



Issue Resolution and Corrective Action

User's Guide and Toolkit

LABOR MANAGEMENT PARTNERSHIP (LMP)

COALITION OF KAISER PERMANENTE UNIONS AFL-CIO & KAISER PERMANENTE

No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, scanning or otherwise, without permission of Kaiser Permanente.

April, 2004

How to Use this Guide

**WHY THIS
GUIDE IS
IMPORTANT**

The guide provides policy and procedure guidance for consistent application of Issue Resolution and Corrective Action in accordance with the philosophy and intent of the procedure.

**WHY YOUR
ROLE IN THIS
PROCESS IS OF
GREAT VALUE**

Your role is to implement and utilize the Issue Resolution process to build a foundation for lasting change. Implementing the Issue Resolution process as outlined in this guide, enables you to proceed fairly, reasonably, and consistently, and in the best interest of everyone concerned.

**HOW THIS
GUIDE HELPS
YOU TO BEGIN**

This guide is divided into logical parts. It provides an overview of the Issue Resolution process and examples of completed Issue Resolution tracking forms used at the end of the process.

You can read this guide from cover-to-cover or use it as a reference document for acquiring specific information.

It is recommended that you browse through the Table of Contents to become familiar with the subjects covered in this guide.

(This page is intentionally left blank.)

TABLE OF CONTENTS

Part 1: Introduction	1
The Issue Resolution Implementation Team (IRIT)	1
Part 2: Issue Resolution System Overview – A Foundational Element of the Labor Management Partnership.....	3
The Partnership Equation.....	3
Philosophy.....	4
Policy.....	4
Issue Resolution	5
Definition:.....	5
Purpose:	5
Focus:	5
Goals:.....	6
The Issue Resolution Process:	7
Corrective Action.....	9
Definition:.....	9
Purpose:	9
Focus:	9
Goals:.....	9
The Problem-Solving Phases of Corrective Action:.....	10
The Formal Discipline Phase of Corrective Action:	10
Part 3: Issue Resolution Process.....	13
Why Try Issue Resolution?	13
How will you use it?.....	15
Different Approaches.....	17
Recommendations:	18
Implementation Models	21
Four Issue Resolution Models:.....	21
Essential Elements:	27
Training.....	29
Full Day Course Outline	30
Half Day Course Outline	31
Comparison of the Half Day vs. Full Day Program	32
90 Minute Course Outline	33

Guidance for Co-leads and Leadership.....	35
Identify Stakeholders:.....	35
Clarify Scope of Authority:.....	35
Clarify Decision-Making Rights:.....	35
Communicate Expectations of Leadership:.....	36
Select Participants:.....	36
Identify and Share Relevant Information:.....	37
Assess Training and Resource Needs:.....	37
Agree on a Timeline:.....	37
Attend to Logistical Matters:.....	37
Address Communication Needs:.....	37
Assist the Team:.....	38
Guidance for Facilitators.....	41
Resources.....	61
Forms:.....	62
Part 4: Corrective Action Process.....	65
Philosophy:.....	65
Process Overview.....	66
Guidelines for Participants.....	67
Identifying System Issues.....	68
System Issues Checklist:.....	68
Policy Guidelines for Consistent Application of Corrective Action.....	69
Resources.....	73
Forms:.....	78
Part 5: Troubleshooting.....	79
Part 6: Toolkit.....	81
Appendix A.....	85
Appendix B.....	87

Introduction

An effective Issue Resolution (IR) system is an essential foundation block in sustaining the Labor Management Partnership. The system developed by the Partnership has two components:

The Issue Resolution Process (IR)

This process provides a means for workplace problems to be raised and solved jointly.

The Corrective Action Process (CA):

This process provides a means for employee performance/behavior concerns to be addressed in a non-punitive manner.

While both IR and CA were formally implemented in the National Agreement effective April 1, 2002, the Corrective Action process experienced substantial implementation across the program while the Issue Resolution process did not see a similar degree of implementation.

The Issue Resolution Implementation Team (IRIT)

In the fall of 2002, the leadership of the Labor Management Partnership convened an **Issue Resolution Implementation Team (IRIT)** to address this implementation disparity and the evolving culture change challenges facing both Issue Resolution and Corrective Action. The IRIT charter reads:

1. **Develop a corps of internal experts** who fully understand the nuts and bolts of the procedures and who also have:
 - The interpersonal skills to coach/mentor others.
 - The problem-solving skills to facilitate or troubleshoot the resolution of difficult or delicate situations.
2. **Identify supportive infrastructure needs** and the alignment of institutional policies, practices, and procedures so as to reinforce the purposes of Issue Resolution and Corrective Action.
3. **Determine what is necessary** by way of consistent application in procedures across regions and how this degree of uniformity can be assured.

4. **Provide a feedback loop** for identifying what is working or not working, and a learning network for sharing best practices across regions.
5. **Make further policy recommendations** for Issue Resolution and Corrective Action as learnings accrue.
6. **Consider the necessity of appropriate metrics** for recording and tracking progress.

Current State Assessments:

The IRIT conducted current state assessments in 2003 to determine the degree of Issue Resolution and Corrective Action implementation in each region, as well as the challenges to effective application of the procedures.

Learning Laboratories:

IRIT then conducted regional Learning Laboratories in Issue Resolution to test different implementation models, explore barriers, identify training and facilitation resource issues as well as to obtain input about regional needs, at the work unit level, for effective implementation.

This guidebook is the culmination of the work of this team and its findings. It addresses both IR and CA processes. The focus on Issue Resolution provides the most current review of policy and procedure developments, solutions to implementation challenges, and innovative ways to apply Issue Resolution in the workplace.

There are considerable variations regarding the interpretation and application of Corrective Action. The guidebook provides policy and procedure guidance for consistent application across the program in accordance with the philosophy and intent of Corrective Action.

Issue Resolution System Overview – A Foundational Element of the Labor Management Partnership

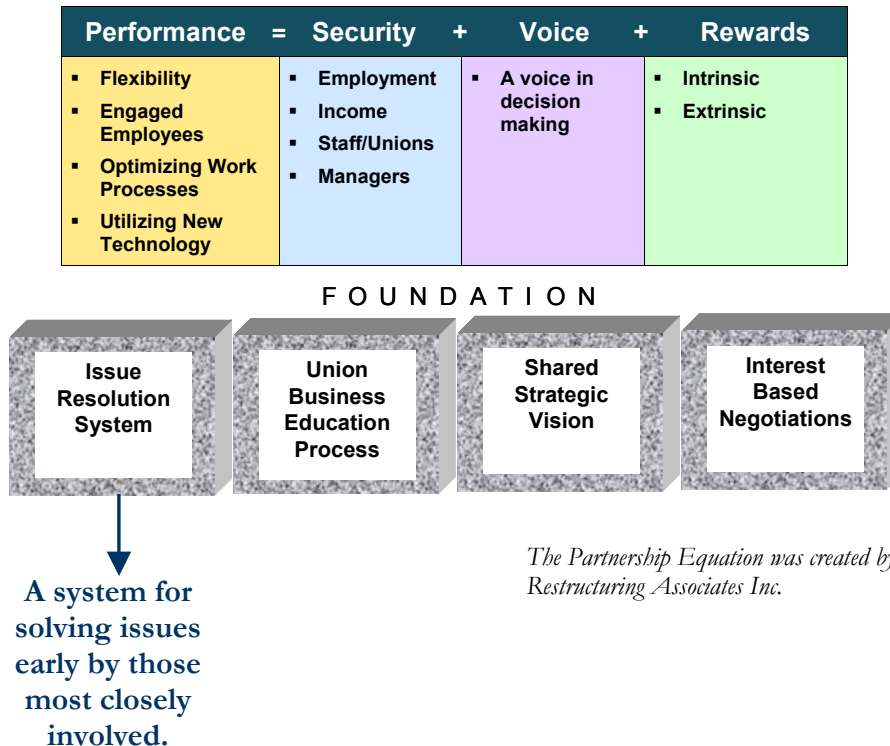
The Partnership Equation

The Partnership equation or model for a successful Partnership is illustrated below (See **Figure 1**). This model provides a unique way of looking at the critical elements, which need to be in place in order to have a successful Partnership and improve the performance of the organization.

There are two parts to this model. The **top half**, the **equation**, demonstrates the needs and concerns of two parties. The left side of the equation, “Performance,” represents the business needs. The right side of the equation, “Security, Voice, Rewards,” represents the employee’s needs. For a Partnership to be successful, both parties must gain something of equal importance and value.

The **bottom half**, the **foundation**, describes the processes that need to be in place to build a foundation for lasting change. One of those vital processes is the Issue Resolution System.

Figure 1: The Partnership Equation



Issue Resolution

Definition:

Issue Resolution (IR) is a process that allows the people of Kaiser Permanente and their union partners to embed the principles and goals of the Kaiser Permanente Labor Management Partnership (LMP) into the daily work within their units. This process provides a means for workplace problems to be raised and solved jointly.

Purpose:

Living the LMP philosophy and following its processes at the unit level will reduce the following:

- Conflicts
- Grievances
- External complaints
- Arbitration

IR creates a workplace climate that increases employee morale and commitment, resulting in maintaining or enhancing quality, improving productivity, and increasing patient and customer satisfaction. Creating strong and effective labor and management partners will strengthen the Partnership. It will free up resources on both sides to focus on the critical issues of today and tomorrow.

Focus:

Effective problem-solving starts first with respectful, open-minded informal discussion between the parties who have a stake in the problem. This is done before formal Issue Resolution is initiated. If the informal discussion fails to produce a mutually agreed upon resolution, the issue should be addressed through the formal Issue Resolution process, which sets the foundation for the following:

- Resolving issues in a prompt and cooperative fashion.
- Focusing on *what* is right, instead of *who* is right.
- Communicating in an open, timely, constructive and respectful fashion without fear of retaliation.
- Jointly owning issues and problems when and where they occur, through the utilization of an interest-based consensus-driven process.
- Honoring the national and local bargaining agreements.

Goals:

Issue Resolution (IR) is a procedure by which any employee, group of employees, supervisor, manager or physician may bring issues or concerns related to the workplace to the attention of a supervisor, manager or union steward. Those directly involved with the issue may quickly find a mutually satisfactory solution using interest-based problem-solving and consensus decision-making. The participants should be trained in Interest-Based Problem Solving (IBPS) and Consensus Decision-Making (CDM) and may be assisted by an individual or a pair of trained facilitators.

Issue Resolution is an alternative to the grievance procedure and the advantage is that it is *interest-based*, whereas the grievance process is *rights based*. A grievance depends on the relative rights and obligations of the parties, and ultimately yields a verdict on whether the contract was violated. It may *settle* the issue and not *solve* the problem. As such, a grievance may provide a one-time remedy, which leaves the underlying cause of the dispute unresolved. Issue Resolution, using the process of identifying separate and common interests, developing options, and crafting potential solutions, allows the participants to uncover the underlying source of issues and resolve them once and for all. In addition, the Issue Resolution process may be used to resolve many other workplace issues which don't qualify as grievances, as well as those issues which will result in grievances if not resolved.

Grievance Process	Issue Resolution Process
▪ <i>Rights</i> based	▪ <i>Interest</i> based
▪ Yields a verdict	▪ Develops options
▪ Settles the issue	▪ Uncovers the source of the issue
▪ One-time remedy	▪ Resolves the issue

The Issue Resolution Process:

The following are the steps of the Issue Resolution process.

- Define the issue clearly and succinctly
- Identify individual and mutual interests
- Generate possible options
- Agree on standards for evaluating options
- Select solution elements
- Develop and implement a comprehensive solution
- Establish a monitoring process

The intent of Issue Resolution is to solve system issues. If, during an Issue Resolution, an employee performance or behavior concern is identified, the parties will separate that concern out and address it at the joint discovery stage of the process.

(This page is intentionally left blank.)

Corrective Action

Definition:

Corrective Action (CA) is a method for resolving employee performance and/or behavior issues in a **non-punitive** fashion in a **safe environment**. It is a process in which an employee, supervisor and the union representative work together to identify the causes of problems and together craft a solution.

Purpose:

The purpose of this system is to improve individual and organizational performance.

Focus:

Corrective Action focuses on identifying and resolving all of the factors contributing to poor performance without assigning blame or threatening punishment.

Goals:

The goals of Corrective Action are to achieve the following:

- Resolve the issue, rather than punish the individual.
- Shift the responsibility for resolving the issue to the employee and treat employees as adults who are capable of understanding the requirements of the business, fulfilling their commitments and resolving issues.
- Change the role of the supervisor to that of a collaborating facilitator who assists the employee.
- Identify root causes and correct systemic or organizational factors that cause or contribute to performance problems.
- Produce commitment, rather than compliance.
- Focus on the problem, rather than the employee.
- Emphasize the future, not the past.
- Encourage supervisors to communicate *with* the employee instead of *at* her or him.
- Create a climate that is collaborative, not authoritative.

.
.
The Problem-Solving Phases of Corrective Action:

. If the analysis of an issue through the joint discovery process of the Issue
. Resolution (IR) and Corrective Action (CA) system reveals elements of
. individual performance or behavior, discussion should be initiated at **Level 1**
. of the Corrective Action process. (See **Figure 2** on the next page for a diagram of
. the Issue Resolution process including where Levels 1-5 occur.)
. .

. If an issue involves both performance or behavior issues and systems or
. other organizational issues, it may be processed through **Level 1 & 2** of the
. Corrective Action procedure, which are not disciplinary in nature.
. .

. **Level 1 & 2** are the **Problem-Solving** phases of Corrective Action. The
. focus is on solving the problems and not blaming the people. Utilizing this
. problem-solving method, involving the same skill sets used in Issue
. Resolution, leads to performance improvement. In the **Summary** portion of
. the meeting at **Level 1**, or the **Developmental Action Plan** at **Level 2**, one
. would address all of the elements, both systemic and behavioral, of the
. proposed solution.
. .

