

Lesson 2.9

Mediating Conflict



Rationale

Mediation has been used as an effective method of alternative dispute resolution in many contexts, ranging from neighbor disputes to conflicts between nations. Mediation training provides students with the skills and processes to help others take responsibility for resolving their conflicts. In this lesson, students will learn about the mediator's role as a third party and begin practicing skills to assist parties to negotiate solutions to their conflict.

Objectives

1. To understand the role of a mediator in resolving disputes.
2. To identify the basic skills and processes used by effective mediators.
3. To develop basic mediation skills and implement processes.

Standards

- ◆ Individual Development and Identity
- ◆ Power, Authority, and Governance

Time: 120 minutes

Materials

- The Mediation Process* Handout
- Mediator's Instructions* Handout
- Role Preparation for Disputants* Worksheet
- Mediating Conflict Roles* Handout
- Large index cards
- Markers
- Chart paper or white board



30 minutes

Part 1

Procedures

Introduction (15 minutes)

1. Hand out a large index card to each student. On one side of the card, have students write “strategies,” on the other side, have them write, “skills.”
2. Ask students to think about a situation in their lives when two people or groups were having a disagreement, and they tried to help solve it. For example, perhaps they tried to resolve an argument between friends on what movie to watch, between siblings about who would get to ride in the front seat of the car, or young children crying over sharing a toy. If they can’t think of a time when they did this, they can recall a time when someone else tried to resolve a disagreement. Have them recall:
 - ◆ What did you do to help resolve the conflict?
 - ◆ What was the result?
3. Under strategies, instruct students to write particular actions they took to help resolve the conflict. For example, did they ask each side questions about what they wanted? Did they try to come up with a solution for them? Did they help them brainstorm possible options to resolve the disagreement?
4. Under skills, ask what skills they utilized to help solve the conflict. Remind them of the previous skills they practiced in prior lessons as options: non-verbal communication, active listening, problem solving, and negotiation.
5. Create two columns on the board with strategies on one side and skills on the other, divided by a vertical line, and ask students to share their answers. Record the strategies and skills on the board.
6. Tell students that in this lesson, they will explore what it takes to be an effective mediator, and that many of the strategies and skills they have identified apply not only at the interpersonal level but also in managing conflict at the national and international levels.

What Is Mediation? (15 minutes)

1. Ask students what they think the definition of mediation is. List answers on the board. Write the following definition on the board (from USIP’s Peace Terms) and have a student read it aloud.

Mediation is a mode of negotiation in which a mutually acceptable third party helps the parties to a conflict find a solution that they cannot find by themselves.
2. Ask if anyone has any questions about the definition. Clarify elements of the definition. For example, third party refers to someone who is not a party to the conflict, or is outside of the conflict.
3. Note that mediators try to be impartial but being impartial does not mean you do not have an opinion. Everyone has an opinion. The mediator, however, is not supposed to share their opinion or impose judgment on the situation, in order to allow equal access to the mediation process, and to ensure that the parties come to an agreement that is their own. Most mediations are voluntary, meaning everyone, including the mediator, can leave the process at any time. In interpersonal settings, mediation is confidential but in international settings this is not always the case. A mediator may choose to use the media to put pressure on the parties in conflict.
4. Lead a discussion using some or all of the following questions:

- ◆ How is mediation different from negotiation? (Emphasize that negotiation involves two or more parties in direct conversation with each other to come to an agreement, whereas mediation is led by a third party, helping the disputants understand the conflict issues and negotiate solutions to their conflict).
- ◆ Review the list of skills and strategies from the beginning of the lesson. Are there any strategies that might not be appropriate for the role of the mediator? Why not? For example, solving the problem for the two sides, instead of letting them come to their own conclusions. Draw a line through those strategies that are inappropriate for mediation.
- ◆ Are there any skills or strategies you would like to add to the list? For example, under skills: maintaining impartiality, facilitating dialogue. Share that students will learn more strategies as they review the basic mediation process later in the lesson.
- ◆ When would mediation be an appropriate and effective way to resolve conflicts between people?

