The Impact of the Apology on Communication and Negotiation
A CADRE Webinar Presented by Nina Meierding
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Transcript

MARSHALL PETER: Hi it is Marshall Peter and we are now at the start time for our webinar. We are going to leave those surveys up a bit longer so that folks have an opportunity to respond. Hello and thank you very much for joining CADRE's webinar on "The Impact of Apology on Communication and Negotiation." Today's webinar is one in a continuing series of webinars that CADRE is presenting. We have a few poll questions we'd like you to answer before we get started. There will also be a few at the end of the webinar. We are very much appreciative of you taking the time to answer these and we would ask you to please if you can stay on till the end so that we can get a little bit of evaluation data from you about today's experience. These, these polls provide us with very valuable data that we share with our funders. A few technical notes: Your phone lines have been muted, when we open up the call for questions please press *6 to unmute and mute your phone. You can also enter any questions or comments into the chat box in the bottom right hand corner of your screen. CADRE staff will be attending to those throughout the webinar.

Today we're delighted that our presenter is Nina Meierding. Nina has assisted in the resolution of thousands of disputes and has conducted training throughout the world. She has consulted and trained many groups and individuals in the areas of conflict resolution, cross cultural issues, management skills, and negotiation skills.

Nina is an Adjunct Professor at Pepperdine University School of Law, Southern Methodist University's Dispute Resolution program and at Lipscomb University. Nina has a strong background in the field of special education. She has a Masters in Special Education and has worked as a special education teacher, lawyer, parent, student, or parent and student advocate, mediator, and she is now the mediation system, mediation partner, the technical expert for the Wisconsin Special Education Mediation System also known as WSEMS. So I want to thank Nina so much for joining us and Nina we're going to take the polls off the screen now and turn it over to you.

NINA MEIERDING: Great, thank you. Well welcome everybody I see some names on the participant list, the people I recognize, and I see there's quite a span between parents and mediators, facilitators and a whole group of people that are, that are looking at this, what I hope will be a wonderful webinar about a topic that has been something of great importance to me over time. And that is the value of and the impact of the apology on communication and negotiation. It's interesting because I used to call this topic the strategic apology and people didn't like that and they said well strategic doesn't sound sincere, it doesn't sound real, it sounds planned. And I agree with that filter and that wasn't the intent. And then I called it the mindful apology and the people in mental health professions and social work said that's a great title and the lawyers said it sounds a little to kumbayaish, it doesn't sound quite as thoughtful maybe as another topic. So now I've changed it to the impact of the apology on communication

and negotiation with the hopes that what we get from this is the thought that apologies can be sincere but also can be thoughtfully and mindfully prepared for. Because apologies are very very complicated and they can either create and restore a relationship or they can cause great conflict.

So as we start I'd like us to think about the types of apologies that people can use. One is called the full apology and that's when somebody takes full ownership of it and they say I am sorry, this is my fault, I'll never do it again, I made a mistake. And usually what you can see there is there is a promise not to repeat the behavior and that it's usually offered without a defense which means that the don't say it's my fault but if you hadn't done such and such I wouldn't have had to do what I did. So usually a full apology has no defense, no sense of excuse. A partial apology is what we call an expression of commiseration or an expression of benevolence, but it is not acknowledging responsibility for the problem. So if somebody says, I am so sorry that we're in this conflict, I am so sorry this has happened. We are all here for the best interests of this child. I am so sorry that we've come to this point, if there's a big conflict that's happening. Notice that that is an expression of benevolence, of caring, of concern, of compassion, but it is not saying, and by the way I accept that the problem is all my fault. So that's a very very important piece to understand. A partial and insincere apology is what is often times just seen as complete avoidance and is often times insulting. So that's when someone says to you I am so sorry if you took this the wrong way. I am so sorry if what I said hurt your feelings. I am so sorry if I have to apologize for what I did, basically is what it feels like. And those kinds of apologies usually backfire and backfire big and yet somebody says well I don't understand why they're so upset, I apologized. But it isn't either a full apology or even a partial apology.

So what are the effects of these kinds of apologies on communication and negation either in personal relationships, educational relationships, business relationships, or whatever? The first is that there was a survey done, and this is outside the field of education but I think it's still very important to look at, and the situation was a simulation where there was a person who was standing on a sidewalk and they were a pedestrian and another person on a bicycle came along and ran into them and there were damages. The person who was the pedestrian was injured. And what they wanted to asses by this is what was the impact of an apology when a person was also making the offer. So saying, I am so so sorry, this is all my fault, I ran into you, there is no excuse. And 73% of the people accepted the offer of reimbursement or restitution for the injuries when it was accompanied by an apology. Now here's the tricky part, if you look at the PowerPoint you'll see there's no apology and partial apology and when somebody, when the pedestrian felt - this is not my fault in any way, shape, or form and you are apologizing by doing a partial apology, meaning oh I'm so sorry that his happened, I'm so sorry there was this accident, that people were more insulted by a partial apology then no apology at all.

So what does that teach us? It teaches us that if the person that you're apologizing to, truly believes in their heart, whether you believe it or not, but through their filter and their reality and their perception, they believe that you are at fault, then to do a partial apology, which is the oh I'm so sorry that this has happened, will probably not be effective and may work against you in restoring that relationship. Now the situation changes if people in the conflict both feel

that they have a shared fault or a shared problem. And what that means is if you and I are in conflict and I say well you know I suppose that I contributed this, I'm saying to myself, I suppose I contributed to this conflict a little bit. And the other person is thinking, oh I contributed to this conflict a little bit, and if either one of us says to the other, gosh I'm so sorry we ended up here, we've been trying to work this through, we haven't been able to, it's too bad we got to this point, I am so sorry. That that partial apology while not being as strong, obviously, as the full apology, but that partial apology when both people feel that they've contributed somewhat and shared somewhat in the problem can still be very effective.

So what does this teach us? It teaches us that we're in a conflict where there's shared responsibility or at least a shared perception of responsibility, that partial apologies, those expressions of benevolence, those expressions of commiseration, without necessarily saying it's my fault, I did this, that those can be very very effective. The hard piece that we have to think about as communicators and as negotiators is that even if we, even if we believe it's a shared responsibility or a shared fault, but the other side believes it's all our fault, then we can't say well they're wrong because you know they didn't accept my apology because they're at fault too. If they don't believe they are, it's their perspective, it's their reality. And I think that is where we need to asses, where is the other person in this conflict with what they feel I did and what they feel they did. I don't have to agree with them but I need to understand that perspective.

