

Mediation Skills Development

31 October – 4
November, 2022



Trainers:

- Jimmy Valentine, FMCS Commissioner
- Liz Brenner, FMCS Commissioner



Welcome

Welcome and goals for the training

Training Goals

- By the end of this week you will learn...
 - Strategies and Tools for Effective Communication
 - Conflict Styles and how they work
 - Handling conflict as a mediator
 - Mediation principles and models
 - Interest Based Problem Solving principles
 - Neuroscience of Conflict
 - Emotional Intelligence
 - Strategies in Mediation and Group Facilitation



Icebreaker Activity



The Interview: “Hello Neighbor”

- In pairs, for next 5 minutes conduct an interview of each other and gather the following information:
 - First/Last Name _____
 - How long have you worked as a Mediator or Neutral _____
 - What Province or District do you work in?
 - Something interesting, unique or surprising about you outside of work _____
- Report Out: Intro colleague to group!



Overview of Training Agenda

- Day 1: Art of Communication, Conflict Resolution Skills + Guest Speaker
- Day 2: Stages and Styles of the Mediation Process + Interest Based Problem Solving
- Day 3: Neuroscience + Emotional Intelligence
- Day 4: Strategies of Mediation and Facilitation
- Day 5: Mediator Ethics and Team Building

Federal Mediation and Conciliation Service (FMCS) Facts

- Began after passage of United States Labor Law called the Taft-Hartley Act (1947)
- Independent, Neutral, Non-Regulatory
- Promote sound and stable labor-management relations
- Prevent or minimize work stoppages
- Advocate collective bargaining, mediation, arbitration



Introduction to FMCS

FMCS Director reports directly to the President of The United States.

Why is “independent agency status” beneficial to FMCS?

It allows mediators to focus solely on helping the parties resolve disputes, without worrying about legal or rights-based questions.



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Collective Bargaining in the U.S.

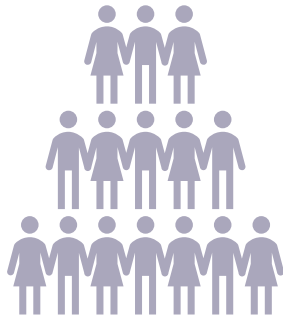
- In the U.S., collective bargaining is decentralized and generally takes place at the enterprise level.
 - If the parties fail to reach an agreement the solution is a strike or a lockout.
- Unlike in many other countries, there is no body that decides the terms of a CBA (and no one decides the outcome for the parties in a strike situation).



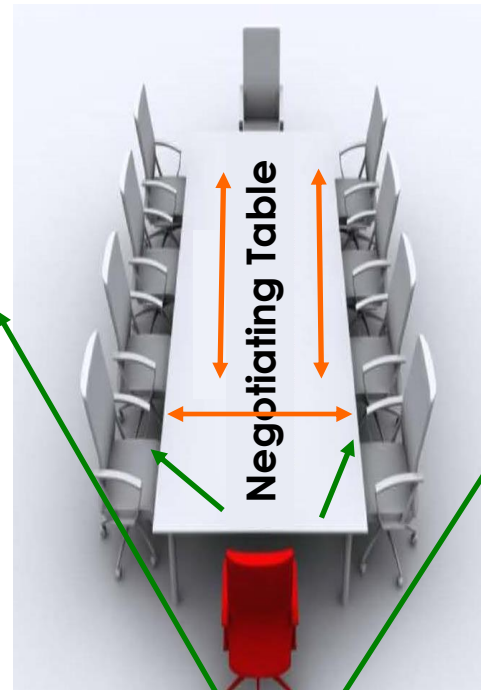
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The Dynamics of Mediating Collective Bargaining in the U.S.

Management Constituents
Not Present at the
Negotiating Table

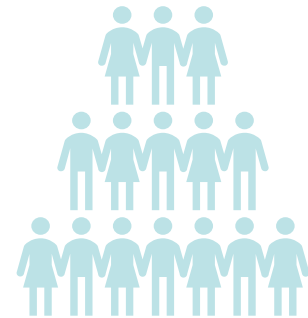


Upper Level Management
Vice-President for Human
Resources, etc.



Mediator

Union Constituents Not
Present at the Negotiating
Table



"Rank and file" members of
the Union covered by the
CBA



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FMCS and National Labor Relations Board (NLRB)

FMCS



- Does not adjudicate or enforce the law.
- Relies heavily on ADR-related processes, like mediation.
- Does not need to be concerned with unfair labor practices or who would prevail in court.

NLRB



- Adjudicates and enforces collective bargaining law.
- Generally, does not use ADR in their practice.
- Is concerned with CBA violations and legal outcomes.



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Key Principles of Our Work

1

Ethics – strict code of ethics (i.e. confidentiality, neutrality, freedom from conflict of interest, self-determination, voluntary consent, etc.)

2

Competence – recruiting high-quality talent, extensive training and mentoring programs, professional development, and National Labor Management Conference

3

Trust – professionalism standards, extensive ethical rules applicable to all government employees (i.e. gift policies)



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Evolution of FMCS Services

Over time, we have shifted our services from just resolving disputes, to preventing and managing them

- **1947 (Creation of FMCS) - "Firefighter" Era:** We Waited for the conflict to start, and then we came and "put it out."
- **1970s – "Preventive Mediation" Era:** All mediators also required to become skills trainers to help parties prevent and manage conflict.
- **2010s – "Conflict Management Professional" Era:** All mediators will be required to take a systemic approach to helping organizations manage change, and to gain competencies to manage interpersonal conflict.



Why Do Training?

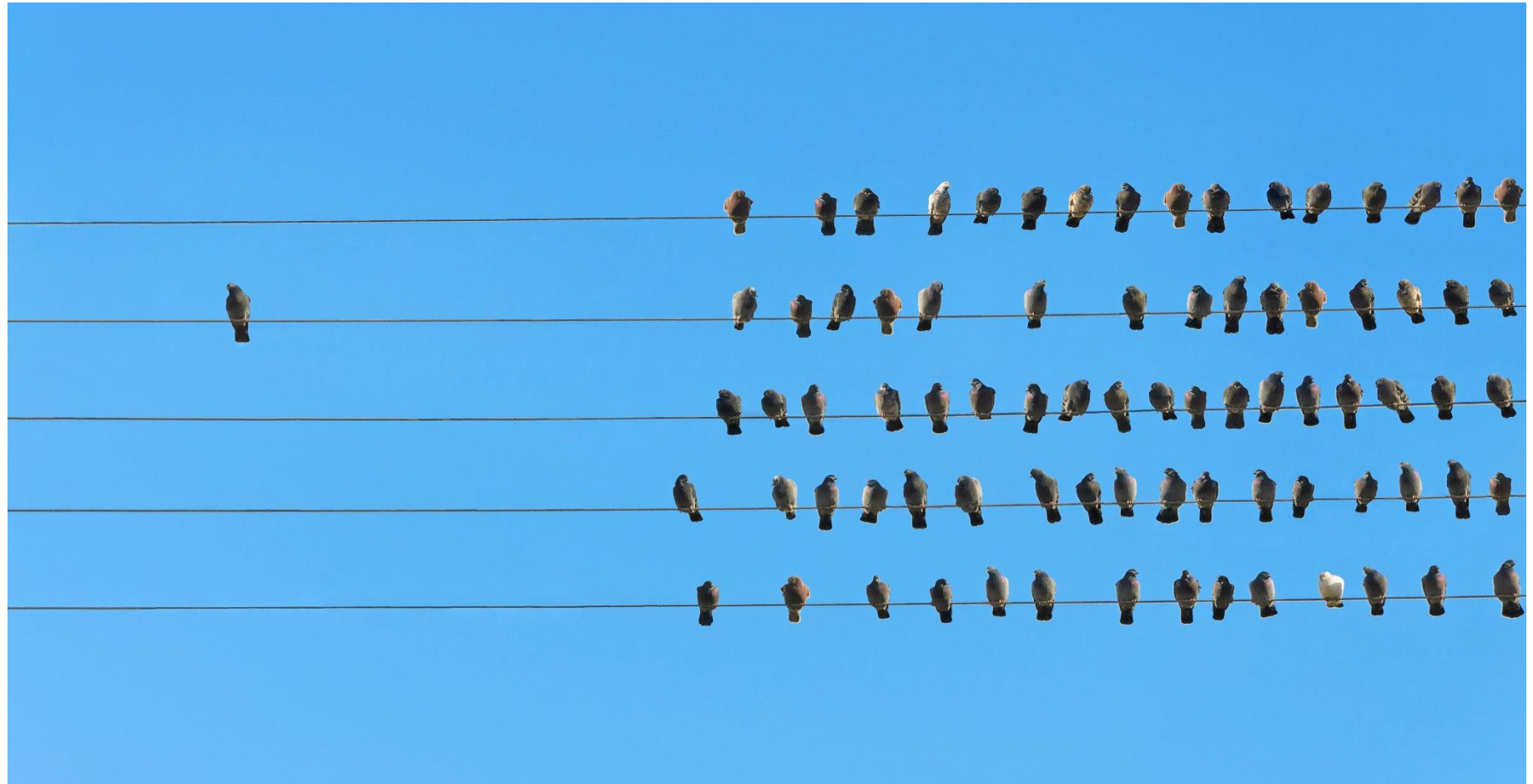
Keeping things in the proper perspective





Why Do Training?

What can you learn by being observant



ART OF
COMMUNICATION



Power of Words

<https://www.youtube.com/watch?v=Hzgzim5m7oU>

Why is Communication Important?

The basis of each relationship lies with communication

- Family: how well we get along with each other. Why we don't get along.
- Work: how we get things done. Why we feel anxiety at work.



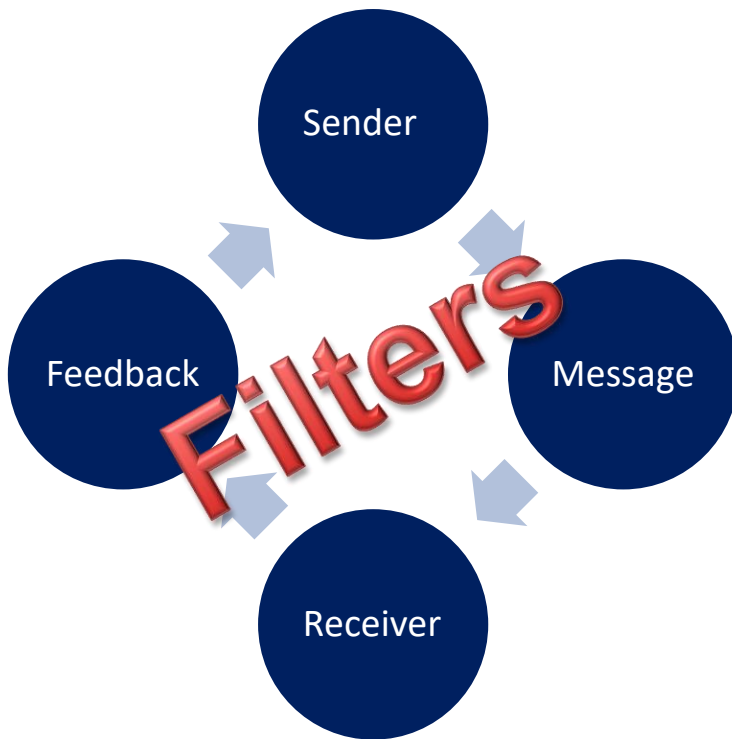


What is the power in being heard and acknowledged?





Communication Cycle



- Process of keeping others informed
- Transfer of knowledge or instruction
- An expression of opinion or emotion
- Direction to motivate or change behavior
- A method of establishing relationships

How does body language impact the effectiveness of our communication?



Active Listening, Defined...

The willingness to
be impacted by
what is being
communicated to you.



ACTIVE LISTENING



Communication

Speech: We speak 125 – 225 words per minute

Voice: We can hear, distinctly, 400 words per minute

Brain: Our brains can process 1,000 to 1,400 words per minute

LISTENING FACTS



After 48 hours people remember approximately 25% of a ten minute talk



When listening, people ignore, misunderstand or forget 75% of a conversation



The Cash Register



Active Listening

“7 of 10 people will misread a document and miss the point. More horrifying, 8 of 10 misunderstand verbal exchanges. It is easy to talk, but it is hard to listen well.”

