

## Conflict Management Skills



**You tell me that when you get angry and lose control you may say some things you don't mean, and that by tomorrow you will have forgotten all about it. But the workers tell me they hurt for a long time.**

**Richard Bruce, Consultant  
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Beth just got turned down by Carlos, the mechanic. She had asked Carlos to plan on working a couple of overtime hours this coming Thursday and Friday evenings. Beth's nose was a bit bent out of joint. She wondered if Carlos did not yield to her because she was too kind when she asked. Or, because she was a woman. Or, because Carlos was envious that she got the supervisory position for which both had competed. Carlos was uncomfortable with the interaction, too.

If Carlos had no clue that Beth was upset, would this scene still constitute

interpersonal conflict? Perhaps. The seeds of conflict are planted when disharmony is *felt within* any one of the participants. Next time Beth approaches Carlos she may change her approach. She may be more abrupt, leading Carlos to wonder if Beth got up on the wrong side of the bed. Carlos may then, in turn, react negatively to Beth, thus escalating the conflict. Individuals sometimes encounter stress and negative emotion out of an interaction—whether or not they ever confront each other about their feelings.



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Wherever choices exist there is potential for disagreement. Such differences, when handled properly, can result in richer, more effective, creative solutions and interaction. But alas, it is difficult to consistently turn differences into opportunities. When disagreement is poorly dealt with, the outcome can be *contention*. Contention creates a sense of psychological distance between people, such as feelings of dislike, bitter antagonism, competition, alienation, and disregard.

Whether dealing with family members or hired personnel, sooner or later challenges will arise. It is unlikely that we find ourselves at a loss of words when dealing with family members. Communication patterns with those closest to us are not always positive, however, often falling into a predictable and ineffective exchange.

With hired personnel and strangers, we may often try and put forth our best behavior. Out of concern for how we are perceived, we may err in saying too little when things go wrong. We may

suffer for a long time before bringing issues up. This is especially so during what could be called a “courting period.” Instead of saying things directly, we often try to hint.

But the honeymoon is likely to end sooner or later. At some point this “courting behavior” often gets pushed aside out of necessity. We may find it easier to sweep problems under the psychological rug until the mound of dirt is so large we cannot help but trip over it. Sometime after the transition is made, it may become all too easy to start telling the employee or co-worker exactly what has to be done differently. An isolated episode such as the one between Beth and Carlos may or may not affect their future working relationship.

Persons differ in their sensitivity to comments or actions of others, as well as their ability to deal with the stress created by a conflict situation. While it is important that we are sensitive to how we affect others, there is much virtue in not taking offense easily ourselves. Or by finding constructive outlets to dissipate stressful feelings (e.g., exercise, music, reading, an act of service to another, or even a good night’s sleep). It does little good, however, to appear unaffected while steam builds up within and eventually explodes.

When disagreements emerge it is easy to hear without listening. People involved in conflict often enlist others to support their perspective and thus avoid trying to work matters out directly with the affected person.

Our self-esteem is more fragile than most of us would like to admit (see Chapter 6, Sidebar 3). Unresolved conflict often threatens whatever self-esteem we may possess. By finding someone who agrees with us, we falsely elevate that self-esteem. But we only build on sand. Our self-esteem will be constructed over a firmer foundation when we learn to deal effectively with the conflict. In Spanish there are two related words, self-esteem is called *autoestima*, while false self-esteem is called *amor propio* (literally, “self-love”).

It takes more *skill, effort and commitment*—although in the short run, *more stress*—to face a challenge together with a contender. It seems as if it would be easier to fight, withdraw, or give in. Yet in the long run, working through difficulties together will help us live a less stressful and more fulfilling life. Some alternatives include:

1. *Fighting it out.* A man sat in his train compartment looking out into the serene Russian countryside. Two women entered to join him. One held a lap dog. The women looked at this man with contempt, for he was smoking. In desperation, one of the women got up, lifted up the window, took the cigar off the man's lips, and threw it out. The man sat there for a while, and then proceeded to re-open the window, grab the woman's dog from off her lap, and throw it out the window. No, this is not a story from today's Russian newspaper, instead it is from Fyodor Dostoevsky's 19th century novel, *The Idiot*. The number and seriousness of workplace violence cases in agriculture seems to be on the rise, and farm employers can respond with effective policies and increased education.

2. *Yielding.* While most can readily see the negative consequences and ugliness of escalating contention, we often do not consider how unproductive and harmful withdrawing or giving in can be. Naturally, there are occasions when doing so is not only wise, but honorable (as there are times to stand firm). If a person feels obligated to continually give in and let another have his way, such yielding individual may stop caring and withdraw psychologically from the situation.

3. *Avoidance.* When we engage in avoidance, it only weakens already fragile relationships. These "others" (e.g., sympathetic co-workers) usually tend to agree with us. They do so not just because they are our friends, but mostly because they see the conflict and possible solutions from our perspective. *After all, they heard the story from us.* Once a person has the support of a friend, he may feel justified in his behavior and not try to put as much energy into solving the conflict.

