


THE **HOWS**, **WHENS** & **WHYS** OF USING MEDIATION TO RESOLVE EMPLOYEE DISPUTES

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MEDIATION




MEDIATION

Why Discuss?



“So we’re agreed: we’ll go to mediation.”

OBJECTIVES FOR TODAY

- What Conflict Is
 - What Mediation Is and Is Not
 - **Why** Mediation May be Helpful
 - **When** Mediation may be helpful, and when occur at the University
 - **How** Mediation works, and can improve individual departments, as well as the entire University.
 - Take a look at some conflicts, and discuss what mediators could do to help the parties in conflict.
 - Answer your questions!
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WHERE DOES CONFLICT COME FROM?

Definition of Conflict — A *struggle* between at least two *interdependent parties* who *perceive incompatible goals, scarce resources, and/or interference* from at least one other person in achieving their goals.

We'll get back to this definition in a minute. But first



CONFLICT IS

A *struggle* between at least two *interdependent parties* who *perceive incompatible goals, scarce resources,* and/or *interference* from at least one other person in achieving their goals




EXAMPLE A

You work with Jackie, and for as long as you can remember, Jackie has always done good work. She has always received exemplary performance evaluations, and all of her co-workers think highly of her. She has performed near-flawlessly for years. About a year ago, Cecily transferred to your office. At first, she kept quiet and to herself, but over the last couple of months you have seen her interact with Jackie negatively. You heard them in the ladies room yesterday, and they were calling each other names and saying things like “just stay out of my way” and “you’ve been a problem from Day 1.”

Could Jackie and Cecily benefit from mediation?

What are some things a mediator could do with this case?

CONFLICT – WHAT'S YOUR PERSPECTIVE?

- **Is conflict always negative?**
 - **Is there an opportunity here ? What is it?**
 - **What is the greater good for the work unit?**
 - **Is it 'my way or the highway'? What can I learn?**
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CONFLICT – YOUR PERSPECTIVE

It may be good or bad:

- What happens if:
 - Avoidance
 - Accommodating
 - Competitive
 - Compromising
 - Collaborating



WAYS OF HANDLING CONFLICT

- **Compromise**
- **Collaboration**
- **Good Communication**
Difficult/Need Help



CONSTRUCTIVE CONFLICT

- Be an opportunity for learning or growth
 - Result in new ideas about thinking and/or behaving than had come up previously
 - Challenge us to value differences (e.g., in opinion)
 - Improve Communication
 - Lead to better solutions, and change
- May be difficult to achieve, however, without a mediator.



WHY MEDIATION?

Your Ideas First

To Get Parties To Talk to One Another

Unresolved Conflict Rarely Gets Better (stays the same or worsens)

To deal constructively with conflict, you may need the help of someone not directly involved in the conflict.

Mediations are Neutral, Fair, Professional, Personalized, and Confidential

Can Improve Communication Between People



WHY MEDIATION - CONTINUED

Can Learn What the Real Issues and Concerns Are

Can Preserve and Improve Ongoing Relationships

Can Avoid Having Things Get Worse

Can Help People Get Along Better

Can Help Develop Win-Win Solutions

Produce Interdepartment, Intradepartment, and University Peace



WHAT IS MEDIATION?

Mediation is a process in which an impartial third party assists those experiencing conflict develop a mutually acceptable solution to their concern


Voluntary and Confidential

Can produce more peace and less anger and hostility


Workplaces with active mediation programs are more peaceful, and have happier employees