- George Thompson, *Verbal Judo*

Listening Filters

Listening Filters Determine what we are paying attention to:

- Culture
- Language
- Values
- Beliefs
- Attitudes
- Expectations
- Intentions



ACTIVE LISTENING BENEFITS

1. You will increase your **knowledge**
2. You will **save time** because you will hear the message the first time
3. You will **reduce your stress**
4. You will **engage in true dialogue**



ACTIVE LISTENING BENEFITS

- 5. You will earn trust
- 6. You will understand
- 7. You will increase your self-esteem
- 8. You will become influential

CHECKLIST FOR LISTENER

- Give non-verbal clues of openness
- Acknowledge speaker
- Ask questions to understand
- Show that you care
- Be aware of non-verbal clues
- Use silence well
- Trust your gut
- Notice the attitude of the messenger

CHECKLIST FOR SPEAKER

- Be specific and simple in a direct way
- Give examples of what you mean
- State your assumptions
- Speak in receiver's "language" to relate
- Ask listeners if your message is clear and understood
- Watch for signs of confusion/inattention
- Ask listeners to repeat/restate their understanding of the message
- Speak to the entire group



Active Listening

“Listening is not a natural act. It is highly artificial and artistic. In fact, listening is *not* the opposite of talking... In our culture, the opposite of talking is more like waiting to interrupt.”

- George Thompson, *Verbal Judo*



Common Poor Listening Habits

- Being aggressive and attacking the messenger
- Interrupting the speaker
- Mentally rehearsing response while message is being delivered
- Blocking out unpleasant, difficult, or complex subjects



Improving Listening Power

- **Don't Assume...** Instead, ask questions
- **Don't Anticipate...** Instead, try and have an open mind
- **Don't Attack**
- **Don't show disrespect by interrupting or talking down**
- **Don't react emotionally or too quickly...** Instead, think before you respond



Shapes-Exercise



What is Conflict?

Derived from *confligere*, Latin for “strike together”

- More than a difference
- A disagreement that may result in my needs or values being frustrated
- Your definition . . .

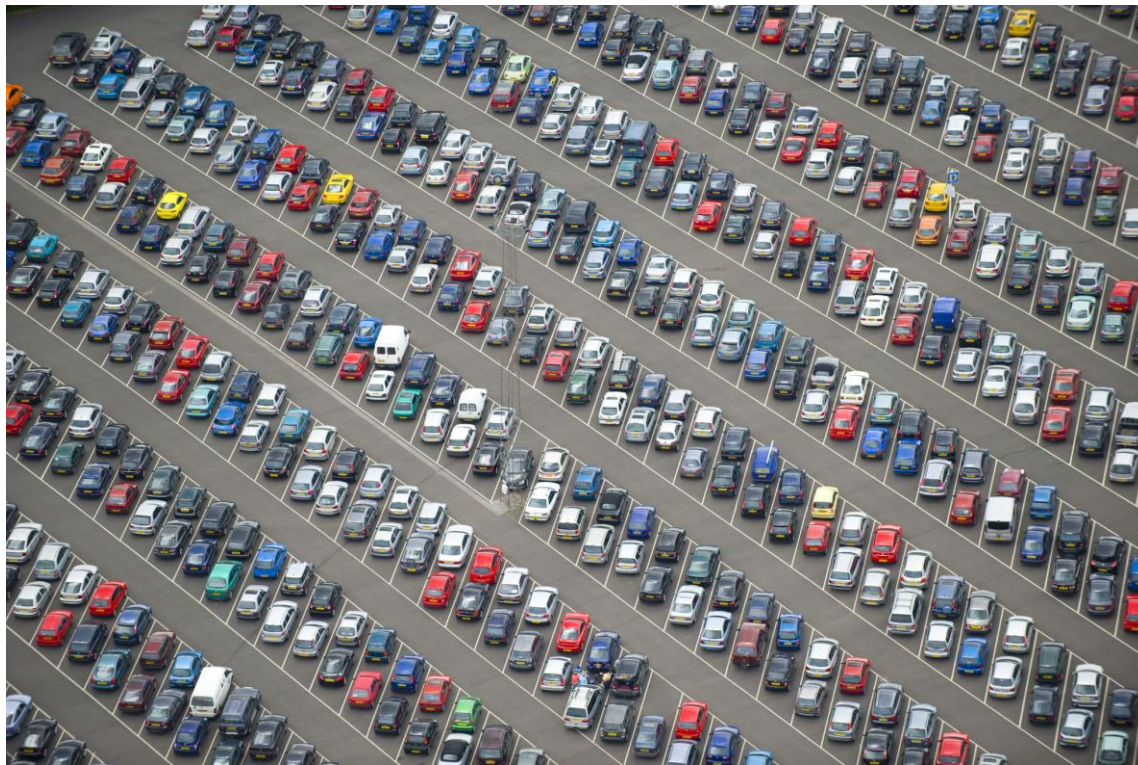


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What is Conflict?

Video Presentation: The Parking Lot





Common Misconceptions Regarding Conflict

- Conflict is inherently bad and/or unhealthy
- Conflict is a matter of right vs. wrong
- Conflict is always a result of clashing personalities
- Conflicts resolve themselves
- People always know when they are in conflict
- Conflicts only impact parties directly involved



The Line of Conflict



Sources of Conflict

Information
Strategy
Goals
Values

Informational Conflict

- Individuals have different information, which can best be resolved by asking questions and getting better data.
- This is the Most Common source of conflict and the Easiest to resolve.

<https://www.youtube.com/watch?v=H4SpQqP2zuU>

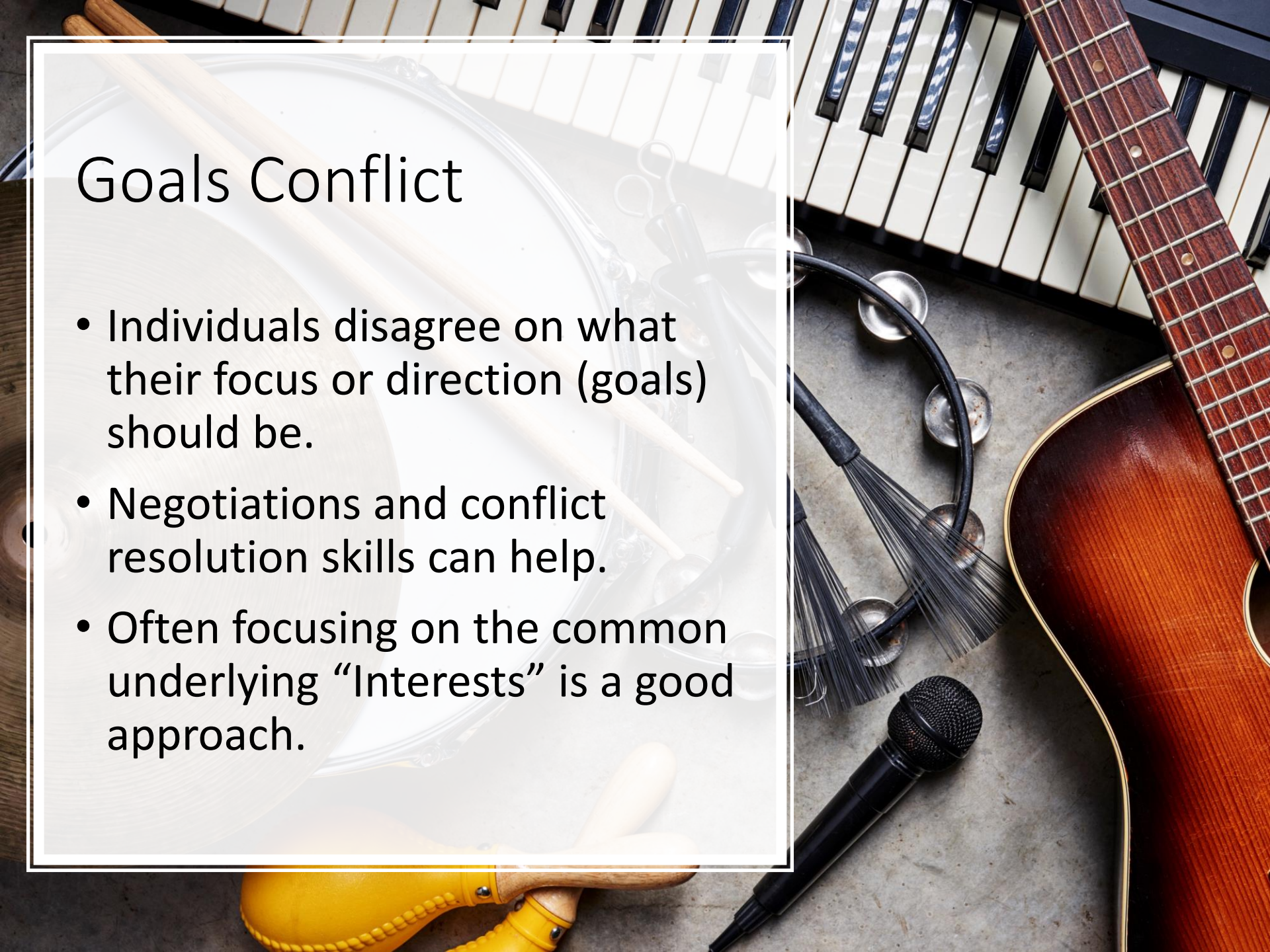


Strategy Conflicts

- Individuals disagree on strategies for a presumed common goal.
- They simply disagree on “how” to get there.
- A Problem Solving approach works well here.

Goals Conflict

- Individuals disagree on what their focus or direction (goals) should be.
- Negotiations and conflict resolution skills can help.
- Often focusing on the common underlying “Interests” is a good approach.



Values Conflict

- Most difficult type of conflict to resolve because it is rooted in differing values or ideologies of the individuals involved.
- Understanding and Respect for each other's Perspective is critical and may be extremely difficult.
- Finding a resolution that does not require either party to change their values is the gold standard and thus may not be attainable.





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Types of Conflicts

- Communication Conflicts
- Different Needs Conflicts
- Personality Conflicts
- Resource Conflicts
- Values Conflicts
- Conflicts/ Biases from Past Experiences with Others
- Conflicts based on Feeling Wronged

Sources of Conflict

Difficulty to Resolve

Informational

Strategic

Goals

Values

- Disagreement over facts – greatest source of workplace conflict
- Agreement on what we want; disagree on how to get there
- Different goals for the same issue or for connected issues
- Deals with ideology



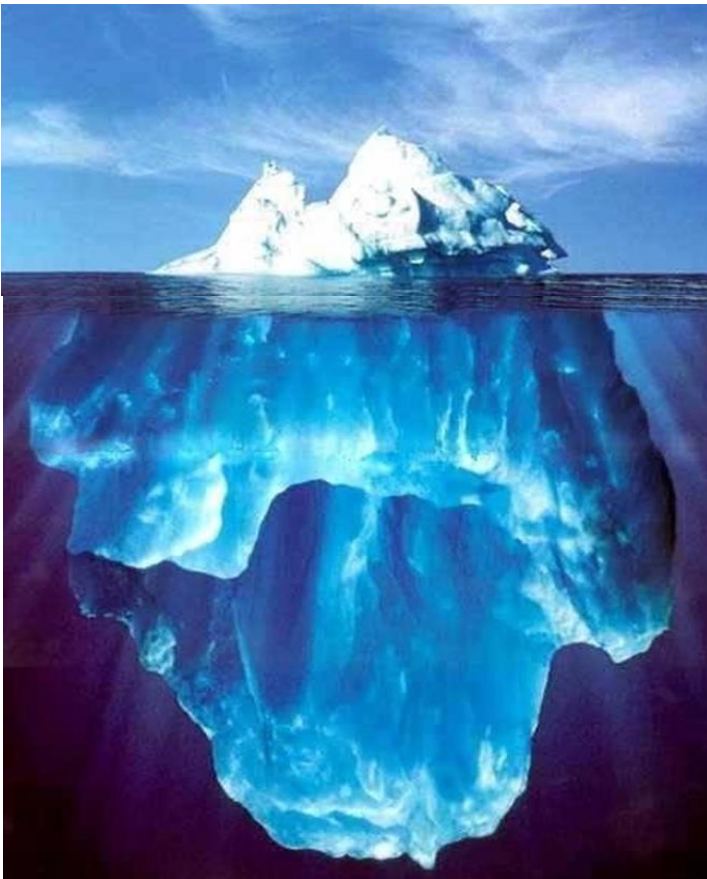


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Conflict Principles

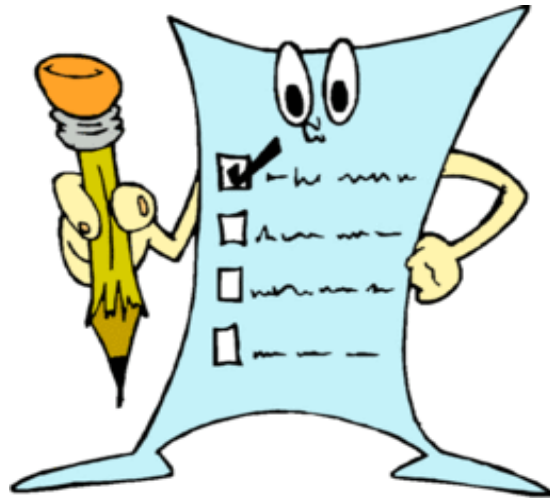
The Conflict Iceberg



- What we see
 - Issue
- Below the surface
 - Emotions
 - Personalities
 - Interests
 - History/Baggage
 - Hidden Agendas