One particularly damaging form of conflict avoidance is to send someone else to deliver a message or confront another on our behalf. At best, the individual not spoken to directly will be hurt that such a tactic was taken. At worst, the go-between person cherishes the power trip involved, allowing himself to become a sort of arbiter in the conflict.

We often are too quick to assume that a disagreement has no possible mutually acceptable solution. Talking about disagreements may result in opportunities to strengthen relationships and improve productivity. Obviously, talking problems through is not so easy. Confronting an issue may require (1) exposing oneself to ridicule or rejection, (2) recognizing we may have contributed to the problem, and (3) willingness to change.

We can reduce stress, resolve challenges and increase productivity through effective dialogue. Such a conversation entails as much *listening* as talking. While effective two-way exchanges will happen naturally some of the time, for the most part they need to be carefully planned. There may be some pain—or at least moving us out of our comfort zones—involved in discussing challenging issues, but the rewards are satisfaction and improved long-term relationships.

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Jack Kelly Clark

When faced with challenges, we tend to review possible alternatives and come up with the best solution given the data at hand. Unwanted options are discarded. While some decisions may take careful consideration, and even agony, we solve others almost instinctively. Our best solution becomes our *position* or *stance* in the matter. Our *needs*, *concerns* and *fears* play a part in coming up with such a position. Misunderstanding and dissent can grow their ugly heads when our solution is not the same as those of others. Several foes often combine to create contention:

Our first enemy is the natural need to want to explain our side first. After all, we reason, if they understand our perspective, they will come to the same conclusions we did.

Our second enemy is our ineffectiveness as listeners. Listening is much more than being quiet so we can have our turn. It involves a real effort to understand another person's perspective.

Our third enemy is fear. Fear that we will not get our way. Fear of losing something we cherish. Fear we will be made to look foolish or lose face. Fear of the truth ... that we may be wrong.

Our fourth enemy is the assumption that one of us has to lose if the other is going to win: that differences can only be solved competitively.

The good news is that there are simple and effective tools to spin positive solutions and strengthen relationships out of disagreements. But let not the simplicity of the concepts obscure the challenge of carrying them out consistently. Certainly life gives us plenty of opportunities to practice and attempt to improve. However, the foes outlined above take effort to overcome.

### **Tools for Improved Communication**

Two principles have contributed greatly to the productive handling of disagreements. The first, "Seek first to understand, then to be understood," was introduced by Steven Covey, in *Seven Habits of Highly Effective People*.<sup>1</sup> If we encourage others to explain their side first, they will be more apt to listen to ours.

For instance, I sometimes need to interview farm personnel about their feelings on various subjects. One day I came across a farm owner who was less than enthusiastic about my project.

It was clear from his words and tone that I would *not* be interviewing anyone on his farm, so I switched my focus to listening. The farmer shared concerns on a number of troublesome issues and we parted amiably. When I was on my way to my vehicle the farmer yelled, "Go ahead!"

"Go ahead and what?" I turned around and inquired. To my surprise he responded, "Go ahead and interview my workers." The Covey principle was at work.

The second principle, introduced by Roger Fisher and William Ury in their seminal work, *Getting to Yes*,<sup>2</sup> is that people in disagreement should *focus on their needs* rather than on their positions. By concentrating on positions, we tend to underscore our disagreements. When we concentrate on needs, we find we have more in common than what we had assumed. Ury and Fisher suggest we attempt to *satisfy the sum of both their needs and our needs*.

When the light goes on we realize that it is not a *zero sum game* (where one person has to lose for the other to win). Nor is it necessary to solve disagreements with a lame compromise. Instead, often both parties can be winners. Individuals can learn how to keep communication lines open and solve challenges when things go wrong. Learning to disagree amicably and work through problems is perhaps one of the most important interpersonal skills we can develop.

### **Putting it all together**

If we come right out and tell someone, "I disagree," we are apt to alienate that person. Successful negotiators are more likely to label their intentions, such as a desire to ask a difficult question or provide a suggestion, and are less prone to label disagreement.<sup>3</sup> Problems are likely, however, to increase if we put all our

needs aside to focus on another person's perspective. The other party may think we have no needs and be quite taken back when we introduce them all of a sudden, almost as an afterthought.

In order to avoid such unproductive shock, I like the idea of briefly saying something along these lines. "I see that we look at this issue from different perspectives. While I want to share my needs and views with you later, *let me first focus on your thoughts, needs, and observations.*" At this point, we can put our needs aside, attempt to truly listen, and say: "So, help me understand what your concerns are regarding ...."

That is the easy part. The difficulty comes in fulfilling such a resolution to really listen—to resist the tendency to interrupt with objections no matter how unfounded some of the comments may be. Instead of telling someone that we *understand* (just so they can finish and give us a turn to present our perspective), we can be much more effective by revealing exactly *what it is that we understand*. All along we must resist, as we listen, the temptation to bring up our viewpoints and concerns. In trying to comprehend, we may need to put our understanding in terms of a question, or a tentative statement. This way we show true awareness.