As we move along we see that there are other kinds of apologies as well. One of them is called unilateral or bilateral apology and that's pretty much exactly what it looks like. Unilateral means when I make the apology I expect it just from me to go to you and I don't expect you to apologize back. I am fully making this apology with no thought that I'm expecting reciprocity from you. And this is really important because later when we talk about reciprocal or rapport apology there's a very different expectation when the person makes the apology. The contingency or transactional apology is probably one of the most controversial apologies because it is made when you expect something or you're exchanging something for that apology. So we will agree to drop this lawsuit if, if you apologize to us. So it's not, will you drop this apology if I, I mean will you drop, drop this lawsuit if I apologize to you. So you're saying I'm willing to do it but I'm only willing to do it if you do something for me. And there is a very good writer about the field of apology – his name is Lee Taft and, T-A-F-T – and he is out of the state of Texas. And what he says are these contingency or transactional types of apologies are what he calls the commodification of the apology. That you're commodifying it, you're making it tradable. You're making it almost like something concrete that you're going to say well I'll apologize if you do such and such. And those tend not to be sincere or perceived as sincere at all, because they're conditional. And this is where when people are negotiating back and forth and they say well we might be willing to apologize if the other side does such and such. As a mediator I've always said, well that's a risky type of apology. I'm not saying don't do it, but it can be perceived as the other side as insincere because you're only willing to do it in exchange for something.

Another kind of apology is whether it is public or whether it is private. Some people say you know you humiliated me in front of my classroom or you humiliated me in front of other parents and so you're apology to me needs to be in public. Just like what happened to me with you was in public, you need to apologize so the people who saw that see your apology as well. Other apologies can be in private. People can even say, I've been in a mediation where they said we would like to do this with no one else in the room, including the mediator, and so it may be a very private apology that is shared. Or it might be between, if let's say there's a large meeting, and it might be between a parent and a teacher or a teacher and a parent, either way, but not in front of the whole group. And so when we're thinking about, is someone willing to apologize, it might be a very very different perspective for them if they say, well I might apologize to hypothetically, Nina, but I'm not going to apologize to the whole group or have the whole group see it. And I think that's an important dynamic, again, to, to understand.

There's some more types of apologies. And this is why, as I said in the beginning, it's so complicated and we have to be so mindful of all these things. The rapport apology is kind of tricky because the rapport apology actually originated in the study of the differences between genders. And females in general - this is not a stereotype this is a prototype, which means you know, as soon as I say women tend to or men tend to, a woman or a man will say well I don't do it or I do that and you said I didn't do that. And I'm going, no, no, no, no, this is basically, research shows this but it doesn't mean that every individual does this. And what that means is that women tend to use rapport talk, or R-A-P-P-O-R-T, more than men, which means that the conversation itself is more relational, it is not report, R-E-P-O-R-T, like I'm giving you information and this is what I need. It may be simply that we're having a conversation together, and while what we talk about is important it's more the fact that we are either commiserating or talking together and sharing that time. The rapport apology fits that piece. The rapport apology is done for a relational purpose. And so for example, let's say if you called me up and you said I'm going to be late to the meeting, I've run into traffic. And I say, oh I'm so sorry. Now, notice, I didn't create the traffic. I have no responsibility for the traffic; I had nothing absolutely to do with it. However, I said, I'm sorry. And in that way it's more of a rapport building, relational building, almost like a commiseration, like, oh I've been in that situation too. Women do more rapport apologies than men, in general, again, a prototype not a stereotype.

Well what does this mean? It means that if a woman does it for purposes of rapport, not necessarily accepting responsibility, there could be a misunderstanding of the intent. And I'll give you an example. If I'm at home and my husband bumps into a couch, I'll say to my husband oh I'm so sorry. And he'll go, oh did you move the couch? And I'll go, no, no, no, no, I didn't move the couch. And he'll say well then why are you apologizing? And I said because I'm sorry that if you're hurt or I'm sorry that that happened. And he goes, oh okay thanks. But if I walk by the couch and I knock into it, usually what he'll say is, are you okay? And I'll go yeah, I'm okay and then I kind of wait. And I look at him sort of expectantly, and he says, what, what? And I said well, um, you didn't apologize. And he says but I didn't move the couch. And so for him it's more an accountability issue. If I move the couch and you get hurt I'm going to apologize and it'll be a full apology. But if I did not move the couch why would I say I'm sorry?

Now the reason therefore of this gender split, that we understand this, is that often times when rapport apologies are made, track down to the next thing on the screen, there is an expectation of a reciprocity apology or there's a ritual that goes with that. So remember before when we were talking about unilateral versus bilateral apologies. A unilateral apology - there's no expectation that someone is going to return it. A ritual apology is where someone apologies and sees themselves almost as making themselves vulnerable to the other side and so they expect the other side to say I'm sorry too. So let me give you an example of that. Let's say, and I'm going to use a man and a woman, just not again as a stereotype but I'm going to use it as an example. And let's say there's conflict and it could be two parents, it could be a parent and a district it could be a lawyer and a client, it could be - whatever the combination is - but there's a man and a woman. And so the woman says, you know, I can't believe we're in this situation, I'm so sorry this has happened to us. What she wants back, if there's a need for reciprocity and it's a rapport apology, would be, I'm sorry too. But often times, what can happen if the person on the receiving end, let's say it's the man, is perceiving that as a need for accountability. Instead of when I say oh I'm so sorry, he might say, thanks, that's okay, don't worry about it. And then if I'm expecting this ritual or the reciprocity of apology, I'll say well, well wait a minute, you didn't apologize. And if that person doesn't believe they did anything wrong, he'll say, but I didn't do anything wrong. And I'll say well I didn't do anything wrong either. And then he'll say well then why are you apologizing? And I'll say because I'm trying to restore relationship, I'm trying to rebuild what we've lost in this conflict, I'm trying to rebalance this. And then I wait again, and he says well thanks I really appreciate that. And I go, wait you still didn't apologize and he'll say, I didn't do anything wrong, and then I say, I didn't do anything wrong. And now what are we fighting about? We're fighting about the apology and the intent of the apology. Which is when you look at it, a very sad occurrence; because it's the very thing we're trying to do to build our relationship again and now we're fighting about why I apologized and you didn't respond with an apology yourself. And I think that again is an important thing for understand, for us to understand, is that if we are rapport apologizers and sometimes when I am in trainings, I challenge people and I say I want you to count how many apologies you do in the next 48 hours. Not for something that you actually did and you're responsible for, but as a form of commiseration, and I always joke that when a group of women get to a door and they're going through the door at the same time they'll usually say oh I'm sorry, no, no, no, I'm sorry, no, no, no, I'm sorry, I'm sorry. And again it's not because there's any accountability in, oh it's my fault I bumped into you or anything like that, it's that we're doing it as a form of rapport speech.