Source: Cloke, K. & Goldsmith, J.; Resolving Conflicts at Work

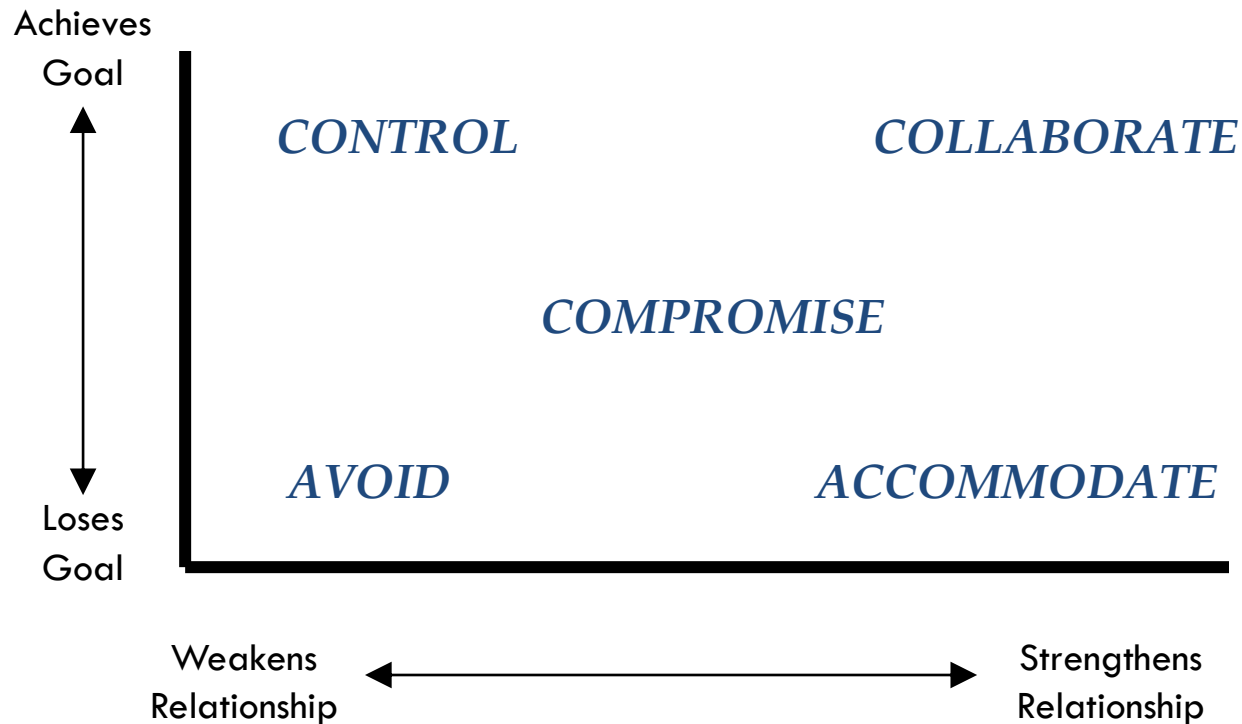
What is My Conflict Style...



Conflict Styles

- **Control** = Urgent, crisis, result over relationship;
- **Avoid** = Now is not the time + Achieving result not driving issue for you;
- **Accommodate** = When you don't have time/resources/desire to address the interests
- **Compromise** = Pick your battles + Relationship is the principal driver
- **Collaborate** = Best Result if you have time, trust, transparency-seeks out Interests

Five Styles of Conflict Management



(*According to Thomas Kilmann Conflict styles)



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About the Art of Mediation...



Story of the 18th Camel and Going to the Balcony

- As you listen, consider:
- What are some underlying needs shared by all three brothers?
- Is there any other way of figuring out how to divide the camels than the route that they used?

Going to the Balcony by William Ury





I'm at the Balcony . . . NOW WHAT?

- Take that deep breath
- Positive self-talk
- FOCUS on the other party
- Assume a positive intent
- Respond, not react
- Other Suggestions...?

What are
you telling
yourself?

*Much of our conflict results from
what we tell ourselves.*

- The Fundamental Attribution Error: We react to situations while others react to immutable character traits!
- We are well-intentioned “victims” (worthy individuals just doing our best)
- We are “right” and they are “wrong”

What else do we tell ourselves?

What is the Story?

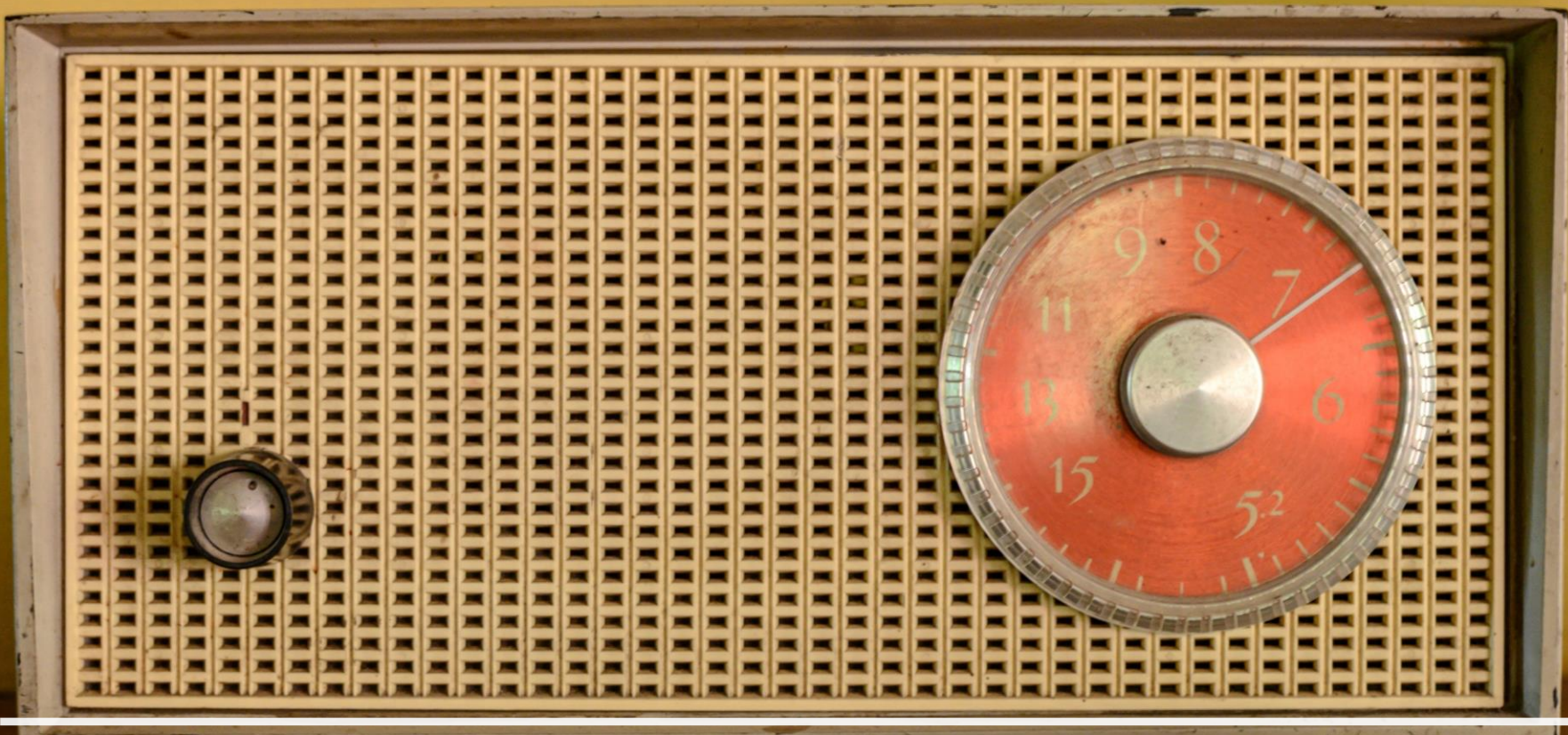
- Very often the Conflict has already begun before I even encounter the other person because of the story I have already rehearsed in my head
- Change the Story-Tell yourself that this time the interaction will be different and positive (every time!)

Before jumping into Conflict Mode

- **P**ause: Allow the brain time to move from Reptilian to Frontal Cortex;
- **R**eflect: Go To The Balcony!
- **R**ewind: Reprogram the Story & Initial Response
- **R**edo: Respond instead of React!

Understanding Conflict Takeaways

- Identify and Understand the Sources of Conflict
- If you don't recognize what is beneath the surface (driving the behavior), chances of resolving or surviving the Conflict is minimal
- What Story am I telling myself?-Reply vs React



Mediation Role Play

Navigating &
Understanding
Conflict
Resolution
Laws in
Indonesia





Welcome to
Day Two!
Looking back:
Questions and
Thoughts from
Yesterday





Icebreaker Activity

Why Do People Come to Mediation?

Why do you think people use mediation?

- They are forced to
- They want to tell the other party what they think of them
- They want help getting along
- They want the mediator to tell them what to do (make the decision for them)
- They want help solving the problem
- They want someone to listen and understand
- They want to punish the other party
- They are too mad or upset to be able to solve the problem
- They do not want to talk to the other party
- They want to save money
- Other reasons?



Roles a Mediator Plays

Safe space maker

Bridge builder

Calming factor

Communication initiator

Investigator

Educator

Reality Check

Energizer

Procedural Facilitator

Information Broker

Advocate of the process

Provider of empathy

Neutral

Instiller of doubt and/or hope



Overview of 8-Step Mediation Process

Step One: Planning and Preparation



Step Two: Mediator Opening Statement

- Welcome
- Explain mediation
- Role of mediator
- Confidentiality, impartiality
- Role of attorneys, representatives, others
- Ground rules
- Joint and caucus sessions
- Note taking
- Agreement to mediate
- Questions



A photograph of two women sitting at a table in a bright room with large windows. The woman on the left, with long brown hair and wearing a light pink blouse, is smiling and gesturing with her hands. The woman on the right, with dark curly hair and wearing a blue top, is seen from the back. The image is partially obscured by a white, torn-paper-like border.