We may have to refine our statement until the other stakeholder approves it as a correct understanding of his position or need. It is necessary not only to understand, but for the other person to *feel understood*. Only now can we begin to explain our perspective and expect to be fully listened to. Once we have laid out our concerns, we can focus on a creative solution. If we have had no history with someone, or a negative one, we need to use more caution when disagreeing. The potential for a disagreement to be side-railed into contention is always there. It helps if we have made goodwill deposits over time.

## INVOLVING A THIRD PARTY

Sometimes differences in organizational level, personality or self-esteem among the participants in a



disagreement require the participation of a third party. For instance, one supervisor had resorted to bullying and implied threats to get his way. "I would have gladly tried to find a way to help my supervisor achieve his goals," the subordinate explained through her tears. "But now I am so sensitized, I am afraid of talking to him."

Telling employees to work out their troubles on their own, grow up, or shake hands and get along may work occasionally, but most of the time the conflict will only be sent underground to resurface later in more destructive ways.

A better approach is to allow employees to meet with a third party, or *mediator* (which, in some cases, may be a manager or the farm owner), to assist them in their own resolution of the conflict.

All things being equal, an outside mediator has a greater chance of succeeding. An insider may be part of the problem, may be perceived as

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favoring one of the stakeholders, and the stakeholders may be hesitant to share confidential information with an insider.

If the insider is a supervisor, the mediator role becomes more difficult, as supervisors tend to become overly directive, taking more of an arbiter's role and forcing a decision upon the parties.

The conflict management process is more apt to succeed if stakeholders have respect for the mediator's integrity, impartiality, and ability. Respect for the mediator is important, so stakeholders will be on their best behavior, an important element in successful negotiation. Although not always the case, over-familiarity with an inside mediator may negate this "best behavior" effect.

An outside mediator should treat issues with confidentiality. Exceptions are such instances as where illegal activities have taken place (e.g., sexual harassment).

All parties should be informed of exceptions to the confidentiality rule ahead of time. Any sharing of information based on the exceptions needs to be done on a need-to-know basis to minimize giving out information that could hurt one or both of the parties. Employees may be less hesitant to speak out when assured of confidentiality. Sometimes conflicts involve personal issues.

A much more sensitive situation involves the role of the mediator when stakeholders are not able to come to a negotiated resolution. Researchers have found that, in some instances, mediation works best when the third party is able to change roles, and in the event that mediation fails, become an arbiter. On the plus side, stakeholders may put their best foot forward and try hard to resolve issues. Unfortunately, while some mediators may be able to play both roles without manipulating the situation, the road is left wide open for abuse of power. Furthermore, individuals may feel coerced and not trust a mediator when what is said in confidence may be taken against them later.

## MEDIATION

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Mediation helps stakeholders discuss issues, repair past injuries, and develop the tools needed to face disagreements effectively. Mediators may help participants glimpse at their blind spots, broaden their perspectives, and even muddle through the problem-solving process. Yet, successful mediators remember that the challenges are owned by the stakeholders and do not attempt to short-circuit the process by solving challenges for them.

Mediators facilitate the process by:

- understanding each participant's perspective through a pre-caucus;
- increasing and evaluating participant interest in solving the challenge through mediation;
- setting ground rules for improved communication;
- coaching participants through the joint session;
- equalizing power (e.g., between persons in different organizational levels);
- helping participants plan for future interaction.

### **Understanding each participant's perspective through a pre-caucus**

The pre-caucus is a separate meeting between the mediator and each stakeholder before the stakeholders are brought together in a joint session. During the pre-caucus the mediator will briefly explain the issue of confidentiality and the mechanics of the mediation process so stakeholders will not be surprised or have a sense of being lost.

The mediator also should offer stakeholders the opportunity for regular caucusing (a meeting away from the other stakeholder) any time they feel a need for it. It is important that stakeholder control is emphasized throughout the process. Participants should not agree on something just for the sake of agreement. If there are yet unmet needs, these should be brought up. Sometimes, a few changes in a



potential solution can make the difference between an agreement that will fail or succeed.

While there are hundreds of factors that can affect the successful resolution of a conflict, the pre-caucus is one of *the pillars of conflict management*.<sup>4</sup>

Although *any* talking between the mediator and one of the stakeholders alone can be perceived as suspect and potentially influence the neutrality of the mediator, such fears assume a mediator-directive approach where the third party wields much power and often acts as a quasi-arbitrator. When the mediation process is understood—from the beginning—as one where each of the stakeholders retains control over the outcome, less importance is given to mediator neutrality.

The pre-caucus provides each stakeholder an opportunity to be heard and understood. One of the reasons why conflict situations are so challenging, is the natural tendency of stakeholders to each want to express their respective perspectives first which to some degree

takes place in the pre-caucus. The more deep-seated and emotional the conflict, the greater this need.

At a dairy operation, I had just been introduced to one of the stakeholders by the farm owner. As soon as the farmer left us alone to begin our pre-caucus, the stakeholder broke into tears. A similar situation took place at a row crop farm enterprise where one of the farm managers began to cry, ostensibly because of other issues pressing heavily upon him. Had these men come immediately into a joint meeting with their respective contenders, their feelings of vulnerability might just as easily have turned into anger and defensiveness.

