Mastering Mediation: Training Mediators in the College and University Setting

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About this program...

- Designed for use with faculty, staff, and students
- Designed to be a skills workshop for mastering the basics of mediation
- Designed to strike a balance between lecture and small group activities
- Designed to be complemented with ongoing in-service training
- Examples are student-oriented but apply universally
About this program…

- Presented at:

  University of Notre Dame  
  Illinois State University  
  Emory University  
  Penn State University  
  University of Chicago  
  University of Arkansas  
  Tufts University  
  Association for Student Judicial Affairs  
  Central Illinois Dispute Resolution Services  
  College Administration Publications, Inc. Seminar

  University of Tampa  
  Bowling Green State University (Ohio)  
  University of Delaware  
  Rutgers University  
  Cornell College (Iowa)  
  Concordia University of Wisconsin  
  Middle Tennessee State University  
  Gehring Institute (10 years)  
  Association for Student Judicial Affairs Circuit IV  
  Association for Student Judicial Affairs Circuit VII
About this program...

- There is a great deal of material to cover…please be prompt.
- Discussion and questions are encouraged…may sometimes need to be abbreviated or moved to Parking Lot.
- Please move around as comfort requires.
- Please take bathroom breaks at will.
- Scheduled breaks and lunches will be announced.
- Please share whatever you are comfortable sharing, and be supportive of sharing by others. Please maintain the privacy of anything that is disclosed during this program.
- Programmatic questions will generally be referred to the host organizers.
Ice Breaker Activity: Interview

1. Partner’s Name
2. Position / Job / Department
3. Partner’s Definition of Conflict
4. Partner’s Definition of Mediation
5. What does your partner hope to gain from training?
6. If your partner could be any fictional character, who would she or he be, and why?
Introduction to Conflict

- What relationships of value will we develop over the course of our lives?
- Who will they be with?
Introduction to Conflict

CONFLICT

- What emotions do we experience in conflict?
Definition of Conflict

CONFLICT is:
an expressed struggle between at least two interdependent parties who perceive incompatible goals, scarce resources, and interference from others in achieving their goals.

(Wilmot & Hocker)
The PIN Model of Conflict

POSITIONS: WHAT WE STATE WE WANT

INTERESTS: WHAT WE REALLY WANT

NEEDS: WHAT WE MUST HAVE
The PIN Model of Conflict

POSITIONS

- “You and your friends have no respect for others.”
- “Quit using my stuff.”
- “Give me $600 by the end of next week.”
The PIN Model of Conflict

INTERESTS

- “I want the cushions cleaned.”
- “I want you to be more careful when other people are over.”
- “Let me know when you are going to have other people over.”
- “Please show me some respect.”
The PIN Model of Conflict

NEEDS

- To be able to trust her roommate
- To feel respected
- Not to worry when going away for a weekend
A New View of Conflict

Conflict is:

- Rewarding
- Stimulating
- Inevitable
- Opportunity
- Positive Change
- Creative
- Helpful
- Enriching
- Constructive
- Unifying
- Collaborative
- Vital
- Healthy
- Growth
- Win/Win
- Learning
- Exciting
- Productive
A New View of Conflict

Conflict:

1. Is an inevitable part of every relationship of value
2. Can be resolved so that both parties feel they have “won” and without the need for someone to “lose.”
3. Signals a need for change/evolution in a relationship.
4. Can be a healthy and enriching experience, strengthening relationships rather than weakening them.
5. Can be positive and productive, providing opportunities for learning and mutual understanding.
Conflict Styles and Strategies
Conflict Styles and Strategies

Avoidance
Conflict Styles and Strategies

Avoidance

Strategies:

- Ignoring the problem/conflict
- Denial of the problem/conflict
- Evasion of the problem/conflict
- Joking about the problem/conflict
Conflict Styles and Strategies

Avoidance

When to Practice:

- When the issue or relationship is unimportant
- When there is no chance of a positive outcome
- When risks of confrontation outweigh benefits of resolution
- When other party has significantly greater power
- When one or more parties needs time to “cool down”
- When it is appropriate to let others resolve conflict
Conflict Styles and Strategies

Avoidance

Disadvantages:

- Decisions made by default/without input
- Issues likely to remain unresolved
- Loss of influence in a situation or relationship
- Leads to self-doubt and loss of self-esteem
- May be unable to deal with conflicts in the future
- Demonstrates a lack of caring/investment
Conflict Styles and Strategies

Accommodation
Conflict Styles and Strategies

Accommodation

Strategies:

- Giving in or giving up
- Denying one’s own needs
- Placing harmony in the relationship over the issues in conflict
Conflict Styles and Strategies

Accommodation

When to Practice:

- When one is wrong/other is right
- When there is a desire for harmony in the relationship
- When relationship is more important than the dispute
- When losses can be minimized
- When a party needs to “save face”
- When one wants leverage for future conflict
Conflict Styles and Strategies

Accommodation

Disadvantages:

- Requires party to give something up
- Issues likely to remain unresolved
- Does not generate creative solutions
- Can cause frustration and/or resentment
- Creates a loss of influence in situation/relationship
- Can damage relationships
- Can foster competition over “niceness”
Conflict Styles and Strategies

Competition
Conflict Styles and Strategies

Competition

Strategies:

- Hostile remarks or jokes
- Threats and/or coercion
- Denial of own responsibility
- Verbal arguments
- Physical altercations
- Covert actions
Conflict Styles and Strategies

Competition

When to Practice:

- When immediate and decisive action is necessary
- When the style will be rewarded
- When there is no relationship of value
- When the issue is more important than the relationship
- Where a party needs to prove commitment/strength
- When total victory is desired
- When competing can bring parties together/make both better
Conflicts Styles and Strategies

Competition

Disadvantages:

- Strains/damages relationships
- Requires that one/both/all be “losers” in conflict
- Conflict may escalate
- Less likely to use constructive approaches later
- May encourage covert actions
- Can lead to stalemates
- Creates resentment and/or desire for revenge
Conflict Styles and Strategies

Compromise

Strategies:

- Both parties give and take to find a “middle ground”
- Offer a short-term resolution for “peace-keeping”
- Appeals to fair play/fairness
Conflict Styles and Strategies

Compromise

When to Practice:

- When a temporary solution is needed
- When parties are of equal power
- When parties wish to save time and energy
- When doing so “seems fair” to all parties
Conflict Styles and Strategies

Compromise

Disadvantages:

- Often leaves underlying issues unresolved
- Issue may become a recurring problem
- Parties required to give something up
- One/both/all parties may not be completely satisfied
- Becomes an easy way out of creative conflict resolution
- Leads to “position padding”
Conflict Styles and Strategies

Collaboration
Conflict Styles and Strategies

Collaboration

Strategies:

- Open and honest dialogue that is positive and constructive
- Willingness to listen to another view
- Emotions dealt with properly
- Seeking input from other party
- Willingness to accept responsibility for one’s actions
- Giving ground without “giving in” (reason v. compromise)
Conflict Styles and Strategies