Cohesion or dispersion. This is also a very important one. If someone is apologizing for purposes of cohesion it means they are there to restore the relationship. I am so sorry I treated you that way, I will never do it again. Can you possibly forgive me? I really want us to get back on a good footing again and I want this conflict to be resolved. And so I, when I do a cohesive apology, am doing it because I want to get that person back in my life. Dispersion apologies are apologies where people are doing it so that they can leave without that guilt or anger. So that they can say you know I made a mistake, we're not going to be friends anymore, we're not going to have a connection anymore, but I feel okay about that because I apologized, sort of as I was leaving. And this gets a little tricky as far as timing because if someone is doing it for purposes of dispersion, if they're doing it because they want to leave and in a sense alleviate their own

sense of wrong or what happened that sometimes the other person believes well you're just apologizing for yourself. You're not apologizing actually to me, you're just apologizing so you can leave and feel okay about it. That you don't want to have this relationship or you don't want to deal with me any more in this conflict. Or that I'm leaving the district and so you're saying you're sorry but it's only because I'm going. So it gets a little tricky, again, because the filter, we can't control the filter of the person who is receiving the apology. We can't. We only control what we intend to say. We say it and then it's going to go through their filter and the intended message is not always the received message. And we might be thinking we're doing it for purposes of cohesion, restoring the relationship. But the other person might be feeling like, no they're just doing it so they can walk away and not feel guilty about it.

As we look at the next area which is attitudes towards fairness, I want us to think about the fact that people very rarely apologize if they think they're being fair with somebody. But there's a lot of cultural overtones related to this, so I would like to talk about that for a minute. There's four basic standards of fairness. The first one is called a legal standard of fairness. What this means is there is some objective criteria that applies. It could be FAPE. It could be that you're entitle to a free appropriate public education and there are guidelines about what that means and how that's ascertained and if we provide that then we are following the legal standard of fairness. Or, someone could say, well these are the elements of a complaint and I believe that I have met those legal standards of fairness's by proving my legal case. So legal is seen more as universally applied. This applies objectively as a legal standard of fairness.

The equitable standard of fairness looks at the amount of time or energy or money or contribution of some sort that's been put into the issue. I've worked really really hard and therefore it would only be fair that you do X, Y and Z. and the legal standard of fairness and the equitable standard of fairness are very very common in the Western society, in the Western world. Business people, lawyers, a lot of people say, no, there's objective criteria, we need to follow this, I use this in my business all the time. Those are the kinds of things that people talk about. Sometimes there's a little bit of conflict. I remember I was working with a group and the lawyers were saying well this is the legal standard of fairness and one of the parties said yes, but, you know, we have a long term relationship and if we can come up with something more equitable and more flexible I would sure like to do it, just because of the long term relationship that we have. We know we could win on the merits, if you want to call it that, win on the merits of what we're doing, but we want to come up with something more equitable. So those two pretty easily understood by most people in the Western world.

The cultural standard of fairness is quite different. And when I explain this I want to be really clear, I am not asking you to shift from whatever standard of fairness you have, whether it's legal, equitable, cultural or faith based. But the purpose of talking about this is for us to understand the filters that people see fairness through. Because the cultural standard of fairness basically says we need to do this based on need. That this standard comes from what we call collective or group focused cultures and the priority of helping the people in the group is much more important than an individual's rights. So if somebody needs something, we should provide it. Period. End of story. It doesn't matter what the law is, it doesn't matter what

equity is. But culturally if somebody needs it, in their perspective, it should be provided to them. Now again this is a very very tricky one because it is the filter that someone sees their life through, it's how they've been raised. And so when they are faced with a legal standard of fairness or an equitable standard of fairness and someone says well we're meeting our legal requirements, that the person with the cultural standard of fairness, it literally does not compute that way. Same thing with faith based standard of fairness.

Faith based would be what would my god say is right? Whoever my god might be and whatever space that I might have, what would god say? What would be the way of looking at? Now why is this important to us and communicators or negotiators? First of all, when people come into mediation and they say to me this shouldn't be that difficult, I only want what's fair. I have no idea what standard of fairness they have until they explain that more fully. Because you could have one party looking at it from a legal standard of fairness and another person looking at it from a needs based cultural standard of fairness. And they both believe they're asking for what's fair. So that's the first thing, is to not assume that the word fair means the same thing. So when someone says, I want you to apologize because you didn't do what was fair and the other person goes well yes I did, I did what was absolutely fair. Then they have a conflict not just over the apology, but what fairness is.

One thing that I have found is that to say to somebody who has a different standard of fairness than the legal standard of fairness, to say well if we can't resolve it here, then the due process or a fair hearing or depending on whatever you call it in your state, or an arbitration, or a litigated case, any sort of objective legal forum. If we can't resolve it here then the court/hearing officer/arbitrator will tell you what's fair. Well that statement is a denial of the other person's concept of fairness. It doesn't mean that their concept of fairness will be what is used in the case if it goes to a legal forum and I'm not advocating that it is, but what I'm saying is when you say to somebody, the court will decide what's fair, that isn't their standard of fairness. So notice the difference between saying, I understand how frustrating it must be that if we don't resolve this here today that the court, or the hearing officer, or whomever it might be, will decide what's fair using a legal standard of fairness. That's what they use, that's what the law provides. So if we want to try to resolve this without having somebody use that objective criteria and we want to see if we can have any flexibility or any way of equitably doing this differently, this is the place to do it. So I understand your frustration that the court/whomever would use a different standard of fairness than the one you believe in, that must be frustrating, that must be hard. But on the other hand, it's reality if people don't resolve their own conflict by themselves and with themselves. So again, don't just expect because if you think something is fair and the other person has done something and they have a different standard of fairness that an apology is going to be easily obtained, because they may feel very very strongly that they did everything right.