One manager told me that the pre-caucus would be very short with a milker who was not a man of many words. The milker spoke for almost two hours. By the time we finished, he felt understood and had gained confidence, and by the time we were into the middle of the joint session with the other stakeholder, this same employee was

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*The pre-caucus consists of a separate meeting between the mediator and each of the stakeholders, before the stakeholders are ever brought together into a joint session. Because people, especially those who are involved in conflict, have such a high need to be understood before they can focus on the needs of others, this session is fundamental to an eventual positive outcome.*

even laughing when it was appropriate. I have found that these “silent types” will often open up during a pre-caucus.

When a stakeholder feels understood, an enormous emotional burden is lifted; stress and defensiveness are reduced. This makes people more confident and receptive to listen to the other party.

*Separating the people from the conflict.* Winslade and Monk in *Narrative Mediation* argue that while people are theoretically free in terms of what they say in a conversation, most often stakeholders feel their responses are influenced by the remarks of the other. They often see themselves entrapped within the conflict cycle.

Winslade and Monk ask individuals how they might have felt *forced by the conflict* to do or say things that they wish they had not. Or, how the conflict has affected them negatively in other ways. By placing the *blame* on the *conflict itself*, the mediator allows the stakeholders to save face and slowly distance themselves from the conflict-saturated story. Such a situation can help stakeholders detach themselves from the conflict long enough to see that each has a choice as to whether he wants to continue feeding the conflict. The authors further suggest that if the mediator listens with an *ethic of curiosity*, unexpected benefits are likely to arise. Instead of merely listening to

confirm hunches and reconcile facts, the third party realizes that stakeholders often bring to mediation an olive branch along with their anger and despair. Thus, stakeholders often hold the very keys to the reconstruction of broken relationships and to the solving of challenges. But the mediator has to have enough confidence in people and in the process to allow these issues to surface and to be on the lookout for them so they do not go unnoticed.<sup>5</sup>

During the pre-caucus, the mediator notes as many issues as possible from each stakeholder (they often overlap considerably) and later introduces them in a systematic fashion for the stakeholders to discuss in the joint session. The more issues raised, the greater the opportunity for discussion and the less likelihood that important issues will be left out.

#### **Increasing and evaluating participant interest in solving challenge through mediation**

There seems to be a pattern in deep-seated organizational interpersonal conflict: each stakeholder is overly distracted with the stress of the conflict, has difficulty sleeping at night, and is generally thinking of quitting. Sometimes individuals may be in denial about the negative effect that contention has in their lives. One manager claimed that he just got angry and exploded, but that his anger did not last long. He explained that he did not hold grudges, that by the next day he had put aside any bad feelings for the other person. During a mediation session this same manager admitted that a recent confrontation with the other stakeholder had made him so angry it left him sick for a couple of days. Part of the role of the mediator in meeting individually with each stakeholder is to help individuals visualize a life without that stress.

In the process of meeting with the stakeholders, the mediator can make a more informed determination as to whether to proceed with mediation or recommend arbitration or another approach. As effective as mediation can be, under certain circumstances more

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harm than good can result from bringing parties together. The purpose of mediation is *not* to simply provide a safe place for stakeholders to exchange insults!

*Transformative opportunities.* In *The Promise of Mediation*, Bush and Folger suggest that mediators watch for and recognize transformative opportunities in terms of *recognition* that can be offered between participants. Such recognition may involve compliments or showing understanding, empathy, or other forms of mutual validation.<sup>6</sup> A fruit grower, almost as an aside, had something positive to say about the other party, “One thing I really value about the farm manager is that he shows pride in his work—something I really admired in my father.” The grower reacted negatively to the idea of sharing this with the farm manager, yet decided to do so on his own during the joint session.

*Looking for the positive.* While a number of issues can affect the likely success of a joint mediation session, perhaps none is as telling as asking each stakeholder what they value in the other contender. This question should be asked *after the participant has had a chance to vent*, and the mediator has shown understanding for the challenges from the stakeholder’s perspective.

There is a human tendency not to find anything of value in a person with whom there has been deep-seated contention. After a person feels understood by the mediator, there is a greater likelihood that the stakeholder will see a little light of good in his contender.

Without this tiny light of hope, without this little olive branch, there is no point in proceeding. If there is nothing of significance that one person can value about the other, more harm than good can come out of the mediation. And it is not enough to say that the other person “is always on time,” “drives a nice pick up,” “is attractive,” or “does not smell.”

Sometimes one of the stakeholders will be more noble than the other, a little more prone to see good in the other. On one occasion, I had already met with

such an individual in a pre-caucus and asked the second stakeholder, during his pre-caucus, for the positive characteristics of the first. When the answer was “none,” I shared the positive things that were said about him by the first employee and asked again. Because stakeholders want to seem reasonable, especially after hearing something positive about themselves, I was surprised by a second refusal by the more reticent stakeholder to find anything of value about the other.

“Well, if there is *nothing* positive you can say about the other employee, there is no purpose in attempting a conflict management session together,” I explained. I suggested a short break. When we returned, the taciturn stakeholder had prepared a long list of positive attributes about the other employee.

