RESOLVING CONFLICT THROUGH MEDIATION

Management in State Government

Comprehensive Public Training Program (CPTP)

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RESOLVING CONFLICT THROUGH MEDIATION

Course Description
Mediation is an effective way of resolving conflicts between individuals in a workplace or in the community. In this course, participants will learn the basics of mediation including how to prepare an opening statement, navigate the exchange between parties, define issues and ultimately reach a resolution. Participants will practice the main elements of the mediation process in class via role-plays that illustrate real scenarios.

Learning Objectives
- Understand the mediation process
- Discover the mediator’s role in conflict resolution
- Understand if mediation is right for your workplace conflict
- Create and practice your opening statement
- Learn how to support, encourage and provide structure to a dialogue between parties
- Learn how to define, reframe and restate the issues
- Discover how to overcome resistance and impasse in mediation
- Understand how to lead both parties to agreement and resolution
- Practice mediation process in role-play

Job Outcomes
- Manages or resolves conflicts, confrontations, and disagreements in a positive and constructive manner to minimize negative personal impact.
- Considers and responds appropriately to the needs, feelings, and capabilities of others; adjusts approaches to suit different people and situations.
- Deals effectively with pressure; maintains focus and intensity and remains optimistic and persistent, even under adversity;
- Recovers quickly from setbacks.
GROUP DISCUSSION

In your group or with a partner, list the feelings and words that come to mind when you find yourself in a conflict situation? Prepare to share what you’ve listed below.
INTRODUCTION TO MEDIATION

Mediation: a process where disputing individuals agree to sit together and discuss differences with a neutral and impartial third person (s) who assists them in reaching a settlement or resolution.

Mediator: a neutral and impartial person who guides the dialogue and provides structure that allows parties to work towards resolution.

Is mediation right for your workplace conflict?

- Do you have willing parties?
- Can the issues remain private?
- Do you have credible mediators
- Are the parties ready to resolve the issue?
In your group or with a partner, list characteristics of a good mediator. Record your answers and prepare to present to the class.
The mediation process involves two main steps, exploring the situation and reaching resolution. Exploring the situation consists of conducting a proper opening statement, facilitating dialogue between the two parties. The goal of this first phase is to listen, take notes, and understand the issues and conflict between the two parties. The mediator defines the parameter and structure for the dialogue and plays a key role of asking questions, clarifying statements, making each person feel comfortable expressing their side of the story.

In the second phase of the process, the focus is on reaching a resolution. The mediator helps the parties identify the main issues or topics at hand that both parties agree to resolve, and generate workable solutions. The mediator ensures that the impasses are overcome, and can help the parties brainstorm if needed. At the end, the goal is to have the parties agree on a resolution to one or all of the issues identified.
It is important to create a comfortable and neutral environment for the mediation session. Here are some considerations to help you prepare for a successful mediation session.

**Where:** Pick a room or office that is neutral to both parties. The room should be in private place, free of distractions or any decorations that may communicate preferences or other messages to the individuals. Be attentive of posters, pictures, etc.

**Who:** The two mediator approach is recommended. Having two mediators can provide additional perspective and support during the mediation process. Sessions can escalate because of the sensitive nature of some conflicts and it can be helpful to have someone else in the room. You can appoint a lead and a support mediator. It is suggested to have the co-mediators discuss roles and responsibilities before the session to ensure a smooth experience.

Sometimes other parties insist on bringing in third parties to represent them such as an attorney or a witness. Remember that the goal of a mediation isn’t to prove who is right or wrong, so having a third party present is rarely conducive to the process. It is usually best to keep the mediation closed to the two parties directly involved in the conflict.

**How:** This is the best arrangement for a session involving two mediators and two individuals. This allows you to coordinate with your co-mediator and have the parties sit comfortably apart from each other. You can also have them sit on the same side of the table with a chair in between them.
It is the mediator’s role to create a climate conducive to generating solutions. In the opening statement, the mediator explains the purpose of mediation, the process that will be followed, ground rules, agency policies, privacy and confidentiality parameters, and an explanation of their role. The opening statement is an important tool to ensure that both parties understand the structure for the exchange, check for agreement from both parties regarding the mediation, and sets the tone for the rest of the dialogue. You may have both parties sign an agreement to mediate that covers the ground rules and confidentiality policy. Remember to ask both parties if they have any questions that you can answer before beginning the mediation.

**Sample Opening Statement**

Thank you for choosing to resolve your conflict through mediation. My name is Sarah and I will be your mediator today. I will like to begin by outlining the process, establishing the purpose of today’s mediation. Mediation is a structured process where disputing individuals agree to sit together and discuss differences with a neutral and impartial third person(s) who assists them in reaching a settlement or resolution. My role will be to structure and facilitate the conversation between both of you. I can help you communicate to each other and generate solutions to resolve the conflict between the both of you.

