



2016 REVISED EDITION

PEER

MEDIATION STUDENT GUIDE

Let's Talk it Out

BILL DE BLASIO, Mayor

CARMELYN P. MALALIS, Commissioner/Chair

NYC[™]

COMMISSION ON
HUMAN RIGHTS

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For information about the Peer Mediation Training Program sponsored by the NYC Commission on Human Rights, call 311. This program is provided at no charge to program participants

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INTRODUCTION

On behalf of the NYC Commission on Human Rights, I am happy to welcome you to our Peer Mediation Program, also called “Peer” for short. Peer is an integral cornerstone of the programming the Commission provides to youth and students across the City. We are proud to train you and other students to become peer mediators, as you are some of the Commission’s most important ambassadors for human rights.

The Commission was created to foster mutual understanding and respect among all people in New York City. In furtherance of this goal, the Commission enforces the NYC Human Rights Law (HRL) – the City’s broad anti-discrimination and anti-harassment law – and educates City residents about its protections. Fairness, respect, and human dignity are essential parts of the justice the Commission fights for every day on behalf of and alongside New Yorkers. During your training sessions, you will learn about the HRL, discuss the value of individual and cultural diversity, and explore strategies for addressing conflicts and treating others with respect. When those qualities are not present in our relationships with others, inequality, inequity, injustice, resentment, conflict, and violence may follow. Mediation can help parties in a dispute better understand each other’s position and feelings, and help them work towards a fair outcome for each other. Commission staff use mediation techniques to help resolve issues in employment, housing, and other aspects of life. Who better to understand these conflicts and possible resolutions in schools than you, a trained fellow student?

As a mediator, you can help your classmates work through their conflicts and encourage a more supportive, safe, and inclusive school. You can serve as a model through your actions and attitude; show other students how fairness and mutual respect can lead to better solutions than violence or intimidation. You will also likely find that along the way you have developed some skills that will help you at home with your family and friends, on the job, in your community – and indeed, throughout your life.

**Carmelyn P. Malalis, Commissioner and Chair
NYC Commission on Human Rights**



NYC COMMISSION ON HUMAN RIGHTS

AN OVERVIEW

Over the past 60 years, the New York City Commission on Human Rights has had different names and gone through many expansions of its authority – largely influenced by our country’s civil rights movement. However, what has never changed is the Commission’s dedication to its purpose: to make our City a place where all people “may work and live side by side in harmony and have mutual respect for each other, and where democracy is a living reality.”

Through its Law Enforcement and Community Relations Bureaus, the Commission works to ensure the protections of the City’s Human Rights Law. The New York City Human Rights Law is one of the most comprehensive civil rights laws in the nation. The HRL prohibits discrimination in employment, housing, and public accommodations based on race, color, religion/creed, age, national origin, alienage or citizenship status, pregnancy, gender (including sexual harassment, gender identity and expression), sexual orientation, disability, marital status, or partnership status. In addition, the HRL affords protection against discrimination in employment based on caregiver status, criminal history, credit history, unemployment status, and status as a victim of domestic violence, stalking, and sex offenses. In housing, the HRL affords additional protections based on lawful occupation, family status, lawful source of income, and status as a victim of domestic violence, stalking and sex offenses. The City Human Rights Law also prohibits discriminatory harassment (i.e. the use of force or threat of force against another individual based on their protected status), retaliation, and bias-related profiling by law enforcement.

The Commission has not always had such wide-reaching and strong powers. When Mayor Fiorello H. LaGuardia initially created the “Mayor’s Committee on Unity” in early 1944, following devastating riots in Harlem in 1943, the Committee had no law enforcement powers at all. The twenty to thirty members of the Committee depended upon persuasion to resolve conflicts. They were successful in promoting fair employment and education practices, reconciling the community in the wake of anti-Semitic conflicts in Coney Island, resolving pickets of white merchants by Harlem consumer groups, and diffusing two riots in NYC high schools. They even helped break the color barrier in baseball, advancing the way for Jackie Robinson to join the Brooklyn Dodgers in 1947 and become the first African-American to play major league baseball.

However, by 1955, it was clear that, without the power to enforce the law, the Committee could not properly tackle the deep and complex problems of discrimination and bias in the City. Mayor Robert Wagner called for the Committee’s restructure into the “Commission on Intergroup Relations.” By act of the City Council (Local Law 55) and signature of the Mayor, the City designated the Commission as an official city agency to encourage “mutual understanding and respect among all groups in the City” and “eliminate prejudice, intolerance, bigotry, discrimination and disorder,” guaranteeing equal rights for all as provided by the US



THE COMMISSION WORKS TO ENSURE THE PROTECTIONS OF THE CITY'S HUMAN RIGHTS LAW.

Constitution and New York City law. The Commission received various powers and duties, including the power to receive and investigate complaints, initiate its own investigations, and hold public hearings. In 1958, the Commission received the power to enforce the first Fair Housing law in the country to protect against discrimination in private housing (Local Law 80, the Fair Housing Practices Law).

In 1962, the Commission on Intergroup Relations was renamed the “Commission on Human Rights.” Shortly thereafter, in 1965, the members of the City Council joined and amended the City’s Local Laws 55 and 80 to form the basis of what we now refer to as the New York City Human Rights Law. Mayor Wagner signed the ‘new’ Human Rights Law in 1965. This Law gave even broader powers of investigation and enforcement to the Commission and extended its jurisdiction to include employment and public accommodations – places where services are provided to the public (e.g. movie theaters, doctors offices, restaurants, stores). At that time, the protected classes only included race, sex, age, and national origin. The Commission now has a much larger number of protected classes and can now enforce the Law more aggressively by imposing fines, awarding monetary damages to victims of discrimination, and enforcing orders to stop discriminatory practices.

From the 1970s to the present, the Human Rights Law has continued to expand through many new amendments introduced and passed by the City Council and signed into Law by the Mayor, such as protection from bias-related harassment and discrimination based on disability, sexual orientation, gender identity and expression, family status, marital status, and employment protections for those with an arrest or conviction record. The Commission’s Law Enforcement and Community Relations Bureaus have also improved their procedures and organization to keep step with the Law. And, in November 2001, the people of New York City voted to make the Commission a Charter agency – and it is now part of our official City Charter.

To find out more about the Commission and its work, visit our website at:
www.NYC.gov/HumanRights

PROTECTIONS UNDER THE LAW

The Human Rights Law protects people in three distinct areas: employment, housing, and public accommodations. Public accommodations are places that deliver services to the public, such as restaurants, doctors' offices, stores, and theaters.

- Age
- Alienage or citizenship status
- Color
- Disability
- Gender
- Gender identity or expression
- Marital status
- National origin
- Partnership status
- Pregnancy
- Race
- Religion or Creed
- Sexual orientation

In addition, the law provides protection against discrimination in **EMPLOYMENT** based on:

- Arrest or conviction
- Role as caregiver
- Credit history
- Unemployment status
- Survivor of domestic violence, sexual violence, stalking

In **HOUSING**, the law provides additional protections based on:

- Source of income
- Lawful occupation
- Presence of children
- Survivor of domestic violence, sexual violence, stalking

The NYC Human Rights Law also prohibits:

- Bias-related harassment
- Bias-based profiling by law enforcement, and
- Discrimination against interns

In all areas for all classes of protected people, the law protects you against retaliation if you file a complaint or you are a witness to someone else's complaint.

MEDIATION: A BRIEF HISTORY

Although conflict resolution is as old as human beings and is practiced worldwide, the formal practice of peer mediation in the US began during the social and political movements of the 1960s. Peer mediation developed as a response to the Vietnam War and the harsh realities of the Cold War when the proliferation of nuclear weapons posed an increased threat to the world. The ability to handle conflicts in a peaceful fashion became a matter of life and death.

A community's interest in solving their own problems also led to a growth of conflict resolution and mediation. Mediation taught individuals that when they improved their interpersonal relationships, they built stronger, more helpful communities and more rewarding lives.

In the 1970s, President Jimmy Carter suggested forming Neighborhood Justice Centers, also known as community mediation programs.¹ He imagined these Centers as places where citizens could meet to resolve their disputes, and in the case of minor or quality of life offenses, they provided an alternative to an overburdened court system that was not designed to build community. Since these Justice Centers were very local and focused, they quickly exposed group tensions or individuals whose actions threatened the peace of the community. When punishment was administered, the community service time or fines went right back into the area where the violation had occurred - a type of 'restorative justice.' The community mediation concept produced successful, effective, and lasting agreements. Additionally, community mediators found their work to be extremely fulfilling. The programs grew so quickly that by the end of the 1980s, 1,500 volunteers were active in community dispute resolution throughout New York State alone.²

The success of these community mediation programs inspired mediators to bring their programs into schools and train students as neutral third parties to mediate their peers' disputes. Since many educators and students were unhappy with current methods of dealing with school violence - ranging from metal detectors to detention and expulsion - peer mediation served as a positive addition in the schools that adopted it. Violence could be prevented while those that participated gained self-confidence, pride, and a sense of responsibility to one another.

