

Addressing Conflicts Between Employees in the Workplace



ACHRO/EEO Fall Institute 2019
Hyatt Regency – Orange County
October 23, 2019
2:15 p.m. – 3:30 p.m.

Presented by:

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Practice Areas and Experience

Barbara J. Ginsberg represents school and community college districts, and public agencies in all aspects of labor and employment matters and education law. She serves as chief negotiator for agencies in collective bargaining with certificated, classified, and police/safety units, and is experienced in both traditional and interest-based bargaining methods. In addition, Ms. Ginsberg has more than 25 years of experience investigating charges of harassment and discrimination as well as uniform complaints. She is a member of the firm's Title IX and Clery Act groups. Other areas of Ms. Ginsberg's practice include: classified and certificated employee evaluation and discipline (merit and non-merit); statutory and negotiated leave issues; police and safety matters, including POBOR issues; certificated and classified reductions in force; disability accommodation issues; student and employee privacy, search and seizure, and other constitutional issues; drafting board/agency policies; hiring practices; PERB, EEOC, DFEH, OCR, OAH, and personnel commission matters; and federal and state civil litigation.

Prior to joining AALRR in 2008, Ms. Ginsberg spent seven years as a legal advocate for public and private employee unions, including the Association of Orange County Deputy Sheriffs, Riverside Sheriffs Association, Orange County Firefighters Association, Santa Ana Firefighters, and the San Bernardino Public Employees Association; and eight years as an advocate for school and community college districts. She also served as Deputy City Attorney for the City of Victorville, and as a teacher in elementary, middle school, and high school settings.

Events & Speaking Engagements

Ms. Ginsberg is a popular and highly requested speaker and regularly provides training throughout the nation on a variety of subjects of interest to K-12 school districts, community colleges, universities, cities, counties, governing boards, management teams, administrators, police and safety personnel, supervisors, and staff. In addition to addressing subjects that impact the workplace, the educational

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setting, and collective bargaining, Ms. Ginsberg provides training on the FRISK model for preparing effective documentation regarding employee substandard performance or conduct; leadership and communication skills; conducting investigations in the educational and workplace environments; conflict resolution; Brown Act compliance, and state-mandated sexual harassment training. She regularly lectures at conferences for local, statewide, and national organizations such as AASPA, ACCCA, ACSA, ACHRO, CAAASA, CABE, CALSA, CCLC, CCUPCA, CPCA, CSBA, NSBA, and WACUBO. She is also a regular instructor at various personnel and administrator academies throughout the state, and a guest lecturer at local universities.

Upcoming conferences and speaking events include:

Ventura County Professional Development Consortium

10.14.2019 – FRISK Training

ACHRO/EEO Fall Institute | Hyatt Regency Orange County

10.23.2019 – Addressing Conflicts Between Employees in the Workplace

2019-2020 AALRR Professional Development Consortium | School District Series

10.25.2019 – Student Discipline with Adam Newman – webinar

03.04.2020 – Disability Accommodation and Related Discipline @ Buellton Comm Ctr

05.06.2020 – Sexual Harassment/Abusive Conduct Prevention Training @ SYVHSD

AALRR – Education Law Conference

11.13.2019 – Sheraton Cerritos

FRISK Training | Santa Ynez Valley Marriott

01.14.2020 – Open to all Districts/Charters/County Offices of Education

Paramount Unified School District

02.25 - 02.26.2020 Sexual Harassment Prevention and Abusive Conduct Training

Cal Schools JPA – The Learning Institute |San Bernardino

03.12.2020 - Reasonable Suspicion: Recognizing and Managing Employee Substance Abuse