Collaboration

When to Practice:

- When the relationship is important
- When a mutually satisfying outcome is sought
- When both views/sides are too important to compromise
- When underlying issues need to be addressed
- When one wants to avoid destructive means for handling conflict
- When new and creative solutions are desired
Conflict Styles and Strategies

Collaboration

Disadvantages:

- Takes more time and energy
- Requires both parties to be committed to the process
- Makes a party appear unreasonable if he/she later decides against collaboration
- A collaborative party may appear weak to an aggressive party
Conflict Styles and Strategies

“Rick’s Conflict”
House versus Hawaii

Let’s try:

- Avoidance
- Accommodation
- Competition
- Compromise
- Collaboration
Conflict Styles and Strategies

End of Section:
Questions and Discussion
Mediation Training

15 minute break
Mediation and the Mediator

Conflict Resolution Methods:

Methods Where Parties Control The Outcome
Avoidance

(Relatively) Successful Example:

John is a freshman who moves into a residence hall. He discovers that his roommate Brent has political views that are sharply different than his own (judging by the posters and slogans placed on Brent’s side of the room). John then places his political posters on the wall. When John and Brent are first together in the room, John begins asking Brent about his hobbies and favorite sports teams. He discovers that he and Brent have several shared interests. The two begin a friendship and mutually agree that they will not have political debates until they know each other better.
Mediation and the Mediator

Avoidance

(Relatively) Unsuccessful Example:

Karl is involved in a joint class project with Sharon. Sharon has been very inconsistent throughout the semester and has made very little progress on the final assignment. Karl chooses not to say anything, fearing he might be viewed as mean. He continues doing his portion of the assignment without confronting Sharon. The night before the assignment is due Sharon gives Karl her portion, which is poorly written and incomplete. The work is submitted the next day and both receive poor grades, even though Karl’s work was excellent.
Mediation and the Mediator

Discussion

(Relatively) Successful Example:

Kerri and Kendra are having a dispute over hosting overnight guests. Kerri is angry with Kendra for having intimate relations with her boyfriend while Kerri is present. Kerri and Kendra talk and agree that visitors will be limited to one night a week, and that there will be a “secret sign” placed on the door to let the other person know that the room is “occupied” and the other person should spend the night somewhere else. This arrangement works out well for the remainder of the year despite some minor inconveniences to both.
(Relatively) Unsuccessful Example:

Bill and Beth are former dating partners who are fighting over whether or not to remain friends. Beth no longer wishes to date Bill or to remain friends. Bill does not believe that Beth feels this way, and is constantly visiting and calling her. One night the two sit down and discuss the matter. Beth agrees to be friends with Bill, but not to date him. Bill sees this as an opening to utilize the friendship to convince her to begin dating again. Within two days, Beth is feeling pressured by Bill again.
Mediation and the Mediator

Negotiation

(Relatively) Successful Example:

Maya and Katana are both on the women’s tennis team. The team is ordering jackets and has voted to place the appropriate seeding number on each member’s jacket. Maya was third seed but dropped to fourth after she was injured in the middle of the season. Katana was fourth and was promoted to third during Maya’s injury. Both feel that they should be allowed to wear the higher seed on their jackets. The coach sits down with the two and conducts a negotiation, during which time both women agree to share the recognition of third seed.
Mediation and the Mediator

Negotiation

(Relatively) Unsuccessful Example:

Roger and Ivan are roommates locked in a dispute over use of the room. Roger likes to host small parties several times a week while Ivan prefers to keep the room quiet for study. The two cannot reach an agreement and decide to meet with the resident assistant, Marcus, asking him to assist. The two explain their situation to Marcus. He informs them that residence hall policy explicitly states that quiet hours begin at 9:00 p.m., so there should be no partying after that time. Marcus also warns Roger that if he becomes aware of any underage drinking, Roger will be referred to the disciplinary process. After the meeting, Ivan is still concerned because he and Roger have not reached an agreement. Roger is angry with Ivan for getting him into possible trouble.
Mediation and the Mediator

Mediation

(Relatively) Successful Example:

Several students who reside off campus are in a dispute with their neighbors over loud parties that are taking place every weekend. The students and neighbors agree to involve a third party. They listen to one another, and the mediator assists them to express their feelings and concerns. The students agree that the neighbors' concern over noise is reasonable, agree to limit their activities to two parties per month, with all parties ending by midnight. The neighbors, in turn, recognize the stated need of the students to host social gatherings, and agree to contact the students rather than the police if the noise begins to escalate.
Mediation and the Mediator

Mediation

(Relatively) Unsuccessful Example:

Jim and Leon are arguing over an incident in which Leon alleges that Jim struck him. The two agree to have a neutral third party mediate the dispute. While they are talking, Jim acknowledges striking Leon and apologizes for his actions. Leon immediately calls off the discussion and insists that the mediator testify to Jim’s confession in the student disciplinary process. Leon feels as though he has won his point, while Jim is feeling betrayed by both Leon and the mediation process.
Mediation and the Mediator

Nonviolent or Violent Direct Action

(Relatively) Successful Example:

Bill and Mary are entering a residence hall when several intoxicated students begin shoving Bill and harassing Mary. They surround Mary and Bill breaks into the circle, knocking down two of the students. Bill grabs Mary and the two then run into the residence hall and call the police.
Mediation and the Mediator

Nonviolent or Violent Direct Action

(Relatively) Unsuccessful Example:

Dr. Franklin is an instructor for Jorge. Dr. Franklin has been under the impression that Jorge does not like him as an instructor, as he is continuously disagreeable in class and openly criticizes personal habits of Dr. Franklin. One day in class Jorge interrupts Dr. Franklin. Dr. Franklin begins screaming at Jorge, telling him that if there are any further outbursts, he will show Jorge what it means to be “taken out to the woodshed” and given an old-fashioned lesson. Jorge files a complaint with the department chair and with the university police.
Mediation and the Mediator

Conflict Resolution Methods:

Methods Where A Third Party Controls The Outcome
Mediation and the Mediator

Administrative Action

(Relatively) Successful Example:

Connie and Carl are secretaries in the same office. Both wish to attend the same professional development program, but can’t leave the office unattended. Connie and Carl seek the assistance of their supervisor. She suggests that Carl attend the program, as it is more closely related to the work that he does. The supervisor also asks Carl to present a professional development session on what he learned at the next staff meeting, so that everyone can benefit from what he gained. The supervisor assures Connie that she may attend the program the next time it is offered if she is still interested. Everyone is satisfied with the solution.
Mediation and the Mediator

Administrative Action

(Relatively) Unsuccessful Example:

Felicia and Natasha are feuding over who will hold an important leadership position in a student organization. The vote was a tie and neither is satisfied with leaving the decision to chance. Both agree to allow the group’s advisor, Dr. White, to make the final decision. Dr. White listens to each student’s arguments for why she should hold the position, and he selects Felicia to fill the spot. Felicia is satisfied, while Natasha is bitter. Natasha considers not participating at all after hearing from other students that Felicia is one of Dr. White’s “favorite students.”
Mediation and the Mediator

Arbitration

(Relatively) Successful Example:

The Student Senate and one of its organizations are locked in a dispute over a budget proposal. The organization alleges that promises were made about the group’s ability to receive funding for an important event, yet the funding was not included in the final budget. The two sides agree to allow the Dean of Students to serve as an arbiter, as the Dean is not involved in the budget process and is perceived by both sides to be a neutral party. The Dean determines that a promise was made, but that there was no specific amount of money indicated. He awards the group half of the amount they requested, instructing them to engage in fund-raising events to earn the rest. Both sides are satisfied with the outcome.
Mediation and the Mediator

Arbitration

(Relatively) Unsuccessful Example:

Michael and Chris are disputing a utility bill of $150 for a period of time when Chris was technically on the lease, but not living in the apartment. The two agree to arbitration and the arbiter rules that Chris owes Michael $75. Michael is upset that he is not getting his full payment, while Chris is angry that he has to pay anything for a period of time when he was living somewhere else.
Judicial Action

(Relatively) Successful Example:

Jennifer is accused of harassing Dana by writing obscene messages on her door. Jennifer offers no reasonable explanation for her actions, and it is evident that she simply dislikes Dana. The judicial board finds Jennifer in violation of university regulations and imposes several sanctions, including instructions not to have further contact with Dana. In Dana’s view, this is a successful outcome.
Mediation and the Mediator

Judicial Action

(Relatively) Unsuccessful Example:

Greg and Bill are roommates charged with violating quiet hours during a heated argument. Both are found in violation and are required to spend ten hours working with residence hall staff members. The two understand that they should not have violated policy, but felt that there were important issues being addressed in the argument. No one is offering to sit down with the two students and both are too angry with one another to discuss this calmly.
Mediation and the Mediator

Legislative Action

(Relatively) Successful Example:

Last year, the director of a university office received several complaints about the way that some of the staff members dressed. The director tried unsuccessfully to work with the two employees with whom he had concerns, but was not effective. During the summer both staff members left the office and new staff were hired. The director has issued a new dress code that is included in the orientation training materials. The new staff members think that the policy is appropriate.
Mediation and the Mediator

Legislative Action

(Relatively) Unsuccessful Example:

Tara and Nikki are graduate assistants who share the same office. They are arguing over what type of music to play in the office during joint work hours. The dispute becomes a major topic of conversation in the office, and many staff members are inconvenienced by the dispute. The next week the director meets with all staff members and issues a new policy under which no staff members are allowed to play music during office hours.
Mediation and the Mediator

Understanding Mediation

Mediation is a voluntary and private process in which a neutral third party (the mediator) facilitates the discussion and identification of issues between the disputants, the development of alternate solutions, and the non-directed negotiation of a mutually satisfying outcome to the dispute.
Mediation and the Mediator

Mediation is

- Voluntary
- Private
- Neutral and Non-directive
Mediation and the Mediator

The Successful Mediator:

- Trusts the parties
- Is neutral
- Has excellent listening skills
- Creates a trusting environment
- Is professional
- Is patient and flexible
Creating the Mediation Environment

In Mediation:

Nothing is left to chance.
Creating the Mediation Environment

Co-Mediation:

Define the Role of Each Mediator

- Will the mediators be equal, or will one lead?
- Divide the Introductory Statement
- Who will deal with audio-visual/equipment/facility needs?
- Who is responsible for paperwork?
- Who will write the agreement?
- How will a caucus be called?
- How will a decision to terminate be addressed?
Creating the Mediation Environment

Co-Mediation:

Know the Style of Each Mediator

- What is your style?
- What is your co-mediator’s style?
- What do you like to do in mediation? What don’t you like?
- What concerns do you have?
- How are you feeling today?
Creating the Mediation Environment

Co-Mediation:

After the Mediation

- Discuss what went well
- Discuss what could be improved
- Discuss your relationship as co-mediators
Creating the Mediation Environment

The Room

Factors to Consider

- Privacy
- Security
- Comfort
- Lighting
- Temperature
- Noise
- Neutral Messages
- Rest Rooms and Vending
Creating the Mediation Environment

The Table

Why a Table?

- The table creates a formal atmosphere
- The table creates an initial air of confrontation
- The table offers protection and secure territory to each party
Creating the Mediation Environment

Co-Mediation:

Seating Arrangement

For single mediator:

D  D
M

-----exit-----

tel.

D= disputant  M= mediator  tel.= telephone
Creating the Mediation Environment

Co-Mediation:

Seating Arrangement

For co-mediation:

D = disputant  M = mediator  tel. = telephone

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Creating the Mediation Environment

Co-Mediation:

Seating Arrangement

For co-mediation:

D D
EC
D
M M

M
Mo          M

-----exit-----
tel.

D= disputant  M= mediator  tel.= telephone  EC= Empty Chair

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Creating the Mediation Environment

Co-Mediation:

Seating Arrangement

For multiple party mediation:

D D D

M M

tel.

-----exit-----

D = disputant  M = mediator  tel. = telephone

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Creating the Mediation Environment

Other Factors:

- Supplies
- Other Parties in Attendance
- Initial Greetings
- Tardiness and Absence
The Six Step Mediation Process

Step One: Introductory Statement

Step Two: Telling the Story

Step Three: Defining the Issues

Step Four: Generating Options

Step Five: Testing Options

Step Six: Writing the Agreement

Party A

Party B
Step One: The Introductory Statement

Purposes:

- Introductions/become familiar with disputants
- Describing the mediation process
- Describing role of mediator and establishing neutrality
- Defining privacy and note-taking
- Describing the caucus
- Explaining ground rules
- Answering questions
The Six Step Mediation Process

- **Step One: Introductory Statement**
- **Step Two: Telling the Story**
  - Party A
  - Party B
- **Step Three: Defining the Issues**
- **Step Four: Generating Options**
- **Step Five: Testing Options**
- **Step Six: Writing the Agreement**
Step Two: Telling The Story

Purposes:

- Hear complete perspectives of both parties
- Promote listening by both parties
- Gather information
- Question perceptions and assumptions
- Find out what the parties want
Step Two: Telling The Story

Alien Shore

Friend  Love
Enemy  Hatred
Share  Pretty
Greedy  Ugly
Good  Hope
Bad  Despair
Step Two: Telling The Story

Are you hearing me?
Step Two: Telling The Story

Reflective Listening: Attending

- Body Posture
- Eye Contact
- Nonverbal Behaviors
- Paying Attention
- Nervous Behaviors
Step Two: Telling The Story

Reflective Listening: Summarizing/Restating

Example

Student #1: I am taking six classes this semester and I don’t have a lot of time.