In many cultures there is what is called a need to save face. And it is very very different than I've embarrassed myself, that sort of I've hurt my ego, I don't feel good about what I did as far as how it reflects upon me. That is not saving face. Saving face, a loss of face is a concept within collective cultures. And what that means is that if I apologize or if I acknowledge fault that it

affects not only me as a person but whoever I see as my group. It may shame my family, it may shame my faith, it may shame whatever my group is that I see my group being. And so if I'm asked to apologize and I see it as a loss of face then it would be something that I might be very very reluctant do. That it is not just you asking me to say I'm sorry, it's you asking me and I represent in my mind a much bigger whole, a much bigger group. And what I often times say to people, I do a lot of cross cultural training and I say, you can have a totally reasonable, rational, logical, conclusion to something or a logical, reasonable, rational settlement to something, but if someone sees that they are losing face in that process, they probably will not take it no matter how rational, reasonable, or logical that settlement or that end of the conflict might be for them.

So sometimes apologies aren't words, sometimes it's not an acknowledgment of fault or responsibility, sometimes it is simply changed behavior. That someone stopped doing the thing that was bothering the other person. And that is their way of apologizing, that is their way of saying I'm sorry, I'm not going to do it again, but they don't want to say those words because saying those words could be a loss of face. And know that they're going to just change what they do, change their actions, and make it alright. Another thing that is really really important is the timing. People have a right to be upset, people have a right to be in a conflict if they want to be in a conflict, and sometimes if people feel that if someone apologizes too quickly - and here's the key where I need you to go back in your brains to a previous slide - if they apologize too quickly and the person who's receiving the apology believes it's for purposes of dispersion not cohesion, they will react very negatively to that apology.

What does that mean? It means that if I am angry at you because you did something, you didn't fulfill an obligation or a responsibility, or you yelled at me, or whatever it might be. And I see you as in that process also ending the connection that we have or the relationship that we have and you say, oh, oh I'm so sorry. So now notice you're saying it very quickly, you're not allowing me my anger and on top of that - for those of you and most of you have been here through the whole webinar, but there's been about 10 or 15 that have signed in in probably the last 20 minutes - when you say, oh I'm so sorry, but you're not accepting accountability, it's what's called a partial apology. You're not saying, oh I'm sorry it's my fault. So if someone does a partial apology, very early in the conflict and the person who's on the receiving end is thinking, oh they're just doing this so they can walk away without guilt, those usually backfire. It's too, too little too, I mean, too little too soon and the same thing can happen too little too late. So too little too late I have seen situations where nobody has apologized until a meeting and the conflict has grown and grown and grown and grown and now what happens is they're sitting across the table from each other, and the person says, I just want to tell you I'm sorry. And the other person goes, wait a minute we've been in this conflict for a year, and now you're doing it? Aren't you doing it because you want to soften me up, you want to make it so that I'm going to agree with you now. It goes back to what we talked about before that the person on the receiving end sees it as almost what we call, again, the transactional apology. Oh you're doing it because you hope that you'll get something from me. Okay, so too little too late, too little too soon.

On the other hand there can be too much and then it can be seen as, oh this is, this is more for you then it is for me. It seems like you're relieving or letting go of your own guilt. So the timing is very very important. And when I look at an apology being mindful often times, and people say I really want to apologize I'll say tell me about, what about the current situation right now, makes this a good thing to do versus later versus earlier. Can you tell me about the timing and how you think the person on the other end will receive it if you say it now? And I say this especially if they're about to walk into a negotiation they have not had any nice words to each other, civil words to each other in a long time. And that the other person might say, oh you're just doing this because it's – to use Lee Taft's words that I mentioned before – you're commodifying this apology, you're trying to get something from me now by apologizing. So timing, huge, huge, issue.

The next one I'd like us to look at is the level of emotion and this is both cultural and individual. What does that mean? It means that everybody has their own sense of comfort level with emotion, their own and other peoples. If you are from a culture or if you are a person who is very extroverted, very external, very emotional, very involved in both body language and in your verbalness then you are comfortable with a higher level of emotion and if somebody says to you, in a very restrained sort of voice, well I'm very sorry, that someone who is used to this external extroverted kind of emotion might think, you know, wait a minute, they don't even act like they're sorry. They're just kind of almost reading it off a script; they're not showing any emotion whatsoever. The flip side is, if you come from a culture or you're a person where emotion is seen as a weakness not a strength and it can also be seen as assaultive and not rejoining or rebuilding a relationship, then you see a lower level of emotion as something that is more respectful of the other side. That it is allowing the other person of the space for their emotions by not being so emotional with what you do. And so you can see that there's an issue here because a person who is much more quiet and restrained in their comfort level with emotions, the way they deliver the apology may be seen - remember we only control what we intent not was it is received - may be seen as not caring. And a person who is being very emotional about their apology, very upset, oh I can't believe this has happened, I'm so sorry, I'm so so so sorry. The other personal might be taken aback and going oh there's something really, really wrong with that person. Or why are they in my face or why are they so loud?

So that's the first thing, is that we don't necessarily want to look at the level of emotion in which an apology is delivered as to the level of sincerity, which we'll be talking about next. The next thing in this slide, the level of emotion slide, is the comfort level if you're in mediation of the mediator. There are some mediators who are very comfortable with the exchange of emotion at the table. There are others that keep it more managed. And one of the things I think that's important and key for those of us that are mediators, is to acknowledge when we're looking at the level of emotion, is this for my comfort level or is this for the party's comfort level? So for example, if you're a mediator who's very very comfortable or if you're a facilitator or if you're convening a meeting, it doesn't even have to be a mediator, but anyone who's sort of facilitating a conflict, if you're comfortable with a high level of emotion and many of us who are mediators are because we're trained to deal with emotion and trained to have it be constructive not destructive and we have a lot of tools to deal with that. But if the parties

aren't comfortable with it then we have to look at that through their filter as well. Because if someone says, I'd like to apologize to the other side and they're showing you that they're going to do it in a rather subdued way, for you to say well you know if you were saying that to me I don't know how sincere that might feel to me. Can you share a little more emotion when you're sharing that apology with the other side? And the other, the party may look at the mediator and go what? No, this is me being very very emotional. So that's one way of looking at it.

