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Chapter 16

The HearT of Mediation

Abstract: Conflict in the workplace, known as organizational conflict, erodes productivity, creates displaced stress, tension, and absenteeism, impacts financial growth, and profits, and promotes astronomical legal fees. It can also be a light in the darkness. The successful organizational mediator acts replete with inspiring communication, neutrality, and practical solutions. Well managed companies also are mindful of managing conflict proactively and professionally, to mitigate the conflicts that might emerge. Conflict theory suggests that conflict is an integral part of life and organizations and not always with negative impact, once addressed. Conflict can arise between the differing perspectives of more than one person. A person can even have intra-personal conflict: Eat that piece of cake; no do not eat any more sweets. Conflict and how it is handled can be a productive experience, as through the lens of SOS-Semantics of Self in Conflict TM that informs theoretically and practically on how conflict is viewed in organizations and can provide healthy solutions. This chapter is for practitioners, organizational leaders, conflict parties, and mediators who need to refresh and understand the dynamics of proper intent of the HearT of the mediation process and why these dynamics are important to uphold the strength, benefits, and integrity of genuine conflict management.

Keywords: mediation, best practice, ethics, theory of conflict, negotiation, organizational mediation, workplace, sos-semantics of self in conflict

The costs and yearly financial losses in companies are estimated up to two billion a year in Canada and up to \$359 billion in American companies due to the erosive effects of organizational conflicts because of employee diminished work performance, low morale, and compromised loss of revenue (Picincu, 2019). For the workplace bottom-line, mediation is tailored for employees to design and personalize a written blueprint that opens their communication and results in less stress, closes gaps in cultural diversity, and is a timely means to learn to work together and move forward in a collaborative, comfortable, and restorative way.

Workplace mediation cases between employees or among one or more employees and their employer falls under the moniker of organizational conflict management. When conflict arises in the workplace, a well-designed conversation and process, such as mediation, offers an attainable, amicable, structured process, a communication boost. A skilled mediator orchestrates this process. A strength of this process is that the parties do the essential work and become the architects of their solutions. At the HearT of the process is the opportunity for all parties involved in the dynamics of the conflict to speak, be heard, and to listen. As a result, professional mediators can

bring out the best of the mediation process by employing mediation skills, framed by ethical standards and honed communication. HearT reflects the lifeline of mediation since it includes within the word the ear to hear.

From an organizational perspective, mediation in the workplace thwarts litigation, restores productivity, and is cost-effective. In addition, it alleviates employees' negative health such as anxiety, depression, poor sleep, body pain, and displaced social interaction (Picincu, 2019). There are potent ingredients that contribute to organizational mediation's best practice. The organizational mediation process doesn't differ greatly from most mediations, but there are ways to address the relational aspect and sensitivities of the workplace and skills that can be used to clarify conflict attributes of the parties and to help them be mindful of their larger perspective of career sustainability and the ripple effect of the workplace community.

Best conflict organizational management is a balanced-triad of the ethical standards, professional mediator skills, and the organization's best judgement to know the difference. The guiding HearT for best practice of skills is set forth to provide mutual safe, neutral space to speak without interruption, and to be heard.

What is the Intent and Strength of Organizational Mediation?

Mediation is not a new tool for resolving conflict. It has been around as long as there have been conflicts, whether addressed by a chief, group elder, or an informal agreement of a third party. The Bible mentions mediation and mediators in Job 9:33, Galatians 3:19, 1 Timothy 2:5, Hebrews 8:6, 9:15, 12:24, as examples. In the nineteen seventies, mediation began being used by courts to lessen the burden of court dockets. By 1982, Texas codified into statute the actual business practice of mediation for civil and family cases. Other states took notice and incorporated similar statutes and conventions of use. As the use and practice of mediation grew, it became clear that it was not just a skill set and practice option for attorneys to offer, but a separate business track for many qualified candidates from the fields of human resources, psychology, medicine, clergy, and education; the list of occupations and people who were willing to learn communication skills specific to conflict management emerged. Mediation as a field of study and practice was seen as a complement to negotiation and a problem-solving tool through facilitative, narrative, and transformative skills. The concept of mediation is that it is a conversation between parties who are the architects of their solution, guided by a mediator shepherding the process, while encouraging and providing a safe space for the parties to speak and to be heard.