2019-20 Leadership Series with Barbara Ginsberg

Dates to be announced - Visit AALRR website for updates and registration

Conflict Resolution

Ten Tips for Teambuilding

Communicating with Difficult People

Building, Maintaining and Repairing Trust

Secrets to Getting Stuff Done

Troubleshooting Leadership

Infusing the Practice of Civility in the Workplace

Effective Evaluations and Feedback


Preparing, Delivering, and Monitoring Employee Improvement Plans

Community & Professional

- California Bar Association, Labor & Employment Law Section, Member
- California Council of School Attorneys, Member
- Cerritos College Foundation, Past President and Member
- Orange County Labor & Employment Relations Association

Managing and Addressing Conflicts between Employees in the Workplace

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AGENDA

**DEALING WITH
CONFLICT
IN THE
WORKPLACE**



- Types of conflict
- Obligation to act
- Diffusing conflict
- Do's and Don'ts
- FRISK refresher
- Prevention

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Manage/Resolve Conflicts

Focus on behaviors/performance that impact the ability of employees to get the business of the district done

- Be prompt in managing conflict
- Be consistent in providing consequences



CONFLICT between employees

- Bullying
- Peer Conflict
- Obstructionism
- Overt Aggression

Common Catalysts

- ✓ General harassment, whether sexual or some other form
- ✓ Favoritism of one employee over another
- ✓ Demotions and/or layoffs
- ✓ Critical performance evaluations and/or disciplinary action
- ✓ Rejection of a idea/project in which employee has a big emotional investment
- ✓ Insensitivity by supervisors
- ✓ Criticisms of employees in front of staff or others
- ✓ Depersonalized workplace environment
- ✓ Unfair or later performance appraisals or criticism
- ✓ Lack of resources for the employee to meet his/her objectives
- ✓ Office romances

Common Catalysts

- ✓ Inadequate training
- ✓ Lack of teamwork
- ✓ Withdrawal of earned benefits
- ✓ Betrayal of trust
- ✓ Unreasonable demands on employees
- ✓ Failure to keep promises
- ✓ Lack of flexibility
- ✓ Poor communication
- ✓ Feedback that is wholly or primarily negative in tone
- ✓ Absentee leadership, including failure to discipline
- ✓ Micromanagerial environment with limited staff decision-making opportunities

Failure to Act

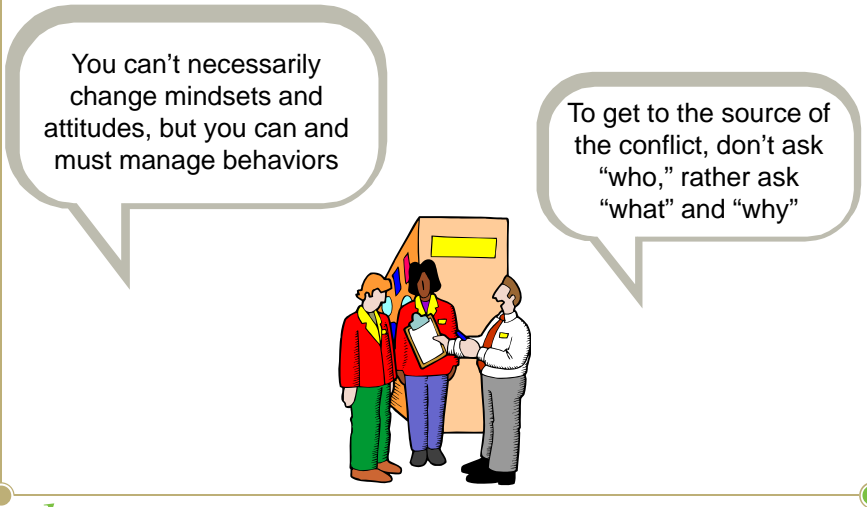


FAILURE TO ACT MAY HAVE NEGATIVE RESULTS

- Breach of legal duty to ensure health, safety & welfare
- Charges of unlawful discrimination
- Charges of constructive discharge
- Poor morale and poor productivity
- Higher absenteeism and turnover
- Damage to District's reputation & difficulty attracting new staff

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Handling Conflict Between Employees