The other way of looking at it is if the mediator is not comfortable with emotion and the parties are or one of the parties are and so they want to express their sadness, their sorrow, their accountability, in a very emotional way and the mediator may feel that's at a pretty high level and may alienate the other side. So usually mediators are very, excuse me, cognizant of not only their own comfort level but the comfort level of the parties. But I bring this up because I think it pertains very specifically towards each of us evaluating our own biases towards that level of emotion, our own sense of where are we on the spectrum and there isn't a right, there isn't a wrong – it's culturally based on how you were raised with conflict with your own family, it's how you transitioned over time but to understand that people have different filters and may express apologies differently is very important because if we judge it through, if we judge the level of sincerity through the level of emotion we could be totally wrong. Absolutely and completely, totally wrong. So one of the things then we need to think about is what other than the emotion indicates the sincerity? Is there an acknowledgement of responsibility? Yes, the person's not showing a lot of emotion in their statement but on the other hand they fully acknowledge that responsibility. Do they appear repentant, remorseful, indicating that they're not going to do it again? Are they offering, what we call reparation or restitution? I'm so sorry that this delay caused you to miss two sessions of physical therapy. Or, I'm so sorry that this delay in me getting here on time is making the meeting start late, whatever that is. Is there also an offer of, I'm willing to stay later if you are? Or, we'll give you two more sessions of physical therapy because you missed those other two. Is there some sort of restitution, reparation for what was missed? And lastly is there a changed behavior? Has somebody who's apologized actually changed the behavior they do? Because this is, this is one where when people apologize for the same behavior over and over again but they don't change it. I don't care how strong their acknowledgment of responsibility is, I'm so sorry I just get angry, I shouldn't have done that, I know I insulted you, I'm so so sorry, I'm never going to do that again. And then they do it again and then they apologize. Oh I'm so so sorry, I'm just emotional about this. I shouldn't have said it that way, I'm going to really work hard not to say something that way. I'm sorry. And then they do it again. Most people, even though that apology has all the elements of a full apology, accountability, promise not to do it again, no defense - as far as you didn't do anything to deserve it - but they don't change their behavior, people go, well that's not a real apology, that's not a full apology. You know, they're just apologizing to get off the hook right now but I fully intend for them to do it again. So when people receive apologies, sometimes when they receive a full apology with all the appropriate elements but they've seen a continued type of behavior over time, they might say, you know I appreciate that you apologized, however until I've seen something change, a changed behavior that you're apologizing about or for, I'm having a hard time accepting that apology, your apology. That when you change that behavior and when I see that change over time I will truly believe that your apology was sincere

because I know it takes a lot of work to change the behavior that you're apologizing for. So again, the sense of is the level of sincerity more than just the level of emotion?

So let's look at apologies in mediation, but again, this can also be in facilitations, this can be in any sort of dialogue that you're having, I don't want you necessarily to think of it as a formal process. Okay? So, why may an apology be important? First of all, we have to look at what the person's intent is. Okay, so why am I apologizing? Alright. If the purpose I'm apologizing for is reconciliation, meaning I am trying to restore a relationship with you – I messed up and I am trying to get us back together at the same place – whether that's a cohesive IEP team, whether that's a parent and a district, whether it's a parent and a teacher, whether it's a teacher to teacher, whatever it is, we're acknowledging that we have a continuing relationship and we're trying to reconcile the differences that we have in order of for us to move forward. So that's what a reconciliation goal is.

Now notice that there are actually quite a few different kinds of apologies that could work well for that. One could be a ritual apology. You say I'm so sorry this has happened and I say I'm so sorry too. Let's move forward. So there's reciprocity, it's bilateral, we've both done it. We've both opened ourselves up to vulnerability and we've both regained the same power by both apologizing. The other could be a rapport apology, not necessarily accepting responsibility, but again indicating that expression of benevolence that comes with that partial apology as well. Another is that it could be very private that we don't need anyone else to see this; this is nobody else's business, it's just us getting together to you and I apologize whether that's ritual, rapport, partial, doesn't matter but it's going to be private. And lastly, I think that it can be a cohesive apology and you can say one reason why I'm doing this is that it's really important to me that we restore our relationship. And you literally telegraph to the other person that you are doing it for the purpose of reconciliation and to be cohesive. But notice that it's not necessarily a full apology. It's not necessarily saying and it's all my fault. Now if there's no repeat offense is the goal, meaning I want from you that you will never do this again. And so the kind of apology that I need from you usually means - depending on which culture I'm from – if I'm from a Western culture often times people believe that unless you fully acknowledge your responsibility you will repeat the behavior again and the apology is not real unless you take responsibility and accountability. But, that's kind of tricky because, remember, in cultures, where there's a loss of face that goes potentially with the apology, maybe you're going to find out that there will be no repeat offense if a person does a partial, sincere, apology. So, oh I am so so sorry that this has happened, and I want to make sure that nothing like this ever happens again. So notice they're saying an offer or a guarantee in some way, not to do the behavior again, but they're not saying I messed up, or that I made a mistake – I'm so so sorry this happened, let's make sure this never happens again or I will make sure this never happens again – is a way of saying to the other person I'm acknowledging that I did something wrong but I am not going to show full accountability. And in situations where there is this sense of loss of face, that kind of apology can be just as effective as a full apology. And to push someone to say, so are you saying that this is your fault? Are you acknowledging that this is your fault? Might be too much, might be too much of a push and the whole thing could fall apart.

