conflicts, a rights-based approach has emerged that applies laws and regulations (rights), and, if necessary, endless hearings to determine rights and wrongs. This legalized, rights-based approach also can work, but it has an exceedingly high transaction cost in terms of time, energy and, ultimately, legal fees.

A successful mediator will stress that relationships which give rise to difficult conflicts are much more complex than who is right and who is wrong. In addition to nearly always needing a lawyer at one’s side, a rights-based approach creates intense competition to determine who is right and who is wrong, and generates endless investigations. The person trying to resolve the conflict is often caught between wondering whether to follow common sense or to assume that a lawsuit, or at the very least, complaints and animosity will simmer and affect the workplace unless some action is taken.

The reality is that conflict is all around us. Indeed, a world without conflict would be dull and sterile. Conflict is necessary. It can be viewed as an opportunity for lively exchanges and productive growth—but only if it is approached in a way that focuses on solutions rather than causes or blame. One shouldn’t investigate to determine who is right and who is wrong; with a different approach, conflict does not have to be a contest over who is blamed and who is vindicated.

Bill Ury has written that a third way to resolve conflict is to ask the question, “What are your needs and what are your interests?” He argues, and mediators agree, this approach works better, is less costly, results in greater satisfaction to the parties in conflict and creates the framework for better future relationships. He describes an interest as one’s fears, values, concerns, or beliefs. Interests are the underpinnings of people’s positions.

Positions are the more global, tangible demands that are made. An employee may allege an Equal Employment Opportunity Commission (EEOC) violation and demand a hearing, when in fact their underlying interest is to have a reasonable accommodation made. One such example would be the single mother who is unable to work mandatory overtime due to child care constraints. Because her supervisor is fixed on a rights-based approach to conflict resolution, the employee will never be able to voice her underlying interest. Therefore, because the underlying interest is not heard, a simple solution becomes lost in the midst of litigation, or some other adjudicative process.

An interest-based approach to conflict resolution has many advantages over a rights-based or power-based approach. These techniques, seen as “interventions,” or “asking different questions,” change the game. When properly applied by mediators or people with training, they can turn people in conflict into partners attacking

the problem rather than adversaries attacking each other. On the surface, these interventions seem simple, yet to exercise them requires a good deal of practice and skill.

My friend Linda called me recently and asked for some advice. She supervises 25 nurses and one of them was complaining of discriminatory treatment in the scheduling of her work assignments at her clinic's satellite offices. This nurse said she was being "illegally discriminated against" by Linda. Linda said she had a meeting the next day with this "troublesome" staff nurse who had also (unknown to Linda at the time) filed an EEOC complaint alleging other non-minority nurses were getting preferential treatment. As we talked, I assured Linda that there were a number of strategies she could use that might work better than the previous meeting with the nurse (she had previously unloaded a litany of complaints about Linda and the system, ending with a charge against Linda that generated an incident report and another investigation by the nurse's union representative).

I suggested that Linda first acknowledge that this meeting is difficult for both of them but that she appreciated the opportunity to meet with her (respect is the grease of the conflict resolution process). Then, I suggested if the staff nurse pulled out another list of complaints, that Linda indicate all of the items could be addressed, but then try to guide the conversation by suggesting it might first be good to have a general discussion about the problem instead of a blow-by-blow discussion of the complaints.

## Step One: Define the Problem

Don't waste time investigating who caused it. Mediators believe that the person who defines the problem has greater control over the outcome. I asked Linda to maintain a future-focused definition of the problem rather than a past-focused (blame-oriented) definition of the problem. I suggested that Linda use her best mediation skills and try to define the problem not as Linda being an unfair manager (assigning blame), but as a problem that has a solution (move forward). Mediators have a saying: "The problem is the problem. The person is not the problem." Linda might say, "So, it sounds as if the problem we should talk about is how the rotation schedule affects you."

As the staff nurse continues to blame and to find fault in an effort to try to pull Linda back into admitting her mistakes and insisting she has been treating her unfairly, Linda must continue to bring the conversation back to the problem.

This requires some effort, but a person can redirect the conversation away from blame and fault by focusing on the future and by stating the problem in a mutual manner that requires a joint effort to resolve.

For example, family mediators have basically changed the way divorce is practiced in this country through reframing the question of child custody by asking divorcing couples "What kind of future parenting plan would you like to build?" instead of asking "Who is (or was) a better or worse parent?"

I urged Linda to avoid as much as possible a debate over whose view of the past problem is correct and suggested she acknowledge in a respectful way that the staff nurse was entitled to her view of the past



problem, and that it was not necessary to argue over whose version of the past was correct. The goal is not to determine who is right and who is wrong.

What emerged from Linda's meeting the next day was a definition of the problem as "how to schedule 25 nurses to cover six satellite offices in such a way as to minimize driving time and yet to create fairness for all of the nurses."