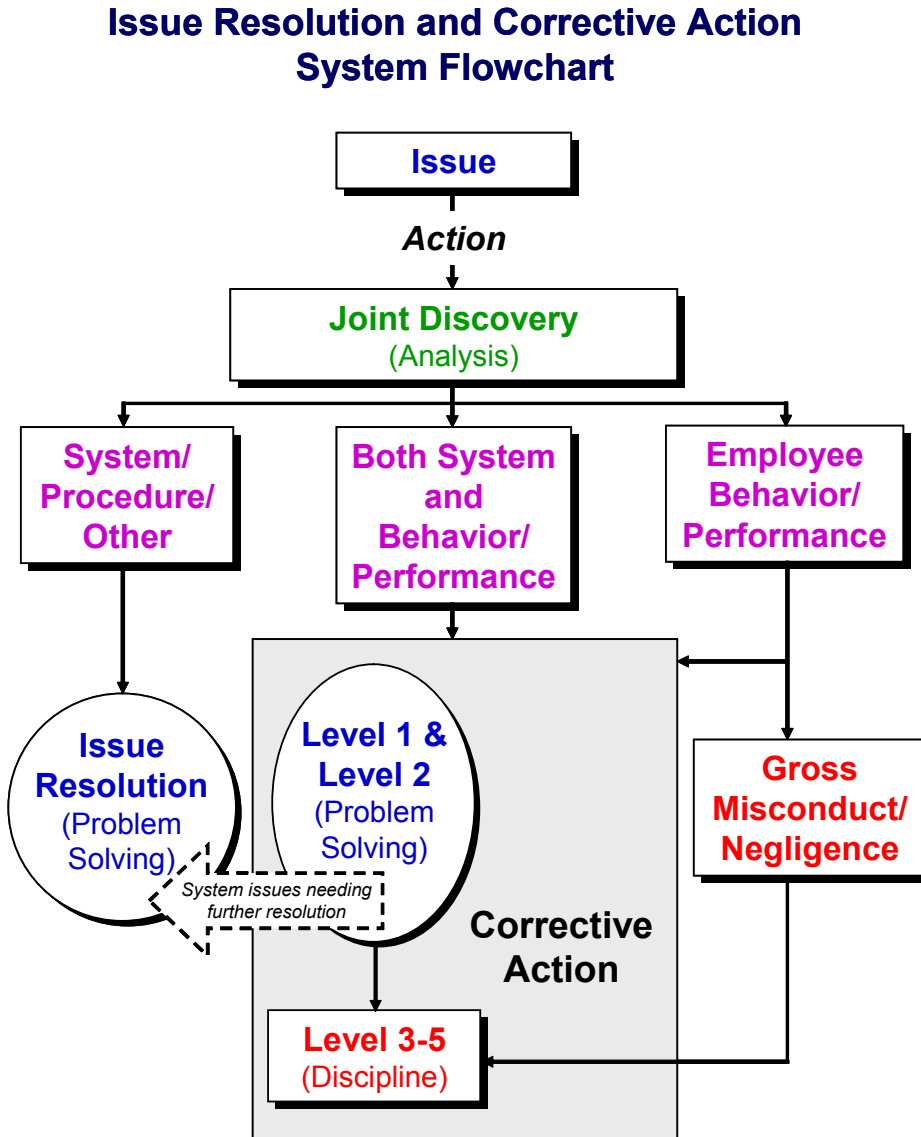
. If the systems or organizational issues involve other stakeholders, it may be
. appropriate to separate them to an Issue Resolution process, while dealing
. with the performance issues in the Corrective Action process. The process is
. designed with the expectation that most performance or behavior issues will
. be resolved at **Levels 1** or **2** through open and honest dialog, mutual respect,
. and mutual assistance.
. .

. **The Formal Discipline Phase of Corrective Action:**

. Performance and behavior issues which are not resolved in **Levels 1** and **2**,
. or incidences of gross negligence or misconduct, are moved into the second,
. or **Discipline** phase of the procedure. **Level 3** of the Corrective Action
. procedure is the first step in the formal disciplinary process. Although non-
. punitive in nature, this process can ultimately lead to termination. The
. employee must therefore be notified of this fact.
. .
. .
. .
. .
. .
. .

The following diagram illustrates the application of the Issue Resolution and Corrective Action System:

Figure 2: Issue Resolution and Corrective Action System Flowchart



(This page is intentionally left blank.)

Issue Resolution

Why Try Issue Resolution?

The essence of the Partnership is for Kaiser Permanente union members and supervisors to:

- Learn new ways of working together in order to seek and understand each other's interests
- Share information and decision-making
- Make Kaiser Permanente the best place to work and the best place for patients to receive care

Solving problems jointly, recognizing the interests and expertise of both union employees and supervisors, can increase job satisfaction and help make Kaiser Permanente a high-performing organization to better serve our members.

It is not at all uncommon for work units to face business challenges and problems. At times, solving these concerns can seem hard or even impossible. Using Issue Resolution, we can more effectively resolve these challenges and issues in order to achieve top performance of individuals as well as departments.

Issue Resolution can be used in a wide range of situations. It has been used successfully to jointly resolve staffing issues, such as vacation, holiday scheduling and short staffing. It has been used to redesign the location of equipment and materials, and the flow of people, paper and information. It has also been used to reduce backlog and improve turn-around time.

(This page is intentionally left blank.)

How will you use it?

What Issue Resolution Is and Is Not:

- Issue Resolution is a way for people directly involved with an issue to address and resolve the issue using the LMP tools of Interest-Based Problem Solving and Consensus Decision-Making.
- The IR process is open to LMP bargaining unit members, supervisors, physicians, union representatives, managers and union and management leaders.
- IR is an alternative to, not a replacement for, the grievance procedure.
- IR is not meant to deal with issues related to individual job performance or behavior.
- IR is not used to try to alter or amend the union contract.

How it Works:

Issue Resolution is intended to be simple, quick and effective. The following are its core elements:

- Those with an interest in the issue or the outcome (stakeholders) are involved in the process, directly or indirectly.
- An interest-based process is used to find a solution to the issue.
- Decisions are made by consensus.
- Decisions are not precedent setting.

Voluntary Process:

While all partnership bargaining unit employees are encouraged to use Issue Resolution to resolve issues or concerns they may, at their discretion, opt out of the Issue Resolution process and enter the established grievance procedure. Time limits for grievance purposes will commence upon exiting the Issue Resolution procedure.

In most cases, the work unit steward and supervisor will jointly lead the Issue Resolution process. Work units without a steward should secure the participation of a steward from another unit or of a union staff member. As co-leads, the supervisor and steward are responsible to:

- Ensure that the individual(s) who brings the issue forward are actively involved in the search for a solution.
- Identify individuals who have an interest in the issue or its outcome and involve them in the process as appropriate, either directly or indirectly.
- Identify individuals who will participate directly in the process.
- Assess the readiness of the participant group to address the issue and attend to training and facilitation needs.
- Secure support from labor and management leadership, if needed.
- Attend to scheduling and logistical matters.

In some cases, labor and management leadership may jointly initiate and sponsor an Issue Resolution process. These leaders are jointly responsible to:

- Define the issue
- Identify co-leads
- Agree on the scope, objectives and timeline for Issue Resolution
- Define the decision making rights of Issue Resolution participants

If the initial attempt at Issue Resolution is not successful, the issue may be submitted to the next level in the labor management partnership structure.

- Designated representatives at the appeal level will review the issue and attempt to reach consensus on resolution.
- If resolution is not achieved, the matter may be submitted to the regional labor and management leadership.

Different Approaches

Issue Resolution has the best chance of succeeding if:

- Stakeholders are engaged in the process (either directly or indirectly)
- All participants understand the principles of IBPS/CDM
- The parties actively use the interest-based approach and make decisions by consensus

There are many possible approaches to Issue Resolution that incorporate these success factors. Four approaches that have been used in Issue Resolution Learning Labs are described below. These approaches differ in terms of the following:

- The training given to participants prior to addressing the issue.
- How stakeholders are engaged.
- The degree or extent of facilitator involvement and the skill level of the facilitator.
- The extent to which the interest based approach is modified, relative to the standard model, through the use of process shortcuts and adaptations.

Depending on the IR team's needs, resources, and experience, one approach may be more successful than another.

The approach to training, stakeholder engagement and facilitation, and the process adaptation that is appropriate in a given situation is generally determined by the following:

- Participant knowledge of IBPS/CDM.
- Participant experience using IBPS/CDM.
- The complexity, importance or urgency of the issue.
- The state of the relationships among the stakeholders.
- The number of stakeholders.

Recommendations:

Training:

- In general, the principles of IBPS/CDM are not difficult to understand, but inexperienced groups often have difficulty applying the principles and consistently following the process.
- Participants need a solid understanding of the principles and application of IBPS/CDM before they begin substantive work on an issue.
 - Groups that are not adequately prepared have a high risk of failure.
- The training programs developed by the Office of Labor Management Partnership (OLMP) are the recommended means of preparing groups for Issue Resolution. (*See pages 29-34 of this manual for curricula.*)
- The full eight-hour IBPS/CDM training is strongly recommended for inexperienced groups.
 - If abbreviated training is being considered for other than very experienced groups, it is strongly recommended an expert facilitator be used.
- Groups with some experience will benefit from refresher training if their experience is not extensive or recent.
- It is also strongly recommended that participants have completed the Partnership Orientation developed by the OLMP.

Process:

- Inexperienced groups are more likely to learn the process and successfully resolve the issue if they follow the standard Four-Step Interest Based Problem-Solving Model that is covered in the OLMP training.
- As groups gain experience, they should be encouraged to refine the process to best suit their needs and the issue at hand.
 - Very experienced groups may *internalize* the interest-based approach and apply it routinely and informally as part of the way they work together.

Facilitation:

Inexperienced groups will benefit from the guidance of a facilitator who is well-grounded in the principles of IBPS/CDM and the application of IBPS/CDM to the Issue Resolution process.

Experienced groups may be able to self-facilitate in many instances. However, the assistance of an experienced facilitator from outside the stakeholder group is recommended whenever the issue is complex or urgent, or when stakeholder/group relationships are strained.

Facilitators who are relatively inexperienced with IBPS/CDM will benefit from having ready access to an experienced facilitator during the process for consultation. This is encouraged when a location needs to build its facilitator capacity.

Stakeholder Engagement:

It may not be feasible for all stakeholders (those who have an interest in the issue or those whose buy in is needed) to participate directly throughout the Issue Resolution process because of the size of the stakeholder group, staffing requirements, or scheduling issues. There are a variety of approaches for involving non-participating stakeholders. In terms of the degree of involvement, they range from the following:

- Communicating with the non-participating stakeholders during the process to keep them abreast of progress and developments, and reporting the outcome at the completion of the Issue Resolution process.
- Involving them indirectly in some or all of the process steps (e.g., the identification of interests, the development of options and testing the solution for consensus).

The appropriate extent of non-participating stakeholder involvement depends in part on the state of relationships in the stakeholder groups and the nature of the issue.

- If relationships are burdened by a lack of trust between or within stakeholder groups, an effort should be made to involve stakeholders to the greatest extent feasible.
 - This might include gathering their input regarding interests and options and requiring their consensus on a solution.
 - At a minimum, it is advisable to communicate with them on matters of substance throughout the process.
- If the issue is urgent or complex, the involvement of non-participant stakeholders should be minimized to the extent that is permitted by the state of stakeholder relationships in order to allow the participant group to focus on the issue.

Four approaches to, or models of, Issue Resolution that are appropriate for different situations have been piloted. The national **Issue Resolution Implementation Team (IRIT)** recommends that you consider choosing from these four Issue Resolution Models.

Implementation Models

Four Issue Resolution Models:

Four Issue Resolution Models that are appropriate for different situations have been piloted in learning labs. They are:

Model 1	Appropriate for groups with little or no experience using IBPS/CDM to resolve issues.
----------------	---

Model 2	Appropriate for groups with experience using IBPS/CDM to resolve issues.
----------------	--

Model 3	Appropriate for large groups with or without IBPS/CDM experience.
----------------	---

Model 4	Appropriate for groups addressing “urgent” or “very important” issues.
----------------	--

A description of each of these Models begins on the next page.

Model 1

Overview	<ul style="list-style-type: none"> ▪ Appropriate for groups with little or no prior experience with Issue Resolution. ▪ <i>Full</i> training and outside facilitation are recommended.
Training	<ul style="list-style-type: none"> ▪ Participants who have no prior Issue Resolution experience using IBPS/CDM should receive the full eight-hour IR/IBPS/CDM training module before beginning substantive work on the issue. ▪ If some of the participants have completed the training, it is not necessary that they repeat it; however, there is value in training all participants as a group if it is practical to do so. <ul style="list-style-type: none"> – If participants are not trained as a group, <i>abbreviated</i> training for the participant group, immediately prior to the beginning of substantive work on the issue, is recommended. ▪ Training as a group gives participants an opportunity to discuss the key concepts that will be used in Issue Resolution in a non-threatening environment. ▪ There is value in completing the training in a single, full-day session. ▪ There is value in providing the training within a week or so before the beginning of substantive work on the issue. (If the training is conducted earlier, <i>abbreviated</i> training is recommended as a refresher.)
Process	<ul style="list-style-type: none"> ▪ The process should adhere closely to the Four-Step IBPS Model that is covered in the training. ▪ Meetings are to be scheduled in time blocks of at least four hours. Shorter meeting times tend to fragment the process and make it more difficult for inexperienced groups to learn and apply the IPBS methodology.
Stakeholder Involvement	<ul style="list-style-type: none"> ▪ All stakeholders should participate directly throughout the process. ▪ If all stakeholders cannot participate directly, consider using Model 3 (the <i>large group</i> model).
Facilitation	<ul style="list-style-type: none"> ▪ The facilitator who is well grounded in the Issue Resolution process and the principles and practice of IBPS/CDM should be used throughout the process. ▪ A more skilled and experienced facilitator should be used if: <ul style="list-style-type: none"> – The issue is challenging – Relationships are strained – The number of participants exceeds 6-8

Model 2	
Overview	<ul style="list-style-type: none"> ▪ Appropriate for groups with Issue Resolution experience. ▪ <i>Abbreviated</i> training is recommended. ▪ The group may <i>self-facilitate</i> and use process <i>shortcuts</i> if appropriate.
Training	<ul style="list-style-type: none"> ▪ If participants have experience with Issue Resolution, training in IPBS/CDM may not be needed. However, if the experience of participants is not recent or extensive, the group will benefit from abbreviated training before beginning substantive work on the issue. ▪ <i>Abbreviated</i> training may be either the four-hour or the 90-minute approach, depending on the needs of the group.
Process	<ul style="list-style-type: none"> ▪ The process should generally follow the Four-Step, IBPS Model, but as groups gain experience with Issue Resolution, the process should become more fluid and move faster. ▪ Experienced groups should not be discouraged from using <i>process shortcuts</i> that are appropriate to the situation and consistent with the principles of IBPS. For example: <ul style="list-style-type: none"> – Using key interests in place of <i>standards</i>. – Recording options as they are surfaced during the process, rather than <i>holding</i> them until the option generation step. ▪ Experienced groups may be able to work effectively in meeting time blocks of one to two hours.
Stakeholder Involvement	<ul style="list-style-type: none"> ▪ All stakeholders should participate directly throughout the process. ▪ If all stakeholders cannot participate directly, consider using Model 3 (the <i>large group</i> model)
Facilitation	<ul style="list-style-type: none"> ▪ Experienced groups may be able to <i>self-facilitate</i> by designating one or two participants who will be responsible for keeping the group on process. <ul style="list-style-type: none"> – It is essential that the co-lead facilitators have completed Union Partnership Representative (UPR) and Managing in a Partnership Environment (MPE) training. ▪ If the issue is challenging, relationships are strained, or the number of participants exceeds 6-8, experienced groups will benefit from the help of a facilitator from outside the participant and stakeholder groups who has the appropriate level of skill and experience.