If someone wants restitution, if somebody says I need you to pay me back, or I am, I need you to pay for something that you have not completed for me, or need to provide me something. And so they want something back. It could be a contingent apology. It could be, okay you can apologize so long as I get this as well. Or you can apologize and I may take one of my demands off the table but I don't know about that, I'm not sure yet. Part of me needs the apology, but part of me needs to be compensated for what I've gone through. So it could be contingent. That's what we just talked about.

Restitution usually means it's unilateral – it's one way. It's not a rapport. It can often times be very confidential, which is even more than private, because confidential can mean I'm willing to apologize to you and I'm willing to do all these other things but this needs to not be public. This needs to be just you and me, even if it's in writing, it can't go farther than this. Because I am not willing to do an apology if other people hear about – I'm not willing to do that. If someone feels that their reputation has been damaged, if their reputation has been harmed. If someone implied fault for a behavior that either the person who is on the receiving end goes I never did that, or you made me look bad as a teacher, or you made me look bad as a parent and you did this in front of other people and my reputation is very very important to me. And often times this will mean that there needs to be something done in public, that the confidential, private apology, won't work. Because part of what the person needs is restoring them to where they were before and if they see themselves as the good parent or the good special ed director or a good teacher or a good counselor or whatever they see as their role – they say I'm, I'm good at this and your statement, which you made in public, made me look bad. Then that sometimes means it needs to go beyond, in some way, this confidential, private apology that might work in other purposes or for other reasons. It can be unilateral or bilateral, one way or two ways. Sometimes if it's public it may be traded off for something. Someone might say, well I'm willing to do a public apology in exchange for this, but I don't think I should have to do a public apology and so by me going that extra step, instead of just apologizing to you here, you're asking me to do something in public. That's big; I don't think I should have to do that. If I'm willing to do it in public, not just private, I need something from you as well and then it becomes literally a bargain for exchange. And again it doesn't necessarily mean that it's not sincere – it could be very sincere. But again when someone apologizes publicly that is a huge deal. And if someone is asking for someone to do that, they want to in their mind, say what is my priority here? Because if I'm asking someone to do this in public, they may need something from me in order to go that extra step.

So as we look at all the dynamics of the apology, we're going to spend about another ten minutes, maybe another five to ten minutes, talking about this and then I want to open it up to questions – so be thinking about questions that you might have –if there are no questions I'll just keep talking. Those of you that know me know that I can fill space easily. But I would also like to make sure that anything I've said you've had a chance to think about and ask a question about and open it up and have it be more interactive. So as we look at our, one of our last slides, one of the things, when we look at being mindful. Remember we talked about using the words mindful or thoughtful in the apologies that we make or that we request to have made to us. We should look at several things. First of all, who should make that apology? If it's two

people in conflict, should they directly say it to each other? If they are in a mediation or a facilitation or some other process where there is someone who is running the meeting or trying to help correct the problem or work on the conflict and there is a third person there, sort of an impartial person or someone who is facilitating that. Should the apology be done through that person? If the parties are really really antagonistic to each other, should someone else say to one of the parties, and obviously only if the first party has said they're willing to do this, the other side would like to share an apology with you. Are you okay with that? And the other party might say, no I don't want to hear anything from them right now. It's too soon, I'm too angry, I don't want it. Or they might say, well why don't they share it with you and then you tell me, because I don't want to look at them right now. I'm really really angry right now. So sometimes somebody does it on behalf of somebody else. Now what we know is if you're going for true reconciliation, usually party to party is the best because you can look at the other person, you can show your sincerity. It's not going through the filter of someone else making it on your behalf. But on the other hand, and this is especially true in face saving cultures, that the person who did it, who did the grievance or did the problem or created the conflict is not the one that says they're sorry and everybody's okay with that. Okay? So whether it's the leader of the group, whether it's a mediator, whether it's another family member, whether it's another member of an IEP team, whatever it might be, it can either be party to party, or someone else can make it on the behalf of that person. But making that decision is a critical step. Because it can either make the apology more well-received or less well-received.

Then the next question is, after who should make the apology? Who should be there? Is it private? If the parties are represented by counsel should the attorneys be present? Should they not be present? Should the attorneys not be present but the mediator be present? Should the attorneys be present but not the mediator? Should it just be the parties? Should it be the parties but maybe someone else who was impacted? So, again, who is, who is present during this apology, again should be thoughtfully and mindfully, not just saying, oh well we're all here in the same room so let's apologize. That's not a thoughtful mindful apology, that's just sort of gut instinct.

What kind of apology is needed? And that's why we spent so much time over the last 40 minutes or so talking about what kind of apologies people make and why they make them and whether they work or whether they don't work. Do I want to make a full one? Do I want to make a partial one? Do I expect reciprocity therefore I'm going to do rapport and ritual? Where am I in, in looking at what kind of apology is needed by the other side and am I willing to make the kind of apology they want? So if you know the best thing that you can do is a partial apology and you know the other side wants a full apology, but you don't think it's your fault, they think it's your fault, but you don't think it's your fault and so you're not going to do an accountability apology. I would seriously have you think about whether you should do an apology at all because, remember, when we started in the very first slide, we talked about what could happen, what could happen if you do a partial apology to someone who feels you're truly at fault. That it can backfire.

Where should it happen? Sometimes it can be in a meeting room. Sometimes people take a walk. Sometimes people have said I want the apology to happen where the action occurred. So I've had people apologize either in a classroom or in the same place that an IEP meeting was. I've had people - outside of the educational environment - I've had people apologize to their spouse in a divorce mediation in the same place they got married. So where should it happen sometimes can be hugely important, sometimes not important to the person at all.

