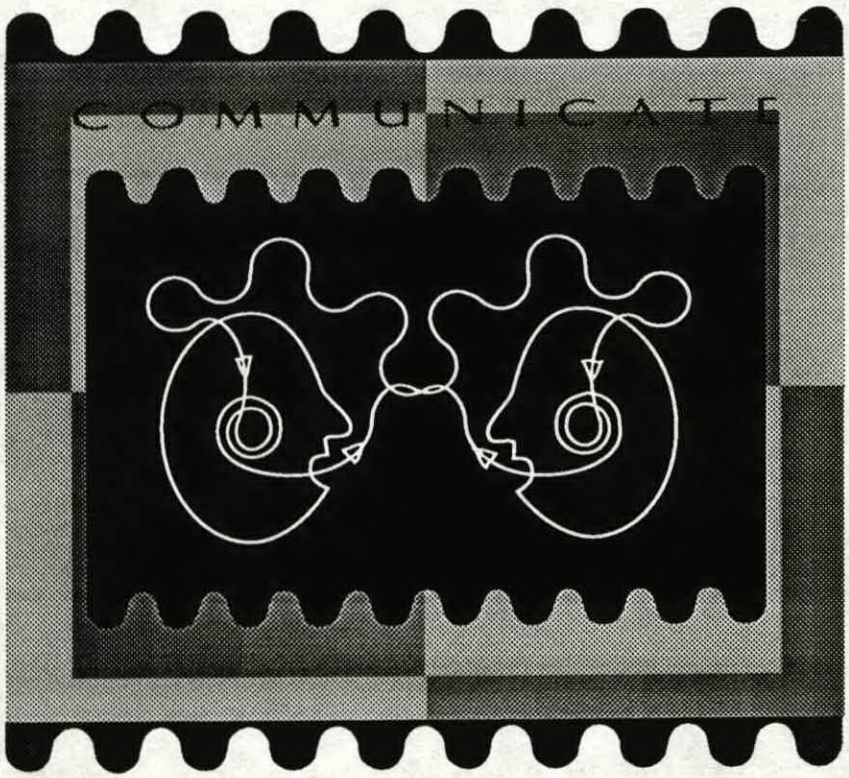
Collaborative Negotiation Skills Training



Session Five
Stages of Negotiation

Session Five Objectives

Stages of Negotiation

- Learn that collaborative negotiations occur in sequential stages of varying duration.

- Identify the function of the five behavioral styles during each stage.

- Perform a "Bare Bones" negotiation which integrates the elements, behaviors, and stages.

The Stages of the Negotiation Process

In sessions 2 and 3, we looked at negotiation from a micro perspective—helping you to analyze each phrase in a negotiation conversation for the structural element or behavioral style it represented. Now we are going to pull back the microscope and look at negotiations from a macro perspective—a big picture view on what should come first, second, third, and so forth.

There is a flow to the entire negotiation process that is important to be aware of and understand. We call this flow the "Stages" of the negotiation process. These stages, if the negotiation is collaborative, fall into five general categories: ritual-sharing, identifying positions and needs, prioritizing issues and reframing, problem-solving, and reaching agreement.

This essay will discuss and analyze each stage of the negotiation process elaborating by example.

I. The Ritual Sharing Stage

We have talked at some length already about ritual sharing when we discussed uniting behavior. Ritual sharing involves the preliminary conversation in which negotiators engage to build rapport with one another. If you are interested in negotiating collaboratively with someone, it is important not to rush the ritual sharing stage. In casual conversation you can glean critical information about the other person's values and interests which will prove useful to you when you get into the substance of the negotiation. It is also a time when you can build the rapport and common ground critical to take you through a difficult negotiation or conflict.

In the ritual sharing stage, people with different cultural experiences will talk about different subjects and will have different expectations about the length of time the ritual sharing should take. Imagine two men getting together to resolve a conflict. Stereotypically, they might discuss the latest ball game in their preliminary conversation—while two women might admire each other's clothing and discuss where they shop. Another example might be that certain cultural groups might expect to take more time to get to know each other and build their relationship, whereas others might want to get right to the point of the negotiations.

In protracted conflicts where trust is low or non-existent, ritual sharing alone is not sufficient for climate setting, and parties who wish to be collaborative must dedicate themselves to a much longer rapport building phase. Rapport building can take on many forms, but if it is to be successful, parties must build trust in the process.

II. Defining the Issues

a) Positions

Once someone has crossed the line from ritual sharing to the topic of the negotiation, the positioning process should begin. In this stage, each party reveals their opening position or demand. In collaborative negotiations, positions are stated flexibly rather than rigidly. It is clear to the parties that they are here to negotiate and arrive at a workable solution for all involved.

Positioning sounds simple, but in typical negotiations it isn't. Many people spend a lot of time avoiding letting the other side know what they are after. People basically *evade* the issue at hand because they are afraid of the conflict or they are afraid their request is not legitimate. Remember, positions are very useful because they frame the substance of the negotiation. Avoiding stating your position will only give you less time to talk about what you really want—and that in itself will lay the groundwork for unnecessary conflict.

b) Needs or Interests

Once negotiators are clear about the issue they are negotiating, they must begin to understand the needs or interests which underlie each party's position. Negotiators must inform the other as to their own needs underlying their positions and search for needs underlying the position of the other (Open.) Identifying needs can be difficult. Often the person on the other side is not even aware of the needs that underlie her position. One of the jobs you have as someone who understands effective collaborative negotiations is helping that person truly understand what need they *must* have satisfied if the negotiated outcome is to be stable. It is only when you have identified the priority needs of both sides that you are ready to move on to the next negotiation stage.

III. Reframing and Prioritizing Issues

What is the clash of positions? If you know the answer to this question and have spent time trying to clarify underlying needs you are ready for this stage. If you are certain what the corresponding underlying needs or interests are then so much the better.

a) Reframing

In single-issue disputes, all you need to do at this stage is reframe the problem into a joint problem to be solved.

b) Identifying and Prioritizing Issues

What exactly is an issue? An issue is a priority need of either party along with the position they put forth to satisfy it. There are both tangible and psychological issues.

Issues become relevant in very complex disputes. If there is one clear clash of positions, then there is one issue and you only need be concerned with reframing the positions at the needs level as described above. However, in more complex disputes, you must constantly attempt to break up the subject matter of the conversation into manageable issues and focus the parties on the key areas where the parties are experiencing a clash of positions.

Issues are identified at the positional level because typically the dispute is so complicated that it takes a longer time to move from the positional level to the level of need or interest. Consequently, how one identifies an issue is important. Your position, by definition, can upset the other side because it is opposite to theirs. Consequently, when you identify the issues for discussion, you must do it in a neutral and topical way.

After you have identified and agreed upon the issues, you must set the agenda for the negotiation. Prioritize the issues by putting the easiest first to gain momentum.

You then continue by negotiating each issue, or positional clash, until you are clear about the needs or interests which underlie it. Once you understand the needs and interests of an issue, you reframe it and continue with the process outlined below. Your objective is to get tentative agreements on each issue before you package the final agreement.

IV. Problem-Solving and Reaching Agreement

a) Problem-Solving

While brainstorming solutions to a negotiation problem, it is important to observe certain caveats.

First, emphasize eliciting a quantity of ideas before focusing on the quality of each idea. Consider what would happen if parties stopped to discuss each idea as it was generated! They predictably would begin to panic that this specific idea did not satisfy their concerns; then the panic would create more tension, and with the tension they would become positional once again. They would have thus lost the opportunity to generate additional ideas which, once packaged together, would comprise a creative and satisfactory solution for all.

Second, in attempting to generate creative problem solving, it is important that everyone understand that all ideas are welcome and that no idea is stupid. It is often the case that the "stupid" ideas lead people to think of very clever ideas. However, if one person has

their idea shot down as "stupid" by another, it will have the likely effect of stunting everyone's ability to generate creative ideas. Similarly, it should be a ground rule of the brainstorming session that repeating ideas is O.K. Repetition might lead to variation on an idea, increased attention to a previously stated idea, or simply allow participants not to worry about saying something that has already been said.

Third, keep encouraging people to brainstorm after the first rush of ideas. It often takes a few moments of silence for someone to give a critical suggestion or idea that moves the process along.

Finally, it is important that a climate of collaboration be maintained throughout the brainstorming session. Here are a few ways you might maintain that climate:

a) by using a flip chart to generate ideas; (A flip chart will help you "separate the people from the problem" in the words of Roger Fisher in *Getting to Yes*.)

b) by highlighting common ground if the atmosphere begins to get tense; or

c) by re-explaining the importance to the other side of engaging in this type of problem solving and reminding them that your goal is to come up with a solution that is good for both of you.

b) Reaching Agreement

Once a variety of ideas have been generated, together you can begin to package the ideas to find the optimum for you both. The important aspect of this approach is that you do not want to leave value on the table. What exactly do we mean? Remember the orange? Each little girl was about to walk away with only 50% of what she wanted. By sharing information about needs, however, a solution could be reached that gave both 100% of what they wanted. The creativity in negotiated solutions comes in packaging bargaining chips. You may come up with ideas for bargaining chips either offered or elicited from the other side that satisfy needs that have nothing to do with the initial subject matter of the negotiation. But so much the better! There are infinite ways people can help each other. If they are discovered during a collaborative negotiation process, not only will the negotiation be settled, but important groundwork will have been laid to build an improved working relationship.

Understanding the pattern and organization of negotiation and conflict resolution will help you steer your way towards success. Systematically breaking the conflict down into its stages and ensuring that the critical components of each stage are satisfied before moving onto the next will give you an excellent chance of reaching a lasting, win-win solution for all.

Critical Incidents for Bare Bones Practice

Husband and Wife During Dinner

Stage I

Ritual Sharing—Step 1
Wife: This is wonderful chicken.
Husband: Thanks. It's a new recipe I found.

Stage II

Position—Step 2
Wife: I need to talk now about planning for our retirement.

Position—Step 4
Husband: Well, I would really rather not talk about this now. (He feels some anger around this because his wife often brings up difficult issues at inappropriate times.)

Underlying Needs—Step 3

Husband: Why do you feel so much urgency to talk about that now?

Wife: I need to know that we are going to deal with this and other difficult issues and not just avoid them.

Husband: So, you need some reassurance from me that I want to engage with you about these issues and not just duck them?

Wife: Yes, that's right. Can we talk?

Underlying Needs—Step 5

Wife: Can you tell me why?

Husband: Heavy discussions at dinner give me indigestion.

Wife: So, it's not that you don't want to talk about it, it's just my timing that is a problem. Is that right?

Husband: Yes, that's right.

Stage III

Reframe—Step 6
Husband: Let's figure out a good time for both of us to talk about planning for retirement and other difficult issues like that.

Stage IV

Problem Solving—Step 7
Together they generate the following options: 1) Fix a regular time after dinner to deal with these topics if we have any; 2) Rule out dinner as a time to deal with conflict; and 3) Talk about these issues on Saturdays when we are both relaxed.

Reaching Agreement—Step 8
Wife: Let's regularly talk after dinner if we have anything that needs discussing and decide that dinner time will not be a time to deal with issues that cause conflict.
Husband: Sounds good to me.

Critical Incidents for Bare Bones Practice

Directions: In pairs, resolve one or more of these conflicts with your partner following the *Bare Bones* model, page 5-7..

Business

Number 1

Part A — You are the Manager of a foreign subsidiary (and are low in power distance). You were planning on having certain experts make a presentation and they never showed up causing you great embarrassment. It appears that your subordinant knew that the governmental approval was not likely to come through for them to come but never told you directly. You have learned that he sent a memo to the file but that it was misplaced.

Part B — You knew that, in all likelihood, the experts would not make it but you didn't feel comfortable breaking the news to your superior directly. You wrote a memo to the file as you often do. (You are high in power distance.)

Number 2

Part A — (Ms. A) Your department has gone through a number of reorganizations in recent years that you and many others think were handled poorly. You know another reorganization is in the works and you would like to discuss with senior management how the reorganization process could be improved but you are fearful of doing so.

Part B — (Mr. B) Ms. A has asked to speak with you on a matter. You like to keep up communication with your subordinates but you certainly don't want to be told what to do. You have a reorganization coming up that you would like to handle smoothly.

Number 3

Part A — You are from Culture Q and a man and your secretary of two months, a woman, is from Culture R. You are frequently feeling like your secretary is not giving you the respect she should. The other day, in front of some important people, she was inappropriately informal and relaxed. You are irritated.

Part B — You are from Culture R and have worked for your new boss for 2 months. You like your boss but he seems incredibly "uptight". You imagine he is just one of those over-controlling guys. You are hoping this job assignment works out.

Number 4

Part A — You work as a team with Ms. B and you would like to work with someone else instead. You have been working together for a year now. It works well in some respects — she is the management/implementation expert and you understand the finances. But she is always breathing down your neck and wants you to work on her time schedule. You have two young children that you need to attend to often because your wife's job takes her out of town. You also have a sick mother. Except for Ms. B's wonderful implementation ideas and analysis, you could probably do this work yourself with your great financial, writing and editing skills.

Part B — You have worked as a team with Mr. A for a year but are unhappy with how things are going. Mr. A is not motivated enough to be your work partner. Almost every day, it seems to you, he walks out of the office at 5-5.30 while you and most other people leave about 7.30 or 8. One of the problems you have had in getting the work done by the deadline, is that neither your spelling or your editing capability are very good. In addition, you are not a native English speaker. You are a real perfectionist, not to mention very proud, and you will not give your work product to a co-worker without it being in great shape. Unfortunately, as a result, it takes you hours to edit and proof read. If you were stronger in these areas, you probably wouldn't get so upset that Mr. A gives his part of the work when he does.

Number 5

Part A — You are currently on a work team that is in the process of restructuring your organization. Prior to the creation of the team, the managers in the organization had developed a general structural plan to serve as your framework. You realize that one of the units is not logically consistent with the process-oriented approach of the other units and you have proposed to the workgroup that it should be merged with another unit. Your team members are extremely resistant and feel that you should not deviate from the outline laid out in the terms of reference.

Part B -- You feel that you should not deviate from the terms of reference because if that's what your superiors have suggested, that is what you should try to implement.

Number 6

Part A — In negotiating your work assignments with your boss, he has requested that you learn how to operate some highly technical equipment. You have said you "are not very technologically minded" and in any case, you feel insulted by the request because you have an advanced degree from a prestigious university and feel you should be doing the thinking not the computing.

Part B — You want your subordinate to learn to operate some highly technical equipment but he seems resistant. You believe that all professionals today should have good computer skills. You simply can't afford to have separate job slots for the computer experts and the "creative" types.

Number 7

Part A — You have given your subordinate a "Very Good" on their performance appraisal. You do not feel that this person is dedicated enough.

Part B — You have received a "Very Good" on your performance review. You feel that this is unfair because, when you are at work, you put your all into what you are doing. Nonetheless, you have other things in your life besides work which are important to you. Your boss is a "workaholic" and, in your opinion, doesn't set any limits with work. You don't think your different lifestyle choices should be held against you.

EDUCATION

Number 1:

Part A—You are the guidance counselor and are waiting to meet the school principal to complain that he keeps adding on new duties and responsibilities without providing you enough time to complete your basic clerical and administrative tasks.

Part B—You are the principal. The guidance counselor has made an appointment with you regarding her work load. New state education regulations have expanded the role of guidance counselors, and there are new procedures that need to be followed. You are being held accountable for the implementation of these regulations.

Number 2:

Part A—You are the parent and are visiting your son's fifth grade teacher. You report that your son is being "picked on and insulted" by the other students in the class. You are hoping that the teacher can explain more clearly what is happening in class as well as understand your concern for your son.

Part B—You are a fifth grade teacher and have been teaching for three years. You have been experimenting with cooperative learning (with the support of your principal) and have placed students in groups. This particular fifth grade class, though bright, has many students with very poor social skills. You hope that the cooperative learning will continue to provide enough academic challenge while significantly improving their social skills, but you need time and parental support to make this work.

Number 3:

Part A—You are a math supervisor in a high school and find out that the English supervisor with the same size department has been given $5,000 in his/her budget for the next school year, while the extra $700 you requested for ninth year remedial classes was not granted. You feel that there has been an oversight and have arranged a meeting with the principal.

Part B—You are the principal and quite pleased to finally have an advanced placement course in English in your school. This plan, which has been in the thinking stage for two years, is finally a reality. You have made a $5,000 commitment (your complete discretionary fund) to the English supervisor to buy special books and equipment for this course to implement the A.P. class and to attract talented students to your school.