Model 3	
Overview	<ul style="list-style-type: none"> ▪ Appropriate for groups that cannot directly involve all stakeholders because of the size of the stakeholder group, staffing requirements or scheduling issues. ▪ Training and facilitation recommendations depend on the experience of the group members, and the complexity of the issue.
Training	<ul style="list-style-type: none"> ▪ Core group participants who have no prior Issue Resolution experience using IBPS/CDM should receive the eight-hour IR/IBPS/CDM training module before beginning substantive work on the issue. ▪ If core group participants have experience with Issue Resolution, training in IPBS/CDM may not be needed. However, if the experience of core group participants is not recent or extensive, the group will benefit from <i>abbreviated</i> training before beginning substantive work on the issue. ▪ Stakeholders who are not part of the core group should be familiar with IBPS/CDM principles and process before beginning substantive work on the issue. This may be accomplished by providing the full day or the <i>abbreviated</i> training, as appropriate, given the needs of the group members and the situation.
Process	<ul style="list-style-type: none"> ▪ The process should generally follow the Four-Step IBPS Model, but experienced groups should not be discouraged from using process shortcuts that are appropriate to the situation and consistent with the principles of IBPS. ▪ Groups with limited experience should meet in blocks of four or more hours. Experienced groups may be able to work effectively in meeting time blocks of 1-2 hours. ▪ The core group should be explicitly charged with the responsibility of developing, implementing and assessing the effectiveness of a plan to engage non-participating stakeholders and/or to communicate with them.
Stakeholder Involvement	<ul style="list-style-type: none"> ▪ If all stakeholders cannot be directly involved in the Issue Resolution process because of the size of the stakeholder group, work requirements, or scheduling issues – implement the following: <ul style="list-style-type: none"> – A core group of 6-8 participants that is representative of stakeholder constituencies participates throughout the Issue Resolution process. – The core group communicates with non-participant stakeholders throughout the process to obtain their input and/or to inform them of developments.

Model 3 (cont.)

Facilitation

- Experienced groups may be able to *self-facilitate* by designating one or two participants who will be responsible for keeping the group on process and ensuring the engagement of non-participating stakeholders.
- If the issue is challenging, relationships are strained, or the experience of the core or non-participating stakeholder group is limited, a facilitator from outside the participant and stakeholder group who has the appropriate level of skill and experience should be used.

Model 4

Overview	<ul style="list-style-type: none"> ▪ Appropriate for high priority, urgent issues. ▪ Abbreviated <i>just- in-time</i> training is provided and reinforced during the process. ▪ Requires an expert facilitator.
Training	<ul style="list-style-type: none"> ▪ Participants receive either the four-hour or the 90-minute abbreviated IBPS/CDM training prior to beginning substantive work on the issue. ▪ Training is supplemented and reinforced by the facilitator, as needed, during the Issue Resolution process.
Process	<ul style="list-style-type: none"> ▪ The process is consistent with the principles of IBPS/CDM, but may not follow the Four-Step Model ▪ The facilitator adapts the process to the needs of the group.
Stakeholder Involvement	<ul style="list-style-type: none"> ▪ Stakeholders are engaged directly or indirectly, as appropriate.
Facilitation	<ul style="list-style-type: none"> ▪ Requires an expert facilitator (with extensive experience in Issue Resolution using IBPS/CDM), who will adapt and drive the process based on his/her assessment of the needs of the group.

Essential Elements:

The **essential elements** of Issue Resolution that need to be utilized regardless of which Model is selected are:

- Involving stakeholders in the process (either directly or indirectly)
- Obtaining agreement among the participants on the issue statement
- Identifying and discussing interests
- Developing options
- Using Consensus Decision-Making

Using Issue Resolution to alter or amend the union contract is *not acceptable*.

(This page is intentionally left blank.)

Training

Dimensions or Elements of Training to be Assessed:

With an appropriate trainer/facilitator, IR team members will receive any necessary training (IBPS/CDM, etc.) prior to participating in the process and addressing the issue.

Facilitation Workshop

Relevant training programs include:

- LMP Orientation
- Interest-Based Problem Solving (IPBS)
- Consensus Decision-Making (CDM)
- Issue Resolution
- Union Partnership Representative (UPR)
- Managing in a Partnership Environment (MPE)
- Root Learning Maps
 - The Office of Labor Management Partnership has created, piloted and finalized a three-day training program covering basic process facilitation.
 - The curriculum will enhance our ability to facilitate a greater number of issue resolutions, thereby increasing exposure and implementation of the problem-solving process for Kaiser Permanente workgroups.

Full Day Course Outline

Issue Resolution	
<ul style="list-style-type: none"> ▪ Foundation for the Partnership Equation ▪ IR Definition ▪ What is IR? ▪ What causes conflict? 	<ul style="list-style-type: none"> ▪ Ways to Manage Conflict ▪ IR and the Grievance Process ▪ Components of IR ▪ Benefits and Barriers to IR
Consensus Based Decision-Making	
<ul style="list-style-type: none"> ▪ Definition of Consensus ▪ Understanding the Definition ▪ Spirit of Consensus ▪ Test for Consensus ▪ Consensus Guidelines ▪ Standouts 	<ul style="list-style-type: none"> ▪ Exercise: “Lost at Sea” or “What Do People Really Want” ▪ Behaviors Supporting Consensus ▪ When You Cannot Reach Consensus Discussion ▪ Summary and Conclusion
Interest-Based Problem-solving	
<ul style="list-style-type: none"> ▪ Discussion where IBPS originated ▪ Problem-Solving Cycle <ul style="list-style-type: none"> – Planning – Solution – Implementation – Evaluation ▪ Planning Phase definition and discussion ▪ Application of IBPS discussion ▪ Three problem-solving models and their application <ul style="list-style-type: none"> – Investigator – Diagnostic – Interest-Based ▪ Define IBPS ▪ Introduce the Four Steps of IBPS 	<p>Step 2 – Determine Interests</p> <ul style="list-style-type: none"> ▪ Define Position vs. Interests ▪ Why Determine Interests? ▪ Discussion and exercise about Needs, Qualities and Concerns (helps to clarify definition of interests) ▪ Exercise: “Position vs. Interest” ▪ How to Determine Interests ▪ Guidelines for common interests <p>Step 3 – Develop Options</p> <ul style="list-style-type: none"> ▪ Why Develop Options? ▪ How to Develop Options ▪ Four Methods Discussed <ul style="list-style-type: none"> – Brainstorming – Best Practice – Expert Panel – Straw Design <p>Step 4 – Select a Solution</p> <ul style="list-style-type: none"> ▪ Why Select a Solution? ▪ How to Reach a Solution <ul style="list-style-type: none"> – Screen Options – Shorten the List – Develop Standards – Reaching a Solution ▪ Program Summary: Consensus ▪ Program Summary: Four Steps of IBPS ▪ Simulation
<p>Step 1 – Define the Problem</p> <ul style="list-style-type: none"> ▪ Why and How to Define the Problem ▪ Exercise to practice proper format of IBPS question ▪ Explain and conduct an exercise to identify the Subject, Issue, and Write a Question in the IBPS format 	

Half Day Course Outline

Issue Resolution (Abbreviated)	
<ul style="list-style-type: none"> ▪ Foundation for the Partnership Equation ▪ What is IR? ▪ What causes conflict? 	<ul style="list-style-type: none"> ▪ IR and the Grievance Process ▪ Components of IR ▪ Benefits and Barriers to IR
Consensus Based Decision-Making (Abbreviated)	
<ul style="list-style-type: none"> ▪ Test of Consensus ▪ Definition of Consensus ▪ Consensus Guidelines 	<ul style="list-style-type: none"> ▪ Standouts ▪ Exercise: “Lost at Sea” or “What Do People Really Want”
Interest-Based Problem Solving (Abbreviated)	
<ul style="list-style-type: none"> ▪ Define IBPS ▪ Problem-Solving Cycle <ul style="list-style-type: none"> – Planning – Solution – Implementation – Evaluation ▪ Introduce the Four Steps of IBPS <p>Step 1 – Define the Problem</p> <ul style="list-style-type: none"> ▪ Explain and conduct an exercise to identify the Subject, Issue, and Write a Question in the IBPS format <p>Step 2 – Determine Interests</p> <ul style="list-style-type: none"> ▪ Define Position vs. Interests ▪ Exercise: “Position vs. Interest” ▪ Guidelines for common interests 	<p>Step 3 – Develop Options</p> <ul style="list-style-type: none"> ▪ Why Develop Options? ▪ Explain the Four Methods <p>Step 4 – Select a Solution</p> <ul style="list-style-type: none"> ▪ Why Select a Solution? ▪ Cover process to select a solution ▪ Review ▪ Test for Consensus ▪ Four Steps of IBPS ▪ Simulation

Comparison of the Half Day vs. Full Day Program

In the *Issue Resolution* section the following information is not covered:

- Issue Resolution Definition
- Ways to Manage Conflict

In the *Consensus Decision-Making* section the following information is not covered:

- Understanding the Definition
- Spirit of Consensus
- Behaviors Supporting Consensus
- When you cannot reach Consensus discussion

In the *Interest-Based Problem Solving* section the following information is not covered:

- Discussion where IBPS originated
- Planning Phase definition and discussion
- Application of IBPS discussion
- Three problem-solving models and their application:
 - Investigator
 - Diagnostic
 - Interest-Based
- **STEP 1**
 - Exercise to practice proper format of IBPS question
- **STEP 2**
 - Discussion and exercise about Needs, Qualities and Concerns (helps to clarify definition of interests)
- **STEP 4**
 - In-depth explanation of steps to selecting a solution
 - How to use Sticker Option to shorten the list
 - How to develop Standards
 - How to use the Standards Testing Grid
 - How to Select a Final Solution

90 Minute Course Outline

Issue Resolution (About 30 Minutes)	
<ul style="list-style-type: none"> ▪ Foundation for the Partnership Equation ▪ What is IR? ▪ What causes conflict? 	<ul style="list-style-type: none"> ▪ IR and the Grievance Process ▪ Components of IR ▪ Benefits and Barriers to IR
Consensus Based Decision-Making (About 30 minutes)	
<ul style="list-style-type: none"> ▪ Test for Consensus ▪ Definition of Consensus ▪ Consensus Guidelines 	<ul style="list-style-type: none"> ▪ Standouts ▪ Exercise: “Lost at Sea” or “What Do People Really Want” <i>(Optional, depending on available time)</i>
Interest-Based Problem-solving (About 30 minutes)	
<ul style="list-style-type: none"> ▪ Define IBPS ▪ Problem-Solving Cycle (Planning, Solution, Implementation, Evaluation) ▪ Introduce the Four Steps of IBPS <p>Step 1 - Define the Problem</p> <ul style="list-style-type: none"> – Explain and conduct an exercise to identify the Subject, Issue, and to Write a Question in the IBPS format <i>(Facilitator takes the group through the first step of writing their question about the group’s issue)</i> <p>Step 2 – Determine Interests</p> <ul style="list-style-type: none"> – Define Position vs. Interests – Exercise: “Determine Interests” – Guidelines for Common Interests <i>(Facilitator takes the group through determining separate interests and agreement on common interests about the group’s issue)</i> 	<p>Step 3 – Develop Options</p> <ul style="list-style-type: none"> – Why Develop Options? – Explain the Four Methods <i>(Facilitator helps the group determine which method or methods will work best for their issue and takes them through using the group-determined method)</i> <p>Step 4 – Select a Solution</p> <ul style="list-style-type: none"> – Why Select a Solution? – Cover process to select a solution <i>(Facilitator takes the group through the activities related to selecting a solution and helps the group come to consensus on a solution)</i>

Guidance for Co-leads and Leadership

Identify Stakeholders:

Co-leads must identify stakeholders (those who have an interest in the issue or whose buy in is needed) and determine the extent to which they will be involved in the process.

Clarify Scope of Authority:

Co-leads need to determine if the Issue Resolution team can address the issue. In general, the issue may not be within the scope of Issue Resolution if:

- Resolution of the issue would change or violate the terms of the National Agreement or the local agreement
- Key stakeholders are not involved
- The issue is directly related to an individual or individuals job performance

Clarify Decision-Making Rights:

Co-leads need to be clear on the decision-making rights of the Issue Resolution team.

- Is the team empowered to make a final decision based on consensus of team members or is the team expected to present a recommendation that it has agreed to by consensus?

If the team is empowered to make a recommendation, the approval process should be clearly defined and should address the following questions:

- Who are the decision makers?
- How will the recommendations be communicated to the decision makers, and by whom?
- What are the criteria that will be used to determine if the recommendations will be approved?
- When and by what means will the decision makers advise the team of their decision?
- What will happen if the team fails to reach consensus?

Communicate Expectations of Leadership:

In some cases, labor and management leaders may set the expectations for the Issue Resolution process. If so, the leaders should meet with the team to explain the objectives and answer questions. This meeting should occur before the team begins substantive work on the issue. If a face-to-face meeting is not possible, leadership should do the following:

- Provide a written description of the expectations.
- Invite the group to ask clarifying questions, request elaboration, express concerns, and identify resource needs.
- Provide a timely response to questions.

Select Participants:

Labor and management leadership or the co-leads should jointly determine the number of participants for each Issue Resolution team. In general, the number of participants is limited to the minimum that is required to ensure that the group includes the following:

- Representatives of key stakeholder groups
- Support specialists if needed, or access to them (e.g., Finance, IT, Operations)
- Team members who have the authority or influence to help the group reach a decision, such as key management, physician or union leaders

The number of labor and management representatives should be approximately equal.

Generally, the designated representatives of labor and management select the participants that will represent them, and the consent of the other side is not invited or required. It may be helpful however for representatives to consult with each other regarding choice of participants before participants are selected.

Labor and management representatives should jointly determine the functional specialties, work locations and other relevant criteria to be considered when choosing participants. Issue Resolution has the best chance of success if participants:

- Have good communication and problem-solving skills
- Are able to work effectively as members of a team
- Are open to change

Identify and Share Relevant Information:

Co-leads identify information and data that is needed by the team to address the issue. Co-leads openly share with each other any information they have regarding the issue, including barriers that might hinder successful resolution.

Assess Training and Resource Needs:

Co-leads assess the readiness of the team to engage in Issue Resolution and arrange for necessary training, facilitation and other support.

Agree on a Timeline:

Co-leads establish timelines for the Issue Resolution process, being mindful that the intent is to bring timely solutions to workplace issues and concerns.

Attend to Logistical Matters:

Co-leads attend to the following:

- Secure a meeting location for the session, including breakout room(s), if needed.
- Obtain necessary equipment and supplies.
 - Flipchart pads and stands, markers, tape
 - Overhead projector and screen (if needed)
 - Access to copy machine
- Schedule and procure meals, coffee and drinks as needed.

Address Communication Needs:

Co-leads or labor management leadership communicate with participants in advance of the Issue Resolution session regarding:

- The issue that is being addressed.
- The key features of the process that will be used.
- The anticipated dates for beginning and ending the process and the anticipated meeting times/duration.

Co-leads or labor management leadership advise stakeholders of the following information during and after Issue Resolution:

- During the Issue Resolution process, the Issue Resolution team makes decisions about communication to stakeholders.
 - Co-leads ask the group at appropriate intervals during the process if there is a need to communicate.
- Jointly authored communications are encouraged, but not required.
 - Under some circumstances, it may be more appropriate for the parties to communicate directly with their stakeholder group.
 - In such cases however, the communicating party is encouraged to share a draft of their communication with the other party and invite their input.
- Co-leads ensure that stakeholders receive timely and substantive information about the outcome of the Issue Resolution process when completed.

If the team is unable to resolve the issue and it is referred to others for resolution, co-leads prepare a brief summary of the process including the interests developed by the team and an analysis of the reasons the team was unable to resolve the issue.

Assist the Team:

Establish Process Ground Rules

Each Issue Resolution team has the authority to develop its own ground rules (i.e., the expectations that they have of each other during the process). Co-leads may be able to help the group develop meaningful ground rules by making suggestions drawn from the following list:

- Focus on the issue, not personalities.
- Share information openly.
- Work to meet others interests.
- Be open to new ideas.
- Use consensus to make decisions.
- Everyone is an equal participant.
- Everyone is expected to participate fully.
- Caucuses may be used as needed.