The mediator is an impartial, third party neutral, who should never have any vested interest in the outcome. For the parties, mediation is a wonderful opportunity and vehicle for conflict to be addressed, aired, examined, and usually resolved.

Sometimes, if the conflict is a breach of law, attorneys might be attending with and representing the clients to provide legal explanation and advocacy. In many cases of organizational mediation, the parties do not need or want legal representation. This is important as a contrast from other genres of mediation where *pro se* parties would greatly benefit from legal guidance.

When a conflict is resolved through mediation, the parties have the control and option to work out a plan that becomes a legally binding contract, memorialized into a Mediation Settlement Agreement (MSA). Sometimes in the workplace, the final agreement, still a binding agreement, is also called a Memorandum of Understanding (MOU). They are the same document and serve the same purpose with the forward path that supports how the parties will work together, or not.

In civil court appointed cases, this MSA is filed with the court. All family MSA are always filed with the family court for the integrity and protection of children. In organizational mediation, since the basis of the disputes often do not rise to the level of lawsuit, and attorneys may or may not be representing the parties involved, the boss or someone in the hierarchy of management who might have engaged the mediation process for the benefit of the company's productivity might be the person to receive the MSA, so that the party's adherence to the MSA is monitored. On occasion, human resources might be the repository of the MSA, but less typical, so that there is no open human resource case on file. Once a conflict is under the umbrella of human resources, confidentiality of the issue is more apt to be compromised.

As in all professional mediations, the process is recognized as more than a mere reprimanding counseling session or casual conversation. Therefore, the formality of all parties signing The Agreement to Mediate and Confidentiality documents by all the parties and their legal representatives, should they have attorneys, signal the start of the mediation, as a binding process. This informs that the parties agree voluntarily to the mediation process and terms of commitment and that what is said in the process must remain confidential. The content of the mediation process or how it was accomplished is not to be shared with the water cooler gang or with anyone, even outside of the company structure. The content is never shared, but the outcome, MSA, might be needed to go to management, but this is previously agreed by the parties or is required by a ruling authority within the company, known before the mediation.

The confidentiality of mediation is a strength of the process. The court room is a public venue that allows anyone to observe cases, in addition to the attention and attendance of jurors, if the determination is given a trial. Legal matters have civil procedure that compels parties to participate and can extend the clock into months or years. Anything said in the proceeding is said for all the court to hear.

In mediation, the parties are not compelled to participate, unless it has become part of a lawsuit, and it is court ordered. Therefore, when workplace parties do not have attorneys or a conflict defined or framed by law, they cannot be required to attend the mediation, so they are considered voluntary participants. In reality, in organizational mediation, the parties are often sent by their boss, upper-level manager, or human

resources. The parties' jobs are probably at stake, so parties are sent to mediation with a push and shove to maintain their income and career path. They can volunteer to continue with the company or resign.

Organizational Mediation: HearT of Best Practice

Even though organizational mediation is big business for attorneys, half of the cases of workplace conflict do not rise to the level of legal standing as previously mentioned, so they are not legally represented. Therefore, there are probably double or triple the reported discrimination and workplace cases. The mediation process is the same arch for all genres, but there are a few aspects for skill consideration that a mediator can use that differ in organizational mediation from family or civil cases.

In the organizational mediation process, it is helpful for the mediator to meet with each party prior to the mediation conference, sometimes a few times. This is an opportunity for the mediator to provide a dedicated ear and build rapport with each party without any interruption. The mediator remains neutral to each party, but the caucuses allow each party to vent and reinvent before participating in the mediation. The mediator is one hundred percent within the structure of mediation, and not an advocate for either party, which would be the ombuds role, but this meeting is optimal for the mediator to determine if all the proper parties will be present at the mediation table and can assess the parties conflict behaviors and contributions to the conflict.

In a quality mediation, the parties are in conference to be able to hear and be heard, and the HearT and strength of mediation is the framework provided by the national and local ethical standards and quality alternative dispute resolution (ADR) skills. If the mediator is an attorney, the attorney must disclose that they are mediating **ONLY** and will not be in the capacity of legal representation to avoid dual practice. If the mediator is also a mental health professional, they must disclose that they are not there to "fix" the parties, but to provide a process and skill set for a quality conversation.

