

RESOLVE CONFLICT:

EVERYONE CAN WIN

Skill 11: Introduction to mediation -
Part I. The Basics

Extra study materials

See also Extra study materials for “Introduction to mediation – Part II”



The third-party mediator: overview

Attitudes for mediators

These attitudes are relevant whenever you want to assist, or are asked to assist, in a conflict which is not your own. It may be a friend telling you about a problem on the telephone. It may be an informal chat with both people in the conflict. It may be a formally organised mediation session. Listen closely and:

Be objective – validate both sides, even if privately you prefer one point of view, or even when only one party is present.

Be supportive – use caring language. Provide a non-threatening learning environment, where people will feel safe to open up.

Be non-judging – actively discourage judgements about who was right and who was wrong. Don't ask "Why did you?" Ask "What happened?" and "How do you feel?"

Use astute questioning – encourage suggestions from participants. Resist advising. If necessary, offer options not directives.

Use a win/win approach – work towards wins for both sides. Turn opponents into problem-solving partners.

Mediation methods

Set some simple rules with them: to listen carefully, state their viewpoint clearly, attack the problem not the person, look for answers to meet everyone's needs.

Define your mediator role as there to support both people, not judge the rights and wrongs.

Get agreement from both people about a basic willingness to fix the problem.

Let each person say what the problem is for them. Check back that the other person has actually understood them.

Guide the conversation towards a joint problem-solving approach and away from personal attack.

Encourage them to look for answers where everybody gets what they need. A win-win approach.

Redirect "Fouls" (Name Calling, Put Downs, Sneering, Blaming, Threats, Bringing up the Past, Making Excuses, Not Listening, Getting Even.)

Where possible the mediator reframes a negative statement into a neutral description of a legitimate current concern.

Stages in mediation

Open

Introductions and agreements: Warm up, explanations, arrangements, discuss the win/win approach.

Establish

Overview: What are the issues? Each person expresses their view of the conflict, the issues and their feelings.

Details: What is involved? More details. Map needs and concerns. Clarify misperceptions. Identify other relevant issues. Use Mirroring.

Move

Review: Where are they now? Identify areas of agreement. Encourage willingness to move forward. Possibly meet separately.

Negotiation: Focus on future action. How would they like it to be? What would that take? Develop options. Use 'trading' to build wins for everyone.

Close

Completion: Make contracts. Plan for the future, including setting a time to review agreements. Closing statements.



Mediation techniques

Open: Introductions and Agreements

Take charge of the process: Possibly meet each person in advance to understand the issues and support willingness to participate. Set up the meeting space.

Clarify roles and expectations of mediator and participants. Explain you will make sure that each party will have their turn to describe their view without interruption. Describe the win/win approach and its emphasis on needs. Possibly set some simple rules for interactions.



Establish: overview and details

Focus on needs: Ask each person to describe what he/she needs for the situation to improve. Perhaps use a mapping process to document these.

Use mirroring if emotions are high. This controls abuse and checks that each person has heard the other accurately. (Have each person rephrase the other's statement and have it confirmed before making a reply.)

Encourage 'I' statements to clarify how each person sees the situation. Discourage personal attacks.

Shift generalisations to specific examples of people's needs, concerns and causes of irritation.

Acknowledge feelings and thank people for openly expressing them.

Reinforce willingness to resolve when people show it.



Move: identify areas of agreement and negotiate

Ask what would it take for the situation to be better?

Acknowledge common ground and point up where this is the case.

Seek some flexibility and movement from each party.

Develop many options. Encourage discussions on what each person can do to help improve the particular issues.

Help define measurable criteria for change. What signs will show that the problem is being addressed?

Check out agreement even if it is only in principle, so far.



Close: completion

Check that people have really agreed and can live with the chosen options.

Suggest a future meeting to evaluate how agreement is working.

Write down agreements made if appropriate and distribute to the parties.



Mirroring: 'Yes, that's what I said'

