

**Complaints, Conflict, &  
Workplace Investigations  
SHRM State Conference  
May 1, 2019**



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**What You Need to Know**

- Common employee complaints
- Why you should take all complaints seriously
- What to do when an employee complains
- How to investigate complaints
- When not to "go it alone"
- How to handle complaints based on conflicts and what to do with chronic complainers
- Retaliation is prohibited

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**Expect Some Complaints**

- Complaints are a normal part of working life
- Complaints vary in content and importance
- Paying attention to employee complaints is an important part of your job

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## Common Employee Complaints

- Wages
- Supervision
- Coworkers
- Seniority and status
- Working conditions



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## Take All Complaints Seriously

- Employees believe their complaints are important
- Some complaints may have serious implications
- Even complaints based on rumors must be dealt with



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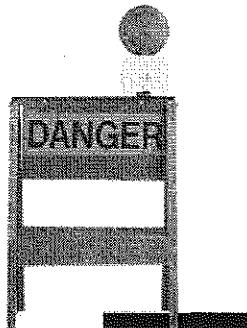
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## Dangers of Ignoring Complaints

- Minor complaints can escalate into major problems
- You may miss hidden problems
- Productivity and morale can be affected
- Employees can be placed in harm's way
- Legal problems may arise



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## Handling Chronic Complainers

- Give chronic complainers a fair hearing
- Listen for a legitimate issue
- Take a counseling approach
- Involve the employee in positive, problem-solving tasks

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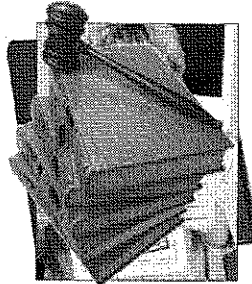
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## Know When to Get Help

- Workplace policy
- Labor laws
- Discrimination



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## Know When to Get Help (cont.)

- Harassment
- Safety hazards
- Threats or warnings of violence
- Personal problems that require professional help
- Contract issues



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## Promptly Acknowledge All Employee Complaints

- Meet privately with the employee
- Allow enough time
- Make sure the employee knows you take the complaint seriously



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## Let the Employee Explain

- Don't interrupt
- Clarify any questions
- Be calm and courteous
- Maintain a neutral expression and body language
- Don't pass judgment



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## Take Notes

- Notes create a record of the meeting
- Explain why you're taking notes
- Taking notes shows you're paying attention
- Encourage the employee to take notes as well



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## Conclude the Meeting Effectively

- Restate the complaint
- Make sure you and the employee share an understanding of the issues
- Ask the employee what resolution he or she would like to see
- Don't agree or disagree until you have all the facts
- Don't get drawn into a power struggle

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## Investigate the Complaint

- Check the facts
- Interview other people involved
- Try to maintain confidentiality
- Consult HR and/or other managers
- Look for precedents

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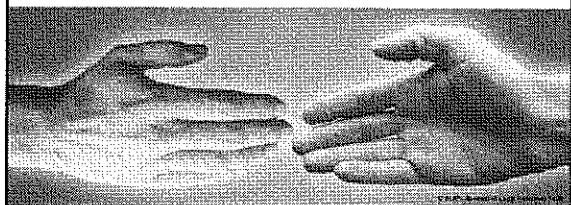
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## Make a Fair Decision

- Consider all options
- Follow policies and procedures
- Be fair and objective
- Seek to bring closure to the issue



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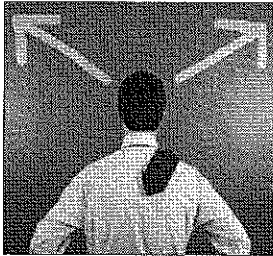
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## Get Back to the Employee With Your Decision

- All complaints deserve an answer
- Meet with the employee privately
- Thank the employee for bringing the issue to your attention
- Explain any corrective action
- Explain if no action will be taken
- Try to turn negatives into positives
- Conclude on a positive note



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## Handling Complaints Related to Conflicts

- Don't take sides
- Meet with each employee separately
- Try to shift the focus from personalities to work-related issues
- Point out how the situation affects their work and co-workers
- Bring the two employees together
- Try to get employees to reach a solution
- Impose a solution only if necessary
- Follow proper procedure if it turns out the complaints involve harassment, threats, or discrimination



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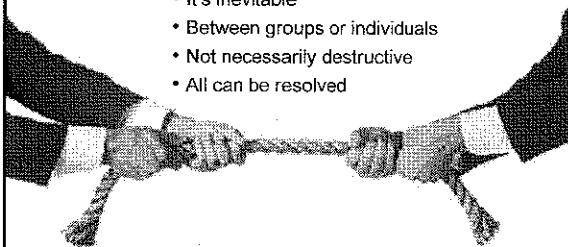
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## What Is Conflict?

