FEDERAL WORKPLACE

CONFLICT MANAGEMENT DESK REFERENCE

A Compilation of Alternative Dispute Resolution (ADR) Processes, Partners, and Resources

October 2013

NOTE: This Guide applies to the internal management of the federal executive branch and is intended only to provide helpful advice. It is not intended to create any new right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

It is intended to be relied upon as a source of constructive suggestions for the effective administration of agency workplace ADR programs, but is not to be accorded "deference" as an "agency interpretation." Questions regarding interpretations of the Guide should be brought to the Office of the General Counsel or Legal Counsel in each department or agency. In addition, federal employee mediators must look to agency rules, regulations, directives and policies to obtain guidance in conducting proceedings for their agency.

Regardless of employees' temporary or full time service as mediators, they serve primarily as federal employees and are responsible for being aware of and complying with all statutory and regulatory requirements, including certain reporting requirements. Should employees have questions regarding any of these requirements and how they may relate to their obligations as mediators, it is incumbent on those employees to contact appropriate personnel within their respective agencies to resolve such questions.

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INTRODUCTION

This desk reference reflects the collaborative effort of ADR professionals from a wide array of agencies throughout the Federal government. While it is not meant to be a scholarly publication, it does contain the collective wisdom of knowledgeable professionals with many years of Federal workplace experience. This publication provides a practical desk reference for ADR professionals, practitioners, and program managers, as well as supervisors and managers who are interested in enhancing their approach to addressing workplace conflict within the Federal government. It offers information for a flexible, collaborative approach to conflict resolution.

PURPOSE OF THIS DESK REFERENCE

The purpose of this desk reference is to provide Federal alternative dispute resolution staff, as well as others involved in workplace conflict, with a collection of current information to enhance their work and further develop their programs. New and seasoned practitioners and professionals will find the desk reference useful, as it combines the input from ADR program managers, practitioners, and professionals from a wide range of Federal agencies. Supervisors can use this information as a guide to the processes and resources they might choose to assist them in addressing workplace conflict. The information is presented in an easily useable and practical format.

Specifically, this desk reference contains information about processes and approaches currently used in some Federal workplace conflict management and dispute resolution programs. The desk reference will give people working in this area a common understanding of the variety of processes and approaches. It also may broaden the context within which they are used. All of the processes and approaches may not be available in any one agency. In fact, most agencies may use only one or several or the approaches identified here.

This desk reference includes a section on potential internal partners who may be consulted in order to encourage integration of Federal workplace ADR and related programs into the wider culture of an agency. Normalizing conflict and creating conditions where conflicts are acknowledged and addressed – preferably early in the process – allow an agency to avoid unnecessary distractions from its mission. Potential partnerships within the agency, such as with ADR professionals and those involved in workforce development, among others, enable ADR and related programs to prevent and address workplace conflict and resolve workplace disputes holistically and effectively.

DESK REFERENCE FORMAT

We present conflict resolution processes in this desk reference in a simple, easily understood format. Each situation is unique and calls for a tailored and appropriate response. Of course, an essential hallmark of all these ADR processes is the voluntary consent of all parties to participate.

Section I outlines specific processes and approaches used to address conflict in the workplace. It provides examples of conflict situations utilizing these approaches. We describe seventeen processes distinct ADR processes.

Section II lists potential partners. These are typically different offices within a Federal agency with whom another office or individual supervisor or manager may collaborate to effectively address conflict between individuals or within a group. This section describes the responsibilities of each office and identifies potential benefits of collaborating with the office.

Section III describes some of the ways technology can enhance and support various processes and approaches and facilitate collaboration with partners. This section includes print and web resources for further reading.

Section IV sets forth a matrix of common workplace conflicts with corresponding processes and approaches to consider.

SECTION I: Processes and Approaches

The following processes and approaches offer proactive methods for an agency to consider in addressing workplace conflict and disputes. The information for each process or approach is organized as follows:

1. A definition for the process/approach
2. An explanation of how the process/approach works
3. The role of the individual (the practitioner) who facilitates the process/approach
4. A list of benefits of the process/approach
5. Other aspects to consider when using the process/approach
6. Possible concerns when using the process/approach
7. Complementary processes/approaches
8. Illustration of a workplace situation utilizing the process/approach

This list (in alphabetical order) is an introduction to alternative dispute resolution ("ADR") as well as non-traditional tools for addressing conflicts and disputes. It is not exhaustive, nor is it exclusively applicable to conflicts in the Federal workplace.

1. Alternative Discipline
2. Appreciative Inquiry
3. Arbitration
4. Climate Assessment
5. Community of Practice
6. Conflict Coaching
7. Conciliation/Facilitation
8. Creative Problem Solving
9. Dispute Panels/Peer Review Panels
10. Early Neutral Evaluation
11. Fact Finding
12. Group Process Facilitation
13. Interest-Based Problem Solving
14. Mediation
15. Open Door
16. Settlement Conferences
17. Team Building/Improving Communication

ALTERNATIVE DISCIPLINE

1. ## DEFINITION

   Alternative discipline is a measure occasionally chosen by management to address inappropriate employee conduct or behavior where traditional discipline (e.g., reprimand, suspension, removal) might have been inappropriate.

2. ## HOW IT WORKS

   - At any stage of the formal disciplinary process, management official with decision-making authority may offer alternative discipline to an employee slated to be disciplined and an employee must voluntarily consent
   - Management official and employee may successfully negotiate an appropriate alternative form of corrective action in lieu of penalties typically used by agencies
   - May result in a written agreement including specific terms and conditions
   - Alternative discipline may involve a panel review of any written agreement
   - Generally, supervisor with disciplinary authority determines whether to offer alternative discipline to an employee

3. ## ROLE OF THE PRACTITIONER

   - May be a designated official in the human capital/human resources office
   - Helps establish criteria to determine if alternative discipline is appropriate
   - Advises participants of options available through alternative discipline
   - Assists in writing the agreement

4. ## BENEFITS

   - Employee remains on the job and should have better morale
   - Collaborative process allows the employee and supervisor to negotiate together for a consensual form of corrective action in lieu of formal discipline
   - Workplace relationships more likely to remain intact
   - Remedial instead of punitive approach
   - Flexible process that may be offered at any stage of the disciplinary process
   - Saves time and resources
   - May not require the assistance of a third-party neutral

5. ## OTHER CONSIDERATIONS

   - Most successful when an employee acknowledges responsibility for his/her behavior, expresses remorse, and agrees not to repeat the inappropriate behavior

- Purpose is to modify employee's behavior, thus it should be used when it is reasonable to believe alternative discipline will be more effective than traditional discipline
- Successful resolution may impact an employee's grievance or appeal rights and agencies must communicate this to the employee

6. **CONCERNS**

- Agency regulations and union contract may preclude the use of alternative discipline
- Upper management may perceive alternative discipline as inconsistent with disciplinary action policies
- Employees may view alternative discipline as a process used for "favorite" employees
- Illegal misconduct should be excluded, such as workplace violence, sexual harassment, and discrimination
- May need to consult with legal counsel to ensure any agreement reached is properly drafted
- May produce an expectation or standards that other infractions will be similarly treated

7. **COMPLEMENTARY PROCESS AND APPROACHES**

Conflict Coaching, Mediation, and Creative Problem Solving

8. **ILLUSTRATION**

An employee was alleged to have misused a government travel credit card, an infraction which generally calls for at least a two-day suspension from duty, without pay. The employee was offered an alternative discipline and the agency and employee negotiated a consensual agreement with the following terms: the employee admitted to the alleged misconduct and agreed to make a minimum payment of $100 per month until the outstanding balance was paid in full. Additionally, the employee consented to counseling through the agency's Employee Assistance Program and the agency waived filing a formal reprimand in the employee's official personnel file.

APPRECIATIVE INQUIRY (AI)

1. DEFINITION

AI is an approach in which participants consider what works well in their group or organization, identify their highest values, and envision the best future outcome. AI is an alternative to traditional problem solving or "fix-it" approaches. AI focuses on structuring an organization around what works rather than focusing on what does not work. AI is based on three assumptions:
1) Inquiry creates change
2) Positive questions lead to positive change
3) Images inspire action

2. HOW IT WORKS

- The 4-D Model – Discovery, Dream, Design and Destiny[1] focuses on
  - Discovery: participants recall times when they or the organization participated in a particularly successful project. This process identifies positive aspects of the organization or relationship that may work well in the future
  - Dream: participants look to the future and consider improvements they would like to see happen in the organization or relationship. The focus is on a future that is inspired, admirable, and creative, rather than on negative critiques
  - Design: participants (all or a selected group) design the organization or relationship to reflect a future with heightened positive potential
  - Destiny: implementation of the new strategy for the organization or parties
- AI is driven by provocative questions that focus on the best of what is and what could be
- AI is centered on telling personal and organizational stories to:
  - Identify past success
  - Build on past success
  - Achieve future success

3. ROLE OF THE PRACTITIONER

- Provides practical theory application
- Takes participants through a series of thoughtful and/or provocative questions to capture success stories
- Uses past success stories to move forward with an exciting vision for the future
- Supports an anticipatory framework and maintains focus on positive language
- Develops an action plan to leverage participants' success

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[1] Cooperrider, David, Diana Whitney, and Jacqueline Stavros. *Appreciative Inquiry Handbook*. Bedford Heights, OH: Lakeshore, 2003. Print

4. **BENEFITS**

- Elicits conversations and stories that heighten individual or group aspirational goals
- Participants gain a sense of commitment, confidence, and affirmation
- Evokes participants' capacity to articulate a real and vibrant vision and bring about change
- Helps people reflect on how management can support and sustain their best experiences at work
- Can be used by individuals knowledgeable about the process without the assistance of a professional

5. **OTHER CONSIDERATIONS**

- Provides a process to change the dynamic in the organization by maximizing strengths
- Can be used for relationship building, such as between agency management and unions

6. **CONCERNS**

- People have a tendency to consistently focus on the "problem"
- Some perceive AI as too "touchy-feely"

7. **COMPLEMENTARY PROCESS AND APPROACHES**

Climate Assessment, Community of Practice, Conflict Coaching, Group-Process Facilitation, and Team Building

8. **ILLUSTRATION**

An organization experiencing conflict invited an agency ADR professional to conduct an intervention to improve communication and productivity. As part of a day-long custom designed training session, the leader tasked small groups to identify what they most appreciated about working for the organization at that location. The results of this exercise in the morning were built on during the subsequent modules. The results were used to bring a positive focus and reminder why individuals wanted to work on building better workplace communication.