Number 4:

Part A—You are a male student and you have heard that your girlfriend has been hanging out in the library with your best friend. In fact, you saw them together in the pizza shop yesterday. You are getting nervous and want to know what is going on.

Part B—You are a male student and recently have been getting math tutoring to prepare for an important exam from the girlfriend of your friend. You are embarrassed to tell anyone that you need math help but have agreed to get help from the girlfriend as long as she kept it confidential, which she has.

Number 5:

Part A—You are the health education supervisor who is hearing complaints from teachers in other departments. It seems that a particular gym teacher is dismissing his/her class late and not giving the class time to change and dress. They are subsequently coming late to their other classes. You have spoken to this teacher before about similar complaints.

Part B—You are the health education teacher who feels a great deal of pressure to get your students prepared for their intermural competition. You have the extra problem of lack of lockers which interferes with students' ability to store their gym clothes, and they have to change in the bathrooms which are a distance away.

Number 6:

Part A—You are the school dean and you are very concerned with the high number of students referred to your office by teachers. Yesterday one teacher sent four students to you with a note that they were misbehaving and that she wanted them removed from her class.Your workload has become so overwhelming that you have brought this incident to the attention of your principal, who in turn tells you that you have to handle this situation directly with the teacher.

Part B—You are a seventh grade teacher and are concerned with the unfair num

Critical Incidents for Bare Bones Practice

Write out a scenario of a negotiation or conflict situation that you were or are a party to that you would like to revisit.

Number 1:

Critical Incidents for Bare Bones Practice

Number 1

Stage I

Ritual Sharing

1. _____

Stage II

Position

2. _____

_____

Position

3. _____

_____

Underlying Needs

4a. (probe for needs) _____

_____

4b. (response from other party) ___

_____

4c. (paraphrase) _____

_____

4d. (if paraphrasing is incorrect, start again with 4a.)_____

_____

Underlying Needs

5a. (probe for needs) _____

_____

5b. (response from other party) ___

_____

5c. (paraphrase) _____

_____

5d. (if paraphrasing is incorrect, start again with 5a.)_____

_____

Stage III

Reframe

6. _____

_____

Stage IV

Problem Solving

7. _____

_____

Reaching Agreement

8. _____

_____

_____

Critical Incidents for Bare Bones Practice

Number 2

Stage I

Ritual Sharing

1. _____

Stage II

Position

2. _____

_____

Position

3. _____

_____

Underlying Needs

4a. (probe for needs) _____

_____

4b. (response from other party) ___

_____

4c. (paraphrase) _____

_____

4d. (if paraphrasing is incorrect, start again with 4a.)_____

_____

Underlying Needs

5a. (probe for needs) _____

_____

5b. (response from other party) ___

_____

5c. (paraphrase) _____

_____

5d. (if paraphrasing is incorrect, start again with 5a.)_____

_____

Stage III

Reframe

6. _____

_____

Stage IV

Problem Solving

7. _____

_____

Reaching Agreement

8. _____

_____

_____

Notes on Possible Outcomes[1]

DEADLOCK

The negotiations come to a dead end, with no contract or agreement.

SPLIT THE DIFFERENCE

A 'fifty-fifty" solution, splitting things up equally.

> ***Example***
> In the Ossipilla case, the investors want to go forward with the project as proposed and the community doesn't want them to move ahead. A "split-the-difference" outcome would be the two parties deciding to go ahead with a much smaller project than originally proposed.

INTEGRATIVE SOLUTIONS

• Log-Rolling

When both parties come to the table with many demands, and there is trouble getting started, each side agrees to exchange concessions by giving the other side some of what they want of their highest priority demands. This breaks the "log jam" and starts the negotiation moving.

> ***Example***
> In a Labor/Management dispute, the labor negotiator has 8 demands. His top priority however, is a better medical package for his constituents. The management representative has 5 demands. His top priority is a change in the work rules. They agree to modify the work rules in exchange for a new dental plan.

• Non-Specific Compensation

One party asks the other to "do it his way" on the main issue in contention and, in exchange for this concession, agrees to give the other what he wants on some non-related issue.

[1]Concepts developed by Dean Pruitt

Example
The Investors attempt to encourage the Community to go along with the project by offering them job training. (This would not be enough, by itself , in this case because what the community really wants is to not have it's way of life disrupted.)

• Expanding the Pie

If there appears to be a scarce resource like time, money or markets, etc., the negotiators create new opportunities that increase the amount of the particular resource at issue thus eliminating the conflict because there is now enough for all.

Example
The community knows of another bauxite seam that the Investors can extract that is not underneath their farming area.

• Cost Cutting

You reduce the cost to the other side of doing things your way.

Example
Assuming there is another bauxite seam, and that there is not a river in that area that can be harmed, the environmentalists point out that there will be no clean-up costs associated with protecting the river that the Investors would have to shoulder as there would be if the project went ahead in Ossipilla.

• Bridging

The solution meets the priority needs and interests of all parties concerned thus maximizing joint gain.

Example
The two sides agree to move the farming terraces over to the south side. That way the community will get a southern exposure which will provide better light thoughout the year and can continue with their way of life as well as reap the economic benefits of the project. And, the Investors will be able to profitably extract the bauxite.

Personal Journal

Stages of Negotiation

1. What were the most important things you learned from this module?

2. How is this information likely to change your approach to your next negotiation?

3. What do you still need to clarify?

4. Other comments.

Party A:_____

	0	5	10	15	20
Chops I. Ritual Sharing Positions II. Needs III. Reframe IV. Chips					
IV. Chips III. Reframe II. Needs Positions I. Ritual Sharing Chops					
	0	5	10	15	20

Party B:_____

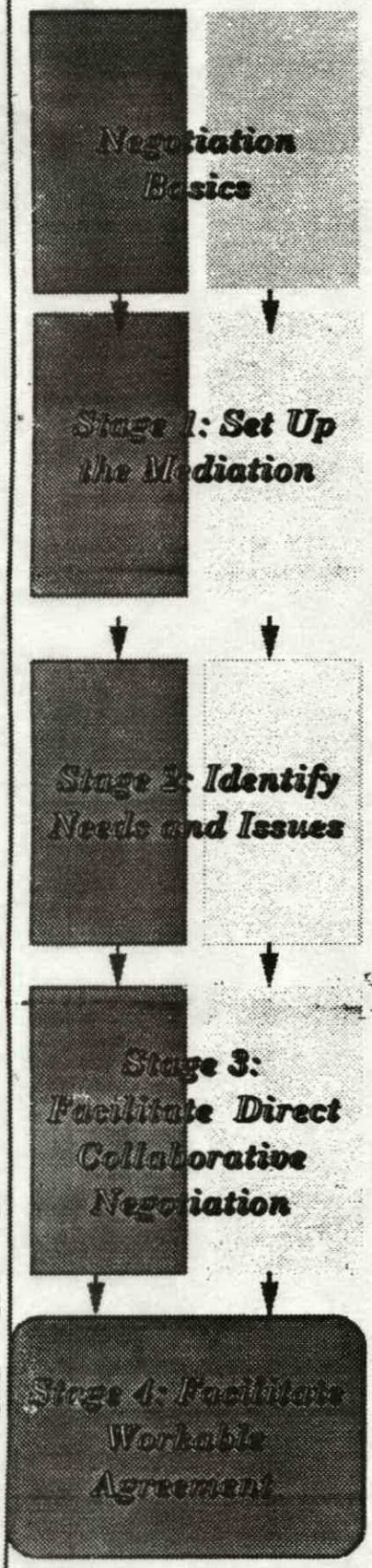
Put an X at each occurrence following the time sequence. Connect dots sequentially.

"One result of re-examining human society from a gender-holistic perspective has been a new theory of cultural evolution. This theory, which I have called Cultural Transformation theory, proposes that underlying the great surface diversity of human culture are two basic models of society.

The first, which I call the *dominator* model, is what is popularly termed either patriarchy or matriarchy -- the *ranking* of one half of humanity over the other. The second, in which social relations are primarily based on the principle of *linking* rather than ranking, may best be described as the *partnership* model. In this model -- beginning with the most fundamental difference in our species, between male and female -- diversity is not equated with either inferiority or superiority."

Riane Eisler
The Chalice and The Blade
1987

Michael Simpson



Abridged Version:
To be Used in Conjunction With "Collaborative Negotiation Skills Training" by Raider and Coleman

Mediation Skills Training

Objectives

- To Learn And Practice A Model For "Mediation" -- A Negotiation That Is Facilitated By A Third Party
- To Learn How To Set Up A Mediation And To Deliver An Effective Opening Statement
- To Learn Listening And Probing Techniques In Order To Understand The Perspective Of Each Party
- To Learn To Facilitate Perspective-taking Between The Parties
- To Learn To Facilitate Options For Resolution
- To Learn How To Help Parties Reach Good Agreements
- To Learn To Facilitate The Resolution Of Intercultural Conflict

Introduction to the Manual and to Mediation

Welcome and congratulations for taking a course on mediation. The materials in this manual are designed to teach school professionals mediation skills at the adult level. The ultimate objective, of course, is that persons who have taken this program will then be in a position to teach students how to mediate other student disputes.

Mediation is gaining increasing popularity throughout school systems internationally. Schools with mediation programs find not only that school becomes a more peaceful place, but that students learn the important life skills of collaborative negotiation and cross cultural communication.

The following preliminary pages summarize the essential material in the manual. You might find it useful to read them through at the beginning of the program to gain an overview of many of the concepts about which we will be talking. Some of what is discussed will probably be confusing to you but will be clarified throughout the training program. After you have finished the training, you will hopefully find these pages useful as a reference or important summary material.

Negotiation is an excellent conflict resolution tool and should be used wherever possible. However, even when the parties have the best of intentions, there can be times when they can not get beyond impasse. That is when mediation can be helpful.

Mediation is effective negotiation applied by a third party neutral in a confidential setting. The mediator might give his or her opinion about a situation, but in no event will he or she make the decision for the outcome for the parties. Mediation is a voluntary process -- the disputants are there voluntarily and they voluntarily agree or fail to agree to enter into an agreement. It is because the process is voluntary that, once the parties have reached a decision, they will usually hold to it.

Mediation is easily understood in juxtaposition to other methods of resolving disputes. The continuum of dispute resolution strategies is something like the following: evade, negotiate, mediate, arbitrate, litigate, fight/war.

Evasion -- If one gets into an argument, they can choose to ignore the conflict and avoid the person with whom the conflict exists. This form of evasion may be as trivial as avoiding someone in the halls, or it may be as extreme as leaving the school or school system and finding another job. Evasion rarely leaves the person evading feeling empowered if in fact there is

something that they want from the person with whom they are experiencing conflict.

Negotiation -- The parties to a conflict can choose to work together to resolve their differences. Their strategy for negotiation may vary -- for instance they may genuinely work to understand each other's perspective and reach a mutually acceptable solution ("win-win") or they may aggressively attempt to "win" the argument and have the other lose ("win-lose"). In any event, the important point here about negotiation is that they retain power over any ultimate decision which they may reach and there is no third party involved except maybe in some form of support or consulting capacity.

Mediation -- The method of mediation is no different from what has been described above about negotiation except that a third party facilitates the two disputants in their negotiation. The two parties, however, retain all control over whether and what kind of agreement they may enter into although of course the mediator may provide suggestions. The mediator may guide the disputants in a collaborative negotiation strategy and help them reach a "win-win" solution. Or, the mediator may play the role of shuttle diplomat as they engage in a competitive bargaining process and reach a "win-lose" agreement or compromise.

Arbitration -- Arbitration is a term loosely applied here to refer to a method of resolving disputes whereby a third party neutral hears arguments from the two disputants and makes a decision about whose argument is more persuasive or how guilt or innocence should be allocated between them. A formal arbitration procedure may be used in certain school settings, such as for union grievances. Typically, however, "arbitration" may look more like a principal, Dean or teacher hearing the stories of two students fighting and deciding for them how the situation should be resolved.

Litigation -- Once again with litigation, power over the settlement of the dispute rests with a third party intervenor, in this instance a judge, not either of the disputants. And, with lawyers involved, the arguments presented are further removed from the original disputants. Litigation is an unlikely method for school settings, but it is certainly not an impossibility.

Fight / War -- When formality is abandoned and people decide to physically or verbally fight it out, the last method on the dispute resolution schema is reached. Unfortunately, this method is used far too frequently because other less aggressive methods are not used well.

Hopefully, now you have some idea of what mediation is. But what exactly does a mediator do? And how does he or she do it? There are basically five goals a mediator must accomplish in the mediation process. First, the mediator must get the parties to agree to mediation. Next, he or she must create an appropriate climate for mediation in part by the room set up and

getting the parties' agreement to certain groundrules for discussion. Third, the mediator must find out what happened, listening carefully to each participant and encouraging them to carefully listen to each other. Fourth, the mediator must help them understand the perspective of the other. And finally, the mediator must help them brainstorm solutions that work for all sides. The mediator accomplishes these goals fundamentally by applying the principals of effective negotiation

Negotiation Basics

a) How to Apply the Elements of the Negotiation Process to Mediation.

One of the fundamental tasks a mediator is accomplishing throughout the mediation process, is analytically breaking the dispute down into it's elements -- values, positions, needs, bargaining chips and bargaining chops.

On each side of any dispute, there are five elements at play. Positions are demands or requests of the other side made in order to satisfy one's own needs. Unmet needs are what underlie the conflict. Needs must be met if the physical, psychological, economic, and/or social well-being of a group is to be maintained. Usually there are several ways in which a group's needs can be met. Values provide the background or context for each side's needs and positions. Values must be understood and respected or else they will become a source of conflict in addition to the conflict of positions and needs that the parties are trying to resolve. Bargaining Chips, like positions, are also needs satisfiers, but are offered by one side to the other in order to satisfy the other's needs. Bargaining Chops are proposed to thwart the other side's needs and to gain a competitive advantage.

From the first meeting the mediator has with each of the parties -- usually designed to get both of the parties to agree to mediation, the mediator is discerning what is the position that disputant is taking and what are their needs underlying those positions. The mediator is asking questions to determine if there are any potential values conflicts between the parties. And the mediator is pulling for things the other side might offer this party to help settle the problem, or threats or things the other party might do to this one to hurt them (bargaining chips and chops to satisfy or thwart this parties' needs.) The mediator is also looking for what this disputant might offer the other side or what they might be holding over their head (bargaining chips and chops to satisfy the other parties' needs.) The mediator will fill out a chip/chop form as she goes, continuing to ask questions to complete her knowledge of the structural elements of this dispute. At some point during the mediation,to be determined at the discretion of the mediator, she will explain to the disputants what she is doing -- basically teaching to them the fundamentals of effective negotiation. During a round of caucusing sessions, she may even ask the

disputant with whom she is not speaking to fill out his own version of a chip/chop form to further his and the mediator's understanding of the conflict.

b) How to Apply Effective Negotiation Behaviors in Mediation

In a conflict, disputants can use five behavioral styles beginning with the letters A, E, I, O, U: Attacking, Evading, Informing, Opening, and Uniting. The style that should be used the least (perhaps not at all) is attacking. Attacking is any type of behavior that puts the other side down, interrupts them, stereotypes them or otherwise puts them on the defensive. Evading is avoidant behavior. It is likely to exacerbate the conflict unless it is done in such a way that the other side feels reassured that there concerns will be addressed. The remaining three—Informing, Opening, and Uniting—are absolutely indispensable if the disputants are going to cooperate in resolving the issues before them and arrive at a creative workable solution. Informing si behavior whereby each disputant reveals their positions (without attacking), needs or feelings. Opening is behavior where one disputant will actively work to understand the positions, needs and feelings of the other side. This may be done through questioning, active or silent listening. Uniting is behavior that highlights the common ground among the disputants, proposes bargaining chips to meet the needs of either party or reframes the problem focusing on the priority needs of both sides and not on their positions.

Throughout the mediation, the mediator will be modeling informing, opening and uniting behavior and eliciting the same from the disputants. This does not mean that the mediator will prevent the disputants from getting angry with each other. In fact, the mediator must allow the dispute to escalate before it will de-escalate. The mediator does this by first listening to or opening up each disputant -- really trying to understand their perspective and letting them know that she understands -- and then helping each side to really listen to and understand the perspective of the other without just defending themself. The mediator also helps each disputant not demonstrate their anger by attacking or evading, but by informing their other side about their positions, needs, and feelings and values if relevant.