And when should it happen? Remember we talked about how crucial and how important timing was. Does it happen at the beginning of a meeting? Does it happen at the end of a meeting? Does it happen in a situation that's involved in a mediation? After the parties leave? At a subsequent time? Does it happen before the mediation? Literally think it through. Be mindful, because it makes it incredibly important when it happens.So Who? What? Where? When? Why are you doing it? Those should all be questions that you do and here's the tough part because now with all these questions it can sound like that an apology is not sincere. If you have to think about it that much Nina then it's not sincere. It should be straight from the heart. But I think an apology can come from the heart and the mind. An apology should be mindfully made. It should, you should understand how complex it is. People always are saying to me, I don't understand I apologized; it just made him more angry. Or I don't understand I thought an apology would resolve the situation. These are people who made it without I think looking at who the receiving person was and thinking about the impact and the kind of apology that they were going to make. It doesn't mean, however, that no matter how mindful, how thoughtful, everything that you are doing, that we've talked about, it doesn't guarantee it's going to be received well even then. Because some people are just not in a place where apologies are going to be helpful for them and it's more of a timing issue. So the mind shift that I'd like you to think about is that thinking about apologies before you do them. They are just as sincere as spontaneous apologies and in fact the way I think about it is that if somebody has thoughtfully worked it through. What does the other person need in the form of the apology? Why do I think they want it? Why do I want it, you know, if I'm on the receiving end? It involves more time, it involves more reflection, and it involves more thought. And so in those situations, I think the people who do apologies that way are actually more sincere than the person, people who say, oh I'm so sorry, I'm just so sorry.

So what I'd like to do is to, we have about 15 minutes and I would like anyone who has a question, I noticed down on the chat line that Phil has put if you have questions feel free to enter them here in the chat box. But I think it's also okay, correct me if I'm wrong, if people want to unmute and ask a question directly. Is that okay, Phil, if we do it that way?

MARSHALL: Yeah, hi, it's Marshall. If you wish to ask a question, if you press star 6 it will unmute you and then when you conclude your question, press star 6 again and it will put you back on mute. Nina, I have to say that was absolutely fascinating. So I really…

NINA: Oh, thank you. [laughter]

MARSHALL: So if you have a questions press start 6 and then we'll hold a couple of minutes at the end, Nina, just to, to wrap up the call and talk about our next webinar. But I'll give it right back to you.

NINA: Sounds great.

PARTICIPANT: I have a question. First of all, thank you, that was helpful, Nina. Thinking about mindfulness – I'd like to know how you have helped people discern what kind of apology they need.

NINA: So when you're, when we're saying, not mindfulness to the person who's delivering the apology, but mindfulness as far as the person…

PARTICPANT: The mediator, or the facilitator, yes. And as you're wanting to be a better coach for the person who is the prospective apologizer, how have you helped the, the person that the apology would be intended for discern what kind of an apology they need?

NINA: That's an excellent question, because sometimes people don't even know what kind of apology they need because they don't know all the stuff we just talked about. They just know they want an apology. And so sometimes, and the language can be very very different depending on the person. So I'm going to say a couple of different questions that I ask. Some may work in some situations and not work in others, so you have to think about when you would use these questions. So if somebody says, I really want an apology. Then I might say, well tell me what that looks like for you. Or, tell me what need that fills. I never say to anybody, do you want an apology? Because it's so complex and I don't know what they want and what the other person is willing to give and if those are even going to be congruent. So I never say, do you want an apology or would an apology help. I always say something like, what needs to change in order for you to move forward. Or, you seem very stuck on this particular issue, can you talk to me about what would, what do you need in order, or what change do you need in order for you to accept this? And sometimes they'll be very subject matter driven and they'll say, well I need this. Meaning I need a day of PT. Or I need the parent to bring the child to school on time. Or whatever it is. But other times they'll say you know I just don't feel good about how things have happened over all this time. I just want an apology. And I say, tell me what need that fills. And if they say, well you know I was really embarrassed because it was implied that it was due to my parenting skills that my son was exhibiting these behavioral things and I just, I just feel very hurt and I feel like my reputation was damaged. Then sometimes they will say to us what it is that they need. They're not going to say, oh I want a cohesive public apology that's full and – they don't know all these terms. But they can say through the language of their narrative when you ask an open ended question, you can kind of screen that and listen to it and say, ah, I wonder if that's cohesive, I wonder if that's, no they're leaving the district, they don't need cohesive, but they need something else. Or no this teacher had a conflict with the special Ed director and felt in the IEP meeting that they were being put down, therefore they need a sense of the IEP team reconvening and the apology happening there. So to me it's

more an open-ended question and I very rarely actually use the word apology because I think it, it has such different filters for different people. So hope that helps.

PARTICIPANT: Thank you.

NINA: Do we have any other ones? No one's going to apologize and say I apologize I don't have a question. [laughter] Okay. Well , Marshall we have a couple of things we can do, I can talk a few more minutes, you can talk a bit about, you know, I think Greg's is coming up, his webinar, and what would be involved with that. What would you like to do at this point? What would be most helpful?

MARSHALL: Well maybe what I might do – give people another minute or two to, if they have questions, and in the meantime talk about what our next webinar will be and also give folks a chance to provide us with some real quick evaluation data so that if we lose people [inaudible]. So we're delighted to announce – and Noella, if you could put the evaluation questions up – We're delighted to announce that our next webinar will be on January the 9th. It will be once again between 11:30 and 12:45 Pacific Time. And we will have a presentation from Tricia Jones, who is a professor at Temple University and an expert on conflict coaching. We're very excited about Trish, she is very very well regarded throughout the dispute resolution field and the work that she's done on conflict coaching is some of the most important work in that area that's been done, period. So we will be providing you with more detail in advance of that webinar about the content and also about Trish, but we certainly hope that you will join us for that.

You know, just as an observation, Nina, as I think about what you said and kind of personalize it, I believe that I'm a dispersal apologizer and that, you know and it kind of aligns – I have this sort of internal mantra which is when wrong, promptly admit it - believing that that's first of all really nice for me because I'm not having to spend a lot of time having to churn and worry and process and feel badly about having been wrong. I've also though, historically viewed that as being a real service to whoever it is that I'm apologizing to because they don't have to spend a whole lot of time churning and turning and going, boy oh boy, you know, what a jerk. And so I'm wondering about whether there's, in your construction here, whether there's a credit that accrues as a result of promptness that, that's really in service to the recipient. Does that kind of at least, does that set up something for you to comment on that?