ARBITRATION

1. **DEFINITION**

   Arbitration is a process in which parties agree to present a dispute to an impartial individual who hears evidence and issues a decision regarding the dispute. Parties agree in advance as to whether the decision will be binding or not. If the parties agree to binding arbitration, the decision is final and enforceable, except in rare circumstances such as fraud. The Administrative Dispute Resolution Act of 1996 requires all binding arbitration programs to have Department of Justice concurrence unless there is alternative, statutory authorization for the program.[2] For example, collective bargaining agreements require a negotiated grievance procedure with binding arbitration.[3]

2. **HOW IT WORKS**

   - Parties agree to arbitration or arbitration is invoked by a party to a contract containing an arbitration clause
   - Parties mutually select the arbitrator through a roster or as indicated in an arbitration clause
   - Arbitrator's scope of authority is limited according to the parties' agreement
   - Parties may decide to limit the arbitrator's authority to specific issues
   - Parties may present evidence and witnesses at the arbitral hearing depending upon rules dictated by the parties' agreement or subject to the arbitrator's discretion
   - Parties may agree either pre-dispute or post-dispute to use a set of rules issued by one of the commercial entities (*e.g.,* JAMS, American Arbitration Association [AAA], Conflict Prevention and Resolution [CPR])
   - Arbitrator generally establishes procedural and evidentiary rules
   - Arbitrator renders a decision only on the issues presented and an arbitrator's decision does not have precedential value

3. **ROLE OF THE PRACTITIONER**

   - Serves as an impartial decision maker, external to the parties
   - May be chosen from a roster of professionals through a commercial entity such as AAA, CPR, or JAMS with subject-matter expertise

4. **BENEFITS**

   - Parties determine the issues to be decided
   - Can be faster and less expensive than litigation

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[2] 5 U.S.C. § 575(c)(1996).
[3] 5 U.S.C. § 7121(a)(1)(1998).

5. **OTHER CONSIDERATIONS**

- May be used for employee grievances or labor-management disputes requiring interpretation of law, rules, regulations, and/or terms of a collective bargaining agreement
- Often handled in the Labor Relations Office or Office of General Counsel

6. **CONCERNS**

- Can be adversarial
- Can be costly and time consuming compared with other ADR processes
- May not address the disputants' underlying interests

7. **COMPLEMENTARY PROCESS AND APPROACHES**

Dispute Panels, Fact Finding, and Mediation

8. **ILLUSTRATION**

Union representatives were allowed to perform their representational duties away from the worksite, including at their home locations. Agency employees objected to management's determination that management had no further obligation to provide space for the union president at his home. The employer terminated that practice and the union filed a grievance. The collective bargaining agreement required arbitration, and parties presented their respective sides to an arbitrator through briefs and oral arguments. The arbitrator interpreted the terms of the collective bargaining agreement and issued a binding decision holding that unilateral termination of this past practice violated the bargaining agreement.

CLIMATE ASSESSMENT

1. ## DEFINITION

A manager consults with a third-party neutral to obtain an accurate summary of his or her workforce.

2. ## HOW IT WORKS

- At the request of the manager, the neutral listens to the manager's impressions, concerns, and goals about a particular workplace situation or the overall environment
- Neutral addresses confidentiality with the manager and other individuals from whom information is sought
- They discuss the most appropriate information-gathering method for the group and establish parameters of the undertaking through the use of one or several of the following methods:
  - o Individual questionnaires
  - o Individual interviews
  - o Small group meetings using group process techniques to maximize participation
  - o Facilitated discussion with a large group
- Neutral meets with individuals or groups with the permission of the manager requesting the assistance and the participants' understanding about objectives
- Neutral conveys a summary to manager without individual attribution within a reasonable period of time after the climate assessment to help the manager determine next steps. Usually the manager decides to share this summary with staff

3. ## ROLE OF THE PRACTITIONER

- Gathers information about the issues involved and the sources of conflict
- Serves as liaison and conveyor of information
- Does not advocate for any side
- Conveys information constructively without individual attribution
- May recommend other agency resources or other processes and training to address concerns and interests raised
- May offer general impressions, observations, suggestions, and best practices

4. ## BENEFITS

- Useful and proactive way to invite candid feedback from colleagues or subordinates and minimize concerns about retaliation
- Gives group members a chance to express their concerns in a structured and safe environment with the help of a trained and experienced third-party neutral
- Helps identify patterns and entrenched views

- Moves parties beyond blame and encourages self-responsibility by inviting suggestions for creative ideas for going forward

5. **OTHER CONSIDERATIONS**

- Clarify objectives as early as possible so the process is seen as credible, participants are not defensive, and expectations are reasonable
- Requires sufficient resources, including time and the appropriate number of third-party neutrals to complete the work
- Generally, experienced third-party neutrals with a variety of well-developed skills are best suited for this tool
- May be particularly effective in situations where a group is undergoing change

6. **CONCERNS**

- Parties may look to the third-party neutral to solve the problem rather than taking responsibility to work together
- May require substantial logistical coordination and time on the parts of both participants and the neutral(s)
- May raise unrealistic expectations if there is no follow-up after the initial information gathering
- Some of the issues may need to be addressed by other offices within the organization

7. **COMPLEMENTARY PROCESSES AND APPROACHES**

Appreciative Inquiry (AI), Conflict Coaching, Creative Problem Solving, and Team Building

8. **ILLUSTRATION**

A manager consulted with the agency's ADR Office for help with a team conflict. The third-party neutral from the ADR office and the manager developed a method for information gathering that allowed for individual input through one-on-one interviews with each team member using a set of questions designed to surface worthwhile and constructive information. The third-party neutral also invited each participant to share any information at the end of each interview. Next, the third-party neutral compiled a composite picture of the team, summarized the emerging themes and suggestions, and suggested a specific mediation for two team members with a history of conflict. Other suggestions included team-building exercises, capacity building in working collaboratively, and a briefing from the Employee Relations Office to clarify specific policies and practices and to answer questions. Six months later, the manager reported more productive and engaged team members and expressed a positive attitude about the changes that had taken place in the workplace environment.

COMMUNITY OF PRACTICE (COP)

1. **DEFINITION**

   CoP is the process of social learning that occurs when people with a common interest in a subject, goal, or program collaborate over an extended period to share ideas, find solutions, and build innovations. CoPs are fundamentally self-organizing systems that develop around meaningful issues and bring together people bound by a common goal or problem.

2. **HOW IT WORKS**

   - Members join voluntarily based on a mutual interest or problem
   - Members agree on structure and priorities for the CoP
   - A CoP may operate under the umbrella of a sponsoring organization
   - Members may naturally gravitate to one another or be identified based on a specific project or initiative
   - May meet in person or communicate electronically to share information and ideas on a regular basis or as desired by members

3. **ROLE OF THE PRACTITIONER**

   - Does not carve out a role for a third-party neutral unless a member of the CoP informally facilitates the discussions

4. **BENEFITS**

   - Gives people with mutual interests or goals an opportunity to learn from one other
   - Creates a network of learning and mutual support in connection with a problem, interest, or objective
   - Informal and inexpensive vehicle to provide peer learning, develop groups or organizations, and encourage innovation through the exchange of information, experiences, and ideas

5. **OTHER CONSIDERATIONS**

   - An umbrella agency sponsoring or involved with a CoP must strike a balance between the CoP's need for information, resources, support, and structure and the agency's need for the CoP to be independent and self-sustaining
   - Important to clarify the mutual goals and interests of its members so that members understand the purpose
   - Time and space needed for collaboration or technical support if collaboration will be virtual
   - Members of a CoP should be prepared to dedicate the time and energy necessary to address common goals or problems

- Trust among members of the CoP is essential

6. **<u>CONCERNS</u>**

- An umbrella agency could inadvertently stifle the creativity and self-organization of the CoP
- If the CoP lacks a defined focus, it may be less effective
- Focus could become too insular and miss information crucial to the purpose
- Bureaucracy of an umbrella agency may inhibit information exchange

7. **<u>COMPLEMENTARY PROCESSES AND APPROACHES</u>**

Appreciative Inquiry (AI), Creative Problem Solving, Group-Process Facilitation, Interest-Based Problem Solving, and Team Building

8. **<u>ILLUSTRATION</u>**

The ADR program managers of sub-agencies within a cabinet-level department meet regularly to discuss ADR and related issues. Agenda items for each meeting include substantive issues such as innovative techniques being used in any one of the sub-agencies, how to address change in leadership, or how to overcome a limited budget environment. During each meeting, participants take time to discuss what is happening in each of their offices. This network has met enthusiastically for over a decade to share lessons learned, collaborate on projects of joint interest, and share new ideas in the field.

CONFLICT COACHING

1. ## DEFINITION

Conflict coaching is used to assist an individual manager or employee with his/her reaction to conflict in the workplace. Conflict coaching often works in conjunction with other processes to create the behavior modification and skill development necessary for long-term conflict management or resolution.