The Stages of the Mediation Process

Prior to the Mediation

a) Getting the Parties to Agree to Mediation.

There are many components to this critical process. However, because our goal here is to provide you now with just an overview, we will simply highlight the two most important considerations getting the disputants to trust you, and getting them to trust the process.

b) Getting the Parties to Trust You as the Mediator

Mediations can be set up in basically two different ways within a school system. Someone higher in the chain of command may request the disputants to mediate the dispute. If that happens, you as the mediator must still indicate to the disputants that as far as you are concerned, this is a voluntary process and that you are not going to impose a decision on either of them. That, in and of itself will help build the disputant's trust in you.

For a variety of reasons, the disputants might not trust your neutrality. You may be black and one of the disputants might be white, you might be a member of the teacher's union and the disputant is a member of the principals' union, you might be male, and the disputant might be female. There are no simple answers about building trust and rapport with the disputants. But you must be on the alert for potential barriers. Sometimes it is best to raise the topic of a perceptual barrier -- "I am wondering whether my race makes you at all uncomfortable, given the racial make-up of you and the other disputant. I would like to hear your concerns, if you have any, and make sure that you feel that I am the right person to effectively mediate this dispute for you."

c) Getting the Parties to Trust the Process

The parties must have no doubt that they will be fully in control of any decision that is made. Don't assume that they will hear you when you first say that you are not going to impose a decision. People are so accustomed to a third party "judge" that it may take some repeating before it is clear to them that that is not the role you are going to play. On the other hand, they may also feel a certain amount of discomfort that you are not going to make the decision for them. They must sometimes be encouraged that their's and their counterpart's mutual decision will be the best one and arriving at it is, in fact, possible.

They must understand that the process is confidential. It must be clear to them that you are not going to discuss this case with anyone other than another mediator. It must also be clear to their superior, if the superior

was involved in the decision to mediate, that you the mediator are not going to talk to her about the the mediation.

You, of course, have the power only to bind yourself to confidentiality. It may be necessary that they need to agree with each other that the subject matter discussed during the mediation will be kept confidential by both disputants. Remember -- their not talking about the mediation is not always important. To the contrary, their talking about the positive results of the mediation process within the school community can be empowering for them and good advertisement for the mediation process.

Stage 1: Opening the Mediation

a) Creating the Appropriate Climate for Mediation

One of the most important contributions you can make to the mediation is the atmosphere you create. The first aspect of this that you must consider is the physical environment. Where is the mediation going to take place? It should be in some location that will be comfortable to all -- the mediator and the disputants. There should be no disturbances in the room. For instance, if there is a phone, it should be turned off. If the room is hot, make it cooler. If the chairs are uncomfortable, find some other ones. Do what ever you can to make that particular space as relaxing and comfortable as possible.

Make sure the set up of the room appears neutral and facilitates communication between the parties. Are you sitting closer to one of the parties than the other? Don't. Are you sitting behind a desk with them both looking at you? If so, come out from behind and put three chairs in a circle. Desks convey authority -- you are playing the role of facilitator. Make sure they can look at each other and are a comfortable distance from each other. Your goal is to get them to communicate. Where they are sitting can enhance or detract from that goal.

You also may want to give both of the disputants something to write with. This is not always necessary but in many cases it will facilitate preventing their interruptions of each other as well as convey a sense of seriousness about the process.

b) Delivering the Opening Statement Including the Ground Rules

You also effect the climate by your opening statement. Your opening statement should convey a sense that you have control over the process and that there is a structure and rules to it. An opening statement may include the following components.

1. **Introduction** -- Introduce yourself and explain your role as mediator -- a neutral facilitator. Tell them that your goal is to help them come to a solution that they both can live with -- that you may make suggestions, but won't tell them what to do. Emphasize that it's their decision. Make sure they know that you will keep the substance of the entire session confidential.

2. **Confirm Names** -- confirm the pronunciation of their names and the spelling. (you of course may already have this information)

3. **Groundrules** (Get their agreement to each of the following groundrules as you go):

   a. Ask them to listen carefully to each other and avoid interrupting each other. Remind them that they can use their notepaper to remember things they would like to say when it is their turn to speak;

   b. Ask them to treat each other respectfully -- To avoid namecalling and put downs; To talk about their own perspective of the situation and avoid blaming the other;

   c. Ask them to communicate honestly. Be sure they understand that telling untruths is not useful at all to this process;

   d. Ask them to work as hard as they can to solve the problem;

   e. Give them some idea how long the mediation will take based on the complexity of the issues (a couple of hours for a simple case, a couple of days for a complex one) or simply say "as long as it takes and as long as we are making progress";

4. Tell them that you may take notes but they will either be thrown away or kept for your use only;

5. Ask them if anyone has any questions; and

6. Ask them who wants to go first -- or pick the person who is the angriest to go first as they are then less likely to interrupt. Make sure when you do, you ask the other disputant if it's O.K.

Stage 2: Defining the Issues; Understanding the Perspective of Each Side

After the mediator has delivered an opening statement, the next task is listening carefully to each side's perspective. The mediator first asks the party who is not talking to listen very carefully to what the other side is saying, taking notes if necessary on points they would like to discuss further. The mediator then gives their full attention to the talking party, checking in with the other party regularly to make sure they are not getting too impatient. It is important for the mediator to strike a balance between allowing the party to fully explain their perspective and keeping the process moving forward. A way to do this is to ask the party questions like:

> Tell me the essence of what this dispute is about from your perspective.
>
> How has this situation affected you?

Stylistically, the mediator is using exclusively *opening* behavior throughout this stage of the process. He may just listen silently, or he may probe for needs by questioning, or he may summarize the essence of what he is hearing from the party. Hopefully, three things will happen in this stage. First, the party talking will feel heard and understood by the mediator. Second, the party listening will more likely hear the perspective of the other party when it is repeated by the mediator. Finally, the mediator will have effectively demonstrated the type of *opening* behavior that he will ask of both of the disputants during the next phase of the mediation process.

Stage 3: Finding Solutions: Helping Them Understand the Perspective of Each Other

After the mediator has heard the situation from both side's perspective, the mediation has then reached the stage where both sides need to begin to talk to each other directly. Some mediators will actually ask the disputants to turn their chairs so they are facing each other (many start off with them facing each other.) It is typical that at the end of stage two some of the tension in the dispute has dissipated. At this stage, however, when the parties begin to talk directly to each other, tension may begin to rise again. It is perfectly O.K. It is what needs to happen if one of the results is that the parties can continue on after the mediation with a cordial or even improved relationship.

Stylistically, the mediator is coaching the parties to use *informing* and *opening* behavior. One party informs -- the mediator asks the other to summarize what they are hearing from the other side and vice versa. The mediator is also listening to help them reframe positional language into the language of needs. When both parties have clearly stated their priority underlying needs, the mediator then reframes the problem saying something like, "let's brainstorm some ways we might satisfy both of your needs."

Helping Disputants Generate Options

If all has gone smoothly, the parties will be ready to start problem solving. The mediator may actually use a flip chart here to the parties focus on the problem and not on each other. If it is purely a relationship issue, however, conciliation more than problem solving will be the goal.

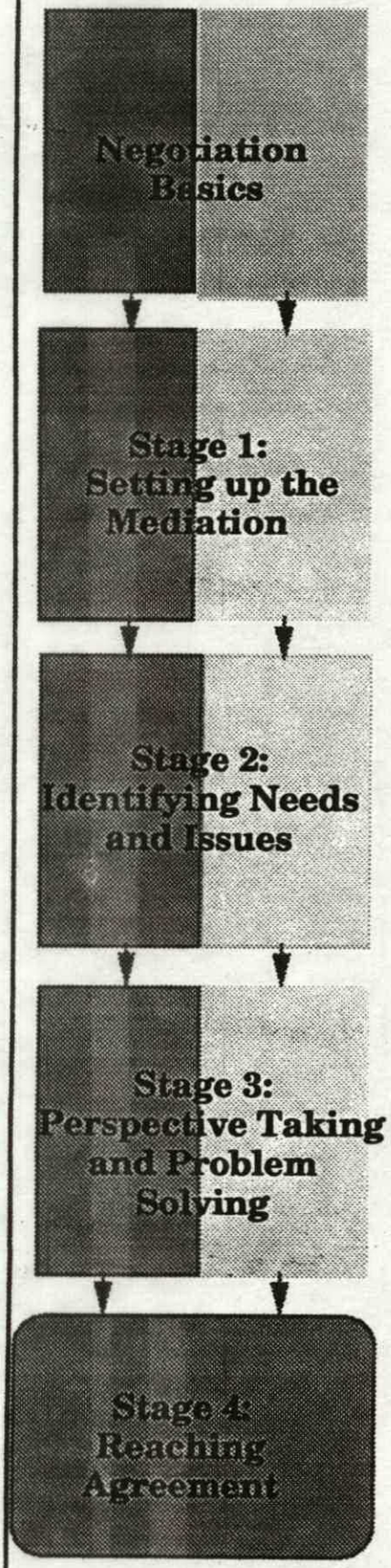
If the mediator has jumped the gun and has reframed the problem at a level that does not state the real need that is not being fulfilled, the brainstorming or conciliation session will not work. The mediator must recognize this as the case, and either backtrack to stage 2 or 3 of the mediation process. But that is the beauty of mediation. It is flexible and can be instantly molded to the needs of the particular parties and dispute.

Stage 4: Closing the Mediation: Testing the Solution and Writing the Agreement

During this fourth stage of mediation, the mediator is encouraging the parties to talk about how they are going to manage themselves, their relationship and their affairs surrounding the subject of the dispute in the future. "The next time you meet, how will you go about arriving at a decision." "If you feel that you are not being heard by Alex, how are you going to handle the situation in the future?"

Sometimes, it is a good idea to actually write up the agreement between the parties. As the mediator, you can suggest language, and do the writing, but the parties must agree to each part. When you have prepared a written agreement, it is an important symbol to have each party to the agreement sign it and receive a copy. The mediator should make sure that the agreement is balanced (i.e., that one party is not making all the concessions), clear, and focuses on what the parties are going to do for each other in the future, not who has the blame for events that have happened in the past.

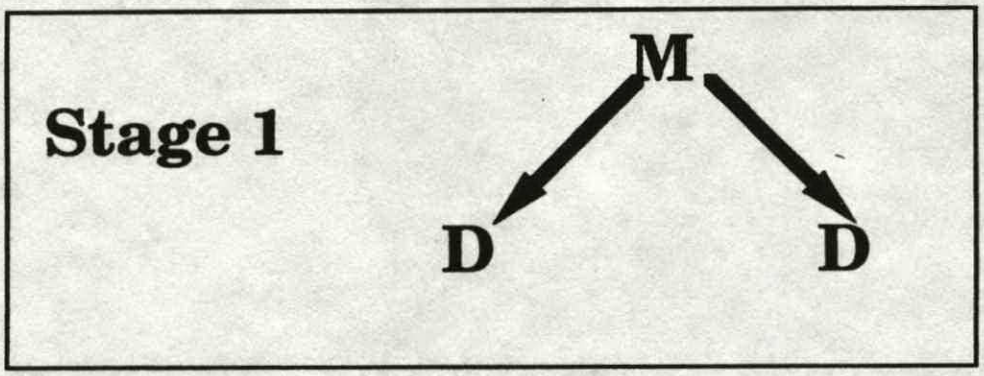
Hopefully, these pages will serve both as a useful introduction as well as a useful summary of the material you will (and have) learned in this program.



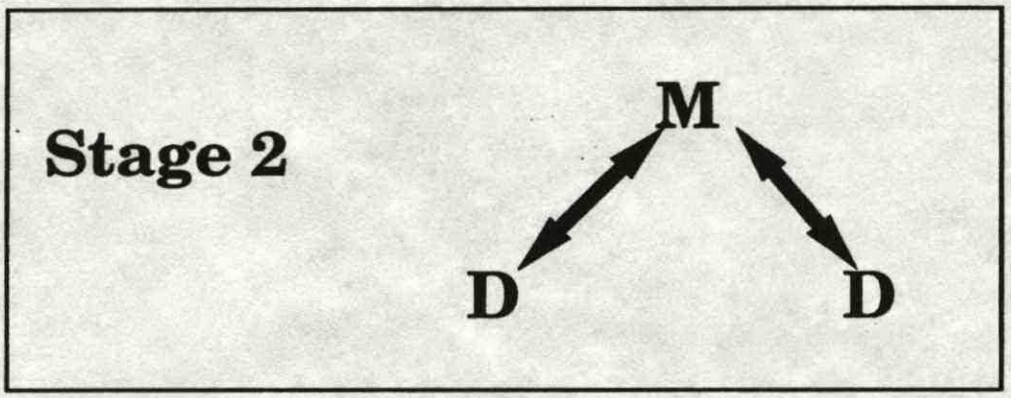
Chapter 1: Pre-Mediation Concerns

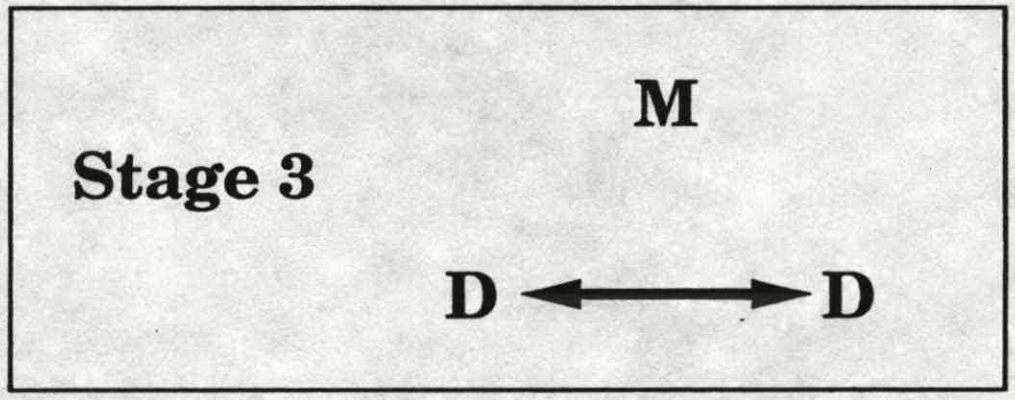
The Mediation Process

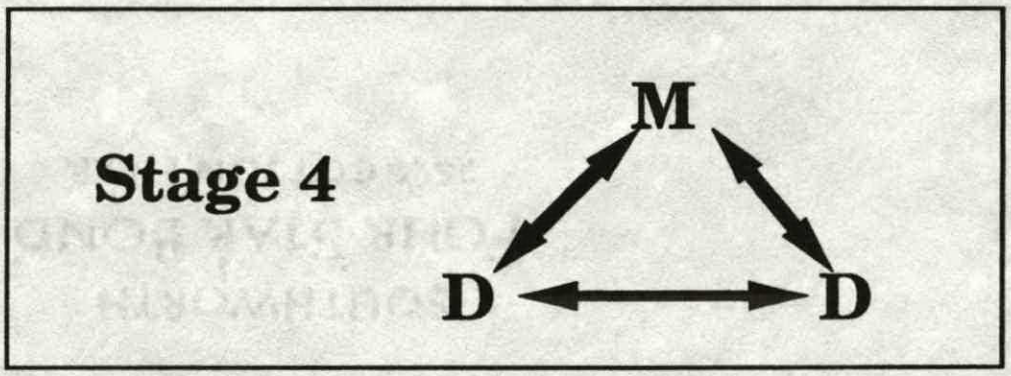
opening statement



Ask the parties to speak/Dialogue
Facts
Feelings
Beliefs







Equity
Power-base | difference

Before the Mediation . . .

The use of mediation is schools is a relatively new idea. A school may have established a formal alternative dispute resolution ("ADR") system, but it is more likely that most disputes are resolved through a more traditional grievance procedure. Mediation as a process, can be used as an alternative to or in conjunction with a school's grievance procedure. The grievance procedure will focus on rights as established by law or policy; the mediation process will focus on underlying interests or concerns. The grievance process will be more formal; the mediation process more informal.

The way mediation typically will occur where there is no formal ADR system in place is that either a conflict specialist from inside the Board of Education or an outside consultant will be called in by the manager or director of the unit or the principal or the superintendent who have noticed an on-going conflict that they have not been able to resolve themselves.

Given this background, the following are questions you should ask yourself when setting up a mediation.