1 Guanci, John A. "Peer Mediation: A Winning Solution to Conflict Resolution," Education Digest, 2002

2 Tyrrell, Jerry. Peer Mediation: A Process for Primary Schools. (London: Souvenir) 2002.

WHAT DOES PEER MEDIATION OFFER?

The following are some reasons why peer mediation is such a positive activity for students and their schools.

HELPING STUDENTS:

- Develop relationship skills and communication skills in school and other areas of their lives;
- Cultivate a positive place for leadership training;
- Design their own solutions to conflicts to give them a better chance of working;
- Learn how to express their concerns and interests in a constructive and peaceful manner.

HELPING SCHOOLS:

- Recognize that students understand the conflicts of their peers better than adult mediators;
- Offer a time and space where disputes, often long-standing, can be resolved without using valuable class time;
- Reduce hurtful behavior and violence;
- Create more time for learning.



BEING A MEDIATOR

MEDIATOR CODE OF HONOR

Your goal as a mediator is to understand the nature of conflict and guide your schoolmates toward a solution that each can agree to and live with. Since many issues that come up in mediation are important, sensitive, and personal, you must be an interested, non-judgmental, and thoughtful listener.

Below is a code of honor that a mediator should uphold.³

Confidentiality

What happens in the mediation room should stay in the mediation room and not be discussed with others. As you know, gossiping is one of the main reasons people need mediation.

Impartiality

Listen to both sides of the story to get the facts. Try to keep your own opinions or biases out of the mediation.

Non-Judgmental

A mediator is not a judge. You do not decide who is right or wrong. Your language or actions should not appear judgmental regarding the nature of the conflict or the individuals involved.

Competence Impartiality

Only mediate when you feel you have the necessary qualifications to fulfill the two schoolmates' expectations.

Self-Determination

Mediation should never result in an imposed resolution or agreement. It won't stick. You may guide, but the disputants must choose the resolution that they feel will work for them.

Conflicts of Interest

If you discover something that would interfere with your mediating, you should tell the disputants and excuse yourself from the mediation. Examples of things that could affect your ability to mediate would be: a friendship with or dislike of one of the disputants, or prior knowledge of the case.

To the right are some characteristics of a good mediator.⁴

A MEDIATOR IS A

- good listener
- good team member
- non-judgmental person
- fair person
- helper
- dependable person
- leader
- person you can trust

A MEDIATOR IS NOT A

- disciplinarian
- person who interrupts
- judge
- person who gives orders
- person who gossips about mediations
- follower
- person who gives advice

³ Regan, Bridget, Esq. Mediation: A Basic Training Manual.

⁴ Johnson, Judith M. and Priscilla Prutzman. CCRC'S Friendly Classroom Mediation Manual: School Mediation From Planning to Practice. (NYACK: CRC, Inc., 1998)

UNDERSTANDING CONFLICT

Conflict is a natural part of life. So why is the first, and often only, response to conflict so negative? Conflict is neither negative nor positive – it just is. Conflict reflects a tension between differences. Those differences can be values, goals, or beliefs – and they can be real or perceived. And differences can be just that – different – not right or wrong. Your reaction to conflict can determine its outcome.

As a mediator, you need to understand conflict – what causes it and how people respond to it. And, as you develop a better awareness and understanding of the choices available to handle conflict, the more you will be able to help others resolve their conflicts.

ORIGINS

Conflict comes from many sources, and often several factors combine to set off a conflict. However, you can usually trace conflict to some very basic causes:

Limited Resources (scarcity – not enough to go around – thinking that everything someone else has subtracts from what you could have and there won't be enough);

Unmet Needs (powerlessness– victim – what others have done to you – insecurity about talents, capabilities, and value as a person measured by attention from others); and

Different Values (others are not like you – difficulty getting outside yourself– lack of empathy for positions or beliefs of others – self righteous 'I'm right' or 'my way is best' – threatened by difference).

Additional reasons for conflict between students are the ideas or values of identity, security, control, recognition, and fairness.⁵

Identity is a set of characteristics expressing your personality and individuality. It can also distinguish you as a member of a certain group. When people fight over who is someone's best friend, they are fighting over a need for identity. Each one is seeking a label to express who they believe they are.

Security is physical safety, freedom from fear and doubt, and a feeling of confidence. The people fighting in the above scenario may not want their respective positions as “best friend” to be threatened.

Control can mean power or authority. The need or desire for control is a more difficult source of conflict to handle than the need for security or identity. For the people described above, they could feel that the position of “best friend” makes them feel powerful and important.

Recognition or acknowledgement often underlies conflict. The students probably want to be recognized for their contributions or talents.

⁵ Jasmine, Julia and Ruth Young, Conflict Resolution, Grades 5-8.
(New York: Teacher Created Resources) 2004

Fairness Conflicts can be difficult to resolve because it's difficult to negotiate conflicting values. When a student demands the return of a stolen property, he or she is often motivated by a need for fairness more than a desire for the property.

Since many factors often spark conflict, it can be hard to isolate the exact problem and discover the relevant issues and facts. Take a little time to sort things out and avoid jumping to conclusions because you may miss the real issues. If a disputant says, "My problem is that I need to get out of this class," the student has really proposed a solution to the problem – not described the actual problem. The actual problem may be a fear of failure (need for control) or a dislike of someone in the class (need for security).

RESPONSES

More than simply "fight or flight," people respond to conflict in various ways:

- Avoidance, "Not now, maybe later."
- Withdrawal, "Not now, not ever."
- Competition, "I'm right, you're wrong."
- Confrontation, "What's your problem?"
- Communication, "Talk to me. What's happening?"
- Collaboration, "We can work it out."
- Problem Solving, "What are we fighting about?"
- Compromise, "Let's make a deal."

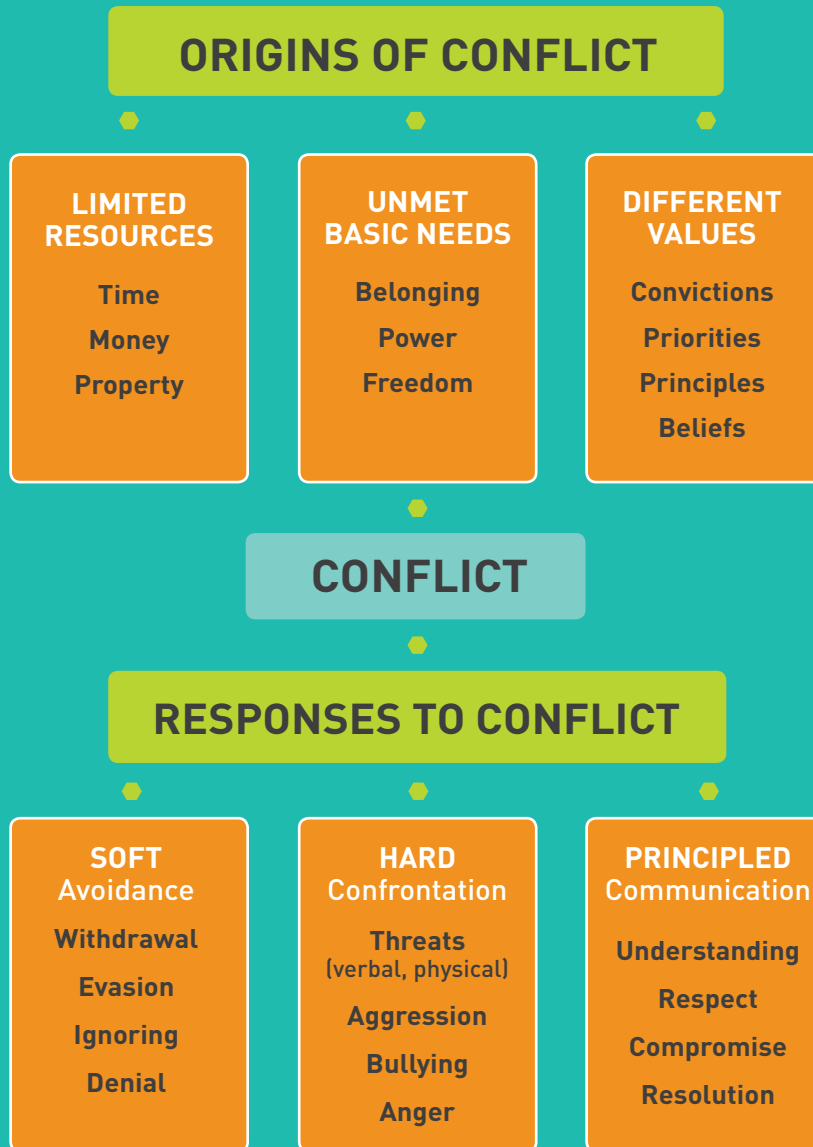
OUTCOMES⁶

When you think about conflict, you probably think about its negative consequences – fighting, yelling, tension and hurt feelings. But conflict is neutral, and it can have positive consequences too:

- new information;
- better communication;
- desirable changes;
- cooperation instead of competition;
- new alternatives through creative problem solving;
- opportunities for personal growth, empathy, and insight;
- chances for lasting and stronger relationships.