2. ## HOW IT WORKS

- Coach may be formally certified as a conflict coach from an organization offering training and certification
- The coach works with the client to establish a coaching contract that outlines the coaching relationship, number and length of sessions, and the process for assessing the client's coaching needs
- Coach may serve as client's sponsor, appraiser, role model, and/or teacher in accordance with client's interests
- During a series of sessions, coach engages by listening, observing, analyzing, interviewing, and providing feedback
- Through a series of conversations and learning activities, coach serves as a catalyst for exploration, learning, and resolution

3. ## ROLE OF THE PRACTITIONER

- Pays full attention to coaching client throughout each coaching meeting
- Serves as sounding board and "thinking partner," helping the client see different perspectives, explore options, and learn through experience between sessions
- Uses an interactive dialogue technique
- Holds coaching client accountable for the actions he/she chooses to undertake

4. ## BENEFITS

- Provides support for behavior modification and builds skills regarding long-term conflict management or resolution
- Useful when an individual experiencing conflict wants to work one-on-one with a coach and prefers not to engage directly with the other party to the conflict
- Useful in preparing an individual prior to his or her participation in mediation

5. ## OTHER CONSIDERATIONS

- Consistent with ethical standards, coaching multiple parties involved in the same conflict can provide the coach with a wide perspective and prove instrumental in helping parties identify sources of and options for effective conflict management or resolution

6. CONCERNS

- Distinguishing among different types of coaching can be difficult
- Receiving a commitment for ongoing engagement in a coaching relationship may be challenging
- Conflict coaching can be costly if using an external third-party
- Confidentiality expectations should be fully discussed

7. COMPLEMENTARY PROCESSES AND APPROACHES

Appreciative Inquiry (AI), Climate Assessment, Creative Problem Solving, and Interest-Based Problem Solving

8. ILLUSTRATION

A conflict coach assisted an employee with a series of interpersonal conflicts in the office. The coaching client's objective was to better understand the dynamics of the workplace conflict in which she was involved. Through conflict coaching, the coaching client became increasingly aware of her interactions and better able to consider her choices about what she might do to improve matters. With the coach's help, the coaching client designed a time-based plan and explored and prepared for challenges. Soon after, the coaching client's supervisor, who had encouraged her to participate in conflict coaching, commented to the coach about the noticeable change in the coaching client and team she worked with. Several weeks later, the coaching client confirmed that her coaching experience allowed her to identify and alter her problematic behavior in the workplace and make amends with co-workers. The coaching client admitted that without this improvement, she would have left the agency.

CONCILIATION/FACILITATION

1. ## DEFINITION

   Conciliation is a process where a third party facilitates discussions with parties to reconcile differences, generally by seeking concessions. Although similar to mediation, it does not include a formal agreement to participate in the process, and may not include provisions such as confidentiality which are generally spelled out in a mediation agreement, and the third party neutral may not have had formal training in mediation.

2. ## HOW THE PROCESS WORKS

   - Conciliation is a voluntary and informal process facilitated by a third-party neutral or an individual whom the parties trust
   - Usually the conciliator meets for an initial in-depth discussion with each party regarding the issues and objectives for the conciliation
   - Third party neutral serves as a "go between" and shuttles information, perspectives, and ideas between parties at their request
   - If an agreement is reached, the agreement may be verbal or written

3. ## ROLE OF THE PRACTITIONER

   - Assists parties with issue identification and prepares parties to move beyond the past
   - Listens to and helps parties articulate their concerns to one another
   - Works with parties on improving their relationship
   - Allows the parties to make decisions as to how to move forward

4. ## BENEFITS

   - Facilitates a dialogue between parties and helps to improve communication
   - Resolves disputes quickly and informally
   - Proactively addresses relational and other issues before conflict escalates
   - Cost effective

5. ## OTHER CONSIDERATIONS

   - Basic skill often performed on an informal level

6. ## CONCERNS

   - Parties may be reluctant to engage in conciliation due to a lack of trust

- Conciliation process may be too informal
- Conciliation agreement may be difficult to enforce
- Process may not have the same confidentiality protection under the law as the protection offered by mediation[4]

7. **COMPLEMENTARY PROCESSES AND APPROACHES**

Mediation and Open Door

8. **ILLUSTRATION**

A Unit Leader and staff person came to the ADR Office for assistance with a conflict with a Branch Director who had yelled at the staff person and threatened to have that person fired. They asked the ADR Advisor to speak with the Branch Director and convey their understanding of the situation and desire to make the situation better. The ADR Advisor met with the Branch Director, listened to his concerns, and discovered shared interests. The ADR Advisor presented information and suggestions from the Unit Leader and staff person, then collected the Branch Director's suggestions. The ADR Advisor went back to the Unit Leader and staff person with the Branch Director's suggestions and discussed a mutual plan for moving forward. The loop was closed with a final phone call to the Branch Director for his agreement.

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[4] *See* Interagency ADR Working Group Steering Committee. "Protecting the Confidentiality of Dispute Resolution Proceedings – A Guide for Federal Workplace ADR Program Administrators." *ADR.gov.* April 2006. Web. 16 August 2013. *See also* The Administrative Dispute Resolution Act, (signed by President H.W. Bush in 1990, reauthorized by President Clinton in 1996). 5 U.S.C. § 571-83 (1996).

CREATIVE PROBLEM SOLVING (CPS)

1. **DEFINITION**

   CPS is the process of identifying new solutions and generally has two components:

   1) Generating original ideas or options, and
   2) Using those ideas to make a decision

2. **HOW IT WORKS**

   - The decision-making component is sub-divided into
     - Analysis
     - Evaluation
     - Selection
   - CPS is exploratory and operates outside the norm by considering different approaches to framing and addressing a problem
   - CPS involves a number of generic strategies[5] including:
     - Suspending judgment
     - Brainstorming
     - Challenging assumptions
     - Generating alternatives
     - Reframing
     - Visualizing
     - Reverse thinking
     - Using analogies, metaphors, and similes
     - Welcoming random ideas[6]
   - CPS may be used to frame the problem or issue, to develop an appropriate process to address the problem or issue, and/or to generate options for resolution
   - Participants agree to reserve their assumptions about results and outcomes
   - CPS requires commitment to work together to frame the problem in a mutually acceptable way and to discuss what process to use to work through the problem
   - Participants are encouraged to suspend judgment, ask any and all questions (e.g., ''What if money weren't a consideration; what else would satisfy you?''), be patient, dedicate themselves to creativity and improvisation, and remain fully engaged in the moment

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[5] de Bono, Edward. *Lateral Thinking: Creativity Step by Step*. New York: First Perennial Library, 1979. Print
[6] Cooley, John. *Creative Problem Solver's Handbook for Negotiators and Mediators.* Vol. 2. Chicago: American Bar Association, 2005. 10-17. Print.

3. **ROLE OF THE PRACTITIONER**

- Explains different creative problem solving strategies and guides the participants in employing them
- Assesses the situation and suggests potentially effective strategies
- Demonstrates curiosity and optimism and willingness to improvise and pay attention in the moment
- Guides session, suggests traditional and non-traditional approaches (e.g., random-word association), and captures all ideas in writing

4. **BENEFITS**

- Avoids formal dispute resolution process if used early
- Leads to creative and practical solutions to prevent future problems
- Can be used by individuals knowledgeable about the process without the assistance of a neutral

5. **OTHER CONSIDERATIONS**

- Must be willing to commit to the process by allocating sufficient time for working together and remaining open to unknown possible outcomes

6. **CONCERNS**

- Participants may be unfamiliar with the concepts of vertical thinking (using information for its own sake in order to move forward to a solution) and lateral thinking (using information not for its own sake, but provocatively in order to bring about re-patterning)[7]
- Participants may be reluctant to embrace new, problem-solving techniques and strategies

7. **COMPLEMENTARY PROCESSES AND APPROACHES**

Conflict Coaching, Group-Process Facilitation, and Team Building

8. **ILLUSTRATION**

A group of IT professionals routinely thought about projects as a linear series of tasks, causing them to fall behind schedule: they could not see how to address step nine before completing step two. During a team-building session, a third-party neutral used lateral thinking puzzles to demonstrate creative ways of approaching a project. The neutral asked the group to build a ship in a bottle in a specified time. Although the group started to organize the tasks in a linear fashion, they soon realized they would not complete the

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[7] *See* de Bono at 44-5.

project on time if they continued this way. Instead, they began to pull the directions apart and identify tasks that could be done in parallel and saw how other tasks complemented one another. They succeeded in building a beautiful ship in a bottle, on time, using a non-linear project plan and were then prepared to integrate CPS techniques into their IT projects.

DISPUTE PANELS/PEER REVIEW PANELS

1. ## DEFINITION

   Dispute panels are made up of impartial individuals (usually designated or pre-selected by the agency) who convene to hear the disputing parties and render a decision or opinion on the matter presented.

2. ## HOW IT WORKS

   - A dispute panel (generally 3 people) may be part of a grievance process or stand-alone process for addressing workplace issues, e.g., disciplinary actions or performance evaluations
   - The panel may consist of peers of the disputants or management officials, union officials, and persons jointly selected by management and the union
   - Disputants are allocated a specific amount of time to present and argue their respective cases before the panel
   - The panel receives written arguments and evidence from the disputants, considers the arguments and evidence, and submits recommendations to an appropriate deciding official
   - The deciding official can accept, reject, or modify the recommendations
   - The panel can make decisions or recommendations by consensus or majority vote

3. ## ROLE OF THE PRACTITIONER

   - May be a member of the panel or serve as a facilitator for the panel
   - Listens to arguments, considers evidence, and engages in decision making through collaboration with fellow dispute panel members

4. ## BENEFITS

   - Provides parties with the opportunity to be heard and to present their case in an orderly, formalized setting
   - Provides due process for parties
   - Decision is rendered within a specified time frame
   - May take less time and expense than lengthy grievance meetings
   - Takes into consideration the importance of the parties' relationship

5. ## OTHER CONSIDERATIONS

   - Can be used for labor-management disputes
   - May need to educate agency personnel about the purpose of a dispute panel and the process for utilizing it in the context of the agency's other dispute resolution processes
   - Is well suited for a non-union environment

- Limitations may be necessary when a Dispute Panel/Peer Review Panel recommendation differs from the original disciplinary action

6. **CONCERNS**

- Disputants may perceive the panel as biased
- Must manage expectations of disputants and avoid confusion between the hearing and a legal proceeding
- Some managers may perceive the dispute panel as undermining management decisions
- Takes time and resources to select panel members and administer the program; agency may not see enough benefit

7. **COMPLEMENTARY PROCESSES AND APPROACHES**

Arbitration, Fact Finding, and Mediation

8. **ILLUSTRATION**

A Federal security office employee was written up and ultimately suspended for failure to perform proper security screening. The employee explained that extenuating circumstances diverted his attention. The employee appealed the three-day suspension without pay to the agency's Peer Review Panel -- a type of dispute panel. The Peer Review Panel received evidence and heard from the employee. The panel considered the matter and concluded that the disciplinary action of a suspension without pay was too severe. The panel changed the action to a Letter of Reprimand. Additionally, the panel made recommendations to management to avoid similar problems in the future and management implemented those recommendations.