Step Three:
Parties Initial Statement
and Mediator Feedback

Step Four: Determining Issues and Agenda Building

Issues that can't be mediated:

- Determining the “truth” of what happened
- Situations where the parties don't understand the complexities of the issues or their legal options
- Determining fault and/or punishment
- Issues where the real decision maker is not present



Step Five: Negotiation & Option Generation

- Identify emotions, build rapport
- Identify, explore interests
- Facilitate understanding
- Begin to focus on future
- Generate options

Step Six: Caucuses

- Support the people
- Control the process
- Solve the problem
- Consult with co-mediator



Pros: Build rapport and trust; gather info; test possible settlement; explore weakness of case; Increase empathy and encouragement; coach

Cons: May create suspicion; hidden communication; may reduce trust; imbalance of time may look unfair

Step Seven: Settlements

Durable Agreements Check List:

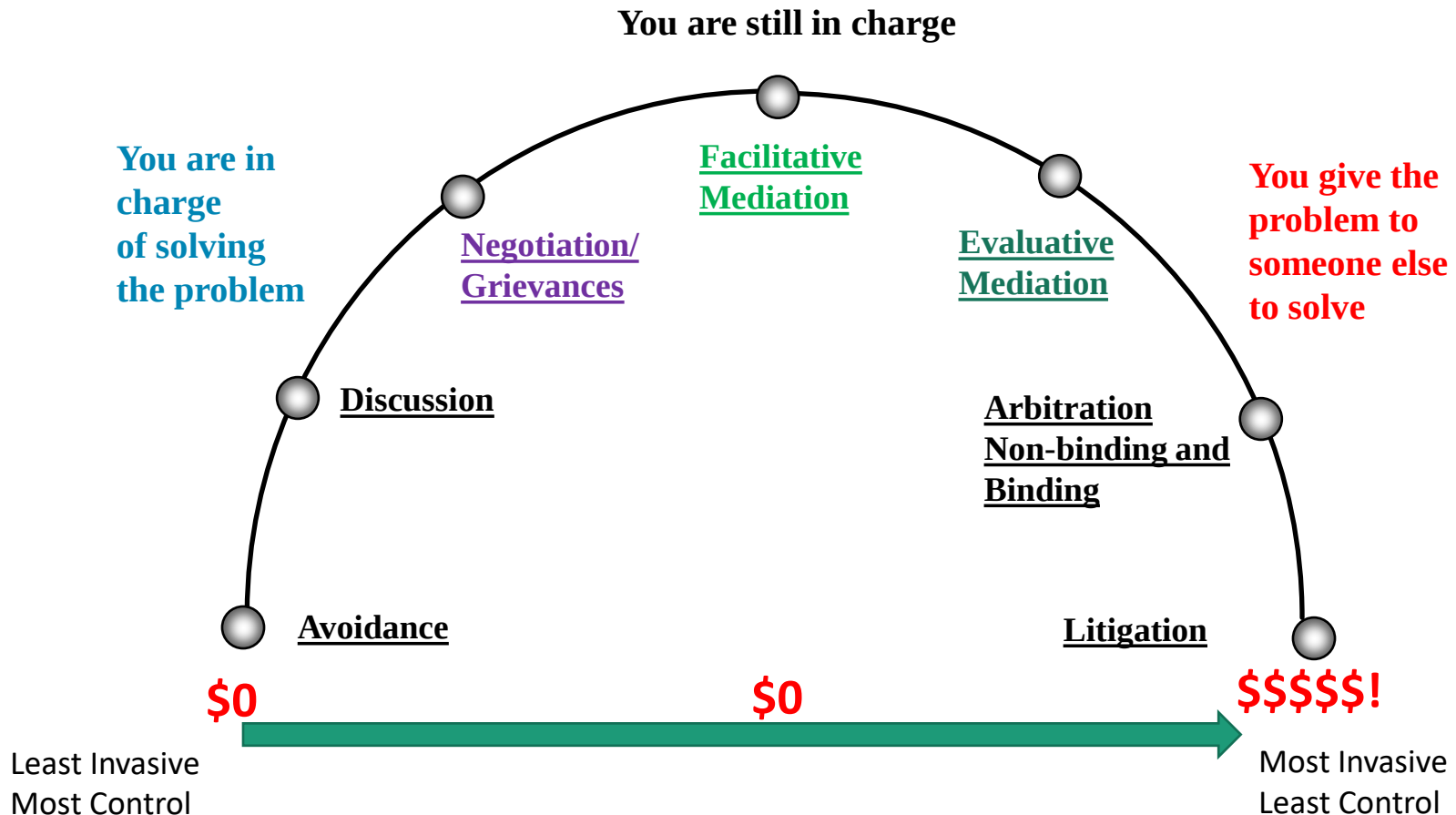
- Specifics
- Evenhanded and not conditional
- Uses clear, familiar language not legalese
- Emphasizes action steps “Jane Doe will...”
- Provides for future problems
- Is neutral and no-fault





Step 8: Mediation Session Closure

The Dispute Resolution Continuum



Mediation Models

Evaluative	Facilitative	Transformative
Focus on rights, legal issues	Focus on improving negotiation process	Focus on improving interactions and understanding between parties
Mediator provides suggestions, past case history	Mediator provides process facilitation and help	Mediator provides deep listening and support for the parties
Primarily separate caucuses, shuttling	Use of joint sessions, caucuses, sidebars	Primarily joint sessions
Provide appraisals or strengths and weaknesses of arguments	Provide ideas and questions for consideration by parties	Provide summarization and reflection, parties are in control of process



What
model
describes
your
style?

**Choose the model that best
describes your style of mediation:**

- Evaluative
- Facilitative
- Transformative





Mediation Role Play

Resolving the Substantive Issue

- Power
- Rights
- Interests





Power

- In the context of most labor-management relationships, everyone and every group has their own unique source of power
- When a party uses power, the other party usually responds with exercise of their own power, creating a “power struggle”
- When locked in a power struggle, the real issue/goal is neglected.

USS Montana





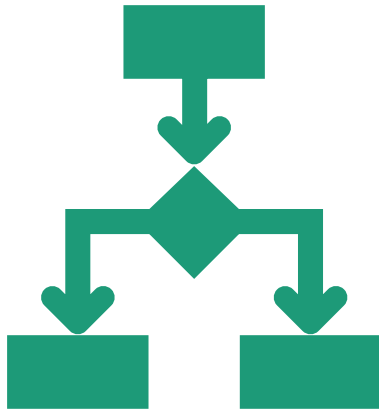
Rights

- Using a rights-based method for resolution of conflict is difficult without third-party intervention such as arbitration or civil proceedings – Why?
- Allowing a third party to decide takes important decisions out of the hands of those who are impacted the most.

A background image of a business meeting. Several people in professional attire (light blue shirts and ties) are seated around a long table. They are looking towards the right side of the frame, appearing engaged in a discussion. There are laptops, tablets, and documents on the table. A semi-transparent dark green horizontal band is overlaid across the middle of the image, containing the title text.

Interest-Based Problem Solving

Interest-Based Problem Solving



A method of Problem Solving in which the interests of all parties involved are addressed, multiple solutions and creativity are encouraged, and issues are addressed through open dialogue and information sharing.

What are the Basic Principles of Interest Based Problem Solving?

- ✓ Focus on the issue — One Team
- ✓ Explore underlying interests — The Why
- ✓ Discuss Options-Potential Solutions
- ✓ Share information — Be Transparent
- ✓ Build the agreement - No one gets Exactly what they want

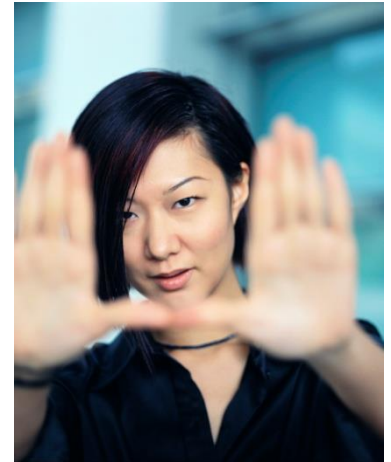
Interest Based Problem-Solving Steps

1. Frame and focus the issue (what's wrong?)
2. Identify interests (diagnostic - root cause – why?)
3. Generate options (how to solve the problem?)
4. Measure options against standards (will it work?)
 - 3 part test – Feasible, Beneficial and Acceptable
5. Develop a solution (by consensus!)
6. Evaluate the outcome (does it work?)

Framing the Issue

Develop an open ended question:

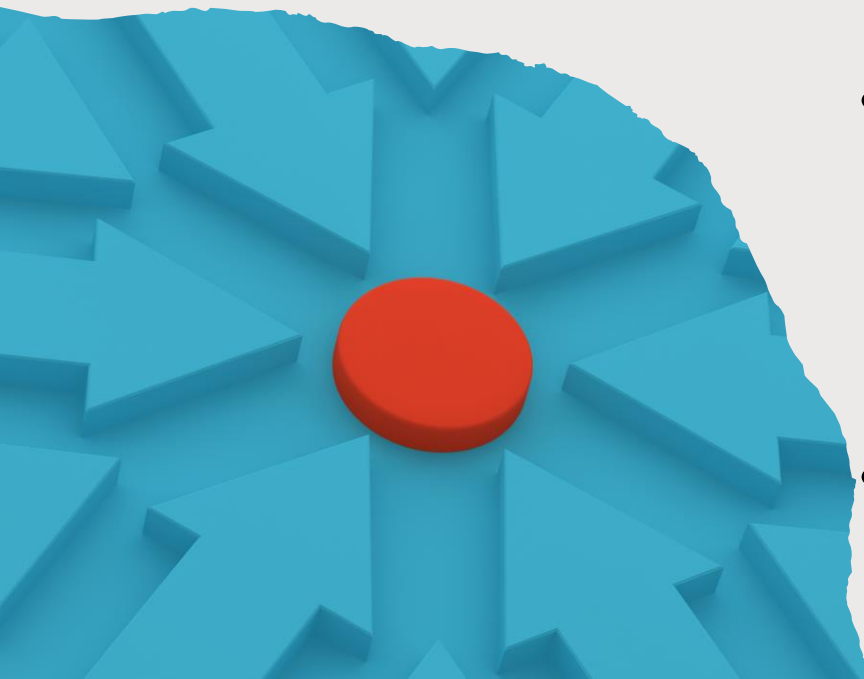
- of what needs to be addressed
- that cannot be answered “Yes” or “No”
- that contains no names, dates, interests or solutions



Begin the question with “*How might we...*”?
or “*What can we...*”?

Focus the Issue

- Tell your story:
 - Explain the reasons the issue is here
 - Answer the 4 “W’s” – who, what, when & where
 - Present the facts, history (not baggage) and parameters
- Ask any and all questions necessary to clarify the problem
 - Make sure that *YOU* understand the problem
- Record the problems identified





Identifying Interests

- Ask for background on issue, **why** it is important
- Use listening, restatement, summarization, to decode and uncover parties' needs and interests
- Interests can require time and vulnerability to discuss



Identifying Interests from Positions

A **POSITION** is a firmly held opinion about a desired outcome (*HOW* to address an issue), does not allow for alternative solutions:

Employees may only be used in their regular assignment on a holiday.

An **INTEREST** represents the needs, goals, desires, fears underlying an issue, option or position (answers *WHY* something is important to the person), allows for alternative solutions:

Job assignments and seniority must be recognized when scheduling for holidays

Position vs Interests

Iceberg Metaphor



Interests vs. Positions

Issue: A relative, Uncle Louie, who always gets upset at and tries to start fist-fights at the annual family reunion party.

Which of the following statements is an interest?

- “Uncle Louie will not be invited to the next family reunion unless he starts a yoga practice or some deep breathing exercises.”

or

- “When I go to the family reunion, I want to play a game of horse-shoes without Uncle Louie taking a swing at me.”

Interests vs. Positions

Issue: A wife who is frustrated with her husband because he channel-surfs during every TV commercial break.

Which of the following statements is an interest?

- “Sometimes, I would like to see some of the commercials to learn of new products.”

or

- “The next time he surfs during a commercial break, he and his Lazy-boy Recliner will be shipped out to sea.

Brainstorm Options

The “HOW” to solve the problem

- Follow brainstorming guidelines to develop options
- Focus on mutual interests as a primary source to generate options



Generating Options - Caution

During brainstorming, don't evaluate ideas – that comes later

Avoid saying things like:

- 💣 “that’s ridiculous” or
- 💣 “we have already tried that and it will never work” or
- 💣 “that won’t work because...”





Brainstorming
Practice

Uses of a
Paperclip

Evaluate Options

- Standards (or criteria) are essentially yardsticks to measure options
- Suggest a Three Stage Factor Analysis:
 1. Feasible (F)
 2. Beneficial (B)
 3. Acceptable (A)

Three Stage Factor Analysis

FEASIBLE

Relevant question: Is the option capable of being done?

Is the option:

- ☑ practicable
- ☑ workable
- ☑ legal
- ☑ affordable
- ☑ cost effective
- ☑ understandable
- ☑ simple
- ☑ flexible

BENEFICIAL

Relevant question: Does the option contribute to an improvement in the condition that caused the problem?

Does the option:

- ☑ satisfy important interests listed?
- ☑ harm important interests listed?
- ☑ help to solve the problem?

ACCEPTABLE

Relevant question: Will the option be approved (ratified) by your constituents?

If not, why?

Are there political problems?

Is the option worth re-working to make it acceptable?