⁶ Regan adapting Katz & Associates.

Origins and Responses to Conflict⁷





BIAS AND VALUES

As a mediator, your biases may prevent you from handling the mediation in an impartial manner. Check yourself to be aware of your own biases. You can define BIAS in several ways.

Bent: a strong interest.

Inc inclination: a particular disposition of mind or character; propensity liking.

Assumption: a fact, statement, or belief taken for granted.

Slant: an individual or personal point of view, attitude, or opinion.

Different perceptions, assumptions, and values are probably underneath the problem or conflict between the disputants. And, just like the disputants, you too have your own perceptions, assumptions, and values. So, while you think about how the disputants' biases affect each other and the conflict that brought them to mediation, you should also consider how your biases about them or their conflict may affect the way you interact with them. These differences can involve many things like culture, gender, language, sexual orientation, custom, race, or religion.

With an understanding of the other's perceptions, assumptions, and values, all parties can develop a tolerance for those differences and treat each other with respect/tolerance for those differences and treat each other with respect.

VALUES

Values are qualities important to you that come from your belief system, such as honesty, fairness, winning, or being considerate of others. Groups or individuals you identify with often shape your values, your family, classmates, teammates, or neighbors. This identification can influence your behavior — how you dress, whom you sit with at lunch, or the clique you hang out with — and much more. Your values can also drive your decisions and shape your attitudes. And, since not everyone shares the same values, they can also create boundaries or intolerance between other people. These boundaries can be overcome with clear communication and respect for others.

MEDIATORS MUST NOT IMPOSE THEIR VALUES ON THE DISPUTANTS.

CULTURAL SENSITIVITY

A person's cultural background can be a powerful presence in the mediation room. Cultural differences can stop the mediation and lead to misunderstanding. The disputants should realize that their respective cultures influence the way each one deals with everyday situations and views the world. The disputants' cultural differences could have created the conflict to begin with.

As a mediator, you need to focus on whether those cultural differences are playing a part in the dispute and, if so, how to address them properly. Here are a couple of the basic ones you may notice during the mediation.

PERSONAL SPACE

Different cultures relate differently to their personal space. Some individuals may stand closer to each other during conversations. The rules for setting up the room for mediation should remove this issue, but you should notice if one disputant seems to be moving into another's personal space. The other disputant could get uncomfortable and misunderstand this as a sign of aggression or hostility.

NON-VERBAL COMMUNICATION

Other than the words you use to get your thoughts and feelings across to another person, you also use non-verbal behaviors like facial expressions, posture, characteristic movements, gestures, and eye contact. How you dress also can be a form of non-verbal communication by making a 'statement' about you.

People who are more reserved may hide their emotions with a "poker face" and feel uncomfortable with physical contact and expressiveness. A mediator should pay attention to these individual or cultural differences, and the mediator's own, and address them with the disputants if they interfere with the mediation.

Other non-verbal cues include loudness, pauses, silences, and rates of speech — even interruptions. In some cultures, interruptions are not always rude. They can be a sign that the person is interested, involved and paying attention — a type of "active listening." Some cultures let emotions flow freely and display bursts of emotion. Persons from a more reserved culture may misinterpret loudness as aggressive, hostile, or 'too much.' They may shut down.

AS A MEDIATOR YOU SHOULDN'T EXCUSE OR BLAME INTERRUPTIONS, ALOOFNESS, OR PERCEIVED RUDENESS ON CULTURE OR INDIVIDUAL DIFFERENCES. BOTH PARTIES HAVE A RESPONSIBILITY TO THE MEDIATION.

A photograph of two young women in a school hallway, standing in front of blue lockers. The woman on the left has short blonde hair and is wearing a green shirt. The woman on the right has long brown hair and is wearing a patterned top. They are both looking at each other and appear to be in conversation. The title 'THE MEDIATION PROCESS' is overlaid in large orange letters across the middle of the image.

THE MEDIATION PROCESS

Now you can review the mediation process and put it to practice. As your skill as a mediator develops and your confidence grows, you will probably make changes to fit your style, comfort level and personality.

Check over each step of the mediation process and the skills or techniques necessary to move the mediation along to a successful outcome. Remember, mediation may not always follow exactly in this way. These steps are only a helpful guide.⁸

- 1 Preparing For The Mediation
- 2 Delivering Your Opening Statement
- 3 Gathering Information
- 4 Identifying Issues, Interests, and Feelings
- 5 Exploring Options

STEP 1 PREPARING FOR THE MEDIATION

After reviewing the mediation steps and helpful ideas to identify and resolve the conflict, you should begin by looking over the room arrangement. A well-arranged room encourages successful mediation and reinforces the goals of equality and open communication. Some things for you to consider when preparing the room are:

- 1 **CHAIRS** The same kind for each disputant should be placed so that disputants are diagonally facing each other with or without a table.
- 2 **PLACEMENT** One mediator should sit near and with their back to the door if an adult coordinator is not present so that someone can be notified if a problem arises.
- 3 **SPACE** Each disputant should have the same amount of space.
- 4 **NO EATING OR CELL PHONES** during the mediation.

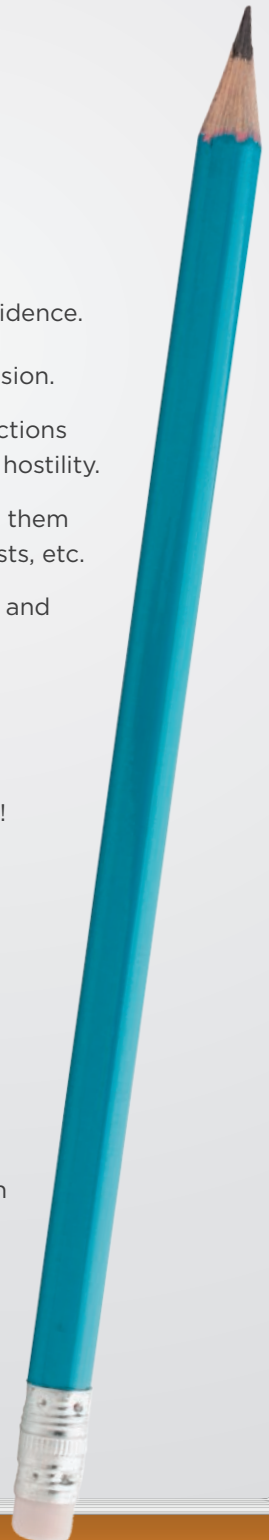
STEP 2 DELIVERING YOUR OPENING STATEMENT

Your opening statement sets the mood for the mediation, establishes your role as a neutral party in the mediation and develops a constructive relationship between you and the disputants. It also sets out ground rules.

⁸ Regan

YOUR CHECKLIST

- ✓ Introduce yourself.
- ✓ Establish impartiality.
- ✓ Establish your credentials as a Mediator (i.e. training and experience) to promote trust and confidence.
- ✓ Explain your role and the purpose of the mediation session.
 - Mediation is a preferred alternative to disciplinary actions (like suspension), violence or continued conflict and hostility.
 - Mediators cannot impose a settlement, but will help them identify the source of the problem - its issues, interests, etc.
 - The disputants are the ones to come to a resolution and sign a settlement.
- ✓ Explain the ground rules.
 - Each person has an equal opportunity to speak.
 - Only one person speaks at a time - no interruptions!
 - Listen respectfully.
 - No name calling or threats.
 - Use respectful language and avoid foul language.
 - Set times for bathroom breaks or rest breaks.
- ✓ Explain that the mediation is confidential and private, and all notes will be destroyed.
- ✓ Mention the possibility of a caucus (a side conversation with only the mediator and one disputant).
- ✓ Explain what happens if the conflict is resolved.
- ✓ Use every opportunity to be polite throughout the mediation.



Below is an example of an opening statement. To demonstrate your confidence and ease with the mediation process, you must practice your opening statement until you are comfortable with it.

