

HR Mixtape: Navigating Conflict with Transparency

Host: Shari Simpson

Guest: Collin Williams, Founder and Chairman at New Era ADR

Announcer:

You're listening to the HR Mixtape. Your podcast with the perfect mix of practical advice, thought-provoking interviews, and stories that just hit different so that work doesn't have to feel, well, like work. Now, your host, Shari Simpson.

Shari Simpson:

Joining me today is Collin Williams, founder and chairman at New Era ADR. Collin specializes in alternative dispute resolution, helping individuals and organizations resolve conflicts efficiently and effectively, avoiding the time, costs, and uncertainties associated with traditional litigation. Collin, thanks for jumping on the podcast with me today.

Collin Williams:

I appreciate you having me. It's great to be here.

Shari Simpson:

We got to chitchat a little bit about our backgrounds before we went live. And it's always fun to meet somebody who is familiar with the Chicagoland region and also has a love for Colorado like I do. So love that we were able to connect that way. You know, I want to start our conversation off with this idea that a lot of people avoid conflict. It feels uncomfortable. But really conflict itself probably isn't the problem. It's how we handle it. So, you know, why is it so important for organizations to start to talk openly about conflict and what shifts when we start seeing it as something that we can navigate rather than something to fear?

Collin Williams:

Yeah, when I think of organizations, I think there's two kinds of organizations,

right? There are open organizations, there's closed organizations. And when I say that, you really think about an organization that has lots of transparency from the top down, right? It's telling everybody what's going on in the company, that's openness, right? And then there's closed organizations where everybody looks at maybe the executive team, the HR team, the legal team as a black box. What's going on? I don't have any idea what's going on in this organization. Open organizations tend to fuse conflict, doesn't mean it doesn't exist. Closed organizations create conflict. So I think there's a big difference when you engage in transparency, you let the employee base know what's going on, you're going to have far less conflict. And when you have conflict, it's going to be things that matter. When you have a black box organization, you're going to create conflict where there really shouldn't be any, because there's just an innate distrust of what's going on. And so I think the important thing when you think about how you should run an organization is full transparency. And I could tell you all sorts of things from my background about how this works. But it really is amazing when you engage with the employee base and you tell them, this is what's going on and we're going to be transparent. We're not doing well financially, here's why. We're doing great financially, here's why. We're having this problem, we're having that problem. If you tell people, then they tend to trust what you're saying. If you don't tell them those things, you're going to create conflict everywhere.

Shari Simpson:

You know, it's interesting because, you know, often HR sits in this space where they have this role where they have to be risk adverse, right? They have to protect the company from things like litigation and harassment claims, EEOC claims, all those kinds of things. But, and, I guess and would be a better way to phrase it, and they're in charge of creating this people first culture. And often they do that, I think, by falling back to a more traditional view of HR, which is the rigid rules and policies. How do they evolve from that thinking to see their role, and that is, I've lovingly referred to it in the past, as the policy police?

Collin Williams:

Sure. I actually think that there's pretty vast difference between rules and

policies, right? I think when you implement lots of rules, I think there's a feeling around rules that they're very, very rigid. And there's not really a great way to bend them. There's not really a great way to get around them. When you start implementing rules upon rules upon rules, you create a culture of, I have to stay in my lane and just do it. And that actually inhibits creativity, which creates a problem. I don't think policies are necessarily as big of an issue. I think if you create policies, it sort of drives the organization in a certain way. I think it's also important to educate the employee base about why we have these policies. But if you also think of a policy, there's leeway in there, right? You can do things around a policy that you can't necessarily do with a rule. So, I think policies can be a really good way of driving your organization in the right direction and mitigating risk. While also, if you educate the employee base, if you have an open door to discuss those things, then they're going to say, I understand why this policy is in place. And I don't necessarily have a problem with it. And maybe we can bend the policy this way. Maybe we can bend the policy this way. We can't do that with rules, right? So, I tend to think of this in a very different way, which is like HR can be like very rule and policy based. But I think of those two things differently. I think when you become very rule-based, you become too rigid and that creates distrust. I think when you have policies and you educate people about why you have those policies, and quite frankly, they can be good for the employee base too, I think that's a good thing. So I really think of those things as two sort of different things.

Shari Simpson:

How do you create the safetiness in that? And the way I guess I think about it is in past organizations, I guess I've looked at policies as rules and I've looked at guidelines as where we have the flexibility. And I guess I've always come to that conclusion because when I have gone to unemployment claims or EEOC stuff, we always go back to the policy documents, right? And what do they say and did we follow them? Maybe you can elaborate a little bit more. How do I think about that flexibility that I potentially could provide in a policy versus a guideline?