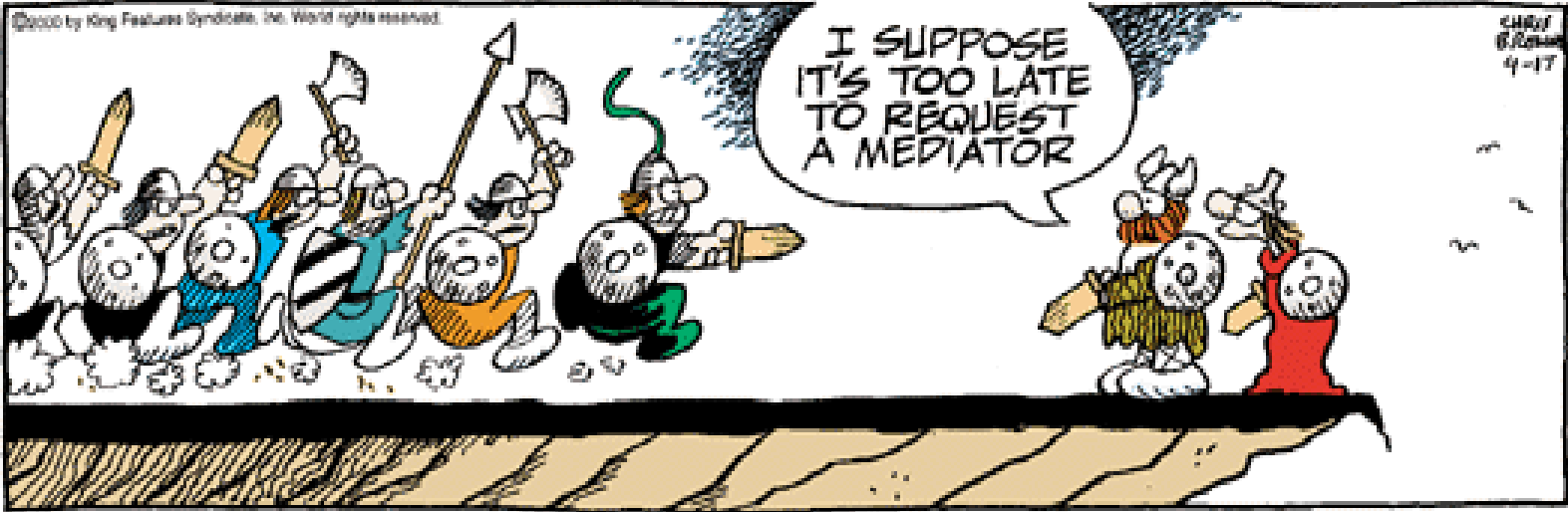
WHEN MEDIATION?

1. Staff have stopped talking to one another
 2. You or others are “walking on eggshells”
 3. People are whispering, spreading rumors, but there is no direct communication
 4. There was an incident in which staff “had it out”, but they did not resolve the problem.
 5. Staff are trying to “pull in” other staff to their side of the dispute.
 6. When a party needs to express strong emotions.
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WHEN MEDIATION — CONTINUED

7. When a party craves the opportunity to be heard directly by the opposing party.
 8. Multiple issues in the dispute keep the parties from agreeing.
 9. The parties have no acceptable way to discuss the problem on their own.
 10. Interpersonal problems, parties are holding grudges.
 11. The earlier in the dispute, the better.
 12. The conflict is “hurting” you. Resolution is needed “Now”
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WHEN MEDIATION



HOW TO GET TO MEDIATION?

Concerned Coworkers or Supervisors

University Department or Staff Member

The party or parties in conflict themselves

One party?

What would some arguments be to try and convince them to come to mediation? *(Your ideas)*



HOW DO THINGS WORK AT MEDIATION?

Venting

FactFinding

Questions for Clarification

Joint Discussion

Private Caucuses

Joint Discussion/Negotiation

More Caucuses?

More Joint Discussion

Resolution?/Closure

HOW DOES THE MEDIATOR DO HIS/HER JOB?