NINA: I think, and I think something you said is very relevant and self-revealing, which is great and I think we should, we should all do that in how we look at how and when we apologize. Are we apologizing for ourselves so that we feel better? Or do we believe that the other person needs the apology because they're not feeling good and we want to short circuit or we want to minimize the time that they're in pain? But we may be doing that through our own filter, saying, well if was them I wouldn't want to be thinking about this. And so as soon as, as soon as Nina apologizes to me or as soon as Marshall apologizes to me things will get better. But remember, we're using our filters when we're doing that. So part of it for me is to say, am I doing it for me or am I doing it for them? And have they indicated to me that in some way they need an apology? And again they don't have to say, I want an apology. It could be something

like, I can't believe you said that, or I can't believe you did that, or are you kidding me? You know, or something that shows a level of anger or a response that you would want to immediately respond to it and say oh I am so sorry that I said it that way. Then, and that might be very correct. You've done the apology and they needed to hear it and you needed to do it. But I have had situations where somebody has apologized too quickly and the other person says, oh you're not off the hook yet just because you've apologized. You know, are you going to change your behavior? Or what are you going to do about it? And so they're not looking at it from the perspective of so you apologize and everything is good now. Because they see it, especially if they see it for purposes of dispersion, they're thinking, huh, I bet he's doing that or I bet she's doing that for herself, not for me.

Oh there's a good question from Linda. Does an apology have some legal implications if a case goes to hearing or court? Does it admit wrongdoing and therefore leave you more vulnerable from a legal standpoint? Excellent question. It is very state dependent. Quite a few states have a statute that says that the apology in and of itself is not admissible as a form of liability. It's called a safe harbor statute. And what this does, it says if you apologize and you say you're sorry you did something, that someone cannot later use that apology. There's also levels of confidentiality. Again, state dependent, relating to if you say it in a mediation environment versus the facilitated IEP environment. There's different confidentiality standards that go along with that. But the apology in and of itself regardless of where it's done, in some states – I think it's about 32 now – say that if you say it, if you say you're sorry that cannot be an admission of wrongdoing. However, if you say I'm really sorry I totally messed up and that's the reason why such and such happened. That "I totally messed up and that's the reason why such and such happened," is admissible. The "I'm sorry" part, is not. Which means if you think about it - back to where we started - that the partial apology, the one that's done for commiseration, the one that's done to have rapport, is basically protected. I'm so sorry this happened – inadmissible. But if someone says, I am so sorry, it's all my fault, I'm the one who did such and such, then the piece about I'm the one who did such and such could very well be admissible. So I always tell people when they say, well aren't apologies protected? I'll say it depends a lot – from a legal perspective – I always say it depends a lot on what sate you're in, it depends on the kind of apology you're doing, and if you've linked it to a statement of accountability. So it's a great question. It's a really, really good question. Is there any others?

PARTICIPANT: Yes, I had a question for you, Nina. I, really fascinating topic, and I anecdotally it seems like most of the conflicts I deal with often involve a mother and very often a male school administrator. Really intrigued by your awareness and sensitivity to some gender differences on this issue. And I'm curious if there's much, research is kind of the direction I'm wondering, is there any research since our nation is just becoming so increasingly multi-cultural, about real distinct differences in this approach to apology from just numerous cultures that are [inaudible] in our schools and if, if you have much sense of that.

NINA: I think that there's beginning to be much more awareness. The United States in general has always and partially because we fall under the legal standard of fairness so much, and as far as the umbrella of the law and as Linda's question said, does an apology have some legal

implications? Meaning liability implications. I think the U.S. in general has kind of underestimated in some ways the lack of an apology at an appropriate time, even if it's a partial one. And I'll give you a quick example. My sister lived in Italy and for quite a few years and her kids spoke Italian and everyone you know, she was in a village that was all Italian, small village, and there was an incident where a fighter plane, a U.S. fighter plane clipped the gondola wires by flying too low. It was accident, it wasn't intentional, and they clipped it and the gondola fell and people died. And the people in the village stopped talking to my sister and she couldn't figure out why, she didn't know what had happened. And finally about three days later she went to one of her friends and she said why are people not talking to me? And they said, your country just killed people of our country and didn't apologize. And yet the U.S. was looking at it from we have to do discovery, we have to figure out who's at fault, we have to figure out what we can do for remuneration. But they didn't immediately come out with an apology and so therefore the timing of it and everything was very very off and the Italians were very very upset with U.S. And so I think we're learning, I think we're beginning to understand how different cultures in different places see apology and the importance of it, or whether it's full or whether it's partial. But it's an ongoing curiosity that we have to have because even if it's culturally based it's going to be the individual that's in front of you. You can't say okay if someone's from Germany or if someone's from Japan or someone's from Iran or someone's from the U.S., this is the kind of apology that they expect because that makes it a stereotype. But the sensitivity to understand that cultures see apology differently, especially in those face saving cultures that we talked about, I think keeps us curious and keeps us thinking rather than making an assumption, well this is the right kind of apology. Any other questions that people have?

MARSHALL: Well, Nina, thank you very much. We really here at CADRE, very much appreciate the presentation. It was terrific. As you may have noticed out of the corner of your eye, it was certainly very well received by the participants and so thank you. We certainly do look forward to having opportunities to work with you in the future and benefit from your wisdom. It was a great presentation.

NINA: Great. And I really, oh sorry. I just wanted to say, I want to encourage people to listen to Trish Jones, I know you already commented on that. She's absolutely terrific. I've seen her work before and I know her well and she's terrific. And do you still have Greg's – Greg was the previous presenter, is that right? Greg Abell?

MARSHALL: He was.

NINA: Yeah. And his is still up – is that correct?

MARSHALL: It is and you will be joining him there in the pantheon of superstars. We, our plan would be that we have this recorded and hopefully up in the next few days, you know barring some sort of cyber gremlin. And so it will then be available for folks to listen to again or to send a link to folks who might be interested but were unavailable today.

NINA: Okay. Well I would encourage people also to go back and listen to Greg's. He's a colleague of mine out of the state of Washington and very knowledgeable and excellent. So you, between Greg and Trisha, you have your listening work cut out for you because they're both terrific people to listen to.

MARSHALL: Well, great. Well, thank you very much, Nina. Stay tuned at the CADRE website to find out more about our work, upcoming webinars and projects. And then I, other than that, we certainly all wish you the best and look forward to seeing you, talking to you, connecting with you online. So thank you and thanks again, Nina.

NINA: Thank all of you for staying on the line so long. Bye bye.

MARSHALL: Bye.

PARTICIPANT: Bye.