Develop an Effective Communication Plan

In some cases, effective communication with non-participating stakeholders may be crucial to the success of Issue Resolution. Co-leads help the team develop a communication plan that is appropriate to the circumstances and to communicate as needed. The components of an effective communications plan are outlined below:

- Identify target audiences.
- Determine the points to be covered before and during the process.
- Identify and select communication methods, such as meetings, email, written bulletins.
- Determine the timeframe and the frequency for communication.
- Assign responsibility for carrying out the plan.

Create an implementation plan with targeted dates for completion.

Ensure that meeting summary notes and action items are distributed to all team members in a timely manner.

*Note: A **Planning Worksheet**, which outlines the matters to be considered prior to conducting an **Issue Resolution meeting**, is located in the **Toolkit** section of this manual.*

(This page is intentionally left blank.)

Guidance for Facilitators

Introduction:

Facilitators to whom these suggestions are offered should have attended the LMP Facilitation Skills workshop, or comparable training, and should have some experience in facilitating LMP Interest-Based Problem Solving. These suggestions are not meant to be a substitute for training. These suggestions are based on the following assumptions regarding the role of the facilitator in an interest-based process:

1. Help the group use the LMP Interest-Based Problem Solving Process.
2. Encourage full and balanced participation by all group members
3. Ask questions, when necessary, to test assumptions and discover root causes
4. Record ideas, decisions and actions on flipcharts
5. Clarify key points and summarize discussions
6. Test for consensus

These suggestions may not be appropriate in all situations.

General Suggestions:

Pre-meeting Checks

- 1) Interview the co-leads or sponsors prior to the meeting. You may want to discuss some or all of the following:
 - a) The nature of the issue and their views regarding it's complexity, importance and urgency
 - b) The role of the issue resolution group (In some cases, the role of the group will be to reach a consensus agreement on how to address the problem and to implement the agreement. In other cases, the role of the group will be to reach a consensus agreement to recommend one or more alternative ways to address the problem; the final decision and implementation will be left to others. Co-leads or sponsors must be prepared to clarify the role of the group before substantive work on the issue begins)
 - c) Previous attempts to resolve the issue: who was involved, what were the outcomes
 - d) The number of people who will participate in the issue resolution group and the affiliation of each (union, management, physician) group member
 - e) The state of the relationships among group members

- f) Group “readiness” (training in IBPS, experience with IBPS); will training be needed, how will it be provided
 - g) Expectations regarding meeting time and completion
 - h) Information and data needs and how it will be provided
 - i) The need for a break out room for caucuses
 - j) Arrangements for food or refreshments to be provided; identifying who is making the arrangements
 - k) Your needs, in terms of supplies, equipment and room set up (see below)
- 2) Provide a list of your needs to the meeting planner:
- a) Flipchart stand (two if possible) with chartpads
 - b) A supply of dark colored markers (blue, black, green, red). It’s a good idea to bring your own, just in case.
 - c) A roll of masking tape (to post the flipchart pages on the wall)
 - d) Room set up (U-shaped tables usually work best for a large group)

Meeting Preliminaries

- 1) Before the Meeting
- a) Plan to arrive early on the day of the meeting to meet group members as they arrive
- 2) Introductions
- a) Briefly describe your role
 - b) Ask others to briefly introduce themselves
 - c) Introduction of group members will not be needed if everyone knows each other, but check to be sure
- 3) Review logistics and schedule
- a) Will meals/refreshments be provided
 - b) Preferences regarding break and lunch times
 - c) Location of restrooms and phones
 - d) Meeting schedule – check for conflicts and revise if necessary

- 4) Agenda
 - a) Review the meeting agenda and make changes as needed to get agreement
 - b) A typical issue resolution meeting agenda contains the following elements:
 - i) Agree on meeting ground rules
 - ii) Agree on the issue
 - o Review information/data (or, determine information/data needed and how it will be provided)
 - iii) Discuss and understand interests
 - iv) Develop options
 - v) Agree on the solution
 - vi) Plan implementation
 - vii) Wrap-up

Ground Rules

- 1) Group members should be encouraged to develop ground rules for how they wish to conduct themselves.
- 2) It may be helpful to offer a few ground rules that reinforce the behaviors that are needed for successful interest based problem solving:
 - a) Focus on the problem, not the people
 - b) Share all relevant information
 - c) Work to meet each others interests
 - d) Be open to new ideas
 - e) Use consensus to make decisions
- 3) Ground rules should be agreed upon by consensus
- 4) It may be helpful to check in with the group periodically to review the ground rules and revise them, if appropriate

Bridging a Gap Between Meetings

If issue resolution meetings continue beyond the first day, you may find it helpful to begin subsequent meetings by:

- 1) Asking if any member has information they wish to share or concerns they wish to raise. There are three potential advantages to this:
 - a) Since IBPS is an information driven process, it is good practice to remind group members to share any relevant information they may have gained since the last meeting (or neglected to share at the last meeting)
 - b) If group members have concerns about the meeting process or task, it is better to surface and discuss those concerns sooner rather than later
 - c) The ability of group members to focus on the task at hand or to use the interest-based process is sometimes compromised by events that have occurred outside the meeting that may or may not be related to the task at hand. In either case, the concern should be surfaced if it is significant to a group member. If the matter is related to the task at hand, it may have to be addressed before proceeding with issue resolution. If not, the goal should be to minimize the distraction. In some cases, it may be enough to acknowledge the concern. In other cases it may be useful to spend some time getting agreement on the process that will be used (off-line) to address the issue.
- 2) Summarizing what the group discussed at the last meeting
- 3) Reminding the group of any commitments or agreements they made for this meeting
- 4) Obtaining reports regarding the status of that work if the work is being done off-line

Other

- 1) Remember that some groups take care of themselves at times. Don't *over-facilitate*.
- 2) If you will be a member of the group and will be stepping in and out of the facilitator role, make that clear to the group in advance, surface and address any concerns and make sure the group agrees.

Defining the Issue:

The goal of this step in the process is to reach agreement on the issue(s) that the group intends to address.

Note: Be alert during the discussion of the issue for statements or questions that indicate the need for information or data.

- 1) Group members often come to the initial meeting with differing ideas of what the issue is and/or what the role of the group is to be in addressing it. It is hard to make progress on addressing the issue until the group agrees on what it is.
- 2) In some cases, defining the issue may be fairly straightforward. The issue may have been defined prior to the meeting by the sponsors or the co-leads or one of the group members may be able to articulate a statement of the issue that is accepted by the group.
 - a) If the issue statement is given to the group, it is important to write it on a flipchart and give the group an opportunity to react to it and surface any of their questions or concerns.
 - b) If a statement of the issue is offered by a group member, write it on a flipchart and give the group time to react to the suggestion and offer alternatives. If alternatives are offered, follow the steps in number three below.
- 3) In some cases, defining the issue may be difficult. Group members may have different ideas of what the issue is, they may be focused on symptoms rather than root causes and/or there may be more than one issue. In such cases, it may be helpful to use the following approach to defining the issue:
 - a) Encourage group members to offer their perspectives on the issue(s):
 - b) Write each perspective on the flipchart. If you hear a statement of the issue that sounds promising, stop and see if the group accepts it or can get to an accepted statement by editing. If not, keep getting input from the group and recording it on the flipchart(s).
 - c) Give group members some time to think and reflect

Note: When it appears that you have the group's input, you may find it helpful to suggest a short break before you begin the following steps. Use the break time to study the flipcharts and prepare yourself to lead the next discussion. A little quiet time may allow you to see issue themes and to consider various issue statements that you may wish to offer the group. If you see possible statements, don't hesitate to offer them; but be prepared to let them go or to edit them depending on the group's reaction.

- d) Review the perspectives that appear on the flipchart with the group:
 - i) Does there appear to be one problem or several; if more than one, sort the perspectives into “problem buckets”
 - ii) Take one bucket at a time. Review the perspectives and develop alternative statements that incorporate the key themes from the perspectives. Ask the group for suggestions and offer your own.
 - iii) Keep working until you have a problem statement that the group is satisfied with; if there is more than one problem, repeat the process and prioritize them to determine the order in which they will be addressed
 - iv) Don’t be surprised or discouraged if it takes several attempts to get an acceptable problem statement.

Note: When group members are offering their perspectives on what the problem is, they may also reveal interests and/or possible solutions to the problem (options). Some facilitators find it helpful to note these interests and options as they arise even though the process is not at the point where they will be acted. If you choose to do this, record the interests and options on separate flipcharts and tell the group what you are doing (“This sounds like an interest/option to me; we’ll get to those later, but I don’t want it to be forgotten so I’ll start a list of interests/options. I don’t want to focus on these now, but we’ll come back to them.”) There are at least two possible benefits to this approach:

- *It keeps the process fluid and efficient by accepting input when it is offered*
- *It may help inexperienced group members understand what an interest or an option is by attaching the appropriate label to the input they offer*

- 4) If the group struggles with problem definition, the facilitator should consider the following in helping the group to decide when to move on:
 - a) The group may become frustrated if they spend too much time trying to define the issue
 - b) It is not necessary to have a “perfect” statement of the issue in order to proceed with issue resolution
 - c) A less than perfect “tentative” or “working” statement of the issue can allow the group to proceed with the understanding that it can be refined later in the process. (It is often the case that seemingly “perfect” statements of the issue are revised as a result of information that is revealed in later steps of the process.)

- d) There are two basic tests that can be applied to determine if the statement is good enough to proceed:
 - i) It should not place blame or point to a single solution
 - ii) It should focus on the cause vs. a symptom of the problem
- 5) Ask if there is information or data to be shared. If so, it is usually appropriate to do so before moving to the next step. Ask, as well, if the discussion has surfaced the need for other information or data. If so, identify what is needed, who will provide it and when it will be provided. Record this information on a flipchart. Review the flipchart at the end of the meeting to remind the group of outstanding information/data needs and commitments.

Identifying and Discussing Interests:

The goal of this step in the process is for all group members to understand the interests that must be met in order to find an acceptable solution.

- 1) Generally, groups should be encouraged to develop their respective interests in caucus. Meeting privately allows group members to surface and discuss matters that they may be reluctant to raise in joint session. Groups that have experience working together may wish to develop interests in joint session.
- 2) Groups that are not experienced with the interest-based process will benefit from a short reminder of what an interest is, and how it differs from a position (solution). There is a simple, but effective test that you may wish to share with the group to help them distinguish an interest from a position (solution). The test is - if there is only one way to meet the “interest,” it is probably a position (solution).
- 3) If you recorded interests that surfaced while the issue was being discussed, bring the flipchart pages containing those notes to the front of the room and briefly review them with the group. The purpose of the review is simply to remind the group to consider them in caucus and add them to their list of interests if appropriate.
- 4) Remind the groups before breaking for caucus to record their interests on flipcharts (and make sure they have charts and markers in the breakout room)

*Note: Before the group breaks, you may wish to **ask** for permission to visit each group in caucus while they develop interests. You can offer the following rationale:*

- *Groups sometimes have trouble expressing interests; you may be able to help them*
- *Groups sometimes have questions or comments about the process that they may be more comfortable expressing in caucus*
- *Your suggestions and feedback are sometimes more helpful if offered in caucus*

You should assure the parties that:

- *You will leave the caucus at any time if asked*
- *You will treat everything you hear in the caucus as privileged and confidential unless you are given explicit authority to repeat it*

If permission is not given, take it gracefully and let it pass.

If you are given access to a caucus:

- *It may be best to give them some time alone before you arrive and to allow them some time alone after you leave*
- *Position yourself so that you are not the point of focus in the room*
- *Conduct yourself as a guest; if you wish to ask questions or provide input, ask for permission*
- *Be prudent regarding the advice you offer; if it is resisted, don't press*
- *Be mindful of your impact on group dynamics; if you think your presence is having a negative impact, plan your exit*

- 5) Group members often have trouble articulating their interests. They may also overlook interests that need to be expressed and they may express some interests as solutions (positions).
- 6) You may be able to help a group uncover the interest that underlies the position by asking: "If you got what you are asking for, what need or concern would it meet?"

- 7) You may find that groups are sometimes unwilling to revise an interest statement that looks more like a position. It will usually be appropriate for you to probe a bit for the interest(s) that are not expressed. It may also be helpful to **suggest** alternative wording if you think you understand the interest(s) that is not clearly expressed. You are likely to have better luck with these interventions if they are done in caucus rather than in joint session. It is generally not useful to persist with either intervention if you meet resistance. The process should not be mortally wounded if there are one or two positions masquerading as interests. Often, discussion of the “interest” in joint session will reveal enough of the underlying needs, concerns or goals to compensate for a poorly worded interest statement
- 8) It is usually not helpful to ask inexperienced groups to draft their interest statements off-line, before coming to the meeting. Prepared-in-advance interest statements present several potential problems:
 - a) Inexperienced groups may have trouble expressing their interests without access to someone who can help them (potential source of frustration before the process begins)
 - b) Some of the members who are involved in issue resolution may not have participated in the discussions that produced the interests and may not feel comfortable suggesting changes or additions (some interests are not expressed)
 - c) The group may think of their list of prepared interests as a “finished product” and be less willing to consider input from the facilitator (missed opportunity for a better product)

Some of the problems noted above may not apply to experienced groups.
- 9) Groups may overlook obvious, but important interests (e.g., management’s interest in a cost effective solution, or the union’s interest in a solution that is consistent with the terms of the collective bargaining agreement). If you think that an interest is missing, ask. This is better done in caucus, but if you don’t have that opportunity, do it in joint session after the interests have been discussed. Remember, however, that interests belong to the party identifying them; you may suggest that an interest is missing, but you should not insist that it be added.
- 10) There is value in taking the time to ensure that interests are fully understood before leaving this step of the process. The tendency in many groups is for each party to read its list of interests to the other and ask if there are questions. Often, without prodding, the questioning will be cursory, at best. If this occurs, understanding is not a likely outcome.

- 11) Helping the group discuss interests in a way that results in understanding should be a key goal of the facilitator. It may be helpful to do the following:
 - a) Remind the group that the goal is for each party to understand the interests of the other
 - b) Remind the group that the interests of each party belong to them, and that the agreement or approval of the other party is neither necessary nor relevant
 - c) Ask the group to listen actively when interests are being discussed and encourage them to ask clarifying questions at the appropriate time
 - d) Interests should be written on flipcharts and posted at the front of the room when they are being discussed
 - e) Each party should explain its interests and invite the other party to ask questions
 - f) Be prepared to intervene if the questioning moves from clarifying to challenging. Remind the questioner that the goal is understanding, not agreement
 - g) Pose your own clarifying questions if the other party is having trouble or you feel additional clarification is needed for understanding
 - h) Ask the group that has heard the interests to repeat them in their own words. Ask the other party if the summary was accurate. If it was not, ask them to restate the interest.
 - i) Encourage the parties to continue the clarifying and confirming dialogue until you are satisfied that the interests are understood. If you sense that they are unwilling or unable to continue you may need to stop; but be prepared to reopen the discussion later in the process if it appears that an interest is not clear.