However, there are attorneys who breach the covenant of mediator's ethical standards and overstep. Unfortunately, the mediation process can be exploited and undermined by unskilled mediators and attorney or mental health professionals/mediators who pretend to mediate, but do not uphold the premise and strength of the mediation process. When mediation is used as a ploy to **pretend to hold** an authentic mediation, the process is not beneficial and is used without respect or relevance. This happens when the parties are not allowed to interact and are sent to separate rooms, eliminating direct communication between the parties to hear or be heard.

There has become a deceitful trend of mediators running between rooms as a messenger, calling themselves mediators, but they are really doing negotiated settlement with a legal push. Their parties think that they are in mediation because that

is what they are paying for, but the parties often come away angry after paying their attorneys and the mediator to sit in a room alone for hours while the mediator is supposedly talking with the other party yet might be conducting another case's mediation or handling other office tasks at the cost of the unsuspecting mediation clients. This style of practice does not lend itself to organizational mediation, or any professional mediation ethical standard.

A few years ago, an attorney mediator was sanctioned for holding three mediations at once and just floating among the six rooms! Each case thought that she/he was working with the other party in their case. This was a direct breach of ethical standards and misrepresentation. If a mediator is being paid to mediate, clients should not be paying for a mediator's time working on another case!

Conference style mediation prevents abuse, highlights skilled, professional mediators, and provides communication between and among the parties in an empathic, transparent way that gives the lotus of control to the parties, not the mediator. Meeting only in caucus prevents the parties from relating to each other and hearing detail that might support the request of an offer humanizing the process. Mediation is not a numbers game. It is about people's needs and interests in full transparency and the value of the mediation experience allowing open communication. At the Heart of mediation is the empowerment of the parties all being heard, as well as being able to listen and speak to each other that cannot be achieved if the parties are muzzled by their attorney and, worse, their mediator. If negotiated settlement is employed, the only one empowered is the mediator who becomes a messenger. However, the messages brought by the mediator lose the impact from the delivery of the conflicting parties. Without the reason behind a number or idea, the communication package and semantics is incomplete and empty, often not transparent.

The intent of the mediation process lends itself to encourage the parties to learn and incorporate new communication and conflict management skills by feeling empathy, offering an apology, and to being actively engaged in their process.

Ethical Framework and Expectations for Mediators: The Model Standards

Skilled, professional mediators worldwide are taught a process that is guided by a proscribed curriculum and ethical framework for the mediators and the parties' best interest and best practice. In most of the world, forty hours of certificate training in civil mediation is the gold standard. Most states have their own statutes as a guide for their state's mediation processes, based on The American Bar Association (ABA), published in 2005 on their website. Here's the link > https://www.americanbar.org/groups/dispute_resolution/

Mediation, being a dynamic process, can have many forms and practical, user-friendly, and viable functions to assure the parties' success and mediator's transparency. The hallmark and competence of the process is universally consistent and well-structured by statute and the ethical considerations.

Almost daily, I receive calls from parties who did not feel that they received a proper mediation or a mediation at all. Sadly, often, after hearing of their experience, they have NOT experienced mediation. It was negotiated settlement, facilitation, or a misrepresentation of settlement forced on them.

In spite of these outliers, mediation is universally recognized as the opportunity for the parties to be the architects of their solution and resolution. The mediator's role is not to direct, encourage, or admonish the parties into what the mediator feels is the best solution. The mediator is the shepherd of the process, an impartial neutral.

One of the tenants around the world, with a few exceptions, is that the professional background and educational levels of mediators be varied. Mediation is not just another lawyer's skill. For many lawyers who swing sword, the practice of mediation doesn't easily fit within their honed advocacy skills. In practice, the nuances of mediation are far bigger and broader than the expectations of court ordered mediation. Lawyers are most often within the bubble of court ordered mediation with their cases that rise to the content of court pleadings and points of law. So, when in the role of mediator, lawyers approach chasms of legal juncture that compromises professional ethics.

Lawyer mediators are often surprised, philosophically challenged, and maybe financially threatened that mediation beyond the court system is quite a huge market. Mediation, when done correctly and effectively through the process, is an empowering tool for employment issues, community programs, like the police department, as well as federal, county, city, and local boards who use the mediation vehicle to find clarity and correct miscommunication and misconceptions like those that might be impairing the workplace, organizational structures.

