

# **Making Mediation Work For You!**

A Course Module  
by Laurie Donley

## **Module Objectives**

1. To teach individuals how to take the basic mediation model and use it as an effective problem solving tool.
2. To be able to examine individual needs and cultural diversity through good communication skills.
3. To initiate, process and bring to resolution conflicts in an administrative setting.

The material used in this presentation is a collaborative collection of mediation materials. Part of the collection was derived from a study created by "Partners in Peer Mediation" which was a school project spearheaded by The Honorable Frank Evans retired Chief Justice First Court of Appeals and director of Center for Legal Responsibility- South Texas School of Law. The second contributor was "Concerned Teens" a non profit group that developed training for at risk teens. After many hours of lectures and training seminars a lot of the material is material passed down from seminar and lecture to the next lecture and seminar. Materials that are passed down are for educational purposes.

## **CBAT Making Mediation Work For You! Pre-Test**

Please match the correct letter to each word and press the submit button.

Active Listening  
ADR(Alternative Dispute Resolution)  
Agreement  
Brainstorm  
Clarify  
Conciliation  
Confidential  
Conflict  
Dispute  
Empathy  
Negotiation  
Non-Violent  
Professionalism  
Resolution  
Restating  
Ventilation

- A. To make clear by asking
- B. The act of agreeing, to be in harmony in feeling, opinion or purpose.
- C. A problem-solving technique that involves the spontaneous contribution of ideas from all members of the group.
- D. The ability to understand and be sensitive to the thoughts and feelings of another person without actually having those same feelings.
- E. A term describing the different processes through which disputes may be solved as quickly, inexpensively and appropriately as possible.
- F. An informal process in which a third party tries to facilitate (help) an agreement through separate meetings with disputants.
- G. Give full attention: Listening to understand.
- H. To solve through discussion or compromise.
- I. To say again in another way
- J. Keep private or secret.
- K. Free from Violence.
- L. To engage in an argument.
- M. To solve, to deal with successfully, find an answer.
- N. To conduct oneself in a proper manner.
- O. To struggle over or to quarrel.
- P. To examine, discuss or investigate fully and openly; to talk about ones feelings.

# Summary

## Course Description

The basic theories and concepts of conflict resolution are explored through an interactive model process. Basic resolution skills will be expanded through a facilitation process which will consist of decision making and examination of cultural and perceptual diversities.

## Course Overview

This course is designed to take the basic mediation or conflict resolution model to a practical application level. The model will examine the physical environment needed to conduct facilitations, the needed communication skills and the fine tuning of perceptual concepts.

## Course Standards

To become an effective peacemaker and problem solver one has to do outside research and reading. A bibliography will be included for outside reading.

## Course Objectives

1. To teach individuals how to take the basic mediation model and use it as an effective problem solving tool.
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3. To initiate, process and bring to resolution conflicts in an administrative setting.

## Section 1: Course Description and Overview

**Time:** 5 Minutes

**Participant Materials:** Flip board with paper

**Trainer Notes:** This is the time to introduce the session and let the participants get a feel for the session. On the chart the trainer can emphasize key words that will come into play during the session.

**Key words to bring out are:**

- Facilitation process
- Practical application
- Perceptual concepts

Conflict is not age, gender, or race specific. Conflict is generated by newspapers, televisions, political groups, churches and schools. This module is a vehicle based on the model of formal conflict resolution. This module is a driving mechanism for dealing with conflicts whether they are cultural, political or societal. Cultural diversity is a sensitive area addressed differently by all individuals. There are outlines, guides and rules in the formal process of conflict management; however this is a session on how to make the process work or how one can assimilate the process into a working model. Cultural diversity is a perception and through excellent communication skills one can adjust their prejudices. If someone is a teacher or an administrator good communication and listening skills can help them cope with any situation whether it is at their school or in their personal life. Adjusting to positive every day situations allows the person to take that positive situation and create working relationships in their schools. Just because every section of this module will not specifically address the word cultural or the word ethnic does not mean it is not working towards a common goal of cultural understanding. Having good listening skills, being able to process information in a positive manner and knowing the dynamics of ones environment can make a teacher or an administrator a successful facilitator. These skills help one to look beyond the color of skin, the differences in languages and the economic social levels of other teachers and administrators, students and the families involved within the academic arena.