Part 2



90 minutes

Mediation Process and Skills (40 minutes)

1. Share with the class, “Now that we’ve had a chance to understand the definition and appropriate use of mediation to resolve conflicts, we’re going to review the steps involved with leading parties through the mediation process.” Distribute *The Mediation Process* Handout. Depending on the level of your group, you may choose to edit or simplify the handout.
2. Review each of the steps of mediation with the class. Make particular note for steps 2 and 3: One of the most important skills of a mediator is the ability to make the parties feel heard and understood by reflecting back the feelings they express, as well as reframing the conversation from their position statements to their interests.
3. Remind them that positions are what the parties say they want or do not want. Positions may be factual but stated with strong emotion. It can be helpful to distill the facts from the emotions. It is also important for the mediator to check the facts. For example, “I can’t stand it when he plays loud music. I want him to move out,” or “She’s a liar. I don’t want to talk to her anymore.” Interests are underlying and can often be understood by asking *why*. In the first situation, the interest could be that he/she wants to study in quiet. In the second situation, the interest could be a need for trust.

Note: There are different types of interests: substantive, e.g., land; procedural, e.g., justice or process for repatriation; relationship, e.g., trust; and emotional, e.g., acknowledgement of grievances. Students do not need to identify the types of interests, but it can be useful for the instructor to identify the type in helping students tease out the interests.

Role-Plays (50 minutes)

1. Divide the class into groups of three or four. Instruct each group to identify a mediator (or two co-mediators if it is a group of four), and two parties to the conflict. If moveable seating is available, instruct them to set up three chairs in the shape of a triangle, the two parties in conflict sitting side by side facing the mediator. Distribute roles to each group from the *Mediating Conflict Roles* Handout. There is no separate scenario background for students to read, as each role establishes the conflict.
2. Have students meet in like role groups (all mediators together, all Parties 1 together, and all Parties 2 together) and spend 10 minutes preparing for the mediation. Distribute the *Mediator’s Instructions* Worksheet to the mediators. They should use this during the mediation. They can use the *Mediation Process* Handout to prepare for the mediation. Distribute the *Role Preparation for Disputants* Worksheet to Parties 1 and 2 to complete in their role groups.

Extension Activity 1

Show the USIP witness video of George Mitchell at www.buildingpeace.org. From Mitchell's comments, have students identify the elements of the mediation process that he used, as well as the skills he used.

3. Have students return to their mediation triads/quads and give them 20 minutes for the mediation.
4. After the groups have acted out the role-play, have students share responses to the following questions in their groups. You can write the discussion points on the board as a guide.
 - a. Mediator: What do you believe you did well in the mediation? Do you have any questions for the parties? What did you find the most challenging or difficult? What would you do differently next time?
 - b. Parties: Share with the mediator what he/she did that worked well. Be specific by referring to behaviors, words, body language. How did the mediator manage the process? What would you have done or tried differently? What do you think might have been more effective?
5. Lead a group discussion:
 - ◆ What was the final result of your mediation? Did you have a chance to come up with any solutions? If not, what do you think they could have been?
 - ◆ What were some positions, interests, and topics that you identified?
 - ◆ What was easy about being a mediator?
 - ◆ What was challenging about being a mediator?
 - ◆ For the parties to the conflict, what was it like having someone mediate your dispute?
 - ◆ What skills do you think you already have that are useful as a mediator? What skills do you feel you need to work on?
 - ◆ How can developing mediation skills help you in being everyday peacebuilders?
 - ◆ How might the mediation be more challenging if the conflict were international and involved warring parties? What obstacles might the mediator have to overcome?

Assessment:

Completed worksheets and participation in small group work and large group conversation

Lesson 2.9 HANDOUT: THE MEDIATION PROCESS

Below is the basic five-step process for a formal mediation process, though elements of these steps could be used to informally mediate disputes.