- A disagreement or dispute
- It's inevitable
- Between groups or individuals
- Not necessarily destructive
- All can be resolved



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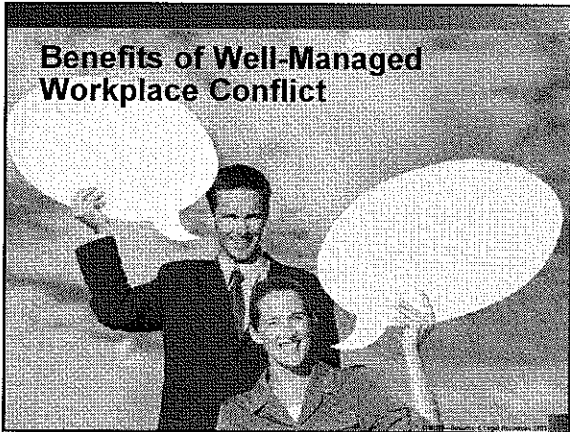
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### Benefits of Well-Managed Workplace Conflict

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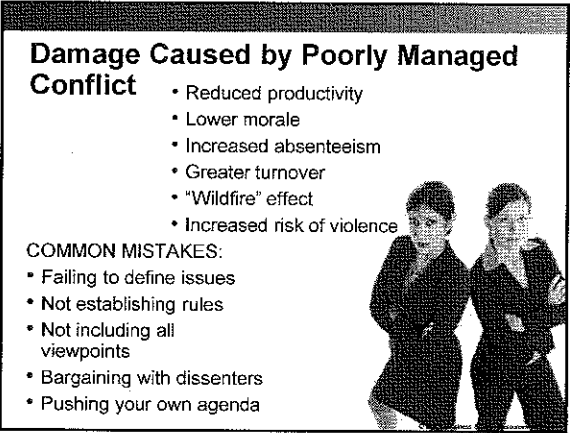
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### Damage Caused by Poorly Managed Conflict

- Reduced productivity
- Lower morale
- Increased absenteeism
- Greater turnover
- "Wildfire" effect
- Increased risk of violence

#### COMMON MISTAKES:

- Failing to define issues
- Not establishing rules
- Not including all viewpoints
- Bargaining with dissenters
- Pushing your own agenda

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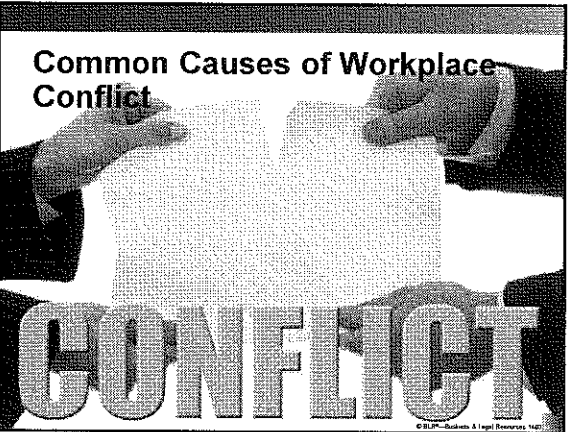
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### Common Causes of Workplace Conflict