EARLY NEUTRAL EVALUATION (ENE)

1. DEFINITION

ENE is a process where a third-party neutral (evaluator) with substantive knowledge and experience provides an early and honest assessment of the merits of a case to the parties.

2. HOW IT WORKS

- Parties agree on an evaluator (generally external to the organization)
- Parties make brief presentations and provide written submissions to the evaluator
- Evaluator considers parties' presentations and submissions and researches relevant case law, regulations, and industry standards, as applicable
- Evaluator offers opinions in private sessions regarding:
    - Strengths and weaknesses of each side's case and potential outcomes
    - Possible settlement value
- Evaluation is not binding on the parties

3. ROLE OF THE PRACTITIONER

- Possesses and uses subject-matter expertise
- Should be an attorney or judge when evaluation requires legal expertise
- Serves as an impartial evaluator of the strengths and weaknesses of each party's side
- Offers opinions, not decisions

4. BENEFITS

- Provides a candid assessment of strengths and weaknesses of each side's case in private
- Helps identify and clarify central issues in dispute
- Provides objective expertise so parties may realistically analyze the merits of their case
- The evaluation may help parties assess the case and move towards settlement

5. OTHER CONSIDERATIONS

- Best suited for disputes involving complex technical or factual issues requiring expert evaluation
- Useful when parties have strong positions and significant disagreement about the value or merits of the case
- Voluntary process that does not eliminate other dispute resolution options
- Cost and time are important factors, especially if the evaluator is external

6. **CONCERNS**

- Parties may disregard the recommendation and opinion of the evaluator in favor of litigating
- Evaluator may not receive all relevant information and can only render a recommendation based on what has been presented
- Evaluator may need to refer parties to legal counsel when evaluation requires legal expertise

7. **COMPLEMENTARY PROCESS AND APPROACHES**

Fact Finding, Non-Binding Arbitration, Mediation, and Settlement Conferences

8. **ILLUSTRATION**

An employee, angry about perceived nepotism, asked the ADR Office for assistance regarding his boss's alleged illegal hiring. The parties agreed to mediation and worked with a mediator with expertise in personnel law. The parties asked the mediator to take the role of an ENE. The mediator conferred privately with the employee and helped the employee grasp the legal definition of nepotism. The employee came to a clear understanding and withdrew his complaint. The manager asked if mediation could go forward nonetheless so that they could discuss the opportunities for advancement and residual feelings the employee had about favoritism in the office. The air was cleared and the employee became more engaged in his work.

FACT FINDING

1. **DEFINITION**

   Fact finding is a voluntary process where a third-party neutral (often referred to as a neutral, fact finder) studies the issues in dispute and reports factual conclusions to the disputing parties. Unlike early neutral evaluation, the neutral here may perform an investigation to determine the facts. The purpose of the neutral is to establish facts rather than to issue a final decision to resolve the dispute.

2. **HOW IT WORKS**

   - Parties select the neutral fact finder
   - Most fact finders are external to the organization
   - The fact finder performs an investigation, conducts interviews, and gathers documentation about the issues in dispute
   - Once the fact finder has collected information and analyzed the issues, he/she provides non-binding recommendations to the parties about how to resolve the dispute
   - Parties agree to time frames for accepting or rejecting the recommendation and to the next steps if the recommendation is rejected
   - If the parties reject the recommendation, the fact-finding report can be useful in further negotiation and formal adjudicatory procedures

3. **ROLE OF THE PRACTITIONER**

   - Uses knowledge and expertise of relevant laws and issues
   - Gathers, analyzes, and organizes information, data, and facts
   - Prepares a well-written, fact-finding report
   - Offers only recommendations and does not impose a decision upon the parties

4. **BENEFITS**

   - Helps parties clarify issues and identify relevant information
   - May be useful where one party lacks access to information or resources needed to resolve the dispute
   - Mechanism for collecting and organizing information related to the dispute
   - May foster joint problem solving among the parties once the facts are established
   - Fact-finding recommendations encourage settlement and expand options
   - Can be limited to a single issue in the dispute instead of the dispute as a whole

5. **OTHER CONSIDERATIONS**

- Internal fact finders must be independent without any relationship to either party or personal interest in the outcome of the dispute
- Best used where specific facts are in dispute and resolution requires knowledge of laws, rules, and regulations, such as employment discrimination or expertise in technical scientific issues

6. **CONCERNS**

- Parties may see the fact finder as an advocate
- Fact finding requires access to people and information and is less effective if parties are not forthcoming and key officials in an agency are not involved in the process
- Fact finding requires sufficient time and flexibility for effective investigation
- Costs include fees, travel, research, and writing the report
- Process does not provide interaction between the parties that could lead to joint problem solving

7. **COMPLEMENTARY PROCESS AND APPROACHES**

Dispute Panels, Early Neutral Evaluation, and Settlement Conferences

8. **ILLUSTRATION**

An agency and a union used fact finding as part of the implementation of an EEO mediation program. Both sides agreed in principle that they wanted to develop the mediation program but could not agree on appropriate procedures. A neutral fact finder with expertise in EEO statutory requirements undertook a fact-finding investigation, interviewing both sides and gathering agency information. After the investigation, the fact finder issued a report that:

- Recommended combining the grievance and EEO processes
- Determined the number of days a dispute could remain in mediation before arbitration timelines would commence
- Required managers to participate in mediation

The fact finder recommended timelines for filing the initial complaint and the number of steps in the process. The parties successfully implemented the program based on the fact finder's determination of best practices.

GROUP-PROCESS FACILITATION

1. **DEFINITION**

Third-party neutral serves as facilitator and helps a group improve the way it identifies problems and makes decisions in order to increase the group's effectiveness. Well-planned and facilitated meetings sustain participants' energy and allow them to contribute their best thinking to the meeting.

2. **HOW IT WORKS**

- Facilitator contracts with the group prior to the meeting to identify objectives of the group session(s) and clarify the roles and responsibilities of the facilitator and participants
- Facilitator collaborates with participants to develop an agenda and time allocation in advance of the session
- During the session, facilitator guides the conversation, uses different processes and techniques to enhance participation, keeps the group on time and on track, and helps meet stated objectives

3. **ROLE OF THE PRACTITIONER**

- Brings experience and expertise in process, group dynamics, interest-based problem solving, collaboration, and consensus building
- Listens actively, asks open-ended questions to elicit information, summarizes where the group is, and reframes and rephrases issues, statements, and concerns
- Observes group dynamics, reflects observations, and suggests process behaviors to increase group effectiveness
- Displays flexibility and the ability to modify his/her behavior, the group's focus, and the process as needed
- Facilitates the process only, does not have decision-making authority

4. **BENEFITS OF THIS PROCESS**

- Encourages candor and participation from all group members
- Participants focus on information exchange, full communication, collaboration, effective decision making, and positive outcomes
- Enables groups to resolve conflict

5. **OTHER CONSIDERATIONS**

    - Most effective in situations where the group is trying to resolve a particular problem or is aware of its ineffectiveness and wants to make a change
    - Many Federal agencies have trained and experienced facilitators in their ranks
    - If external, may be costly
    - Technology may be useful to maximize participation

6. **CONCERNS**

    - Facilitator may be mistaken for a chairperson to whom comments are addressed
    - If facilitator is knowledgeable on the subject matter, he/she may step out of the facilitation role and share opinions on substance or contribute ideas to content
    - An internal facilitator may treat participants differently because of organizational culture

7. **COMPLEMENTARY PROCESSES AND APPROACHES**

    Appreciative Inquiry, Community of Practice, Creative Problem Solving, Interest Based Problem Solving, and Team Building

8. **ILLUSTRATION**

    An agency had a legislatively-created role as chair of an inter-agency group of individuals addressing an issue on the Federal and state levels. Quarterly meetings were held which involved representatives from a number of Federal agencies and several states and were conducted without a facilitator. The chair decided to invite a facilitator to enhance participants' engagement and overall meeting effectiveness at the next quarterly two-day meeting. With the help of the chair and staff, the facilitator planned the agenda and discussed ways to assist in information sharing and problem solving. During the meeting, the facilitator designed individual, pair, and small group activities to cover the agenda items and recorded information on chart paper while the full group weighed in on different topics. At the meetings, a participant commented that she had never before seen so much communication and interaction within the group.

INTEREST-BASED PROBLEM SOLVING (IBPS)

1. **DEFINITION**

   IBPS is a structured process where participants work to solve problems while simultaneously fulfilling their own interests and attempting to satisfy the interests of others. IBPS ensures that all participants contribute ideas to the group and that the group values their contributions. The principles of IBPS are to separate the people from the problem, focus on interests not positions, invent options for mutual gain, and reach an agreement based on objective standards or criteria.[8] The objective is to create a solution that is supported by and benefits each party.