*Repairing past injuries.*

Occasionally, it helps to role play to identify potential pitfalls ahead of time. For instance, at one farm operation, a manager’s angry outbursts were well known. Martin, the manager, had minimized the seriousness of his problem. A co-mediator role-played the other party in the contention. “Martin,” she began. “When you get angry at me, shout at me and use profanity, I feel very badly.”

“Well, I am so sorry I have used bad language with you and been angry at you,” Martin began nicely. “But ....” And then Martin began to excuse himself and to place conditions on controlling his anger. At this moment I had to interrupt. An apology with a *comma* or a *but* is not a true apology, but merely a statement of justification, I explained. In total frustration Martin turned to me and said, “Look, everyone has their style. Some people deal with disagreement this way or that. I am an expert in *intimidation*. If I can’t use intimidation, what can I do so I don’t get run over? Am I supposed to just sit here and tell him how nice he is and not bring up any of the areas of disagreement?”

When mediators have done their homework during the pre-caucus, the joint session can be very positive. This case involving Martin was one of the



Jack Kelly Clark

*An apology with a comma or a but is not a true apology, but merely a statement of justification. Opportunities for mutual recognition exist when participants take the time to apologize for past affronts or misunderstandings.*

most difficult I had ever dealt with, yet once the joint session began, both managers did most of the talking. They were extremely cordial, attentive, and amicable, showing understanding for each other. Although the problems were not solved from one day to the next, a year later there had been much positive progress.

#### **Setting ground rules for improved communication**

Individuals attempt to cultivate an identity or projection of who they are. For instance, a person may see herself as an intellectual, another may see himself as an outdoors person, a cowboy, or an artist. Such identity labels are just a small part of a much deeper and complex set of traits that any individual would value.

An important part of mindful interpersonal communication is the mutual validation of such identities, through a process of identity negotiation. People tend to build bonds with those who seem supportive of the identity they attempt to project.<sup>7</sup> Such mutual validation is one of the keys to effective interpersonal relations. Lack of validation normally plays a vital role in interpersonal conflict, as well. Some of the most hurtful things another

individual can say to us, are an attack on our self image or valued identity.

People do not just project identities of who they are, but also the personal qualities of who they wish to become. When a person's weaknesses are exposed, he may reason that it is not worth trying to pretend anymore. Because those who are closest to us are more likely to have seen our weaknesses, we may first stop *pretending* with family, close friends, and people at work. This attitude also plays an important part in interpersonal conflict.

One of the important roles of a mediator is to help stakeholders who have crossed the line and stopped pretending, to cross back, and thus get a second chance at a relationship. If we have decided to thus change our behavior, it helps to clearly state our intentions ahead of time, so that our new and corrected behavior is not misunderstood.

Coaching and modeling effective interaction styles is an ongoing task for the mediator. The objective is for stakeholders to increase their understanding of effective interpersonal relations. Before conflicting parties meet, it helps to set ground rules that will help parties avoid hurtful comments, and even increase positive validating ones. Ground rules will help the conflict from escalating and save time once mediation is under way. It is not the role of the mediator to simply allow the contenders to exchange cynical remarks, insults, name calling, and threats in a psychologically safer environment. Nor should the mediator allow contenders to drag her into the controversy. Instead, the mediator may have to remind employees to direct their comments to (and keep visual contact with) the other person involved in the disagreement.

Overly vague or broad statements such as, "You are inconsiderate," or, "You are overbearing," do little to facilitate mutual understanding. Specific issues, or events, and what motivated each to act in certain ways, may be more useful. In the pre-caucus, ask the stakeholder using such sweeping

statements for examples of times when the other individual acted in inconsiderate, overbearing, untrustworthy or selfish ways. These behaviors can later be discussed in the joint session.

Name-calling can have a very negative effect. For instance, a Mexican dairy employee called another employee a *racist*. That is a pretty big word, with very strong connotations. The other stakeholder, a Portuguese milker, was very hurt by the use of such a word. The mediator stopped the conversation to make sure all were defining the word in the same way. “Are you saying that this milker treats you different because you are Mexican and he is Portuguese?” After the term was well explained and a few more questions asked, the Mexican milker ended up apologizing, and the Portuguese employee had the opportunity to tell a story that illustrated he was not racist. It is not the role of the mediator to reject such an accusation without allowing stakeholders to speak what is in their mind.

Beside name-calling, the use of other *labels* can increase contention. Calling someone by a label, even when the person identifies with such (e.g., a person’s nationality), can be offensive depending on the tone and context. A more subtle use of labeling, one that can have the same negative effect, is describing our own perspective as belonging to a desirable label (e.g., a particularly cherished philosophy, principle or belief), while assigning that of another to an undesirable one.

Stakeholders also look for ways to enlist even theoretical others into supporting their views. They may attempt to inflate the importance of their opinions with such statements as, “everyone else agrees with me when I say that ....” Or, attribute a *higher source of authority* to their words: “According to such and such (an author, or respected person)...” A stakeholder may wish to discount the opinion of others by speaking of their experience: “In my twenty years of experience ...” Once again, the tone and context of the conversation may make some of these statements appropriate in one

circumstance and not in another. People may resort to dysfunctional tactics when the force of their argument does not stand on its own merits.

