



advancing safety, health, and workplace rights in the legislative branch

What's New at the Office of Compliance

Office Conducts Dispute Resolution Workshop

In June 2005, the Office of Compliance presented an educational workshop for managers on informal dispute resolution techniques and methods. Entitled "Conflict Management for Managers," the workshop was produced in cooperation with the Federal Mediation and Conciliation Service (FMCS) and the Congressional Management Foundation.

Because effective conflict resolution is a primary tool for improving the quality of work life for both staff and managers, the objective of the workshop was to provide an introduction to informal third party conflict management as a core leadership skill for managers. The day-long workshop addressed alternative dispute resolution processes, communications skills for managers, interest based problem solving, and approaches to informal third-party conflict management.

"Conflict Management for Managers" is one in a series of educational conferences and programs conducted by the Office of Compliance. Check *Coming Events* under *What's New* on our web site for regular updates on other educational workshops and conferences planned by the Office of Compliance.

In this issue, we feature a few of the key communications skills and techniques offered during

the "Conflict Management for Managers" workshop that can be useful in resolving conflicts in your workplace.

Tamara Chrisler Appointed Deputy Executive Director



Tamara E. Chrisler was appointed in June 2005 by the Board of Directors of the Office of Compliance to serve a five-year term as the new Deputy Executive Director for the Senate. Among other duties, Chrisler will be responsible for overseeing the Office's dispute resolution program.

Prior to joining the Office of Compliance, Chrisler served as a supervisory labor and employment attorney for the Federal Bureau of Prisons. She has also

been an Assistant State's Attorney in the Cook County State's Attorney's Office in Chicago, Illinois.

New Products Launched

The Office of Compliance has recently released the *CAA Handbook* and the *eHandbook* on CD-ROM, two of the most complete information resources ever produced on the CAA and employment law as it relates to Congress and the Legislative Branch.

The *CAA Handbook* was designed expressly to meet the need for a quick, easy-to-read reference guide on employment matters covered by the CAA, with short plain-English summaries of each workplace safety and civil rights law applied to Congress. The *eHandbook* on CD-ROM is a complete reference library of information related to the CAA. The *eHandbook* includes detailed summaries of the laws applied by the CAA, Office of Compliance Regulations and Procedural Rules, and the text of the CAA itself.

Both the *CAA Handbook* and the *eHandbook* on CD-ROM were recently distributed to employing offices in Congress. If you would like your own copy, or need additional copies for your office, please contact the Office of Compliance. The *CAA Handbook* can also be downloaded as a complete document from the Office of Compliance web site, www.compliance.gov.



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Message from the Executive Director

Solving Problems *Before* They Start

In June 2005, the Office of Compliance conducted a workshop entitled "Conflict Management for Managers," designed to provide managers with tools and resources for resolving disputes within their own offices in an informal manner – ideally, before they ever have a chance to come before our office. This was one in a series of educational conferences and seminars on various topics the Office of Compliance has conducted or is planning for the future.

Over the past three years, the Office of Compliance has put considerable energy and resources into expanding and improving the educational program we conduct under the auspices of section 301(h) of the Congressional Accountability Act (CAA), which requires this office to "... carry out a program of education for Members of Congress and other employing authorities of the legislative branch ... respecting the laws made applicable to them and a program to inform individuals of their rights under laws applicable to the legislative branch[.]" (2 USC 1381(h)).

Our work has not been limited simply to conferences and workshops. Some of our other efforts have included redesigning our web site from the ground-up (twice), creating new online tools and resources for employing offices in Congress, and launching innovative new publications on employment law in Congress like the *CAA Handbook* and *eHandbook* on CD-ROM.

The goal of our program is to ensure that employees and employing offices alike have the resources and information they need to comply with the CAA. I believe strongly that the more information both employees and employers have, the less likely there are to be disputes and violations of the CAA. In fact, when both employees and employers understand their rights and obligations, many problems can be prevented before they even have a chance to occur.

