

**Three Approaches - One Purpose:
Early Dispute Resolution Strategies**

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Resolution in Special Education

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PRESENTERS' BACKGROUNDS

Elaine Talley, M.Ed., J.D., is an independent mediator and facilitator. Since she began her practice in 1995, her primary focus has been special education. She also mediates cases involving employment issues, disabilities, vocational rehabilitation, partnerships and business disputes, landlord-tenant law, neighborhood disputes, small claims court, and housing discrimination. Ms. Talley has been an invited speaker at the Association for Conflict Resolution national conference, the American Bar Association Section on Dispute Resolution national conference, and the Consortium for Appropriate Dispute Resolution in Special Education (CADRE) National Symposium. She provides mediation training for the Administrative Law Judges at the Office of Administrative Hearings.

Her professional experience includes three years serving as the Mediation Coordinator at the California Special Education Hearing Office. As Mediation Coordinator, Ms. Talley oversaw the California Special Education Hearing Office mediation system. In addition, she designed and supervised the implementation of two new mediation systems in California; one providing mediation for the Regional Centers and the developmentally disabled people they serve, the other providing mediation for the California Department of Rehabilitation and the people they serve.

Ms. Talley holds a Bachelor of Science from U.C. Berkeley, and a Master of Education and a Law degree, both from U.C. Davis. While studying law she emphasized alternative dispute resolution. Ms. Talley is a member of the State Bar and the Association for Conflict Resolution. She conducts Due Process Hearings for the Department of Developmental Services. Elaine can be reached at etalley@pacbell.net

Marc Purchin, M.B.A., is President of Purchin Consulting, a Southern California-based firm that specializes in mediation and conflict resolution trainings. Since 1997 he has conducted more than 2,000 mediations, mostly through contracts with the California Special Education Hearing Office, the Department of Developmental Disabilities, School Districts as well as with numerous non-profit organizations. Marc's success rate in mediations, conflict resolution trainings and negotiation coaching has positioned Purchin Consulting as one of the premier firms in the industry. Since September 2006, Marc has been the Director of Alternative Dispute Resolution Services with the Southwest SELPA, supporting thirteen thousand students, families, twelve School Districts, Los Angeles County Office of Education and twenty-one Charter Schools with their alternative dispute resolution needs. Services include mediation, training, facilitating IEP team meetings, and coaching. A faculty member at American Jewish University since 1996, Marc teaches in the school of non-profit management there. His current course offerings include Conflict Resolution and Negotiation and Organizational Development and Leadership. Marc can be reached at mpurchin@sbcglobal.net

PRESENTERS' BACKGROUNDS

Gail Nugent, M.S.W. has over twenty-two years' experience mediating disputes of all kinds, facilitating meetings, conducting training, and designing conflict management systems. She has mediated well over 3000 disputes in a broad range of areas, including special education, employment, community, vocational rehabilitation, and family law. She has also conducted over 150 complex multi-party mediations and facilitations for public and private agencies, school districts, churches, and community organizations. In addition, Ms. Nugent conducts training for organizations, businesses, government entities and school districts in effective communication, effective meeting facilitation, conflict resolution, creative problem solving and mediation. She has also worked with school personnel and students in the development and implementation of peer mediation programs.

Ms. Nugent is very interested in policy development in the field of alternative dispute resolution and has served on the Board of Directors of the California Dispute Resolution Council, the Southern California Mediation Association, the American Bar Association's Dispute Resolution Council and is past president of the San Diego Chapter of the Association for Conflict Resolution. In 2000, the Southern California Mediation Association recognized her with its Peacemaker of the Year award. She is committed to promoting the effective use of alternative dispute resolution practices in the schools where it has such a significant impact on youth and our futures. Gail can be reached at ganugent@pacbell.net

Three Approaches - One Purpose: Early Dispute Resolution Strategies

- Goals of Workshop – Share strategies for building ADR capacity
- Overview of Presenters' Programs
- Skill building tips and exercises
- Lessons Learned
- Questions and Comments

M&M's™ Exercise



Managing Challenging People/Behaviors

People in today's society frequently experience the challenge of working with difficult situations and people, some of whom may be co-workers, supervisors, friends, family members, advocates or team members. There is a growing phenomenon of people being disconnected in today's world. In stressful situations, many people may present challenging behaviors. However, a small percentage of these people may have personality disorders or exhibit behaviors similar to those presented by individuals with personality disorders. One group of these (type B) have what is called "high conflict" personality.