SAMPLE OPENING STATEMENT

Hello, my name is _____. (Co-mediators introduce themselves). We are your mediators today and we have not met with either of you before now. We're happy that you've decided to try mediation to resolve your dispute. Our job as mediators is to listen to both sides of the story and help you reach an agreement that is best for both of you. If we are successful, we will put the agreement in writing, review it, and ask you to sign it. We aren't here to choose an agreement for you or to take sides. As long as you both follow the agreement, the dispute will be considered settled. Everything you say today will remain in this room and any notes you take will be thrown away.

We ask that you show respect and courtesy for one another by not cursing and not interrupting one another. You both have pens and paper to jot down any comments you have while the other person is speaking and you can share them when it's your turn if you like. Can you both agree to this? (Wait to get a clear agreement from both parties).

During the mediation we may feel we need to talk to each of you separately. We call this a caucus. The caucus will last for as long as needed and whatever you say will not be shared in the open session without your permission.

We will take as much time as you need for the mediation process. If either of you needs a short break, please tell us.

Before you came in, you signed an "Agreement to Mediate," which included issues on confidentiality. Do you have any questions about that or anything else concerning the mediation? (Wait for their response).

OK, let's start. It's school policy to begin with the person sitting to the right of me. _____, will you please start?

STEP 3 GATHERING INFORMATION

Each disputant should first tell their story in their own words and speak without interruption. This is not the time for an open dialogue between the parties. Since you will be hearing the problems and issues of each person for the first time, you should listen carefully to understand what is creating the conflict. You can do this by:

- Asking open-ended questions;
- Actively listening for information and feelings;
- Asking specific questions, and;
- Summarizing the information.

QUESTIONING AND ACTIVE LISTENING

To gather information you will usually have to ask questions. These questions shape the quality of communication that occurs during the mediation, so it's important to know what to ask and how to ask it.

Open Questions invite people to describe events in their own words and in their own way. Note what they emphasize because it very likely reveals their feelings. Open questions are critical to this stage of the mediation and should not direct or lead the speaker in any particular direction.

Some examples of open questions:

- Then what happened?
- Tell me some more.
- What about...
- How do you feel about...
- Let's go back to...
- When did this all start?
- How long have you been feeling this way?
- What did you mean by...
- Please explain.
- Let me understand...
- Correct me if I'm wrong...
- I noticed you were trying to say something...
- What would you like to happen?
- What do you feel is not being understood?
- What do you need to make everything OK again?

WHAT DO YOU NEED
TO MAKE EVERYTHING
OK AGAIN?

Closed Questions can be answered with a simple “yes” or “no” response. They provide quick factual information, but don’t tell you much more. An example of a closed question is “Did you feel angry?” as opposed to the open question “How did you feel?”

Effective Questions refer back to a previous statement, act as a “door opener,” and show the speaker that you understand them. For instance, “You mentioned that you have not seen your friends in a while, sounds like you really miss them and hanging out with them in the neighborhood?”

Bombarding Questions are multiple questions that don’t allow time for an answer. These questions confuse the speaker and make him/her defensive and anxious.

Leading Questions suggest the questioner already has an answer or conclusion to the question being asked. As a result, the speaker feels defensive and alienated since it can feel like a fake question or the speaker may disagree with the questioner. For example, “Don’t you want to give Julia back her jacket?”

Loaded Questions are questions with one-sided or judgmental implications, usually about sensitive issues. This question is a poor one to ask because the person answering always looks bad. For example, “Have you stopped stealing?”

HELPFUL MEDIATION QUESTIONS

The following questions are frequently helpful in mediations. When in the mediation would you ask these questions? Why?

- You mentioned that you and (name of other disputant) are friends. Can you tell me more about your friendship?
 - How long have you been friends?
 - What do you like about (name of other disputant)?
 - How did you meet?
- How often do you and (name of other disputant) see each other?
- If you were in (name of other disputant’s) place, what would you think would be a fair solution?
- How did you feel (at some specific point during the conflict)?
- How has this conflict affected you?
- What do you want (name of other disputant) to know about you?
- What do you think will happen if this conflict is unresolved?
- If you could go back to the day of the conflict, what would you have done differently?

- What can you do differently in the future?
- What are you most concerned about?
- How would you feel if this conflict got resolved today?
- Since you have agreed on this point, would you like to move on?

STRATEGIC QUESTIONING*

Mediators can use questions in a variety of ways to move the mediation forward. These are some ways to use questions. Can you think of any others? When would you use questions like these in a mediation?

Starter Questions: Opens up the conversation

- What brings you here today?
- You mentioned _____. Can you tell me more about that?

Information Questions: Asks for specific information

- How often do you see each other?
- Where were you when the conflict began?

Clarifying Questions: Makes ideas and statements more specific

- What do you mean by “he never returns your calls”?
- When you say you want to be treated with respect, what do you mean?

Justifying Questions: Asks why a party holds a specific position

- Why do you think...?
- How will this solve the problem?

Suggesting Questions: Introduces an idea in the form of a question

- Given the nature of this problem, do you think it’s possible to...?
- Suppose you tried this option... what do you think would happen?

Participation Questions: Encourage a quiet disputant to participate

- What do you think about that, Julia?
- How does that idea sound to you, Jose?

*Adapted from Columbia Law School Mediation Clinic Skills Materials Spring 2009. pp 28-9. Carol B. Liebman.



Focusing Questions: Bring the disputants back to the main point

- How does this relate to the issue of...?
- Where do we go from here?

Stimulating Questions: Encourages brainstorming

- Are there other ways to solve this problem?

Closure Questions: Encourages decision making

- Have we spent enough time on this issue?
- Have we agreed on the following...?

Evaluation Questions: Asks disputants to evaluate their progress

- Why do you think we are blocked on this issue?
- Where should we go from here?

ACTIVE LISTENING

Communication is the foundation of mediation. More than just 'talking,' communication includes careful listening, non-verbal behavior, attention to facts and feelings, honesty and understanding. As a mediator, you must be alert to the communication going on between the disputants, and your own role in that communication – how your actions and words contribute to or hinder it. Good listening is not passive – it is active. In other words, you must demonstrate 'active listening' skills.

***Focus on Them***

Put yourself in each speaker's place to understand what they are feeling. Listen without interrupting or giving suggestions and advice. Avoid bringing up similar feelings and problems from your own experiences. Remain neutral.

Encourage 'Sharing'

Encourage sharing of information and feelings. Say simple things that prompt the disputants to continue talking, like "Could you say more about that?" Asking questions also helps you understand and clarify what the speaker is saying. Keep the story flowing.

Watch Non-Verbal Behavior

Give attentive non-verbal signals while the person is speaking by leaning forward or nodding your head. Keeping good eye contact can also give the speaker a sense of security.

Reflecting

Summarize the main points from time to time to keep the speaker focused. Restating the facts also shows the speaker that you are really listening to the communication going on between the disputants, and considering your own role in that communication – how your actions and words contribute to or hinder it. Good listening is not passive - it is active. In other words, you must demonstrate 'active listening' skills.

Validating

Acknowledge the speakers' efforts as they describe their concerns and feelings.

LISTENING FOR FEELINGS

When people recognize and acknowledge each other's feelings, the conflict can change and finding a resolution can become easier. When arguing, people often misunderstand their feelings or are not fully aware of them. Disputants may say they are angry or feel nothing at all, when they are really feeling hurt or afraid.⁹ Other times, they can feel insecure about revealing those feelings. Instead of stating a feeling, they may mention a thought or an opinion. Answering "I felt like punching him" to the question "What are you feeling?" is not a feeling.

Active listening encourages you to hear both factual content and the emotions in what people say. You can tell what a person is feeling by watching their expressions and body language (posture, eye contact) and listening to their tone and inflections. Also, ask directly "How do you feel?" The section on "I" statements will help disputants identify and state their feelings.

PARAPHRASING

Paraphrasing is beneficial to you as a listener and also to the speaker. It gives you a reality check of what you have understood from the speaker. Misunderstandings can be easily and quickly corrected. By using some of the speakers' own words, disputants will feel like you really understand them. It makes them more open to communication and to the mediation process. When you paraphrase, you are using your own words to express someone else's message or ideas. You must hear and repeat both content and emotion. A paraphrase is designed as a question – not a statement. By asking a question, you encourage the speaker to discuss the events and his viewpoints more. A good way to begin is "I heard you sayis that right?"

Consider the following situation:

The basketball coach assigns members of the team in pairs to clean up the locker room after the games. Tom is very diligent about the work, but his partner George repeatedly leaves early. Tom ends up cleaning the entire locker room by himself. After the third time George leaves, Tom has had enough. He goes to the coach and complains, "George does not help me. I won't clean that locker room by myself again."

