Negotiation

Decision-Making and Communication Strategies That Deliver Results

Early Intervention:
How to Minimize the Cost of Conflict

BY FRANK E. A. SANDER AND ROBERT C. BORDONE

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AS THE FIRST FULL-TIME STAFF MEMBER to be charged with managing employee relations, Leslie had her work cut out for her. Her employer, a growing Boston-based accounting firm, had hired her in response to a spate of accountant defections and an unusually high turnover of support staff. Despite the fact that the firm was earning unprecedented profits and offered competitive salaries and benefits, morale was dismal.

In her discussions with associates and staff, Leslie heard complaints about long hours, denied vacation requests, and unfairness in the allocation of everything from bonuses to computers. As a human resources (HR) professional, Leslie found these complaints unsurprising—conflict is a given in any organization. What troubled her were the responses she got when she asked what processes existed to address such issues.

"There's nothing you can do about it," one employee said. "If you complain, you're just asking for trouble," said another.

Because it had never developed an integrated system for managing and resolving internal disputes, this firm incurred major institutional costs in the form of high turnover, reduced productivity, and absenteeism.

In this article, we outline the principles of *dispute system design* (DSD)—the process of diagnosing, designing, implementing, and evaluating an effective method of resolving conflicts within an organization. This holistic approach typically yields greater rewards at lower costs than the piecemeal, reactive approach found in most organizations. By becoming a dispute process architect, you can save your business thousands of dollars and hours of needless stress. Virtually anyone who has an understanding of basic dispute-resolution processes—negotiation, mediation, and arbitration—can, with experience, serve as a dispute process architect in his organization.

How can DSD help?

For many years, negotiation and dispute-resolution researchers focused on resolving conflict at the individual level. The study of dispute systems within the organization—quite apart from the skills and personalities of those involved—marks an expansion of our understanding of conflict.

Systems for resolving disputes have tended to emerge within organizations almost by accident, and most remain ad hoc and haphazard at best. Yet some organizations have begun to recognize that, to be effective, systems for managing internal conflict need to be carefully and thoughtfully designed. That's where DSD comes in.

> **The DSD process provides a more interests-based, collaborative approach to conflict.**

Disputes can be handled by asserting rights (formal grievances or lawsuits), power (directives from higher management), or interests (the parties' underlying concerns, goals, desires, and needs). The DSD process reduces the traditional emphasis on rights and power by advocating a more interests-based, collaborative approach to conflict.

The four stages of DSD

Well-designed organizational dispute systems are like well-designed health care systems: a focus on prevention and early intervention can generate huge savings and improve quality of life. As the DSD architect in your organization, you'll need to follow these four steps.

1. Diagnose your company's dispute symptoms.

When it comes to DSD, one size does not fit all. Just as a doctor performs a thorough diagnosis before making a prescription, a dispute process architect must examine and diagnose her organization before tailoring a dispute system to the organization's particular needs.

An accurate diagnosis seeks answers to three broad questions:

- **What types of disputes typically arise in your business?** Who is involved? How frequently do disputes occur, and what are their causes?

- **How are disputes currently handled?** When people in your company are upset, where do they turn? Do employees kvetch around the water cooler, go straight to the top, or threaten litigation? Assess the costs and benefits of the approaches used most frequently to manage complaints.

- **If disputes are handled by asserting rights and power, why might this be so?** Several obstacles may be blocking a healthier approach to conflict: an absence of interests-based procedures, a lack of knowledge about interests-based negotiation, a lack of motivation to try out more collaborative or less costly approaches, a lack of skill, or a lack of resources.

Once you have diagnosed the current system, you're equipped with the basic information you'll need to design a more effective system. In Leslie's firm, for example, she discovered that the most highly qualified employees exercised power in the face of conflict simply by taking jobs with other firms. Other staff tended to avoid raising issues explicitly to their bosses, instead complaining informally among fellow workers—reducing company morale and productivity in the process. Moreover, virtually no one in the organization knew anything about collaborative dispute-resolution processes.