Mediator: You are saying that you are very busy because of your heavy course load.

Student #1: Yes, that and the fact that I am working twenty hours a week at the bakery.

Mediator: It sounds like you are balancing a very difficult schedule.
Step Two: Telling The Story

Taking Notes: Method #1

<table>
<thead>
<tr>
<th>Party A</th>
<th>Party B</th>
</tr>
</thead>
<tbody>
<tr>
<td>notes</td>
<td>notes</td>
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<td>notes</td>
<td>notes</td>
</tr>
<tr>
<td>notes **</td>
<td>notes **</td>
</tr>
</tbody>
</table>
Step Two: Telling The Story

Taking Notes: Method #2

Party A
notes
notes
notes

Party B
notes
notes
notes

Issue
Issue

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Step Two: Telling The Story

Reflective Listening: Empathy

- Conveys Understanding, Not Agreement

Example

Mediator: You must be under a lot of pressure taking a full course load and working twenty hours a week.
Step Two: Telling The Story

Reflective Listening: You / I Statements

- “You” statements tend to attack and/or place blame

Example

Disputant: You never show any concern for the feelings of others.
Step Two: Telling The Story

Reflective Listening: You / I Statements

- “I” statements tend to have the speaker assume responsibility for her or his feelings.

Example

Disputant: I feel angry when you stay up late at night with the light on because I am kept awake and have an 8:00 class to go to every morning.
Step Two: Telling The Story

Reflective Listening: You / I Statements

- Mediator “Modeling”

Example

Kyle: Bill, you are the most inconsiderate person I have ever met. You come in late, create all kinds of noise, turn on lights, and don’t care that I have an 8:00 class to get up for.

Mediator (looking back and forth at Kyle and Bill): Kyle, you are saying that it makes you angry when Bill comes in late and makes noise and turns on the light because it wakes you up and makes it difficult for you to wake up for an early morning class?

Kyle: Yes.
Step Two: Telling The Story

Reflective Listening: Mirroring

- Helps establish rapport
- Matching posture
- Matching voice tone
- Matching movement and breathing
- Matching metaphors

- Be careful not to mimic
- Don’t mirror negative behaviors
Step Two: Telling The Story

Reflective Listening: Reframing

- One of the most critical skills in the mediation process
- Difficult to master / not generally “natural”
- Restate what is said
- Remove negative language
- Reframing = Restating + Deescalating

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Step Two: Telling The Story

Reflective Listening: Reframing (Example)

- Using reframing to deescalate:

Disputant: He’s a liar. He said he would give me 20 dollars and then he only gave me five.

Mediator: It sounds like you are angry because you did not get the amount you thought you deserved.
Reflective Listening: Reframing (Example)

- Using reframing to challenge mindset of disputant:

Disputant: I’m so fed up with all of this I’ll do anything.

Mediator: It sounds like you really want to resolve this and put it behind you.
Step Two: Telling The Story

Small Group Exercise: Reframing

Please reframe the statements in your book.
Step Two: Telling The Story

Small Group Exercise: Reframing

Statement #1

Every time he has made promises to me he has broken them. I can’t trust him.

Response

You are concerned that because previous agreements haven’t gone well that this one might not succeed either. Is there anything he could do that would help you trust him?
Step Two: Telling The Story

Small Group Exercise: Reframing

**Statement #2**

She is just so irresponsible.

**Response**

What does responsible mean to you? What could she do to demonstrate that she is responsible?
Step Two: Telling The Story

Small Group Exercise: Reframing

Statement #3

He is telling you that he didn’t take it, but I know for a fact that he is lying. (spoken to mediator)

Response

You feel that he is not being honest with you. I know it is important to you that the truth is told today, but I need to remind you that I am not here to determine what took place.
Step Two: Telling The Story

Small Group Exercise: Reframing

Statement #4

She is always being unfair to me.

Response

What seems unfair to you?
How would you like to be treated?
Let’s talk about what would make you feel better.
Step Two: Telling The Story

Small Group Exercise: Reframing

Statement #5

He doesn’t care about what this has done to me.

Response

Tell us what this has done to you. You seem to feel as though he doesn’t understand the impact that this has had on you. What would help?
Step Two: Telling The Story

Small Group Exercise: Reframing

Statement #6

What’s the point of discussing this? She’ll never agree to see my point of view.

Response

Let’s imagine that she could see your point of view. What would happen then?
Step Two: Telling The Story

Small Group Exercise: Reframing

Statement #7

I’m not going to give in on this until he does.

Response

It sounds like you need him to work together with you on this. What would be a good start?
Step Two: Telling The Story

Small Group Exercise: Reframing

Statement #8

If she would just treat me with respect I might be willing to work this out.

Response

It sounds like respect is very important to you and that you want to resolve this conflict. How does someone demonstrate respect to you? It sounds like you have some definite ideas about what it would take to come to an agreement.
Step Two: Telling The Story

Small Group Exercise: Reframing

Statement #9

He makes me sick.

Response

What is it that makes you feel this way?
Step Two: Telling The Story

Small Group Exercise: Reframing

Statement #10

She’s a racist.

Response

What is it that makes you feel this way?
Mediation Training

15 minute break
Step Two: Telling The Story

Small Group Exercise:

The Value of Questioning
Step Two: Telling The Story

Open-ended Questions

Examples

- What happened?
- Please tell me about the situation.
- What do you think created this problem?
- What led you to take this action?
Step Two: Telling The Story

Closed-ended Questions

Examples

- Did you yell at him?
- When did this take place?
- Where did you put the photos?
- Were you feeling angry at the time?
Step Two: Telling The Story

The Cash Register Exercise
Step Two: Telling The Story

The Cash Register Exercise

Statements:

1. A man appeared after the store owner turned off his store lights.
2. The man who appeared did not demand money.
3. The man who opened the cash register was the owner.
4. Someone opened a cash register.
5. While the cash register contained money, the story does not state how much.
6. After the man who demanded money scooped up the contents of the cash register, he ran away.
7. The owner of the store scooped up the contents of the cash register and ran away.
8. The robber was a man.
9. The robber demanded money of the owner.
10. The story concerns a series of events in which only three persons are mentioned: the owner of a store, the man who demanded money, and a member of the police force.
Step Two: Telling The Story

The Cash Register Exercise

A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.
Step Two: Telling The Story

The Cash Register Exercise

Statements:

1. A man appeared after the store owner turned off his store lights.

Answer: Unknown

We do not know the gender of the owner, nor do we know if the owner and the cashier are the same person.

A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.
Step Two: Telling The Story

The Cash Register Exercise

Statements:

2. The man who appeared did not demand money.

Answer: False

It is clearly stated that the man who appeared demanded money.

A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.
Step Two: Telling The Story

The Cash Register Exercise

Statements:

3. The man who opened the cash register was the owner.

Answer: Unknown

We do not know the gender of the owner.