At the heart of mediation is the ability and consideration of the parties to listen to each other and to be heard, – HearT. When anger is in the head and heart of a party, their need to tell someone what is weighing them down with anger and frustration is paramount to moving away from what happened to moving forward with a solution. Venting in mediation is healthy and at the HearT of the process. As one well-known theorist, Joe Folger, the co-founder of transformative mediation and co-author of *The Promise of Mediation* stated that, “if you are going to be a mediator, do not be afraid of conflict.”

In a proper mediation, the mediator establishes their credentials and authority to conduct the process. The mediator explains their role and the process to the parties as an impartial and neutral facilitator and the expectations, initiative, and opportunities of the parties to control the content. Mediation is empowering for the parties when they realize that they will shape the solution themselves by looking at the dispute maybe from the perspective of their opponent, may be privy to new information, or receive enlightenment that they had never heard before or knew yet could not digest at

the time. Information in a safe, private, neutral space and within a proscribed process assists the parties more clearly through a new lens, exposed to an impartial voice.

If a case goes to trial or before a judge, the solution might be a bandage for what erroneously appears to be the correct solution with little regard for hidden issues, personality dysfunction, future relationships, or insecure perceptions. In mediation, with a skilled mediator, these are all thoughtful and examined considerations that guide the parties through a process that gives them the role of a rudder with a sail full of wind.

In employment cases, disputes between employees can cost a company thousands of dollars if employees divide the office into camps, undermine formally productive relationships, or employees feel unsatisfied and not heard. Many times, employment disputes stem from a lack of communication, professional jealousy, or misguided managers who throw their employees under a bus. The issue that caused the conflict might be from a lack or omission of clear expectations or just plain mismanagement. As issues collide and conflicts emerge, and if management sidesteps their responsibility, the conflict migrates down the chain of command with disputes and threats and compromise to workplace harmony and civility.

The flow of conflict and the way it moves through a company was studied by this author through long-term care and health facilities. The theory of SOS-Semantics of Self in Conflict™ emerged and was measured to demonstrate that the head of a company creates the conflict management tone for the organization from the top through to the bottom the staff. The SOS is the alert [that announces there is a conflicting event on the horizon. Many conflicts are evident and noted by observers, but not regarded by the parties consciously or deliberately at the time.

The Theory of Conflict Influences the Mediator's Role in Organizational Conflict

SOS-Semantics of Self in Conflict™ embraces a variety of theorists who explore the impact of conflict in organizations and the staffs within them. As is often reflected in workplaces, as well as in ongoing relationships, conflicts develop on many levels between employees, as well as their associates, peers, and clients they serve. Good leaders are mindful of the cost of personnel capital and provide prophylactic training programs on conflict management and encourage their management teams to be alert to tensions within the company. Personal communication is stifled and often derailed by tension and misunderstandings.

As recognized in the literature on conflict management and healthy workplaces and within organizations in an article by Katz (2006), “[l]eaders demonstrate their responsiveness by communicating warmth and concern, listening to and respecting the aspirations of others, and giving people the resources, autonomy, and opportu-

nity to succeed and do their job” (p. 375). This is also the honed framework of a mediation process with opportunity at different stages to engage and change the narrative to move forward productively to resolution.

Conflicts within companies can arise between economic classes, ethnic groups, young and old, male against female, or one race versus another. According to Kenneth Boulding (1990), conflicts result because of disparities in power, wealth, and prestige, as well as management miscommunication or lack of communication. It is assumed that those who hold or control desirable goods and services or who dominate situations will protect their own interests, often at the expense of others (Boulding, 1990; Monk, Kaye, & Litwin, 1984). This is especially prevalent in nursing homes and health care facilities where an administrator wants or needs to maintain their control and power over employees to maintain leadership, provide the affordable services, or protect the financial mission of the organization. Conflict theorists, such as Jeffery Rubin (1994), Dean Pruitt (1994), Erving Goffman (1974), William Ury (1995), Roger Fisher (1997, 2000), Louis Kriesberg (2003), and James Schellenberg (1996), emphasize the importance of interests over norms and values, and the ways in which the pursuit of interests generate various types of conflict as normal aspects of social life, rather than abnormal or dysfunctional occurrences. Normal aspects of social interaction seek a win-win solution where there is tolerance for differences, whether they are race, cultural, or ideological. Win-win is not always an option when there is a disparity of real or perceived power, but employee recognition, empowerment, and satisfaction can be company assets for better temperament and conflict management.