## Section 2: Pre-Test

**Time:** 15 Minutes

**Participant Materials:** Test questions already prepared for the participant and ready to pass out.

**Trainer Notes:** This starts the entire session. Getting the individual to focus on terms that will be incorporated into the session is important to the individual because they will need and use many of the same words during the session. It is useful to write some of the words that are used in the presentations and in the role plays.

Most used words in the session are:

- Active listening
- Agreement
- Clarify
- Empathy
- Negotiation
- Resolution
- Ventilation

Outcome: To get the person to focus on building a good arsenal of key words and phrases. It is important to get the student off to a good start in proper phraseology and know how to use certain words in their negotiations.

## Section 3: Helpful Phrases To Use In Mediation

**Time:** 10 Minutes

**Participant Materials:** Flipchart

**Trainer Notes:** Mediation is not a skill one learns in a single book session.

Mediation is a learned skill and one book session or one class semester does not make a good mediator. Trainers need to emphasize the need to facilitate many sessions, the need to listen to different mediators and the need to train under different facilitators. This section uses many statements made by different mediators. Some people may look at these statements and tell you, "Those were my exact words". The reason is, when mediators learn their skill some of the same phrases are used over and over, and some of the phrases work so well that people adopt them as part of their own negotiation skill.

**Outcome:** To get the person to focus on building a good arsenal of key words and phrases. It is important to get the student off to a good start in proper phraseology and know how to use certain words in their negotiations.

1. "What has this situation done to change your life?" "Did being called a name make you angry?" "Did letting other children know your parents can not speak our language make you sad?" "Did the color of your skin make a difference to the other party?" "Did your cultural values change your view on the situation?" "Did you feel left out because your parents can not be a part of your school culture and activities?"
2. "Is there any thing you would like to say to the other party?" One good way to open a session is to have the parties say one nice thing about the other party. It may only be, "I like the color of your backpack". Letting the other person know that the other party sees them in a good light can be an icebreaker for the session.
3. "How would you like to see this process end?" Get their emotions out on the table and find out where they want to go, or how far they will go to resolve the situation.
4. "What needs are important in this session?" Do we need to have resources available to help this facilitation end amicably? Do we need third parties to be available?
5. "What do you want to address?" Never let a session go on without the parties knowing you want to hear all they have to say on the issue. It is their mediation; however the mediator is the coordinator and needs to keep the flow rolling by showing they are listening and want the process to keep going.
6. Mediators have this option "I have seen this work for other people." Maybe we could see if it would work for you." Generate new options. Keep the ball rolling; do not let the parties throw in the towel until all the options are addressed.

7. Let the parties create ownership. “What do you think is appropriate for this situation?” “Do you think the punishment or the retribution fits in this situation?”
8. “Do we need to have long term goals?” “Is this a situation that the parties will remain in close proximity?” “What effect will it have on their future at this school?” “What ripples of discourse can a failure to resolve this situation cause in the future?”
9. David Mesaros says “We can’t help what has happened in the past, let’s focus on the future.”



### **Star Points**

- GET INDIVIDUAL EMOTIONS OUT IN THE BEGINNING AND GET THE PARTIES TO FOCUS ON THE REAL ISSUES INVOLVED IN SOLVING THE ISSUE.
- LEARN TO BE CREATIVE. A GOOD MEDIATOR LEARNS HOW TO KEEP MEDIATION ON TRACK BY USING KEY WORDS OR PHRASES.
- DAVID MESAROS SAID “WE CAN’T HELP WHAT HAS HAPPENED IN THE PAST, LET’S FOCUS ON THE FUTURE”. GOOD MEDIATION FOCUSES ON THE FUTURE AND HOW TO MOVE FORWARD AFTER THE MEDIATION.