2. **HOW IT WORKS**

   - With the assistance of a third-party neutral, participants identify issues that are important to them
   - Participants identify their underlying interests, e.g., needs, concerns, values, and fears, by examining why each issue is important
   - Participants gain an understanding of shared and complementary interests
   - Participants prioritize interests, then generate options to meet their interests
   - Participants select or develop criteria to evaluate options, run the options through the criteria, and prioritize/eliminate some options
   - Participants may develop a written or oral agreement

3. **ROLE OF THE PRACTITIONER**

   - Focuses on process (how) while participants focus on content (what)
   - Allows participants to define the discussion based on their interests and desires
   - May train participants about the IBPS approach in advance of the session

4. **BENEFITS**

   - Encourages full participation by each member throughout the process
   - Identifies problems and provides a structured process to work together towards solutions, unlike positional problem solving, which is essentially adversarial
   - Solutions are creative and durable
   - Can preserve and improve the long-term relationship between the parties
   - Can be utilized by trained individuals without the assistance of a third-party neutral
   - Generates options to satisfy as many interests as possible

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[8] Fisher, Roger and William Ury. *Getting to Yes*. 2nd ed. New York: Penguin Books, 1991. Print

5. **OTHER CONSIDERATIONS**

- Participants must commit themselves to the process by allocating the necessary amount of time to resolve the problem
- Participants must suspend judgment and remain open to outcomes not previously considered
- Best to train participants jointly in the IBPS process
- Used with labor-management relations as an alternative to positional bargaining

6. **CONCERNS**

- Lack of trust could cause participants to remain entrenched in their respective positions
- IBPS takes time, especially at the beginning, and participants may be impatient
- Participants must discuss confidentiality

7. **COMPLEMENTARY PROCESSES AND APPROACHES**

Group-Process Facilitation, Mediation, Settlement Conference, and Team Building

8. **ILLUSTRATION**

Two mid-level managers regularly erupted into loud arguments with one another. Others in the office complained to the supervisor about the volatile disputes. The supervisor asked the two managers to work with a mediator and confided in the mediator that one of the managers would likely be released due to the problems. During mediation both participants identified their interests similarly. They realized their employees were "forum shopping" between them -- running to the other manager whenever they were given a direction they didn't like. Their lack of alignment was the cause of their conflict, difficulty with staff, and problems with their supervisor. They decided to resolve issues at their level so that their supervisor would not be involved. They agreed to meet their own interests by 1) telling staff to go to their direct supervisor and abide by his/her decision; 2) bringing disagreements to each other rather than "veto" the other's instruction; and 3) allowing their supervisor to make the decision on policy matters.

MEDIATION

1. DEFINITION

Mediation is a process where a third-party neutral, who is not a decision maker, facilitates discussion between the parties to help them reach a mutually acceptable resolution.

2. HOW IT WORKS

- Mediation is voluntary unless mandated by a court, an adjudicative body, or a collective bargaining agreement
- The process is confidential, except for statutory exceptions, and the mediator does not discuss the proceedings with anyone not present during the mediation[9]
- Mediator may be assigned to a case with party approval or parties may agree on a particular mediator
- Mediator may engage each party separately and/or jointly prior to mediation session to discuss process, rules of engagement, and roles
- During mediation session, each party has an opportunity to share his/her perspective without interruption
- Mediator facilitates discussion of the problem, meets individually with each party, and helps parties negotiate to reach a mutually-acceptable agreement
- If an agreement is reached, it may be oral or written and signed by the parties
- If no agreement is reached, the parties may reconvene or move into a formal process to address their dispute, without referencing discussions from the mediation

3. ROLE OF THE PRACTITIONER

- Uses the mediation model adopted by the particular agency
  - Facilitative mediation seeks to help parties understand the issues and interests in the dispute and helps the parties develop their own mutually satisfactory options for resolution. The mediator does not provide an opinion about the outcome
  - Evaluative mediation allows a mediator with subject matter expertise to point out weaknesses in a party's position and provide predictions as to how the matter would be resolved in formal legal proceedings
  - Transformative mediation focuses on the relationship of the parties and the opportunity for individuals to transform their interactions with each other. By improving their relations, the parties are better able to resolve their conflict
- Guides the process and determines when to meet with both parties in joint session or individually
- Establishes a tone to help parties engage in meaningful dialogue
- Creates a safe environment
- Treats all parties equally

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[9] 5 U.S.C. § 574(a).

- Has no decision-making authority

4. BENEFITS OF THIS PROCESS

- Facilitated dialogue improves communication and preserves relationships
- Brings parties together in a safe, confidential environment to discuss issues
- Participation in mediation provides an opportunity for parties to negotiate and may be helpful for the future resolution of the matter even if the matter is not resolved in mediation

5. OTHER CONSIDERATIONS

- Most effective when parties need to engage in meaningful dialogue regarding their dispute or when non-facilitated dialogue has reached an impasse
- May last several hours or take more than one day
- A mediator with subject matter expertise may be helpful, but is not required
- Mediator may be external or internal to the agency; if external, the cost will be dependent on the source used

6. CONCERNS

- Parties may perceive a conflict of interest if the mediator is internal to the agency
- Parties may wrongfully perceive mediator as an advocate or as biased, especially when the mediator provides a reality check to one or both parties
- Mediation may be inappropriate from the agency's perspective under certain circumstances, *e.g.*, agency would like a formal decision to establish a legal precedent[10]
- Parties may be unable to participate fully if their interest is to determine who is right or wrong, seek justification for their actions, or place blame
- Requires advance preparation by the participants for maximum efficiency and benefit

7. COMPLEMENTARY PROCESSES AND APPROACHES

Alternative Discipline, Arbitration, Conciliation, Creative Problem Solving, Dispute Panels, Early Neutral Evaluation, Group-Process Facilitation, and Interest-Based Problem Solving

8. ILLUSTRATION

An employee believed she was being treated differently from co-workers and filed a complaint alleging discrimination based on race and gender. The basis for her complaint was that she and another employee were hired at the same time at the GS-12 level and one year later, the other employee was promoted to a GS-13 position while the complainant remained at the GS-12 level. The complainant was eligible to be promoted, but it was

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[10] 5 U.S.C. § 572(b).

unclear if the duties of her job supported a higher grade level. The complainant requested mediation to resolve her complaint. As a result of mediation, the parties agreed to an accretion of duties to reflect the complainant's current position. The complainant withdrew her complaint and received a promotion to a GS-13. The session lasted four hours. The entire process took three months, including a desk audit.

OPEN DOOR

1. ## DEFINITION

An open door approach refers to a high level manager advertising that his/her door is always open and that any employee is invited to raise concerns directly with that manager at any time. An open door policy invites direct input and feedback and, therefore, requires structure to manage expectations.

2. ## HOW IT WORKS

- High-level manager announces an open door policy within the group or organization and defines what it means and how the process works
- Open Door managers maintain confidentiality of the source and information brought to them in that capacity
- Employees are encouraged to first consult their direct supervisor but may go to the Open Door manager in lieu of that person

3. ## ROLE OF THE PRACTITIONER

- Uses excellent listening skills
- Some senior-level managers with an open door policy have the authority to decide issues

4. ## BENEFITS

- Internal managers understand the culture of the organization and have insight that an outside neutral lacks
- Keeps the discussion informal
- Managers gain insight into possible problems
- Useful if there is no ombudsman or similar function within the agency

5. ## OTHER CONSIDERATIONS

- Officials must be carefully selected to ensure credibility with the staff
- The managers selected should understand the parameters of the role and scope of confidentiality
- To be effective, the policy should be publicized frequently
- Trust that the manager will maintain confidentiality is essential

6. ## CONCERNS

- Because the Open Door manager is internal, the employees could mistrust the program
- Managers could misunderstand the role and inadvertently or intentionally share information with other managers closer to the employee's chain of command

- Confidentiality protections may be unclear
- Open Door manager may be overwhelmed with repeat clients
- Other managers may feel undermined by this "outside of chain of command" structure
- Perception among employees may be that Open Door manager caters only to direct concerns rather than issues surfaced through supervisory channels

7. COMPLEMENTARY PROCESSES AND APPROACHES

Conciliation, Conflict Coaching, Creative Problem Solving, and Interest-Based Problem Solving

8. ILLUSTRATION

The administrator of the department maintained an Open Door policy. Several mailroom employees were disgruntled about working conditions, salaries, and promotion potential. They were advised against approaching the administrator directly. It was also suggested that the employees file a union grievance. Despite the union's advice, employees went to the administrator's office. After speaking with the employees, the administrator told them he wanted to visit their office and speak with the group as a whole to see for himself some of the concerns. When the administrator came to the mailroom, the employees felt their concerns were acknowledged and validated. They spoke freely to him about their frustrations. The administrator listened, thanked them for bringing the issues to his attention, and saw for himself some of the concerns. The administrator agreed to work with the union and the HR Office to assure that conditions improved for these workers. He made a commitment to them that they appreciate to this day.

SETTLEMENT CONFERENCES

1. DEFINITION

In a Settlement Conference, disputing parties and a judge (generally not the judge assigned to the trial of the matter) hold a meeting designed to bring formal litigation to a satisfactory close.

2. HOW THE PROCESS WORKS

- A settlement judge conducts pre-trial or pre-hearing meetings to encourage parties to settle the case
- Generally through legal counsel, parties provide specific substantive information and legal arguments for their respective positions
- A settlement judge questions and challenges parties in order to bring about a binding settlement agreement for all or some of the issues in dispute
- If parties do not reach a settlement agreement on all issues, dispute continues through adjudicatory process with a judge making a decision

3. ROLE OF THE PRACTITIONER

- Practitioner is a judge
- Discusses settlement options and ranges (if money is involved) for parties to consider
- Assists parties in reaching a mutually acceptable settlement
- Has no power to impose settlement or to coerce parties to accept settlement

4. BENEFITS OF THIS PROCESS

- Parties and representatives have the authority to settle the case
- Parties fully discuss the strengths and weaknesses of their respective cases
- Process may bring about a resolution of the entire case or narrow the issues in formal dispute

5. OTHER CONSIDERATIONS

- Often used in Equal Employment Opportunity Commission, Federal Labor Relations Authority, and other adjudicatory, legal proceedings
- Agency attorneys participate as the process involves discussing legal precedents and applying law to the facts of the dispute

6. CONCERNS

- Parties may posture or be unprepared
- Parties may become very positional and reach a stalemate

7. **COMPLEMENTARY PROCESSES AND APPROACHES**

Early Neutral Evaluation, Fact Finding, and Interest-Based Problem Solving

8. **ILLUSTRATION**

In an administrative proceeding prior to a hearing, the settlement judge held a settlement conference when a request for information was denied. Representatives from the union wanted cost information from an agency in connection with a reorganization and relocation of agency personnel. The union wanted this information to determine why the agency did not provide certain features for new office space such as partitions, locks, and ergonomic chairs. Moreover, the union sought detailed information about the size of the offices and whether the union would be provided with an office. Representatives from the union stated that this information was essential to carrying out its representational functions. Representatives of management at the agency viewed the request as too burdensome and that, in some instances, the requested information was unavailable. The union, in turn, alleged failure to bargain in good faith. The settlement judge helped the parties to agree on a strategy for sharing available information in ways that satisfied both parties and resolved the dispute.