Note: The interests that a group identifies will usually fall into two groups; “key interests” that probably have to be met to some degree in order to have an acceptable solution, and “other interests” that are desirable, but not necessary in a solution. In some cases, it may be helpful to ask each party to identify its key interests. Doing this offers some potential advantages:

- *Identifying key interests early in the process should reduce the inclination of each party to guess how the other ranks its interests and reduce the potential risks of guessing wrong*
- *If there is a long list of interests, it will help to focus on what is critical*
- *Key interests can often be used in place of (or in addition to) standards (criteria)*

There is at least one potential disadvantage:

- *If the “key interests” of the parties appear to be irreconcilable, there is a risk that the group will give up on the process before they have fully explored options.*

12) The other party may share one or more of either party’s interests. There is value in taking time to identify “mutual interests” but experienced facilitators may differ on how to go about it and how much time to spend on it. Successful facilitation is often a matter of varying the approach to fit the situation. One approach to identifying mutual interests is covered fully in the standard IBPS/CDM training and need not be repeated here. An alternative approach to identifying mutual interests is outlined below:

- a) The facilitator goes through the interests of one party, one-by-one, and asks the other party if they share that interest.
- b) If the other party hesitates or in any way suggests that the interest, as it is stated and as it has been explained, is not fully shared, the facilitator notes that it is not a mutual interest and moves on to the next one
- c) If the other party agrees that the interest is shared, the facilitator marks it in some way (perhaps with an *), pronounces it a mutual interest and continues through the list
- d) Steps a – c are repeated with the other party’s interests
- e) After all interests have been covered, the facilitator identifies the interests that are shared
- f) If there are a significant number of mutual interests, the facilitator should make note of it

- g) If there are few or no mutual interests, the facilitator should note that it is not a cause for concern and serves as a reminder that the parties will have to work hard to meet the interests that are not shared. If the discussion supports it, the facilitator might add that some interests, while not shared fully, appear to be shared to some degree.

Note: Be aware that groups sometimes “keep score” by noting the number of their interests that are shared by the other party compared to the number of the other party’s interest that they have accepted as shared. If the score is lopsided, pay close attention to statements and body language that suggest resentment. If you sense resentment, you may want to address it by reminding the group that the key to getting an acceptable solution is a mutual commitment to work hard to meet as many interests as possible, including those that are not shared.

Developing Options:

The goal of this step is to identify a range of possible solutions to the issue. Options may offer partial or complete solutions.

- 1) Before beginning the development of options, it may be helpful to remind inexperienced groups of the rules of brainstorming; including the following:
 - a) Think creatively
 - b) Do not criticize options or those who offer them
 - c) Hold clarifying questions until the end
 - d) “Piggybacking” on options is encouraged
- 2) It may also be helpful to offer the following advice:
 - a) The process will be helped if it is clear that each party is working hard to address the interests of the other side as well as their own
 - b) Options are ideas concerning potential solutions. They are not commitments.

Note: In some cases it may be helpful to suggest to each party, privately, before developing options, to try to offer some options that attempt to address some of the other party's "key" interests. There are several reasons for doing so:

- *When one party perceives that the other is trying to offer options that meet their interests they will often respond in kind. This can help the process and the outcome. It may be particularly helpful in cases where the parties perceive themselves as having interests that are difficult to reconcile and in cases where the relationship is stressed by a lack of trust.*
- *When one party perceives that the other is trying primarily to address their own interests, they may feel a need to offer self-serving options as well to ensure that their interests are addressed. This is likely to harm both the process and the outcome.*
- *Group members are sometimes reluctant to offer options that address the interests of the other party because they fear overstepping their authority or offending other members of their group. This reluctance may be hard to overcome unless the members of their caucus explicitly encourage the behavior.*
- *Thinking about how the other side's key interests might be met, in whole or in part, may force the exploring party to think more creatively about how the problem may be solved and lead to solutions that would not otherwise have been thought of.*

At least one caution is in order. If you encourage groups to offer options that address the other party's interests you should emphasize to all group members the advice noted in 2 (b) above; i.e., that options are ideas, not commitments.

- 3) Some suggestions for flip charting options:
 - a) If you recorded options that you heard earlier, start with those
 - b) Record an option as you hear it stated; don't edit
 - c) Ask that it be repeated if necessary
 - d) Work as quickly as you can; don't worry about penmanship or spelling
 - e) Try to allow some white space between options; it will help when clarifying and sorting them
 - f) Number the options as you go; it will make sorting them easier
 - g) Expect pauses as the group thinks of options. Give them time to reflect
 - h) If the group seems to be running out of options, point to options that appear to you to be promising and ask the group to build on them

- .
.
4) Some suggestions for clarifying options:
 - .
a) Be prepared to remind the group that the purpose of clarification is not to reach agreement on an option but to understand what is intended by it
 - .
b) Work through the options, in order, and ask, for each one, if there is a need for clarification.
 - .
c) Be alert during the discussion for additional options that may be surfaced. It is almost always the case that some will be surfaced because:
 - .
i) Some members may have assumed that the option meant “x” when, in fact, it was intended to mean “y”; be sure to capture “x” and record it as a new option
 - .
ii) As options are clarified, members may think of variations on that theme; encourage them to offer those variations
 - .
iii) As options are clarified, some members may feel compelled to offer reasons why they don’t think the option will work. Be prepared to stop them and ask that they think instead of how the option might be changed in a way that would make it viable. Record the new options
 - .
d) Remind the group that the options list is never “closed” until the problem is solved. If they think of an option at any time they should voice it and you will add it to the list
- .
5) If the list of options is long, it may be helpful to group ideas that share a common theme. Doing so may make the list of options easier to deal with. It may also begin to suggest the broad contours or basic elements of a solution.
 - .
a) The basic approach is to identify the possible themes or categories that appear in the options and then to sort the options by category. There are many ways to record which option goes with which category. Some of the more common approaches are:
 - .
i) List the categories on a flipchart and, under each category, record options associated with that category, or, to save time, record the number of each option that is associated with that category
 - .
ii) List the categories, letter them (A, B, C), and record the appropriate letter next to each option, or, assign a different color to each category and then mark (circle or *) each option with the appropriate color

- b) As the options are sorted, the original list of categories is likely to be refined. It may be appropriate to combine some categories, divide them or create additional categories.

Note: Sorting options can be a highly participatory process that affords the group an opportunity to work as a team and builds momentum. It can also become a time consuming process that may cause frustration and a loss of momentum. If your reading of the group suggests that sorting options has become, or will be, frustrating, you might want to try one of the following alternatives:

- *Suggest that the group take a break; use that time to review the options and develop a tentative list of categories to get the group started*
- *If you are close to the end of the meeting time for the day, suggest that the group break early and either:*
 - *Ask a small group to remain to do a preliminary sort of the options, or*
 - *Use the time to do it yourself*

Getting from Options to a Solution:

The goal of this step is to identify those options that will be part of the solution, to incorporate those options into a comprehensive outline or statement of the solution and to reach consensus on the solution.

Identifying and Combining Solution Elements

There are many ways to help the group identify the options that will form the solution; some of them are identified below. It is not likely that any of these methods will be the best choice in every situation. Most of them are not mutually exclusive and can be used in combination with others.

Note: As the group identifies and works with possible solution elements, you may observe one or more of the following:

- *The definition of the problem may need to be examined and possibly changed,*
- *The need for information may emerge,*
- *Interests that have not been identified may surface,*
- *Interests that have been identified may be clarified or redefined*
- *Additional options may be identified*

It is not too late to do any of these things. In fact, taking the time to reexamine, clarify, change, or add to what has been done will often help the group come to a solution.

- 1) If the list of options is long, it can be useful to get a “sense of the group” as to those that have promise and those that can be dropped from further consideration. You can usually do this fairly quickly by going through the options and asking group members to give thumbs up if the option should be kept, thumbs down if it should be dropped and thumbs neutral, if they’re not sure. Options that receive a unanimous “thumbs down” should be put aside by marking them in some way (e.g.; by lining them out). Those that receive unanimous or near unanimous “thumbs up” are likely candidates for consideration as possible solution elements. The group should agree on the “criteria” they will apply to decide if an option is kept or dropped before reviewing the options. Two that often work well are:
 - Is the option feasible?
 - Does it help meet one or more of the interests?
- 2) “Multi-voting” is another fairly quick way to identify the options that the group sees as most promising. It is done by asking each group member to place a check mark or a sticker next to the options that they think have the greatest potential to address the interests and solve the problem. Three to six “picks” per member, depending on the number of options, is usually sufficient. Too many picks will slow the process down and fail to isolate the most promising options. The facilitator should make clear that this is a not a voting process that will eliminate options, but a way of identifying those options that the group sees as the most promising for getting to a solution.
- 3) If the parties have identified their “key” interests, they can be used to evaluate the options. This can be done by evaluating each option against each of the key interests, or by asking group members to indicate, by showing thumbs up, down or neutral, if the option addresses the key interests. If the former approach is used, the facilitator will find that it is helpful to prepare a simple grid to record and display the results of the evaluation.
- 4) In some cases it may be helpful to agree on objective criteria (or standards) and use them to evaluate the options. The process for developing and applying criteria is covered in IBPS/CDM training and will not be repeated here. It is worth noting however, that it can be difficult to identify “objective” criteria for some issues. The party’s interests, especially their “key” interests are often a better gauge for evaluating options.

- 5) It may be helpful to ask the group to review the list of options and identify those that present broad approaches to solving the problem. Discuss each approach thoroughly, incorporating other options that are consistent with the approach as well as new ideas that are surfaced. Evaluate the approach for its ability to solve the problem and meet the interests of the parties, then move on the next one.
- 6) Another way is to create one or more fairly comprehensive “tentative” or “strawman” solutions by combining promising options. Evaluate each “strawman” against the interests and incorporate ideas for improving it. If the “strawman” shows potential, continue to work with it; if it does not, put it aside.

Note: Getting to a solution is usually a matter of identifying possible solution elements and combining them in various ways. There are many ways to help the group get to a solution, but it is not a formulaic process. More likely than not it will be an iterative process; several potential solutions will be identified, discussed, modified and discarded, in whole or in part, before the group finds a solution that will work for them. Groups sometimes get to a good solution on the first try, but not often. You may be able to help the group by suggesting alternative approaches for identifying solution elements, suggesting possible solutions and ways to modify them to better address the interests of the parties. The extent to which you play an active role in this process depends on your level of comfort in doing so and on the willingness of the group to allow you to contribute.

Crafting a Solution Statement

The level of detail that is needed in a statement of the solution will vary from situation to situation.

- 1) If the issue is complex and a detailed statement of the solution is needed, it may be helpful to assign a subgroup to draft it. If you use this approach, make sure the subgroup includes both a union and a management member, establish a realistic timeframe for completing the work and make it clear that the solution is not final until it is approved by the full group.
- 2) If the solution statement is developed by the full group, it may be helpful to first develop a fairly comprehensive outline of the solution elements, test that for consensus, modify it as needed to get consensus and then develop the additional language needed to tie it together and fill gaps. Keep the solution statement as simple and straightforward as possible. In most cases an elaborate and fully explicated statement of the solution is not necessary and attempts to create one will invite disagreement over form when there is no substantive issue.

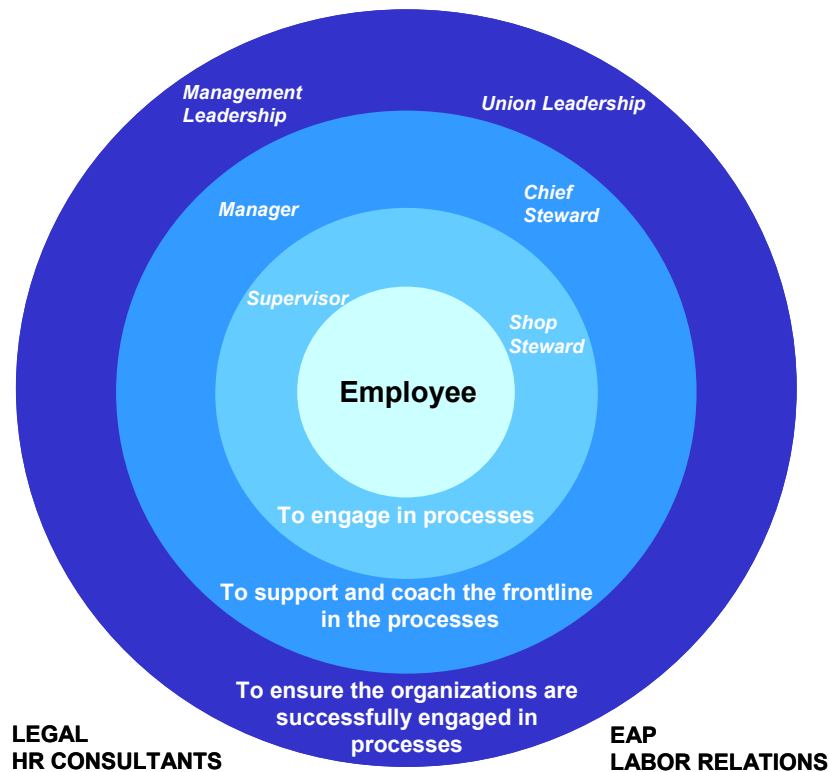
Resources

Additional resources for IR are available at the regional and national level.

- Regional labor and management team members from the national **Issue Resolution Implementation Team (IRIT)** provide assistance and support for implementing the IR process at the department or work group level (*See **Appendix A** for a list of the team members*).
 - These experts can help to identify tools and additional resources (e.g., training, facilitators and sponsors) that may be needed.

In addition, the diagram below illustrates different levels of support.

Issue Resolution and Corrective Action Resource Map



The goal is to solve the issues at the core level!

Forms:

Using the Issue Resolution Activity Form

An Issue Resolution Activity form has been developed to help track results and share successful practices. Completing the **Issue Resolution Activity Form** will enable us to share learnings about using IR with staff and supervisors in workplaces across the Program.

Please complete a copy of the **Issue Resolution Activity Form** upon completion of the Issue Resolution process. (A sample is included on the next page.) The information that you provide about the kind of issue the group addressed, the resources used, and your evaluation of the process (“Was it successful?”), will help to identify and share successful practices. (See **Figure 3** on the next page for a copy of the Issue Resolution Activity Form and instructions.)

Issue Resolution Activity Form Instructions

Purpose:

This form is used to document an Issue Resolution outcome. The supervisor and union steward are to jointly complete this form after the issue has been resolved. They are responsible for forwarding it to the appropriate collection point in each region.

The following example shows a correctly completed Issue Resolution Activity Form. (See the Toolkit tab for a copy of the Issue Resolution Form.)

Figure 3: Issue Resolution Activity Form

Issue Resolution Activity Form
To be completed by Shop Steward and Supervisor/Manager
See Back of Form for Instructions

Union SEIU Local # 105 Unit/Department Radiology Facility Franklin

Who requested Issue Resolution? Labor Management Physician

Type of Issue: (Check all that apply)

Cost-savings Contract application Health & Safety Staffing
 Interpersonal Relationships Member or Customer Complaint Systems/Equipment
 Process/Method Improvement Quality of Care Resource Issue
 Work Assignment/Workflow Other: _____

Is this a: Departmental Facility Service Area/Regional issue?

Date Issue Occurred/Reported 11/03/03 Date of Initial IR meeting 11/05/03 Date of Resolution 11/14/03

Which resources, if any, were used in resolving the issue? (Check all that apply)

Federal Mediation and Conciliation Service (FMCS) LMP Pairs
 Expert Consultant Outside Consultant (RAI, etc)
 Facilitator Other: _____

Is there agreement that the issue was resolved satisfactorily? Yes No

If yes, at what level it resolved?