To paraphrase what Tom said, it would be inadequate to say, "You won't clean the locker room again." Or, "You are really angry." A more accurate paraphrase would be, "Are you saying that you will not clean the locker room by yourself?"

⁹ Sadalla, Gail, Meg Holmberg and Jim Halligan, Conflict Resolution: An Elementary Curriculum (San Francisco: Community Board Program Inc.) 1990.

BARRIERS TO COMMUNICATING

You may run into communication problems as you try to figure out the issues behind the dispute. These barriers can come from a disputant's outward behavior, way of thinking, or conclusions reached.

The most common behaviors¹⁰ that produce barriers to communication are:

- Ordering
- Diagnosing
- Preaching
- Judging
- Offering answers, i.e. a "know-it-all"
- Assuming
- Accusing/Blaming
- Lecturing
- Prying
- Threatening

STEP 4 IDENTIFYING ISSUES

After listening to each party, you should restate the issues involved in the conflict to make sure you understand them correctly and that each party recognizes the other party's interests and positions. Restating the issues also encourages the parties to bring up any additional issues that they have not mentioned.¹¹

When framing the issues at this stage:

- state the matters being discussed in a neutral way;
- reaffirm your intention/dedication to resolving the matter;
- avoid blame; and,
- look toward the future.

¹⁰ Regan.

¹¹ Regan.



GETTING BOTH SIDES

Some disputants may be domineering and outspoken, while others are quieter and easily intimidated. This difference in personality can create an imbalance of power during mediation and result in an unfair and short-lived agreement. As a mediator, you can equalize the power by drawing out the less aggressive disputant by asking about their opinions and feelings, or moving your chair closer to them. Enforce the rules such as no interruptions, and explain that input from each disputant is important. Don't assume silence means acceptance. Be aware that paying extra attention to the less aggressive or quieter disputant may be interpreted as favoritism, so use this technique only when one disputant clearly and forcefully dominates or intimidates the other.

POSITIONS AND INTERESTS

- An issue is the subject which may be in the form of a dispute that brings you to mediation.
- A position is what a person wants or says related to the issue.
- An interest is the reason why that person has that position.
- Interests support and motivate positions.

For example, you and your mother disagree about the curfew she placed on you. The curfew is the issue. When your mother told you to be home by 11 p.m., she expressed her position – what she wants. When you said you didn't want to be home at that time, you expressed your position. Her reasons for this position are because she is worried that something could happen to you and she wants peace of mind. She loves you and, as your parent, is responsible for you. These reasons are her interests. You want to be out with your friends until later because they get to stay out and you have fun with them, and there are so many things to do. Your friendships and having a good time are your interests or reasons. The issue that arose out of her interests and positions in conflict with yours is your curfew - the issue you disagree with. You both decide to mediate the issue.

ISSUE: Your Curfew

POSITIONS

MOTHER

home by
11pm

YOU

stay out
later

INTERESTS

MOTHER

love for you
concern
peace of mind

YOU

fun
friendship

EXPRESSING ISSUES

After identifying the issue that brought them to mediation, you should encourage the disputants to express their interests and positions in a constructive way.

"I" Statements

Ask the disputants to use only "I" statements. An "I" statement does not contain the word "you." Using "I" keeps the focus on the speaker and his/her feelings and not on the listener. It keeps one individual from speaking for, blaming, or attacking the other. Here are the key differences between an "I" statement and a "You" statement.¹² The "I" statement helps the person better understand his/her feelings by putting them into words – by "feeling out loud."

"YOU" STATEMENTS	"I" STATEMENTS
attack blame don't identify feelings, just anger don't explain why	don't attack avoid blame identify feelings explain why

A typical "I" statement contains four parts, "I feel" ... "when I" ... "because" ... "what I want is."

- "I feel..." (state a feeling, not what you are thinking.)
- "When I..." (state the specific behavior of the other person without interpreting it.)
- "Because..." (state the effect that behavior has on you.)
- "What I want is..." (state what would make the situation better for you.)

You are waiting for your friend in front of the movie theatre. You're supposed to meet for the 7:20 show. Once again your friend is late. It's nearly 7:30 when your friend finally appears. Let's imagine that the issue is lateness - one person is constantly late for arranged meetings with another. The "I" statement by the party who waits for the other would be: "I feel hurt and belittled when I have to wait because I feel less important than someone or something else, and what I want is not to wait."

¹² Jones, Tricia S. and Randy Compton, eds. Kids Working it Out: Strategies and Stories for Making Peace in Our Schools, 2003.

Feeling Words¹³

The following is a list of feeling words you may find helpful during the mediation to assist the disputants in describing their emotions.

WORDS EXPRESSING ANGER

aggravated	dismayed	hostile	provoked	ticked off
annoyed	enraged	incensed	repulsed	troubled
appalled	exasperated	infuriated	resentful	upset
bitter	frustrated	irritated	revolted	
cranky	furious	offended	riled	
disgusted	horrified	outraged	steamed	

WORDS EXPRESSING INADEQUACY

helpless	incompetent	inferior	powerless	useless
incapable	inept	mediocre	unworthy	

WORDS EXPRESSING HAPPINESS

amused	delighted	fortunate	joyous	soothed
blissful	ecstatic	giddy	jubilant	thrilled
charmed	elated	glad	marvelous	tickled
cheerful	excited	gratified	pleased	turned-on
contented	fabulous	high	proud	wonderful

WORDS EXPRESSING FEAR

afraid	fearful	overwhelmed	terrified	worried
agitated	frightened	panicky	threatened	
alarmed	jittery	scared	uneasy	
boxed in	jumpy	shaken	unnerved	
cornered	nervous	spooked	wary	

¹³ Jasmine and Young.

WORDS EXPRESSING HURT

abused	defeated	dreadful	jilted	slighted
awful	deflated	forgotten	neglected	snubbed
betrayed	deprived	ignored	oppressed	terrible
cheated	deserted	insulted	persecuted	upset
crippled	devalued	intimidated	put down	
damaged	diminished	isolated	rotten	

WORDS EXPRESSING EMBARRASSEMENT

absurd	conspicuous	disgraced	humiliated	silly
awkward	clumsy	foolish	mortified	uncomfortable

WORDS EXPRESSING CONFUSION

addled	confused	dumbfounded	jarred	perplexed
anxious	dazed	flabbergasted	jolted	puzzled
baffled	disconcerted	flustered	muddled	rattled
bewildered	distracted	frustrated	mystified	

WORDS EXPRESSING SADNESS

abandoned	deserted	excluded	let down	pained
alone	despondent	friendless	lonely	pathetic
anguished	disappointed	gloomy	lost	rejected
blue	discouraged	heavy-hearted	low	scorned
burdened	disheartened	ignored	melancholy	slighted
dejected	downcast	isolated	miserable	troubled
depressed	empty	jilted	moody	weary

REFRAMING

Reframing, unlike paraphrasing, shifts the frame of reference. Paraphrasing helps you gather information by saying back to the disputant what you heard, e.g. “I heard you say that you lent your book to Margo and are angry that she lost it.” Reframing distances the issue by addressing it objectively and changing the individuals’ focus, e.g. “Sheila, after all this effort and time, it doesn’t look like your book is going to turn up. I know you think Margo was careless with it, but let’s discuss when and how to get you another copy.” Reframing can help the disputants move forward when they are stuck, and keep from repeating the same things over and over.

By making a statement or question in response to what they are saying, you can help the disputants achieve new perspectives in facts and/or opinions. Reframing is particularly helpful when the parties continually focus on things they cannot change (e.g. “I wish I hadn’t loaned my book to Margo.” “It can’t be lost.”) It also helps overcome unproductive conduct such as blaming (“Margo doesn’t really care about other people’s things,”) or denial (“I just want this to be over.”) Reframing also allows you to neutralize a disputant’s statements by eliminating overtly negative or offensive remarks. You should incorporate what was said with what was felt. The following is another example of reframing:¹⁴

Sheryl, the disputant, repeating a statement she had made many times before: “The one thing that I am sure of is that Chris should never have gotten us into this mess. I just cannot deal with this mess right now!” Sheryl is stuck in her perception that Chris is to blame and is focusing on the past.

Mediator, reframing: “Several times you have mentioned how upset you are to be faced with these problems at this time. (pause) What could you and Chris do now to make it easier for you to make decisions about these problems?”

With this reframe, you are acknowledging Sheryl’s experience and frustration over having this conflict. At the same time your question emphasizes mutuality and focuses on factors that are within the parties’ control. This reframe also looks to the future and detoxifies Sheryl’s statement.

¹⁴ Jones and Compton.