Along with labeling, *threats*—both direct and veiled—can reduce a stakeholder’s negotiating power. When these intimidation tactics are bluffs, then the loss of negotiation power is further magnified.

The mediator may also coach employees into owning up to their feelings by using “I” statements.<sup>8</sup> “I feel upset when you change my radio station while I am milking,” is preferable to “You make me angry when ....”

Only one person should speak at a time, while the other makes every possible effort to understand what is being said. One defensive tactic is to change the topic. While sometimes two topics are so closely related that they cannot be separated, generally new topics can be placed on a “list of other matters” to be brought up later.

Workers involved in highly charged conflict situations frequently try to ridicule their contenders by distorting or exaggerating what has been said. I call this *distorted mirroring*. For instance, an employee may inaccurately mirror a comment, such as: “So you are telling me that you *never* want me to...,” or, “I get it, you think you are the *only* one who ...,” “You used to be [something positive] but now [negative statement],” “It seems that you are *always* ... these days.”

Participants may sometimes seek shelter from a true give-and-take with such statements as, “That’s just the way I am,”<sup>9</sup> or, “Can’t you take a joke?” While a mediator cannot force someone out of his shell, he may help participants understand the detracting effects these statements may have. The earlier the mediator disallows distortions or manipulative tactics, the sooner employees will realize that this is not a verbal battle.

A mediator may also need to coach employees on how to formulate questions and comments. Participants need to talk without putting each other on the defensive or coming across as accusatory. Especially when under the

*It is good to talk about the past. A discussion of past behaviors is essential to analyze patterns of conflict and help participants find constructive ways of handling future disagreements. Without understanding the past, it is hard to prepare for the future. At some point, however, the focus of discussion turns to that of future behaviors, rather than past injuries.*

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stress of a conflict, people will be quite sensitive to intended and non-intended statements of double meaning. A critical role for the mediator may be to ask for clarification or coach stakeholders in properly reflecting statements.

#### **Coaching participants during the joint session.**

The time has come to bring both stakeholders together into a joint session. A mechanical aspect to mediation that is extremely powerful is the *seating arrangement*. Have the two parties sit facing each other such that they are in a position to have good eye contact, yet making sure there is enough space between them so their personal space is not violated. This arrangement underscores the message that they are there *to talk to each other*. Because people who are in conflict often discount the other person, having to

exchange eye contact can be powerful medicine toward reconciliation. A table may be appropriate in some circumstances.

The mediator sits far enough away that stakeholders would have to turn their heads if they wished to make eye contact with him. It is not easy for the stakeholders to check if they have “scored a point,” or to enlist the mediator to their side. If the stakeholders make such an attempt, the mediator reminds them that the person they need to convince is the other party.

The seating arrangement described above is such a powerful tool, that I have seen people apologize to each other, be more considerate, call each other by name, and use many positive behaviors even when the complete mediation approach outlined in this chapter was not used. The seating arrangement is another basic mediation pillar.



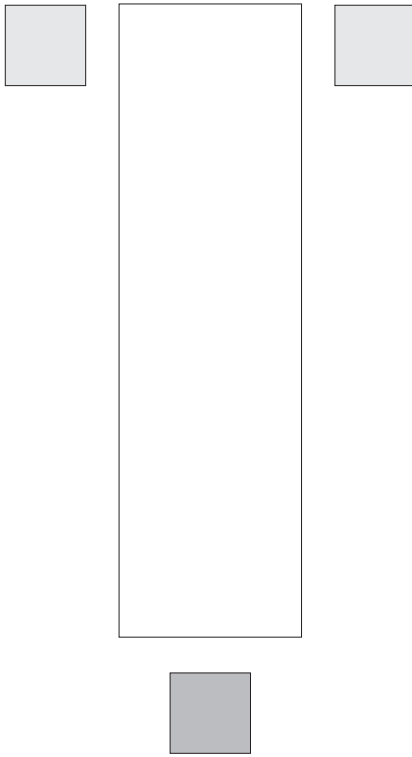


FIGURE 13-1  
Seating arrangement for mediation.

The mediator can also encourage participants to call each other by name. This can be a difficult thing at first. People who have been contending tend to discount the other person and instead refer to the person as “he,” “she,” “the boss,” or something other than the person’s name. Addressing someone by name acknowledges and validates the other person’s humanness.

Successfully dealing with any issue under contention (e.g., the offering and accepting of an apology, or having participants agree on how they will deal with a future challenge) can be very energizing and give the participants the confidence they need to face the next difficulty that comes up.

It is good to talk about the past. A discussion of past behaviors is *essential* to analyze patterns of conflict and help participants find constructive ways of handling future disagreements. Without understanding the past, it is hard to prepare for the future. At some point, however, the focus of discussion turns to that of *future behaviors, rather than past*

*injuries*. The sooner the participants can focus on the future, the greater the chances of successful resolution.<sup>10</sup>

One of the roles of the mediator is to encourage participants to be more specific in their agreements, to help question potential landmines, and to encourage stakeholders to recapitulate what seems to have been agreed upon. When dealing with more difficult challenges, part of the role of the mediator is to keep the parties from becoming discouraged by showing them how far they have progressed.

