



FINDING COMMON GROUND

Mediation and the restorative approach
to solving conflicts

By Angie Dornai

Ne sibi quisque consultat, sed inter nos auxilio simus. (Let us not take thought for our separate interests, but let us help one another.) —OSSTF/FEESO motto

In his treatise *Nicomachean Ethics*, Aristotle asserts that part of a good leader's job is to create an environment in which its members can achieve their highest potential. In all of our jobs, we have opportunities and even obligations to be leaders of this kind. Sometimes, we need to emerge as leaders for others' benefit. Issues arising from miscommunication and misunderstanding can confound the manifestation of this leadership potential. That is where restorative approaches, including mediation, when necessary, are beneficial. Our OSSTF/FEESO motto encourages us to work together towards a common good, and the Mediation Services Resource Bank is available when concerted efforts do not attain the collectively desired outcome.

Mediation: the process

In *Getting to Yes: Negotiating Agreement Without Giving In* by Robert Fisher and William Ury, there is a story involving two students fighting over an orange. A staff member comes across the two squabblers and, after a brief assessment of the situation, uses a convenient board-approved cutting utensil to divide the orange in half. Each child has 50 per cent. The question the

story poses is this: is this a satisfactory resolution to a mediated settlement? On the surface, it might in fact appear so.

The *Oxford English Dictionary* (OED) defines a dispute as an argument or disagreement. The OED definition of conflict includes a "serious disagreement or argument" involving "incompatibility between opinions or principles." For OSSTF/FEESO's purposes, when a professional dispute or conflict creates a situation that impacts on people's abilities to work together effectively, members may accept a neutral third party's facilitation of a discussion that helps shift attitudes from being intransigent to being open to discovering areas of common interest. This facilitated dialogue allows staff to hear and be heard sufficiently to present, consider and discuss areas of commonality, and where positive outcomes can be achieved for mutual benefit.

Fairly often, concerned colleagues or District Officers are the first line of support when a conflict between members becomes public. In the event that long-term success in the resolution of this conflict is not achieved, the district may, at the disputants' behest, request the services of one of eight OSSTF/FEESO member mediators who have honed "conversation facilitation" skills. These mediators also hold the advantage of being from a different district, a situation that promotes the necessary faith in impartiality and in the mediation process.



Restorative approaches in mediation or in life encourage us to make intelligent choices that ultimately help us function in community, as civil, caring and supportive citizens.

That process involves making sure those with the dispute have a relatively specific conflict, the parties perceive the mediator as neutral and the process is one to which they have agreed voluntarily. Once these parameters have been established, all those involved should have some investment in the resolution of the dispute. In other words, not dealing with the conflict is unacceptable to all involved and adequate time and space are available to fully examine and address the concerns. If a grievance or arbitration is pending, the mediation cannot take place. However, many a grievance has been avoided because skilled facilitation has enabled those in conflict to find ways to come together that are hard on the problem and gentler on the people involved.

A mediator is a neutral, fully impartial third party who assists disputants in bringing their best selves to the exploration of options that will ultimately resolve the dispute to the satisfaction of all involved, or at least allow members to reach an agreement that is acceptable to all involved. This is a seven step, fluid process that involves letting the disputants know how the mediation will proceed, what ground rules will be applied, why the process needs to be strictly confidential and how everyone will be able to speak and be heard over the course of the mediation. Throughout this process, each person shares his/her perspective while the others listen and take notes as needed for follow-up discussion. The facilitator helps determine convergent interests, encourages dialogue to achieve these ends and works to identify the outstanding issues.

Once everyone agrees that no impedimenting conflict stone has been left unturned,

the mediator assists in brainstorming options, generated by asking, "How can we achieve resolution for X while meeting the needs identified by Y?" This takes a fair bit of time as those with the conflict work together to select the most realistic and durable options, sometimes talking through what those options will look like when carried back into the workplace. The final stage involves closure, at which time the disputants will hopefully be feeling from a little to a lot better about what led up to the mediation and what will come next.

How does the opening story of the students and the orange connect with your understanding of the process of mediation? The staff member who divided the orange 50/50 watches as one student eats her half of the fruit and discards the peel, while the other student pitches the fruit in the garbage and takes the peel outside, to be used as hair on the head of her snowperson. The staff member learns, at the students' expense, the value of asking questions to facilitate dialogue about needs and interests. Sometimes we get so embroiled in our own wants and needs that we require a skilled mediator to ask questions that not only help us articulate what we need in order to work and live at our highest potential but also to hear and support and help one another get what we need.