VENTING

During the mediation, a disputant may become angry as he or she ‘re-lives’ the problem when it is discussed. Sometimes anger can be helpful when it reveals information and feelings through “I” statements; it is less helpful if directed toward the other party. When dealing with an angry person, let the person ‘vent’ first to diffuse some of his or her feelings. Next, listen and paraphrase what was said and what feelings were stated or implied. Then, you could suggest trying to work things out together. Below are some additional steps¹⁵ you could take or suggest to the disputants.

- Speak softly.
- Speak slowly.
- Be aware of your body language.
- Use appropriate eye contact.
- Relax, take a deep breath.
- Have legs and arms uncrossed.
- Sit or stand at eye level, not up or down.
- Keep thinking, “We can find a win-win solution to this problem.”
- Ask for a break if you need it or feel the disputants need it - take time out to cool down.
- Use “I” messages or statements.
- Repeat and try to clarify...”Can you explain that to me again? I think I heard you say...”; “I’m not sure but it sounds like you...”
- Be aware of your choice of words.
- Words that escalate a conflict are: never, always, can’t, won’t, don’t, should, shouldn’t, unless, better not, etc.
- Words that de-escalate a conflict are: maybe, what if, I feel, it seems like, I think, sometimes, perhaps, I wonder, etc.
- Affirm the other person’s needs and point of view, e.g...”It sounds hard for you to...” or, “I appreciate your situation...”
- Ask open-ended questions which cannot be answered by “Yes” or “No.”
- Check what is happening with yourself.
- Is your tone calm, relaxed, and in control?
- Are you really listening?
- Are you brainstorming possible solutions?
- Are you thinking about the other person’s point of view?

¹⁵ Teolis, Beth. Ready-to-Use Conflict-Resolution Activities for Elementary Students (Englewood Cliffs: Jossey-Bass), 2002.



PROCESSING ANGER

Some additional suggestions to consider when dealing with an angry person include:¹⁶

- Count to ten and take a deep breath.
- Don't get defensive.
- Don't take it personally.
- Consider the source...it's not worth getting upset.
- How would you feel in his or her shoes?
- Think of a calm scene and relax.
- Think of something positive about this person and focus on that.
- Exactly why is this person being hostile?
- Try to find the humor in the situation.
- Let it go!

¹⁶ Center for Court Innovation, Harlem Justice Center

BRAINSTORMING

The purpose of brainstorming is to encourage the parties to think of as many ideas for a resolution as they can. It helps the parties move beyond a deadlock and to think up creative solutions - it moves the mediation out of the past into the future.

Rules of Brainstorming:

- Accept all ideas without judging them - at this point, no idea is a bad idea.
- Work for quantity - the longer the list the better.
- Build on each other's ideas - piggyback and elaborate whenever possible.
- Encourage zany and creative ideas - no idea is stupid.
- Write down each idea.
- Set an amount of time for brainstorming and stick to it.¹⁷

STEP 5 EXPLORING OPTIONS

During this stage of the mediation, the parties discuss possible ways to resolve their dispute. While negotiating, remember to separate the problem from the people, to focus on interests and not positions, and to work for a win-win solution. During this phase, you and the disputants may become stuck and the mediation may come to a standstill. Consider using these techniques to move the conversation and discussion.

CAUCUS

A caucus is a brief “time out” in the mediation that can help when progress in the mediation stalls. You talk to each disputant separately to help them see the other person's point of view and find out what they want in the agreement to settle the problem. This private session also allows mediators to ask questions that may be too sensitive to ask when the other party is present, and allows the disputant to say things to you that may be uncomfortable to say in front of the other party.

While you are caucusing with one disputant, ask the other to write down possible ways to resolve the conflict. The other disputant has time to think of ideas without the pressure of others in the room. A caucus provides breathing space for both parties. However, you should use a caucus carefully. Sometimes a disputant becomes paranoid about what the other is saying about him/her during the private session.

¹⁷ Williams, James and Pat Hunter, Conflict Resolution Training for Workshop Facilitators, (Nyack: NY, Creative Response to Conflict).

Ground rules:

- Obtain permission from both parties to have a caucus.
- Be brief, if possible.
- Give disputants as much time as they need.
- Keep the conversation confidential unless given permission to disclose it.
- Ask the waiting disputant to write down some solutions.
- If you meet with one disputant, you must meet with the other.¹⁸
- Ask disputant permission to disclose what was said in individual sessions

CREATING MOVEMENT

Here are some things to try if you get stuck during a mediation:

Paraphrase

Mediators can never paraphrase too much. Sometimes mediations will get stuck because one of the disputants feels ignored or disrespected. The mediator can summarize the progress made thus far, and mention the feelings and interests of the disputants again.

Reality Check

Mediations can get stuck if one or both of the parties have unrealistic expectations or demands. Try asking the following questions: If you were in (the other's disputant's) shoes, would you think that was a fair option? How will this solve the problem? What will happen if you do not resolve this issue today?

Take a break

It is ok to take a break during mediation. Sometimes stretching or drinking a glass of water will help calm things down. Mediation can be a frustrating process for the mediators as well as the disputants, but it is important to stay calm and take breaks if you need to.

Change the subject

If the disputants begin to repeat themselves or go in circles, try talking about something else. Ask a question about a completely unrelated subject, or say "It doesn't seem that we are making any progress on this issue. Maybe we should put it aside and return to it later."

¹⁸ Jasmine and Young.

Defer to your co-mediator

If you are feeling frustrated or stuck, your co-mediator might be able to help out. Develop a sign before the mediation so that your co-mediator will know that you need help or that you need to take a breather.

Silence

Remaining silent for a few moments can encourage people to say something, or take a moment to collect their thoughts.

Caucus

Sometimes it is helpful to meet with the disputants separately. One of them might not feel comfortable telling the whole story in front of the other.

Be honest

Tell the disputants that you feel a bit stuck, and see if they have any ideas for how to move forward with the mediation. Be sure to mention that you think that it is great that they have taken the time to try mediation, and reassure them that you are not giving up. (This option might not work in all stalled mediations. When would you try this? When would you avoid this option?)

End the mediation

Sometimes mediation doesn't work. Disputants might be too upset to mediate, or may be unwilling to negotiate. If you and your co-mediator have tried everything, and you do not feel that a resolution is possible, thank the disputants for coming in to try mediation, and apologize that you were not able to help them resolve the dispute that day. Tell them that they are always welcome to come back to mediation at any time. (Use this option only as a last resort).



STEP 6

FINALIZING THE SETTLEMENT AND WRITING THE AGREEMENT

Writing an effective agreement is an essential skill for a peer mediator. The agreement is about what will happen in the future to remedy an action in the past or one that may continue to happen.

IDENTIFYING COMMON INTEREST(S)

Disputants usually reach an agreement because they share at least one common interest. You should start the agreement with item #1 identifying the common interest(s) and describing it in terms of joint purpose. For example,

- 'George and Jose would like to leave their conflict behind them and go forward in peace. To this end they agree to....'
- 'Susan and Michelle agree that they want to respect each other's privacy and put the tension of the past behind them. To this end they agree to...'

A GOOD AGREEMENT

A good agreement is: understandable, appealing, and precise.

Understandable

- Where appropriate, use the disputants' own words and expressions.
- State Who, What, Where, When, and How or How Much.
- Use plain English.
- Use full dates: e.g. by April 30, 2017.
- Use present tense: e.g. John agrees to...
- Use separate, numbered paragraphs.
- Avoid pronouns and abbreviations.

Appealing

- Use the disputants' full names, correctly spelled.
- Put goals and positive commitments first: e.g., "To create further good cooperation (goal and a positive comment) between Sheila and Chris, they will take turns every other night directing the color spotlight while on Stage Crew during 'Island Idol 2016.'"
- Put mutual obligations first.
- Make the agreement equal and balanced: e.g., "Pat agrees to pay Jo five dollars (\$5) every Friday at 3 pm... and Jo agrees to accept Pat's payment of..."
- Use non-judgmental language because respect is key,
- NOT like this: "Due to Rick's clumsiness..."
- INSTEAD: "Because Rick wants to pay Daniela for a vase..."
- Do not include admissions of wrongdoing.
- Avoid unauthorized additions or omissions, but they are OK to create logical balance.
- View agreement as a draft until signed.

Precise

- Be clear about how tasks will be completed, e.g. in person, through the mail.
- Encourage verification, e.g. through a guidance counselor; a trusted teacher.
- Be specific regarding payment terms, e.g. amounts; currency/check.
- Avoid terms that specify value and vague words e.g. only five dollars (\$5), or around five dollars.
- Nail down the time frame, e.g. . . . every week between January 1, 2017 and . . . until January 31, 2017, when payment will be complete.

While you are writing the agreement, your co-mediator can continue a neutral conversation with the disputants to keep the positive energy of the mediation going. Good topics of conversation can be about a movie, school activities or an album that just came out.