A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.
Step Two: Telling The Story

The Cash Register Exercise

Statements:

4. Someone opened a cash register.

Answer: True

This is clearly stated in the story. In fact, we know that the owner opened a cash register.

A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.
Step Two: Telling The Story

The Cash Register Exercise

Statements:

5. While the cash register contained money, the story does not state how much.

Answer: Unknown

The story does not explicitly state that there is money in the cash register. It could be money, credit card receipts, or pickles!

A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.
Step Two: Telling The Story

The Cash Register Exercise

Statements:

6. After the man who demanded money scooped up the contents of the cash register, he ran away.

Answer: Unknown

We do not know who scooped up the contents of the cash register, nor do we know if “ran” and “sped” signify the same thing.

A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.
Step Two: Telling The Story

The Cash Register Exercise

Statements:

7. The owner of the store scooped up the contents of the cash register and ran away.

Answer: Unknown

The story does not preclude the owner from having done this, nor do we know if “ran” and “sped” signify the same thing.

A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.
Step Two: Telling The Story

The Cash Register Exercise

Statements:

8. The robber was a man.

Answer: Unknown

We do not know for certain that a robbery has taken place.

A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.
Step Two: Telling The Story

The Cash Register Exercise

Statements:

9. The robber demanded money of the owner.

Answer: Unknown

We do not know for certain that a robbery has taken place.

A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.
Step Two: Telling The Story

The Cash Register Exercise

Statements:

10. The story concerns a series of events in which only three persons are mentioned: the owner of the store, a man who demanded money, and a member of the police force.

Answer: Unknown

While a cashier is mentioned, we do not know if the owner and the cashier are the same person.

A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.
Step Two: Telling The Story

The Cash Register Exercise: A Possible Alternative

Marco had just turned off the lights in the gift shop when his friend Carl showed up and told Marco that he needed back $50 that he had lent to Marco last week. Carl wanted to go to a concert that night and needed money to buy a ticket. Marco didn’t have any money, but asked Roberta, the store owner, if he could get an advance on his next check. Roberta rolled her eyes, telling Marco that this was the last time she would give him an advance. Roberta then opened the register and took out $50 (all that was left after cashing out the drawer) and gave it to Marco. Marco handed the money to Carl, who ran out of the store in order to get to the concert on time. Marco thanked Roberta and went home for the evening. Roberta then called her husband Dave, the local sheriff, and told him to come and pick her up, since her car was in the shop.
Step Two: Telling The Story

Shopping List Questions

Examples

- What do you hope the gain through mediation?
- What are you seeking?
- Do you have a specific resolution in mind?
Step Two: Telling The Story

Probing Questions

To Test Boundaries/Limits

Mediator: I get the sense that there is another issue that we have not discussed. Is this accurate?

OR

Mediator: I heard you mention some difficult personal circumstances. Would you be willing to share what those circumstances are. Are they relevant to this conflict?
Step Two: Telling The Story

Probing Questions

To Gather Information

Mediator: At the beginning of this session you mentioned that this took place on a Saturday, but I have heard you say Friday several times since then. Could you please help clarify this for me?
Step Two: Telling The Story

Painting a Picture

Open-Ended Questions (Outline):
“OK John, why don’t you begin by telling us what brings you to mediation today.

Closed-Ended Questions (Details):
“John, you said this took place over the winter. Do you remember exactly when this happened? (or to get definitions):
I heard you say that you want Julius to treat you with respect. Help me understand what this means. How does someone demonstrate that they respect you?

Open-Ended Questions (gain motivation and feelings):
John, you said that after this verbal exchange Julius filed a Complaint against you. What were your reactions to this?
Step Two: Telling The Story

Questioning Cautions

- Don’t bombard a disputant with questions or ask questions in a “rapid fire” format
- Be careful not to offer suggestions through questions
- Remember to control the process and not the content; mediators who dominate with questions can minimize the involvement of the disputants
- Be sensitive to cultural differences with respect to asking questions
- Be careful not to ask too many questions beginning with “Why”; these questions tend to put disputants on the defensive and create discomfort, as well as a feeling of being attacked
Question:

- What did we learn today that was new information, or what did we learn today that alters our view of something we had already learned?
The Six Step Mediation Process

Step One: Introductory Statement

Step Two: Telling the Story

Party A

Party B

Step Three: Defining the Issues

Step Four: Generating Options

Step Five: Testing Options

Step Six: Writing the Agreement
An Introduction to the Role Play Activities
Introduction to Role Plays

Demonstration Role Play

It is October. Pat and Chris are 19 year old sophomores living together in Western Towers, an underclass residence hall complex. Last year the two became friends as freshmen and decided to live together for their sophomore year. The two moved in together at the end of August and have been living together for about seven weeks. Conflicts have occurred between the two and their resident assistant has recommended that they enter mediation in order to avoid a judicial referral for violating the noise policy for an argument that took place last weekend. Both have agreed to mediation, each arguing that the other person should move out of the room.
Introduction to Role Plays

When mediating:

- Be patient with yourself; you are practicing a new skill
- Trust the process; it is there for a reason
- It is better to go slower than faster; be deliberate and don’t rush yourself
- Recognize the artificial nature of this environment
- Remember that these role plays will generally be harder than “real life” mediation sessions
- Have some fun; this is your chance to make some mistakes without anyone being hurt
Introduction to Role Plays

When mediating:

- When in doubt:
  - RESTATE
  - REFRAME
  - VALIDATE
Introduction to Role Plays

When role-playing:

- Play the character as outlined in your script; do not add complicating details
- Provide opportunities for the mediators to be successful when it does not conflict with your character’s interests and needs
- Provide general details to fill in missing pieces
- Be kind; you are mediating next!
Role Play Activity

Role Play #1

It is April. Chris and several college friends rent a house next door to the Johnson’s, a couple in their late forties. The house is about two miles off campus. In January, Chris and his/her housemates decided to buy a dog to have as a pet. The dog (a black Labrador retriever), although less than a year old, is already quite large. The dog is normally kept in the back yard on a leash, though it has occasionally gotten loose. Three weekends ago, Chris and his/her housemates decided to have a party, inviting about twenty people over. At 11:00 p.m. the police showed up, telling the students that there had been a neighborhood complaint. Then last week, the Johnson’s complained to the police that the dog barks constantly, annoying the Johnson’s both day and night. Four days ago, Mr. Johnson screamed at one of Chris’ housemates because the dog had pulled up his wife’s newly planted flowerbed. Mr. Johnson told the housemate to get rid of the dog, or he would take care of it for them. When asked what he meant, Mr. Johnson responded that he “didn’t own a shotgun for nothing.” Mr. Johnson attempted to have disciplinary action taken through the university judicial system, but mediation was offered instead. Both parties (Chris and Mr. Johnson) have agreed to meet.
The Six Step Mediation Process

Step One: Introductory Statement

Step Two: Telling the Story

Step Three: Defining the Issues

Step Four: Generating Options

Step Five: Testing Options

Step Six: Writing the Agreement
Step Three: Defining The Issues

A Sample Discussion

Mediator: So it sounds like the issues that you have jointly agreed that need to be addressed are: where to park the cars and who is responsible for snow removal on the adjoining lot. Is that correct?