Collin Williams:

Yeah, I mean, I actually think of policies more as guidelines. So I think it's and I think that's really the important way to think about it is a policy is a guide and it drives the organization in a certain direction for whatever reason that may be. You create culture within a company, right? And you have to have a way to somewhat enforce that. That doesn't mean you need hard lines to enforce it. It means that you can create policies and say, here's why we're doing this, right? And the reason is we want a better culture because we think X, Y, Z creates a better culture. So to me, I think of policies and guidelines as the same type of thing, whereas I think of rules as something very, very different. And I think when you're drafting policies, I think you have to inherently, this probably is what differentiates them from rules, right? Is to build in some flexibility. I think a policy should be, or a guideline, we can use these interchangeably at this point. I think it should be a way that drives you in a certain direction, but it isn't hard line, right? So there should be some flexibility built into policies. There should be an inherent knowledge from the HR team and at the legal team that this is not a firm direction that you need to go. But there is some, we need to have some culture within the organization. So we need to build these things. But I think in building them in a way that's flexible and not saying, this is the way things work. If you deviate from that, you've created a problem and that's going to lead to litigation or whatever, maybe conflict. So I think it's, and you can always work with attorneys on this too and say, like, I need this policy to be built in a way that's going to have some inherent flexibility and not be a hard line rule. And that's, you know, that's an art. That's not a science. But I think if you think about it in that way and think, you know, I'm really going to build some flexibility into this while still driving towards the culture that I want, then you're probably in a pretty good place.

Shari Simpson:

Well, and I think that sets you up for increasing the trust in your organization. We know that trust and transparency actually lowers risk. I'm sure that you've seen that. Do you have some examples?

Collin Williams:

Yeah. So I can give you some really interesting examples. I was the general

counsel of a tech startup in Chicago that was completely black box. So it was run by, they were in their late twenties. And essentially the executive team board was three people, the two founders and the chief financial officer. Nobody had any idea why decisions were made, how decisions were made. Things were just laid upon the employee base. And it was a very, very confusing culture, particularly for me being an attorney. And I don't have any idea why things are happening or what's going on. To make a very long story short, that company completely imploded. The two founders and the chief financial officer and the head of sales all went to prison. I was a witness against them in federal court. So when you think about what black boxes can create. I mean, that's an extreme example, right? That doesn't mean every black box organization is going to have those problems. But there was just a massive amount of distrust. And what that created was when problems started, the employee base completely turned on the executives and that created a maelstrom of all sorts of bad stuff. The company I went to after that, complete transparency. We had a dashboard that every morning you could see all the sales, everything that happened the day before. And it was real time. So you could see all this stuff happening. Then every Wednesday, we had an all company meeting where we would talk about everything that had happened. And this wasn't a small company. It was 150, 200 employees. We would get everybody in the basement. We would talk about everything that happened. We would have some folks talk and introduce themselves so everybody knew each other. Totally different culture, right? We didn't have those problems. We sold that company for \$275 million. So I think when you think about those two things, you may think as an executive or an HR team or a legal team, that not letting everybody know what's going on is a good thing. And some of that hiddenness can maybe even keep the employee base in line. That's you're going to create massive problems for yourself. I think when you let everybody know what's going on in the organization and what's happening and why, then that employee base is going to be loyal to you. And honestly, they're going to be a lot happier in their jobs. And that creates a much, much better culture.

Shari Simpson:

Yeah, I know that the organizations I've worked for that there's been that

transparency. It doesn't leave you guessing at the direction of a lot of things, where the company's going, where your job's going, the impact you have. So yeah, I totally agree with that approach. I think there is definitely still some of that mentality that exists out there, though, that you know, we can't tell them everything because we don't know what they're going to do with that information. So how do you balance some of that? And I'm thinking of, you know, specifically public traded companies where you do have some proprietary information that may affect whether somebody can, you know, buy or sell a stock that they have. How do you work in that parameter with those transparencies?

Collin Williams:

Well, I think, I mean, you think about publicly traded organizations and I worked for Oracle and you can set up, obviously there's statutory mandated periods where you can't trade and things like that. I don't think necessarily not telling people is the solution to that problem. They just have to understand that if you have access to this information, then there are limits on what you can do with it. So you have blackout periods, you have periods that you can't trade the stock. So it's not that we're not going to tell you that these things are happening. Oracle used to do a very, very good job of basically saying, we're going to let you know everything that's going on, and here are the periods that you cannot do things. If you go ahead and do things during those periods based on the information you have, that's on you. That's the decision you made, and you're in trouble for that as an individual. And that's just personal accountability. So I don't necessarily think that hiding lots of things is the solution. I think that being transparent and then making sure people understand the ramifications of what they do then leads to personal accountability for their actions. And I think that's really, really important. I think there's also this concept, and this is a little bit of a deviation, of making sure that the HR team has an open door and people really believe that. I think there's always been I've been in a lot of organizations that have this culture of, sure, HR is the team I'm supposed to go to, but there's no way I'm going to them because of that concept of, what are they going to do with what I tell them? So I think that requires time and trust that you can build over the HR team, which will permeate through the employee base saying, hey, you know