- The mediators should read the agreement to the parties to assure accuracy and thoroughness.
- Get all parties' signatures, including the mediators' signatures.
- Provide all parties with copies of the signed agreement.

MEDIATOR DOUBLE-CHECK OF WHAT AN AGREEMENT INCLUDES

- Offer
- Acceptance
- Consideration: there has to be some kind of an even trade.
- You may bring up an apology if you want, if it is non-monetary, and doesn't have any physical form. Such verbal apologies may go a long way in finding resolution.
- Do a reality check with the disputants on the proposed solution.
- Summarize terms of the solution to ensure that everyone has the same understanding, e.g., "you've agreed X and you've agreed Y, am I right?"
- Establish follow-up procedures in case the solution is not effective.
- Congratulate the parties on their hard work in reaching a solution together.
Non verbal-indication – you as the mediator have the power to model this signal:
 - Shake hands with the parties and shake the other mediator's hand
 - Nod and say "Congratulations" and/or "Well done"

WRITE THE AGREEMENT

The Purpose Clause

Parties usually reach an agreement because they share at least one common interest. Start the agreement by identifying the common interest(s) and framing it in terms of joint purpose or a rational goal.

Examples of Purpose Clause include:

- Mr. Allen and Ms. Longo would like to leave their conflict behind them and go forward in peace. To those ends they agree:
- Jim and Dan recognize that they share responsibility for the unfortunate incident on September 3, and they agree that this isolated incident will be put to rest by the following understandings.
- All parties want to foster a positive relationship and agree to respect each other and to communicate with each other. Accordingly, they agree:
- David, Peter and Carlos all seek to reduce the tension among them regarding the upkeep of a clean and functional locker room. To accomplish this, they have agreed to the following.
- In order to promote the interest of both the Hispanic community and all the members of the School's Student Council, the parties to this agreement have reached the following understandings:

Natalia & Ishraq

Ishraq and Natalia have been friends for about two years. They became friends when they were featured in a school talent show together and won over the whole school. They both like to sing, do spoken word, rap, and get very good grades. They sit next to each other in most classes, and are even Chemistry Lab partners who have gotten the highest grades in Chemistry because their experiments are successful, and they work well together. Although they spend time together in school while joking, talking to friends, and practicing their entertainment talents at recess, they don't really see each other outside of school.

Last week Natalia's performance group was competing to be considered for the finals for "Def Poetry, Jr.," in a show at a teen center and she asked Ishraq if she could borrow his coat to wear on stage. Ishraq knew that Natalia had always liked the coat, and so he gave it to her on the condition that she take good care of the Limited Edition jacket.

The concert went very well, and Natalia's group was one of the two finalists chosen. At one point Natalia, in her on-stage excitement, wrestled the coat off and threw it backstage. When the show was over, however, the jacket was nowhere near where she had thrown it. She searched everywhere in the teen center, but the coat nowhere to be found. Natalia said she would "make it up" to Ishraq, but did not apologize or say she would pay him for the jacket. Ishraq blew up in front of all of their friends and left fuming. Natalia played it off at the time with a "Whatever," but felt so bad she didn't even go to the afterparty.

The two have been unable to work out a resolution to this problem, and Ishraq has been angry with Natalia ever since. They have not been talking to each other, and their Lab assignment was late for the first time this year because they just did not want to talk to with each other. It caused them to get a B instead of an A. Their Chemistry teacher became concerned that his best students were tanking.

The coat cost \$145. Although Natalia works, she does not have that kind of money. The Chemistry teacher suggested mediation and they agreed.

Assume that you have talked about everything on the previous page and understand it:

- Ishraq did not pay for the coat, and although it was a gift, he has no sentimental attachment to it.
- It's not winter anymore, so, no need for the jacket
- Natalia needs all the support she can get for the finals if she is going to get to "Def Jr.," maybe even including a duo that the pair had worked on since their talent show 2 years ago.
- Natalia's 20-hour/week job wage directly deposits into a college fund, and she only gets \$35 a week.

EXAMPLE OF AN AGREEMENT

Issue

Hector and Tommy used to be friends until a couple of weeks ago. At that time, something happened where Tommy threw Hector's basketball down the hall and wouldn't go get it. Hector was angry with Tommy for this, especially because he thought they were friends. After that, a lot of rumors started that Tommy was going to get his friends and jump Hector. And so Hector started to get his friends together in case there was a fight. And then today, both Hector and Tommy were in the hall and about to fight, but a teacher sent them to the office.

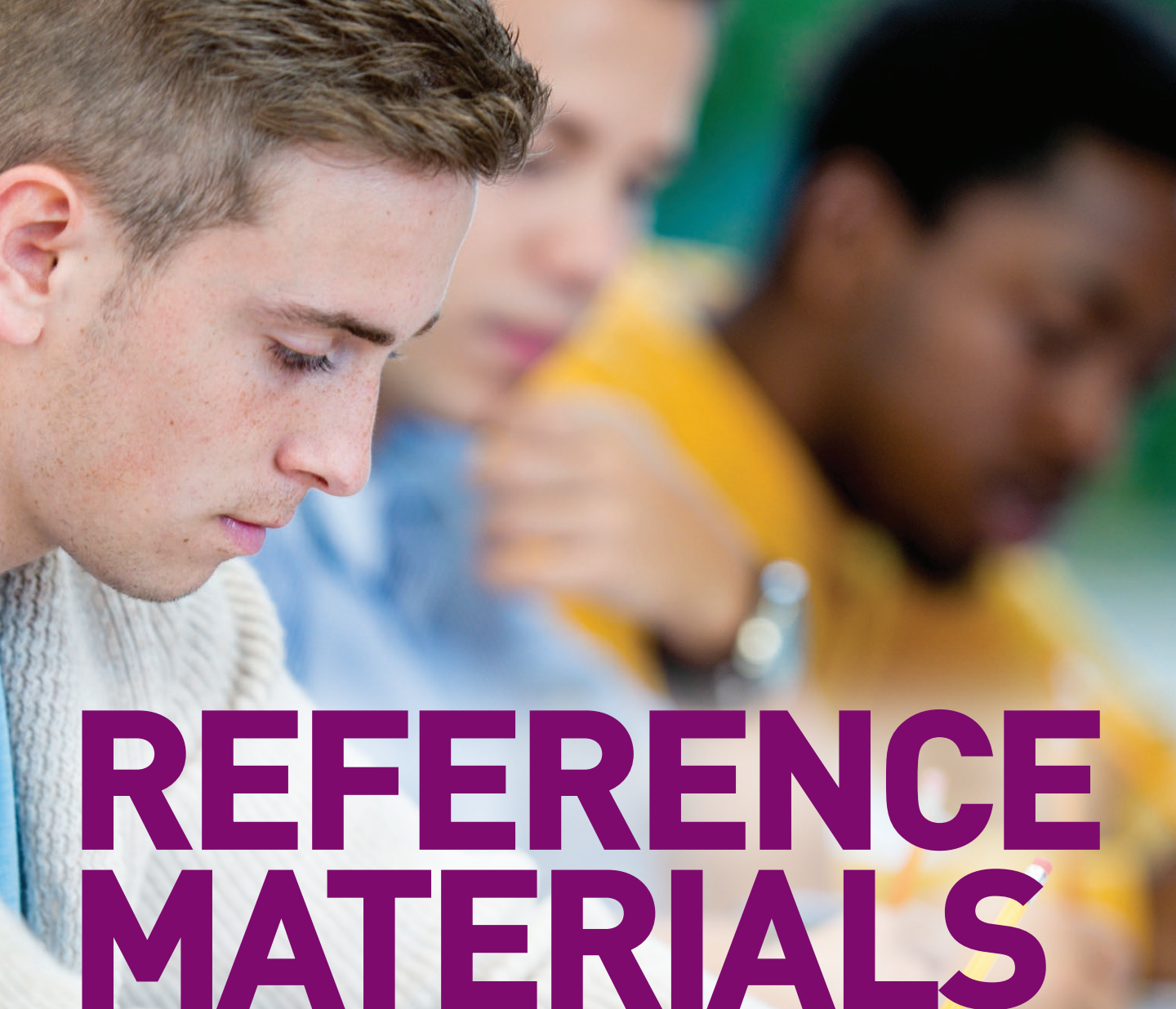
Agreement

- 1 Hector and Tommy agree that the situation is resolved between them.
- 2 Tommy and Hector agree not to act differently in front of their friends.
- 3 Both agree that if they hear rumors, they will check them out directly with each other in private.
- 4 Both Hector and Tommy agree to tell their friends that the fight is squashed
- 5 Hector and Tommy agree to be cool with each other in the future.¹⁹

CLOSING THE SESSION

Sometimes you may be unable to resolve a conflict. The students may just not be open to mediation so their conversation breaks down. Other times, the conflict may be too big to handle in the peer mediation setting. Whether or not the conflict is resolved, when you are ending mediation you should focus on the positive: the mediation helped them talk it over, revealed or clarified the issues, and established a peaceful method for resolving the conflict. Commend the students for what was accomplished and remind them that peer mediation is always available.