- ***Will all the necessary parties be present at the mediation ?*** Is there a third perspective to the dispute such that without a representative of that perspective , the dispute can not be settled. Remember, schools are very complex organizations with a variety of different stakeholders including students, parents, teachers, administrators, community-based organizations, etc. Your thinking should be, who has an active interest in this issue and can I help the parties present reach an agreement without it subsequently falling apart because a third party was not represented.

- ***Does each party have decision-making authority or quick access to it?*** Be careful of a party who sends , as a power tactic, a representative to the mediation who does not really have authority to decide.

(Cont.)

Before the Mediation . . . (cont.)

- ***Is each party willingly at the mediation?*** Mediation is a voluntary process. If the parties are not willingly there, you are less likely to help them reach a settlement. If they are not willingly coming to the mediation, more time needs to be spent educating them about the mediation process and helping them decide if mediation is for them in this instance. It's possible that they have been through mediation before and had a bad experience. find out as much as you can and attempt to address their concerns as throughly as possible.

- ***Is the mediator truly neutral?*** Does the mediator have an obvious reason to be biased toward one party over another? Will all parties to the dispute feel like this mediator can deal will the situation fairly?

- ***Have you arranged for enough time for the mediation?*** Establishing the appropriate time-frame for a mediation can be difficult. Sometimes, it is logistically hard to get everyone together, so you want to deal with the matter all at once. Sometimes in tense and complicated disputes, dealing with the matter all at once is not possible and too stressful for everyone. Sometimes, if the parties don't get enough done in one session, they will not show up for a next one. Sometimes, if the parties have just one session to settle the dispute, the deadline will help them do it.

Mediation Review Sheet

Satisfactory

Stage 1 -- Opening The Mediation

The Mediator Sets Up The Room

The Mediator Delivers An Opening Statement (Confidential, Voluntary, Mediator's Neutrality. Groundrules -- Don't Interrupt Each Other, Respect, Work As Hard As Your Can To Solve the Problem)

Stage 2 (Part A) -- The Mediator Understands The Perspective Of Each Side

The Mediator Works To Understand, Acknowledge And Confirm The Perspective Of Each Side. The Mediator Avoids Positions And Focuses On Underlying Needs, Feelings and Values

The Mediator Highlights Common Ground.

The Mediator Summarizes the Priority Needs to Be Satisfied of Each Side

Stage 2 (Part B) -- The Mediator Prioritizes the Issues and Sets the Agenda

(An "issue" is either an unmet needs or a point where positions clash) (this step is only necessary if the dispute is complicated and there appear to be more than one positional clash. If there are multiple issues, go through Stage 3 with each issue. Try to get a tentative solution (Stage 4) to each issue before moving on to the next)

Stage 3 (Part A) -- The Mediator Helps Each Side Understand The Other Side's Perspective

The Mediator Suggests that the Disputants Now Talk Directly to Each Other

The Mediator Asks Disputant A To Communicate His/Her Underlying Needs, Feelings, Values To Disputant B

The Mediator Asks Disputant B To Summarize What They Have Heard

The Mediator Repeats The Above Process in the Reverse

The Mediator Reframes Again Focusing On The Future

Stage 3 (Part B) -- The Mediator Helps The Parties Brainstorm Possible Solutions (typically just for tangible as opposed to emotional issues)

The Mediator Sets the Guidelines for Brainstorming -- Generate a Number of Options Before Discussing Any

The Mediator Writes the Ideas on a Common Form That Disputants Can See

Stage 4 -- The Mediator Closes The Mediation

The Mediatior Helps The Disputants Pick The Best Combination Of Alternatives

The Mediator Asks The Disputants To Summarize Or Summarizes The Agreement Making Sure Everyone Is Clear On What Has Been Agreed To

NOTES ON COMMUNICATION BEHAVIORS AS USED IN NEGOTIATION, MEDIATION AND INTERCULTURAL DISPUTES

ATTACK

- Not productive in a negotiation.

- Has the effect of forcing the other side to take an increasingly inflexible position, even if they might be willing to move.

- Often turns to personal attacks, aimed at people rather than issues.

- Can easily provoke an Attack response from the other side, leading to an Attack-Attack or Attack/Defend spiral. This can be broken if:

  -- the stronger party overwhelms the weaker one or,
  -- one side changes behavioral styles, probably to Open behavior.

- If you do not know a culture well, you may innocently use verbal or non-verbal behavior which would be acceptable in your own culture, but may nevertheless be perceived by a foreign counterpart, unfamiliar with your culture, as an attack. On the other hand, someone might say or do something that <u>you</u> would interpret as an attack even though the other is just behaving in an appropriate manner according to his own cultural standards.

NOTE: There is a difference between Attack behavior and taking a strong, firm, powerful position. Attack behavior is perceived as <u>illegitimate, personal</u> and <u>unfair</u> by the other side. With a strong, firm position, you may not agree, you may not like it, and you may not accept it, but you can, at least, understand how and why the other side feels that way and takes that position.

<u>Attacking Behavior in Mediation:</u> Disputants often arrive at the mediator's door using a lot of attacking behavior, sometimes toward the mediator herself! To change this hostile climate to a more collaborative one, the mediator must use opening behavior when attacked by either disputant. And, in communication between the disputants, the mediator must listen hard for attacks, and each time they come (which they will) ask the speaker to "resend" the communication as an inform, or to open in response to the other disputant's previous statement. This is the heart of the perspective-taking required by a collaborative style of mediation.

EVADE

- A way to buy time when faced with a new proposal or issue.

• A tactical choice to focus on side issues rather than on the main point.

• As a repeated behavior, evading can be more or less productive, depending on the cultural context.

• Evading behavior will be necessary as "oil on the gears" in cultures where:

--people do not address conflict directly;
--saving face is of prime importance;
--the importance of keeping good relations with people is as great as the importance of getting a job done.

• Evading behavior will provoke irritation, frustration or anger in cultures where:

--people expect to "hear it like it is", even if it's unpleasant.
--getting a job done is a prerequisite to good personal relationships in a working environment.

• A good tool, if used politely, to avoid getting into subjects where you do not have authority.

Evading Behavior in Mediation: Disputants often use evading behavior either as a competitive tactic or because they are afraid of the conflict. A mediator must help disputants translate evading behavior into informing behavior in order to arrive at a workable solution.

INFORM

• Inform focuses on one's own position, interests/needs, feelings and values.

• Information is an essential element in a negotiation. Information is an ingredient of power, a balanced exchange of information is one major way of keeping the overall climate of a negotiation balanced..

• There are different types of information one side can give the other. Deciding what kind of information is appropriate to give at a given moment in the negotiation depends on your assessment of several criteria.

Types of information

Facts, figures: These are part of external reality and come from newspapers, studies, surveys, stock market information, market prices, etc. They are often part of general, public knowledge, and are used as arguments to support a position.

Position: Information about what you expect from the negotiation. This is negotiable and evolves as the negotiation proceeds. Examples are price, payment terms, delivery dates, additional responsibilities, a new project to manage, increased head-count for your department.

Interests/Needs: Information about why you are at the negotiating table. These are the underlying, generally non-negotiable reasons that motivate you. Examples are strategic priorities, survival needs (budget, new markets, new product development), individual, departmental, or national psychological needs (respect, recognition, etc.).

Feelings: Information about personal emotions experienced before or during the negotiation. This can also include feelings of those you represent.

Criteria for Informing

Trust: The level of trust must be sufficiently high before you can take the risk of informing beyond the position level. Each culture has its own criteria for developing trust.

Balance of power: If you are in a relatively low power position, informing on feelings or interests may be one way of obliging the other side to take your interests into account. But this can also be a dangerous game if the more powerful party is not interested in good relations with you because revealing this kind of information carries the risk of making you even more vulnerable.

Cultural context: It is not appropriate to be explicit about feelings in all cultural contexts. Many in the U.S., for example, are at ease with speaking about feelings and actually expect it as an indication of good faith. But for many French, this is an invasion of their privacy and they also find it naive behavior. It is important to be aware of these differences in an international context.

Informing Behavior in Mediation: The mediator should have a checklist in thei head -- " on what levels have the disputants informed each other about the way they see this conflict? Have they both let their positions be known? Have

their underlying needs and concerned been clearly communicated? Have they let the other side know their feelings about the situation if that is appropriate?"

OPEN

- Open focuses on the position, interests and values of the other side.

- A useful way to extract information in order to understand the other's needs, position, and feelings. A negotiator who knows how to listen encourages the other side to open up.

- Crucial to building an integrative, cooperative climate.
A useful way to break an Attack-Attack spiral. Often a productive response to Attack behavior.

- If needs of the other are not yet known, a trial and error way to offer bargaining chips to see if they have value.

Opening Behavior in Mediation: The mediator's use of opening behavior is the heart of Stage 2 of the mediation process. The mediator listens, probes for underlying needs, concerns and feelings and actively reflects back to the disputant what s/he understands that disputant's perspective to be. In that way, the mediator is building up trust in each disputant as well as modeling this important behavior to each of them.

Asking disputants to use opening behavior with each other is often challenging but it is very important. After listening to their counterpart tell their point of view, persons in conflict usually want to defend themselves, attack the other side or, at best, inform about their perspective. The mediator needs to actively facilitate their using opening behavior to reflect back what they are hearing the other side's perspective to be.

UNITE

- Very useful at the outset of a negotiation to affirm areas of common ground and set a collaborative climate. Must be sensitive to the protocol and values of each culture.

- A good way of diffusing tension when small details seem to be standing in the way of a final agreement. Highlighting areas of common ground can inject the necessary energy needed to tie up the remaining loose ends.

- If the needs of both sides are known, bargaining chips can be offered to meet those needs.

- Reframing the problem so both sides' needs are addressed is a good way to establish a cooperative climate where creative alternatives can be generated.

Uniting Behavior in Mediation: The mediator initially uses uniting types of behaviors to facilitate ritual sharing if that is possible. The mediator then always uses uniting behavior by reframing the dispute into a joint problem to be solved after hearing the positions of both of the parties. The mediator uses uniting behavior to highlight common ground throughout the mediation. Finally, the mediator looks for "chips" that link with the other side's underlying needs and concerns. The mediator facilitates each side offering those chips as the other's needs and concerns are identified.

Overview of Stage 1

Objective No. 1 : Set Up The Room Appropriately

Objective No. 2 : Deliver A Clear And Complete Opening Statement

In Stage 1 And Throughout The Mediation .

- *Highlight Common Ground*
- *Focus On The Future*
- *Implement The Groundrules*
- *Validate The Participants*

Objective # 1 *Set Up The Room Appropriately*

Which Room Set-ups Are Appropriate And Why?

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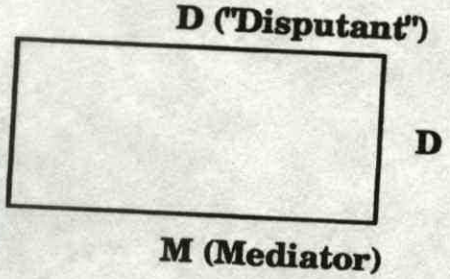

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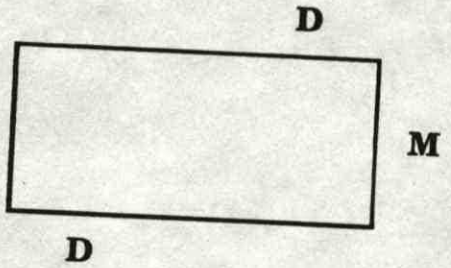

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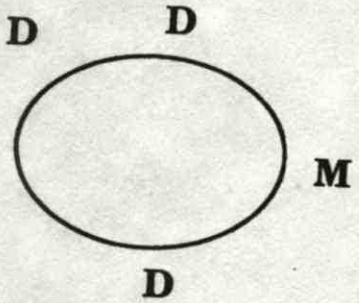

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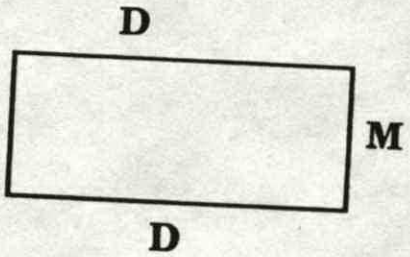

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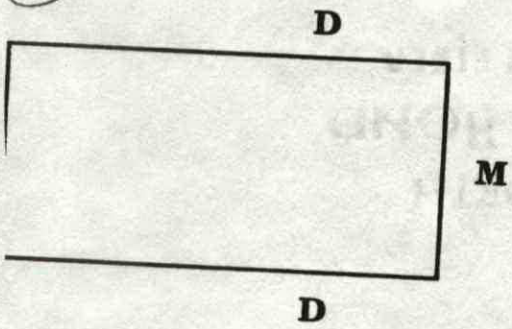

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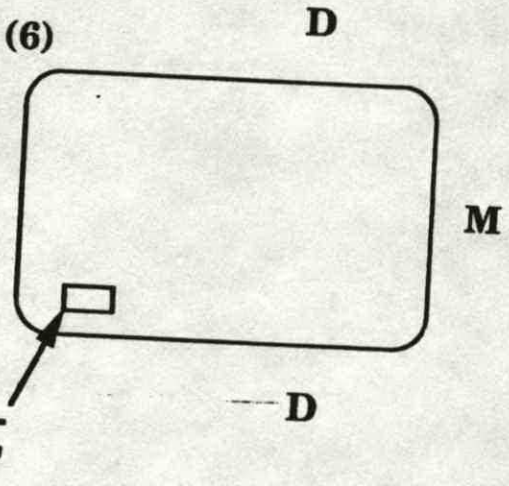


The Mediator's Concerns Regarding The Room Set

- Everyone's Comfort

- That Everyone Has Something To Write With A Something To Write On

- That The Mediator Can Maintain Good Eye Contact With Everyone

- That The Parties Can Comfortably Talk To Eac Other

- That The Room Set Up Does Not Unnecessaril Suggest The Mediator's Authority

- That The Room Set Up Suggests The Mediato Neutrality

- That There Are No Unnecessary Distractions I The Room

Notes on the Opening Statement

• *Introductions*

Do you know each disputant's name, as well as how to spell and pronounce their names?

• *Explain the Mediation Process*

Ask the disputants if they have mediated before. This is best done before the mediation to avoid a participant reporting a bad experience at the outset of your mediation. (See notes on "Before the Mediation"). If they have mediated before, however, and had a positive experience, it can be useful for them to summarize the process from their point of view.

Neutrality

No one is ever really neutral. You will have reactions to the disputants, both positive and negative, and will often find yourself "siding" with one over the other. It's critical to your effectiveness, however, that they have continuing faith in your ability to be fair. With increasing skill, you may sometimes be able to tell a party why you are "siding" with the other party and have it be useful feedback in the mediation.

Confidentiality

It is important that the disputants completely trust your ability to keep what is said throughout the mediation confidential. This means that you don't talk to anyone outside of the mediation: it means that you don't share the confidential information of one disputant with the other disputant. You may find, particularly in complex disputes, that you want to take notes just to keep track of what's going on. Make sure that you let the disputants know that you will either destroy these notes or use them exclusively for your own purposes after the mediation.

There is not necessarily any reason for the participants to keep their comments about the mediation confidential. If, for instance, they have had an extremely positive experience and come up with an agreement that they both feel happy about, there is no reason they shouldn't share that with others. To handle the issue of their confidentiality, you might ask them to keep all discussions in the mediation confidential until they have reached a conclusion. Let them know that you will re-raise the confidentiality issue at the end of the mediation at which point, if either side wants the discussions to remain confidential, then they are both

under an obligation to keep it that way. Otherwise, they are free to talk about their experience.

- ***Format***

Time frame of the mediation

This will depend completely on the nature of the dispute. A more complex dispute will probably need to be mediated in stages. Ask the participants to avoid all interruptions during the time you have available -- or, if their will be some unavoidable interruptions, make sure every participant is made aware of them before the mediation begins. This avoids parties using fabricated interruptions to evade the topic under discussion.

Caucusing

Caucusing means holding a private session with each participant. You should let the participants know during the opening statement that you may caucus with them privately if it seems necessary to you or if they request it.

- **Groundrules**

You should ask the disputants to agree to each of these groundrules as you explain them. It will then be easier to enforce them when they are subsequently broken -- which they will be.

Listen to Each Other Without Interrupting

A phenomenon of conflict is that neither side feels fully understood or heard. A very simple but critical function of the mediator, is to make sure that each party has a chance to speak without interruptions. During this time the mediator also models effective listening behavior. As the mediator listens, the non-speaking disputant is also likely to listen more carefully.To help participants avoid interrupting each other, it is often useful to have something to write with and something to write on for their use during the mediation. That way, if they are anxious to say something and afraid they will forget it if they don't interrupt, they can simply write it down.

