



NORM-EDUCATING MEDIATION

Mediation is voluntary negotiation among the parties to a dispute, with the help of a neutral and impartial third party.

Parties must demonstrate:

- **Capacity**-the ability to advocate and negotiate on one's own behalf, to process information, and to carry out agreements
- **Authority**- the legal right to make decisions
- **Intention (good faith)**- the willingness to negotiate, to make bona fide proposals, and consider others' proposals

The mediator's job is to establish:

- **Impartiality**- showing no preference for any party
- **Neutrality**- having no preconceived opinions regarding the outcome
- **Balance of Power**- ability to recognize and address power relationships that intimidate or compromise the **capacity** of any party's ability to participate in mediation
- **Informed Consent**- parties must have all relevant information to exercise informed consent to mediation, to determine what information is required to be disclosed, and to decide whether to maintain or waive confidentiality

THE SUSTAINABLE KNOWLEDGE MODEL OF NORM-EDUCATING MEDIATION

1. Define the problem - Storytelling

- a. events & obstacles
- b. values/norms
- c. goals

2. Gather Information and Ideas - Brainstorming (questions & options)

3. Set Criteria- what norms are referenced?

4. What Works? - Bargaining/Negotiation (proposals & solutions)

5. Agreement/Understanding (actions) (attitudes)

ATTACK THE PROBLEM, NOT EACH OTHER.

NEGOTIATION

ELEMENTS in NEGOTIATION

1. **wisdom**- meet the legitimate interests of each side to the greatest extent possible
2. **fairness**- resolve conflicting interests according to agreed upon criteria
3. **durability**- work to make an agreement that will hold up over time
4. **interests**- state your own, and consider any others who will be affected
5. **efficiency**- consider the economic and emotional cost of taking hard and fast positions
6. **preservation**- of future relationships (at least avoid further damage)

CATEGORIES OF MEDIATION MODELS

Mediation scholars and practitioners have categorized and analyzed mediation models from many perspectives. While mediation has gained legitimacy as one of the Alternative Dispute Resolution processes, controversy abounds regarding how to define mediation, train and evaluate mediators, and measure success. If mediators cannot fully explain the process being offered, self-determination of the parties can not be exercised.

Norm-Generating Mediation applies to any mediation in which the parties reference primarily their own values and standards. While all mediation operates “in the shadow of the law,” Norm-Generating models focus the attention on the interpersonal issues. Self-interests, in addition to parties’ proposals on concrete issues, can include: future relationships, fairness to all parties, redefining relationships, changing patterns of communication, and greater awareness and empowerment of parties.

Norm-Educating Mediation is based on the theory that people who are well informed make better decisions. Participants gather all relevant information throughout the mediation process, as well as referencing their own values. The mediator may offer information for the parties to consider. Parties are encouraged to learn negotiation skills for use outside the mediation.

Norm-Advocating Mediation is any mediation in which legal statutes or institutional regulations dictate the parameters of the mediation agreement. Parties must be informed of these restrictions prior to the mediation.

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