

**When Supervisors Refer Employees for Mediation or
Can You Take This Mess Off My Hands?"
Tom Sebok and Lisa Neale
University of Colorado**

(From: THE INDEPENDENT VOICE, Volume IV, Issue 2, August, 2009, IOA)

Picture this: a supervisor calls you and says two of his employees are involved in a conflict and he'd like to let them try to work it out in mediation in the Ombuds Office. As the discussion progresses, you learn that the supervisor believes one of the parties (Employee A) is far more responsible for the conflict than the other (Employee B). He further thinks Employee A violated his expectations of appropriate workplace behavior. In addition, the supervisor reveals that he has not addressed this with Employee A – but has told Employee B that's how he sees it!

Campus supervisors who responded to a recent University of Colorado at Boulder survey said their most frequent and difficult conflict-related challenges involve conflicts between the employees they supervise. It is understandable that they request our help as ombudsmen in managing conflicts in peer relationships. While some have tried to help their employees and others have done little or even made matters worse, most hope mediation will provide an answer to a problem they typically view as beyond their capacity to resolve. And, indeed, mediation can sometimes be very helpful in these circumstances. But, upon receiving requests for mediation – especially from supervisors – it has become our practice to agree to *consider* mediation as one option, but not immediately agree to mediate.

Instead, we have found it useful to first talk with supervisors about a number of issues they may not have anticipated discussing when they contacted the Ombuds Office. When we receive third-party referrals from anyone, including supervisors who ask us to mediate between their employees, we ask the person making the referral to give our contact information to the parties and tell them they can contact us if they'd like our help. While mediators routinely assess whether a situation may be mediable, we must also follow IOA Standard of Practice 4.4, which requires ombudsmen to work only with parties who use our services voluntarily. Thus, before we meet with the employees referred by a supervisor, we tell the supervisor of the voluntariness of mediation and explain that employees may feel reluctant to tell their supervisors that they decline mediation. We ask supervisors to agree to not take punitive action against either employee if they choose not to mediate or work with the Ombuds Office. We also try to separate the supervisor's interest in managing or resolving the problem from their stated position that mediation is the way it must be achieved. Most supervisors are receptive to this information, but those who insist that mediation must occur – even involuntarily – can be referred to other mediators outside of our organization.

When evaluating the appropriateness of requests from supervisors for mediation involving two supervisees, we believe it is critical to understand how the supervisor views the situation and the role she or he has played in its existence or perpetuation. Sometimes, our discussion with supervisors has led to the conclusion that mediation is a viable option for the employees. But, all too often, supervisors fail to understand the dynamics of a conflict, often overlook opportunities to contain it, and sometimes inadvertently inflame it. They often seem to hope that mediation will magically provide a remedy. Though not a magic wand, we have found it helpful to pose the following questions to supervisors who come to us requesting mediation:

1. What is the conflict between these employees about?

2. What have you tried to do to help them resolve their differences?
3. How would you assess the percentage of responsibility each employee has for this conflict (e.g., 50-50, 90-10)?
4. What have you told these employees about how you have assessed their individual responsibility for the conflict?
5. Do the employees seem to see their responsibilities the same way you do?
6. Have either of these employees violated your expectations of appropriate workplace behavior while engaging in this conflict and, if so, what did you do about it?
7. (If applicable) Does the offending employee agree that her or his conduct has been inappropriate?
8. In your view, are these employees willing and able to: a) listen and understand the other person's perspective and b) consider changing some of their own behaviors if doing so would make a lasting difference in their working relationship?
9. If these employees found alternative methods to manage or resolve their conflict – without using mediation or the Ombuds Office – would that be acceptable to you?
10. What likely options do you see for managing this situation if mediation doesn't happen or doesn't work?

These questions offer a roadmap to help supervisors navigate through some of the challenges that accompany the task of managing employees and workplace conflict. Determining how much the supervisor knows about the conflict presents a useful starting point and also reveals information about how she or he has dealt – or not dealt – with the dispute. If it appears the supervisor knows little about what is really happening, has failed to communicate these perceptions, or failed to set appropriate limits, we have found it helpful to delay mediation until the supervisor has first addressed these issues. We have also found that, for many supervisors, just raising these questions can provide us with a rich opportunity to utilize conflict coaching to explore the obligations that accompany a management role and to identify supervisors' goals and options within a safe environment. Finally, discussing a few of these questions often naturally surfaces many of the other questions. This discussion can assist the supervisor in finding ways to approach immediate employee conflicts as well as effectively assess and manage future conflicts – with or without the Office of the Ombudsman or the use of mediation.