Using professional mediators or ombudsmen is a relatively new concept in managing conflict in the workplace. As Umbreit (1995) pointed out, “Informal mediation of staff conflict in human service organizations is a relatively recent development, and there is little academic or empirical research to draw upon” (p. 165). As information is more prevalent and immediate now, it is more difficult to measure all the entry points and hierarches to cover for conflict management within organizational structures by comparing their distinct cultures and diverse missions. Measuring apples with apples can be illusive.

In the workplace, being able to be flexible and to adapt to a variety of situations and people can be helpful when co-workers, subordinates, and management are comprised of a variety of personal values, experiences, beliefs, and ideologies. From close interaction, conflicts can easily arise from being incompatible. Mediators can assist the parties to hear and find clarity in these human differences.

Daily interactions in the workplace can be tested many times a day, especially when staffs come from a variety of cultural backgrounds, ages, and economic levels. This is part of the problem with long-term care and health facilities, high conflict environments because of aged and end-of-life clients. The staff might have very different cultural background from the patients, and just the reality of different age groups working closely, and the competitive nature of most long-term care workplaces can encourage conflicts (Shield & Aronson, 2003). The tone and conflict culture of a facil-

ity is set by the management style of the administrator (Monk, Kaye, & Litwin, 1984; Wood, 2004).

Besides cultural differences, the primary characteristics of conflicts are the power struggles over issues of authority, hierarchical structure, and the symbolism of the social interpersonal relationships. The authority in question is the culture of each organization versus the facility administrator's conflict behavior skills. The secondary question is personal gain versus the benefit of the group. In a long-term care or health facility, the administrator does not usually have as much patient and client contact, so issues of care arise, but the administrator might not be informed: "[o]ften the question of who is more powerful turns on who is less dependent" (Augsburger, 1992, p. 57).

In understanding a company, a mediator learns from the employees their perceptions of the company to understand their employee role. Meeting with each party a few times separately a few times before the mediation helps the mediator understand the party's narrative of the past to deconstruct and rebuild sustainable, clearer objectives and goals going forward. This is informed by structuralist theory that connects elements in the social sciences, supporting the idea that human actions are a response to the structure of their social environment, such as values, attitudes, and behaviors. Structural functionalism, known also as systems theory, equilibrium theory, or simply functionalism, refers to the concept of organizations and institutions forming the basis of a social system. A characteristic of functionalism is the concept that views of societies, as made up of component parts, whose interrelation contributes to the maintenance of the whole. Functionalism also focuses on the forces that bring cohesion, integration, explanation, and equilibrium to a society or organization (DeGeorge & DeGeorge, 1972). Functionalism emerged from the works of Auguste Comte (1798–1857), Herbert Spencer (1820–1903), and Emile Durkheim (1858–1917), and later by the American sociologist Talcott Parsons (1902–1979).

Structural functionalism seeks out the 'structural' aspects of the social system or organization under consideration, and then studies the processes that function to maintain its social structures and interactions. Parson's theory was commonly seen as a product of modern, affluent American society, where structural social conflicts had been largely eliminated or were of a transient nature, and where there appeared to be a general social cohesion and shared adherence to democratic values. Mediation gives voice to reality checking and understanding the unspoken, never heard or learned.

Sometimes, the mediator plays devil's advocate with the parties either in conference or in caucus, private meetings, which allocates equal time to the parties. In these sessions, the parties write, not just think their thoughts, which can be shared with the other party in conference. This is the only way to assure being on the same page in the same reality. According to Parsons, key requirements for organizational maintenance, which is seen to be the overriding goal of any organization, are those elements which apply to all social systems; namely, adaptation, goal attainment, inte-

gration, and pattern (or value) maintenance. In dealing with organizations, Parsons set forth need-dispositions. His objective that meshes with this study is that “there are role expectations that lead actors to give and get appropriate responses” (Ritzer & Goodman, 2004, p. 238.)