2. Apply the principles of dispute design.

Within any organization, a primary goal of DSD should be to support low-cost, less invasive approaches before moving to higher-cost, riskier ones. Leslie, for instance, introduced a program to identify conflict at an early stage and employ mediation before the parties resorted to more extreme measures. You'll want to build your new system upon processes that trigger a concern for shared interests before parties aggressively assert their rights or power.

In addition, the system should have many points of entry so that individuals in conflict can tap into it *before* a dispute escalates. When creating her dispute system, Leslie made sure employees knew that they could choose to access the system either through their own supervisor, the supervisor of another department, an HR staff member, or an organizational ombudsperson. These multiple points of entry minimized the chance that employees would avoid the system because they distrusted a particular person in the chain of command.

Unfortunately, not all disputes can be resolved through early intervention. Effective dispute systems link low-cost

rights and power procedures with even cheaper interests-based processes. For example, parties in a multi-issue dispute might disagree on how to decide which employees can skip work on a particular holiday. A well-designed dispute system would allow for a third party to decide this point, leaving disputants free to resolve other issues collaboratively.

A successful dispute system factors in the incentives, motivations, skills, and resources of those who will use it. For example, you will want to set up safeguards to ensure that those who use the system won't face retaliation, so that employees can safely provide feedback to their bosses.

Incorporating aspects of the dispute system into annual performance reviews is another smart idea. In Leslie's firm, accountants might receive bonuses for taking advantage of interests-based negotiation training or for resolving disputes in creative, collaborative ways.

Finally, to ensure a successful system, you must convince your company's management to fund training programs in interests-based negotiation and to hire facilitators and impartial mediators when necessary.

3. Implement your new dispute system.

Simply setting up a dispute system and hoping that others will use it is a recipe for failure. Indeed, implementing a dispute system in your organization is a complex negotiation in itself. As the system designer, you'll wear many hats at this stage: expert, mediator, negotiator, and facilitator. You're likely to meet resistance along the way, but your efforts will almost certainly prove worthwhile.

The first step is to invite relevant stakeholders in your organization to choose representatives for a design committee. Identify those whose roles may be threatened by the new system and show them the advantages of moving from a power-based approach to one that's interests-based. Recognizing that several partners were likely to resist her efforts to implement a new dispute system, Leslie reached out to them early on and demonstrated how a successful dispute-resolution process would result in lower costs to the firm due to decreased turnover and higher productivity.

One of the design committee's chief responsibilities is to thoroughly consider the motivations of everyone in the organization and create a system that can appeal to all. Don't neglect a critical stakeholder just because he has a reputation for being difficult, or he may sabotage your hard work later on.

As part of your implementation strategy, you'll need to identify organizational leaders to champion your efforts to

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others. All too often, it's the war stories of high-stakes adversarial conflict that get attention, rather than creative, collaborative dispute-resolution successes. Be sure to publicize the system's early victories.

4. Evaluate your new dispute system.

Once the new system is in place, it's time to find out whether it works. Your evaluation criteria will depend on your initial goals. In their book *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict* (Jossey-Bass, 1988), William Ury, Jeanne Brett, and Stephen Goldberg suggest that success can be measured by answering these four questions: (1) Are transaction costs lower under the new system? (2) Are disputants more satisfied with outcomes than they were before? (3) Has the quality of relationships within the organization improved? and (4) Has the recurrence of disputes been reduced?

Be careful to probe the answers to these questions. Suppose Leslie finds that the number of disputes in her firm spiked once the new system was in place. On the surface, this may seem like bad news. But it could also mean that disputes that had lain dormant or been discussed only at the local bar were finally being addressed seriously and constructively. Indeed, an increase in disputes may be the first sign of organizational recovery.

Because you'll need time to evaluate the new system, we recommend introducing it gradually, beginning with a few departments or a particular branch office. Armed with early feedback from these sites, you can work with the design and implementation teams on adjustments and then expand the system throughout the organization.

A final point

It's crucial that you build a dispute system that is robust enough to survive both your departure as its architect and the departure of its initial champions. An effective system is one that doesn't depend on individual personalities to keep running smoothly. In a future issue, we will illustrate how DSD has been implemented in leading U.S. companies. ✧

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