Standards / Options / Action Matrix

Standards Options	Feasible <i>(Is the option feasible?)</i>	Beneficial <i>(Does the option benefit the stated interest?)</i>	Acceptable <i>(Do all decision-makers agree?)</i>	Action Steps <i>(What's to be done, who's will do it, and by when?)</i>
#1	Yes	No		
#2	Yes	No		
#3	Yes	Yes	Yes	Info / HR / date certain
#4	No			
#5	No			
#6	Yes	Yes	No	

Develop The Solution

Combine options that meet criteria and satisfy interests

- Reach consensus on the solution

Solution may include an action plan

- What must be done?
- Who will do it?
- When will it be started?
- When will the key milestones be completed

A group of business professionals in a meeting room, all looking towards the right side of the frame. They are seated around a long table with documents and laptops. A semi-transparent green box is overlaid in the center, containing the title text.

Decision Making By Consensus

Consensus



► Definition:

a form of group decision making. Everyone discusses the issue to be decided so that the group may benefit from the knowledge and experience of all its members. In order for consensus to occur, every member of the group must be able to support the decision.

Understanding the Definition of Consensus



- ▶ Everyone in the group has been heard
- ▶ Everyone in the group understands each others' points of view because of an open discussion and sharing of information
- ▶ Everyone can live with and support the decision even though it may not be their first choice
- ▶ Everyone has agreed to actively support the decision



Benefits of Consensus Decision Making

- Acceptance will be strong
- Implementation will be fast
- Not as much resistance
- All members' ideas have been heard
- Process aims to win
- No bargaining

Reaching Consensus

A group reaches **consensus** when each member can honestly say:

- ✓ I believe that **you** understand **my point of view**
- ✓ I believe that **I** understand **your point of view**
- ✓ Whether or not I prefer this decision, **I support it** because it was arrived at openly and fairly

The 70/100 Rule

When you, as an individual, are **70%** comfortable that you can support the group's decision **100%**, then you are in consensus.

70/100

Standouts

It's not unusual to have a “Standout” to an idea. It is also not a negative.

Standouts are those individuals who do not agree with the consensus decision

Standouts **SHOULD**:

- Explain their reasons and concerns
- Clearly explain why they disagree
- Try to offer a specific way to change the option to satisfy their concerns



Consensus Caution- Group Think

- A common problem in group decision making is the phenomenon of “group think”
- When in groups, people react to peer pressure and often do not raise objections they feel. This shuts down the conversation



Consensus Guidelines

Do:

- Listen and pay attention
- Share information/ideas
- Be open to ideas
- Offer alternatives
- Seek a win-win solution

Don't:

- Coerce
- Bully
- Bargain or trade support
- Argue blindly for your own ideas
- Vote

Test For Consensus

- Has everyone been heard?
- Can everyone live with the decision?
- Will everyone actively support the decision (even though it's not their first choice?)

Remember the **70/100 Rule**: Can you agree with the solution 70% and commit to supporting it 100%?

Consensus Activity

Activity: The Vending Machine



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Welcome to
Day Three!

Looking back: Questions and
Thoughts from Yesterday

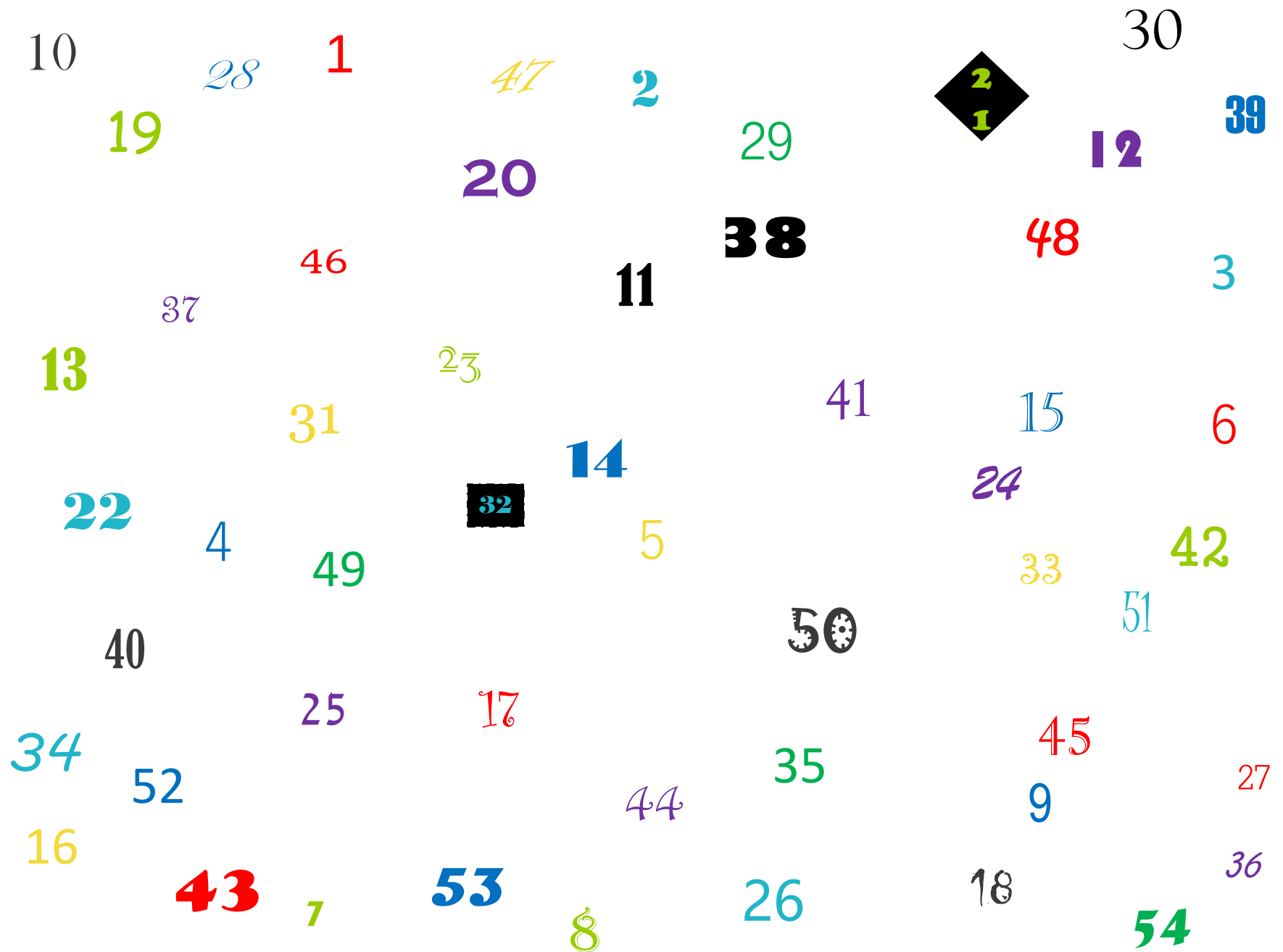


Day 3: Mediation and Neuroscience

- Power of Perceptions (Activity)
- Neuroscience of Conflict Behavior
- Emotional Intelligence
- The Ladder of Inference

Numbers

Activity developed by Thomas Lorenz
and Angelika Hocker



1
10

2
11

3
12

4

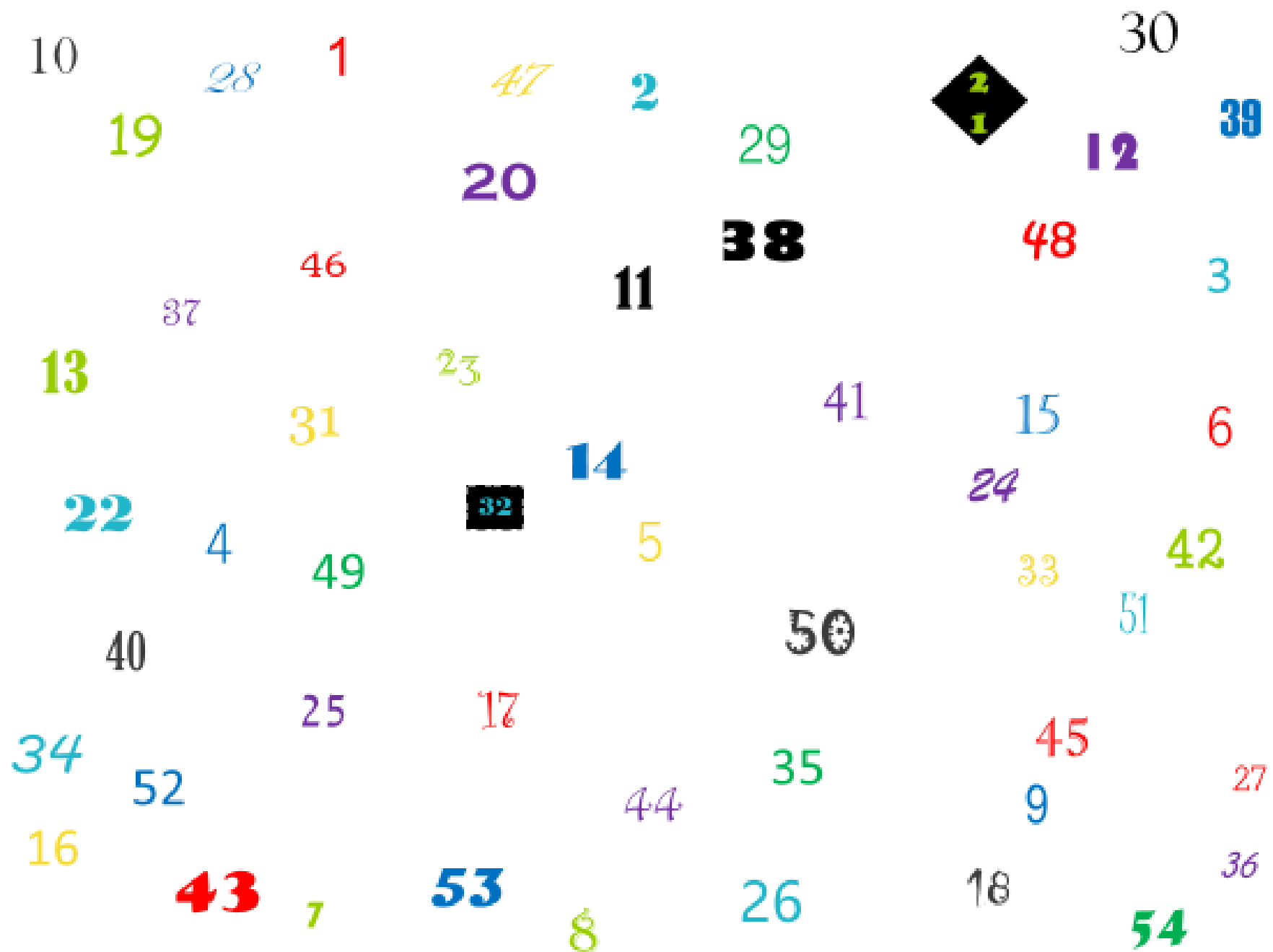
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6

7

8

9



Elephant Exercise





Exercise . . .

- Why were the elephants different?
- Which one was correct?

Perception is Reality

What you Perceive is what you believe and what you believe usually dictates how you behave!

The Neuroscience behind Conflict

Understanding how our brains work can help us

- understand *ourselves*
- *and others* in conflict
- and help us manage conflict





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A word about “Influences”

The part of our brain that controls perception and behavior is guided by our stored memories.

Live











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About Patterns



It's all about Prediction!



What I learned
about Bees...

