

But → Reality is Chaotic

- Mediation rarely has discreet stages and a linear progression of steps.
- Mediation commonly is unpredictable and multi-dimensional.

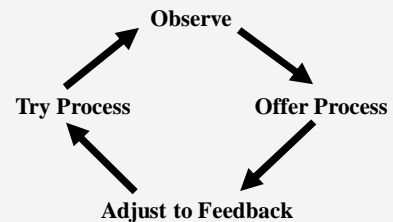
Being in Chaos

- When the mediator joins the circle, the dynamics of the dispute change.
- The mediator is no longer a detached third party but, also is an actor in the system.

Join the Process

- Meet the people where they are, without squeezing them into “the process”.
- Join the team of resolution, participants and mediator(s).
- Connect. Listen. Let them be heard.

Cycle of Resolution



“Loop” the Process

- Talk about your observations and “guesses.”
- Ask for a reality check from the participants.
- (More on looping in a moment)

Be Transparent

- Explain what might be next and why
- Ask for feedback from participants
- Adjust based upon feedback
- Work on comfort as needed

Not Everything “Works”

- That’s OK
- Might lead to what is next
- Might lead to what works better
- Be optimistic, undaunted, and humble.

Preparation

- Be open to where each participant is.
- Own your ignorance.
- Assume nothing.
- Be “There”

Ripple Effects

- Unpredictable.
- One small tweak may precipitate...
- Let things play out.

Getting Stuck

Tell Me More

Getting Rolling

- Welcome
- Agreement to Mediate
- Why are you here?
- Each tells the story.

Stuck

- Now what?
- Solutions?
- Awkward silence?

Duh!

“We did not have to come here...
...just to learn we had a conflict!”

Tell Me More

- Tell me more about...
- Own your ignorance.
- Follow your curiosity.
- Get more to work with.

Find More Information

- More Information gathering...
- ... allows people to be heard,
- ... clarifies real issues,
- ... opens more options,
- ... builds common knowledge,
- ... reduces power imbalances,
- ... find interests.

An Example

- Listen to the problem as presented.
- Explore what may be underneath.
- Consider what is appropriate to mediate.

The Surface Problem

EMPLOYER: Your work is late!

WORKER: *You did not make it clear that there was a deadline.*

PROBLEM: Work is not done on time.

Beneath the Problem

EMPLOYER (private thoughts): You are more trouble than you are worth!

WORKER (private thoughts): *You are never around to clarify your vague instructions!*

BENEATH (relationship deteriorates): Blame and fault, defensive self-protection, personal conflict, escalating mole hills to mountains.

See the Whole Problem

- Work is late.
- Lack of instruction and feedback.
- Lack of support for each other's work.
- Resentment and lack of respect.
- Customer unhappy.

What Happened

Shift of View Points

From: Stating problem from own view point.

To: Seeing underlying concerns and big picture view point.

Being Heard

Looping

Goal

From: Self-focused positions.

To: Common Interests.

Then: Common Solutions

Being Heard

- If you (*participant*) do not feel heard, how can you listen? How can you avoid being defensive?
- If you do not feel heard, is "listening" waiting while you think up what you will say next?

Active Listening

- Understanding so completely that the listener *could have said the same*, and
- Allowing the speaker to know that this is true.

Validate

- To acknowledge that something is important and real for another person,
- Without being judgmental,
- Allows the person to experience being heard.

Experience Being Heard

- Show that you (*mediator or better yet, the other party*) heard.
- Just do not say, "I understand."
- Demonstrate that you listened, thought about what you heard, and can convey back what you experienced.

Looping

- Repeating a statement back to the speaker until the listener "gets it."
- Then looping deeper, "Tell me more about..."
- And then, "What does this mean for you..."

"Did I get it?"

- "You said X. Did I get it?"
- "*Almost. I said X and Y.*"
- "You said X and Y."
- "*You got it!*"
- "Now, I see how you see it."

Clarify

- Is what is being *said* the same as what is being *heard*?
- Is the *intent* of the speaker the same as the *impact* on the listener?

Restating

- Saying you "got it", *does not mean you agree.*
- "Getting it" only means you *listened and worked to understand* what was said.