Respect

Conflict escalates unnecessarily when people attack each other, stereotype each other, ect. It's the mediator's job, therefore to act as referee, catching people when they begin to attack each other. The mediator will help the attacker reframe his or her communication into a statement about the attacker's own needs, interests or feelings (inform).

Work as Hard as You Can to Arrive at a Solution Acceptable to Both Sides

It's useful to get people to agree to this outright. Not only does it better ensure their cooperation, but it helps them save face when they make an extra effort to come to a solution and don't want to appear to the other side that they are conceding.

- ***Decide Order of Speaking***

Who should go first? There are no rules about this but fairness and efficiency should be your guides. Sometimes, the disputants will both clearly agree who should go first. Sometimes, you should tell them you are going to arbitrarily pick -- but when you do, pick the angriest party because if you don't they are likely to interrupt you and the other participant. If there really doesn't seem to be any reason to pick one over the other, and neither wants to go first, have a neutral practice like "when people can't decide, I always pick the person on my right."

SAMPLE OPENING STATEMENT

Hello. I'm glad you both decided to try mediation. My name is ___ . Let me make sure I have both of your names and the correct spelling of each. Is that how you pronounce ___? Good. Are both of you comfortable where your sitting? Good. Well let's get down to business.

Have either of you mediated a dispute before? Well, let me explain the process to you then. Some of this may be repetitive to you, but I want to make sure you are clear as it's important to our success.

Mediation is assisted negotiation. That means I am going to help the two of you work out this dispute between you. I am not going to be the decision-maker here but I will help in any way that I can and certainly help you come up with possible solutions. But the final decision about whether to adopt a given solution is yours alone.

My goal is to serve as a neutral third party -- to not take sides with either of you. If at any time you do not trust my fairness, I want you to let me know.

Mediation is a voluntary process. You are free to leave at any time, but I encourage you to work as hard as you can to resolve this during the time we have allocated.

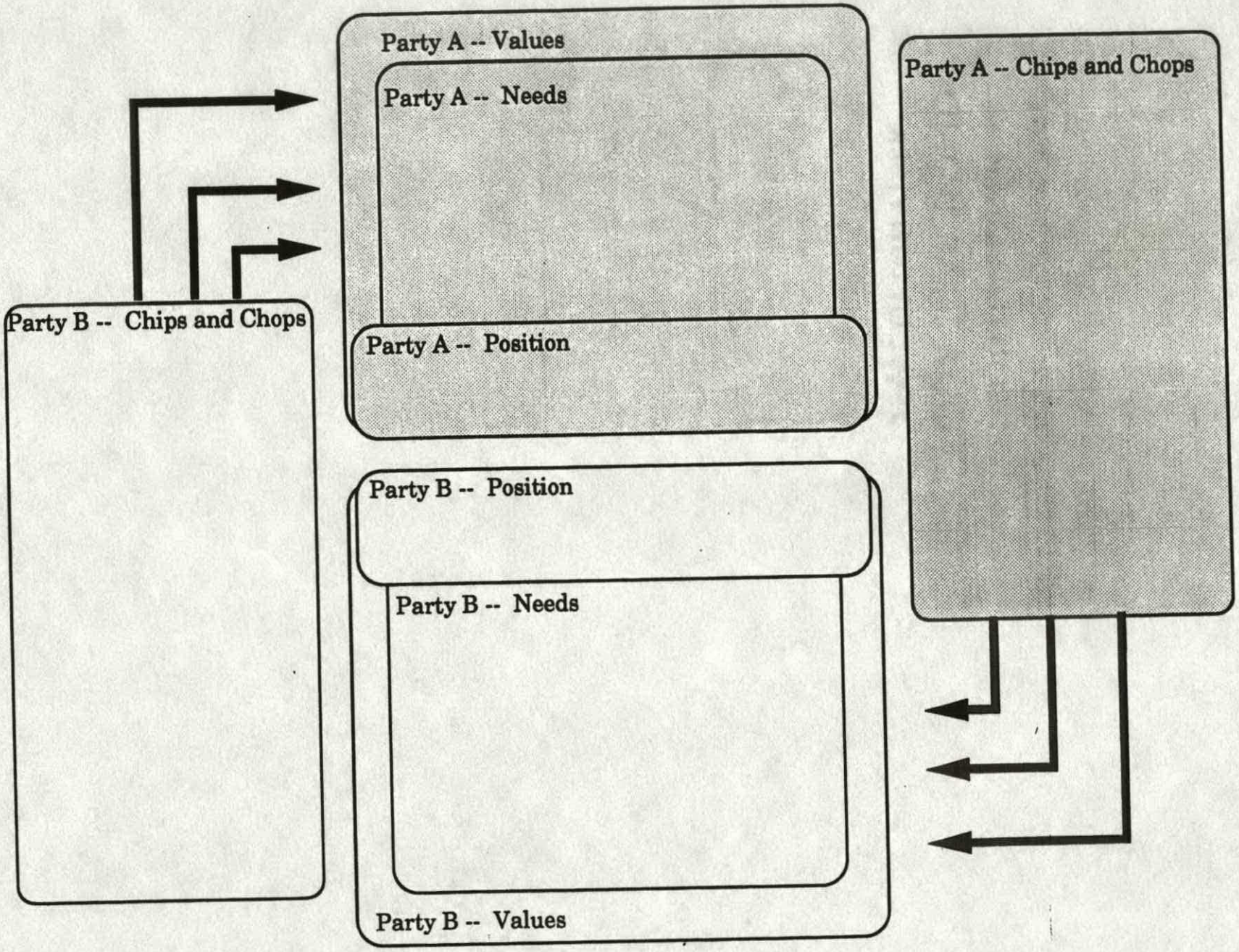
What we are working towards here today is a solution that works for both of you. It's not always possible to find a solution that both parties are ecstatic about, although certainly sometimes that happens. But it is certainly possible to create the best possible solution for both of you. We are looking for a "win-win" solution. You may have heard people speak in those terms.

Let's talk a little about the format of the session. We have scheduled today and tomorrow for this mediation. Hopefully, we will have resolved the issues in that time or at least many of them. Is there anything that either of you expect will interrupt you during this time? Good.

It may happen that sometime during the session I may ask to speak to each of you privately. Let me say now that if that happens it does not have any special meaning -- I am simply trying to gather complete information about the situation. While I often will speak to parties a similar amount of time, there is no relevance if I speak to one of you longer than the other.

I'd like to ask you to agree to certain groundrules for our discussion this afternoon. First, I need you both to listen while the other is speaking and not interrupt. This is sometimes difficult to do, but it is very important that you really hear what the other person is saying. I want you to both listen in such a way that you could summarize the essence of what you hear the other person to be saying and, in fact, I may often ask you to do just that. If there is something that comes up that you want to respond to, I'd ask you to make a

Chip/Chop Form



Overview of Stage 2

Objective No. 1 : *Listen to and Understand the Positions, Needs and Feelings of Each Participant (Open)*

Objective No. 2 : Neutralize Attacks

Objective No. 3: *Identify , Order and Reframe the Negotiation Issues (Open and Unite)*

In Stage 1 and Throughout the Mediation . .

- *Highlight Common Ground*
- *Focus on the Future*
- *Implement Groundrules*
- *Validate the Participants*

NEUTRALIZING LANGUAGE USING I.O.U.

In Stage 2, a mediator ***opens*** with each disputant to neutralize their ***attacks*** into ***informing,*** and ***unites*** to highlight common ground.

Techniques	***Examples***
• ***Rephrasing Disputant A's Attack about what Disputant B did, into Information about how Disputant A felt.***	*Disputant A*: "Disputant B embarrassed me when she . . . " *Mediator* : "You felt embarassed when Disputant B . . . "
• ***Reflecting back (O) Feelings (I) underlying Insults (A).***	*Disputant A*: "He's such and idiot . . . " *Mediator*: "It sounds like you are angry at Sam because . . . "
• ***Opening "Behind" the Stereotype (A)***	*Disputant A*: "This woman (Disputant B) is a real dizzy blond . . . " *Mediator*: "We agreed at the outset not to engage in name-calling or stereotyping because it will just escalate this conflict unnecessarily. But it sounds like you are frustrated with Disputant B. Can you say more about that?"

Objective 3: *Identify, Order and Reframe the Negotiation Issues (Open and Unite)*

We are here to discuss your issues? Typical Positions Needs

Step 1. Identify Negotiation "Issues" -- (I.E., Each Positional Clash With The Parties' Corresponding Needs)

Example:

Mediator: (to Henny about her position) "So you're understanding of the rules of the school are that if a teacher wants to remove students from the class for a different activity, they must have the permission of the classroom teacher."*

Mediator: (to Henny about her underlying need) "So what you were looking for from Lolly is the professional respect from a colleague demonstrated by being consulted about taking students out of her class."

Step 2. In Multi-issue, Disputes, Order The Issues, Starting With The Easiest First (To Build Momentum)

Step 3. As Priority Underlying Needs Become Clear, Reframe Positions Into Priority Needs To Be Satisfied (Unite)

Example:

Mediator: "It seems clear that you both care alot about the students. It also seems clear that you both wanted to be consulted, you Henny about Lolly taking students out, and you Lolly about Henny's concerns. What can the two of you do in the future to afford each other the respect and colleagueship you both deserve?"

- Are there any other issues that you want to share?
- Can you tell me a little bit more about...?
- How did that make you feel?
- I summarize the facts of the needs

*** Examples from Math & Music**

ISSUE IDENTIFICATION

LOLLY'S DEFENSES

"The standard procedure, Henny is to put a notice up on the bulletin board where everyone can see it. You must have been absent when that was established."

Mediation Issue: "Interpretation of the Rules"

HENNY'S DEFENSES

"Lolly knows that it's a school rule that you can't take students out of class without the O.K. of the teacher."

"I appreciate extracurricular activities, but students *have* to pass their RCT."

POSITIONS

Lolly: "That was a real nasty thing for you to go to the supervisor."

Mediation Issue: "Procedures for Dealing with Conflict"

POSITIONS

Henny: "You can't just take students out of my class without asking. I had to go to the supervisor because I've told you this before and you don't listen."

LOLLY'S NEEDS

"I want the colleagueship and respect of your coming to talk to me before going to the supervisor. I don't want to be embarrassed in front of the supervisor. I care about my reputation in this school."

I want people to understand that activities like music are important for a child's growth and creativity.

Best to Identify Issue Here

"So the issue here seems to be one of professional courtesy and respect."

or

"There seems to be an issue about each student's eligibility for extracurricular activities."

HENNY'S NEEDS

"I need to be personally consulted about students skipping my class. I care about doing a good job for my students and, I have a professional responsibility to make sure that students pass their RCT."

NOTES AND COMMENTS

- ***How do I decide who goes first?***

  Who goes first is either decided by the parties or by the mediator in Stage 1. See our discussion there.

- ***How long should I spend talking to each side?***

  This is a tricky question and one where the "art" of mediation comes into play. On the one hand, it's important that each side feels they have made themselves understood to you and have stated their case in front of the other party. Being heard in that way will help them let off steam and will start the process of de-escalation. On the other hand, letting people go through all the muddy details can confuse you, leave the other party feeling neglected and both sides despairing at how long the process is taking. It's often helpful to ask a disputant to tell you the "heart" of the conflict.

- ***Should I bother with active listening?***

  This is really a matter of personal choice and skill. Here are the pros and cons.

  Pros of Active Listening

  - Summarizing for a person in conflict what you have heard can effectively convey to them that you have really understood what they are trying to say and, in the process, help build rapport and trust.

  - It can help elicit additional information because as they hear you summarize, they will know what they have left out.

  - It can facilitate the other side beginning to hear the perspective of the other because it is easier when it is voiced by a neutral.

  - It can help you determine if, in fact, you have understood. If you got it wrong, they will surely tell you.

Cons of Active Listening

- You may not do it very well. If you consistently "get it wrong" or if you "parrot" what the participant is saying, you are likely to make them angry.

- Some people will respond better to a silent listener. You need to pay attention to these types of preferences.

What is an Issue?

An issue is a blend of positions and needs. One can identify the issue to be addressed in the conflict at any different level of the conflict -- at the level of positional clash, at the level of defenses, justifications, facts or figures backing up the position, or at the level of needs underlying the position. See page 2-? on Issue Identification. While the mediator can frame issues at all levels of the conflict, it is best to focus the disputants on the issue(s) presented at the level of needs.

In identifying an issue, ask yourself, "what is this conflict really about?" Do not be surprised if an issue is resolved only to reveal another issue. This is a good thing because the process will ultimately reveal the underlying conflict.

Exercises (from 'Math and Music')

Henny: "Before I knew it, Lolly was arbitrarily taking students out of class two or three times a week without even thinking about the need for these students to pass their RCT. "
(Open by Restating the Issue in Neutral Terms):

Lolly: "I don't have any objections to students passing their math exam. I think it's very important. I just want her to come to speak to me directly as one colleague to another."
(Open by probing for feelings):

Henny: "I've known Lolly for 20 years, and we're friendly, and we're certainly both professionals and everything, but Lolly has done this in the past, and it's very difficult. I understnad that the performance is a very important thing to her. I'm not objecting to that. But if I go to her and talk to her and she does not listen, then I'm back to where I started from."
(Open by Using Active Listening):

Henny: "Well you know Lolly, students have to pass their RCT."
Lolly: "That's true Henny, but having time for creativity is critical to them."
(Unite by Highlighting Common Ground):

Exercises (from 'Drawer Space')

Bill: "For some reason, it's totally impossible for Sybil to make a little bit of room so that I put some of my materials there . . . any attempt to resolve this has been pushed aside by M Sybil, who doesn't have any time to pay attention to younger teachers who don't have any rights."
(Open by Restating the Issue in Neutral Terms):

Sybil: "The bell rings. He should be out of there in enough time . . .
Bill: " Enough time for who, Sybil."
(Implement the goundrules):

Sybil: "I asked him to please leave the room as soon as possible. I didn't address it to the c I addressed it to him. Maybe it was a little too harsh, but I feel it was justifiable. It's eithe or I would have gone to the chairperson."
(Open by Using Active Listening):

Sybil: "You know I've been in this school a long time and this is my homeroom."
Bill: "It's important for me to finish up conversations that the students and I are having."
(Unite by Highlighting Common Ground)

Overview of Stage 3

Objective No. 1 : On Each issue, Help each Side Understand the Other Side's Positions, Needs and Feelings

Objective No. 2 : Clear Up Cultural and Other Assumptions and Misunderstandings

Objective No. 3: Facilitate Brainstorming (Unite)

In Stage 3, and throughout the Mediation . .

- *Highlight Common Ground*
- *Focus on the Future*
- *Implement the Groundrules*
- *Validate the Participants*

Objective 1: *On Each Issue, Help Each Side Understand the Other Side's Positions, Needs and Feelings (By Facilitating Their Use of Inform, Open and Unite Behaviors*

Step 1. Suggest That The Two Sides Now Talk Directly To Each other

Mediator: "It sounds like this might be a good opportunity for you two to talk directly to one another about the situation. "*

Step 2. Ask Party A To Inform Party B About A's Priority Underlying Need

Note: Be on guard to mke sure that party A, in fact, informs and does not attack.

Mediator: "Lolly, why don't you describe to Henny what it was like for you when the supervisor came to you with this concern."

Mediator: "Henny, can you tell Lolly again what your concern was?

Step 3. Ask Party B To Summarize The Position, Needs And Feelings Expressed By Party A In Step 2 (Using Opening Behavior)

Mediator: "Henny, can you tell Lolly what you heard her say?

Mediator: "Lolly, can you tell Henny what you heard her concern to be?

Step 4. Repeat Steps 2 And 3 With Party B Informing And Party A Opening.

Step 5. Unite To Highlight Common Ground Wherever Necessary.

Mediator: "It seems that you both have the student's interests at heart, that you both take your jobs very seriously, that you work very hard to make sure that you do a good job."

*Examples from Trade Wars

Objective 2: *Clear Up Cultural and Other Assumtions and Misunderstandings*

We all make assumptions about the world based on our culture, our personality and the limited information that all of us inevitably have. When parties are in conflict, they are often operating under certain erroneous assumptions about the other's needs and actions that need to be cleared up in the mediation. For example, in Trade Wars, Sularians assume that Rodanians need military assistance -- when, in fact, from the Rodanian perspective, military assistance would make things worse.