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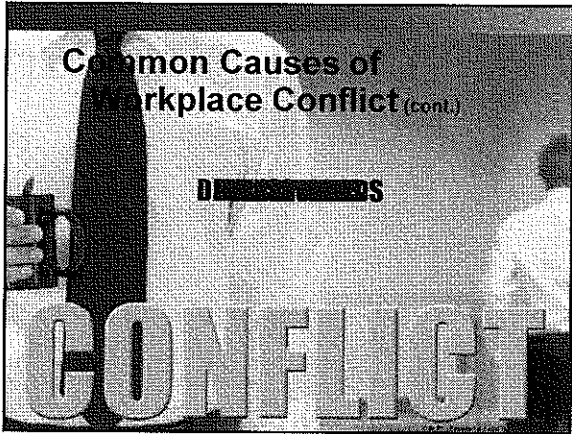
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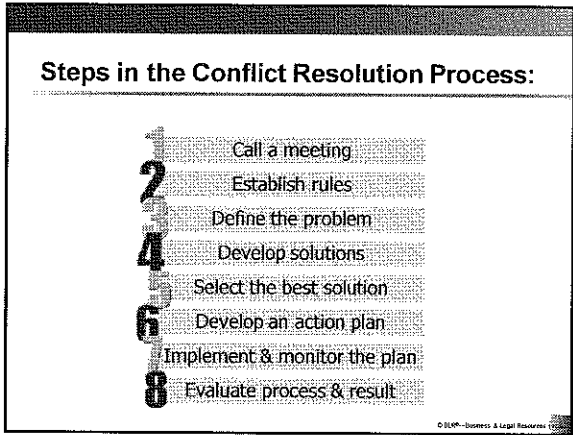
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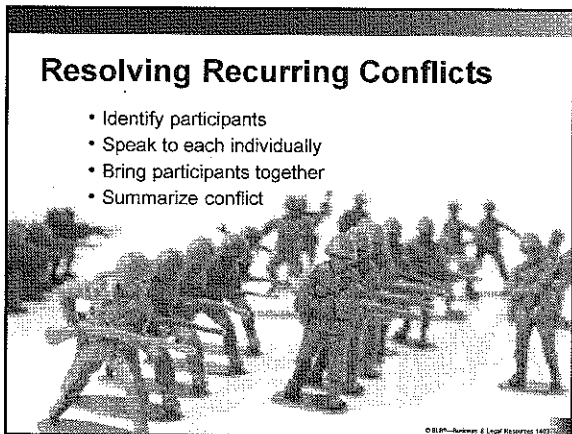
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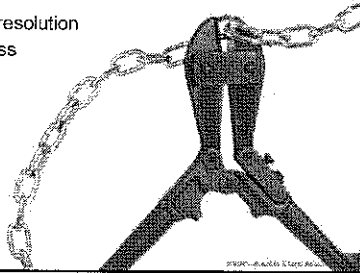
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## Resolving Recurring Conflicts

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- Recognize signs
- Break cycle
- Teach conflict resolution
- Monitor progress



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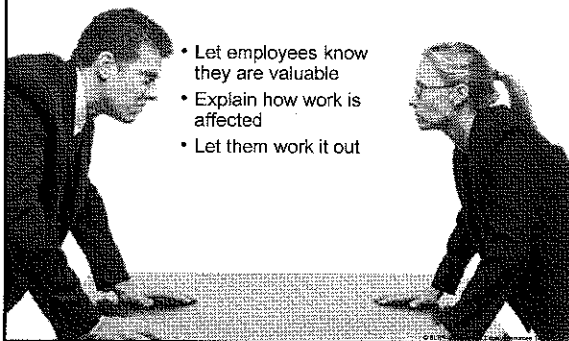
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## Mediating Personality Conflicts

- Let employees know they are valuable
- Explain how work is affected
- Let them work it out



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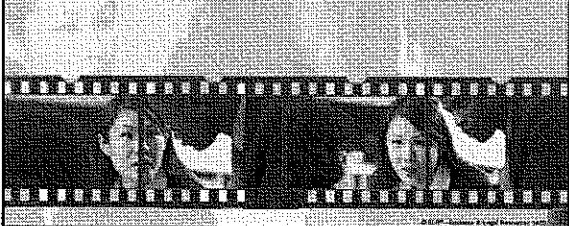
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## Mediating Personality Conflicts

(cont.)