Impact on Party

- Reduces “Deer in the Headlights,” *where a frozen brain thinks no thoughts, and its rigidity will escalate the conflict.*
- Being heard reduces defensiveness, allows more flexible thinking, and
- *Opens the door to reframing.*

Impact on Other

- Reduces selective listening.
- Allows more than one reality to exist.
- Suggests s/he will be heard as well.
- Reduces defensive counter attacks.

Space for More Than One

- Show that you heard *each participant.*
- Demonstrate that you can give total attention to each.
- Convey that you can accept more than one reality – *non-judgmental balance.*

Safety

- Thin line between *hard* and *harm*, between *vent* and *punish.*
- Monitor.
- Check-in with Participants

Be a Bridge

- At first, the participants may only be able to communicate with you...
- You may be the bridge who translates between the participants,
- Until they find their own way to directly communicate, *which is the goal!*

Different Styles

- “Just the facts.”
- “Just the feeling.”
- A question of balance to be credible.

Alignment Trap

- Avoid having one participant "sympathize" with you,
- While you "have to deal with the weak style of the other,"
- By maintaining your *clear respect for both*.

Model

- Each participant needs to gain an awareness of *your need to work differently with each of them*,
- To build collaborative communication.

What Happens

From: Selective listening.

To: Getting it.

Reframing

A Delicate, Powerful Skill

Reframe

- To view the problem in a different context,
- Which may lead to discovering common interests, and
- Which may suggest workable solutions.

Safe Shifting

- While validating each party's position,
- Reframing may shift perspective to common interests, and
- Help break an impasse of differing perspectives.

Find Interests

- Try out different view points.
- Look for common aspects of each view point.
- From common aspects build common interests.

Helpful Reframes

- “What impact in five years?”
- Separate the “deals:” best-average-worst, legal-moral-practical, personal-objective, available-ideal-no deal...
- Price of freedom from conflict / Price of fighting to win.

Optimism & Persistence

-
- “If we just reframe differently...”

Option Building

Brief Notes

Options

- “His” and “Hers” as thoughtful starting points.
- Keep going.
- Good agreements are often surprise combinations of both views.

More Optimism & Persistence

- No bad ideas, one idea may lead to another.
- “If we just reframe differently...”

Realistic

- What is possible? What is not? What will stick?
- What are the alternatives to an agreement?
- Progress does not necessarily mean an agreement.

Mediator's Notebook

The Story of Joe

Bringing It All Together

Background

Two years after divorce, mother and father each moved to Albuquerque.

Each lived in a different school district.

Both want Joe, age 9, to go to school in his or her school district.

Parent Based

Mother: I need my child. He is the joy of my life. He needs to be with me.

Father: I am his father. Boys need their fathers. He needs a man in his life.

Mediator: Joe is important to both of you.

Child Based

Mediator: Tell me about Joe.

Mother: Wonderful son. Good student. Loves to read. Needs help with homework.

Father: Great kid. Responsible. Smart. Enjoys school.

Interest Based

Mediator: Is Joe's education important?

Mother: Yes. A good school is important for growing up.

Father: I agree. Education is the key to a successful life.

More Looping

Mediator: What does Joe need from a school?

Mother: He is mildly learning disabled. Joe needs a school which will give him individual attention.

Father: Joe needs a place where he will not be teased because he needs special help.

And More Looping

Mediator: What special programs does each school offer?

Mother: I don't know.

Father: Must have something...

Mediator: How could you learn more about each school?

What Happened

Looping - Positions to Interests

From: Initial "surface" problem.

To: Underlying overriding need.

What Happened

ReFrame - Shift Perspectives

From: I need him in my district.

To: Joe needs a special school.

What Happened

ReFrame - Issues

From: Where the school is located.

To: What programs the school offers.

What Happened

Next Step: Parents jointly visited both schools' special education programs.

Result: One school clearly had a better program.

Agreement: Joe goes to better school. Time-sharing adjusted to have meaningful time in each home.

**Family Mediation
Training**

Spring Semester 2008

Bringing It All Together

Connect & Play

- **Mediation and Training may be a joyful experience, even in the darkest of circumstances.**
- **Wallow (stuck in a destructive negative world) or spark the creative energy of hope.**
- **It is a choice.**

Hmmmm?

“Who me?”

“Why not!”