Department Facility Regional/Service Area
 If resolved at LMP Council: At facility Regional National

If the issue was not resolved, what next steps, if any, were taken? (Check all that apply)

Grievance Filed/In Process No Further Action Taken/Issue Remains Unresolved
 Issue Withdrawn Management Unilaterally Acted

Which processes were used in resolving the issue: (Check all that apply)

Identifying the Issue/Defining Problem Develop Problem Statement
 Stating Separate Interests Identifying Mutual Interests
 Brainstorming Straw Design
 Expert Panel Best Practice
 Reaching Consensus on Solution Other: _____

Distribution: Department IR File Applicable Union(s) Local Human Resources Department

(This page is intentionally left blank.)

Corrective Action

Philosophy:

A Partnership Approach to Resolving Performance Issues

Traditional systems for resolving performance issues rely on a progression of negative incentives. Employees can perceive this “discipline” to be punishment, creating resentment rather than improved performance. This resentment may generate alienation, absenteeism, and other negative behavior. The unintended results can be *increased* infractions, complaints, grievances, and arbitrations.

The goal of the Corrective Action Model is to resolve the issue, rather than to blame the individual. The philosophy of Corrective Action (CA) is to achieve the following:

- Identify root causes.
- Emphasize the future, not the past.
- Focus on the problem, not the individual.
- Concentrate on the commitment, rather than compliance.
- Shift the burden for resolution from the supervisor to the employee. The supervisor becomes a facilitator who assists the employee in resolving issues.
- Acknowledge that an employee is an adult, capable of understanding the requirements of the business and respecting his/her ability to resolve issues and honor commitments.
- Create a collaborative performance environment, rather than an authoritative one.
- Retain, encourage, and improve employee performance and behavior, rather than build a case to justify termination.

Process Overview

If an issue surfaces during the joint discovery process and appears to involve employee performance or behavior, it should be dealt with through the Corrective Action procedure. In accordance with the philosophy of Corrective Action, the focus is on how to create the conditions that maximize employees' ability to apply their best skills and talents to their work. This creates the most constructive and effective approach for involving employees in improving performance.

The Corrective Action process is divided into two phases:

Problem-Solving: Level 1 and Level 2

These levels are neither adversarial nor disciplinary in nature.

- The goal is to determine the root cause by identifying all of the issues affecting performance and to collaboratively develop options to resolve them.

Discipline: Levels 3, 4, and 5

These levels constitute formal discipline.

- While there is no punishment, such as suspension without pay, the consequences of failure to resolve the issues may ultimately result in termination of employment.

For a detailed description of each level, see the National IRCA Procedure located in **Appendix B** of this Guide.

Guidelines for Participants

- Use a non-threatening environment, such as a conference room.
- Avoid negative or accusatory language: “We have an issue,” instead of “You have a problem.”
- Strive for a blame-free environment through honest, open, respectful discussion and information sharing.
- Be an active listener, ask clarifying questions, and reflect back your understanding.
- Thoroughly explore issues and interests before proposing solutions.
- Seek creative and comprehensive solutions, which address all contributing factors.
- Follow up and hold each other accountable for implementation of agreements.
- Consider tapping into other resources as appropriate, such as the Employee Assistance Program (EAP), the Learning and Development department, etc.

Identifying System Issues

G. Edwards Deming of *Total Quality Management* fame estimated that 85% of poor performance by employees is an outcome of management systems, rather than bad behavior. This analysis suggests the need to discover whether poor performance or troubling behavior and relations might be caused, at least in part, by systemic conditions.

System Issues Checklist:

The following is a checklist of questions to ask when conducting discovery in order to ensure that all of the factors contributing to poor performance are discovered and addressed:

- ✓ Have employees been provided sufficient and effective education or training?
- ✓ Have clear expectations and objectives been communicated and reinforced?
- ✓ Are employees encouraged to express their concerns about issues impacting their ability to meet expectations, and are their concerns addressed and resolved?
- ✓ Are there well-defined work processes and procedures, which are communicated effectively and continuously reinforced?
- ✓ Do employees have sufficient tools, supplies, materials, or equipment to perform effectively?
- ✓ Is the work environment suited to the work, with appropriate lighting, adequate space, comfortable temperatures, and efficient layout?
- ✓ Is the staffing adequate to accomplish the expected work?
- ✓ Is the work scheduled and distributed effectively and fairly?
- ✓ Are the roles, responsibilities, boundaries, and interdependencies between employees clear?
- ✓ Does supervision encourage good performance and address problems constructively?

*Note: See the **front inside cover** of this Guide for a laminated System Issues Checklist.*

Policy Guidelines for Consistent Application of Corrective Action

To a substantial degree, the successful application of the Corrective Action (CA) process depends on attitudes and relationships. The philosophy and intent of CA is very different from traditional discipline systems, which use increasingly serious punishment and focus on building a legally valid case for dismissal. There is a danger that the new process may be followed, but administered with the traditional attitudes. If this happens, it will result in a failure to reduce conflict and grievances and a failure to improve relationships, morale, and performance.

A major element for the successful application of the procedure is the creation of a *safe harbor* environment in which the employee can openly and honestly acknowledge any problems and work cooperatively with the supervisor and steward to resolve them. For this reason specifically, the problem-solving phase of the procedure is not considered disciplinary. The following administrative policies are the foundation elements that allow most performance and behavior issues to be resolved at **Levels 1** or **2** without formal discipline:

- Admissions, conversations, or documents generated in **Levels 1** and **2** may not be relied upon to justify advancement to **Level 3**.
- Only incidents of related behavior or performance issues, which occur *after* the implementation of the Developmental Action Plan at **Level 2**, may be used in the initial formal disciplinary phase at **Level 3**.
 - Likewise, no information or documentation from **Levels 1** and **2** may be introduced at arbitration to justify subsequent disciplinary action at **Levels 3, 4, or 5**.
- It is recommended as a best practice that expert labor-management pairs be consulted prior to moving to **Levels 3, 4** and **5**.
- Any level of the procedure may be repeated, but **Level 3**, as the beginning step of formal discipline, is designed to be repeated as many times as necessary in order to satisfy the legal requirements of just cause and progressive discipline.
- The procedure contains a list of factors to be considered in deciding whether or not to repeat or continue to repeat **Level 3**.
- Since **Level 4** is a last chance agreement prior to termination, it is important that the proper foundation is laid before moving to that level.

Although the procedure is written with the intention that the issues be dealt with in cooperation between the employee, steward, and supervisor, there will be occasions in which the employee refuses to participate, will not agree to the conditions of an action plan, or will not sign the action plan.

- In these circumstances, the supervisor may unilaterally write the action plans and decide whether to repeat the level or move to the next level.
- These decisions are, of course, subject to the requirements of challenging just cause through the grievance procedure.

The procedure specifies that documents in the departmental or personnel file be purged at a mutually agreed upon time frame, but no longer than one year. Since the intention is to jointly resolve issues and have employees take responsibility for their performance, there is no reason to hold disciplinary material beyond the time that issues have been resolved.

- The time frame for maintaining documentation in the file should be closely related to the time frames established in the action plan for the achieved goals.
- Once those requirements have been satisfactorily met, the documents should be purged.

Most Regions have established policies with regard to issues such as attendance, substance abuse, no call/no show, confidentiality, or patient care errors. The Corrective Action procedure, pursuant to the National Agreement, replaces all other forms of discipline. This means that policies such as those referenced above need to be amended to conform to the new approach to discipline.

- All performance or behavioral matters, except for gross negligence or gross misconduct, are initiated at **Level 1**, the non-disciplinary phase of the procedure.
- This is of particular importance in the case of patient care errors, because of the patient safety initiative's goal of encouraging the responsible reporting of errors and near misses without fear of retribution.

When incidents occur which are judged by management to constitute gross negligence or misconduct, and require that an employee be removed from the workplace pending investigation, the employee will be placed on paid suspension.

- After a paid investigative suspension, Corrective Action may be initiated at the appropriate level in the procedure (**Level 1, 2, 3, 4, or 5**) commensurate with seriousness of the issues revealed by the investigation.
- The determination of gross negligence or misconduct is obviously a judgment call, and is subject to challenge through the grievance procedure.

Like most traditional discipline systems, Corrective Action requires that subsequent or additional performance or behavioral issues be initiated on a separate “track” to an existing case unless the subsequent issue is closely related. Subsequent issues unrelated to the existing case should not be used to justify moving the case to the next level.

Current practices vary regarding the use of active disciplinary files to preclude a transfer to another position. With Corrective Action, **Levels 1 and 2** are not disciplinary, and are considered a safe harbor discussion in which employees are expected to reveal sensitive, confidential information.

- **Level 1 and 2** departmental files should not be used to deny transfers.
- Active **Level 1** Summaries and **Level 2** Action Plans should be provided to the new supervisor after a transfer, in order to follow up and assist in the resolution of the issue.

Many Collective Bargaining Agreements provide that probationary employees may be disciplined or discharged without recourse to the grievance procedure. The Corrective Action procedure does not alter these Agreements. However, **Levels 1 and 2** are not disciplinary.

- Although the union may not be able to grieve, the philosophy of Corrective Action should be used with employees on probation, since the goal of the procedure is to help employees succeed and improve retention.

There are a number of circumstances involving licensure, registration, and immigration status, etc. in which employees may be precluded from working until the issues are resolved.

- These are conditions of employment and are not disciplinary in nature.
- Persons who are not authorized to work under these circumstances are not being suspended, but are being excluded from the workplace until prerequisites are satisfied.

In order to satisfy concerns regarding the expiration of documents while cases may be continuing, the following procedures were adopted:

- In the case of continuing discipline, active (unexpired) **Level 3** or greater action plans may be summarized in a subsequent new action plan in order to demonstrate progressive discipline.
- In the case of a pending arbitration, the most recent action plan (**Level 3** or above) or termination documentation will expire for discipline purposes at the prescribed time, but will be retained and available for use by either party only for purposes of arbitration.

The Corrective Action procedure adopted in the National Agreement specifies that the first three levels involve only the supervisor/department manager, the employee, and the union steward/representative. Obviously, others with relevant information to provide will be asked for input during the discovery phase of the procedure. In addition, it is recognized that participation by others, particularly physicians, may be in the best interests of the employee and contribute to the resolution of the issue.

- The participation of others at **Levels 1, 2, and 3** is conditioned on the genuine agreement of the employee, the supervisor, and the union steward/representative in order to assure it is in the best interest of the employee.

Resources

Basic Rules for Interpretation and Application of the Corrective Action Procedure

- An employee or the union may file a grievance at any time during the procedure.
- All issues, except for gross misconduct or gross negligence, are initiated at **Level 1**.
- Corrective Action covers all performance issues, including attendance, substance abuse, etc.
- **Levels 1 and 2** are not disciplinary, and no evidence from those levels may be used at subsequent levels or in arbitration.
- Expert labor and management pairs are available to consult on Corrective Action issues, if needed.
- Any level of the procedure may be repeated, but **Level 3** (the first step of formal discipline) is designed to be repeated as often as necessary to satisfy the legal requirements of just cause and progressive discipline.
- Supervisors may proceed through the procedure unilaterally absent the cooperation and participation by the employee.
- An employee may be removed from the workplace on paid suspension pending investigation.
- Employees returning from investigative suspension may be placed at any level deemed appropriate, including termination.
- Departmental files from **Levels 1 and 2** may not be used to deny a transfer.
- Active **Level 1 and 2** files should follow the employee to the new position for monitoring progress.
- Corrective Action does not alter the Collective Bargaining Agreement prohibition to grieve during probation, but the philosophy of Corrective Action should be used to correct performance issues.
- Documents should be removed from files in accordance with the timelines in Corrective Action Plans, but not to extend past one year.
- Additional issues arising while action is pending at any level should be initiated in a new **Level 1** case unless closely related to the existing case.
- Participation by other than the employee, steward and immediate supervisor is conditioned upon agreement of those three.

*Note: See the **front inside cover** of this Guide for a laminated Basic Rules for Interpretation and Application of the Corrective Action procedure.*

Suggestions for Preparing a Developmental Action Plan – Level 2

In **Level 2**, the Developmental Action Plan, the supervisor, employee and steward (unless employee refuses representation), meet privately to:

- Revisit the problem
- Determine what can be done to correct the problem
- Jointly develop a plan to help employee succeed

The plan should include:

Contact Information – Include the names and general contact information (work phone numbers, email, etc.) for all involved in the process (employee, manager/supervisor, shop steward).

Summary of the Issue – Together and by consensus, the employee and supervisor write a summary of the issue involved.

Conditions for Satisfaction – With the following considerations in mind, the parties construct a set of realistic and achievable goals and measures that can be evaluated in real time. This would include promises and commitments along a **timeline**, which is also delineated so that it can be evaluated at a later date. Be sure to do the following:

1. Emphasize the future, not the past.
2. Focus on the problem, not the individual.
3. Minimize negative behavior fostered by traditional, punitive systems.
4. Concentrate on commitment, rather than compliance.
5. Shift the burden of resolution from supervisor to employee, wherein the supervisor assumes the role of collaborating facilitator who assists the employee in resolving the issue.
6. Recognize the employee as an adult, capable of understanding the requirements of the business and respect his/her ability to resolve issues and honor his/her commitments.

**Suggestions for Preparing a
Developmental Action Plan – Level 2
(Continued)**

Results/Rewards – The Plan should also specifically spell out what benefits and outcomes will result upon successful completion and evaluation of the Plan, (i.e., “This disciplinary notice will be removed and considered void upon successful completion of the Corrective Action Plan.”).

Remember:

There is no documentation in the personnel file. Documentation is placed in the departmental file for an agreed upon time not to exceed one year. Documentation from Levels 1 and 2 cannot be used in subsequent levels of the Corrective Action. The manager, steward and employee should all receive copies of the plan.

*Note: See the **Toolkit** section for a copy of the Suggestions for Preparing a Developmental Action Plan – Level 2.*

Suggestions for Preparing a Corrective Action Plan – Level 3

Level 3, the Corrective Action Plan, is the first level of formal discipline.

All Corrective Action Plans should include the following:

Contact Information - Include the names and general contact information (work phone numbers, email, etc.) for all involved in the process (employee, manager/supervisor, shop steward).

Summary of the Issue - Together and by consensus, the employee and supervisor write a summary of the issue involved.

Conditions for Satisfaction - With the following considerations in mind, the parties construct a set of realistic and achievable goals and measures that can be evaluated in real time. This would include promises and commitments along a **timeline**, which is also delineated so that it can be evaluated at a later date. Be sure to do the following:

1. Emphasize the future, not the past.
2. Focus on the problem, not the individual.
3. Minimize negative behavior fostered by traditional, punitive systems.
4. Concentrate on commitment, rather than compliance.
5. Shift the burden of resolution from supervisor to employee, wherein the supervisor assumes the role of collaborating facilitator who assists the employee in resolving the issue.
6. Recognize the employee as an adult, capable of understanding the requirements of the business, and respect his/her ability to resolve issues and honor his/her commitments.

Results/Rewards - The Plan should also specifically spell out what benefits and outcomes will result upon successful completion and evaluation of the Plan, (i.e., “This disciplinary notice will be removed and considered void upon successful completion of the Corrective Action Plan.”).

**Suggestions for Preparing a
Corrective Action Plan – Level 3
(Continued)**

Remember:

Level 3, is designed to be repeated prior to moving to Level 4 (Day of Decision), based on consideration of factors, such as severity of the incident, frequency of the incident, date of the incident in comparison to the date of the Corrective Action Plan, previous overall performance, tenure of the employee, mitigating circumstances, commitment of the employee to the overall Corrective Action Plan.