The mediator helps the parties recognize their own contributions to the organizational conflict by listening and encouraging the parties to listen and hear the dissimilarities in their perceptions. Roger Fisher called it Needs Theory and looked at the identity of individuals and their role within the group. Inter-group conflict is based primarily in social psychology theorizing, especially related to Maslow’s hierarchy of needs (Hermann, 2006, p. 50). Leaders in organizations use power and authority to manage their organizations. In their minds, their role demonstrates leadership, such as with conflict behavior skills that will help them manage their facility. This is the highest need on Maslow’s scale, the hierarchy of needs and self-actualization. The importance of the hierarchal need is a western mentality. If these administrators were in the east, they would place a higher value on appearing to be part of the service team, not above it as the authority voice (Avruch, 1998; Boulding, 1990; Lemert, 2004).

Kurt Lewin (1890–1947) penned field theory, “[b]ehavior, he said is always the result of a field of forces, never a matter of specific traits in the individuals or specific conditions of the environment” (Shellenberg, 1996, p. 69). This field theory is supportive of SOS-Semantics of Self in Conflict™ because the behavior that is chosen to be used by the administrator or head of an organization comes after the conflict event has unfolded and is explained by looking backward in reflection. The employees of the conflict are not always the real parties in organizational mediation, the managers and leaders might be. Sometimes the lower ranking staff are in the conflict, but the management is the one who needs to be the resolver.

Individuals within a social system have dynamic, symbiotic interactions. There is constant changing and vacillating dialogue. To facilitate the dialogue between and within each party, the mediator helps the parties explore words and labels to convey who they are and how they want to be perceived. Within a social system, the micro theorist Goffman (1974) maintained that individuals want to present a certain sense of self that will be accepted by others when they interact. Part of the symbolism and interaction among organizations, their staff, and their consumers is the “face” or persona that they want others to see and to know. In long-term and health care facilities, as well as other types of organizations, the interaction and actions result in dramaturgy, the role for communication and understanding the reality of the situation changes over the course of the mediation session. It is rare in a mediation that the attitude and personality of the parties do not change or show the range from anger, sadness, to a new realization and acceptance.

A second pivotal influence on symbolic interactionism was the philosophical perspective known as pragmatism. Its influence can be seen in the social psychological works of Cooley (1902), James (1915), Dewey (1920), Thomas (1931), and Mead (1934). In general, pragmatists use behaviors that have proven useful to them and

to modify what has proven not to work. Pragmatists also have emphasized the relevance of nature, including, most important for our purposes, the social world, that of the organization, for the emergence of the individual to change their role within the workplace.

Case Study that Respects and Underscores the HearT of Mediation

Government agencies are exemplary as far as organizational mediation is concerned because they often have people who have been employed by them for great periods of time. The parties in government agencies are not only doing a job, but their personal mission is public service. When there is a conflict within an agency or between employees, the opportunity to find solutions for the employee's benefit and to uphold something that would help the public good that they are trying to represent flows to the heart of the conversation.

I was contacted by a federal agency to mediate between two employees who had been having some conflicts on and off over many years. Some of the conflicts were about program and community, but some were of the issues I learned were based on personal, gender differences. The conflicts would appear to be resolved, but much of the time, the conflicts were marginalized and suppressed, not healed at the root. When they re-emerged at another point, accumulation of anger and the past made the conflict uglier, so a proper mediation was important to the solution. In the past, they had just had conversations with their direct managers at their locations.

To build their rapport with me and for me to get some insight on them and their issues and point of conflict, I met with each party for an hour three times, once online and then the other two times in person. The key benefit at the HearT of our conversations were that they had a chance to be heard. I asked them, "What brought you to this point and what do you think will help you move forward?" Then, I didn't talk! They needed to talk!

I didn't take any notes, so I gave them my full attention to regurgitate their angst, emotions, and concern for what they both saw agency failings to understand the issues and impact on the public. In my mind, I classified their concerns in the relational, high conflict, family category. Both were well educated, articulate, and deeply crushed and concerned by the conflict. They had worked together, uncomfortably, for over ten years.

In this case, to break their cycle of conflict, I administered the Conflict Dynamic Profile-I for an individual. As I went forward, I really thought that the agency would benefit from the 360, for the whole office, but the agency was not interested. Part of the process was also giving each party a conflict dynamic profile and the conflict dynamic profile measures their behavioral attributes how are they approach conflict

and anger. Using a coaching tool can be very helpful for self-analysis of the parties to be mindful of their conflict behaviors and contribution to the conflict. It helps give the parties more measurement as to perhaps why they react the way they do or when they react the way they do.