For this reason, I encourage everyone to explore the educational resources the Office of Compliance has produced and pass them on to other employees and management colleagues. And we are still really only in the initial stages of our education and outreach program, with more conferences, publications, tools, and online resources in the works. Take a look and see what we have for you. Better yet, contact us and tell us how we can serve your needs. Only when we can be assured you have the resources you need to do *your* job can we be sure that we have done ours.



A handwritten signature in blue ink that reads "William W. Thompson, II". The signature is fluid and cursive, with a large, sweeping flourish at the end.

William W. Thompson, II

Guest Feature

Informal Dispute Resolution

Bernard E. Beidel

*Director, Office of Employee Assistance
U.S. House of Representatives*

Few would disagree that the workplace has become more complex over time. The pace of work has intensified; the amount of information available has grown exponentially; and technological advances have both enhanced and challenged our traditional concepts of workplace communications. The result has been greater demands on the workforce in general and on each of us as employees in particular.

Just as the complexity in the workplace has increased, so too has the potential for conflict within a work group. The response to this growth has been the emergence throughout the world of a variety of specific procedures and programs to mitigate such conflicts through formal alternative dispute resolution systems.

While formal mechanisms provide important and useful avenues for dealing with the range of conflicts that can arise in any organization, it can be helpful to first look at the informal means available for solving workplace conflicts. Many of these informal processes are available through an organization's employee assistance service, such as the Office of Employee Assistance in the House of Representatives or the Senate Employee Assistance Program.

Employee assistance services can often help an employee gain an appreciation of one's own and another's conflict resolution style, an understanding of the respective communications styles at work under normal circumstances and in the midst of a conflict, or simply an awareness of the different personality styles that each party may bring to the conflict that can drive their approach to and expectations for dealing with conflicts.

The avenues available to explore these critical components of the conflict resolution process are diverse. For some employees, it is helpful to work together on a one-on-one basis with an employee assistance professional. In other situations, working with both parties to a conflict is most effective. Another method can be working with an entire work group through a training program, like the Myers-Briggs Type Indicator or
(Continued at top of page 3)

another personality, communications, behavioral, or conflict style inventory.

While it is not unusual for an employee engaged in a workplace conflict to seek out assistance through an employee assistance service, the solution is not always confined solely to the work that the individual employee does alone or in conjunction with the other individual(s) with whom there is conflict. Nor is the conflict always based on what initially appears to be the major cause of the difficulty between the individuals. There are frequently other

contributing factors, some of which provide viable approaches to resolution.

For instance, while most of us in the midst of the conflict are able to identify and describe in detail the issue that seems to be at the core of the conflict, that alone will not always bring resolution to the conflict itself. This is particularly true when the employees involved have equally valid, yet extremely divergent viewpoints or perspectives.

While the source of the conflict may always be rooted in these very different per-

spectives, finding a solution to the conflict may in fact rest with the understanding and appreciation of the other employee's perspective or frame of reference. That is often the rub in any conflict. Conflict resolution often comes down to gaining a better appreciation for the other party's perspective, while understanding that appreciating that perspective does not mean one has to agree with it.

You can generally learn more about conflict in the workplace and some of these more informal approaches through your respective employee assistance service.

In Focus

Non-Defensive Communication For Problem Solving

Do you know some of the key barriers in communications to successfully resolving disputes? The Office of Compliance workshop "Conflict Management for Managers," which took place this past June, explored many of the most common obstacles that can stand in the way of resolving disputes in the workplace. Here are a few of the problems identified during the workshop that can arise when attempting to resolve disputes, as well as the key tips that can eliminate these common problems and help successfully resolve workplace conflicts.

One of the primary obstacles in the path to successfully resolving a conflict is over-defensiveness on the part of those involved:

- ◆ Defensiveness is an attempt to preserve one's self-esteem;
- ◆ Defensiveness is more frequent when a person has weakened self-esteem or is insecure about certain issues;
- ◆ For these reasons, many people perceive an attack when there is really none at all.

