

MEDIATION & CONFLICT RESOLUTION STYLES

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Many different mediation styles or approaches exist, sometimes just with different names used to describe the same general style. Which style or approach is best to use in a particular circumstance? Well . . . that is a judgment call subject to interpretation. Ultimately, the objective of mediation is to resolve a disagreement, conflict, impasse, hurdle, situation or objective. Sometimes an entire problem is resolved for all time—generally, that is the objective. Sometimes smaller steps or accomplishments are obtained, resulting in a manner of success nevertheless. Ideally the process is one of consensus and agreement building. However, in some settings, typically such as in litigation for example, agreement often is reached to avoid possibly worse risk, and to make the best of the situation. I have provided below the descriptions of three mediation approaches. In truth, all three of the approaches might commonly be used interactively to help the participants achieve mutual agreement.

Facilitative Approach

In the facilitative approach, the mediator helps the parties to identify and express their specific needs and the issues or areas of impasse; to identify and express areas of understanding, if not necessarily agreement; to explore positive options for resolution and benefit; and in the end to reach an agreement of resolution that is mutually acceptable to all of the disputants. The mediator does not question, evaluate or test the positions, or the strengths and weaknesses of the positions, of the various disputants. Under this approach, the mediator truly acts solely as a facilitator.

Evaluative or Directive Approach

The evaluative or directive approach is similar to the facilitative approach with respect to identifying and expressing specific needs and issues or areas of impasse; identifying and expressing areas of understanding or agreement; exploring options for resolution and benefit; and the goal of reaching a mutually acceptable resolution. However, in the evaluative or directive approach, the mediator also helps the disputants to question, evaluate and test the strengths and weaknesses of their positions, the likelihood of prevailing on their various positions, the possible range of outcomes, and the risks and costs if resolution is not achieved, with the intent of helping to reach an agreement of resolution that is mutually acceptable to the disputants.

Transformative Approach

In the transformative approach the focus tends to be on the interactions and

communications between the disputants, including their mannerisms, attitudes and body language. The transformative approach can at times seem more like a therapy session. The objectives are similar to the other approaches however: to explore the needs and areas of impasse, identify areas of understanding, explore options for resolution and benefit, and reach a point where the disputants are able to at least informally resolve and move past the situation, now and in the future.

You might ask, can't each approach be used at various times within a single mediation? In fact, that often is the case. For example, at some point in each approach the disputants need to have been able to identify and express their specific needs and the issues or areas of impasse; to identify and express areas of understanding, if not necessarily agreement; and to explore positive options for resolution and benefit. Additionally, issues of emotion or feelings, anger, and mental hurt exist in many, perhaps most, situations of dispute or impasse. A somewhat transformative approach can help to explore, express and resolve, or at least reduce those issues as impediments to resolution. And, when the prospect for litigation is present, or even when the potential end game is not litigation but perhaps continuing animosity, disruption, ineffectiveness, or violence, the mediator often can assist the disputants to decide to reach a mutually acceptable agreement by questioning, evaluating or testing the strengths and weaknesses of their positions, the likelihood of prevailing on their various positions, the possible range of outcomes, and the risks and costs if resolution is not achieved.

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