You can't necessarily change mindsets and attitudes, but you can and must manage behaviors

To get to the source of the conflict, don't ask "who," rather ask "what" and "why"

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Diffusing Workplace Conflict

Where Conflict Exists But Perhaps Does Not Constitute Policy Violation



- Attempt to mediate the conflict
- Identify root cause for problem and analyze opportunity for improvement
- Don't allow discussions to bog down in tangents or name-calling
- Help each employee understand the perspective of the other employee
- Explicitly state the district's expectations for behavior & performance & issue action plan & follow through

Keys to Successfully Mediating the Conflict

- 1 Address conflict early.
- 2 Meet with the antagonists separately and determine the business problem.
- 3 Meet with the antagonists together in a neutral space. Set ground rules.

Keys to Successfully Mediating the Conflict

- 4 During the meeting have each party describe specific actions they would like to see the other party take that would resolve the differences.
- 5 Try and allow the parties to talk through their own solution.
 - Listen intentionally; have each party summarize for understanding
 - Ask questions to prompt reflective thinking
 - Be aware of nonverbal communication and filters
 - Focus on both give and take. Get past blame.

Keys to Successfully Mediating the Conflict

- 6 Secure commitment to change from each party. Acknowledge all commitments to change, no matter how small.
- 7 Work out the final deal, put it in writing and set a time to review progress. Shake hands.
- 8 Follow up with the parties to ensure the agreement is working, and don't let third parties continue to fuel the problem.

WALK AWAY WITH A WORKABLE ACTION PLAN

Plan must:

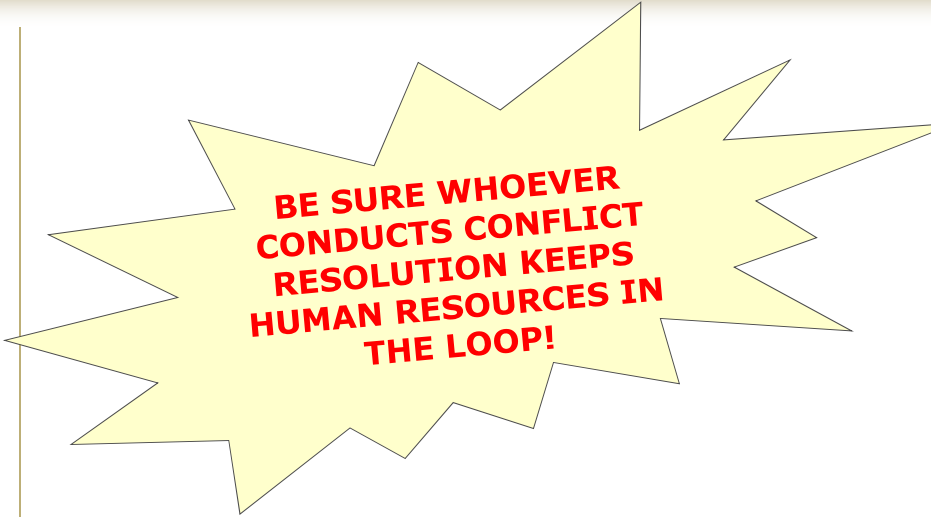
- Identify the conflict
- Identify the people involved
- Identify the actions each person must take to reduce the conflict
- Identify what the expected results are

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DON'Ts

- Don't avoid the conflict, hoping it will go away
- Don't give the appearance that you favor one side over the other
- Don't forget about all the other employees who are affected
- Don't focus on personalities and feelings, focus on the business tasks
- Don't presume that just because you have worked out a deal that issue is over

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**BE SURE WHOEVER
CONDUCTS CONFLICT
RESOLUTION KEEPS
HUMAN RESOURCES IN
THE LOOP!**

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Diffusing Workplace Conflict & Aggression