All parties sign the Corrective Action Plan, and copies are given to the employee, shop steward, and union as well as being placed in personnel files for up to one year. Also, each Corrective Action Plan should include the following statements:

- Failure to live up to the Corrective Action Plan may result in further discipline, up to and including termination.
- Under the terms of Corrective Action, an employee may file a grievance at any level of the procedure.

*Note: See the **Toolkit** section for a copy of the Suggestions for Preparing a Development Action Plan – Level 3.*

Forms:

Corrective Action Activity Form Instructions

Purpose:

This form is used to document an individual Corrective Action at all **Levels, 1-5**. The supervisor and union steward complete this form after completing the Corrective Action Plan and are responsible for forwarding it to the regional collection point. (Refer to **Appendix A** for a list of team members who can direct you to the regional collection point.)

The following example shows a correctly completed Corrective Action Activity Form: (See the **Toolkit** for a copy of the Corrective Action Activity Form.)

Figure 4: Corrective Action Activity Form

Corrective Action Activity Form			
To be completed by Shop Steward and Supervisor/Manager See Back of Form for Instructions			
Union	<u>SEIU</u>	Local #	<u>105</u>
Unit/Department	<u>Radiology</u>	Facility	<u>Franklin</u>
Type of Issue:	<input type="checkbox"/> Attendance	<input type="checkbox"/> Behavior	<input checked="" type="checkbox"/> Performance
Date of CA meeting	<u>10/06/03</u>	Date Completed	<u>10/08/03</u>
Date to be Purged from File	<u>06/08/03</u>		
Did Employee elect to have a Shop Steward/Union Representative present?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Was Discovery done jointly?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Which Level of Corrective Action was implemented?	<input type="checkbox"/> Level 1 (Initial Discussion) <input checked="" type="checkbox"/> Level 2 (Developmental Action Plan)		
	<input type="checkbox"/> Level 3 (Corrective Action Plan) <input type="checkbox"/> Level 4 (Day of Decision) <input type="checkbox"/> Level 5 (Termination)		
This Corrective Action level was a(n):	<input type="checkbox"/> Initial Action <input checked="" type="checkbox"/> Continuation to Next Level <input type="checkbox"/> Repeated Level		
Which outside resources, if any, were used in resolving the issue?	<input checked="" type="checkbox"/> LMP Pairs <input type="checkbox"/> Expert Consultant		
	<input type="checkbox"/> Employee Assistance Program (EAP) <input type="checkbox"/> Other: _____		
Is there agreement on the action taken on the issue?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
If no, what next steps, if any, were taken? (Check all that apply)	<input type="checkbox"/> Grievance Filed/In Process <input type="checkbox"/> No Further Action Taken/Issue Remains Unresolved		
	<input type="checkbox"/> Issue Withdrawn <input type="checkbox"/> Management Unilaterally Implemented		
Was the Interest-Based Problem Solving (IBPS) process used?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Was the Root Cause of the issue identified?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Was a systems issue also identified?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Distribution:	Department IR File	Applicable Union(s)	Local Human Resources Department

Troubleshooting

If I follow the *User's Guide* step-by-step and apply the tools in the *Toolkit*, I will be able to use both Issue Resolution and Corrective Action successfully every time, right?

Many workplace units *do* find success when using the Issue Resolution System from the very beginning. Those workplaces usually have a clear idea about what it means to “partner.” That is, they have been oriented to the Labor Management Partnership. They have learned to recognize and use the tools of the Partnership. Both labor and management have begun to look to each other’s interests, as well as their own. In short, they have acquired an effective, working understanding of what it means to be “partners.”

Still, even in workplaces where labor and management are trained and prepared to partner together problems can occur. So don’t feel as if you are alone or that problems do not happen to other teams. When they arise, problems may appear too difficult to overcome. There are solutions available if the team trusts the process and respects each other’s interests. How you might address these difficulties is the purpose for this section of the Guide.

1. Certainly the first step is to look at the source of the problem and consider whether or not the workplace environment, the process model, or the participants could be contributing to the difficulty. For example:
 - Did the workplace co-leads complete an IR Planning worksheet? (*See the Toolkit section.*)
 - Is a history of fear, anger and/or mistrust prevailing in your work group?
 - Have co-leads and/or leadership properly completed their tasks? (*See pages 11, and 35-39.*)
 - Have you followed all the steps of IBPS? (*See page 7.*)
 - Have all the participants been allowed and encouraged to speak and contribute?
 - Is everyone supporting the consensus decision of the group?
 - Has sufficient training occurred for everyone to understand the process and their role in it?
2. The facilitator is an enormously constructive resource. Some groups believe they can get by without one and often the experienced groups can. However, new groups, and those tackling difficult issues, are well advised to use the services of a facilitator.
 - Facilitators keep the group on track with its agenda.
 - They make certain the process steps are followed and that training is considered when it becomes evident to them that training is needed. (Refer to the OLMP Facilitator training.)
 - If a facilitator is present, use him or her. Ask questions to obtain information or direction if things are not proceeding effectively. “How might we...?”

Toolkit

The following is an example of the Planning Worksheet, which outlines the steps necessary to take prior to conducting an Issue Resolution meeting. It covers logistical, facilitation, training, stakeholder and scope issues that need to be addressed to position successful implementation of Issue Resolution.

Planning Worksheet

People	
1.	Who will participate? How will they be selected?
2.	Are they trained?
3.	Are they the right people?
4.	Are they able to commit?

Planning Worksheet (cont.)

Task	
1.	What is the problem to be solved?
2.	Have objectives been set; if so, what are they?
3.	Will the Issue Resolution group make a decision or a recommendation?
4.	What are the timelines?
5.	What is the budget?
6.	What data or information is needed?

Planning Worksheet (cont.)

Processes	
1.	What is the scope of Issue Resolution?
2.	If there are sponsors, what is their role?
3.	Who will make the arrangements? What is required?
4.	Do we need a facilitator? If so, who?
5.	What needs to be communicated?
6.	What are the implementation activities and timeline?

(This page is intentionally left blank.)

Appendix A

IRIT Members

The following is a list of the Regional Labor and Management team members from the national **Issue Resolution Implementation Team (IRIT)**:

Name	Region
Ben Hudnall	Co-Chair OLMP/CKPU
Rob Worrall	Co-Chair OLMP/NLR
Joe McGarry	California – North (Mgmt)
Katie Ricklefs	California – North (Mgmt)
Jeff Gamble	California – North (Union)
Bob Fernbach	California – South (LMP)
Mike Belmont	California – South (Mgmt)
Diane Bertell	California – South (Union)
Gerrie Schipske, RNP/JD	California – South (Union)
Cardell Webster	Colorado (Mgmt)
Joan Heller	Colorado (Union)
Ruthie Roberts-Johnson	Colorado (Union)
Debbie Sapin	KPIT (Mgmt)
Linda Lehner	Mid-Atlantic States (Mgmt)
Rose Meushaw	Mid-Atlantic States (Union)
Creighton Young	Northwest (Mgmt)
Debbie Silva	Northwest (Union)
Rosemary Wiggins	Ohio (Mgmt)
John Kolodny	Ohio (Union)
Nina Jones	OLMP Project Consultant
Charlie Huggins	RAI Facilitator

(This page is intentionally left blank.)

Appendix B

National IRCA Procedure Contract Negotiations and Administration Task Force Issue Resolution Workgroup Report

Issue Resolution and Corrective Action Procedures

Introduction

The Issue Resolution Workgroup was chartered to explore and recommend methods of resolving issues fairly and timely at the appropriate level in the organization during the term of labor contracts. The workgroup accomplished its work through the development and exploration of:

1. Processes for ensuring appropriate education and training for those involved in administering labor agreements.
2. Mechanisms for ensuring that supervisors and stewards have the necessary knowledge, tools, and understanding of their roles and responsibilities to solve problems.
3. Processes for stabilizing relationships that have gone awry or fallen into disrepair.
4. Joint monitoring capability at appropriate levels to provide early detection of problems.
5. Avenues for employees represented by Partnership unions, supervisors and managers to raise issues, promulgate ideas, and voice concerns around non-contractual matters.
6. Processes to assure issues are addressed at the appropriate level. Establish expectation that most issues are to be resolved by those closest to their source and by utilizing Partnership values.
7. Model contract provisions or processes that foster a Partnership approach and recommend a strategy to promote inclusion in labor agreements. Examples might include mediating grievance and/or expedited arbitration procedures, joint problem-solving forums, etc.

Workgroup Members:

Management

Dildar Gill, LR
 Joe McGarry, HR
 Dianne Preston, Administration
 Jim Pruitt, LR
 Dany Valenzuela, LR

Union

Liz Alonso, OPEIU, Local 29
 Will Clayton, SEIU, Local 250
 Rick Henson, SEIU, Local 49
 Ben Hudnall, ESC, Local 20
 Sonia Moseley, UNAC
 Margaret Segura, SEIU, 399

Data Gathering

The work group began with a review of the data on current grievances awaiting arbitration. Discussions covered the nature of the grievances; discipline or contract interpretation, the root issue, and distribution by union and services areas within California. During the course of the work group's deliberations, information was gathered from within the Kaiser Permanente system to identify both barriers that the parties believe exist to effective Issue Resolution, and internal best practices. Telephone interviews were conducted with 37 union and management representatives from across the country.

The key elements for effective Issue Resolution reflected in the opinions of the interviewees were:

1. Early intervention
2. Employee involvement- active participation
3. Small group of stakeholders to resolve issue
4. Adult approach - making everyone accountable
5. Mutual respect
6. Good relationships
7. Environment that promotes open and honest discussion
8. All stakeholders involved
9. It's OK to work together
10. Training
11. Data driven
12. Joint investigation
13. Identify issues not personalities
14. Multiple forums for discussing issues
15. Resolution at the most immediate level

Following the review of data from the interviews, the members reviewed 14 examples of Issue Resolution processes utilized by other companies and their unions. Included in the data gathered and reviewed were the Collaborative Issue Resolution Procedure and the Corrective Action Procedure from Baldwin Park. Many of the key elements identified by the interviewees were present in systems from the other companies.

Key Elements for Issue Resolution

After review of all materials the work group discussed principles important to an effective Issue Resolution system:

1. Ease of access
2. Timely resolution
3. Fresh eyes
4. Appeal
5. Monitoring mechanism
6. Solutions versus settlements
7. What's right not who is right
8. Responsibility and accountability
9. Union/management/employee engaged early and remains engaged in solving the problem
10. Partnership goals and values
11. Commitment to joint problem solving
12. Consensus decision making
13. Simple

The recommendation that follows represents a consensus of the members of the Issue Resolution Workgroup.

Recommendations

Commitment

All parties need to be willing to try new and different Issue Resolution approaches and jointly make mid-course corrections as necessary. A commitment to empower supervisors and stewards to make decisions (which are not precedent-setting), and then to support those decisions, with an understanding that decisions cannot change existing collective bargaining agreements unless it is agreed to by the union leadership and labor relations. Once decisions are reached there must be a commitment on all sides to honor agreements and to work to support those decisions.

There must be a commitment at all levels of all Partnership organizations and union leadership to change behaviors and make the financial investment in appropriate training. This includes individuals or **“Labor-Management Teams”** (discussed later) becoming the champions and supporters of the agreed upon procedure for problem solving day-to-day issues and concerns that arise.

The Kaiser Permanente Labor-Management Partnership is committed to the goals of:

- Improving quality of health care for Kaiser Permanente members and the communities we serve;
- Assisting Kaiser Permanente in achieving and maintaining market leading competitive performance;
- Making Kaiser Permanente a better place to work;
- Expanding Kaiser Permanente membership in current and new markets including being designated as a “provider of choice” for all labor organizations within its' service area;
- Providing Kaiser Permanente employees with the maximum possible employment and income security within Kaiser Permanente and/or the health care field; and
- Involving employees and their respective union in the decision making process.

We hope to provide the necessary guidance and tools that will allow the frontline employees to imbed the principles and goals of the Kaiser Permanente Labor-Management Partnership into the daily work life within their units. We believe this involvement in addressing everyday issues and concerns through a system for resolving issues at the unit level will reduce conflicts, grievances, external complaints, and arbitration. This will create a work place climate that increases employee morale and commitment resulting in maintaining or enhancing quality, improving productivity, and increasing patient and customer satisfaction. In this way, we will strengthen the Partnership by creating strong, effective union and management partners and free up resources on both sides to focus on the critical issues of today and tomorrow.

Each facility is encouraged to have a “Labor-Management Partnership Team.” This does not necessarily mean everyone needs to create another committee, or replace an existing team, however, the parties should agree upon an infrastructure that will support the needs of the parties, and encourage an integrated effort between labor and management.

Issue Resolution Procedure

Encouragement of participation and communicating openly, timely, constructively and respectfully, without the fear of retribution, is necessary to make the efforts at Issue Resolution sincere and effective.

The core elements of the Issue Resolution Procedure are as follows:

1. Initiation of Issue Resolution

Any individual can access the Issue Resolution Procedure by raising any issue or concern with a steward or supervisor in the work unit. Bargaining unit employees who choose to utilize this procedure to resolve issues or concerns may, at their discretion, opt out of the Issue Resolution Procedure and enter the established grievance procedure. Time limits for grievance purposes will commence upon exiting the Issue Resolution Procedure.

Resolution of the issue will be attempted at the individual or work unit level. Within the work unit a group of stakeholders (individual or group with an interest in the issue) will meet to attempt to reach a solution utilizing an interest-based problem solving methodology. The individual bringing the issue forward must stay actively involved in the search for a solution.

2. If a mutually agreeable solution is not reached within the workgroup, the issue may be forwarded to the facility **Labor-Management Partnership Team or Joint Review Committee**, notifying them of inability of the stakeholders to reach a mutually agreeable solution. The Labor-Management Partnership Team will: A) address the issue at the next regularly scheduled meeting; or B) utilize/appoint union and management representatives to an ad hoc committee (e.g., Joint Review Committee [JRC] that will assist the stakeholders in resolving the issue). These steps should take place in a timely manner.

When the issue is union specific (i.e., a contractual issue), the JRC will be comprised of four committee members (two members from the affected union and two management members).

Corrective Action Procedure

Changing the Way We Discipline

We believe that it is important to recognize that the culture needs to change. Everyone needs to understand that behavioral changes and performance improvement are necessary ingredients for our success. We explored a system that recognizes that workers themselves must be the real source of discipline and sets up a workable program that reinforces self-discipline. We will make little headway in stemming the flow of grievances if we leave intact a disciplinary system that has created at least one-half of the existing backlog of grievances awaiting arbitration.

A limited literature search found that “organizations that have adopted this type of an approach for handling performance problems have found measurable reductions in absenteeism, dismissals, disciplinary actions, grievances, and arbitration. Less measurable but equally significant results include improved morale and increased respect for management, a reduction in wrongful termination suits, and a sharper focus on the great majority of employees who are performing well. The responsibility for action shifts from the supervisor to the employee; the time frame changes from past to future; and the objective becomes commitment and not mere compliance.” (HBR, 1985)

We strongly recommend that the parties jointly explore and adopt new discipline procedures as part of the overall change effort. We understand there will be resistance, but we believe that the implementation of the following Corrective Action Procedure concurrent with the Issue Resolution Procedure not only makes sense but also is imperative for the success of this effort.