We have a few ground rules for today's session. Please do not interrupt each other. Name-calling and profanity are not allowed as they are not conducive to conflict resolution. If ground rules are not respected or if the discussion becomes disruptive, I will end the session without notice. Can we agree to follow these ground rules today?

Everything we discuss today is private and will not be shared with any other parties. The only exceptions are comments that recount situations of felony level criminal behavior, child abuse, acts or threats of violence. These situations require official reporting due to our agency’s policy. Information related to this session can also be shared in the event of a lawfully issued subpoena. To help me structure and facilitate the discussion, you may see me take some notes. I will destroy them at the end of the session. We also encourage you to take notes to keep track of the topics. Any questions or concerns about the process? Please review the Mediation Agreement and sign and date it to proceed.
INDIVIDUAL & PARTNER ACTIVITY

Read the sample opening statement provided. What is missing? Take a moment and personalize your opening statement. Pick a partner and practice delivering your opening statement. Partners, provide your partner with feedback.
After the opening statement, allow both parties to briefly make a statement about the problem or issue. Each person should speak initially without interruption. Questions can come later after both parties share their side of the story. Mediator should ensure both parties share fully and prevent any one person from dominating the discussion.

The mediator role during this part of the process is to summarize periodically, restate, and clarify any statements that may be misinterpreted and misunderstood. These are the steps of active listening.

Step One: ________________
- Stop talking
- Relax
- Remove distractions—put aside work, etc.
- Give the speaker space to vent—don’t interrupt
- Pay close attention to the other person
- Don’t worry about what you are going to say next.
- Use good body language—eye contact, open posture, face them fully.

Step Two: ________________
- Try to put yourself in the speaker’s shoes
- Listen carefully for emotional content
- Watch your own emotions without letting them control you.

Step Three: ________________
- Use summarizing and paraphrasing (I hear you say …………. Is that right?)
- Repeat the message you heard to make sure you got it right
- Repeat both facts and emotional content
- Ask for clarification
- Continue the process until you’re sure you understand the message.
When communicating their issues, disputing parties may report to using negative, blaming, and aggressive statements. This naturally blocks effective communication and causes the other party to take a defensive or aggressive stance. The goal is to share information that does not attack the other person but addresses behaviors or facts so that resolution may be reached.

Mediators must learn how to **reframe** toxic, aggressive, or negative statements. Reframing is when a mediator captures the truth behind the negative comment and restates what the disputant meant to communicate without any negative language. Reframing helps move the conversation along in a positive way.

For example:

**Disputant:** “He’s a liar. He said that he would help me with the project but he never lives up to his promises.”

**Mediator:** “It sounds like you are angry because you didn’t get the support you needed for the project. Can you tell me how John’s absence specifically affected the project?”
DEFINING THE ISSUES

In this step, the mediator outlines all the issues identified in the preceding dialogue/exchange. There are often underlying issues that bubble to the surface that may be central to the issue. Remember that the presenting problem may not be the real issue. First, summarize what topics you've heard from both parties (this is where note-taking comes in handy). Parties should be asked to confirm the list of issues/topics and from there the mediator will gain agreement on which ones should be resolved in this session and decide on the order in which those issues will be addressed. This may be easy or prove difficult. Parties may only agree on a few topics on the list or share no common issues at all.
At this stage the mediator’s role is to facilitate brainstorming and have both participants outline acceptable solutions to the issues raised in the discussion. Start with the easiest issue first. Have parties throw out ideas and don’t refine the ideas at first. Just see how many ideas they can generate. After, coming up with a few, then you may refine the list with the disputants help.

The mediator can throw out an solution to start the process. However, it is important that the both parties fully participate. It is important that the parties have ownership of the solutions. The goal is to let the participant negotiate a solution that would be acceptable to them.

A mediator can clarify possible solutions for the parties, ask “what-if” questions and ask questions regarding the feasibility and practicality of each solution.
OVERCOMING IMPASSE

There are two very effective strategies that you can employ if faced with a impasse.

- **Impasse** - when mediator feels stuck, when disputants begin to simply repeat/restate their statements over and over, when one or more parties feel frustrated.

  Both of them involve a break that gives both parties time to think about their options and gives the mediator time to clarify the issues at hand.

- **Caucus** – private meeting between the mediator and each of the two parties. The goal is to help determine if there is more information that one of the disputants may not be comfortable sharing with the other party or clarify the issues, and/or discuss alternatives and solutions.

- **Recess** – a break that allows both parties to think about what has occurred and what solutions may be agreeable to them.

Don’t be tempted to end to soon or rush through the process. Silence allows the individuals to think and process what has been shared. Explore BATNAs and WATNAs.

BATNAS: ____________________________________________________

WATNAS : ____________________________________________________

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