¹⁹ Cohen.



REFERENCE MATERIALS

In this section, you will find useful resources to reinforce and further your peer mediation knowledge and experience.



PEER MEDIATION CHECKLIST

If you want to remember the key parts of the mediation process or other aspects of being a mediator, look to the letters in **PEER MEDIATOR**.

- P**resent yourself: Prepare the room & make an opening statement
- E**numerate ground rules: Encourage respectful & proper conduct
- E**licit parties' stories: Be an active listener & questioner
- R**espect the process: Treat each participant fairly
- M**anage progress: Be comfortable with & in control of the process
- E**ncourage honesty/understanding: Develop a place of comfort & honesty
- D**iscover additional information: Use techniques to uncover hidden information
- I**nquire about interests: Differentiate between positions, interests, & issues
- A**rrange information: Summarize & use information to build consensus
- T**alk to the parties separately: Make smart use of caucus
- O**ffer options: Help parties come up with & choose the best options
- R**esolve it! Summarize a reality check agreement with disputants

CONGRATULATE THEM ON THE SOLUTION!

FORMS

PEER MEDIATION CENTER

Agreement To Mediate

THE MEDIATION PROCESS

Mediation is a voluntary process. The goals of mediation are to improve communication and understanding and to develop agreements about future conduct. A mediator, or team of mediators, will work with you during the session. Mediators are neutral facilitators: they may make recommendations, but will not impose a solution.

CONFIDENTIALITY

Statements made and information presented in mediation are confidential. An exception to confidentiality may arise if someone threatens physical danger or harm, or if someone alleges child abuse or neglect. If this occurs, the mediators and staff of the Peer Mediation Group may be required to report this information.

AGREEMENTS

If you come to an agreement, you may choose to put that agreement in writing and sign it. A copy of the agreement will be provided to each party and the peer mediation group will keep a copy.

By signing below, I acknowledge that I understand and agree to the terms of this agreement.

Signature _____ Date _____

PEER MEDIATION CENTER

Peer Mediation Referral Form

Date:

Time:

Referred By:

- 1 Names and schedules of students in conflict. (Fill in as much as you can, and include teachers' names and room numbers.)

Name	Grade	Home Rm	Open Time

Other students involved: _____

- 2 What is the conflict about? (Circle as many as you need)

Rumors	Boy/Girlfriend	Friendship	Fighting
Name-Calling	Stealing	Teasing	Rules
Gangs	Threats	Prejudice	

Other (describe briefly): _____

- 3 When did the conflict occur? _____

- 4 Do the students know that you are referring them to peer mediation? (Check one)

Yes

No

- 5 When should this conflict be mediated? (Check one)

Whenever you get a chance

As soon as possible

Today/Urgent!

Please return this to _____
or drop it in the referral box outside the Mediation Center.

Thank you!

Brief Summary of Mediation

This image shows a full page of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page, providing a template for handwriting practice. There are no margins, text, or other markings on the page.

PEER MEDIATION CENTER

Agreement Draft

Please Draft Your Agreement On This Form

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

PEER MEDIATION CENTER

Peer Mediation Agreement

PARTIES

We have participated in a mediation session on _____
and we voluntarily agree to the following:

Disputant	Date
-----------	------

Disputant	Date
-----------	------

Mediator	Date
----------	------

Mediator	Date
----------	------

We believe that this is a fair agreement. If for any reason we are having problems that we can't resolve on our own, we agree to come back to mediation to get help.

Signed:

TERMS

Adjudication A process in which a judge or jury decide liability or guilt related to a legal claim before a court. The parties must adhere to strict notice and evidentiary requirements. Parties are seldom encouraged or allowed to speak for themselves. The parties have no decision-making authority. The court's decision is binding and enforceable by law.

Alternatives Other ways to meet underlying needs or interests.

Arbitration A dispute resolution process in which one or more neutral parties hears the evidence and arguments of each disputant (and their lawyers) and makes a decision for them. Arbitration is usually faster and less restrictive than adjudication.

Brainstorming Freely gathering ideas, without initially evaluating or criticizing.

Caucus Meeting in which a mediator talks with each party privately to discuss issues and possible settlements.

Compromise Mutual giving and taking.

Conciliation Parties do not meet face-to-face to discuss a solution to their conflict. A go-between relays information back and forth between the parties in an effort to establish a resolution, as in "shuttle diplomacy." The parties control the decision-making process.

Conflict The natural expressed tension arising from real or perceived differences.

Disputant: One engaged in a dispute or argument; party.

Fears/Feelings The emotional energy that may motivate parties into conflict. This energy must be either channeled into productive problem solving or its intensity lowered so that parties may engage in a cooperative problem solving process.

"I" Messages Expressing to the other person how you feel and what makes you feel this way without blaming and/or attacking the other party. Sentences begin with "I," and do not refer to "you." The pronoun you is never used in an "I" message.

Litigation The parties sue each other, or bring criminal charges, allowing the court to render a judgment or find a person guilty of a crime.

Mediation Parties to a conflict work with a neutral third party to reach a voluntary, mutually agreed upon resolution. The mediator controls the meeting process while the parties control the decision-making process.

Needs/Interests May be short or long-term stable concerns underlying a position. Needs and interests have to do with basic things: time, money, space, and security. Parties can satisfy a need or interest in many ways. Interest based negotiation allows parties to work together to solve the problem in a way that meets the most important needs of both participants.

Negotiation Without a third party intervention, the parties in a dispute discuss options for agreement. In this approach, the parties control both the decision-making and meeting process.

Peer Mediation Process in which a person (mediator) assists two parties in conflict to resolve their dispute. The mediator only facilitates the dialogue; the parties in dispute resolve the conflict. The mediator is in the same environment as the disputants, such as a particular workplace or school.

Position A statement of what a party wants. It represents just one way the party's needs or interests can be met. Positional bargaining usually involves a compromise of both positions.

Third Party A term used to describe an impartial person, group, or organization that assists disputing parties in reaching a resolution. Mediators, arbitrators, facilitators, and conciliators are all considered third party neutrals.²⁰

²⁰Regan.

CULTURAL AWARENESS DEFINITIONS

Ableism To hold a prejudice against people with physical or mental disabilities.

Ageism To hold a prejudice against a person or group who falls within a specific age group (e.g., teenagers, senior citizens).

Ally A person or thing connected with another, usually some relation of helpfulness or kinship.

Bias An inclination of temperament or outlook. A personal and sometimes unreasoned judgment. To have a settled and often prejudiced outlook.

Classism A prejudice held against a group sharing the same economic or social status.

Culture The customary beliefs, social norms and material traits of a racial, religious or social group.

Ethnicity Self-identification with a large group of people who share a common racial, national, tribal, religious, linguistic, and/or cultural background.

Discrimination Differential treatment in favor or against people according to the particular group to which they belong. To restrict people's access to, or opportunities for housing, employment, and education.

Homophobia The unfounded fear or hatred or both of homosexuality or homosexuals.

Islamophobia The unfounded fear of or hostility towards Muslims and people perceived to Muslim.

Nationality A body of people having the same traditions, language, or ethnic origin, and potentially or actually constituting a nation. The state, quality, or fact of being related to a particular nation, as by birth or citizenship.

Oppression The systematic controlling of a disempowered social group by a group that has access to power.

Prejudice A pre-judgment for or against someone. To generalize about a whole group of people on the basis of some perceived idea, without complete examination of the facts.

Privilege A special or peculiar benefit, favor, or advantage enjoyed only under special conditions.

Race A concept used to classify humankind according to assumed physical differences. Although it has no basis in biological fact, race is a tremendously powerful social construction and continues to affect the lives of both white people and communities of color.

Racism A system of individual and institutional practices which subordinate a person or group because of their color.

Sexism A belief that one sex is by nature superior to the other and discrimination based on that belief.

Stereotype An oversimplified, generalized image describing all individuals in a group as having the same characteristics, i.e., appearance, behavior, beliefs.

Tolerance The capacity for or the practice of recognizing and respecting the beliefs or practices

Transphobia Unfounded fear and hatred against transgender, non-binary, and gender non-conforming people. of others.

Values Those principles, ideas or objects which we rate highly and often live by. Values are often passed down from generation to generation.

FURTHER READING

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NOTES