Stakeholders can be taught to utilize the concepts introduced earlier, in terms of participant *positions* versus *needs*. Recall the case of Beth and Carlos at the beginning of the chapter, where each of their stances appeared incompatible with that of the other (i.e., whether Carlos should yield to the prescribed overtime request).

Mediators help dissipate contentious feelings by teaching stakeholders how to find creative ways to achieve the sum<sup>11</sup> of the needs (theirs and the opposing ones). By going past an obvious stance and looking into needs, we may find that (1) Beth wanted the tomato harvester repairs completed before harvest—which is scheduled to begin early next week, while (2) Carlos wanted to be home to celebrate his daughter’s *quinceañera* (coming of age party) Friday evening.

Once the manager and mechanic understand each other’s needs, they can agree on a solution—perhaps the mechanic can work the overtime on Wednesday and Thursday. This case may seem simple and the solution obvious—except, perhaps, to Beth and Carlos before they explored each other’s needs. The approach works well for more complex issues, too.

Separating position from needs, in such a way that parties attempt to understand each others needs is yet another mediation pillar.

Mediators should not be in too big of a hurry to move participants from their position statement and explanation of their fears and needs, to problem resolution. It is vital to first truly understand the nature of the challenges

that seem to divide individuals. Allowing stakeholders to hold an initial position allows each to feel understood and to retain a sense of control and ownership over the process. A great tool is to have stakeholders explain, to the best of their ability, the position of the other.

Stakeholders tend to discount each other by refusing to even acknowledge that the other has a position. For instance, a cook was asked to recognize that the field foreman needed meals to arrive on time to the crews. Yet the cook could not focus away from the fact that there were meals being wasted each day.

“You see, it is his fault because ...”

“We are not talking about faults at this time, we just want you to state the perspective of the field foreman,” the mediator interrupted.

“Well, you see, he thinks that he can get away with ....”

The cook had to be stopped over a dozen times. It was difficult for him to even state (and thus validate) the other’s position. Once he stopped evading the process and gave the position of the field foreman, and the field foreman did the same for the cook, they quickly came to a solution that benefited everyone. A missing step here, one that may have helped smooth the transition between an internal focus and stating the other stakeholder’s position, would have been to first encourage the stakeholders to ask fact finding and non-judgmental questions of each other.<sup>12</sup> An agreement was made that the field foreman would radio the cook with an exact meal count for the day. Because the cook had an exact count, he had fewer meals to cook and thus could produce them faster. A structured way to clarify positions and needs for a two-person negotiation is outlined in Sidebar 13-1.

**SIDEBAR 13-1**

**Positions vs. Needs<sup>13</sup> in Conflict Management**

<b>Position A</b>	<b>Position B</b>
* Need A-1	* Need B-1
* Need A-2	* Need B-2
	* Need B-3

Participants divide a paper, chalkboard, or wipe board into four sections (as shown above).

Participants seek to understand and record each other’s *position* (i.e., stance).

Participants are free to restate, modify, or further clarify their position at any time.

Participants now seek to understand and record each other’s *needs*. Taking the time to ask effective questions of each other (see Chapter 12) is an important part of reaching such understanding.

Participants brainstorm ways of fulfilling all the needs (in some cases solutions may not be obvious at once and stakeholders may want to sleep on it). For brainstorming to be effective, possible solutions should not be evaluated at the time, and even outlandish and extreme possible solutions should be entertained. Only later, are these solutions examined for the positive and negative factors that they contribute.

Participants should resist solutions where they no longer have to interact with each other. To avoid each other takes little creativity and is seldom the best solution. Instead, participants need to seek creative, synergetic solutions.

Tentative co-authored agreements are evaluated and refined in light of potentially difficult obstacles that such solutions may yet need to endure.

Agreements—including a possible co-authored new position—are recorded.

Participants consent to evaluate results at pre-determined time periods.

Fine tune agreements as needed and work on other challenges together.



Stakeholders should not come to the table ready to expose or impose their solution. In negotiation it is critical for stakeholders to first focus on defining and understanding the nature of the challenge. It is often when stakeholders are not able to move past their positions or stances that negotiations break down. Also, stakeholders want to feel that they have some control over the decision-making process. This is hard to do when decisions are made by others before the problems are fully explored (Chapter 18).

Each stakeholder needs to be vigilant that a solution will meet the other person's needs, as well as their own. Stakeholders need to remember, that for the most part, the only good solutions are those that will work for all the individuals involved.

Furthermore, sometimes people will yield to another as a test. These individuals want to see if the other stakeholder has the minimum amount of

care for anyone other than himself. As a tactic, setting a trap to see if someone will get caught, is hardly a good idea, of course. The more emotion involved, the less likely that the other stakeholder will step back. Another manipulative approach is for a stakeholder to “give in” just to be able to hold it against the other later on.

Negotiation will not be satisfactory when a person is more intent in:

- punishing another rather than coming to an agreement or modifying future behavior
- winning rather than solving the challenge

Sometimes negotiation is attempted but people's basic needs are incompatible. This may be especially so when no distinction can be made between a person's need and her position.