## Section 4: Preliminary Arrangements

**Time:** 20 Minutes

**Participant Materials:** Flipchart and colored pens

**Trainer Notes:** The preliminary arrangement is a crucial session. If it takes longer to complete this module, then another session should be shorten or abbreviated to accommodate this section. This preliminary section sets the stage for the entire mediation session and sets the tone for the mediator. It is good to use different colored markers to show the table arrangements and how the table arrangement creates the mood for the mediation. After showing the schematic the class can set around tables in the different settings to see how it can impact a mediation . This section carries weight in teaching an individual what style of mediator they will become in their sessions. It is important to teach the balance of hard and soft negotiators.

**Outcome:** This session sets the stage for both a successful negotiation and negotiator. The dynamics of the table arrangements and the style the facilitator chooses will set the stage for the session. In the beginning when mediators learn their craft it is good to show them the options and alternatives available in different mediation styles.

### First Steps

1. Locate the room
  - 1) The room needs to be in a quiet location. Rooms that are close to vending machines and bathrooms tend to have a lot of foot traffic and should be avoided.
  - 2) The parties should feel that the location is private.
  - 3) If the session is likely to be volatile then it is good to prearrange a separate room for caucus purposes. This room will need to be far enough away for the parties to speak privately.
2. Temperature
  - 1) Have a room where one can control the temperature setting.
    - a. Extreme heat makes the parties sleepy and can make them lose focus on the process.
    - b. When the room is to cold the parties can become more focused on the discomfort of the cold rather than the session.
3. Rooms with a view are harmful to the session
  - 1) Large windows cast a glare and can make it hard to see.
  - 2) Windows with a view cause peoples mind to stray from the session.
  - 3) Make sure blinds are closeable but do make the room dark.

### Room Arrangements

1. Condition of the furniture
  - 1) Make sure the furniture is clean.
  - 2) See that the chairs have no cracks or torn material.
  - 3) Chairs need to be comfortable.
2. Hard Negotiators
  - 1) Hard negotiators sit in a position of authority.
  - 2) The parties sit across from one another.
  - 3) The negotiator sits at the head of the table.
3. Soft negotiators
  - 1) They want their surroundings comfortable.
  - 2) Look for a neutral appearance
  - 3) This person often sits in the middle of the table.
  - 4) Parties sit around each other.
4. The alternative to the square table.
5. A round table that is large enough for comfort.
6. Rearrange chairs away from the square concept

### **Final Touches**

1. Make sure your parties are comfortable
  - 1) Provide tissues, pencils and note paper.
  - 2) If possible have water on the table for the parties.
  - 3) Let the parties know the location of bathroom facilities.
  - 4) Tell the parties about vending machines in the building.
  - 5) Let them know the location of the buildings exits.
2. Invite your parties to be comfortable



### **Star Points**

- FIND A QUIET AND PRIVATE LOCATION FOR THE SESSION. ROOMS CLOSE TO BATHROOMS, VENDING MACHINES OR CONSTANT FOOT TRAFFIC CAN CREATE A NEGATIVE ENVIROMENT FOR A SUCCESSFUL NEGOTATION.
- TEMPERATURE IN THE ROOM IS IMPORTANT. FIND A LOCATION WHERE THE THERMOSTAT CAN BE CONTROLLED.
- ROOMS WITH A VIEW ARE HARMFUL.
- WHERE THE MEDIATOR SETS AT THE TABLE SETS THE TONE FOR THE MEDIATION.

## Section 5: How to Listen Carefully

**Time:** 10 Minutes

**Participant Materials:** Flipchart

**Trainer Notes:** Being a good listener is important in becoming a good mediator. Without good listening skills one can not be successful in facilitating a successful negotiation.