TEAM BUILDING/IMPROVING COMMUNICATION

1. **DEFINITION**

Team Building is a process in which a third-party neutral assists a team or group of individuals with interrelated roles and responsibilities to work together more effectively. The third-party neutral collaborates with the team to design the process for identifying and surfacing issues and building relationships. The neutral facilitates the session(s). Team members operate within a set of norms and rules and define the goals and guidelines for working together effectively to achieve their goals.

2. **HOW THE PROCESS WORKS**

- Team member selection depends upon the circumstances and objectives of the organization
- Team Building involves development of rules, norms, and goals
- The team evaluates goals and decides how to implement them

3. **ROLE OF THE PRACTITIONER**

- Works with management and participants prior to the session to determine the needs of the team and prevailing dynamics, then briefs them on team-building processes
- Guides the process and helps organize information generated during the session
- Helps identify problems and state them in a neutral, nonjudgmental manner for consideration by the group
- Works with the group to generate and clarify ideas to address problems
- Helps team develop implementation and evaluation plan for stated goals
- May work with a group over time and assign work to be done by individuals or sub-committees in between team-building sessions

4. **BENEFITS OF THIS PROCESS**

- Provides structure that allows each team member to contribute
- Hands-on participation improves morale and productivity
- Gives members the opportunity to devote time and energy to communicating, solving problems, and learning from one another
- Can help counter cliques, turf battles, and personality clashes
- Useful to assist with team formations, mergers, or organizational change
- Can provide much needed "big picture" for the individual's and group's role in the agency

5. **OTHER CONSIDERATIONS**

- Time needed to meet with participants in advance of group session
- The team is the neutral's client, not just team leaders or management

- Advantageous if sessions are held off-site or at a neutral location
- Practitioner may group participants randomly to encourage communication and team building
- Technology may be useful to make the process quicker and encourage maximum participation

6. CONCERNS

- Manager's view of team's real needs may be different from team's view
- Past experience and relationships among team members may hinder the possibility of an improved situation
- People may be reluctant and skeptical about Team Building, terming it "touchy feely"
- Team Building by itself may be insufficient if the organization is undergoing significant change
- Team Building can be expensive if using an external practitioner

7. COMPLEMENTARY PROCESSES AND APPROACHES

Appreciative Inquiry, Community of Practice, Conflict Coaching, Creative Problem Solving, Group-Process Facilitation, and Interest-Based Problem Solving

8. ILLUSTRATION

A work team was experiencing conflict and sought the assistance of a neutral by talking with the ADR and HR Offices. The team-building practitioner assigned to work with the team structured several sessions with the team to build unity and raise morale. The practitioner began by interviewing the supervisor and the team members to get a sense of the prevailing dynamics. It was apparent that there was a clear rift between the newer employees and those employed at the agency for a long time. The practitioner designed a two-day team-building session to address the concerns expressed during the interviews. Exercises allowed the team to see each member as a person, rather than just a co-worker, and gave team members an opportunity to express themselves creatively. After working together, the group discussed the underlying reasons for the conflict and developed a coherent list of collective priorities to bring to their supervisor and upper management. The team members got to know one another and almost every member expressed a desire to support one another and the work of the team going forward.

CONCLUSION

This concludes the first section of the Federal Workplace Conflict Management Desk Reference. For more information, please see the Bibliography at the end of this document. You will find helpful materials at www.adr.gov.

You may contact the chair of the Workplace Conflict Management Section of the Interagency Alternative Dispute Resolution Working Group Steering Committee, Cindy Mazur, Director of ADR at FEMA, 202-646-4094 or cindy.mazur@fema.dhs.gov.

SECTION II: Potential Partners

By reaching out to specialized providers, agencies build creative synergies and bring a value-added dimension to effective conflict management. The goal is to form strong partnerships that work collaboratively to address conflict in the workplace by utilizing the strength and expertise of various offices, divisions, groups, and programs within a Federal agency. The information for each potential partner is organized as follows:

1. What each office does
2. Potential benefits of collaborating with that office

The following is a list (in alphabetical order) of offices, divisions, groups, and programs found within the Federal government whose roles are critical in addressing conflict in the workplace. This non-exhaustive list is intended as a guide to explain:

1. Alternative Dispute Resolution Office
2. Affinity Groups/Special Emphasis Programs
3. Employee Assistance Programs (EAP)/Worklife Programs
4. Equal Employment Opportunity (EEO) and Civil Rights Offices
5. Human Resources (HR)/Employee Relations (ER)/Human Capital
6. Information Technology (IT)
7. Labor Relations (LR) Office
8. Office of General Counsel (OGC)
9. Ombuds Office
10. Organizational Development (OD)
11. Strategic Planning/Program Design and Evaluation
12. Training Office/Workforce Development Office
13. Union
14. Workplace Violence Prevention (WVP) Coordinator or Security Office

ALTERNATIVE DISPUTE RESOLUTION (ADR) OFFICE

WHAT THIS IS:
This office is a source for a variety of dispute resolution methods that serve as alternatives to litigation and formal administrative procedures. It champions satisfying solutions, fair procedures, and constructive professional relationships. Legislative[11] and executive branch[12] initiatives mandated ADR functions in all Federal agencies. This office promotes:

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[11] The Administrative Dispute Resolution Act, (signed by President H.W. Bush in 1990, reauthorized by President Clinton in 1996). 5 U.S.C. § 571-83 (1996).
[12] White House Memorandum on Designation of Interagency Committees to Facilitate and Encourage Agency use of Alternate Means of Dispute Resolution and Negotiated Rulemaking (May 1, 1998).

- Resolving issues quickly, at the lowest possible level, efficiently, and with little or no cost
- Analysis of the appropriateness of ADR in a particular case
- Procurement of neutrals , both internal and external, used in the types of techniques described in this Desk Reference
- Application of professional conflict resolution techniques, which can be particularly useful for specialized areas such as workplace disputes environmental issues, acquisitions, and regulation negotiations

BENEFITS OF PARTNERING WITH ADR:
- Extensive knowledge of conflict resolution skills and processes
- Good reference guide for locating external assistance
- Relieves the burden of finding experienced conflict resolvers
- Partnering with the ADR Office is both cost effective and efficient
- Functions as an excellent resource for creative problem solving, training, group process facilitation, and team building
- Informal and easy to access
- Knowledge of agency history and culture

AFFINITY GROUPS/SPECIAL EMPHASIS PROGRAMS

WHAT THIS IS:
Some Federal agencies have sanctioned groups based on race, ethnicity, gender, national origin, sexual orientation, and disability. These groups/programs are responsible for**:**
- Promoting diversity awareness
- Ensuring that group members' interests are considered in agency decision making
- Promoting an understanding of the workplace with respect to race, ethnicity, gender, national origin, sexual orientation, and disability

BENEFITS OF PARTNERING WITH AFFINITY GROUPS/SPECIAL EMPHASIS PROGRAMS:
- Possess useful knowledge and data regarding the workplace environment and what works well or needs improvement for the members
- Good source for understanding how to relate to and work with particular groups and to minimize escalating conflict

EMPLOYEE ASSISTANCE PROGRAM (EAP)/WORKLIFE PROGRAMS

WHAT THIS IS:
EAP is a voluntary program staffed by experienced counselors offering confidential, short-term counseling at no cost. The program offers:
- Experienced counselors to discuss problems, either personal or work-related, in a confidential manner

- Assistance to employees in need of counseling, particularly when personal concerns and problems interfere with an employee's ability to function at work. In addition, EAP counseling may offer referrals for specific assistance, e.g., legal, therapeutic, and financial. Employees are responsible for accessing these resources and following up
- Counseling and referrals for family, work, and personal issues such as dependent care, alcohol abuse, stress management, caregiver support, and life event consultation[13]

BENEFITS OF PARTNERING WITH EAP:
- EAP counselors may work with individual managers and supervisors to help address the needs of employees as well as organizational challenges
- Employees in need of counseling can access this resource when personal concerns and problems interfere with their ability to function at work

EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND CIVIL RIGHTS OFFICES

WHAT THIS IS:
These offices promote diversity in employment and, a discrimination-free workplace, and ensure equal access and opportunity to all employees. There are a number of Federal laws, regulations, and Executive Orders that protect employees from discrimination based on the person's race, color, religion, gender, sexual orientation, national origin, age, disability, genetic information, or reprisal for actions including whistle-blowing.
- ADR must be available for both pre-complaint and formal complaint processes[14] when an employee raises an issue of discrimination under one or more protected bases

BENEFITS OF PARTNERING WITH EEO:
- EEO hires mediators and investigators to work with EEO cases, and has the expertise to provide guidance on techniques for managing workplace conflict
- EEO has an Education and Outreach department that meets with employees and employers on a limited basis at no cost

HUMAN RESOURCES (HR)/EMPLOYEE RELATIONS (ER)/HUMAN CAPITAL

WHAT THIS IS:
In some agencies HR, ER, and Human Capital comprise a single office responsible for handling all of these functions. Their role is to:

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[13] The extensive list of EAP services is available at www.FOH4you.com

[14] 29 C.F.R. § 1614.102(b)(2) (1999).

- Address personnel issues such as hiring, training and development, and employee relations
- Develop policies and carry out procedures, rules, and regulations in the area of Federal human resources management

BENEFITS OF PARTNERING WITH HR, ER, and HUMAN CAPITAL:
- Staff members have expertise in systems design to effectuate change in the workplace
- Staff have broad knowledge based on HR rules, benefits, and resources
- Staff are very committed to employee/agency well-being and mission focus

INFORMATION TECHNOLOGY (IT)

WHAT THIS IS:
Agency IT staff works with managers and employees to provide the best infrastructure and technology components to meet their needs.