Where Employee Behavior Rises to the Level of Policy Violation

- Be sure you have all the facts before charging the employee with discipline
- Swiftly apply discipline
- Document and address the behavior in the employee's performance evaluation and follow through
- Send the message that administration gives full support to victims of workplace aggression and bullying
- Refer employee to an EAP



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Consider Appropriate Disciplinary Action

- General Types of Discipline**
 - Oral reprimand
 - Written Reprimand
 - Suspension
 - Demotion/Reassignment
 - Dismissal
- Special Considerations**
 - Notice of Unprofessional Conduct (for Academic Employees)
 - Follow Collective Bargaining Provisions Which May Require Progressive Discipline
 - Follow Civil Service Rules or Other District Policies and Procedures

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SELECTING THE PROPER DISCIPLINARY DOCUMENT

“Let the punishment match the offense.”

-- Cicero, c. 52 B.C.

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Policies, Etc.

DISTRICT POLICIES

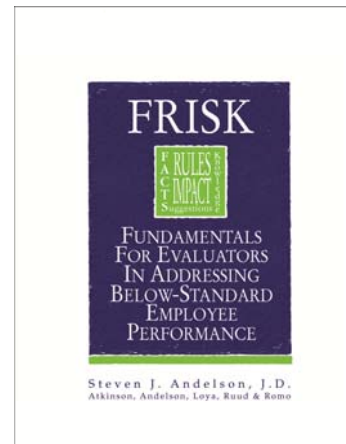
- Board Policies and Administrative Procedures re:
 - Code of Ethics
 - Nondiscrimination
 - Prohibition of Harassment and Retaliation
 - Handling Complaints of Unlawful Discrimination, Harassment & Retaliation
 - Workplace Violence and Safety

OTHER SOURCES

- Collective Bargaining Agreement
- Personnel Handbook
- Education Code
- Personnel Commission Rules

What is FRISK® ?

- **FRISK®** is a documentation model
 - **FRISK®** is an acronym used to ensure all the components needed to create a legally sufficient document for addressing an employee's below-standard performance are included in the document
- **FRISK®** is a communication tool
- **FRISK®** is more than just the document itself



GOALS of FRISK®

- Effect positive change in employee and improve employee performance through direct, honest, constructive communication [objective & fact-based]
- Preservation of facts [accurate & thorough]
- Legally sufficient written evidence to meet burden of proof
- Provide consistency in documentation
- Provide employee accountability while respecting individual dignity

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What Does FRISK® Mean?

Dear Mary:

F _____
R _____
I _____
S _____
K _____

Sincerely,
Alice Mann-Edger

- Components:
 - **FRISK**
- Structure of letter:
 - 5 paragraphs
- Self-contained
- Direct, professional, not sugar-coated, and complete

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FRISK® Elements

F	FACTS (What Happened)
R	RULE (What Rule Was Violated)
I	IMPACT (What Was The Effect)
S	SUGGESTIONS/DIRECTIONS (What Needs To Improve Or Be Corrected)
K	KNOWLEDGE (Right to Respond)

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**HAVE MANAGERS
KEEP
HUMAN RESOURCES
IN THE LOOP!**

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Prevention

“Take the Pulse” of the Work Environment

- Regularly monitor workplace culture
- Seek regular input to invest employees in their work environment & empower them
- Encourage team interaction for problem-solving, goal setting, and accountability
- Don't shrug off conflict or chalk it up to “personality conflicts”; respond swiftly
- Know your employees
- Motivate with recognition and praise

Model Good Behavior & LEAD

- Employees will look to you for signals as to appropriate behavior, so model it!
- Treat employees with courtesy and respect & expect them to use it too
- Exude confidence and address employees in a reasonable, calm, and controlled manner
- **COMMUNICATE!** Be honest and always back up your statements with specifics
- Be a good listener; be empathetic
- Be accountable and trustworthy
- **INSPIRE**

Disclaimer

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Question & Answer Session

Thank You

For questions or comments, please contact:

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