

Mediation Concepts

Resolving workplace disputes through use of mediation techniques

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Agenda

- Why is there always conflict at work?
- Dealing with flawed communications
- "Fairness" in conflict resolution
- Using mediation techniques to resolve conflict



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Why is there Always Conflict

- What causes conflict at work
- Is workplace conflict good or bad?



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COMMUNICATIONS DURING CONFLICT

Are All Communications Fundamentally
Flawed?

How Much do we Really “See?”

- What do we see?
- Do you and I see the same thing?
- How observant are you?
- Do we fill-in-the-blanks correctly?
- Can you trust your own eyewitness accounts?



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How Observant are you?

Watch the short clips carefully,
did the butler do it?!!!

<http://www.youtube.com/watch?v=SFV6h6MXOkI&feature=related>
<http://www.youtube.com/watch?v=ubNF9ONEQLA>





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Using Mediation Concepts to Resolve Conflict

Most Conflict is Resolved without Mediation

Do Resolutions Have to be Fair?

What is fair, depends on

- Perception (P)
- Reality (R)
- $P = R$



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Ultimatum Game

The \$1,000,000 question, will you take it or leave it?



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Rules of Ultimatum Game

1. Money will be divided between anonymous parties
2. Must accept or reject the offer without discussion
3. No counter offer, no haggling
4. You will not meet the person making the offer
5. Prize disappears if not awarded on **first** effort
6. Zero sum gain, every dollar given away one less for the proposer

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Developing New Solutions

- Problem Solving
 - Finding solutions to both parties objectives and needs
 - Prepare concessions before hand
 - What non-monetary settlement options are available



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Collaborative Tactics

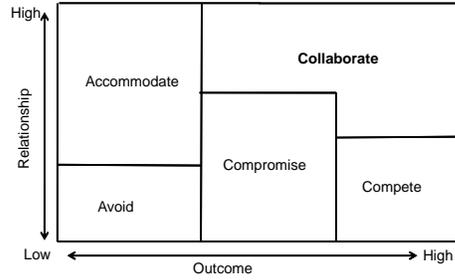
- Application of Harvard Negotiation Project Rules
 - From confrontation to cooperation
 - Parties agree in advance to rules
 - Relationship is very important
 - "Getting to Yes" approach



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Dealing with Conflict



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Collaborative Negotiations

- Also Known As:
 - Win - win approach
 - Interest based negotiation
 - Integrative bargaining
- Create gains for both parties
- No enemy, relationships matter
- Dominant strategy is cooperation

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The Seven Elements of Collaborative Negotiation

1. Interests
2. Options
3. Alternatives
4. Legitimacy
5. Communications
6. Relationship
7. Commitment



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Interests - What do People Really Want?

- Clarify the interests of the parties
- Identify the relevant parties
- Focus on substantive issue
- Probe for underlying interests
 - Consider the other sides interests behind positions



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Options What Mutually Advantageous Agreements are Possible?

- Create options to meet interests
- Find ways to maximize joint gains
 - Work together to find differences
 - Find value in differences
 - Risk – some love it, some hate it
 - Timing proceed quickly or cautiously
 - Perceptions what other people will think
 - Marginal value of same item varies greatly
 - Pencil exercise example



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Alternatives Available to Parties

- What is my **BATNA**
- Select and improve your BATNA
- Identify options available to the other side
- Creatively seek new ideas to resolve dispute
- Make a bigger pie?
- Probe for underlying interests



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More about BATNA

- Not every mediation or negotiation concludes with an agreement nor should it
- Sometimes, walking away is the best choice
- BATNA and bottom line must go together or meaningless

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Automobile Purchase BATNA

What is your BATNA for purchasing a 2013 Jeep with an upgraded stereo, technology package, trim, extended warranty, off-road package, custom paint and leather interior. The safety features found on all newer cars is important to you. You currently have a 1993 Jeep with 110,000 miles in showroom condition. Your budget is \$42,000.



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Setting Legitimate Standards to Measure Results

- Use of external standards
- Agreeing to a "fair" process
 - Fair and equal are different concepts
- Shared explanation of decision



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Communications - Ready and Willing to Listen to Other Sides Rationale?

- Question own assumptions and their assumptions
- Reframe to help other side understand
- Cooperative approach to problem solving
- Test for accuracy
- Focus on future, not past
- Using simple language



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Relationship - Long Term

- Separate people from the problem
- Work past emotional issues
- Separate the deal from the relationship
- Understand the people side of the negotiation
- Avoid intrusion of egos



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Commitment - Not Positions

- Flatter organizations than a few years ago
- Stay away from competitive techniques, no trial balloons
- Share real needs and desires honestly
- Look for ways to make a “bigger pie”



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Negotiators Dilemma

- Both sides cooperate - good outcome
- One cooperates, one competes, competes will win, while cooperates loses.
- Both Compete - poor outcome for all
- In face of uncertainty, best choice is to compete

Negotiators Dilemma		Joe Negotiator	
		Open and Truthful	Conceal or misleading
Jane Negotiator	Open and Truthful	Both have modest gains	Small gain Jane Major gain Joe
	Conceal or mislead	Small gain Joe Major gain Jane	No gains either Negotiations fail

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BRAVERMAN ASSOCIATES, LLC Dispute Resolution Services

Stanley Braverman, Esq.
405 Primrose Drive
Upper Gwynedd, PA 19446

sbraverman@BravermanAssociates.net
www.BravermanAssociates.net
267-934-1378

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