Scanning for Patterns

Fear/Avoidance Reflex

- Processed by the *“Reptilian Brain”*
- Fight, flight, freeze
- Survival instincts
- “Non-thinking”



Reward/Approach Reflex

- Processed by the Neocortex
- Rational reflection
- Higher order thinking & learning





Fight, Flight, or Freeze

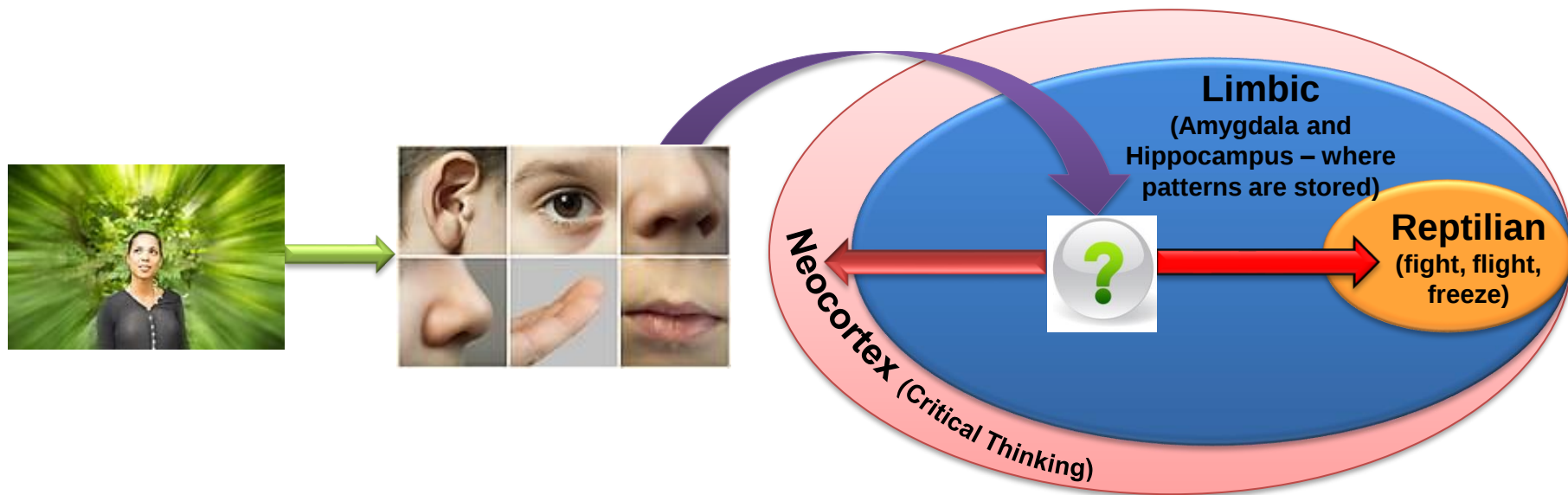
When in “Fight, Flight, or Freeze Mode” our conscious, productive, listening and decision-making functions are impaired.



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The Triune Brain





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Reptilian & Limbic Brain = Lizard/Puppy



=



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Reptilian Brain Characteristics (Lizard)

- Automatic Reactions
- Survival Instincts- Acts to Keep us Alive
- Fight/Flight/Freeze
- Never Turns Off!



Limbic Characteristics (Puppy)

- Emotional Center
- Love/Hate
- Fear/Anxiety
- Worry/Panic
- Impulsive/Impatient
- Fully Developed by Age 18

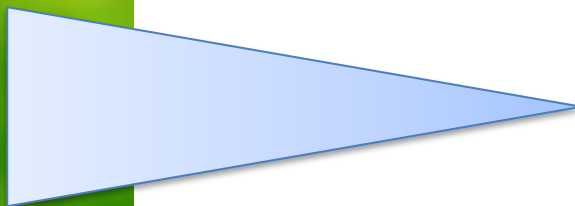


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Our Pattern-Seeking Brains: Geared for Survival

Stored Memories/Patterns:
What do I see and hear?
What can I match that to?
What reaction will best
promote my survival?





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Our Pattern-Seeking Brains

Non-physical danger situations



**Stored
Memories/Patterns:**
History, conditioning,
stereotypes, training.
Adversary!



Must protect!
Don't Trust!

Neocortex = Thinking



Neocortex Characteristics

- Cognitive thought
- Imagination
- Thoughts about the future
- Believes it is always in charge
- Tries to turn the Difficult/Complex into the Easy
- Last to Develop = 18-25

Using Your Brain

When Critical Thinking
needs to Happen: How
Can I Get From the Old
Brain to New Brain?





“Neuro-
commandments”
Relevant to
Workplace Conflict

People:

- Avoid and are more sensitive to danger/fear
- Seek reward/pleasure



“Neuro-
commandments”
Relevant to
Workplace Conflict

People:

- Relate & empathize “in-group”
- (but not “out-of-group”)



Some “Neuro-commandments” Relevant to Workplace Conflict

People:

- React negatively to *unfair* behavior

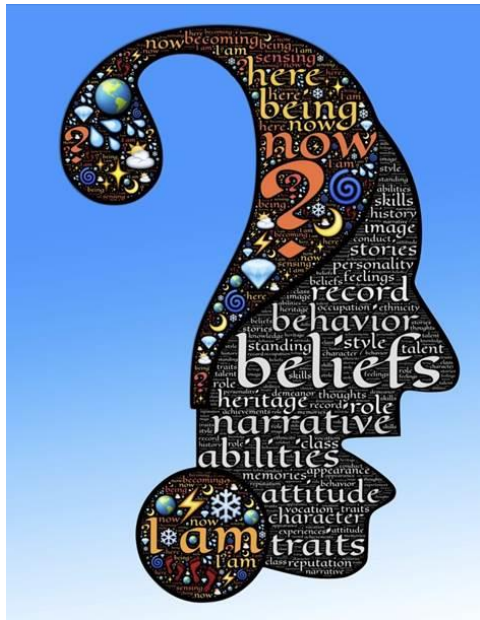


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nimals have morals.html](http://www.ted.com/talks/frans_de_waal_do_animals_have_morals.html)

[http://www.upworthy.com/2-monkeys-were-
paid-unequally-see-what-happens-next](http://www.upworthy.com/2-monkeys-were-paid-unequally-see-what-happens-next)



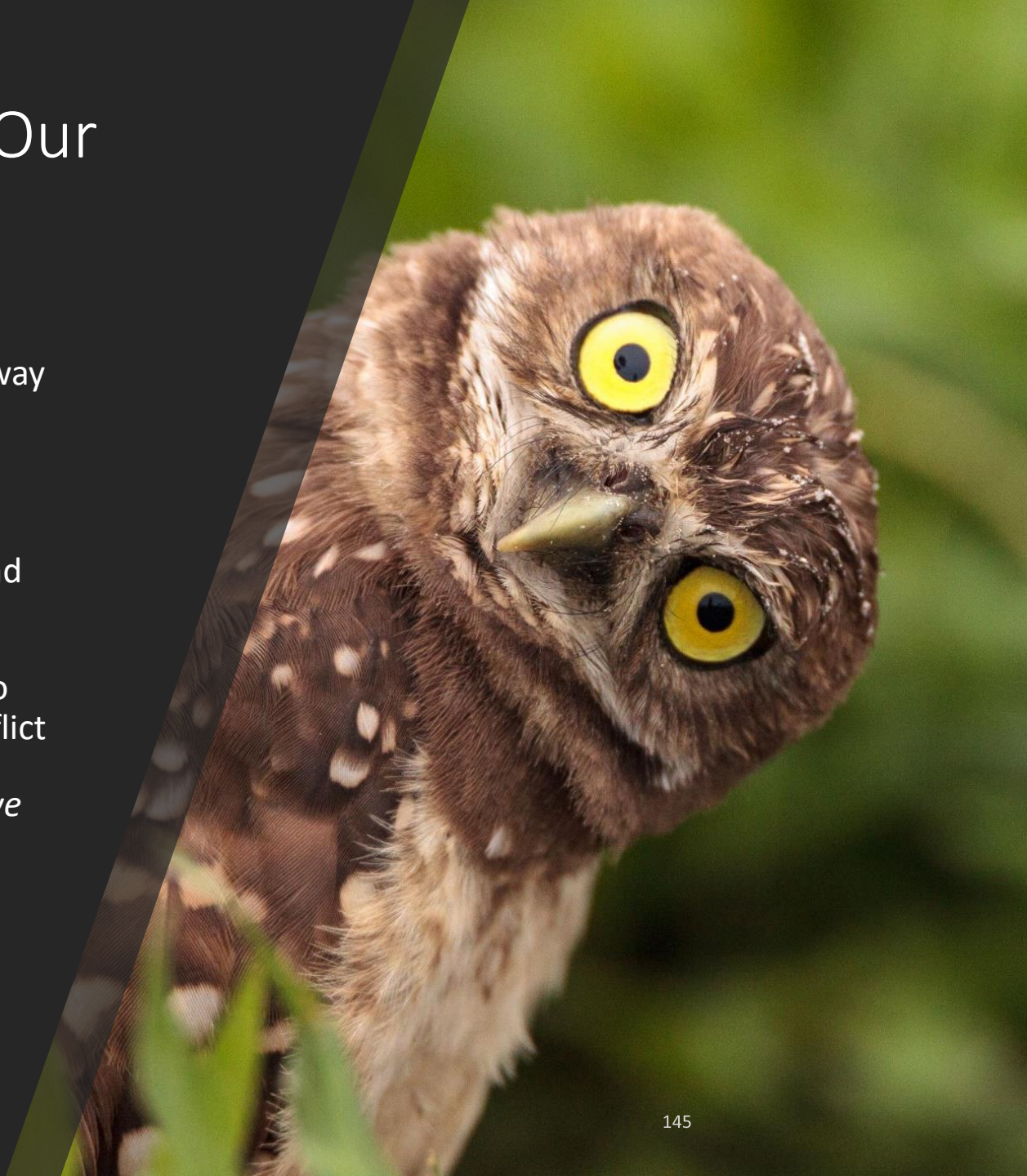
Neuroplasticity



Our brain has the ability to form and reorganize synaptic connections, especially in response to learning or experience or following injury.

Knowing How Our Brains Work

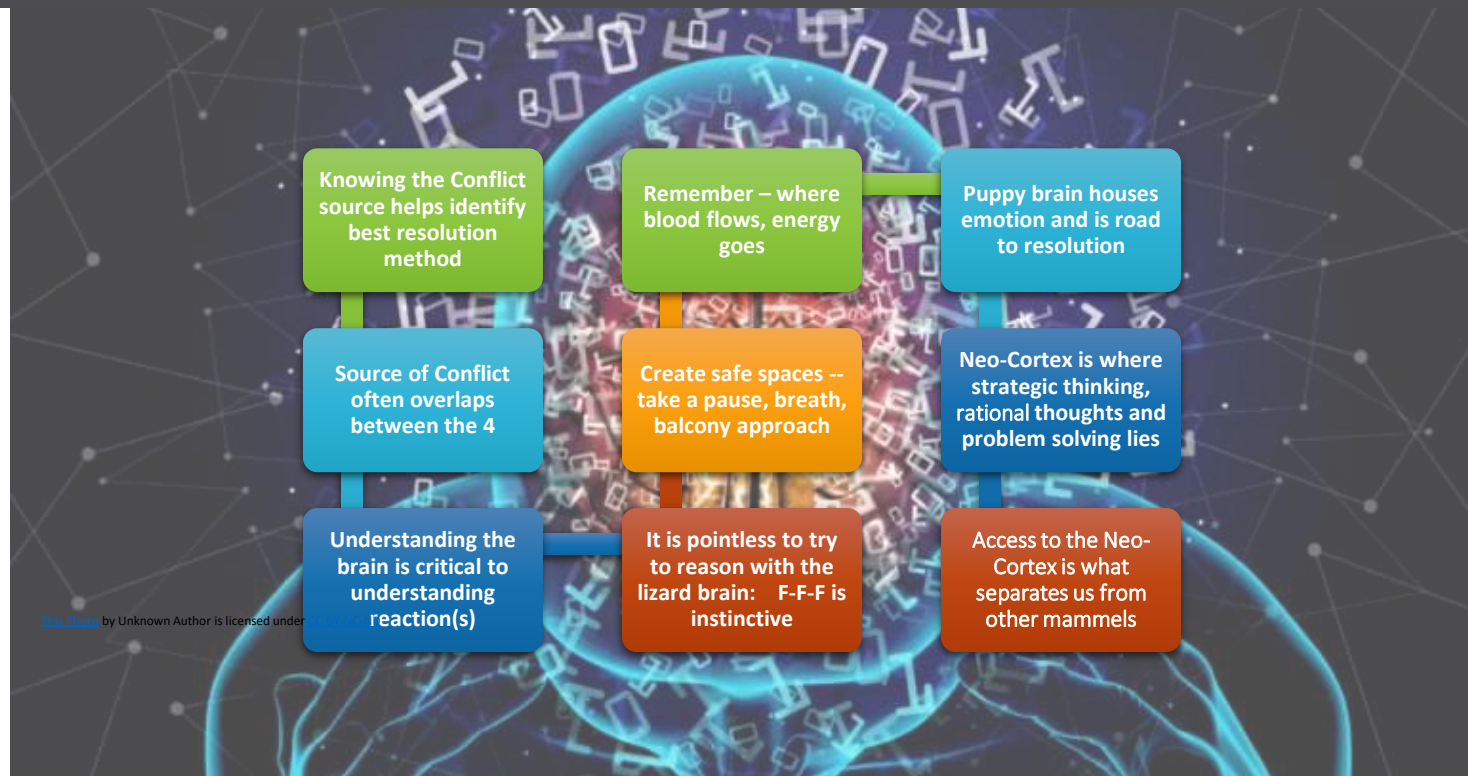
- Allows us to see that the way people act in conflict is perfectly normal!
- Allows us to help people understand themselves and others in conflict
- Can suggest approaches to help us work through conflict
- Can make us more *effective*





Reflection Exercise – Small Group Discussion |

What Matters for the Brain in Conflict....





