

**Under Pressure:
Defusing Conflict in the Workplace During These
Trying Times**
Strategies for Resolution and Growth



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Increase In Conflict and Stress

- Increased focus on Anti-Racism/Bias and DEI v. Current Push- Back Against DEI
- Trump Presidency II
- Tensions are high in the world
- Economic uncertainty
- Carries through to the workplace



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How do we manage it?

- Workplace conflict is inevitable but manageable
- Unresolved conflict costs employers billions annually in lost productivity
- Effective conflict resolution creates stronger teams and better outcomes



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Legal Backdrop to Conflicts in the Workplace

- Non-Discrimination
- Free Speech
 - Matters of Public Concern
 - Union Speech
- Competing Interests- Anti-Bias v. Free Speech



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First Amendment

- Public employees have diminished rights
- To be protected speech must touch on a matter of public concern
- If speech is on a matter of public concern, then courts balance the employer's interest in workplace efficiency and employee's interest in speech
- Location of speech (public forum) and whether it was part of their duties are relevant



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Threats and Harassment



- Generally threats are not protected if “True Threat”- *Bauer v. Sampson* (9th Cir. 2001)
- Harassment based on protected category (racial epithets) not protected- *Aguilar v. Avis Rent A Car* (1999)
- If not true threat, weigh governmental interest against employee interest



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Protected Speech Under Labor Law and Online Social Networking



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Protected Speech Under Labor Law

- Speech related to matters of legitimate concern to employees is protected unless the speech is:
 - (1) Demonstrably False and (2) the employee knew the speech was false or acted with reckless disregard for whether it was false.
- *Chula Vista ESD* (2018) PERB Dec. 2586
- *Hacienda La Puente USD* (2024) PERB Decision 2930
- There are two tests for determining whether ostensibly protected speech has lost protection
- “Content-based” test-When an employer claims that an employee has made a false criticism
- Conduct-based- “was so opprobrious or disruptive to operations that it lost statutory protection.”



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Online Speech

- Off-Duty Conduct
- First Amendment or Labor Law Protected
- Does it disrupt the workplace- actual disruption evidence
- Certain jobs and professions- Safety/Teachers



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Abusive Conduct in the Workplace



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Abusive Conduct

- + Conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests
 - + Abusive conduct is “**workplace bullying**”

+ Examples:

- + Repeated verbal abuse
 - + Teasing, name calling
- + Verbal or physical conduct that a person would find threatening, intimidating, or humiliating (including pranks)
- + Sabotage or undermining of a person's work performance (including spreading rumors)



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Focus on Discipline or Conflict Resolution

- Often look at these situations under the lens of discipline
- Goal is employee retention and respectful work environments
- Focus on conflict resolution rather than discipline can sometimes better serve the agency and the involved employees
- Cannot always avoid discipline



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TYPES OF WORKPLACE CONFLICT

- Task-based conflicts: Disagreements about work processes, resources, or project direction
- Relationship conflicts: Personality clashes, communication styles, or value differences
- Status conflicts: Power struggles, competition for recognition, or authority challenges
- Process conflicts: Disagreements about how work should be done or who should do what



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EARLY WARNING SIGNS

- Avoiding communication
- Decreased collaboration
- Gossip and side conversations
- Withholding information
- Subtle hostility behavior
- Declining work quality or productivity

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THE COST OF UNRESOLVED CONFLICT

- Decreased productivity and efficiency
- Lower employee morale and engagement
- Increased stress and potential burnout
- Employee retention issues
- Poor decision-making
- Damage to culture
- Claims and Lawsuits



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CORE PRINCIPLES OF CONFLICT RESOLUTION

- Address issues promptly: Don't let tensions simmer
- Focus on behaviors, not personalities: Separate people from problems
- Practice active listening: Seek to understand before being understood
- Express impact without accusation
- Seek common ground: Find shared interests and goals
- Maintain respect: Preserve dignity for all parties



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THE “CALM APPROACH” - OVERVIEW

The CALM Approach to Defusing Conflict:

- **C**reate a safe space
- **A**sk and acknowledge
- **L**isten actively
- **M**ove toward resolution



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CREATE A SAFE SPACE

- Choose a neutral, private location
- Set ground rules for discussion
- Ensure equal speaking time
- Remove power dynamics when possible



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ASK AND ACKNOWLEDGE

- Ask open-ended questions
- Acknowledge emotions and perspectives
- Avoid assumptions and judgments
- Affirm the value of each person's input