**Outcome:** To build good and solid language skills.

1. Good communication skills are the start to a successful facilitation. How to listen to a person is the basic skill in creating good communication skills.
2. Look at the person and try to understand what they are saying. This means not prejudging what they have to say. Never assume that “you” know what they are going to say.
3. Make eye contact.
4. Know their name. Say their name. Saying their name gives the party ownership to their problem.
5. Repeat, repeat, repeat. A good listener remembers because they listened and understood the party from the beginning.
6. Move away from a distraction. When other people start to hear your conversation, move away and let the other party know why you moved. If there are distracting noises move away or adapt to the volume. Do not become involved in the atmosphere around you and forget to listen.
7. Silence. Silence is often known to be a negative sign. Silence is not negative in good listening skills. Silence can mean the person is listening to the situation and trying to understand the person. Silence gives parties time to slow down and unwind. A minute of silence can make a person rethink their situation.
8. When a person thinks one party may not be listening, turn the tables on their listening skills. Ask them “where was I, I was getting ahead in my thoughts and lost my train of thought”.
9. RESPECT. Give loyalty to each party as they speak. That person is the most important person in the room. Act like every word is special, every idea is special.



### Star Points

- Listen to the party speaking. Never try to prejudge their words.
- Make eye contact
- Move away from distractions
- Silence is a positive tool.
- Respect

## Section 6: Mediators Workshop of Language Tools

**Time:** 15 Minutes

**Participant Materials:** Flipchart

**Trainer Notes:** All mediators need refresher course in body language and in their listening skills. Writing the phrases on the flip chart and having the individuals act out the body language skills is a must

**Outcome:** To have each mediator know their own body language. The presenter needs to spend time in helping each person get in tune with their positive body language, in order to become the best mediator.

### Active Listening Points

#### Positive Body Language

1. Follow cultural procedures on eye contact, in America look the party in the eye
2. Nodding your head
3. Sitting up erect
4. Hands on the table
5. Nice facial expressions
6. Tone of voice is pleasant and unassuming
7. Repeating ones name

#### Negative Body Language

1. Looking around the room instead of at the parties
2. Staring at the parties
3. Slouching in the chair or tilting chair back
4. Clasped hands
5. Pained expressions like a smirk or a sneer
6. Voice is clipped and haughty

#### Positive Language

1. Clarify what the parties have said
2. Let me see if this statement is correct?
3. Do you mean?
4. What I hear you saying is .....
5. Repeat—Repeat—Repeat
6. Ask, so you feel this way about this situation?

## **Negative Language**

1. Let unclear points continue through out the session
2. Not understand the parties view points
3. Not giving weight to each parties views by interrupting or letting the other party interrupt
4. Not acting like you hear them by looking distracted or bored
5. Not restating the facts
6. Not understanding both parties have emotional issues involved in the session



## **Star Points**

- Repeat peoples names. Repeating names gives power to individuals and it helps the individual to feel important.
- Monitor your tone of voice. Never sound haughty or clipped when mediating.
- Repeat. Repeat. Repeat.
- Restate facts.
- Find out how the parties feel about the situation.

## Section 7: Perceptions

**Time:** 15 Minutes

**Participant Materials:** Blackboard and flip chart

**Trainer Notes:** This is a good interactive session. It is good to write the first nine perceptions on the board for the class to keep in mind. Role plays can be done in groups with one person recording the results. The role play is to have an individual close their eyes and picture the whole world as a blank slate, Stay quiet for a couple of minutes and then open their eyes. Does the room look different?

**Outcome:** To have the individual see how prejudices cloud their perspectives and how one needs to clear their mind before a mediation.