Assumptions that people make about the other can be quite complex and take some time in the mediation to clarify. For more information on this topic, see the chapter on Culture and Conflict.

<u>Example of clearing up different understandings of the meaning of a word (this may or may not be cultural).</u>

Disputant A: "I think as my colleague you would want to do that for me."

Disputant B: "I don't think that's my responsibility at all -- you should be doing it for yourself."

Mediator: "Let me stop you both for a second and see it we can get clear about what certain terms mean to each of you and what you might each be assuming as a result."

(To Disputant A) "What does colleagueship mean to you and what kind of responsibilities and duties come with it? From what experiences did you develop your definition of colleagueship?"

(Then the Mediator repeats to Disputant B)

Objective 3 *Facilitate Brainstorming*

Step 1. Reframe The Problem And Suggest Brainstorming Explaining The Brainstorming Guidelines

Mediator: "It's clear that you both would like to see improvement in the district. You are interested in seeing test scores improve, and you are interested in incorporating more innovative teaching methods. Would you both agree to spend a few moments exploring how both of these concerns might be satisfied?"

(mediator gets agreement from the participants)

"O.K. then, I want you to think of as many alternative ideas as possible that might lead to agreement. I don't want either of you to consider whether these ideas are good or bad at the moment, just concentrate on generating them. It may be that an idea you don't want to say for fear it is "bad" leads to the most creative solutions. I'll write everything you come up with up on this paper."

Step 2. Remind The Participants Of The Brainstorming Guidelines When They Get Off Track.

Disputant A. "You want to use that method. You've got to be crazy!"

Mediator: "Let's not talk about the merits of any of these ideas just yet. Let's get as many ideas out as possible and then examine what grouping of ideas might best satisfy both of your interests."

Step 3: The Mediator Records All Ideas On A Flip Chart Or Common Form

NOTES AND COMMENTS

- ***Should I always try and get the disputants to take each other's perspective?***

Yes, but in degrees depending on how hostile the climate is to begin with, the people involved, and what type of issue you are dealing with. If the disputants are interdependent, i.e., they have an on-going relationship with each other that they can not or will not walk away from, it is very important to help them understand each other. The ideal is to coach them in perspective-taking at the emotional as well as the substantive issue level. Some disputants, however, will not want to, be able to, or have the time to engage at this level. In these instances you must try then to help them understand each other's perspective of the substantive issues involved.

If the disputants are not interdependent, or do not need to be interdependent in the future, they certainly have the ability to separate which is a viable solution. Spending as much time on perspective taking may not be as useful or as necessary in these instances.

- ***I can't seem to get closure on one issue before going on to the next because the disputants don't want to commit until they see the entire package. What should I do?***

In disputes with multiple issues, this is almost always the case. Use it to your and the disputants advantage because you can often get the most creative agreements by packaging. Build agreement by getting tentative agreement on an issue, or by simply clarifying the parties priority needs and moving on. An important component of each mediation session is to have the disputants leave with a feeling that progress is being made. Make sure that, if they haven't been able to agree on an issue, or a tentative resolution to an issue, that they agree on something that will move the dispute forward.

- ***Sometimes I am doing things in Stage 3 that I should have done in Stage 2 and vice versa. For instance, sometimes in Stage 3 I will suspect that there is a priority need that I haven't thought of and I will have to probe for that need in the way that you taught me in Stage 2. Am I doing anything wrong?***

Guidelines for Brainstorming

- Go for Quantity First -- Quality Second
- Don't Discuss Ideas Until Through Brainstorming
- Encourage all Ideas -- "Bad" Ideas Can Lead to Creative Ideas
- Repetitions are O.K.
- Work with a Flip-chart or Blackboard if Possible

Brsh – As a mediator, do not suggest reason

Ask, do you have any ideas

Take 5 minutes
Confidential

What About Caucusing

What is Caucusing?

Caucusing is a private and confidential meeting between the mediator and each of the disputants.

When Should I Caucus?

Generally, if parties are making progress, i.e., negotiating with your help, there is not need to caucus. In fact, caucusing can create unecessary tension when overused.

Caucus when the parties have reached an impasse or when you are fairly certain that one of the parties is holding back some information which you need to know to help them settle. Caucusing is more useful where the climate between the parties is tense, hostile and competitive.

Caucusing can happen at any stage of the mediation process -- any time the mediator needs to access information which is being held back. Caucusing usually happens, though, during Stage 3.

There are no rules about how many times you can caucus. Use it whenever you think it will be helpful following the guidelines above.

How Do I Caucus?

If you know the dispute to be a very tense one, it's a good idea to tell the parties in your opening statement that you may meet with them individually during the mediation.

When you decide a caucus is necessary, tell the parties that you are going to meet with each of them privately. Tell them beforehand that it's of no significance if you spend more time with one party than another but nonetheless, try to be somewhat evenhanded with your time as people fear that you are favoring the other side. Of course, if the mediation can take place over a longer period of time, you can conduct private meetings (caucuses) with each side without the other anxiously waiting outside closed doors.

Open the caucus session indicating to them that they may share confidential information with you and be sure that you will not relay it to the other side. Most of the time, parties do not have any glaring secret, but they may be more forthcoming knowing that you are bound by confidentiality. At the end of the caucus, you may need to ask them again whether anything that was discussed was confidential. It's always better in mediation to strive for sharing information between the parties because it's usually in sharing information that trust is built. However, a mediator's violating a trust of one of the parties is not only unethical, but will inevitably undermine his or her effectiveness as a mediator.

call by first name
take off

- How are you feeling at this time?
- Is there something that you would like to discuss, anything private that you couldn't share publicly?
- Is there anything that you do not want me to reveal?

Skill-Building Drills for Stage 3

1. What is/are the issues here? How would you articulate it/them? If there are multiple issues, in what order should they be addressed?

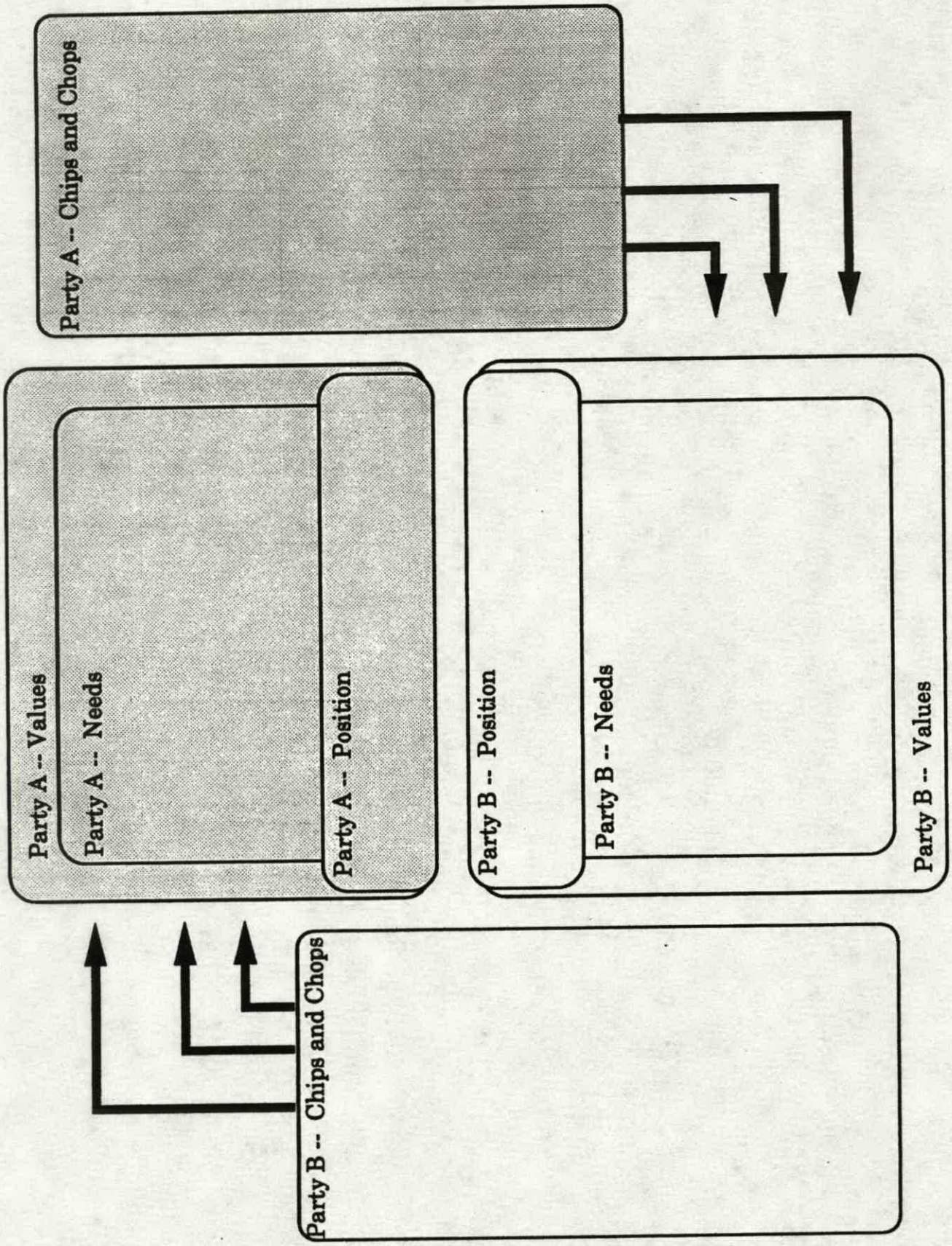
2. What kinds of asumptions might one party be making about the other?

3. Identify priority underlying needs and reframe the problem.

4. With one person playing the role of the mediator, practice coaching each side to take the perspective of the other.

5. Brainstorm alternative solutions to the problem and list below.

Chip/Chop Form



Overview of Stage 4

Objective No. 1 :	**Help Disputants Evaluate the Proposed Alternatives and Choose the Best Combination**
Objective No. 2 :	*Have Disputants Confirm Their Understanding of Their Future Commitments to Each Other*
Objective No. 3:	*Prepare or Facilitate The Disputants' Preparation of a Written Agreement (if Appropriate)*
Objective No. 4:	*Close the Mediation*

In Stage 4, and Throughout the Mediation . .

- *Highlight Common Ground*
- *Focus on the Future*
- *Implement the Groundrules*
- *Validate the Participants*

Objective No.1: *Help Disputants Evaluate the Proposed Alternatives and Choose the Best Combination*

Note: This may take an adjournment, research and further negotiation.

Objective 2: *Have Disputants Confirm Their Understanding Of Their Future Commitments To Each Other*

Step 1. Ask Disputant A To Summarize The Bargaining Chip She Is Offering To Disputant B To Settle The Issue

Mediator: "You know, you've both worked really hard to listen to each other and to hear each other's concerns, and are starting to come to some agreements. Why don't we see if we can pin those down a little bit. (To Lolly) The next time you need to take students out of class. . . "*

Lolly: "Oh, I certainly will get in touch with Henny, and we'll consult together, and proceed accordingly."

Step 2. Ask Disputant B Whether Disputant A Is Indeed Offering The Necessary Bargaining Chip For Closure Of That Issue

Mediator: "(To Henny) Does that work for you?"

Henny: "That sounds fine."

Step 3. Repeat Steps 1 & 2, Starting With Disputant B.

Mediator: "(To Henny) And if you have concerns about how students are being removed from your class or how they're involved in other activities with Lolly, what will you do about that?"

Henny: "Well, if I'm concerned when a child is really failing or something, then I will go directly to Lolly and discuss it with her and work something out."

Mediator: (To Lolly) "Is that acceptable to you?"

Lolly: "Oh, absolutely."

* Examples from Math & Music

Goal No. 3

If Appropriate, Prepare Or Facilitate Their Preparation Of A Written Agreement

1. The Agreement Should Not Cast Blame On Any Party For Past Actions But Should Affirmatively State What They Will Do For Each Other In The Future

2. The Agreement should be Effective in Helping them avoid Conflict in the Future.

3. The Agreement Should Be Fair and Balanced -- The Disputants Should Make Future Commitments to Each Other of Comparably Equal Weight.

4. The Agreement Should Be Realistic and Enforcable -- The Disputants Should Have The Power To Do What They Are Agreeing To Do. The Agreement Should Not Bind A Third Party Who Has Not Been Part Of The Mediation.

5. The Agreement Should Be Clear and Specific. The Mediator Should Check To Make Sure The Agreement Has The Same Meaning To All Disputants. The Mediator should make sure the agreement is specifi about who, when, what, where and how. Made by check, money order, cash by April 13, 1997.

6. The Agreement Should Be Signed By The Disputants.

Goal No. 4: *Close the Mediation*

Step 1. Ask The Disputants If All Of The Issues Have Been Resolved Between Them.

Mediator: "Is this issue resolved between the two of you? "*

Henny: "I hope so. . ."

Lolly: "I think it is. And thank you very much, Ms. Sadalla."

Step 2. Suggest To Disputants That If They Have Additional Conflicts Around This Issue Or Another Issue To Please Use Mediation Again (Or Come Seek Your Help Again).

Step 3: Thank The Parties And Congratulate Them On Their Agreement.

Notes and Comments

- ***Should I always try to get disputants to paraphrase their agreement?***

There are actually few things you should always try to do in mediation. A good mediator knows all the tools and uses the appropriate one at the right time. How you close the agreement will vary greatly depending on the type of dispute you are dealing with.

- ***Can't Disputants Prepare Their Own Agreement?***

Yes. As a mediator, you are facilitating the negotiation. That means you are instructing them in collaborative negotiations at the same time that you are mediating. Your goal is to be an expert, but not "the expert." The more the disputants can do on their own the better. Their empowerment means you working yourself out of a job.

- ***What Constitutes A Good Oral Agreement?***

The same principles that apply to written agreements apply to oral agreements. They should be clear, balanced, focused on the future, and enforceable.

PARTY A AND PARTY B

MEMORANDUM OF UNDERSTANDING

In order to prmote their respective interests, the parties to this Agreement have reached the following understandings.

Issue 1

(Points Agreed to)

Issue 2

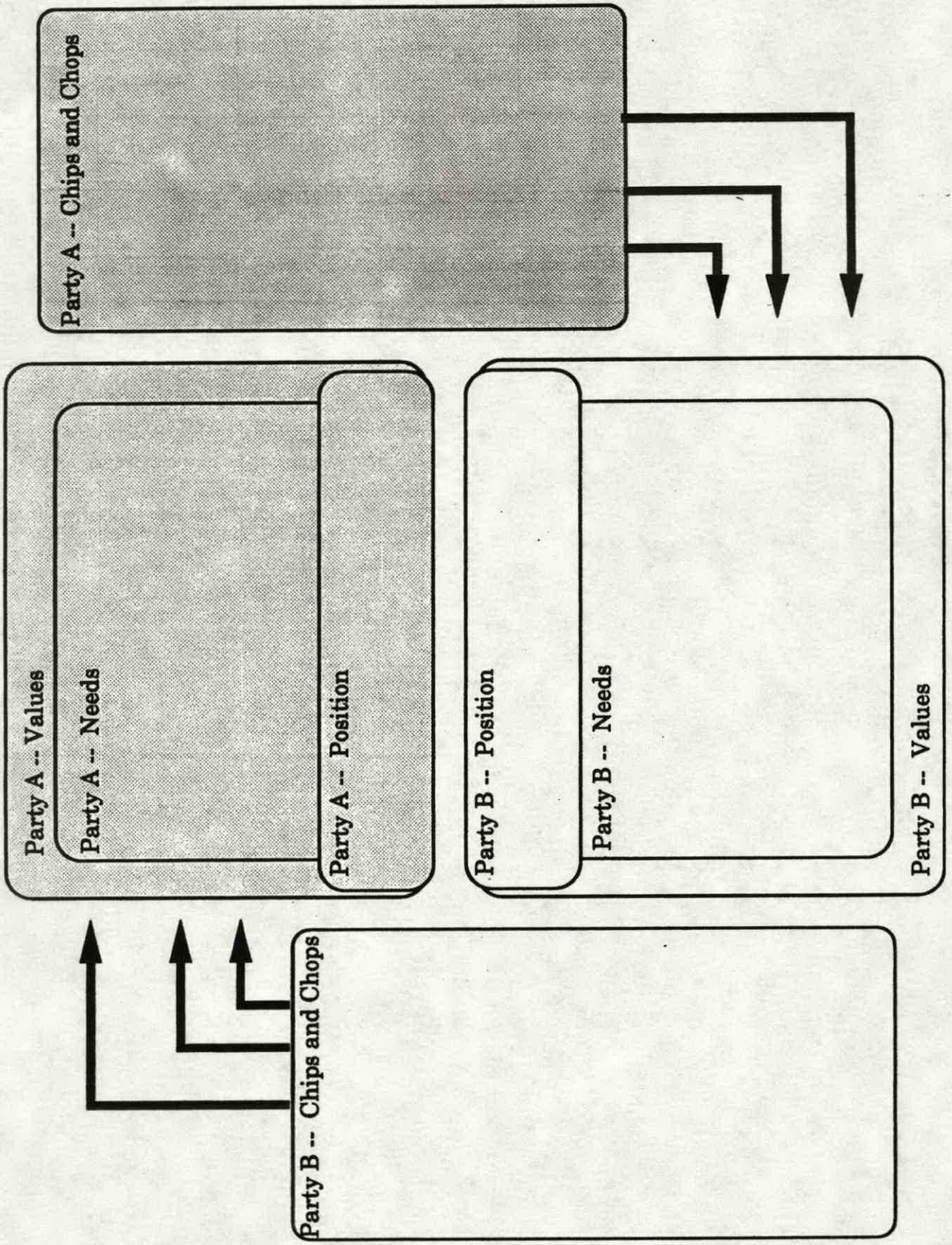
(Points Agreed to)