BENEFITS OF PARTNERING WITH IT:
- IT staff has expertise providing online data management tools that can be used to track conflict issues and processes in order to address conflict
- The IT office provides assistance in development and implementation of a conflict resolution program evaluation
- Provides equipment and expertise to facilitate virtual communication among practitioners and parties

LABOR RELATIONS (LR) OFFICE

WHAT THIS IS:
LR Office acts as a point of contact and liaison for an agency in dealing with unions to ensure that an agency fulfills its labor relations obligations.

BENEFITS OF PARTNERING WITH LR:
- The LR Office has expertise in formal dispute resolution procedures, especially grievances, arbitration, adverse actions, and unfair labor practices
- The LR Office is a resource that ensures agreements are compliant with employment law, Federal employment rules, and Federal employment regulation, and the collective bargaining agreement
- They offer training and education
- They can assist with disciplinary actions

OFFICE OF GENERAL COUNSEL (OGC)

WHAT THIS IS:
OGC ensures full and proper implementation of an agency's statutory and regulatory responsibilities and provides legal counsel to the agency on internal and external legal matters. OGC matters include the legal aspects of general administrative issues such as contracts and personnel, litigation, and regulatory compliance, in addition to substantive compliance with authorizing legislation.

BENEFITS OF PARTNERING WITH OGC:
- The OGC keeps abreast of developments in the use of mediation, confidentiality, ethical standards for neutrals, and the relationship between ADR and Agency policies
- OGC can be very helpful in reviewing agreements for legal sufficiency to facilitate compliance
- OGC staff may be experienced in ADR processes and actively support conflict resolution efforts

OMBUDS OFFICE

WHAT THIS IS:
The workplace ombudsman serves as "a neutral member of the [organization] who provides confidential and informal assistance to employees in resolving work-related concerns and is outside the normal management control structure."[15] The essential characteristics of ombuds are independence, impartiality, and confidentiality.

BENEFITS OF PARTNERING WITH OMBUDS OFFICE:
- Ombuds make recommendations for organizational change based on an analysis of complaint patterns and trends brought to the attention of the Ombuds Office
- They may have the authority to investigate and report findings
- Some Ombuds are authorized to participate in the resolution of bargaining-unit employee disputes
- They are intended to supplement and not replace formal procedures

ORGANIZATIONAL DEVELOPMENT (OD)

WHAT THIS IS:
The OD office works with managers and employees to improve relationships and processes for organizational effectiveness.

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[15] Robbins, Lee and William Deane. "The Corporate Ombuds: A New Approach to Conflict Management." *Negotiation Journal* 2 (1986): 195, 197. Print; see also Howard, Charles L. *The Organizational Ombudsman: Origins, Roles, and Operations–A Legal Guide*. Chicago: American Bar Association. 2010. Print.

BENEFITS OF PARTNERING WITH OD:
- OD specialists have a keen understanding of organizational needs and internal culture and an ability to integrate the two in resolving conflict
- OD specialists have pre-existing channels of communication and methods of implementing change, which allows organizations to be pro-active in preventing and addressing challenges
- OD specialists may have expertise in conducting climate assessments and other ADR processes; they can be utilized as internal practitioners

STRATEGIC PLANNING/PROGRAM DESIGN AND EVALUATION

WHAT THIS IS:
Strategic planning initiatives involve the concerted effort of a number of offices within an agency such as HR, Human Capital, and program management offices that work together to define goals, assess resource availability, develop new policies, and devise specific plans to achieve these goals.

BENEFITS OF PARTNERING WITH STRATEGIC PLANNING/PROGRAM DESIGN AND EVALUATION:
- Strategic planners in an agency have expertise in assessment, design, evaluation, and identification of staffing and funding sources for achieving outcomes
- These skills are transferable and applicable to resolving workplace conflict
- Planners can incorporate conflict resolution skills into an organization's strategic plan

TRAINING OFFICE/WORKFORCE DEVELOPMENT OFFICE

WHAT THIS IS:
In some Federal agencies, training and workforce development are separate offices from HR. These offices provide continual learning opportunities and workplace improvement services.

BENEFITS OF PARTNERING WITH TRAINING OFFICE/WORKFORCE DEVELOPMENT OFFICE:
- Due to their interaction with multiple offices, they have a larger perspective of the challenges that contribute to workplace conflict
- They have expertise in online educational tools and change management
- They have expertise in technology to offer training at a national level

UNION

WHAT THIS IS:

In many Federal agencies employees are represented by unions.[16] Unions are responsible for:

- Representing employee needs and rights to management
- Serving as the intermediary between management and employees

BENEFITS OF PARTNERING WITH UNIONS:

- While other conflict management systems may supplement union statutory or bargaining processes, they cannot replace them
- Binding Arbitration or Negotiated Grievance Procedures may be required by a collective bargaining agreement
- Any change in managing workplace conflict may constitute a change in working conditions of bargaining unit employees and trigger bargaining obligations
- Ensure statutory obligations in ADR program development and implementation are met

WORKPLACE VIOLENCE PREVENTION (WVP) COORDINATOR OR SECURITY OFFICE

WHAT THIS IS:

Most Federal agencies have violence in the workplace policies and an office to investigate and enforce policies as needed. The WVP Coordinator or Security Office:

- Determines whether workplace incidents rise to the level of workplace violence
- Determines the appropriate agency response

BENEFITS OF PARTNERING WITH WVP:

- The WVP Coordinator offers a useful perspective on organizational issues that impact workplace conflict
- It provides training in awareness and prevention of workplace violence
- It has the opportunity to address and refer out issues at the earliest observation to the appropriate partner

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[16] 5 U.S.C. § 7102

CONCLUSION

Conflict is inevitable and should be addressed with skill and professionalism. Awareness of the dispute resolution tools available in the Federal workplace and the appropriate office to contact to access them leads to an improved capacity to address workplace conflict as soon as practical. This desk reference serves as a portal to understanding the array of approaches available and the offices which can serve as partners to address conflict proactively and confidently, paving the way to a better workplace environment and greater productivity for the agency.

SECTION III: Resources: Using Technology in Dispute Resolution

1. **DEFINITION**

There is an increasing number of technology tools that can be used to facilitate and enhance dispute resolution. Online technologies are not a separate dispute resolution process but are instead a means parties choose for assistance in resolving their conflict or enhancing their collaborative decision making. The list of technologies included below is not exhaustive because the rate of technological change makes creating a comprehensive list impossible. Instead, this list may be used as a starting point to familiarize parties with commonly used options and to provide guidance as to how parties can choose and evaluate the technology appropriate for addressing their particular concern.

The adoption of a particular technology has a powerful impact on decision making and results. Parties should carefully consider this impact when choosing which technology to use or whether any technology would be helpful to augment ADR processes in the particular dispute.

2. **HOW THE PROCESS WORKS**

- Electronic Brainstorming
    - Online brainstorming allows participants to work together to post questions and responses, participate in discussions, and generate potential resolutions
    - Ideas can be captured anonymously which may increase openness and creativity
    - Brainstorming can be synchronous, with everyone participating at the same time and even in the same physical space, or asynchronous, which allows participants to submit their ideas from different locations within a specified time as their time permits
- Web-Based Video Conferencing
    - Web-based video conferencing brings people together from different locations to a live meeting enabling participants to see one another and discuss anything that could be discussed in person, without the time and expense of travel
    - Many web-based programs are capable of sharing documents, which allows users to create and edit documents in real time together
- Surveys
    - Evaluation is easy and efficient to conduct online
    - Qualitative or quantitative surveys can be created
    - Responses can be protected with anonymity if desired

- Once a survey is completed, the data can be analyzed in a variety of ways, including processing by question or by category of respondent
  - Charts and graphs can be generated
- Online Workspaces
  - Groupware describes collaborative software that allows people to work on a common task from separate locations
  - Parties schedule discussions, exchange information, edit and sign agreements, and store information
- Mind Mapping
  - Mind mapping applications are designed to diagram or map a conversation
  - Uses software to illustrate a main idea as a central image and the main themes that radiate from the central image as branches
  - This is a creative and logical method of taking notes that literally "maps out" ideas

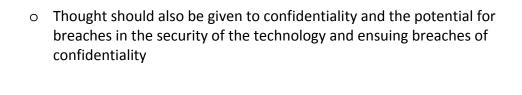## 3. OTHER CONSIDERATIONS

- In-person versus Online
  - Requires forethought regarding the working relationship established among the parties
  - If the working relationship is poor, the use of technology could be a useful buffer and could minimize the effect of negative cues, such as body language and facial expressions, that can potentially escalate conflict
  - In a well-established, positive working relationship, it may not matter if a process is conducted via technology. In some instances, the use of anonymous surveys helps broaden the conversation. In others, technology ensures that individual voices are heard electronically by capturing inputs verbatim.
- Time and Cost Management
  - Technology eliminates the need for everyone to be physically present in the same space, resulting in significant gains in participant productivity and savings in travel expenditures
  - These benefits must be weighed against the cost of using technology, which ranges from free to expensive licenses and hardware
  - An additional cost consideration is the expense and time of educating participants in the use of various processes, some of which are intuitive and require no specialized training, while others require a significant investment of participant time
- Security
  - Examine whether the issue raises security concerns
  - Some technology processes create a record, which may not be desirable in some instances

- Thought should also be given to confidentiality and the potential for breaches in the security of the technology and ensuing breaches of confidentiality

SECTION IV: Resources: Print and WEB Resources

The following suggested resources are listed alphabetically by author under the specific approach or process to which they apply.

GENERAL

Barrett, Jerome T., and Joseph Barrett. *A History of Alternative Dispute Resolution: The Story of a Political, Social, and Cultural Movement*. San Francisco: Jossey-Bass, 2004. Print.

Federal ADR Program Manager's Resource Manual. Web. 16 July 2013. <http://www.adr.gov/manual/>.