The focus of The Corrective Action Procedure is to develop a collaborative approach to resolve performance and behavioral issues.

Philosophy

The Corrective Action Procedure is intended to be an open process that utilizes a problem solving approach to address issues and explore alternatives to correct performance and/or behavioral concerns. At any point, an employee who does not participate or agree, has the right to file a grievance. This procedure should be used when addressing performance and behavior problems adhering to the principles of just cause, a well-recognized arbitral standard. The Corrective Action Procedure recognizes the value of all our employees and the significant investment each employee represents, and is reflective of our commitment to retain employees whenever possible. Employees, who dispute any action under this procedure, shall have the right to file a grievance.

.
.
Purpose

.
Explore positive ways to build employee commitment, generate self-discipline and ensure individual responsibility and accountability for performance and behavior.
.

.
Coverage

- Employees represented by Partnership unions.

.
Procedure

.
A. Level 1 — Oral Reminder

.
This is the first level of the Corrective Action Procedure.
.

.
At this level the Supervisor/Department Manager will meet privately with the employee and representative of the union (unless such representation is refused) to clarify the performance or behavioral issue. The Supervisor's/Department Manager's primary role at this level in the Corrective Action Procedure is to gain the employee's understanding and agreement to solve the problem.
.

.
The focus of the oral reminder is to remind the employee that he/she has a personal responsibility to meet reasonable standards of performance and behavior. The Supervisor/Department Manager and employee should use this opportunity to problem solve the issue(s), clarify expectations and explore and agree on behavioral changes, including measures of achievement and timeliness. *The supervisor and labor representative may also wish to consult with human resources throughout the process.*
.

.
The Supervisor/Department Manager will prepare a written summary of the meeting to include: date, issue(s) discussed and agreements reached. A copy of the written summary will be given to the employee and union representative (if any). The documentation is for information purposes only. A copy of the written summary will be placed in the employee's departmental file for an agreed upon period of time not to exceed one (1) year. This copy will **not** be placed in the personnel file. The written summary cannot be used for purposes of the formal discipline procedure (Levels 3, 4, and 5).
.
.

At the conclusion of the agreed upon timelines, the Supervisor/Department Manager will meet again with the employee and representative of the union (unless such representation is refused) for the purpose of assessing progress or moving the issue forward if satisfactory progress has not been made. Employees, who dispute any action under this procedure, shall have the right to file a grievance.

B. Level 2 – Individual Action Plan

This is the second level of the Corrective Action Procedure and should be utilized if the employee’s performance or behavioral problems continue.

Again, at this level the Supervisor/Department Manager will meet privately with the employee and a representative of the union (unless such representation is refused), to revisit the issue(s)/problems and clarify the need for the employee to meet reasonable standards of performance and behavior.

In addition, the discussion will include: a review of the progress made by the employee based on input at Level 1; the joint development of an action plan; and a time frame in which the employee is expected to meet performance or behavioral standards.

Together the Supervisor/Department Manager and the employee will develop an action plan that will set forth the specific issues related to performance or behavior; establish expected performance or behavior; verify the employee’s commitment to the action plan; and establish a time frame for achievement of performance or behavioral expectations.

Based on agreements reached through consensus, the Supervisor/department Manager will prepare a written memorandum which summarizes the agreed upon Individual Action Plan. The employee will be asked to sign the memorandum as an expression of commitment to the action plan. If the employee does not sign the Individual Action Plan, the employee will move to Level 3 of the Corrective Action Procedure. If a representative from the union was present at the meeting, such representative will be asked to sign the memorandum as having been in attendance at the meeting.

A copy of the Individual Action Plan will be given to the employee and the union representative (if any). A copy of the Individual Action Plan will not be placed in the employee's personnel file. The Individual Action Plan will be placed in the employee's departmental file for an agreed upon time not to exceed one (1) year. The Individual Action Plan cannot be used for purposes of the formal discipline procedure (Levels 3, 4, and 5).

At the conclusion of the agreed upon timelines, the Supervisor/Department Manager will meet again with the employee and a representative of the union (unless such representation is refused), for purposes of assessing progress or moving the issue forward if satisfactory progress has not been made. Employees, who dispute any action under this procedure, shall have the right to file a grievance.

C. Level 3 – Corrective Action Plan

This is the third level of the Corrective Action Procedure and should be utilized if the employee's performance or behavioral issues have continued, or if the employee refused to sign the Individual Action Plan. At Level 3, the Supervisor/Department Manager, employee, and a representative of the union (unless such representation is refused), meet privately to revisit the Individual Action Plan, timelines, and progress made under the Individual Action Plan. The supervisor may also wish to consult with human resources or labor relations.

The Corrective Action Plan is the first step of the formal discipline procedure and will be used for purposes of establishing progressive discipline.

The preferred outcome of this meeting is that the Supervisor/Department Manager and the employee, through a collaborative process, will mutually agree upon a Corrective Action Plan. However, if the employee refuses to acknowledge the issue or agreement cannot be reached on a Corrective Action Plan, the Supervisor/Department Manager will prepare the Corrective Action Plan necessary for the employee to correct performance or behavioral issues. In these circumstances, the Supervisor/Department Manager may unilaterally implement the Corrective Action Plan.

The Supervisor/Department manager will prepare a written Corrective Action Plan which sets forth the agreements made, or parameters established for correcting performance or behavioral issues, including measures of achievement and timelines. The Corrective Action Plan will include notification to the employee that failure to live up to performance or behavioral expectations will result in further corrective action being taken, which may eventually lead to termination.

The employee will be asked to sign the Corrective Action Plan as an acknowledgment of his/her agreement to the plan and as an expression of commitment, and will be provided a copy. The union will be asked to sign the plan as having attending at the meeting and will be provided a copy. If the union was not present at the meeting, they will be sent a copy. A copy of the Corrective Action Plan will be placed in the employee's personnel file for an agreed upon period of time not to exceed one (1) year.

At the conclusion of the agreed upon timelines, the Supervisor/Department Manager will meet with the employee and a representative of the union (unless such representation is refused), for purposes of assessing progress or moving the issue forward if satisfactory progress has not been made.

The following will be considered in determining whether or not Level 3 should be repeated or the issue should be advanced to Level 4 – Day of Decision:

- Severity of the incident
- Frequency of the incident
- Date of the incident in comparison to the date of the Corrective Action Plan
- Previous overall performance
- Tenure of the employee
- Mitigating circumstances
- Commitment of the employee to the overall Corrective Action Plan

Employees, who dispute any action under this procedure, shall have the right to file a grievance.

Level 4 – Day of Decision

This is the fourth level of the Corrective Action Procedure and should be utilized when the employee has not shown improvement in performance or behavior after having gone through Level 3 of the Corrective Action Procedure.

At the conclusion of the follow-up meeting at Level 3, and after having determined that prior efforts have failed to produce the desired changes, a meeting will be scheduled including the Supervisor/Department Manager and the next higher level manager, the employee, the union steward and the next higher level union representative (unless such representation is refused)

The purpose of this meeting is to review the continuing performance or behavioral issues and the lack of improvement. If management decides to invoke a Day of Decision, the next higher level manager will explain the severity of the situation to the employee and will place the employee on a paid “Day of Decision”. (The Day of Decision is paid to demonstrate the organization’s commitment to retain the employee.) The higher level manager will stress the need for the employee to utilize the Day of Decision as a day of reflection and choice. The employee has the opportunity to choose to change his/her performance or behavior and return to the organization, or voluntarily sever the employment relationship.

Management will document the meeting in a memorandum, which will include the date, location, attendees, and summary of the discussion.

Upon returning to the workplace, the Supervisor/Department Manager, the employee, and the union steward (unless such representation is refused), will meet to review the employee’s decision. If the employee’s decision is to change his/her performance or behavior and continue employment, the Supervisor/Department Manager, employee, and a representative of the union (unless such representation is refused), will meet to develop a Last Chance Agreement. The Last Chance Agreement will include the Final Corrective Action Plan. The employee will be required to sign the Last Chance Agreement and will be given a copy. The union representative will be asked to sign the Last Chance Agreement as having attending at the meeting and will be given a copy or mailed a copy if representation has been refused.

The Last Chance Agreement will be placed in the employee's personnel file for an agreed upon period of time not to exceed one (1) year. The Final Corrective Action Plan and Last Chance Agreement are part of the formal discipline procedure and will be used for purposes of establishing progressive discipline.

At the conclusion of the agreed upon timelines, the Supervisor/Department Manager will meet with the employee and a representative of the union (unless such representation is refused), for purposes of assessing progress or moving the issue forward if satisfactory progress has not been made.

If the employee returns from a Day of Decision without a commitment to modify performance or behavioral issues, does not participate in development of a Corrective Action Plan which would be incorporated into the Last Chance Agreement, refuses to sign the Last Chance Agreement, or does not voluntarily terminate, the employee will progress to level 5 of the Corrective Action Procedure. Employees, who dispute any action under this procedure, shall have the right to file a grievance.

E. Level 5 – Termination

If performance or behavior issue(s) still persist despite the Oral Reminder, Individual Action Plan, Corrective Action Plan, and Day of Decision, termination of the employee would be the next step in the Corrective Action procedure. In certain circumstances the organization may accept the employee's resignation in lieu of termination.

Should an employee be on a Last Chance Agreement, and should there be a recurrence of an incident within one (1) year period, but after six months of acceptable behavior, HR and Management will review such action prior to the discharge of the employee. Employees, who dispute any action under this procedure, shall have the right to file a grievance.

· **Purging of Documentation**

· Documents excluded from the formal discipline procedure (e.g., Oral
· Reminders, Individual Action Plans or other such documentation) will be
· purged from the employee’s departmental file after one (1) year, unless it is
· mutually agreed to remove such documentation sooner.

· Disciplinary documents (e.g., Corrective Action Plans, Last Chance
· Agreements, etc.) will be removed from the employee’s personnel file after
· one (1) year. However, upon mutual agreement, disciplinary documentation
· may be removed from the employee’s personnel file prior to the one (1) year
· expiration period.

· **Maintenance of Documents**

· In order to satisfy governmental record keeping requirements, purged
· documentation (Corrective Action Plans, Last Chance Agreements) will be
· maintained by the employer in a separate file to which
· Supervisors/Department Managers do not have access.

· **Investigatory Suspensions**

· In situations where Management determines that removal of an employee is
· warranted due to the nature of a reported incident or allegation, such
· employee will be placed on a *paid* investigatory suspension. At the
· conclusion of the investigatory suspension, Management will determine at
· what level, up to and including Level 5, to place the employee in the
· Corrective Action Procedure.

· **Acts of Gross Misconduct**

· Acts of gross misconduct and/or gross negligence will subject the employee
· to an accelerated level in the Corrective Action Procedure (Last Chance
· Agreement or Termination).

Training and Launching Initiative

The scope of activities under this recommendation could include responsibility for the training, monitoring, and supporting efforts (**by the local Labor-Management Team if one is in place**), to create a positive workplace environment. We will briefly address each of these elements separately below:

- Training – We reviewed and support the various training and education initiatives recommended by the Training Task Force for all employees. In addition, **specific training needs to be provided to stewards, supervisors and members of labor-management teams**. We recommend the following training initiatives be required and implemented. We do not recommend delaying the training until formalized local committees or service area labor-management teams, have been set up. This specific training should occur in regions/services areas where labor-management teams have been set up, as well as in areas where a formalized structure has not yet been established.
 - Joint Training Institute (JTI)-or equivalent program
 - Interest-Based Problem Solving and Consensus Decision Making
 - Issue Resolution

- JTI – The JTI has a two-day training program that has proven effective. Where it has been conducted in Northern California, we have seen, through objective measures, outcomes such as enhanced relationships, reduced conflict, and significantly lower formal disputes (grievances). Elements of the JTI training have also been used at Baldwin Park. We believe JTI provides an opportunity to minimize implementation costs as most units covered by a SEIU Local 250 contract have already sponsored this training for supervisors and stewards. In Northern California there may be additional training needed to cover union stewards representing other local unions. We recommend Labor-Management Consultants or LearningWorks deliver this training.

If an equivalent program is considered, we recommend a joint review of course content by members of labor and management leadership to ensure that critical elements (similar to JTI) are included in the training.

JTI should be modified/customized as follows:

- Expanded concerning the state of KP, the financial turnaround, what the individual employee does on a daily basis and how it impacts the financial turnaround.
- Designed with flexibility to be customized for the local area.
- Customized with a well developed, educationally sound comprehensive trainer's manual to be used by all trainers. As it is impossible to have one trainer present this program across the country, it is extremely important that other trainer's be capable of delivering a consistent, high quality, effective training session.
- Enhanced with train-the-trainer sessions for all possible training deliverers including the LMP Consultants, LearningWorks or similar training departments, and union and management representatives.
- Focused on JTI portions that include collaborative problem solving and should be consistent with Interest-Based Problem Solving.

Interest-Based Problem Solving/Consensus Decision-Making – The Federal Mediation and Conciliation Service in conjunction with Kaiser Permanente, has developed a two-day program for Interest-Based Problem Solving and Consensus Decision Making. All Partnership teams, supervisors, stewards, HR, LR, Operations/Administration, and union staff need this formal training.

The training should include the skills necessary for successful conflict management. We also recommend the FMCS, in conjunction with labor Business Reps and members of the human resources/labor relations community, provide Interest-Based Problem Solving training to all staff.

Issue Resolution/Corrective Action – In order for staff to understand and fully utilize the Issue Resolution/Corrective Action Procedure, they must receive training. We recommend that all employees be educated on the Issue Resolution Procedure to help them understand the reasons for this approach. While the supervisors and stewards will receive formal training, it is recommended that they jointly conduct in-service sessions (during regularly scheduled staff meetings) to provide information on the Issue Resolution/Corrective Action Procedure to all employees.

- Monitoring – We recommend that the parties jointly develop measures that will provide them with data on Issue Resolution and grievance trends. This information should be shared broadly throughout the organization.

Where contract interpretations are generating grievances the parties should attempt to reach an agreement on the proper meaning and application and provide that guidance.

Information on the Issue Resolution Procedure needs to be collected for monitoring both the level of activity and compliance of agreed upon solutions with the collective bargaining agreement. We recommend that all issues going through at least one step of the Issue Resolution Procedure be documented by Department, stakeholders, issue, and solution.

- Supporting – As we noted under the COMMITMENT section, the day-to-day nurturing of a positive workplace environment requires champions and leaders who will model Partnership principles. They must continually reinforce the expectation that decision making is to be done as close to the work unit as possible. The participants must provide resources and information for the decision making process to work in a timely fashion, to include release time for staff to participate in the problem solving effort.

Stabilizing Relationships

1. The first level of support should come from the supervisor/steward community. There needs to be facilitated dialogue or joint interventions by individuals involved at the unit level. These peer groups should be capable of providing feedback, coaching, mentoring, or peer mediation within their group. The idea here is to build and maintain relationships between individuals and within the peer group. **Appropriate training for these groups is essential.**
2. If the issue/relationship can't be rectified through peer intervention, we believe it should rise to the level of the chief steward and facility HR consultant to try to provide assistance to the individuals in resolving their differences.
3. If issues remain, resources will be provided to assist the individuals. These resources may be internal Labor-Management Partnership Consultants, union leadership, HR, LR, OE, EAP, Training, or external FMCS mediators.

When relationships in the workplace go awry appropriate interventions should be made. People need tools, support, and education to begin to change.