Disputant B: Yes, that sounds right.

Disputant A: Well, I guess that’s OK. (shrugs shoulders)
Step Three: Defining The Issues

A Sample Discussion

Mediator: (to Disputant A) You seem not to be certain about this. Am I not correct in my assessment of our discussion so far, or is there something else that you think needs to be discussed?

Disputant A: Well, now that I think about it, I really am concerned about one thing.

Mediator: And would you be comfortable sharing this concern?
Step Three: Defining The Issues

A Sample Discussion

Disputant A: I guess so. (turns to Disputant B) I don’t mean to offend you or anything, but it is pretty difficult to sit here and listen to you say that you are ready to negotiate in good faith.

Disputant B: (surprised look) Why?

Disputant A: Well, it’s one thing to make agreements and another to live up to your word, and I just don’t think that people who choose to use drugs can act with integrity. (Disputant B gets visibly angry)
Step Three: Defining The Issues

A Sample Discussion

Mediator: (to Disputant A) You are concerned that people who choose to use drugs might not always live up to their agreements.

Disputant A: Yes.

Disputant B: What I do in my house is none of her damned business!

Mediator: So you think the issue is unrelated?

Disputant B: Of course.
Step Three: Defining The Issues

A Sample Discussion

Mediator: (to Disputant A) What if Disputant B was able to live up to any agreement that was reached today. Would the issue of drugs still be of concern to you then?

Disputant A: Well of course I would still be concerned about what people in my neighborhood choose to do, but to answer your question, no, I guess it’s possible for him to live up to an agreement on these issues.

Mediator: The issues I listed a moment ago?

Disputant A: Yes.
Step Three: Defining The Issues

A Sample Discussion

Mediator: (to Disputant A) So you are willing to attempt to resolve these issues today without discussing the use of drugs?

Disputant A: Yes, I am.

Mediator: (to Disputant B) Disputant A says she is willing to continue, but I understand that the issue she has raised is a sensitive one. Are you still willing to discuss these other issues today?

Disputant A: Yes, I want to get this worked out.

Mediator: Excellent. I am glad you could both agree to this. Now let’s proceed together.
Step Three: Defining The Issues

The Exchange

**Purpose of the Exchange**

- Allows the disputants to provide missing information
- Provides for open discussion between the disputants
- Provides an opportunity for disputants to express feelings
Step Three: Defining The Issues

The Exchange

Conditions for an Exchange

- Have the disputants been communicating effectively with the mediator?
- Have the disputants demonstrated that they will abide by the ground rules?
- Do one or both disputants seem to need to respond to information that they have heard?
- Do one or both disputants seem to need to express some emotions that they might be feeling?
Step Three: Defining The Issues

The Exchange

Handling an Exchange

- Active Role
- Passive Role
Step Three: Defining The Issues

Tips For New Mediators

- Trust the process
- Allow uninterrupted time
- Play dumb
- List the issues
- Keep the list short and manageable
- State the issues generally
- Focus on negotiable issues only
- Ask if the list is acceptable and complete
- RESTATE, REFRAME, VALIDATE
Role Play Activity

Role Play #3

It is mid November. Tina and Beth are roommates at an apartment off campus. Both are juniors and have been living together since the beginning of their sophomore year. The two have been very close friends until recently. Recently, there have been some problems with Tina not paying bills on time and writing bad checks. The problem got much worse last week when the telephone was shut off. Beth apparently confronted Tina with some information she had found in Tina’s desk and the two got into a screaming match. Tina stormed out and the two have not spoken since. Beth has asked for mediation because she feels she has lost $200 to Tina.
Poisons in Communication

Commands

- You should...
- You shouldn’t...
- You will...
- You can’t...
- You must…
Poisons in Communication

Comparisons

- You’re just like…
- You’re not anything like…
- (Third person) would never (or would always)…
- If I were in your position…
Exaggerations

- Lots of times (or always)
- Never
- Constantly
- Everybody
- Nobody
- Six times (when it was actually two)
- Weeks or months (when it was actually days)
Poisons in Communication

Other Poisons

- Shaming
- Ignoring
- Name-calling
- Threatening
- Blaming
- Contempt
- Anger
Poisons in Communication

Exercise: Laundering Language
Poisons in Communication

Exercise: Laundering Language

Statement #1

(John speaking to Mediator) “Michael has to pay me $75 immediately, or I am going to take him to court.”

Response

John, it sounds like it is important for you to be repaid, and that you need the money soon. What kind of time constraints are you facing right now?

Would going to court accomplish what you are after?
Poisons in Communication

Exercise: Laundering Language

Statement #2
(Marcia speaking to Mediator) “He doesn’t know anything about relationships. If he was like my new boyfriend, he would know what trust and respect really meant.”

Response
Marcia, I hear that you value trust and respect in a relationship. How does someone show these qualities to you?
Poisons in Communication

Exercise: Laundering Language

Statement #3
(Juan speaking to Mediator) “This has been going on forever, and in all this time he has never bothered to listen to a word that I have to say.”

Response
Juan, I’m not sure what you mean by “forever”. When did this conflict begin, and how have you tried to communicate your feelings to Brad?
Poisons in Communication

Exercise: Laundering Language

Statement #4

(Keisha speaking to Disputant) “How dare you say that. You should have your mouth washed out with soap.”

Response

Keisha, I sense that Barb’s last comment upset you. What is your specific concern?
Poisons in Communication

Exercise: Laundering Language

Statement #5

(Claude speaking to Disputant) “If you say that one more time, I’m going to beat your ass.”

Response

Claude, in the beginning of this session we agreed that no threats would be made and that inappropriate language would not be utilized. Are you unwilling to continue under the ground rules that were established?
Poisons in Communication

Anger in Mediation

Anger is:

- A physical or psychological defense against something
- A response to not getting what we want
- A response to our belief that we are being violated in some way
Poisons in Communication

Managing Anger

- Check your own emotions and don’t get angry
- Acknowledge the anger (VALIDATE)
- Restate / Reframe
- Questions
- Take a break
- Move on to something else
- Caucus
- End the mediation
Caucusing is useful:

- If mediator suspects that one or both disputants has an underlying issue or hidden agenda that is affecting the mediation session.
- If it would be beneficial to separate the disputants because they are angry, tense, or hostile.
- If one disputant seems to willing to concede points and not state his or her own needs, or is having difficulty communicating.
- If the mediator senses that one disputant is intentionally blocking the mediation process and preventing progress.
- If the mediator senses that one disputant is dealing with an extremely sensitive or personal issue.
Caucusing

Questions:

- Do I need to review discrepancies in information?
- Do I need to de-escalate anger or hostility that a disputant may be feeling?
- Do I need to explore hidden issues or agendas?
- Do I need to confront behaviors or attitudes that are blocking the process?
- Do I need to determine how committed the disputants are to achieving a resolution?
Caucusing

The Process:

- Discuss with your co-mediator whether or not a caucus is desired
- If a caucus is desired, explain this decision to the disputants and reiterate the rules of the caucus
- The mediators keep one disputant in the room an assignment to work on while he/she is waiting
- The mediators meet with the first disputant, taking notes that are separate from those notes taken in the joint session
- Ask the first disputant how she/he feels about the process and explore any issues or concerns that the mediators may have
- Confirm if any information is to be shared with the other disputant
- Repeat with other disputant
Caucusing

Building a bridge from caucus to joint session

Mediator: “Now that we are back in joint session, Chris, there is something that Ernie has been wanting to tell you, but has been unable to do so for fear that you would immediately judge him and not listen to his explanation. Would you be willing to allow Ernie to share this information, as well as his explanation?”