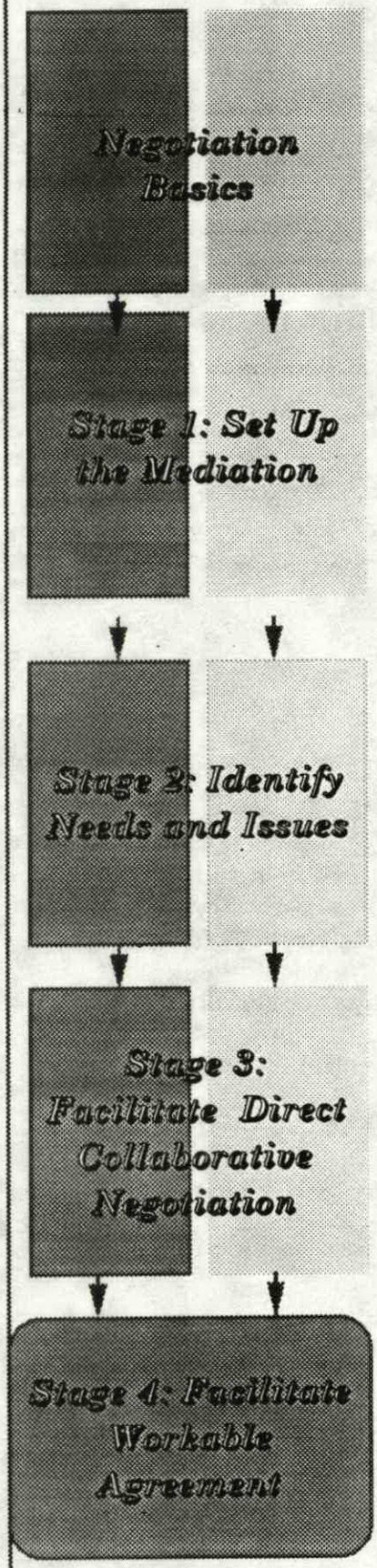
UNDERSTOOD AND AGREED TO THIS ___ DAY OF ___, 1993.

_____ Party A

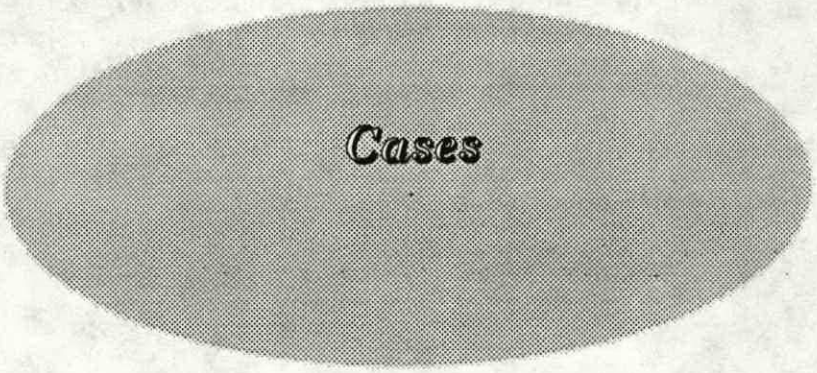
_____ Party B

Chip/Chop Form





Abridged Version:
To be Used in Conjunction With "Collaborative Negotiation Skills Training" by Raider and Coleman



1 -- "Math and Music"

The Music Teacher

You are the Music teacher and have the responsibility to put on the school's musical productions. These productions bring many benefits to the school. You follow school procedures and post the names of the students to be excused as well as send notices to teachers involved. You were quite upset when you found out that the Math teacher went to her supervisor to complain about students leaving the class. This created additional problems for you because you had to justify what you were doing *and* you were following school procedures. You feel that the Math teacher should have gone to you first.

The Math Teacher

You are a Math teacher and feeling considerable pressure to prepare students for the state competency test. Recently, a number of students have been taken out of your class for rehearsals for a musical production. You have been very upset about this and went to your supervisor to ask advise about how this should be handled. You strongly believe that students should not be taken out of your class without your permission. A notice was passed around giving the names of students to be excused, but you had no input in this.

2 - "Drawer Space"

Ms. Lefker, The Old Teacher

You are very annoyed with Mr. Woodward. He has a class before you in Room 267, but he loiters in the room after class talking with students for sometimes 5 minutes after the end of the second bell indicating the start of your class. You have consistently asked him to move more quickly, but your requests just seem to fall on deaf ears. The other day you really let him have it and, in front of the class, waved your hand at him saying "Out of here, out of here." You know he was offended but you think he deserves it. He just has got to be more punctual as well as respectful of you.

The other issue between you is that this classroom has traditionally been yours. You have all of your materials in the desk, but now Mr. Woodward wants you to share some of the drawer space. He can just forget about it as long as he can't respect your need to start your class on time.

The final issue that is bugging you is one of seniority. You have been at the school for 20 years. Mr. Woodward has been there all of three. It just seems like he should be showing some respect for that difference.

Mr. Woodward, The New Teacher

This woman (Ms. Lefker) is a total pain. You teach a class in classroom 267 immediatly before her. Sometimes after the class the discussion continues a bit because the students are excited about what you are teaching. You gradually move them towards the door but she wants them and you out when the second the bell rings. The other day she came flying into the classroom and in front of the entire class started waving her hand at you saying "Out --Out". You couldn't believe it -- it was so rude.

It would help you get out of the room on time if she would give you some of the drawer space in the room. In your opinion, she has been increadibly stingy about this. Just because the classroom has traditionally been hers (you have been at the school 3 years and she has been around forever) doesn't mean she shouldn't be sharing some of the space with other teachers who have to use it.

3 - Biology

Mr. Kumar
(The principal is the mediator)

You are the single parent of an eighth grade boy at P.S. 27, Shiva Kumar. Shiva told you the other day that his biology teacher, Miss Shanley is "really into women's lib stuff." For instance, she has been teaching Shiva's class that women are intrinsically stronger than men. Because females are born with XX chromosomes, she says, and men with XY, men are biologically more unstable from the start. Naturally, Shiva was disturbed by this garbage and so are you. You are under enough pressure as it is trying to bring up Shiva since your wife left you. You need the school to help him feel proud of himself, not downgraded. You went to the principal the other day to request that this kind of teaching be stopped immediately. After hearing your concerns, he has asked you to come back for another meeting with him and Miss Shanley so you can let your feelings be known directly to Miss Shanley.

Ms. Shanley
(The principal is the mediator)

You are the biology teacher at P.S 27. Your principal has told you that the father of Shiva Kumar, an eighth grade boy, is furious with you about your "feminist" teaching. You are not quite sure what he is talking about. As far as you are concerned, you have been teaching biology. While teaching students the other day about XX and XY chromosomes, you told them of some scientific evidence (recently reported in the National Journal of Science) that suggests biological stability in females from genetic makeup. You did make a joke in passing about how maybe "that explains men", but you were only joking and many of the students laughed. In no way did you mean to offend any of the students by your comment. However, you also think this kind of information is important in countering assumptions that women and girls are somehow inferior.

4 - MELTING POT OR SALAD BOWL
PUBLIC INFORMATION

The J.P Rockefeller HS is a relative new school. It was organized initially as an elite science research school, designed to attract science oriented students from throughout the city. For the first ten years, it more than met the goals of it's intended purpose, winning countless scholarships, awards and commendations for it's students. Recently the school has experienced a demographic shift from a predominantly white student body to one which is now predominantly composed of students of color. This has occurred for two reasons, one, there has been a large influx of students of color from the city owned housing projects that have been constructed in the district during the past 20 years, and two, the resulting drop off of science oriented students coming from other parts of the city.

The present student population is approximately 40% African-American, %30 Latino-American, 25% European-American and 5% Asian-American students. The faculty is 90% European-American and 10% African-American. The Parents Association is 100% European-American.

Last year the staff decided to become part of the city wide Site Based Management initiative. The new SBM committee is composed of 18 members consisting of the principal, the union chairperson, a representative from the Parents Association, a student and elected teachers representative from each academic department. All of the SBM members are European-American with the exception of an African-American teacher chosen from the math department.

At the last SBM meetings the teacher from the math department proposed that an official voting seat be designated for an African-American teacher. After much heated discussion, the proposal was voted down. But the problems raised did not gone away. Much personal bitterness has ensued. This has caused some members of the SBM team to call for steps to deal with the situation more productively. As a result, a representative group from the SBM team are about to meet with representatives from the Black Teachers Caucus for the purpose of resolving the issue once and for all.

4 - MELTING POT OR SALAD BOWL
PRIVATE INFORMATION FOR THE SBM GROUP

There are many reasons why you voted against an African-American seat on the SBBM committee and you deeply resent the implication that you are racists for so voting. First of all, if any particular black teacher wants a seat, he/she should go through the regular democratic procedures and get elected by his/her respective departments. New elections will be held in May.

Second, it wouldn't be fair to give a special seat to the black teachers without opening up other seats for the Latino, Asian, Jewish, Greek or you name it teachers. SBM is about department representation, not about representation based on race or ethnicity.

Third, designating a seat for blacks or establishing quotas of any kind based on race would give the appearance of catering to pressure from a special interest group and would be difficult to explain to the rest of the faculty and the Parents Association. Besides, you believe that the best direction for the school and society as a whole, is a "color blind" policy that would assimilate all races and ethnic groups into the great American melting pot.

You sincerely believe that you don't discriminate because of race and you resent the implication that you are incapable of teaching children of color. While you acknowledge that some of your colleagues may at times lack sensitivity to differences, you and other dedicated members of the SBM team are here because you care about kids While you empathize with the concerns of the black faculty you don't believe a race based seat is the way to go. You hope the black teachers will be willing to listen to reason and everyone can get on with the more important issues of running a school.

4 - MELTING POT OR SALAD BOWL
PRIVATE INFORMATION FOR THE BLACK TEACHERS CAUCUS (BTC)

You are members of the BTC, a group of African-American teachers who have been meeting informally for over a year. You are dedicated to increasing the faculty's awareness of the needs of African-American children in particular and children of color in general.

You were pleased with the SBM initiative because you anticipated an opportunity to influence the direction of the school towards a more multicultural approach. You have given strong support to the SBM team since its inception and have attend most meetings. That is why you were very disappointed and angry that your proposal for a black seat was turned down. You feel that the SBM committee needs your input to make the changes needed, specifically, the curriculum is Euro-centric and many school policies are out of touch with the cultural perspective of the current student population. In addition you are very concerned about an increase in bias related incidents in the community and want to initiate anti-racism classes at all grade levels.

You believe that even though the majority of the SBM committee members are sincerely interested in bringing about positive school change and are good, dedicated teachers, they lack personal understanding of the impact of racism on the African-American cultural experience. Some even seem to still value the old melting pot approach to race relations, a position you believe is naive and dysfunctional for positive educational change.

You know that your presence as a voting member on the committee will add a needed multicultural and anti-racist perspective at this critical time of change. You want to be a part of this change and will not take no for an answer.

5 - Jesse and James

Background Information for Mediator

There was an argument between two 10th graders, James and Jesse, a special ed student. James was in the library working on a special project during his lunch period, and Jesse was there with his class. At the end of the period a fight broke out between them and both claimed that the other started it.

Background Information

There was an argument between two 10th graders, James and Jesse, a special ed student. James was in the library working on a special project during his lunch period, and Jesse was there with his class. At the end of the period a fight broke out between them and both claimed that the other started it.

James
You have had a few words with Jesse in the past - in the cafeteria and in the gym. In the library, you were using the encyclopedia to get some information for your class next period. Jesse came over and said that he had to use the encyclopedia for his work. You told his to use another one. You feel that you have first rights to the encyclopedia because you are an academic student.

Background Information

There was an argument between two 10th graders, James and Jesse, a special ed student. James was in the library working on a special project during his lunch period, and Jesse was there with his class. At the end of the period a fight broke out between them and both claimed that the other started it.

Jesse
You have always felt that James looks down on you because your a special ed student. You try to stay away from him as much as possible, but he was in the library doing some work when your class was there.
You were given a special task that involved using the encyclopedia and when you saw James using it you told him that you had to use it. He gave you a look and told you to go somewhere else. In anger, you pushed the book out of his hands and cursed him.

6 - The Medallion

Background Information for the Mediator

James broke up with Charlene and had a heated argument with her about a medallion that he gave her and she refused to return it. Charlene is threatening to get her friends to beat up James. The dean referred this case to the mediator.

Background Information for Disputant No. 1

James broke up with Charlene and had a heated argument with her about a medallion that he gave her and she refused to return it. Charlene is threatening to get her friends to beat up James. The dean referred this case to the mediator.

James
You stopped going with Charlene and you have a new girlfriend. You want Charlene to return the medallion you gave her when you started going with her. It's your grandmother's and it has a lot of meaning to you. You're not sure if you are going to give it to your new friend. Charlene is refusing to give ti back and she's really angry about it and threatening to fight over it.

Background Information for Disputant No. 2

James broke up with Charlene and had a heated argument with her about a medallion that he gave her and she refused to return it. Charlene is threatening to get her friends to beat up James. The dean referred this case to the mediator.

Charlene
You're really upset that James broke up with you, and you will not return the medallion he gave you. He gave it to you and now it's yours. Besides, you don't want him to give it to the new girl. You feel real bad and want to get even. You know your friends will back you up.

7 - Art Class

Background Information for Mediator

The art teacher brings this case to you concerning a dispute between a 10th grade Chinese student, Tom, and another student, Peter.

Background Information for Disputant #1

The art teacher brings this case to you concerning a dispute between a 10th grade Chinese student, Tom, and another student, Peter.

Peter

You are in this art class, and Tom sits next to you. You have asked him some questions about the project that the class has been working on. He seems very cold and distant and doesn't really want to have much to do with you. The other day you saw him discard one of his drawings. You took it out of the waste basket so you could get an idea of what's expected. You admire Tom's work and feel that if you hand in something like his you'll get a good grade. You were really disturbed when you found out from the teacher that Tom reported you as cheating and wants to get out of the class.

Background Information for Disputant #2

The art teacher brings this case to you concerning a dispute between a 10th grade Chinese student, Tom, and another student, Peter.

Tom

You are in this art class, and this student sitting next to you keeps asking you questions.. He should be asking the teacher. You think, "Why is he always bothering and asking stupid questions when he should be paying attention to the teacher?" You try to act nice by ignoring him. How can these foreigners learn anything fooling around and making so much noise? The other day you looked over at Peter's desk and saw one of your drawings that you had discarded. You thought that this was wrong and told the teacher. You were then told to go to mediation with Peter, and you think that this is humiliating because you did nothing wrong.

9 - TRADE WAR

PUBLIC INFORMATION

Both Rodan and Sularia are developed countries. The country of Rodan supplies sophisticated tractors to Sularia (see map). The Rodan government heavily subsidizes their industrial sector and depends on exports such as tractors to pay for its increasing oil imports. Rodan has a centralized economy.

Although Sularia is a world leader in many technologies -- such as computer chips, energy development and pharmaceuticals -- it lags behind in the manufacture of modern farm machinery. The government of Sularia is under mounting pressure from the Sularian Agricultural Equipment Manufacturers Association. This powerful lobbying group is seeking to restrict imports of tractors for three years while their own industry becomes more competitive. Sularia is a free market economy.