In the face of criticisms that are not really attacks, many people tend to over-defend by:

- ◆ Referring to policies, procedures, or "authority";
- ◆ Going off on tangents or creating diversions;
- ◆ Counter attacking;
- ◆ Dressing up in "coats of armor": not listening to collaborate, but only to defend.

We can reduce our own over-defensiveness if we:

- ◆ Disengage – Withdraw from defensive postures;
- ◆ Empathize – Imagine yourself in the other person's shoes;
- ◆ Inquire – Learn about other's concerns;
- ◆ Disclose – Honest and direct

explanation of *your* concerns;

- ◆ Depersonalize – Your work is something *you do*, not *who you are*.

We can reduce the defensiveness of others if we:

- ◆ Focus on the issue and not the person;
- ◆ Encourage others to perceive that nobody intends to attack;
- ◆ Send messages and critique more effectively;
- ◆ Actively listen.

To better send messages and critique:

- ◆ Be specific and concise;
- ◆ Be sincere, not appearing to hide feelings or information;
- ◆ Be diplomatic;
- ◆ Offer suggestions instead of orders or advice;
- ◆ Be mindful of non-verbal communication;
- ◆ Eliminate offensive or threatening language.

Listening "actively" means allowing yourself to be receptive to the points being made by the other person, whether you agree with them or not:

- ◆ Show that you understand that they have a very strong opinion, what that opinion is about, and their reasons;
- ◆ Ask questions to find out why they have such a strong opinion about the issue;
- ◆ Pause for response and allow them to speak without interruption.

Your ultimate goal should be to reach a solution together. As such, change the name of the game from traditional negotiating to joint problem solving:

- ◆ Ask others for their ideas (shows respect for others' opinions);
- ◆ Construct additional ideas on the basis of others' ideas;
- ◆ Offer your own ideas (but do not impose them);
- ◆ Reach a solution that satisfies every one. It is important to gain every one's commitment for ideas to be implemented successfully.

Information provided by the Federal Conciliation and Mediation Service



Cases Handled by the Office of Compliance in Fiscal Year 2005

Each year, the Office of Compliance is required to report to Congress statistics on the use of the Office by covered employees. The following statistics are from our latest report covering the period October 1, 2004 through September 30, 2005.

Contacts and Cases Related to Dispute Resolution:

Initial Contacts Received by the Office	323
Requests for Counseling.	60
Cases in Mediation	80
Appeals to the Board	2

Case Notes:*

- An employee alleged a violation of the Family and Medical Leave Act, as applied by the CAA, for being given a new work schedule after returning to the office from an extended absence to care for a spouse with a serious medical condition.
- An employee alleged retaliation after cooperation with a safety and health inspection resulted in the denial of leave.
- An employee alleged constructive discharge due to constant sexual propositions from the employee’s supervisor.
- An employee alleged that race led to a denial of promotion when an employee with less seniority was selected for the promotion instead.
- An employee alleged unequal pay because male employees in the same division were being paid more than female employees even though they all shared the same title and job description.

Contacts and Cases With the General Counsel:

Requests for Information and Technical Assistance	305
Occupational Safety Inspection Requests	17
Unfair Labor Practice Charges	4

Case Notes:

- The General Counsel’s office completed a comprehensive baseline inspection of occupational safety and health conditions in Congressional facilities during the 108th Congress. The inspection found 2,666 hazards, more than 90% of which have now been reported corrected by the responsible offices.
- The General Counsel’s office completed the Americans with Disabilities Act (ADA) public access inspections required by the CAA during the 108th Congress. This inspection focused on the prompt and safe evacuation of visitors with disabilities during an emergency.
- Safety and health inspections included investigating an improperly anchored fence located next to a sidewalk that blew over, striking and injuring an employee; potential injury to employees working in an excavation due to improperly supported side walls; a fire caused by workers failing to follow required “hot work” procedures.
- The use of dispute resolution resulted in the closure of 13 of 18 pending unfair labor practice charges. Four new charges were filed: two were resolved, and two are currently being investigated to determine whether statutory violations have occurred that warrant the issuance of formal complaints.