- Get commitment
- Monitor the situation
- Take action if necessary



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### Conflict Resolution – The Process

- One-on-one
  - ✓ Purpose
  - ✓ Participant Safety
  - ✓ Talking points
- Group meeting
  - ✓ The room
  - ✓ Set ground rules
  - ✓ Outcomes
  - ✓ Role of the facilitator
- Follow up
  - ✓ Stay Flexible
  - ✓ Accountability



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### Conflict Resolution Re-Cap

- One-on-one
  - ✓ Purpose
  - ✓ Participant Safety
  - ✓ Talking points
- Group meeting
  - ✓ The room
  - ✓ Set ground rules
  - ✓ Outcomes
  - ✓ Role of the facilitator
- Follow up
  - ✓ Stay Flexible
  - ✓ Accountability




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### Do You Need to Investigate?

As an employer, we have a broad responsibility to investigate workplace issues



**Incidents That Could Require Investigations- Examples**

- Discrimination and Harassment
- Violence or Conflict in the Workplace
- Personal Use of the Telephone, Computer, Internet, etc.
- Theft
- Cash Handling
- Insubordination

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### Steps to follow in an investigation:

1. Put out the fire first
2. Decide if separation of parties involved is necessary
3. Gather the facts & evidence, take notes
4. Interview accuser, accused, witnesses
5. Don't let personal knowledge sway you
6. Assess credibility, write final report
7. Once action is decided, "close the case"
8. Follow up, monitor, be alert to retaliation

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### Intermediate Measures

If complaint is harassment, discrimination, or violence, make sure that further conduct does not occur.

*For example:*

- Make schedule changes to avoid contact between parties
- Possibly suspend the person the complaint has been made against
- Try to avoid involuntarily transferring the complainant as it could be considered retaliation
- Prepare interview questions based on complaint- for complainant and witnesses

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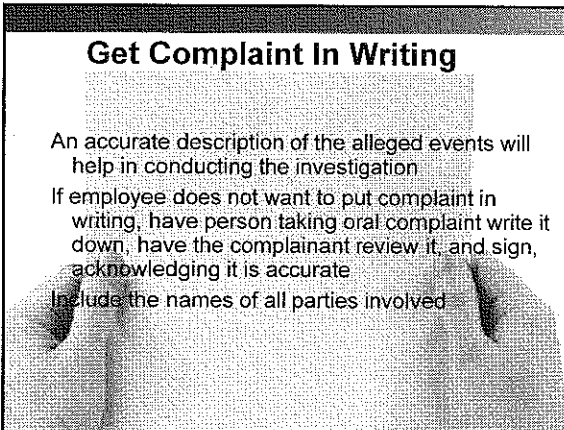
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### Get Complaint In Writing

An accurate description of the alleged events will help in conducting the investigation

If employee does not want to put complaint in writing, have person taking oral complaint write it down, have the complainant review it, and sign, acknowledging it is accurate

Include the names of all parties involved



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## Reach a Determination

- ✓ Investigator must determine whether the allegations are true or false
- ✓ If sufficient evidence is found, disciplinary action will depend on seriousness of incident and "track record" of offender
- ✓ Make sure you follow the company's policies
- ✓ Review findings with management and/or legal counsel

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## Corrective Action

### Legal standard:

- Punish wrongdoing
- Discipline accordingly
- Deter recurrence

### Best practice:

- Allow for redemption (if termination isn't warranted)



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## Communicating Results

### Two Objectives

- Getting workplace back to normal
- Stemming potential litigation

### *Be aware of...*

- Disclosure versus Confidentiality
- Need to revise policies
- Need for training and/or refresher
- Is the current complaint process working?



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### Follow-Up

Meet periodically with employee who brought complaint to make sure he/she has not experienced any further issues (i.e., harassment) or been retaliated against

- For example: meet at 2 weeks, 6 weeks, 3 months after investigation

Document your conversation with the employee, including any issues, concerns, outcomes, and put in investigation file




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### Retaliation: Why Care?



- ✓ Protection is widely available in many laws
- ✓ Easy to prove/hard to defend
- ✓ High risk claims
- ✓ Hard to prevent retaliatory reaction
- ✓ Easy for juries to understand
- ✓ Employee may lose the initial claim but still win a retaliation claim

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### Investigation File

All information that makes up formal investigation goes into investigation file  
 NOT part of employee's personnel file

Include the following

- Notes
- Written complaint
- Signed statements
- Documents from witnesses
- E-mails
- Policies
- Computer files, timecards, calendars, etc.
- Report



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