

CLASSIC STAGED DESIGN

by

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EDITOR'S NOTE: *In her essay, Jeanne Mathews relates how General Electric approached the challenge of creating a fair, effective program that was consistent with legal requirements, company objectives and corporate ethos. In so doing, she provides an excellent introduction to a "classic" staged system design.*

Today, the focus in the media and the courts is often on the arbitration stage of companies' internal dispute resolution programs. As companies and employees battle over whether pre-dispute agreements to arbitrate are unconscionable (or unenforceable on some other grounds), a look behind the scenes reveals that the vast majority of employee complaints are resolved at the pre-arbitration stage, thus making many of these court challenges inapplicable for the average employee. Internal ADR programs have created a workable infrastructure where both the employees and the companies achieve resolution of an issue, usually after only one or two internal meetings.

But what makes an internal ADR program successful? Why *are* most complaints being resolved and resolved early, efficiently and effectively? What aspects of a program give it credibility in an employee's eyes? Let's take a look at a particular program—the RESOLVE program at GE's Corporate headquarters.

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Prior to the onset of the RESOLVE program, GE employees were asked to participate in focus groups in which they were asked, “How do employment issues get resolved today?” Consistent feedback included “Slow responses, if any, from management and Human Resources (HR) in addressing an issue raised by an employee.” HR was distrusted and often perceived to be aligned with management.

The ADR program planning team therefore spent a considerable amount of time addressing these issues, with a particular focus on selecting the best person to be the “coordinator” of the RESOLVE program. The coordinator would be the first point of contact for any employee considering initiating a claim under the program, and would ensure that the claim moved through the four stages of the ADR process within the established timelines. Trust was therefore critical.

First, the employee demographics were considered. Most employment-related complaints arose from the non-exempt and lower level professional ranks, and therefore the coordinator would have to be approachable, a good listener, and have had some experience with the employees in these groups. However, because an occasional issue arose from management employees, too, the coordinator would need to be savvy, articulate and capable of handling an issue without the benefit of personal experience if necessary. The ability to maintain confidences was also critical. Above all else, the coordinator had to be viewed as someone who could be objective, not aligned with HR, management, or anyone else -- a strong, independent personality.

The person who was eventually selected had worked for many years in the labor and employment law section of the GE legal department as an administrative assistant and then a

litigation coordinator. She was very intelligent, exuded confidence, and was highly energetic. Many years spent reviewing active employment litigation cases permitted her to understand the importance of maintaining confidences. Over the years, she had often advised her fellow co-workers, basing her advice on the many real-life cases that had been handled by the company's labor and employment attorneys in her group. As a result of her familiarity with employment matters, she was able to speak authoritatively and credibly to the employees who called her to initiate a RESOLVE claim.

The RESOLVE program encourages informal problem-solving with a manager, an HR representative or an ombuds prior to submitting a written complaint with the RESOLVE coordinator. Once a complaint is filed, the program includes up to four levels. Levels I and II involve meetings with the immediate manager and, if necessary, with a higher-level functional manager, in an effort to resolve the dispute. Level III provides for mediation and Level IV for arbitration.

The results of the program have been nothing less than astounding. In the first five years in the life of RESOLVE, the coordinator has been contacted approximately 96 times by co-workers with an employment-related issue. After many phone calls, emails, hallway and conference room get-togethers, the number of complaints that were actually filed with RESOLVE was a mere eighteen. The rest had been resolved "unofficially," primarily as a result of the adept handling of the issues by the RESOLVE coordinator who had been willing to listen, and where appropriate, offer advice.

To date, of the few complaints actually filed with RESOLVE, one case was resolved and three cases were withdrawn at Level I (first internal meeting). Nine were resolved and one was

withdrawn at Level II (second internal meeting). Of the four cases that moved to Level III, one complainant withdrew the case prior to mediation and the other three were successfully mediated with the assistance of an independent third party. As of this writing, none of the cases in the Corporate RESOLVE program have proceeded to either arbitration or court.

While the importance of the role of the coordinator cannot be overstated, a few additional aspects of the program are critical as well. First is the commitment to maintain confidentiality. Employees have found a place to “vent,” outside of HR, where nothing that is said has to be reported to management (unless a violation of company policy or law has been raised), or unless the employee decides to pursue a claim under the RESOLVE process.

A second important aspect of success has been the defined timelines by which management must respond at each step of the process. A written response is required to be delivered within a certain number of days of the end of meetings held during Levels I and II. This highlights another important aspect of the coordinator role: the ability to follow through, maintain deadlines, push managers who may have difficulty in meeting the deadline, etc.

Despite the few cases actually reaching the Level III (Mediation) stage, employees also appreciate the fact that, if a settlement agreement is reached between the company and the employee at that stage, the company will reimburse the employee for up to \$2500 in outside legal and expert fees. This aspect of the program was included in order to encourage employee usage, and earn the trust of those who might have been skeptical initially of the company’s good faith in providing the RESOLVE program.