Orientation

The mediator explains the mediation process and establishes trust and mutual understanding with the parties.

- ◆ Explain the 5 steps of the mediation process to the parties.
- ◆ Establish ground rules (for example, no yelling, cursing, or physical contact, one person talks at a time).
- ◆ Begin the dialogue session.

“I’m going to take a moment to explain the mediation process and my role in it to make sure everyone understands the process.”

1. *I am impartial in this process. My job is to listen, ask questions, and clarify what is important. In this case, I won’t give advice, decide who’s right or wrong, or take sides. As a mediator in this process, I maintain confidentiality, except in cases of abuse or threats of violence. This mediation is voluntary. We are all here of our free will and can end the process at any time.*
2. *I will explain the process (what I’m doing now).*
3. *You will both tell me about the conflict and I will ask questions for clarification.*
4. *We will define success by developing some criteria against which we can evaluate possible solutions.*
5. *You will all look for creative solutions.*
6. *You will evaluate the various solutions to see which meet the criteria we have defined.*
7. *When you find areas of agreement, we can write them down and everyone can sign it if you like and get a copy.*

1. Exploring Interests (storytelling):

The mediator invites each party to take turns talking about the conflict in their own words (telling their story), asks questions for clarification, and paraphrases the feelings and issues the parties express to ensure understanding. The purpose here is to identify interests so parties feel heard.

“At this point, I will ask you both to speak about issues that brought you to mediation. Then I will check to make sure I understand what everyone has said. I will then ask questions to get a better understanding of what you want to discuss in mediation. Who would like to begin?”

2. Defining Success (moving from negative statements to positive statements of interests)

The mediator should recognize the positions, acknowledge the emotions/grievances, and then reframe the interest. He/she reframes the parties’ statements, going from accusations or concerns to statements of interests. These interests can be used as criteria to evaluate different options. In this process, the role of the mediator is to find criteria that will lead to a compromise.

Example 1

Party: Would you want to play next to this garbage dump?

Mediator: It sounds like you are worried about your safety.

Criteria: Any solution to this problem must provide for your safety.

Example 2

Party 1 to Party 2: This is a waste of my time. You decided what you were going to do before you even got here.

Mediator: It sounds like you want to make sure that when we ask for your input and you give it, you can actually influence the outcome.

Criteria: The process to negotiate a solution must include all voices. The agreement must reflect input from all parties.

3. Developing Options (brainstorming)

Once issues have been identified and criteria for success have been established (in Example 1, any solution to this problem must provide for your safety), the mediator can help the parties brainstorm as many options as possible, encouraging creativity.

“Now we are moving into the problem solving phase. While earlier you may have been focusing on the past, during the rest of the mediation we will focus on finding solutions for the future. Starting with the _____ issue, what are some things you could do to resolve this conflict? Be creative, and think about things that you personally can do. I will write them all down. Please don’t critique or eliminate others’ ideas as you hear them. You will have a chance to evaluate them to search for agreement later.”

- ◆ Brainstorm and list possible solutions. Write them as an action possibility, using verbs and names. For example: Personal conflict: Samuel will start a part-time job. Intrastate conflict: The North and South will share power in the government.
- ◆ Encourage parties to reflect on solutions that will improve and define their future relationship. *“You’ve both mentioned needing _____. What can you do together to achieve that?”* Once all the possible solutions are written down, one topic at a time, ask parties to identify which of the solutions they can both agree to and circle it on the list.

4. Evaluating and Selecting Options

The mediator then seeks areas of common interest and helps parties negotiate which solutions they would be willing to accept. For example, for the topic of curfew: *Josh will return home by 10 pm on weekdays. Mom will lend Josh the car on weekends to drive home in the evenings.*

5. Agreement Testing and Writing

Once parties have identified areas of agreement, in this next phase, before writing a formal agreement for them to sign, the mediator makes sure the agreement areas are specific and realistic, and satisfy some of the interests of all parties. It is important to remember, however, that most sustainable agreements will require compromise on all sides.