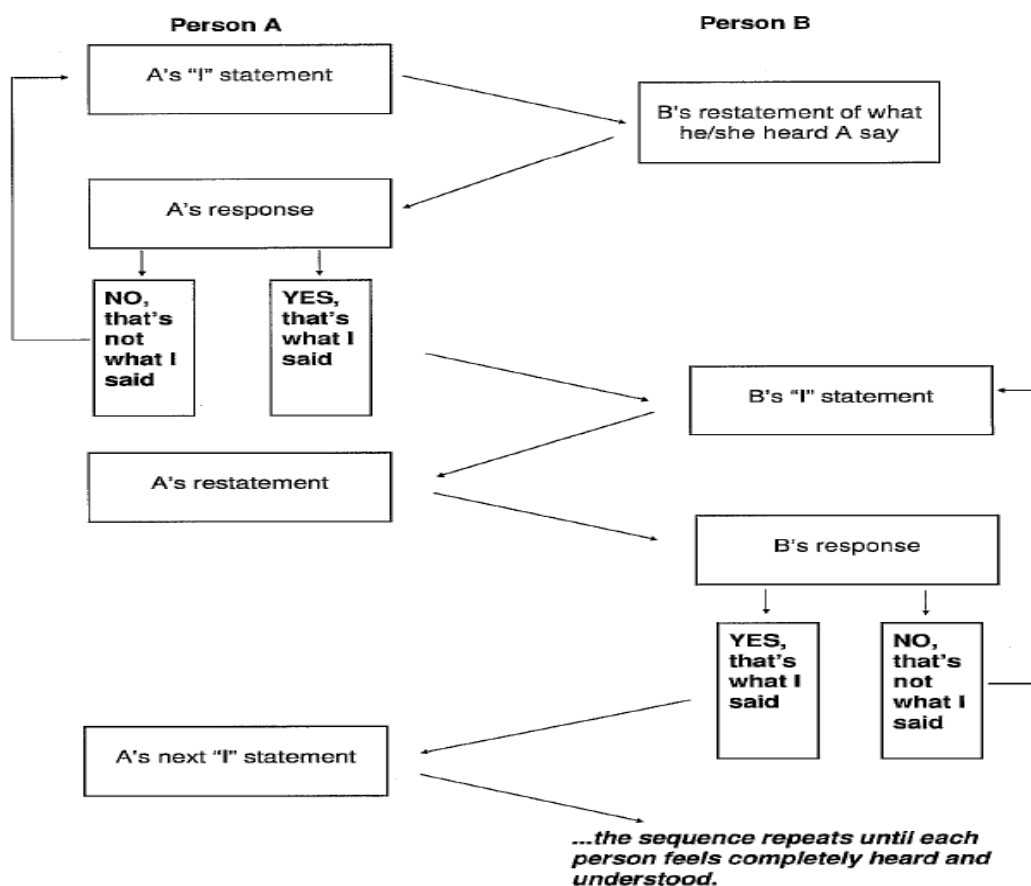
Mirroring is a process that you might introduce briefly at some point during the mediation. Perhaps Person A says something highly significant to the issues at hand and has spoken from their perspective without blaming, perhaps using an 'I' statement. Person B appears not to have taken in what has been said. Perhaps they jump to another matter or are very inflamed. You might stop them and ask them to repeat back what they have just heard Person A say. Have Person A agree, 'yes, that's what I said' or correct their interpretation. You then ask Person B to try again and summarise what they now understand.

Once Person B receives the 'yes, that's what I said,' they then can follow on with their own perspective. Perhaps you'll continue the process by then asking Person A for the summary of this. And Person B will then affirm or correct the first person's interpretation.

Mirroring briefly may be helpful if one or both the parties are very inflamed. However, do not ask them to repeat insults. Remind them of the rules for the mediation and only ask for mirroring of relatively 'clean and clear' statements from the other person. Mirroring slows the process of communication down and can reduce the heat.

Sometimes Person A has made a significant shift or concession. Perhaps you are concerned that Person B has really heard and taken that shift or concession into their consideration. The Person A may need to hear that too.

So use mirroring judiciously, for a few key statements if one person has spoken clearly about their perspectives, but the other person does not appear to have heard them.



Introducing the mediation

Select appropriate opening statements for this mediation with these people as you:

Clarify your role as the mediator.

'I'm happy to mediate while you two work through the problem.

Perhaps you can find some answers that work for both of you.

I won't be coming up with answers.

I will just be steering the process, so you both get what you need.

We'll use a win-win approach.

I will support both of you and not take sides.

I will do my best to remain objective.

I will be respecting your confidentiality about this session.

Explain the nature of the interventions they can expect you to make.

I will focus on helping you build agreements that are fair for both of you - a win-win approach.

I might help you speak only for yourself, from your own perspective, how it seems to you personally. So I might encourage you to use 'I' statements.

I will try to make sure you're both really hearing each other.

Seek some preliminary agreements from them on the following:

Decide together on timing.

Ask them to take responsibility for themselves, to speak up if they're not happy about something: if they need a break, or if they feel unheard.

Seek agreement that they will each allow the other to finish what they are saying.

Ask them to avoid blaming or putting interpretations onto the behaviour of the other person.

You might distribute the poster "Fighting Fair and run through it together. It includes useful 'rules for the road' in the mediation, and you might keep it visible once the mediation begins in earnest.

Make sure the procedures and the ground rules you choose are clear from the outset and that everyone agrees to them. Check if anyone wants to add something more. For example, do they also wish to commit to confidentiality?

Let them know that these agreements can be added to or renegotiated at any time, particularly if one party is not happy.



Fighting Fair

How you both can win

Be willing to fix
the problem...

Say what the problem
is for you...

Listen to what the
problem is for them...

Attack the problem,
not the person...

Look for answers
so everyone gets what
they need...

Fouls

Name Calling
Put Downs
Sneering – Blaming
Threats – Hitting
Bring up the past
Making Excuses
Not Listening
Getting Even



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Introduction to mediation

Recommended

Books

A Sudden Outbreak of Common Sense: *Managing Conflict Through Mediation* by Andrew Floyer Acland

Bringing Peace into the Room: *How the Personal Qualities of the Mediator Impact the Process of Conflict Resolution* by Daniel Bowling and David Hoffman

Conflict Management: *A Practical Guide* by Peter Condliffe

Everyone can win: *Responding to conflict constructively* by Helena Cornelius and Shoshana Faire

The Mediation Process: *Practical Strategies for Resolving Conflict* by Christopher W. Moore

The Mediator's Handbook: *Revised & Expanded fourth edition* by Dr. Jennifer E. Beer PhD, Caroline C. Packard JD, et al.

The Mediator's Handbook, 3rd Edition by Ruth Charlton and Micheline Dewdney

The Promise of Mediation: *The Transformative Approach to Conflict* by Robert A. Baruch Bush and Joseph P. Folger

Website

Extensive bibliography on Mediation: <https://www.mediate.com/articles/brownb1.cfm>