When negotiation has failed—for whatever reasons—a clear need for resolving the dispute through arbitration

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*Each stakeholder needs to be vigilant in making sure that a solution will meet the other person's needs, as well as his own. It is a mistake, for instance, to be quick to accept the defeat from another individual who yields his wishes to ours.*

*The supervisor as an arbiter may listen to complaints but, at the end, will make a judgment that the employees are expected to follow. It helps for a supervisor to be slow in taking on the role of an arbiter.*

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may develop. Bush and Folger suggest, however, that if a door is left open for continued conversation, and if individual empowerment and mutual recognition have taken place, then mediation was not a failure. Much more of a failure, they argue, is for a mediator to be so focused on having stakeholders come to an agreement that the agreement is forced, reducing the chances that it will be long lasting.<sup>14</sup>

### **Equalizing power**

Participants may bring different amounts of power into a situation. As long as both are interested in negotiating a solution, power is essentially equalized. The effective mediator helps

parties listen and communicate with each other. She may also need to draw out an employee who is having difficulty expressing himself.

A stance from either party indicating a lack of interest in (1) talking about the problem, or (2) the other person's needs, would indicate unwillingness to be involved in the negotiation process. Mediators can suggest that the joint session take place in a location that is neutral and private—without telephone or any other sort of interruptions.

### **Helping participants plan for future interaction**

It is easier for employees to improve communication when aided by a competent mediator. Part of the responsibility of the mediator is to help employees anticipate some of the challenges they will face in the future. One difficulty is to take the time to listen and communicate. Principal among the needed skills, is for sensitive listening. It is difficult to always be on the alert for such sensitive listening and interaction as has been discussed throughout this and the last chapter.

It sometimes takes years for employees to get into a pattern of negative interaction. It is unlikely that one session will cure this no matter how outstanding the mediator or the participants involved. One or more follow-up sessions with the mediator may help participants refine skills and evaluate progress made.

## **ARBITRATION**

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The supervisor as an *arbiter* may listen to complaints but, at the end, will make a judgment that the employees are expected to follow. It may be clear from the outset that employees expect the supervisor to take the role of an arbiter. Or, it may become increasingly evident as mediation is taking place, that an arbiter will be needed. The supervisor needs to clearly communicate his role. If the role changes, workers need to understand that, too.

Because it is normally preferable for all parties involved to have a conflict



solved at the mediation rather than arbitration stage, it helps for a supervisor to be *slow in taking on the role of an arbiter*, especially when these two individuals will have to continue to work together. During the process of listening to the various perspectives, and before making a decision, an arbiter may wish to offer employees the opportunity to work out their own problem, or to work out difficulties through mediation.

At times, a *judge* and a *judgment* are needed. Supervisors who have to arbitrate should avoid trying to make both parties happy with the decision. Most of the time it is simply not possible. It may be an admirable goal for mediation, but not for arbitration. Instead, the arbitrator is required to be *impartial* (there is no room for favoritism) and *fair* (even if this seems one sided).

The well-loved story of wise Solomon of old is an early example of arbitration: Two harlots had given birth. Some time after that, one of the women, while she was sleeping, rolled over her child and suffocated him. When she woke up that night and found the dead infant, she traded him for that of the other. When the second woman woke up, she found the dead child by her. But when morning came, she could clearly behold that this was not her child. Each woman claimed to be the true mother of the baby that was still alive, and took their conflict before King Solomon. The king simply asked for a sword, and then ordered: "Divide the living child in two, and give half to the one, and half to the other." While the false mother thought this was a fine idea, the true mother asked the king to save the child—even if this meant giving the infant to the other woman. Solomon thus determined who the real mother was, and returned the child to her.<sup>15</sup> Unfortunately, Solomon's pretended initial solution to the contending mothers (to divide the baby in half) is often carried out by supervisors in their modern day arbitrator role. In their effort to try and please both workers, they create a compromise that is often unfair, and frequently unworkable.

It takes little skill, and even less strength of character, to arbitrate in this manner. Instead, a supervisor who arbitrates with fairness is more apt to be respected by employees in the long run. After difficulties are worked out, employees often find that their relationships have been strengthened.

## SUMMARY

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Wherever there are choices to be made, differences may provide challenges or opportunities. One difficulty is the possibility that differences will result in increased contention. Supervisors may have to act as mediators and arbitrators from time to time. The advantage of mediation is maintaining responsibility for problem solving and conflict resolution at the level of those who own the challenge. Selecting an outside mediator often makes sense.

Several roles taken on by the mediator include understanding each participant's perspective; setting ground rules for improved communication; coaching participants on effective interaction styles; equalizing power; and helping participants plan for future interaction.

When the supervisor acts in the role of an arbitrator, it is more important to make a fair judgment than to try to please all workers involved.

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  12. Bodine, N. (2001, July). Founder and member of Board of Directors of *The Workplace Institute* (now *Center for Collaborative Solutions*) personal communication.
  13. No distinction is intended between the concept of *need* and that of *interest*. In chapter 18, where we further discuss some of these issues, the terms are used interchangeably.
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