Maintaining Common Ground— Perspectives in Alternative Dispute Resolution

"People fail to get along because they fear each other; they fear each other because they do not know each other; they do not know each other because they have

not communicated with each other."
—Martin Luther King Jr.

A mediation is deemed successful when those in dispute can work together to find solutions to the problem that is affecting their professional lives. A mediator finds ways to help disputants get to know one another better through guided communication.

While this is always good and desirable, better yet is an arrangement where people also have the opportunity to address the harm that has been done to the relationship if the conflict has been long-standing. Usually, by the time a mediator is called in, more than just two individuals are linked to the specific conflict. Often there are colleagues who have taken sides. Whether out of an attempt to help or because of an unwelcome desire to stir the pot, they have fomented dispute while gossip and innuendo have flourished. This begs a rather large and important question. When the successfully mediated disputants return to the workplace, will the fragile bonds of community—forged through difficult communication and resulting unity—stay in place and even continue to repair and strengthen? In order for that to happen, an extended restorative approach to our co-operative work with one another becomes necessary.

How can a restorative process be incorporated into our mediations? A skilled mediator assists disputants to speak and be heard, and helps those in conflict find areas of common ground. These places of common interest serve as a starting point at which options leading to livable solutions can be brainstormed, abandoned or embraced.



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In an alternative dispute resolution like mediation, options are selected only if each person accepts them as better than those that can be arrived at outside of the mediation process. It is then that an examination of repairing the harm caused to relationships can be attempted. A restorative approach can be incorporated into mediation proceedings, when disputants find ways to move from the story that they have been telling themselves to the “re-story” or new version of events perceived as a result of new understandings of the other person. The flawed or damaging perspectives from which the disputants have been viewing people and events often change through mediation. Nevertheless, unresolved damage to relationships may still persist. For this reason, a restorative approach is useful in moving towards a healthier, newly constructed reality and repaired or restored relationships.

The restorative approach recognizes the need in all of us to build, maintain and foster community in our professional as well as our personal relationships. To an observer, a restorative shift can be seen as disputants move from sitting across a table from one another (with their not-so-secret desire to punish the other), telling their version of what happened, to their eventual ability to sit side by side, sometimes even with heads together, united in their efforts to find mutually agreed upon solutions that ensure the problem does not occur again. This is the point at which mediation can sometimes end, and the former disputants head back

to the workplace with hopeful, rather than harmful, intentions.

However, a restorative approach to mediation invites all involved to consider what else has to happen to make things right beyond the mediation process. What might still exist in the disputants’ relationship that could thwart their ability to maintain their agreements? The participants will only benefit if they consciously find ways to express what they still need to do to close the remaining wounds on the professional relationship.

This restorative approach involves asking the disputants to address specific points.

- What happened?
- Who was affected by what we have each done, and in what ways?
- What were we thinking about at the time, and since?
- And what still needs to happen to more fully make things right?

This shift from an adversarial (and punitive) focus on the past to a more healthy and helpful focus on accountability for actions so things improve in the future is what makes outcomes generated by restorative approach-assisted mediation really stick.

The word “intellect,” which is what we try to develop in our students, comes from the Latin *intellectus*, from *intelligo*, to understand: *inter*, between, and *lego*, to choose or pick. Our responsibility, as intelligent people, is to make choices from our understanding of the big picture—choices that reflect our belief that we’re all relevant, not that some are more relevant than others. Even if our colleagues may have a

vested interest in seeing our conflicts continue, we can anticipate the politics that interfere with our best efforts to help one another. If we look back at the root of the word “politics,” it, in Aristotle’s ancient Greek was *politai*, from which we get words like “polite,” among others. It also meant “citizen.” Restorative approaches in mediation or in life encourage us to make intelligent choices that ultimately help us function in our communities as civil, caring and supportive citizens.

While it is human nature to be invested in our own interests, the interests of our classrooms or workplaces, our students and/or our colleagues, it is also wise to find ways to help one another be empathetic, respectful, responsible and even courageous. And if we are unable to do so, on our own or with the help of one another or through a restorative approach to mediation, I hope we try to find the common ground in our separate interests with a view to speaking our truths so we can all be heard. Schools don’t just serve society; to a degree, they create it. On what kind of grounds do we want to make our contribution to the creation of an improved society?

Our Federation doesn’t just serve us, it *is* us. What we want it to be is reflected back in how we are with one another. And if, because of conflicts, you find yourself in over your head, let us know. We are, after all, here to help one another. ☺

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