what? I went to HR. I talked to Shari. Nothing bad happens. You can trust her. You can go to her and tell her what's going on and understand that that's going to be kept in confidence and she's going to use that information to create a good outcome. Once again, that's something that's built over time, but I think there's always this danger within HR and legal that if you do take that information and you do something bad with it, that's going to get everywhere. And then you've got a really, really big problem. So it's really just, it's about being honest, transparent and honest and making sure people understand. And that can be true in the HR function too. Somebody comes in, you say, look, if you tell me this, then I might be obligated to go tell somebody else and do something about it. So you make that decision, but I'm letting you know what the outcome may be because I have a responsibility to the company. And then as they decide, I don't want to tell you, then that's okay. They decide I want to tell you, then they understand the ramifications. But not understanding those things, I think is a very, very bad thing.

Shari Simpson:

Yeah, and it's a hard role to be in for HR, you know, in all honesty, because you do want to have that transparency. But then when that person comes and says, hey, I want to tell you this, you give them the details and they go, OK, good. I'm not going to tell you now. Then you're like, oh, no, there's something happening. You know, that's just the role that we sit in. But I think you're right, is we have to create that environment where people feel that we are a resource for them. But also we have to be very transparent, like you said, about what we have to do with some of the information that we get. You know, I've definitely been in that spot where somebody's come in and told me something and then I told them up front, hey, like there are things that I just have to take up the chain, either go talk to our general counsel or our executive suite about it. And it's hard. It's a hard conversation to have. How can HR start to build kind of that people-centered way of doing HR so that they have that relationship with employees and with the leadership team, because they do sit in the middle often?

Collin Williams:

Yeah. I mean, once again, I think it's trust that's built over time. I think you're

absolutely right. You think about this in the concept of like, and I hate to use this example, but like sexual harassment, right? So somebody comes to you and says, somebody made me feel really uncomfortable. They said X, Y, Z, it was completely inappropriate. And you tell them, well, look, if there's somebody doing that within my organization, then I don't really have an option other than to confront them about it and figure out what's going on. And maybe that needs to be taken to the legal team. Maybe that needs to be taken to the executive team. So you just have to understand what's the severity of this, right? Do you feel uncomfortable here? Is this a bad situation? Is this something that could happen to somebody else? Then I really think you have to be comfortable with the fact that we need to escalate this. Or is it just somebody that you don't particularly like? And certainly they said something offhand, but it's not, you know, off the cuff that wasn't appropriate. But maybe that's not something they do all the time. So let's talk about what this really looks like and what the outcome is going to be depending on which route we go. And then you can make that decision. And once again, I think when you do that over time, that's going to permeate through your employee base. People are going to talk about it, right? That's the something that I think HR and legal always need to acknowledge. Whatever you do, the first thing that person's going to do is go tell the person they trust the most. And that person's going to go tell the person that they trust the most. And that's going to go throughout the entire organization. So I think you need to acknowledge that. And that can be a good thing. It could be a really bad thing. So I think when you build that trust and say, the HR team and the employee base says, I went to the HR team. It was a really good experience. Because they counseled me. They didn't say, this is what I need to do and this is what I'm going to do. It's more of a collaborative thing where, okay, this is what happened. Let's figure out what the solution to that looks like. And depending on what you tell me, that means I might need to escalate it. And if you're not comfortable telling me that, that's okay. But if this is really a serious thing, then we really need to consider how we do this. And I think if you act in that collaborative way, once again, that's going to go throughout the entire, it's going to permeate the employee base. They're going to trust you. You're going to have good outcomes.

Shari Simpson:

So, you know, I had the privilege and I do say privilege working in a union environment before and sometimes those collaboration conversations, we can't kind of come to a agreed upon solution, which might lead us to mediation or arbitration. You know, we have those kind of tools written into our policies or guidelines. Maybe you could start with explaining just those terms mediation and arbitration for maybe somebody that's not familiar with them. And then how do we write those into our policies so that we still come across as approachable as HR leaders?