At Sularia's request, a meeting of high-level diplomats from both sides is about to be held in Rodan to discuss this issue.

9 - TRADE WAR

TEAM POSITION: RODAN DELEGATION

Your position with regard to the upcoming negotiations with Sularia is as follows:

1. As a matter of principle, you are opposed to any restrictions on trade. However, you value your relationship with Sularia and the long history of cooperation in both economic and political areas. You have agreed to meet with them because you believe that the extensive publicity around the meetings will be sufficient to forestall restrictive legislation.

2. Sularia has been known to offer, as part of their foreign policy, military aid and assistance in exchange for economic concessions. The recent publicity about the military build-up in Bandor, your traditional adversary across the Straits, might prompt Sularia to offer aid in hope of voluntary restrictions. You believe that Bandor's build-up is merely "show" for their upcoming elections and you want to avoid inflaming their volatile leadership. You are, therefore, opposed to any attempt to link these issues and to any Sularian military aid or other assistance that would increase tension in your region.

9 - TRADE WAR

TEAM POSITION: SULARIAN DELEGATION

Your position with regard to the upcoming negotiations with Rodan is as follows:

1. You want Rodan to agree to a voluntary reduction of their tractor exports by no less than 50% for the next three years. You believe that this will placate the Equipment Manufacturers Association so that they will stop pressuring your Parliament to pass restrictive legislation. If voluntary controls are not agreed to quickly, you feel certain that mandatory restrictions will be imposed by your Parliament in the next six months. This, you fear, may trigger a trade war.

2. You realize that Rodan will resist any trade restrictions, but you believe that you can influence them to change their position by offering to help them protect their interests in the Bandor Straits. Bandor, Rodan's traditional adversary in the region, (according to your intelligence sources) has been building up its naval forces and threatening the general area. Accordingly, you are prepared to deploy one of your major fleets to support Rodan and to increase your influence in the region.

10 - DEVELOPMENT DILEMMA

PUBLIC INFORMATION

Global Oil, Incorporated is a multinational oil company. Kinburu is a developing African nation with a population of 25 million, a large proportion of whom exist through fishing and agriculture. Global Kinburu Ltd. ("GKL") is a wholly owned subsidiary of Global set up for the purposes of oil exploration off the coast of Kinburu. Under a joint venture agreement, if oil is discovered, net profits will be split 70%-30% to Global Kinburu Ltd. and the Kinburan Govt respectively. The agreement also specifies that oil sales will be in Global's home currency and that those profits can be expatriated to the parent company, Global Oil Inc.

Global has been drilling for oil for some 15 years now without any success. Recently, however, there has been some strong evidence that sizable oil reserves may be present in this area.

When Global initially set up GKL pursuant to its joint venture agreement with Kinburu, relations between Global and Kinburu were good. In the past few years, however, there has been diminishing communication and increasing tension. Two years ago, toxic waste was dumped from the Global drilling cite and it temporarily destroyed one of Kinburu's finer beaches. Very recently, Global made world news when one of its tankers ran aground in a Norwegian fiord and dumped thousands of gallons of oil into a natural preserve. Global has known for a while now (through local informers) that geologists hired by the Kinburan Government, have been surveying the drilling area.

One month ago, the Kinburan Government, through its counsel, informed Global Oil that, due to Global's poor environmental record, it was asserting its rights as a sovereign nation and planning to nationalize GKL. Global immediately sued for injunctive relief in the International Court of Justice in the Hague. Pending a hearing with the court which is coming up soon, Global's counsel has persuaded Kinburu to agree to mediated discussions. Both parties have agreed on the mediator: Global is footing the bill.

TEAM POSITION: THE KINBURAN GOVERNMENT

You want to get out of your agreement with Global. Through your lawyers, you have stated your reason as being to protect your environment. While that is truly a reason, it is only part of the story. When you entered into the joint venture agreement with Global and set up Global Kinburu Ltd. about 15 years, ago the demand for oil was not as staggering as it is today. Particularly due to the recent evidence of sizeable oil reserves in the offshore area, you are no longer happy with your share of 30%.

You are increasingly confident that you could develop this offshore area yourself. Technical assistance has not been hard to come by. In fact, Kinboil, a local company created six years ago by private, powerful Kinburans to explore oil finds in the Kinburu Mountains is currently very satisfied with the technical support it is receiving from Petrobras, a state-owned Brazilian oil company whose strength is in onshore (as opposed to offshore) oil drilling.

You are planning to nationalize GKL for a number of reasons. First and foremost, these oil reserves, if they exist, provide an important opportunity for increased revenues and economic growth which, as a developing country, you can not pass by. Second, you want to create jobs for your people (you have a sizeable unemployment problem in Kinburu) and currently a vast majority of the positions at GKL are held by foreigners. Thirdly, you would like to develop your tourist industry and you fear that another oil spill like the one in Norway would completely destroy that possibility. Lastly, the issue of expatriation of profits has become a political hotcake among your constituency.

Secretly, you have some real concerns about your decision to take over GKL. The greatest are the "know-how" and the capital that Global Oil, Incorporated offers. It seems clear that, to make a venture like this work, you will have to rely on international development banks and other money lenders to finance the business. You are also afraid of the ways Global could retaliate against you for kicking them out. For instance, you are very excited about the beginnings of a Kinburan stock market, and concerned that Global through its powerful and sophisticated public relations methods could scare away investors.

Under the laws of your country, you have the right to nationalize GKL. However, under the contract with Global, the laws of Sweden apply in the event of a dispute. You believe, however, that choice of law clause should be stricken from the contract (leaving by default the Kinburan laws in effect). You will argue in court that, Global got the clause in the contract through unconscionable pressure and, in any case, it violates the public policy of Kinburu.

TEAM POSITION: GLOBAL OIL, INCORPORATED

You are furious at the Kinburan government's actions. You have invested millions in developing this region. You took the entrepreneurial risk. And now it looks as if they are kicking you out.

The Kinburan government's decision to nationalize GKL violates the terms of the joint venture agreement and international law. Under the terms of The joint venture agreement, the laws of Sweden apply if there is a dispute between the parties, and under Swedish law, Kinburu's action would almost certainly be considered illegal. Therefore, you are fairly confident that you will prevail in the International Court.

Nonetheless, you would like to have a good relations with the Kinburan Government because otherwise they can make doing business in their country a nightmare via taxation, exchange controls, visas for your employees (most of whom are from other countries) etc.

You have strong ties with Kinburu's important sources of international capital. Through a well-targeted public relations campaign, you can certainly make it difficult for Kinburu to raise capital and will do so if they will not be reasonable. You know too that Kinburu is interested in developing tourism and you will threaten a public relations campaign against it if it goes through with the nationalization. And, you know that Kinburu is proud of its fledgling stock market and you think it's obvious that a decision to nationalize GKL will only undermine the market's success.

The standard in the industry for these kinds of joint venture relationships is 30%. You are willing to offer more if it could generate a profitable on-going relationship for all concerned. Bottom line -- you just need to not get kicked out, to turn a reasonable profit and to maintain good relations with Kinburu.

11 - "We Don't Want to Work Together"

Terry

Gary is driving you crazy and you do not want to work with him any longer. The two of you have been working as a team for over a year now. It works out well skill-wise because he is the financial wizard and you are the management/implementation expert. Typically, he prepares the numbers on a report, and you create a management plan for implementation. However, Gary is just not motivated enough to be your partner. There is always a lot of work to do at IBS, but he just can't seem to put in the time it takes to get it done. Almost every day, he walks out of the office between 5 and 5.30 while you (and most other people) typically leave about 7.30 or 8. He also frequently comes in late in the morning. Your work is very important to you -- as important as anything. Gary's relaxed attitude makes you very anxious and forces you to work extremely hard to get your portion of the reports done by the deadline.

Gary has told you that he has to leave early to pick up his children (he has two young ones) from day care. You think excuses are inappropriate. You are a parent too (although your children are much older than Gary's), and you didn't give up your responsibilities at work just to take care of the kids. He could certainly find a day care center with longer hours or get his wife to do it. If you are honest with yourself, you do admire Gary's commitment to his children; it makes you feel a bit guilty about the amount of attention you gave to yours. However, the bottom line is you think his behavior is unprofessional.

One of the problems that you have had in getting the reports done by the deadline is that neither your spelling, your eyesight or your editing capability are very good. You are a real perfectionist, not to mention very proud, and you will not give your work product to a co-worker without it being in great shape. Unfortunately as a result, it takes you hours to edit and proof read the report. If you were stronger in these areas, you probably wouldn't get so upset that Gary gives you his part of the report when he does. However, these are weaknesses that you don't really like to talk about.

You know if you no longer team with Gary, Marie, your Manager, will have to transfer you out of the department because there is no one else that you could team with that does the financial work that Gary does. You have a feeling that Marie will be reticent in letting you go so it's worth talking to Gary at least one last time and see if you can convince him to work longer hours. Marie suggested that she would facilitate your discussion with Gary. You are about to meet with the two of them.

11 - "We Don't Want to Work Together"

Gary

Terry is driving you crazy and you do not want to work with her any longer. The two of you have been working as a team for over a year now. It works out well skill-wise because you are the financial wizard and she is the management/implementation expert. Typically, you prepare the numbers on a report, and then Terry creates a management plan for implementation. However, Terry is incredibly neurotic and insensitive to your need for flexibility. She also always demands that your portion of the report be completed way before you think it is really necessary to be done. Her work is great, but it sure takes her a long time and apparently a lot of agony to do it.

In addition to Terry breathing down your neck, you are under a lot of other pressure these days. You and your wife have a two year old and a five year old who are a lot of joy but a lot of strain. You share the child care equally, but on your wife's job she has absolutely no flexibility about getting the kids from day care by 5.30. You have talked to Marie, your manager about the situation and she has basically said that as long as you get your work done, she doesn't care what kind of hours you keep. On top of the child situation, however, your mother has recently fallen ill and the burden of it is basically on you. You have had to do a lot of negotiating with nursing homes on her behalf and have had to take a lot of trips to the hospital.

You have mentioned the situation about the kids to Terry, but she is very hard-nosed and only concerned about getting the reports done. Because of her attitude, you haven't bothered to mention the situation about your mother because you are sure she would be completely insensitive.

You know if you no longer team with Terry, Marie will have to transfer Terry out of the department. You have a feeling that Marie will be reticent to do that but you say good riddance. Except for Terry's wonderful implementation ideas and analysis, you could probably write these reports yourself with your great financial, writing and editing skills.

Marie has asked the two of you to come to her office and talk about the situation.

12 - Affirmative Inaction

Public Information

Janet Ridgewood is a Senior Project Director at the International Education Association (IEA), a non-profit agency whose mission is to support and develop educational programs worldwide. Janet is African-American, and about 45 years old. **George Chambers** is a Senior Vice President at IEA and is Janet's boss. He is white, about 55, and has worked at IEA for about 12 years.

Six months ago, George requested that Janet find a minority to fill a home office Program Officer position open on Janet's project (which is international in scope). Janet has been looking hard for a qualified minority since then but without any success. George has asked to meet with Janet to get a status report on the job search.

12 - Affirmative Inaction

Private Information -- George Chambers

Six months ago, when this position for Program Officer opened up, you told Janet that she needed to hire a minority for the job. You explained to her that she needed to make a concerted effort and she certainly has been doing that. In fact, in your opinion, she is going too far. People on her staff have complained to you that they are having to work overtime consistently because they have to pick up the slack on the position that is vacant. More importantly, the client for whom IEA is doing the project has been pressuring you to fill the position. You obviously want to keep IEA within EEO guidelines but you also want to get the job done. When you meet with Janet, you are going to instruct her to hire Sylvia Smith, a white woman candidate, who is clearly qualified and can get the job done -- no more waiting.

While you don't talk about this, you find complying with affirmative action annoying. You certainly advocate fairness, but you think that primarily people should be hired because of their ability to do the job and get along with the client, not because of their race or gender. You also are not quite sure what the end result of affirmative action will be for you and other white men. It does seem sometimes like you have nothing to gain and everything to lose.

Private Information -- Janet Ridgewood

You feel like you are a bit of a lone wolf on your project. While George did give you a mandate to fill the Program Officer position with a person of color, you suspect some lip service to the idea on his part. You think that his interest goes as far as making sure that you can show on paper that you made a good faith effort to find a qualified person of color candidate.

To make matters worse, you suspect that most of your project staff are also frustrated with your efforts to find a minority candidate. You know that many don't believe that these kinds of decisions should be made on the basis of race -- they should be made on the basis of qualifications. You suspect they think the whole thing unfair -- once you've found your person, he or she won't be able to carry their full load. You know that many believe you should hire a known quantity, someone who has been working in the area, that they know or know of.

You're no saint, but you do feel dogged about finding a person of color for this position. As a result of your efforts, you know your work has been slipping -- there are a lot of deliverables that need to get done, field work is needing attention and at least one of your promised activities is three months past due. This is not to mention the fact that you are exhausted and your family is beginning to lose their patience with your increased absence. However, you do think you are on to a very likely candidate, a black man from California, Gregg Williams, that you met two weeks ago at a conference in Washington and who seems very interested in the job. He is equally as good as Sylvia Smith, the white woman candidate who is well qualified for the job and who has been hanging on for about two months now. You suspect that George is going to pressure you to get on with it and hire Sylvia. However, you want George to hold out for Gregg Williams. You are going to request that George approve bringing Gregg out from California. Maybe a little coaxing will persuade Gregg to take the job.

13 - "Just Jobs"

Division Management

A meeting is coming up soon with representatives from Human Resources who are upset about the Leticia Hall decision, and want to discuss the company's policy regarding secretarial job mobility. You have been selected to represent division management's position. Senior management has stated that they want you and human resources to come to a meeting of the minds and give them a written recommendation of what the company's policy should be regarding job mobility.

Leticia Hall has been a secretary at the company for 10 years. She has always been well-respected and has done a good job. Recently, there was a job opening in the company for which she applied, but the job was given to someone who you considered more qualified. Leticia Hall was equally qualified on paper, but you think, given she has been a secretary with the company, that she just wouldn't do as good a job in the position.

You know that many of the secretaries are unhappy because they want more job mobility. The fact of the matter is, however, that once someone is a secretary, you feel people will always view them as a secretary. If that person were moved into a higher level (non-secretarial) position, you believe they just wouldn't be able to command the respect necessary to do their job. You don't have anything against secretaries improving themselves; you just believe that if they want to advance, they need to apply outside the company for new positions.

You also suspect that the company will get more stability from a professional who is the primary breadwinner for his family. Most of the secretaries are women with husbands and children. You suspect that the money they are earning is supplemental to their families' income and is not the main source.

You suppose that human resources is probably going to suggest big changes to the status quo, but you don't think that's a good idea. You are concerned, though, about keeping secretaries happy. Their morale and enthusiasm are obviously very important for the company's performance.

13 - "Just Jobs"

Human Resources

Leticia Hall has been a secretary at the company for 10 years. She has always been well-respected in the company and has done a good job. In the last few years, she has been interested in advancement and has gone back to school at night to get the necessary degrees. Recently, there was a job opening in the company (non-secretarial) for which she applied. It seemed to her and certainly to her boss (who gave her an excellent recommendation) that she was well-qualified for the job. However, she got turned down and the job was given to someone from outside the company.

Since the Leticia Hall decision, many of the secretarial staff have come to your department to complain about the issue of job mobility. They are demoralized. They feel they do an incredibly good job and are amazingly efficient and well-organized. Many of them work hard to get additional degrees to move up the corporate ladder and make more money. However, they feel that at this company, there seems to be this unwritten policy that once a secretary, always a secretary.

You (and the secretaries) think the company is making a mistake. Sure not every secretary can move up the ladder. But the company is losing good talent to hold on to this dyed in the wool policy of not allowing their inside people to advance. Motivation would be much higher if, in fact, real promotions were possible -- particularly in this job market. Also, the way it is now, the company gets no pay back from all of the educational benefits they offer employees.

You have a meeting set up with a group of company division managers. You want management to establish an explicit company policy, (*ie.*, written) that states that 80% of all hires will be from inside the company and that an employee's former secretarial status will not prejudice his or her application in any way. You also want to see more developmental opportunities for secretaries such as rotational assignments or experience on special projects.

Senior management has stated that they want you and division management to come to a meeting of the minds on this issue of job mobility and give them a written recommendation of what the company's policy should be.