Interagency ADR Working Group Steering Committee. *Protecting the Confidentiality of Dispute Resolution Proceedings: A Guide for Federal Workplace ADR Program Administrators*. 2006. Web. 16 July 2013 <http://www.adr.gov/pdf/final_confid.pdf>.

Senger, Jeffrey M. *Federal Dispute Resolution: Using ADR with the United States Government*. San Francisco: Jossey-Bass, 2003. Print.

United States Office of Personnel Management. *Alternative Dispute Resolution: A Resources Guide*. Washington, D.C.: Office of Workforce Relations, 1999. Web. 16 July, 2013 <http://www.opm.gov/er/adrguide/toc.asp>.

ALTERNATIVE DISCIPLINE

United States Merit Systems Protection Board. *Alternative Discipline: Creative Solutions for Agencies to Effectively Address Employee Misconduct* (A Report to the President and the Congress of the United States). Washington, DC: U.S. Merit Systems Protection Board, 2008. Print.

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Lewis, Sarah, Jonathan Passmore, and Stefan Cantore. *Appreciative Inquiry for Change Management: Using AI to Facilitate Organizational Development*. Philadelphia: Kogan Page, 2008. Print.

Preskill, Hallie, and Tessie Tzavaras Catsambas. *Reframing Evaluation Through Appreciative Inquiry*. Thousand Oaks: Sage Publications, Inc. 2006. Print.

Watkins, Jane Magruder, and Bernard J. Mohr. *Appreciative Inquiry: Change at the Speed of Imagination.* 2nd ed. San Francisco: Pfeiffer, 2011. Print.

Whitney, Diana, and Amanda Trosten-Bloom. *The Power of Appreciative Inquiry: A Practical Guide to Positive Change*. San Francisco: Berrett-Koehler Publishers, 2010. Print.

ARBITRATION

American Arbitration Association. *AAA Handbook on Employment Arbitration and ADR*. 2nd ed. Huntington: Juris. 2010. Print.

Bennett Esq., Steven C. *Arbitration: Essential Concepts*. New York: ALM Publishing 2002. Print.

Carbonneau, Thomas E. *Arbitration in a Nutshell*. 2nd ed. St. Paul: West, 2009. Print.

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Goldberg, Stephen B., Frank E.A. Sander, Nancy H. Rogers, and Sarah Rudolph Cole. *Dispute Resolution: Negotiation, Mediation, and Other Processes*. 5th ed. Boston: Aspen Publisher. 2007. Print.

Hanfling, Phyllis, and Martha McClellan. *Developing Guidance for Binding Arbitration: A Handbook for Federal Agencies*. 1999. Web. 16 July 2013. <http://www.gpo.gov/fdsys/pkg/FR-2000-08-16/html/00-20828.htm>.

Kheel, Theodore W., and William L. Lurie. *Keys to Conflict Resolution: Proven Methods of Resolving Disputes Voluntarily*. New York: Four Walls Eight Windows, 1999. Print.

Presidio Trust. *Guidance for the Use of Binding Arbitration under the Administrative Dispute Resolution Act of 1996*. 2007 Web. 16 July 2013. <http://www.adr.gov/PRESIDIO%20TRUST.pdf>.

CLIMATE ASSESSMENT

De Dreu, Dr. Carsten K.W., and Evert Van de Vliert. *Using Conflict in Organizations*. Thousand Oaks: Sage Publications, Inc., 1997. Print.

Fisher, Ronald. "Third Party Consultation: A Method for the Study and Resolution of Conflict." *Journal of Conflict Resolution* 16.1 (1972): 67-94. Print.

Keashly, L., R.J. Fisher, and P.R. Grant. "The Comparative Utility of Third Party Consultation and Mediation within a Complex Simulation of Intergroup Conflict." *Human Relations* 46.3 (1993): 371. Print.

COMMUNITY OF PRACTICE (COP)

Weil, Dr. Marie Overby., ed. *The Handbook of Community Practice*. Thousand Oaks: Sage Publications Inc., 2004. Print.

Wenger, Etienne. *Communities of Practice: Learning, Meaning and Identity*. Cambridge: Cambridge University Press, 1999. Print.

Wenger, Etienne C., and William M. Snyder. "Communities of Practice: The Organizational Frontier." *Harvard Business Review* January-February (2000): 139 – 145. Print.

CONFLICT COACHING

Cottrell, David, Julie Baldwin, and Ilayne J. Geller. *The Manager's Conflict Resolution Handbook: A Practical Guide for Creating Positive Change*. Dallas: CornerStone Leadership Institute, 2008. Print.

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Ursiny, Timothy. *The Coach's Handbook: Exercises for Resolving Conflict in the Workplace.* Wheaton: Advantage Coaching and Training, Inc., 1999. Print.

CONCILIATION/FACILITATION

Chalmers, W. Ellison. "The Conciliation Process." *Industrial and Labor Relations Review* 1.3 (1948): 337-350. Print.

Ladd, Peter D. *Mediation, Conciliation and Emotions: A Practitioner's Guide for Understanding Emotions in Dispute Resolution*. Lanham: University Press of America, 2005. Print.

CREATIVE PROBLEM SOLVING (CPS)

Cooley, John W*. Creative Problem Solver's Handbook for Negotiators and Mediators*. 2 vols. Chicago: American Bar Association-Section of Dispute Resolution Publications Board, 2005. Print.

De Bono, Edward. *Lateral Thinking: Creativity Step by Step*. New York: Harper Colophon, 1973. Print.

Patterson, Kerry, Joseph Grenner, David Maxfield, Ron McMillan, and Al Switzler. *Influencer: The Power to Change Anything*. New York: McGraw Hill, 2008. Print.

Peelle, Henry. "Appreciative Inquiry and Creative Problem Solving in Cross Functional Teams." *Journal of Applied Behavioral Science* 42.4 (2006): 447-467. Print.

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EARLY NEUTRAL EVALUATION (ENE)

Brazil, Wayne D. *Early Neutral Evaluation*. Chicago, IL.: American Bar Association, Section of Dispute Resolution, 2012. Print.

Kakalik, James S. *An Evaluation of Mediation and Early Neutral Evaluation Under the Civil Justice Reform Act*. Santa Monica: Rand, 1996. Print.

Nolan-Haley, Jacqueline M. *Alternative Dispute Resolution in a Nutshell* 2nd ed. St. Paul: West Group, 2001. Print.

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Clark, R. Theodore. *Coping with Mediation, Fact Finding, and Interest Arbitration*. Chicago: International Personnel Management Association, 1974. Print.

DiFonzo, Nicholas, and Prashant Bordia. *Rumor Psychology: Social and Organizational Approaches*. Washington D.C.: American Psychology Association, 2006. Print.

Susskind, Lawrence, Sarah McKearnan, and Jennifer Thomas-Larmer. *The Consensus Building Handbook: A Comprehensive Guide to Reaching Agreement*. Thousand Oaks: Sage Publications, Inc., 1999. Print.

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Auvine, B., et al. *A Manual for Group Facilitators*. Madison: Center for Conflict Resolution, 1978. Print.

Bens, Ingrid. *Facilitating with Ease! A Step-by-Step Guidebook with Customizable Worksheets on CD-Rom.* New York: Jossey-Bass, 2000. Print.

Ghais, Suzanne. *Extreme Facilitation Guiding Groups Through Controversy and Complexity*. San Francisco: Jossey-Bass, 2005. Print.

Hart, Lois. B. *Faultless Facilitation: The New Complete Resource Guide for Group and Team Leaders*. 2nd ed. Amherst: Human Resource Development Press, 1996. Print.

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Schwarz, Roger M. *Skilled Facilitator: Practical Wisdom for Developing Effective Groups.* San
     Francisco: Jossey-Bass, 1994.

<u>INTEREST-BASED PROBLEM SOLVING (IBPS)</u>

Fisher, Roger, Bruce Patton, and William L. Ury*. Getting to Yes: Negotiating Agreements
     Without Giving In*. 2nd ed. New York: Penguin Books, 1991. Print.

Ury, William, Jeanne M. Brett, and Stephen B. Goldberg. *Getting Disputes Resolved: Designing
     Systems to Cut the Costs of Conflict*. San Francisco: Jossey-Bass, 1988. Print.

<u>MEDIATION</u>

A Guide for Federal Employee Mediators. May 9, 2006. American Bar Association, American
     Arbitration Association, and Association for Conflict Resolution. Web. 16 July 2013.
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Ancona, Deborah, and Henrik Bresman. *X-Teams: How to Build Teams that Lead, Innovate, and Succeed*. Cambridge: Harvard Business School Press. 2007. Print.

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SECTION V: Common Problems and Helpful Processes

Failure to follow rules and procedures
    Alternative Discipline
    Conflict Coaching
    Mediation
    Dispute Panels/Peer Review Panels

Grievance
    Arbitration
    Dispute Panels/Peer Review Panels
    Fact Finding
    Mediation
    Early Neutral Evaluation
    Settlement Conferences

Interpersonal workplace conflicts
    Conflict Coaching
    Alternative Discipline
    Appreciative Inquiry
    Creative Problem Solving
    Group-Process Facilitation
    Interest-Based Problem Solving
    Mediation
    Open Door
    Team Building
    Conciliation

Maximizing meetings
    Group-Process Facilitation
    Appreciative Inquiry
    Community of Practice
    Creative Problem Solving
    Team Building

Process implementation
    Fact Finding

Project management
    Creative Problem Solving
    Conflict Coaching
    Group Process Facilitation
    Team Building

Sharing lessons learned/ideas
    Community of practice
    Appreciative Inquiry
    Group-process Facilitation
    Team Building

Strengthening group dynamics
    Appreciative Inquiry
    Community of Practice
    Conflict Coaching
    Consultation
    Group-Process Facilitation
    Mediation
    Team Building
    Creative Problem Solving

Team Building/Improving Communication
    Appreciative Inquiry
    Community of Practice
    Conflict Coaching
    Consultation
    Group-Process Facilitation
    Mediation
    Team Building
    Creative Problem Solving