Mediation Role Play



Emotional Intelligence



6 Basic Emotions

Sadness



Happiness



Fear



Anger



Surprise



Disgust





Emotional Trigger Events

Emotions always serve a purpose and come from somewhere

Emotions can hijack your behavior if you are not aware of them

Having self-awareness means you aren't afraid of your emotional mistakes because they tell you what you need to be doing differently

What is Emotional Intelligence?

(IQ) Cognitive Intelligence – Ability to learn new facts and information

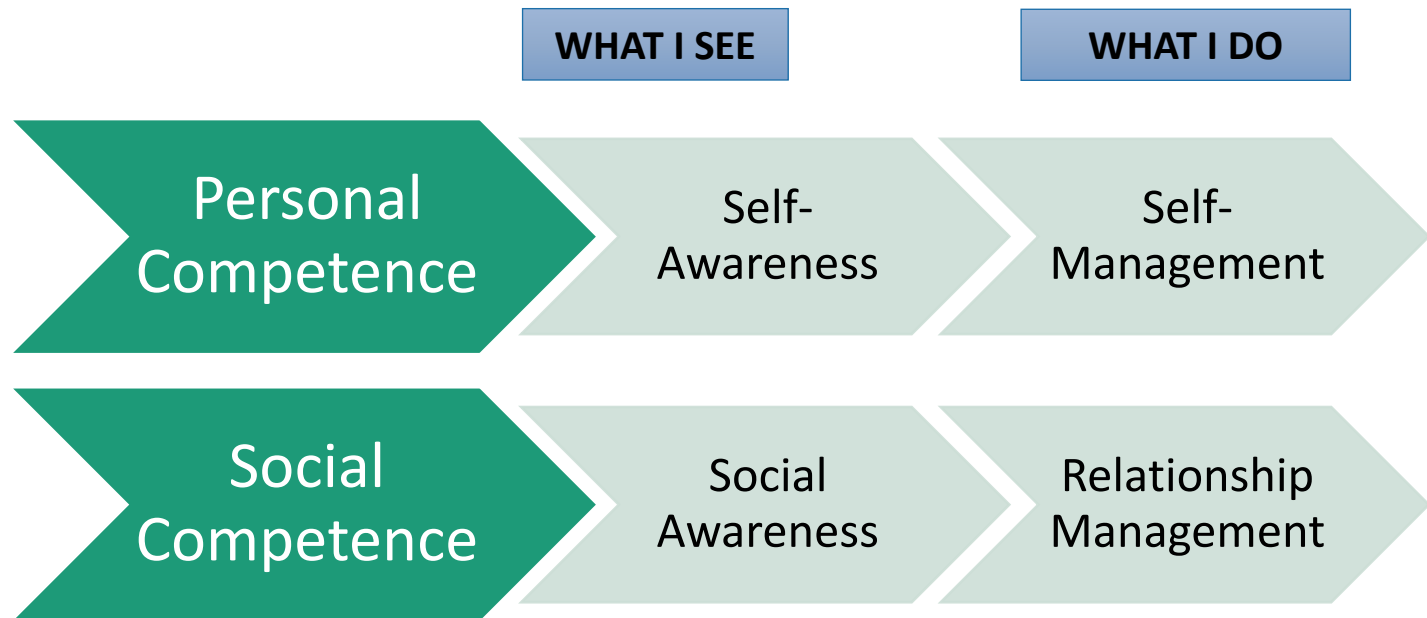
(EQ) Emotional Intelligence – Ability to recognize and understand emotions in yourself and others. Effects how we manage behavior and navigate social complexities

There is no known connection between IQ and EQ

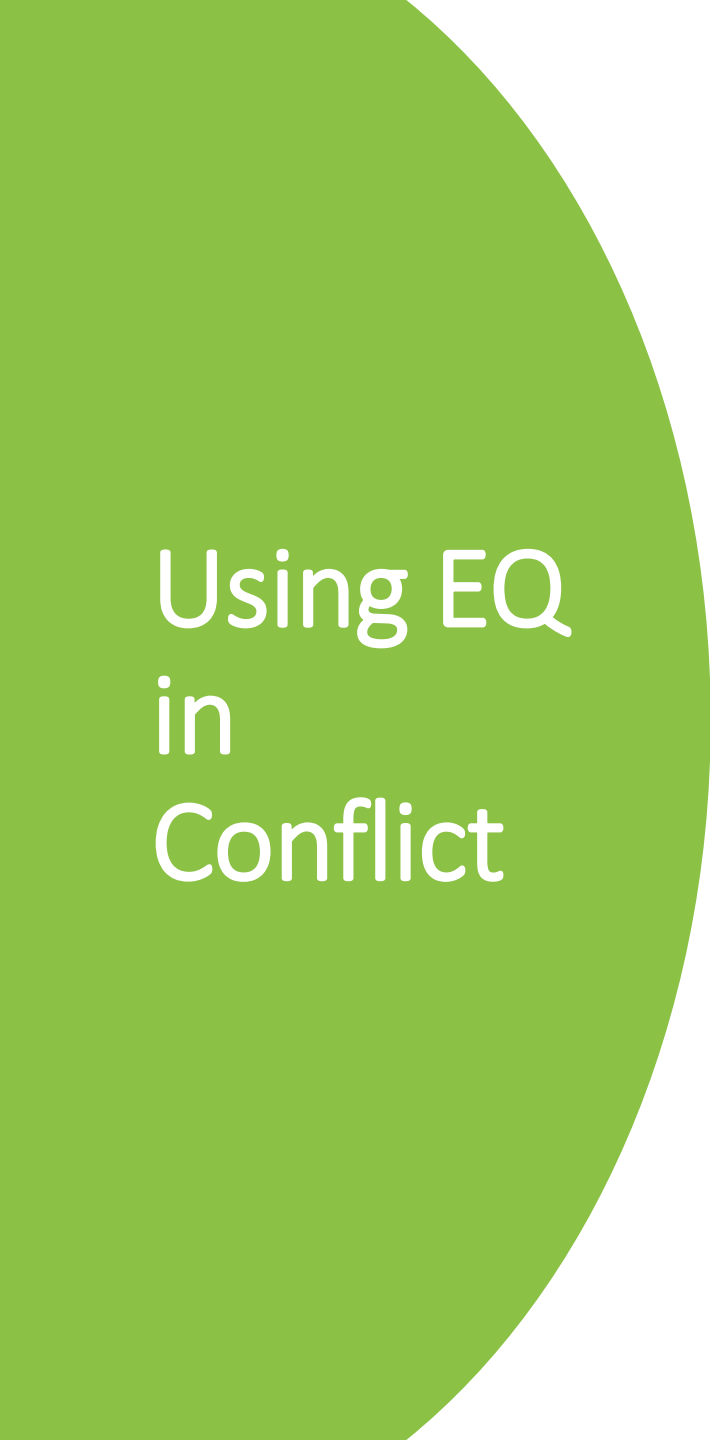
Signs of EQ

- **People with low EQ**
 - Often feels misunderstood
 - Get upset easily
 - Become overwhelmed by emotions
 - Have problems being assertive
- **People with high EQ**
 - Understand the links between their emotions and how they behave
 - Remain calm and composed during stressful situations
 - Can influence others toward a common goal
 - Handle difficult people with tact and diplomacy

What are the Components of EQ?



Emotional Intelligence 2.0, Travis Bradberry and Jean Greaves, 2009



Using EQ in Conflict

Make calm
statements of fact

Ask questions

Listen



Small group discussions

What is one strategy you employ when you notice that your emotions are getting the best of you when you're working with people in conflict?



How to Build Your EQ

1. Recognize and name your emotions
2. Ask for feedback
3. Read literature



trust

The Challenge of Trust

Trust—The Cornerstone

- Is an *outcome* in a team
- That can grow from getting to know and understand each member's:
 - Perceptions
 - Abilities
 - Style or Approach
 - Intentions towards each other
- *Without it a team will never be highly functioning.*



What Does Trust Mean to YOU?

- List at Least **3** Trust Behaviors:



1. _____;

2. _____;

3. _____;

What Reduces Trust?

- List at least **3** Behaviors/Actions that Can Reduce Trust?

1. _____;

2. _____;

3. _____;



What Can “I” Do to (re)Build Trust in the Future?

- List **3-5** Actions or Behaviors I can do to (re) Build Trust in the Future.

1. _____;

2. _____;

3. _____;

4. _____;

5. _____;

The Ladder of Inference





What to do about it?

- Question your assumptions and conclusions
- Seek contrary data



Welcome to
Day Four!

Looking back: Questions and
Thoughts from Yesterday

Day 4: Strategies of Mediation and Facilitation

- Mediation Styles
- The 3-R's
- Art of Inquiry Skills
- Facilitation of the LMC
- Tough Situations as a Mediator
- Practice

Communication Tools for Mediation

- Restating
- Reflecting
- Reframing



Restating

- Replay the message using *the speaker's own words* with minor variations
- Same meaning
- *Why:*
 - Translate
 - Clarify
 - Acknowledge
 - Elicit More Information
 - Model Objective Language



Reflecting

- As the *objective mirror*, acknowledge the content and emotion of the message
- Accurately reflect the feeling *conveyed*, whether spoken or unspoken
- *Why*:
 - Acknowledge
 - Opportunity to agree or disagree
 - Opportunity to explore their feelings
 - Keep them talking
 - Validate



Reframing

- Restate the message with a slight shift, from
 - Position to interests
 - Past to future
 - Negative to neutral
 - *Without changing the intent*
- Why:
 - Assist thinking differently about the problem
 - Help people move forward without directly challenging a behavior or view
 - Avoid defensiveness



The Importance of Inquiry Skills

- Effective Problem-Solving
- Avoiding Assumptions
- Promoting Candid Exchanges
- More Durable Informal Resolution



The Intent Behind the Question

- Be self-aware: *WHY* are *YOU* asking that question? (probe *your* ladder of inference)
- Be careful about assumptions you bring to the question
- Be curious *before* being helpful



First Thought...

Learn to be More Curious



Curious Questions

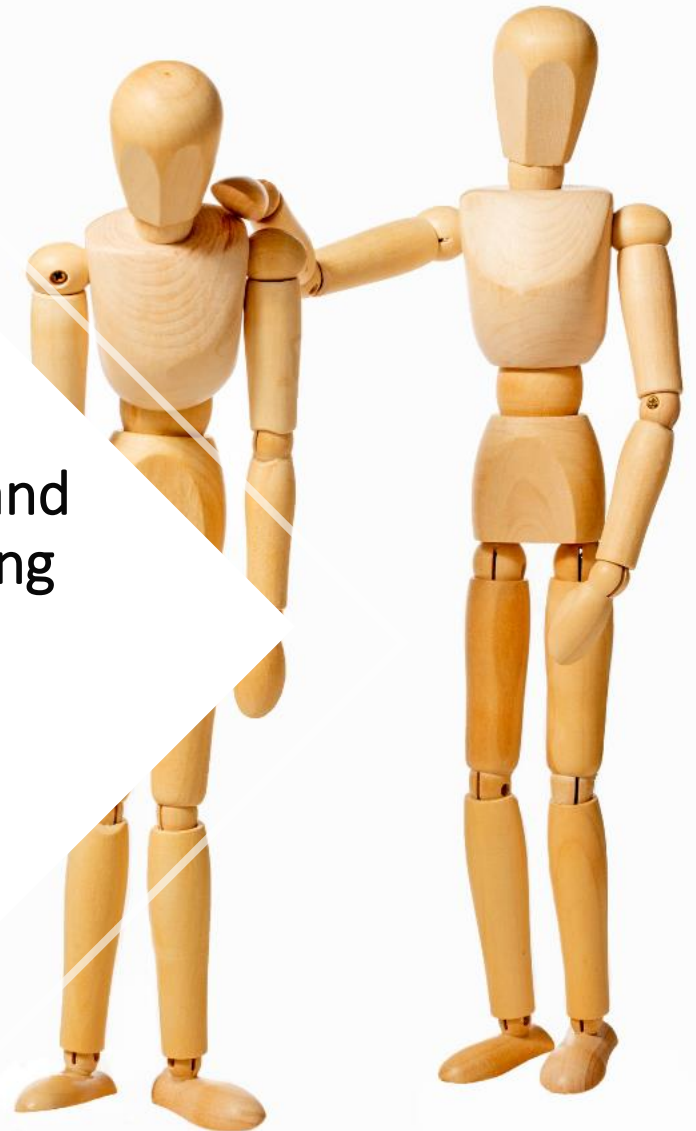
To Learn

**Helpful
Questions**
To Influence





Empowering and
Disempowering
Questions



Empowering Questions

- Conveys Emotional Power
- Focuses on the Positive
- Assumes voluntary response
- Includes Appreciative Inquiry

What would resolution look like to you?