Collin Williams:

Sure. Yeah, I actually worked for the National Labor Relations Board in law school and did a ton of union litigation when I was outside counsel. I think, first of all, mediation and arbitration, right? Mediation is a collaborative process where you bring in a third party who has no stake in the game, who actually can go between the parties and say, what's your position? What's your position? They are not there to make judgments about it. They're there to work with both parties to try to come to some middle ground that everybody's content with as a result. So it is not a litigation process. It is not like going to court. It is very much the opposite. It's about actually trying to bring the parties together to some sort of resolution using a third party intermediary. Arbitration, different thing, right? Arbitration is litigation. It really is the exact same as going to court with a few nuances, like it's all confidential. It has an arbitrator instead of a judge. It's probably a conference room instead of a courtroom. But the process looks very much like going to court, filing a complaint, an answer, discovery, all this different stuff. I think the important thing, number one, mediation is a great process that is completely under use. I think the important thing about mediation is it should be done early. People love to mediate things when you're 75% of the way down the road in the court in the case. And the problem is then people are pissed. They spent a lot of money. They spent a lot of time. They become entrenched in their positions. It becomes a lot harder for that third party to walk in and say, let's find some middle ground. So I always like to say, if you're going to do mediation, you can build that into the policies and do it early. Do it before people become really, really angry about it. They're probably angry to begin with, but let me tell you,

two years down the road, you're going to find some real anger. So that can be built in, and I don't think anybody has a real problem with the concept of mediation. What's happened with arbitration over the years is that people have become very distrustful, and there's good reasons for that. People have built arbitration policies that are six pages long, and they're less about what's the process and how do we get to it, and more about how do I eliminate avenues, right? How do I absolutely mitigate risks in favor of the company and against the employee? So there's become this distrust of the process. And there's also this concept of arbitration being confidential. So people think, well, nobody's going to find out about this. And that's innately in favor of the organization. That's true. It is innately in favor of the organization. But there's a lot of reasons as an employee, you might not want this information out there, right? There might be something embarrassing. And that's when you go to court, everything is out in the open. So confidentiality, to me, isn't the problem. It's building these arbitration policies where you say, you can't do this. You can't do that. You've got this deadline. You can only ask for this much information. That's when you create a problem. Like arbitration at the end of the day is about creating a faster, more efficient, less expensive way to a result. Right. And to me, it's about both parties telling their story to an independent party who listens and says, I believe that story and I don't believe that story. And here's your outcome. And to me, I think fundamentally that's good for the employee and it's good for the organization. You don't want to spend a lot of time litigating things. But when you create these policies that are clearly anti-employee, then that's when you have a problem. So when you ask, how do you build these things? I think at the end of the day, an arbitration policy should do a couple of things. It should have a class action waiver, right? That's the reason it was created. And that was the biggest benefit to organizations is that you don't have a class action starting. So, and then I think it's about creating an efficient process and not a lot of fluff around it. So you say, okay, you have a problem, you file the arbitration with X organization, hopefully new era. But you file with that organization. Then we move through the process and get to result. And I'm not going to create a lot of barriers around this whole process that impede the employee. And I think if the world had stuck to that, that sort of paradigm, then we'd be in a much

better place. And people would realize arbitration is good for both sides, but you know, we really have entered this world where I think companies too often are using arbitration policies as a way to mitigate all risk and not as an avenue to actual redress. And I think that's why there's created a lot of distrust. That's why unions despise arbitration. But at the end of the day, had you stuck to a world where you say, look, we just want to stay out of court, we want to make this fast and efficient, and we want to get you to result, and if we were wrong or wrong as the organization, then I think we'd be in a much better position. And I think we're trying to push it back in that direction, right? Where everybody realizes like arbitration was created in the early 1900s because people didn't want to go to court. And if you look at it that way and say, look, it's just, we don't want to go to court. We want a faster, more efficient process. We'd all be in a better place.

Shari Simpson:

Yeah, for sure. You know, as we wrap up our conversation and I think about those in HR who are leaders listening now, what's one step that they can take tomorrow or walk away from this podcast to cut down on risk, but also strengthen empathy and collaboration across their teams?

Collin Williams:

Yeah, we go back to my favorite word and the thing that I've seen that works best in organizations is transparency, right? So when you're constantly in communication with your employee base, however the best way is to do that, you can have newsletters, daily emails, you can have company meetings. Certainly for large organizations, that's more difficult. I think when there is complete transparency, and you make that part of your culture, and maybe even build policies or guidelines around it and say, these are the things that we're going to do to be transparent, you're putting yourself in a position to succeed. And when you start saying, well, we can't tell the employee base this, can't tell them that, and we need to do this this way, and they don't need to know about that, and the executives are making these decisions, and don't tell anybody. Then I think you're entering a world of distrust, which is just going to create a cascading set of problems. So transparency is my favorite word in all organizations. We live it, I've lived it in other organizations, and I've

seen what the antithesis of that looks like and what it creates. So yeah, transparency.

Shari Simpson:

Collin, I love it. Thank you so much for taking a few minutes of your day to sit down and chat with me.

Collin Williams:

No worries. Thanks for having me.

Shari Simpson:

I hope you enjoyed today's episode. You can find show notes and links at thehrmixtape.com. Come back often and please subscribe, rate, and review.