“At this point, we’ll take the items you’ve agreed to and put them in writing for you to sign if you want.”

Lesson 2.9 HANDOUT: MEDIATOR'S INSTRUCTIONS

Mediator:

Conflict: You will be mediating a conflict between two roommates. Party A, Rachel/Richard, and Party B, Natalie/Nathan are roommates who are not getting along. Both want to find a new apartment or a new roommate but this is not possible, as there is no other space available on campus.

Directions: Start off the mediation with the following introduction. Then, listen to each party's perspective using active listening skills to identify their feelings, values, and topics to be resolved in the mediation, and make sure each party feels heard and understood.

"I'm going to take a moment to explain the mediation process and my role in it to make sure everyone understands the process."

1. *I am impartial in this process. My job is to listen, ask questions, and clarify what is important. In this case, I won't give advice, decide who's right or wrong, or take sides. As a mediator in this process, I maintain confidentiality, except in cases of abuse or threats of violence. This mediation is voluntary. We are all here of our free will and can end the process at any time.*
2. *I will explain the process (what I'm doing now).*
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7. *When you find areas of agreement, we can write them down and everyone can sign it if you like and get a copy.*

"At this point, I will ask you both to speak about issues that brought you to mediation. Then I will check to make sure I understand what everyone has said. I will then ask questions to get a better understanding of what you want to discuss in mediation. Who would like to begin?"

Allow each party to share their perspective without interruption. Then, using the reflective listening chart, seek understanding of their views by paraphrasing what they each said, and asking questions to clarify their feelings and determine the interests which will help you identify the issues to be resolved.

Lesson 2.9 WORKSHEET: ROLE PREPARATION FOR DISPUTANTS

Directions: To prepare for your mediation, answer the questions below.

What is your objective in the mediation? What do you hope will happen?

What are the key issues for you?

What is your position? What are your interests?

What are you willing to compromise on? What are you definitely not willing to compromise on?

What strategy or conflict style will you use as you approach the mediation?

Lesson 2.9 HANDOUT: MEDIATING CONFLICT ROLES

Party 1: Rachel/Richard

You are an exchange student living in Germany. Your roommate is also an exchange student. The two of you live in a two-bedroom student apartment with a small living room, bathroom, and kitchen. You are very unhappy in the current situation. You have a hard time studying because your roommate plays music very loud, late at night. You have asked her/him to stop, but she/he doesn't seem to listen to your requests. She/he also likes to have friends over but you want your privacy. You want to find a new apartment but the university says there is nowhere for you to go. The university has suggested that you go to the counseling office and have a student mediator help you solve your problems. You hesitantly agree. You want her/him to stop playing loud music and respect your privacy.

Party 2: Natalie/Nathan

You are an exchange student living in Germany. Your roommate is also an exchange student. The two of you live in a two-bedroom student apartment with a small living room, bathroom, and kitchen. You are very unhappy in the current situation. Your roommate is very messy and leaves her/his things everywhere. The kitchen is such a mess after she/he finishes eating that you have started to see bugs everywhere. She/he also likes to have the television on all the time so she/he can hear German but this drives you crazy, especially since you like to play music. You want to find a new apartment but the university says there is nowhere for you to go. The university has suggested that you go to the counseling office and have a student mediator help you solve your problems. You hesitantly agree. You want your roommate to pay more attention to the fact that she/he lives with someone else and has to care for the shared space more.

Party 3: Boris, the mediator

You are a third year student at your university in Germany. You have been a student mediator in the counseling office for two years and you enjoy helping people resolve their problems. You like helping them figure out the underlying interests and you like looking for creative solutions when people seem blocked. You think every conflict can have a happy ending.

You have been asked to mediate a conflict between two roommates who are new to the university and want to stop living together after only two months.