Disempowering Questions

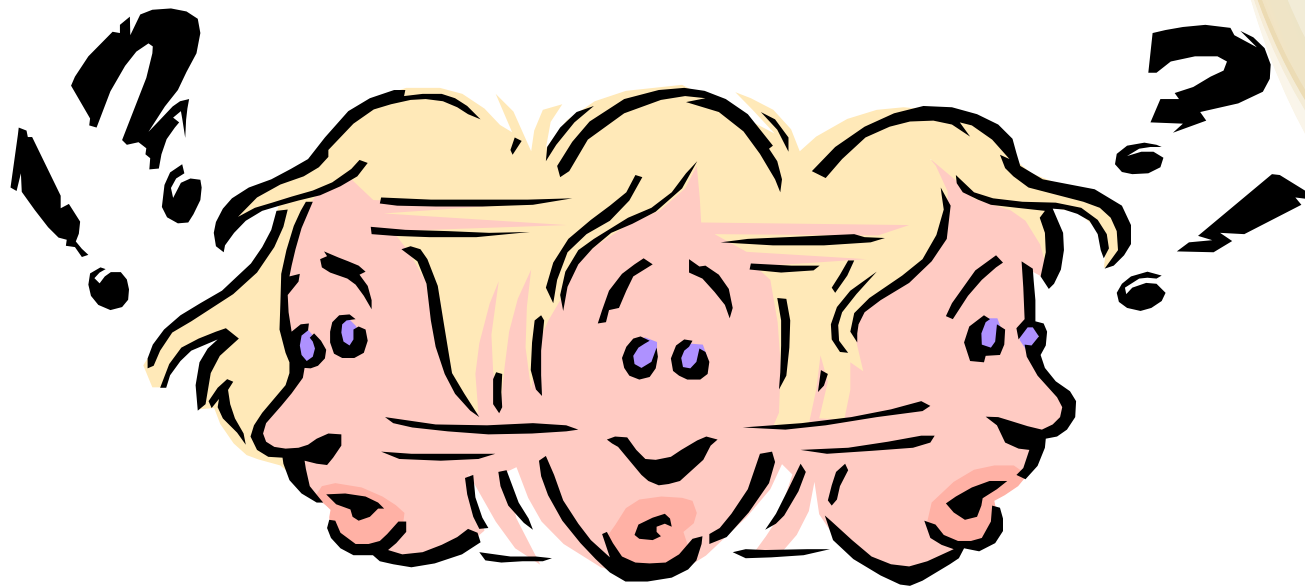
- Implicitly Judgmental
- Triggers Defensiveness
- *Self-Awareness Check*

Why did you do that?



—The
Challenge—
Uncover Motives
without Blaming

- Empowering: “How was that beneficial to you?”
- Disempowering: “Why did you do that?”



Mediator Questions

Mediators live and die by their questions during a mediation session!

3 Basic Purposes

1

Show You Are
Listening

2

Gather and
Organize
Information

3

Assist Parties in
Considering Other
Points of View
(Reality Testing)



Mediator Tool:

Questions

Curious:

- How did you learn about...?
- What is the concern you have with...?

Helpful:

- Is there something you would have liked to see?
- Is there something that could improve...?

Assess, Empower:

- Can you tell me more about your concerns around (issue)?
- What makes this so important to you?
- When it was working, how did that look?

Perspective Shift:

- What might be the other side's concern?
- What do you anticipate the other side's response would be?
- Under what condition can you agree to this?

Asking Questions in Conflict

Positional Statement Example:

“Food will be served at 8 irrespective of the time you are ready to eat”



LMC Overview

	TRADITIONAL	LMC
Participants	2 Groups: Union and Management	1 Group committee
Goals	Victory; win/lose	Mutual gain
Style	Adversarial	Collaborative
Process	Negotiation	Joint problem solving
Decision-Making	Compete or Compromise	Consensus
Agenda	Proposals	Problems or Concerns
Focus	Positions	Interests

What is a Labor Management Committee?

An extension of the collective bargaining process

A voluntary, cooperative process, between labor and management

An attempt to improve the L/M relationship

A way of dealing with workplace problems directly and effectively

A continuous, often uphill battle



A Labor
Management
Committee is
NOT:

- ⊗ A substitute for contract negotiations
- ⊗ A quick fix for workplace problems
- ⊗ Overnight solution to long standing concerns
- ⊗ One-sided
- ⊗ Power-based
- ⊗ A way to circumvent other decision-making bodies
- ⊗ A place to create side agreements

Outcomes of a Labor Management Committee

- ✓ More committed workforce
- ✓ Constant flow of ideas
- ✓ Improve productivity & quality
- ✓ Reduce turnover & absenteeism
- ✓ Improved labor/management relations
- ✓ Less grievances
- ✓ Improved negotiations
- ✓ Adaptability

Basics of LMCs

What	Communication, problem solving, dispute resolution
Why	Enhance working environment, relationships
When	Monthly or quarterly meetings
Where	Comfortable, consistent locations, limit distractions
Who	Equal # of labor & management representatives. Leaders who can make decisions.

How Does the Committee Work?

- **Facilitators** – Both Labor & Management
- **Agenda** – Prepared and submitted in advance
- **Minutes** – What, by whom, and when
- **Ground Rules** – Decide as a group
- **Decisions** – By consensus

Ground Rules FOR EFFECTIVE TEAMS By Roger Schwarz

1. *State views and ask genuine questions*
2. *Share all relevant information*
3. *Use specific examples and agree on what important words mean*
4. *Explain reasoning and intent*
5. *Focus on Interests, Not Positions*
6. *Test assumptions and inferences*
7. *Jointly design next steps*
8. *Discuss Undiscussable Issues*

Mediation Role Play

Mediator Guidelines

- Avoid Appearance of Interrogation
- Avoid Asking Too Many Questions
- Avoid Interrupting
- Allow Time for Processing
- Be Restrained and Intentional
- Be Sparing and Deliberate
- Let One Question be Answered Before Asking Another

What do you do when...

- “I won’t bid against myself.”
- “We never do that for anyone else.”
- “We won’t negotiate until they drop the demand for xyz.”
- “I’m here for one reason and one reason only”
- “This is our last/best/final offer.”

What Else?

How do you deal with: “NO”

Additional Tools and Techniques

- Demonstrate Empathy
 - Be willing to listen, even to material that is not relevant
 - Indicate understanding of each party's point of view
 - Indicate your empathy as part of information gathering
- Persuade
 - Start at low intensity and build slowly
 - Demonstrate understanding of dispute
 - Consider which issue to approach first
 - Start with a small issue

Additional Tools and Techniques

- Persuade (continued)
 - Be cautious in identifying issues
 - Emphasize need for action
 - Be willing to create confrontation
 - End with a key 'major' item
- Invent Supposals and Compromises
 - Deal with items on which you are expert
 - Tie into concepts mentioned by parties
 - Develop interrelated proposals
 - Build gradually from one point to the next
 - Do not guarantee agreement

Additional Tools and Techniques

Reduce Tension

- Relieve the pressure, as needed
- Tell a lighthearted story
- Discuss topic of mutual interest
- Maintain professional manner

Group Exercise (Scenario)

“An employee has filed a complaint alleging that they were improperly disciplined for insubordination. The employer claims that the employee refused a work assignment and left the worksite. The employee responds that it was the end of his shift and the work assignment was not clear.”

Welcome to Day
Five!
Looking back:
Questions and
Thoughts from
Yesterday



DO'S: THE MEDIATOR SHOULD...

- Structure a process to assist the parties in reaching resolution.
- Allow parties to make all of their arguments
- Ask open-ended/clarifying questions
- Validate each party's points of view
- Offer evaluation, if at all, only in caucus and in a limited way
- Search for interests beneath positions
- Assist the parties in creatively finding and analyzing options for resolution
- Keep up the momentum even while demonstrating patience

DONT'S: THE MEDIATOR SHOULDN'T...

- Make recommendations to the parties that might suggest bias
- Give legal advice
- Predict the result of a court or administrative hearing unless highly qualified to do so and only at the request of parties
- Interrupt unless necessary to maintain control or get a quick clarification
- Criticize one party or the other in joint session

Mediation Role Play

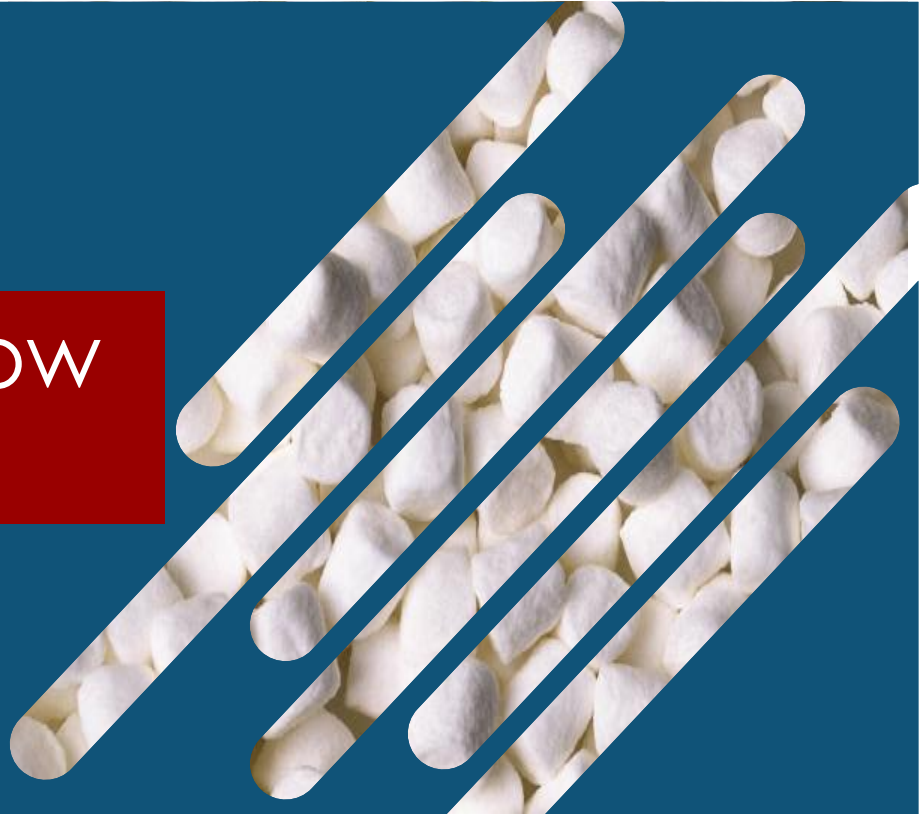
Mediator Ethics

- What would you do if...
(mediator scenarios)
- Mediator Challenges

TEAM BUILDING



Marshmallow Exercise



Marshmallow Challenge Rules



- Each team will have 18 minutes to complete the challenge.
- The largest freestanding structure wins as measured from the table top to the top of the marshmallow.
- The structure cannot be supported by anyone or anything that is not included with the kit at the time of measuring.
- The marshmallow needs to be supported on the top of the structure.
- Any team that cuts or eats part of the marshmallow will be disqualified.
- Teams are free to break up the remaining kit components any way they like.
- Teams are also allowed to use as much or as little of the kit as needed
- Any structure not freestanding with a marshmallow on top will be eliminated.

Challenge Reflection

When working as a team:

- What were the challenges?
- What were the benefits?



Challenge Reflection

- Why the Marshmallow Challenge?
 - Nature of Collaboration
 - Team Development
 - Shared Obstacle (not a competition within the team.)
 - Shared experience
 - Identify the hidden assumptions
 - The marshmallow is heavy.
 - Problem-Solving
 - Figuring things out.



Reflections and Closing

Questions & Parking Lot Issues





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THANK YOU



Presentation of Certificates and Completion of Evaluations