## Step Two: Ask About Needs and Interests, Instead of Who is Right or Wrong

I next suggested to Linda that it made more sense for her to help her staff nurse understand what Linda's needs were and that Linda also must listen carefully to what the staff nurse's needs were. At the meeting, when Linda asked the nurse what she needed, the nurse responded by saying she needed to be treated fairly and she needed the schedule crafted differently. Staying with that need, Linda then asked her, "What do you need me to do differently so you feel fairly treated?" As it turned out, all she needed was an opportunity to discuss a different way to schedule nurses who had small children and who could never pick them up late from day care. The staff nurse explained that a clinic rule requiring all nurses to equally staff the most remote sites caused her to be late picking her child up at day care four times a month and that she should either be compensated for extra time in her car (so she could pay for extra day care) or that those with children in day care should be exempted from the rule.

Asking the question "What do you need?" will never fail you. It is a question that requires a future-focused answer. It goes to the heart of the problem and frequently, the answer you get will not only surprise you but also will give you insight into where to go next with the discussion.

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The problem, however, with asking the question “What do you need?” is that it requires the supervisor or HR director to let go of right and wrong and address concerns, values, beliefs and special circumstances. It also requires the person asking the question to acknowledge that it may be necessary to be creative in thinking about fairness principles. Perhaps the hardest part for many parties to a conflict is that the question requires some sharing of the decision-making power with others in the conflict. It does not, as one human resources manager observed, give the employees the keys to the bus, but rather it asks them to join as partners in resolving the conflict. It is a liberating approach because it puts responsibility for solving the problem back on the shoulders of the people in the midst of the conflict.

## Step Three: Get Creative

*Problems are solved and needs are met when creative solutions are discussed and agreed upon.*

Linda could have parroted personnel rules that pay “on-the-clock” time only for travel between the main clinic and the satellite clinics and not from the satellite clinic to home at the end of the day. Linda also could have said that since the rule is applied equally to everyone, she doesn’t have a claim. Or, Linda could have said she cannot make an exception for her without causing problems for everyone else. Because Linda asked the question, “What do you need?” she learned that the “troublesome staff nurse” had actually taken a job at the clinic to avoid the rotating hours at the hospital in order to be able to pick up her child at day care each day. The staff nurse needed a different way of putting in her time without ending up at the satellite office that was the farthest from her day care center at the end of her workday. This then led to the next question about what creative solutions can be reached that will solve the problem and meet the need.

## Step Four: Select a Solution

Without the contaminating effect of blame and fault and right and wrong, it was possible for Linda and the staff nurse to engage in a creative discussion about how to fairly schedule her for the least desirable duty of working at the satellite offices, which always required extra driving and mandatory overtime.

In order to finally get to the work of crafting creative solutions that everyone takes ownership of, it is necessary to first create the proper environment for cooperative conflict resolution to occur. When the correct environment for good discussion is present, one can turn the game from intense conflict to a cooperative search for solutions. There is no one magic bullet, but rather a cumulative effect that creates a completely different environment of cooperation.

Here are some of the tools and techniques that will work to turn the environment of conflict into a search for mutual solutions:

1. **Don’t try to determine right and wrong; it will always fail you.** This does not mean you should let go of your moral compass, or that the past is not important. Rather, the past should be discussed only insofar as it is necessary to shed light on what must be done to understand and resolve the conflict, not to prove truth or falsity of the events in question.
2. **Try to discover what people need.** One of the most powerful questions you can continually ask is, “What do you need?”
3. **Focus the discussions mostly on the future.** Remember, the past cannot be changed, but the future is a clean slate.
4. **Reframe the problem** in a way that is future-focused and requires mutual effort to resolve.
5. **Use a four-step approach:** 1) What is the problem? 2) What do you need? 3) What are some creative options that meet everyone’s needs and solve the problem? 4) Select and implement one or more of the options. This four-step approach does not investigate, does not judge, and does not determine rights or wrongs. It asks people to state what they need so the conflict can be resolved.
6. **Do not worry about power all the time.** Linda might be sharing some of her authoritarian power, but she loses much of her power if she spends days and days in hearings with the union over fair labor practices, or with EEOC investigators.
7. **Listen carefully.** Listening is powerful and respectful.
8. **Understand that fairness is in the eye of the beholder.** Be willing to create a standard of fairness for each conflict situation. This does not mean policies and regulations need to be thrown out the window. It merely means that within each policy, law or personnel regulation, there is room for fair application and interpretation. Rather than having a hearing office make the final decision, encourage the parties in the dispute to take responsibility for the problem that they have created.

The above might seem simple to some. Indeed, much of it may seem antithetical to a traditional conflict resolution approach. Although applying the above interventions is complex and not easy to learn, interest-based approaches actually enhance one’s power by harnessing the energy of one’s opponents.

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*Stephen K. Erickson, J.D., is licensed as an attorney, but works exclusively a mediator. Since 1977, he has mediated more than 5,000 disputes in his private practice, the Erickson Mediation Institute in Bloomington, Minn. He received the Bush Leadership Fellowship Award for the study of mediation in 1979 and is a founder and second president of the Academy of Family Mediators. He is well known as a mediation trainer and speaker, and has published numerous articles and books on the subject. He has recently been appointed to the faculty at Augsburg College in Minneapolis, where he will be teaching a course in the Master of Arts in Leadership program in fall 2010. Erickson can be reached by phone at (952) 835-3688. —N*