Chris: “Sure. I want to get to the bottom of this. What’s going on?”
Caucusing

A Sample Caucus

Mediator: Carol, during the mediation session you have seemed angry and I had to caution you several times about following the ground rules. Is everything okay? Are you still willing to continue?

Carol: Yes, everything is fine. I just can’t sit here listening to her lie like that.

Mediator: I understand that you want the truth to be told today, but I should remind you that I am not here to decide right and wrong.

Carol: Yeah, I know that.
Caucusing

A Sample Caucus

**Mediator:** That is helpful Carol, but the only way that mediation can work is when everyone says what they need to say, without fear of being interrupted. As I mentioned, I have had to confront you on several different occasions to allow Monique to speak.

**Carol:** I’m sorry, but I get frustrated listening to her crap.

**Mediator:** I understand that, Carol, but I have to tell you that when you interrupt as you have been doing, it makes it difficult for Monique to say what she needs to say and it makes it difficult for me to assist both of you. I hope you understand that these interruptions need to stop. Can I count on you for this?

**Carol:** Yeah. I’ll stop. But aren’t you being a bit harsh, or violating your neutrality or something?
Caucusing

A Sample Caucus

**Mediator:** I am just reminding you that there are ground rules which I need everyone to follow. If the ground rules cannot be followed after we come back together as a group, I may decide to terminate this session. I thought it would be more appropriate to talk to you about this privately, rather than doing so in front of Monique.

**Carol:** Okay, I appreciate that.
Role Play Activity

Role Play #4

Marcus is a sophomore student in Dr. Liz Epstein’s creative writing class. On Marcus’ first two assignments, although he followed Dr. Epstein’s instructions explicitly, he received a D+ and a C. When Marcus approached Dr. Epstein, Dr. Epstein indicated that although Marcus followed the instructions, his writing did not show sufficient creativity and imagination. On the following assignment, Dr. Epstein was shocked to discover that Marcus had written a short story featuring a World War Two era Jewish creative writing instructor who suffered hardships in a Nazi concentration camp. The story included a rather graphic physical description of the instructor, consistent with Dr. Epstein’s appearance. The story also includes explicit depictions of forced sexual activity. At the end of the story, Marcus included a comment to the instructor that said, “How’s this for creative…good thing it never happened.” Dr. Epstein gave Marcus a failing grade on the assignment and referred the case to the affirmative action officer. The affirmative action officer contacted both disputants, and they agreed to attempt mediation.
Direct Challenges by Disputants
Direct Challenges by Disputants

Challenges to Non-partisanship

**Disputant:** People like us… (implying that the mediator is included)

**Mediator:** You are saying that you have found…

**Disputant:** Don’t you think that anyone would…?

**Mediator:** How do you see it?

**Disputant:** Do you listen to your music loud?

**Mediator:** My experiences are not relevant to your dispute. What has your experience been?
Direct Challenges by Disputants

Challenges to Non-directiveness

**Disputant:** What do you think we should do?
**Mediator:** I think you should decide what best meets your needs. What options do you think you have? Review Ground Rules

**Disputant:** It’s a fair offer, isn’t it?
**Mediator:** I don’t have an opinion on that. What do you think? Does the offer meet your needs? Do you think it’s a fair offer? I am not here to determine what is and isn’t fair.

**Disputant:** Shouldn’t Al do that?
**Mediator:** Al, what do you think? Let’s ask Al. Do you think Al should do that?
Direct Challenges by Disputants

Challenges to Non-involvement with Content

Disputant:  Shouldn’t I be concerned about this…?
Mediator:  You clearly seem concerned about this.
           Are you concerned about this?
           What is your concern?

Disputant:  Don’t you think this is a big issue?
Mediator:  Do you think it is a big issue?
           That is for you to decide.
Direct Challenges by Disputants

Challenges to Being Non-judgmental

Disputant: See what I mean? They’re all alike.
Mediator: What do you mean by that?

Disputant: Don’t you think she’s acting a little weird?
Mediator: I’m not sure what you mean by “weird.”
What do you mean by that?
# Direct Challenges by Disputants

## Challenges to Credibility

<table>
<thead>
<tr>
<th>Disputant:</th>
<th>You’re just a student. What do you know about…?</th>
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</thead>
<tbody>
<tr>
<td>Mediator:</td>
<td>Tell me what you think I need to know. Whatever you explain to me today.</td>
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</table>

<table>
<thead>
<tr>
<th>Disputant:</th>
<th>Are you planning to be a lawyer or counselor or something?</th>
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<tbody>
<tr>
<td>Mediator:</td>
<td>I am a mediator. You are both the experts about your situation.</td>
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<table>
<thead>
<tr>
<th>Disputant:</th>
<th>What are your credentials?</th>
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<tbody>
<tr>
<td>Mediator:</td>
<td>I am a mediator for the university, trained by certified mediators. What is your concern?</td>
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</table>
Direct Challenges by Disputants

Challenges to Control of the Process

**Disputant:** I want to meet individually right now.

**Mediator:** I will meet with you both when it seems helpful, but first I need to…

**Disputant:** They can go first.
I demand to go first.

**Mediator:** As a matter of habit, I always begin to my left/right.
### Direct Challenges by Disputants

#### Challenges to Control of the Process

<table>
<thead>
<tr>
<th><strong>Disputant:</strong></th>
<th><strong>Mediator:</strong></th>
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<tbody>
<tr>
<td>Inappropriate physical behavior (stands up, rolls eyes, sighs heavily, laughs, etc.)</td>
<td>De-escalate by acknowledging concerns of the disputant</td>
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<tr>
<td></td>
<td>Reiterate that each disputant will have an opportunity to talk in turn</td>
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<td></td>
<td>Review ground rules</td>
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<td></td>
<td>Indicate the difficulty that the behavior creates</td>
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<td>Confront through caucus</td>
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<td></td>
<td>Take a break</td>
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<td>Terminate the mediation</td>
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<tr>
<th><strong>Disputant:</strong></th>
<th><strong>Mediator:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>You aren’t treating me with respect.</td>
<td>What leads you to say this?</td>
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</table>
Terminating a Mediation Session
Terminating a Mediation Session