The conflict dynamic profile was developed at the Eckerd University in Florida over twenty years ago, so it is a well-honed tool that measures behavioral attributes not personality. Behavior change can be accomplished, but you can't change personality as easily. When given the conflict dynamic profile the parties usually are surprised of their behaviors that might have contributed to the conflict. This CDP tool is online for the parties to complete the 100 questions that quite accurately assess their conflict behaviors. This tool addresses the parties in a more elevated professional, caring manner. The results of their conflict dynamic profile are not shared with anybody including their boss or the other party. It is privileged information between the mediator and each party. As mediator, I am not going to fix them, but the party knows that I know their behaviors, and, more importantly, the parties now each see their personal starting points, that is usually not realized conflict behaviors. On the third time the parties met with the mediator, there was a conversation about what the results were of their conflict dynamic profile and how could they use some of their CPD-I insight to change what had happened. I let them think it through. During the third conversation with each party, after the CPD-I time and discussing their conflict dynamic profile, the parties had control over when to schedule their joint conversation, the mediation. Both parties must attend the mediation process. No lawyers were involved or needed for points of law.

When the parties met with the mediator at the mediation, which was in person, they are given the same formal dynamics again to formally sign the Agreement to Mediate and The Confidentiality Agreement, so that both of their signatures were on the same page – symbolically and actually. When this is done in person it's a lot easier and the dynamics of having the parties and their energy and anger in the same room is very important. With the necessity of zoom now you lose a lot of the anger and the negative energy that is brought to a mediation room. As in physics when you bring (use) energy, like a pendulum, energy breeds inertia (energy), so using the dynamics of physics some of that is lost on a zoom, but many parts of energy can still be somewhat regained. After each party talked about what brought them to this conversation and what they were hoping to get out of it, there were tears, apologies, forgiveness, and collaborative conversations. No monetary considerations were on the table, just a fundamental conversation on their differences in conflict behaviors that they both understood better from the private meetings and CPD-I. Their opening statements started at realistic perspectives, supporting the ideas that they generated and negotiated on together to go forward with a blueprint. They didn't have to like each other or change who they were, but they built ideas on their newly considered common ground.

Money paid to the mediator should not sway the mediator's neutrality, nor should the financial value of the outcome dictate the fees of the mediator. The important part

of a mediation should be what is the understanding of the parties and what solution do they see or reject from each other, with the possibility to go forward to find a solution.

As mediator, of course, never tell the other side information learned from the other party. If the parties wish to mention private information, the mediator's role is to help the parties articulate it to the other side in the form of a proposal directly. In most mediations the mediator should never be the courier anyway. A skilled mediator helps the parties find a way to say what they need to say and make proposals to the other side that are either accepted thought about or rejected but never rejected without a counterproposal. In this case the parties came to a very satisfying solution very detailed as to how they would move forward and in what manner they would move forward.

This mediation at the table took about 10 hours over two meetings and a lot of things were said that as part of the mediated settlement agreement that one party or the other would say that didn't need to be written down. That was not allowed and every detail to the plan was memorialized. No faulty memories or denials could emerge later. And to make the MSA even stronger, the parties even said why they felt the solution would be something that they could move forward with, as a safeguard for when one of the parties reviews the outcome of it later in a different frame of mind, they cannot say why did I ever agree to that. So, the next day or the next week when they look at the agreement, they have something that's very secure to remind them what their reasoning was behind the solution that they had made at that time.

Another aspect of an organizational mediation that is very important is the location of the mediation. The location or venue for the mediation is never at the office where people can see the parties going into the mediation. The mediation should be held either at the mediator's office or in a location off company campus, a totally neutral location for both parties. There were no prying eyes or ears leaning against the walls. The parties needed to feel very free and very independent with their decisions and thoughts. So often in organizational mediation, it is the manager of the parties who actually sends the parties to the mediation who is the problem. It is very important that the parties can feel a great sense of confidentiality to speak frankly and not worry that somebody is privy to what they've said, and that the confidentiality agreement is signed by both of them right at the beginning of the mediation. The mediator reads both agreements out loud in front of both parties after the parties are informed about what the mediation process will be, because they act as a framework and the immediate reminder of what they are about to achieve, so very important to the process. Mediation is not a process that is a race to the end. It's an opportunity for the parties to work through what brought them to that point, but since the past can't be changed, to look forward for a solution that gives them both something to find pride in. The mediation is not for either party to feel rushed, pressured, or railroaded into making decisions, but where both or all parties are heard and can get to the Heart of the conflict.