### What are Perceptions

1. Perceptions are bound by ones past.
2. Perceptions are learned by ones past.
3. Perceptions are what one thinks about themselves.
4. Perceptions are what one conceives as the truth.
5. Perceptions are what clouds ones ability to reason.
6. Perceptions are what individuals rely on to guide them in their decision making processes.
7. Perceptions are ones loyalty.
8. Perceptions are what one expects of another
9. Perceptions are ones down fall

### How to Deal With Perception in Mediation

1. Close your eyes. Picture the individual as a blank canvas. Every thing they say, how they look, their language skills are all new experiences that day, that time.
2. Understand that the parties also have their perceptions.
3. Past experiences make up our perceptions. What we learned in school, at home, in church and from our peers makes up our perceptions.
4. Ones physical and emotional state that day depends on how we treat others and how we perceive that day.
5. Loyalties to teachers, an organization or ones family may taint our feelings and perceptions.
6. What one thinks is expected of the party weighs on ones decision. If the teacher feels the administrator should act on certain guidelines then the teacher will opt to sway the decision in favor of one party over the other.
7. A facilitator always has to keep a clear and unbiased face on the situation. If the negotiator has a prejudice it is an art to not show that feeling. This goes back to the positive communication skills. Sit up straight, look both parties in the eye, continue to take notes and never let one party start to take over the balance of power.
8. Remember "you" may be the one to be judged the next time.



### **Star Points**

- Perceptions bind us to the past.
- Perceptions are what clouds ones ability to reason.
- Past experiences make up ones perceptions.
- Loyalties taint our perceptions.
- A facilitator must keep a clear and unbiased face.

## Section 8: Coping With Difficult Individuals

**Time:** 15 Minutes

**Participant Materials:** Flipchart

**Trainer Notes:** This is a good class participation session. The class can take turns in speaking. Have the students pair off and practice speaking in firm and affirmative sentences, then in clipped and argumentative sentences.

**Outcome:** To show students, mediators need to control speech and body language to become effective negotiators.

1. Deal head on with strong parties; do not let one party start running the process. It is a deal breaker when one party feels they have no ownership of the session.
2. When parties become emotional do not let your emotions come into play. Let the party take a break and get back into control.
3. Ask closed questions to the party causing the disruption. Open questions let the party keep expanding on their issues. By letting them answer yes or no it cuts their talk time.
4. Keep yourself in charge of the proceedings. Do not let the emotional party upstage the proceedings.
5. Stop domination. If one lets a single party get in control the process is lost. The best tool one has is to go back to their opening statement of parties being there in good faith. Good faith is listening to the other party. Let the offending party know everyone will be heard.
6. Caucus. If the mediator feels control is being manipulated, take the offending party out of the room. Explain this is not their mediation alone and that both parties will be heard and their positions will be heard.
7. The mediator has to stay in charge. Once the mediator loses control the mediation is over. If one has an issue with a party deal with it then while the issues are hot. A good facilitator can gain control back if the use their positive communication skills. A good example would be to look at the offending party and tell them, "I understand how you feel, however I need to hear from both parties."
8. Take a break. Get some fresh air. Even mediators need to take a break and regroup.



### Star Points

- Keep yourself in charge of the proceedings.
- Deal "head-on" with strong parties.
- Take a break and regroup to gain control of the session.

## Outside Reading Book List

Dunn, N.(1987). *Learning the Skills of peacemakers*. Jalmore; California.

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Harrison, D., & N, and Wodarski, J.(Eds.)(1998). *Cultural Diveristy and Social Work*.(2nd ed.). Charles C. Thomas. Springfield, Illinois.

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Horney, K.(1945). *Inner conflict*. New York: Norton.

Huxley, A.(1963). *The doors of perception*. New York: Harper and Row.

Daminco, S., and Sparks, C.(1986). Cross-group contact opportunities: Impact on interpersonal relationships in desegregated middle schools. *Sociology of Education*. 59, 113-123.

"A World of Difference: A prejudice reduction activity guide." Anti- Defamation League. 1991: CA

Kreidler, W.(1984). *Creative conflict resolution. A good year book*. Illinois: Scott Foresman Publishers.

## Future Sessions

- A. How Preliminary Arrangements in a Mediation Session Create Your Style and Set the Pace for Your Mediation.
- B. The Dynamics of Conflict Resolution
- C. Mediators Workshop of Language Tools
- D. Perceptions Workshop
- E. Active Role Playing To Enhance Your Mediator Skills