Conditions for Termination

- the mediator becomes aware of felony-level criminal activity
- the mediator becomes aware of any type of child abuse
- the ground rules have been consistently ignored by one or both disputants
- threats of violence or harassment are made by any party
- the mediator feels that one or both disputants is no longer acting in good faith
- one or both disputants walks out of the session
Terminating a Mediation Session

Tips for Termination

- When co-mediating, always discuss the decision to terminate with your partner prior to announcing a termination.
- Never demonstrate anger, or allow the disputants to see that you are taking the situation personally. Maintain the same tone of voice you have used throughout the session.
- State the reason that you are terminating the session to both disputants in a clear and firm voice. Take ownership of the decision and do not negotiate with the disputants.
- Place the responsibility for the action where it belongs. Do not apologize for your decision.
Terminating a Mediation Session

Tips for Termination, continued…

- State the consequences of your decision. In cases of felony behavior or child abuse, indicate to the disputants that you are required to report this information to your mediation supervisor. If these conditions do not exist, indicate to the disputants how they may go about reinitiating the mediation process if later desired.

- If possible and desired, develop a partial agreement over any points that have been successfully resolved by the disputants.

- End on a positive note. This may seem difficult to do, but even in the worst mediation sessions it does no good to leave the disputants feeling that the situation is hopeless. Even if future mediation is out of the question, you may wish to review other options that the disputants may pursue.
Terminating a Mediation Session

Sample Termination

Situation: Mike and Darice are involved in a mediation session to assist them in resolving a dating relationship dispute. Mike has been continuously disorderly since Darice indicated her desire to cease the dating relationship. Mike is making angry comments towards Darice and the mediator interrupts.

Mediator: “Mike, I must interrupt and ask both of you for your attention. As you know, my role here is to assist both of you, and I have attempted to remain objective and neutral throughout this session. I reviewed the ground rules with both of you at the beginning of this session and reminded you of them several times when there were interruptions and name calling. Mike, your continuous interruptions and sarcastic comments throughout the session demonstrate to me that you are not acting in good faith in this process. I am unable to effectively carry out my responsibilities, and am therefore terminating this session.”
Terminating a Mediation Session

Sample Termination

- **Mike:** “You can’t do that!”
- **Mediator:** “You will recall that during the introductory statement I made it clear that I do have this authority. I am now choosing to exercise it. There will be no negotiation of this decision and I will report the reasons for this termination to my supervisor. You may then address any concerns that you may have about me with her.”

- **Mike:** “Aw, come on….I’ll be good from now on.”
- **Mediator:** “You have had sufficient opportunities to demonstrate your good faith and have failed to do so.”
**Terminating a Mediation Session**

**Sample Termination**

- **Darice:** “So where does this leave me? He has been harassing me for over a month.”
- **Mike:** (yelling) “I have not been harassing you!”
- **Mediator:** “I will be happy to assist both of you in making an appointment with my supervisor to review your options. Darice, it is my understanding that because this case is a deferral of disciplinary action, charges may now be initiated through the dean’s office.”
- **Darice:** “Okay.”
- **Mediator:** (to both) “Although I am disappointed by today’s outcome, I am encouraged by the fact that you had both entered the mediation process in the first place. If future opportunities can be used in a more responsible manner, I am sure you will make better progress. Thank you for coming.”
The Agreement
The Agreement

Formatting the Agreement:

- Separate the agreement into its individual components. Do not write a narrative.
- Avoid using terms like “respondent,” “complainant,” or “accused” when referring to the disputants. Cite the disputants by name. Be sure to level the playing field by referring to disputants on equal terms (e.g., John and Mary, not John and Dr. Mary Smith).
- Write out all dates and dollar amounts.
- Be specific. Do not use terms such as “to be provided at a mutually agreeable time.” The disputants should record all specific information in the agreement.
- Do not place blame in the agreement.
- Avoid nebulous terms (e.g., soon).
The Agreement

Formatting the Agreement:

- Agreements involving the transfer of money should be highly specific, noting the form of payment, deadline date, reason for payment, and addressing of payment.
- Provide safety nets.
- If a disputant agrees to undergo counseling, this should be reflected in the agreement.
- Avoid legalese.
- Use the language of the disputants.
- Both disputants should sign the agreement and be provided with a copy at the end of the session.
The Agreement

A Sample Agreement: Example #1

Agreement between John Carter and Dr. Mary Smith

- John will pay Dr. Smith for the replacement of the window that he broke last month while he was drunk. He will make sure that the window is replaced up to Dr. Smith’s standards.
- The aforementioned John agrees to take care of replacing the window as soon as possible.
- John agrees not to host more than one party a month at his house and will let Dr. Smith know in advance when there will be a party. Dr. Smith will allow him to host this party as long as it ends at a reasonable hour and does not get too loud. John must control his guests at all times.
- Dr. Smith won’t call the police immediately if the party gets loud, but will give John one chance to correct the problem.
The Agreement

A Sample Agreement: Example #2

Agreement between John Carter and Mary Smith

- Mary Smith and John Carter agree that there needs to be better communication between the two of them regarding parties that occur at John’s house.
- John agrees to hold no more than one party per month at his house and will end each party before midnight. He will communicate his intent to have a party to Mary at least two days prior to the party, and will do so by visiting her at home.
- Mary agrees to let John know if there are any special concerns she has related to the party, communicating these concerns to John when he visits.
- John agrees to keep the noise of the party to a level where it can not be clearly heard in Mary’s house.
The Agreement

A Sample Agreement: Example #2, continued

Agreement between John Carter and Mary Smith

- Mary agrees to let John know if the party is getting too loud by calling him and informing him of the noise level. Mary also agrees to let John visit so that he can hear the noise level.
- John agrees to answer the phone during parties and not let the answering machine take the call.
- John agrees that if Mary can not reach him and the noise level is deemed by Mary to be too loud, Mary may contact the police.
- John agrees to reimburse Mary for the cost of the broken window. He will pay Mary $75 in cash by no later than February 3. He will hand deliver this payment in person to Mary’s house. If John can not make the payment on time, he agrees to contact the mediation program to request an extension.
Role Play Activity

Role Play #5

It is early March. Jeff and Barb dated throughout the fall semester and into the spring. About three weeks ago, Jeff and Barb got into an argument and Barb told Jeff that he wanted to end the relationship. According to Barb’s complaint, Jeff indicated a lack of willingness to end the relationship. To complicate matters, the two share a history class and have been assigned to present a group project together. It is too late to switch groups (each group has four students) and the project is worth thirty percent of the final grade.
Wrap Up

PARKING LOT (JOINT SESSION)

Evaluations