Mead argued that the individual creates and transforms his or herself as well as society via the mind and the uniquely human ability uses science to induce social

reform. SOS-Semantics of Self in Conflict™ offers a lens to looking at conflict behaviors reflectively from the perspective of an organic event within an event or in reaction of a previous event. When the mediator's process is comprehensive, ethical, skill based, respectful of the Heart of mediation, the transparency provides satisfying solutions for the benefit of the parties and the organizational systems and resets the culture of conflict.

References

- Augsburger, D. W. (1992). *Conflict mediation across cultures: pathways and patterns*. Louisville, KY: Westminster/John Knox Press.
- Avruch, K. (1998). *Culture and conflict resolution*. Washington, D.C.: United States Institute of Peace Press.
- Boulding, K. E. (1990). *Three faces of power*. Newbury Park: Sage Publications. DeGeorge, R., & DeGeorge, F. (Eds.). (1972). *The structuralists from Marx to Levi-Strauss*. New York, NY: Anchor Books.
- Fisher, R. (2000). "Intergroup conflict." in Deutsch, Morton, and Coleman, Peter (eds.). *The handbook of conflict resolution: Theory and practice*. San Francisco, CA: Jossey-Bass.
- Fisher, R., & Ury, W. (1981). *Getting to yes: Negotiating agreement without giving in* (Second ed.). New York, NY: Penguin Books.
- Fisher, R. J. (1997). *Interactive conflict resolution*. Syracuse, NY: University Press.
- Goffman, E. (1974). Primary frameworks. In Gerard Delanty and Piet Strydom (eds). *Philosophies of social science: The classic and contemporary readings*. (pp.202–205). Philadelphia, PA: Open University Press.
- Herrman, M. S. (Ed.). (2006). *Handbook of mediation: Bridging theory, research, and practice* (1st ed.). Malden, MA: Blackwell Publishing.
- Katz, N. (2006). Enhancing Mediator Artistry: Multiple Frames, Spirit, and Reflection in Action. In M. S. Herrman (Ed.) *The Blackwell Handbook of Mediation: Bridging Theory, Research, and Practice* (pp.374–383). Malden, MA: Blackwell Publishing.
- Kriesberg, L. (2003). *Constructive conflicts from escalation to resolution*. Lanham, MD: Rowman & Littlefield.
- Lemert, C. (2004). *Social theory: The multicultural and classic readings* (3rd ed.) Boulder, Co: Westview Press.
- Monk, A., Kaye, L., & Litwin, H. (1984). *Resolving Grievances in the nursing home: A study of the ombudsman program*. New York, NY: Columbia University.
- Picincu, A. 2019. The Effects of Workplace Conflict. [Online article]. Bizfluent. [Ref.16 October 2020]. Available at: <https://bizfluent.com/list-5896846-effects-workplace-conflict.html>
- Ritzer, G., & Goodman, D. J. (2004). *Sociological theory* (sixth ed.). Boston, MA: McGraw-Hill.
- Rubin, J. Z., Pruitt, D. G., & Kim, S. H. (1994). *Social conflict: Escalation, stalemate, and settlement* (2nd ed.). New York, NY: McGraw-Hill.
- Schellenberg, J. A. (1996). *Conflict resolution: Theory, research, and practice*. Albany, NY: State University of New York Press.
- Sheild, R. R. & Aronson, S. (2003). *Aging in Today's World: Conversations between an anthropologist and a physician*. NY: Berghahn Books.

- Umbreit, M. S. (1995). *Mediating interpersonal conflicts: A pathway to peace*. West Concord, MN: CPI Publishing.
- Ury, W., & Smoke, R. (1995). Anatomy of a crisis. In J. W. Breslin & J. Z. Rubin (Eds.), *Negotiation Theory and Practice* (3rd ed., pp. 47–56). Cambridge, MA: Negotiation Books.
- Wood, E. (2004, July). *Long-Term Care Mediation: Making it work*. Paper presented at the University of Texas School of Nursing of Harris County for Lawyers and Mediators. Houston, TX.