* These notes are representative of the types of cases brought before the Office of Compliance and do not describe individual cases. All cases with the Office of Compliance are strictly confidential.

Office of Compliance Dispute Resolution Process

The CAA provides a mandatory administrative dispute resolution process of counseling and mediation for the settling of disputes. If the parties involved are not able to resolve their dispute through counseling and mediation, an employee may either pursue a non-judicial administrative hearing with the Office of Compliance or file suit in Federal court. Administrative hearing decisions can be appealed to the Board of Directors of the Office of Compliance.

General Counsel of the Office of Compliance

The General Counsel of the Office of Compliance is responsible for investigating and enforcing certain violations of the CAA. Labor/management relations, occupational safety and health laws, and discrimination against the disabled in access and accommodations to public events and spaces are all under the General Counsel’s jurisdiction.

The Basics of Equal Employment Opportunity

The term “EEO,” or equal employment opportunity, can often be seen on job listings and postings in the private sector, but did you know that the Congressional Accountability Act of 1995 (CAA) requires that the Legislative Branch must also offer equal employment opportunity?

Section 201 of the CAA prohibits discrimination in personnel actions based upon age, race, color, religion, sex, or national origin. This includes hiring, discharge, promotion, pay, benefits, reassignment, and other personnel actions affecting the terms, conditions, and privileges of employment. The law forbids discrimination based on these criteria even if other factors also motivate the action.

Section 201 extends a number of other protections to Legislative Branch employees. Harassment based upon age, race, color, religion, sex, or national origin is prohibited. Sexual harassment is also prohibited, and discrimination because of pregnancy, childbirth, or related medical conditions is considered sex discrimination. An employing office may also be required to reasonably accommodate an applicant or employee’s religious observances and practices so long as the accommodation does not create an undue hardship on the conduct of business.

Proving discrimination is not always a simple matter and depends on the facts of a particular case. A covered employee must prove that he or she was treated

differently from others in similar circumstances, and must also show that age, race, color, religion, sex, or national origin was a motivating factor in that treatment. Under certain circumstances, an employing office may need to prove that it took adverse personnel action against a covered employee for non-discriminatory reasons, and accurate records of employees’ job performance may be critical in such a case.

Discrimination protections are not absolute, and there are a number of excep-

tions to these rights. For example, employment decisions based upon bona fide merit and seniority systems are legal, so long as the system used is not instituted with the intent to discriminate on the basis of age, race, color, religion, sex, or national origin or has a disproportionate adverse impact on a protected group. Also, due to the nature of the work in Congress, it is lawful for certain House of Representatives and Senate offices to consider party, place of residence, or political compatibility when making employment decisions.

When discussing discrimination protections in Congress, it is important to note that most employees in Congress are “at will” employees. Being in an at will status means that an employee has no fixed contract and can leave his or her job at any time. It also means that an employer can fire an employee at any time without providing any justification for that termination. Termination is only prohibited if it violates one of the rights guaranteed by the CAA, such as protection from discrimination based upon age, race, color, religion, sex, or national origin.

For more information on the protections provided by Section 201 of the CAA, please consult the Office of Compliance *CAA Handbook* or the Office of Compliance web site, www.compliance.gov. Employees and employers with questions about these rights may also contact the Office of Compliance directly.



CAA news

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The Office of Compliance advances safety, health, and workplace rights in the U.S. Congress and the Legislative Branch. Established as an independent agency by the Congressional Accountability Act of 1995, the Office educates employees and employing offices about their rights and responsibilities under the Act, provides an impartial dispute resolution process, and investigates and remedies violations of the Act.

www.compliance.gov

Inside is important information for every
Congressional employee



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