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LISTEN ACTIVELY

- Practice empathetic listening
- Paraphrase to confirm understanding
- Notice non-verbal cues
- Resist formulating responses while others speak



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MOVE TOWARD RESOLUTION

- Brainstorm solutions together
- Focus on mutual interests
- Develop concrete action steps
- Establish follow-up procedures



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MEDIATION TECHNIQUES FOR MANAGERS

- Remain neutral and objective
- Set clear expectations for the conversation
- Allow each person to share their perspective uninterrupted
- Help identify underlying issues beyond surface complaints
- Guide parties toward their own solutions rather than imposing answers
- Document agreements and follow up
- Use an outside consultant when needed



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DE-ESCALATION STRATEGIES

- Lower your voice and slow your pace
- Use calming body language
- Acknowledge emotions without judgment
- Redirect focus to facts and solutions
- Take breaks when tensions rise
- Find points of agreement



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WHEN TO INVOLVE LEGAL AND HR

- When conflicts involve harassment or discrimination or other protected actions/speech
- When power imbalances complicate resolution
- When conflicts persist despite intervention
- When emotions are too high for productive discussion



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NAVIGATING FIRST AMENDMENT AND NONDISCRIMINATION CONFLICTS

- *Understanding the tension: Balancing free expression with creating an inclusive environment*
- *Legal considerations:*
- *First Amendment protections in public vs. private workplaces*
- *Employer obligations under FEHA, Title VII and other nondiscrimination laws*
- *Reasonable accommodation requirements for religious expression*



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FIRST AMENDMENT CONFLICTS (CONTINUED)

Common workplace scenarios:

- Religious expression vs. LGBTQ+ inclusion
- Political speech vs. harassment concerns
- Personal beliefs vs. agency values
- Key principles for resolution:
 - Focus on workplace impact rather than intent
 - Distinguish between protected expression and disruptive conduct
 - Create clear, consistently enforced policies
 - Seek accommodations that respect both values when possible



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FIRST AMENDMENT CONFLICTS (CONTINUED)

- *Best practices for leaders:*
 - *Consult legal counsel early in complex situations*
 - *Document incidents and responses thoroughly*
 - *Communicate expectations clearly and consistently*
 - *Address behaviors rather than beliefs*
 - *Emphasize shared workplace goals and mutual respect*



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Strategies for Political Conflict

- Clear Policies
- Consistent enforcement- not viewpoint
- Don't make employees the police
- Clear explanation of the reasoning behind the policies
- Communicate with employees on difficult conversations
- Remind everyone that it's a time for kindness and understanding



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PROTECTED LABOR SPEECH

Common issues:

- Confidentiality policies that inadvertently restrict protected speech
- Overly broad social media policies
- Non-disparagement clauses that limit lawful discussion
- Balancing interests in labor speech conflicts:
 - Distinguishing protected criticism from insubordination
 - Addressing manner of delivery vs. content of concerns
 - Separating personal grievances from collective action



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PROTECTED LABOR SPEECH (CONTINUED)

- *Constructive approaches for managers:*
 - *Respond to the substance of concerns, not just how they're raised*
 - *Create channels for feedback and grievances*
 - *Train supervisors on protected concerted activity*
 - *Focus on problem-solving rather than disciplinary responses*
 - *Consult labor counsel before taking action that could be perceived as retaliatory*



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KEY TAKEAWAYS

- Conflict is natural and can lead to improvements when handled properly
- Early intervention prevents escalation
- Focus on interests rather than positions
- Create systems that support healthy conflict resolution
- Practice empathy and respect throughout the process



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IMPLEMENTATION PLAN

- 1. Assess current conflict patterns in your workplace**
- 2. Train team members in basic conflict resolution skills**
- 3. Establish clear protocols for addressing conflicts**
- 4. Create feedback mechanisms to evaluate progress**
- 5. Recognize and reward constructive conflict resolution**



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QUESTIONS FOR REFLECTION

- What conflict patterns do you observe in your workplace?
- Which conflict resolution strategies have worked well for you?
- What barriers exist to resolving conflicts in your organization?
- How might you turn conflict into opportunity?



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Healthy Mental Environment

- EAP
- Mindfulness
- Other wellness activities-meditation, yoga, walking
- Recognize the importance-good for employees and for the employer



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CLOSING THOUGHT

"The best leaders resolve conflicts by helping people lift their gaze beyond immediate tensions to the broader horizons where shared goals and mutual interests become visible once again."



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Any Questions?



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