Praise positive steps parties have made

Listening

Encourage parties to listen to each other

Allow venting, but not insulting behaviors

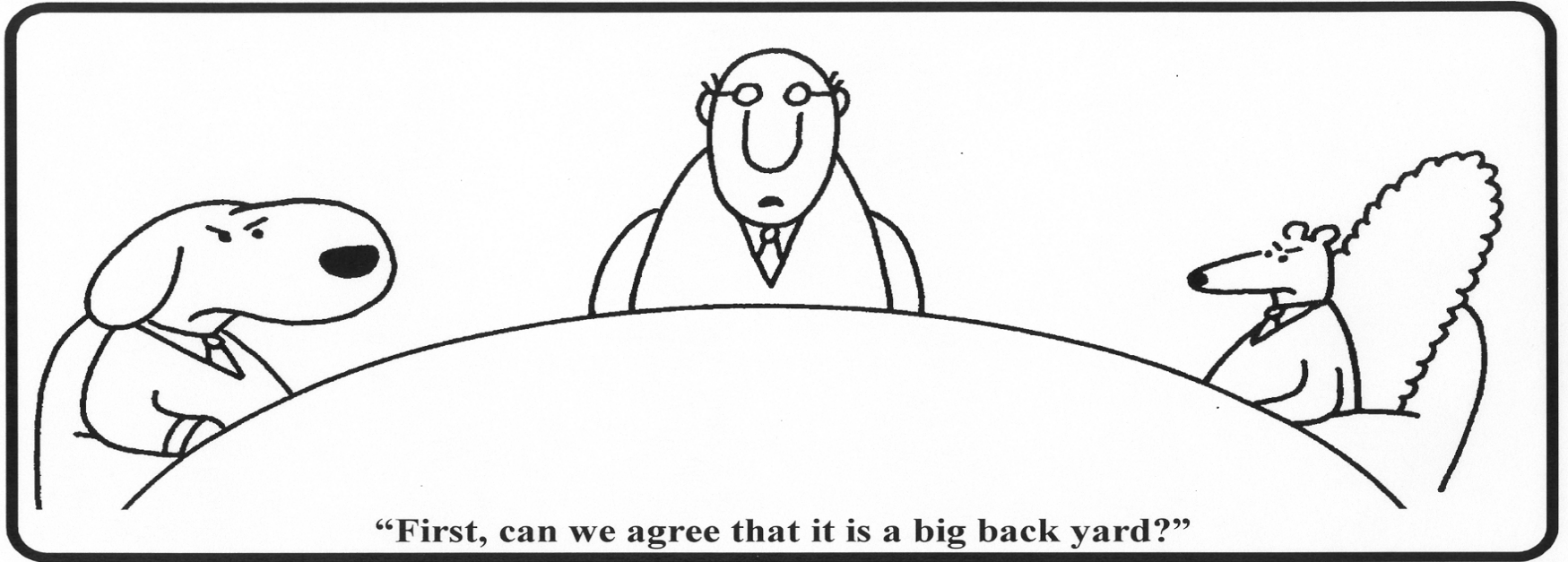
Ask clarification questions

(Gently) prod parties to move off of their position

Search for, and identify common ground



MEDIATION



HOW DOES THE MEDIATOR DO HIS/HER JOB?

Stay Balanced

Come up with Ideas

Understand Priorities

Test Solutions/Reality Test



SETTLEMENT AGREEMENTS

Will Be Balanced

Will Be Behaviorally Clear

Will Be Written

Will Be Kept Confidential

CAN Be Temporary

CAN Be Tweaked



MEDIATION: RESOLUTION?/CLOSURE

SOMETIMES THERE WILL BE NO RESOLUTION AT THE
MEDIATION

- Even if that happens, some information that comes out may help the parties come to a better relationship



BENEFITS OF MEDIATION AND MEDIATED SETTLEMENTS

Does not determine who is right or wrong

Does not determine guilt

Does not determine who did what

Just determines how parties will behave “this day forward”



MEDIATION

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EXAMPLE #1

Melanie and Sam work in cubicles about ten feet apart, and they both report to you. They generally get along with each other, but lately there has been increased tension between the two. Melanie has complained to you that Sam has stopped saying good morning to her, and plays the radio too loud for her to concentrate. Sam has complained to you that Melanie's perfume is way too strong, and that she dresses inappropriately for work.

Could Sam and Melanie benefit from mediation?

What are some things a mediator could do with this case?



EXAMPLE #2

Pat reports to you, and many people, including Chris, report to Pat. You've noticed that relationships in the department overall are worsening, and that there seems to be a lot of negative energy in the department. One day, you see Chris in the hallway, and Chris is crying. When you ask Chris what is wrong, you hear that Pat turned down a vacation leave request, and is always correcting Chris' work. You call Pat into your office, and mention Chris' conversation with you. Pat says that sometimes supervisors have to make unpopular decisions, and that Chris should just deal with it. You then tell Pat that there seem to be a lot of problems in the department, and wonder if Pat is being effective.

Could they benefit from mediation?

Who?

What are some things a mediator could do?



EXAMPLE #3

Angel and Casey have been best friends for years. They eat together, work together, and know practically everything there is to know about one another. When they left work on Friday morning, they were talking, laughing, and saying see you next week. When they came in Monday morning, they weren't talking to one another, and this continued for three days. On Thursday, Casey asked for a job transfer; when you ask why, Casey said she no longer wishes to be around Angel. When you ask why, she mutters something about betrayal, and then leaves your office.

Could Angel and Casey benefit from mediation?

What are some things a mediator could do with this case?

EXAMPLE #4

Jordan a newly-employed technician at the University is growing accustomed to the new position. However, Jordan notices that a coworker, Dakota, ignores her completely, stops talking to other coworkers when Jordan enters a room, and gets hang-up telephone calls that are almost certainly from Dakota. When Jordan confronts Dakota about this, all Dakota does is laugh.

Could Dakota and Jordan benefit from mediation?



QUESTIONS?

Mediation at the University at Buffalo

Employee Assistance Program

University Mediation Service

716-645-4461

www.buffalo.edu/eap