PERSONALITY DISORDERS

It is not desirable to generalize about persons with personality disorders (or any other group of people). However, it is important to acknowledge that some people have issues that seem to make them less than effective in the world in terms of their interactions with others. This may be exacerbated due to the anxiety some may have when dealing with their child, with a perceived crisis or with their own stress.

There is a general belief that about 10% of the population may have these disorders and that another 10% to 15% of the population exhibits some of the traits, especially when faced with a stressful situation.

People with "high conflict" personality disorders may have experienced a history of abuse and abandonment. Generally, their behavior has an enduring pattern that began in early adulthood, one that is rigid, unchanging, leads to significant distress and impairment; and the behavior is well outside of our cultural norms.

The way a person has skillfully worked with people in the past often does not work with people who have a personality disorder or exhibit personality disorder traits. Instincts, which in the past may have helped to guide one's interactions and responses to such people, will not be effective. It is important to know that it is not one's lack of skill that is at issue here, but rather the need to find a new way to manage one's own feelings and a new approach to working with these individuals. It is necessary, at times, to approach this population in a counter-intuitive manner.

Some Types of Personality Disorders

NARCISSISTIC PERSONALITY:

All about me; superior

Lack of empathy

Indifferent treatment

BORDERLINE PERSONALITY:

Unstable in relationships and mood

Difficulties with their sense of identity

Manipulative; angry

ANTISOCIAL PERSONALITY:

Does not follow rules; deceitful

Antisocial, does not mean poor social skills

Little respect for other people

HISTRIONIC PERSONALITY:

Dramatic

Excessive level of emotionality

Superficial charm

Characteristics of Persons with a Personality Disorder

- Rigid, black and white thinking.
- Paranoid.
- Dramatic, sometimes to the extreme.
- Excessive talking.
- May abuse substances.
- Frequent/lengthy phone or email messages.
- Correspondence is copied to many people creating a team that is spinning.
- Jump to conclusions with very little information.
- There may be many physical complaints.
- Difficulty making a decision or makes it and it changes the next day.
- Allow emotions to escalate and dominate thinking and behavior.
- Create stories to fit escalated feelings.
- May be charming.
- Seem to always be in a conflict.

Managing these Relationships

- Find and use a positive support system for you and for them.
- Acquire skills that allow you to remain patient.
- Establish very clear boundaries: "Here is what I can do/not do and here is when I can be reached/not reached".
- Be consistent. Be where you say you will be, call when you say you will call and do what you say you are going to do.
- Avoid getting hooked in another person's drama.
- Acknowledge the negative feeling and focus on the task at hand.
- Be conscious in your decision to meet with them alone.
- Anticipate problems that may arise and be prepared.
- Avoid making assumptions. Check in. "I just wanted to quickly get your input on this part of the meeting we are planning for Monday".
- Validate the person, not the complaint... "I understand that you are upset".
- Focus on the tasks and what needs to be accomplished and when.
- Structure any agreement as to who is going to do what.
- Develop consequences that are practical and can be kept.
- Find out from your predecessors what has worked.

Reframing

What is “reframing”?

The art of “reframing” is finding a way to take the “sting” out of a negative communication, to the extent possible, or “restating” an assertion to positively affect the communication. The person who is reframing the statement tries to recast a statement so that it preserves the essence of the message, but conveys it in such a way that it is more likely to be heard by the other party. The new statement offered by the listener is the “reframe.”

How is reframing done?

Often, reframing can be accomplished by converting offensive “position” statements or personal attacks to more palatable “I messages” or “needs and interests” statements. To do so, the person doing the reframing focuses on identifying the underlying need or interest. Frequently, the real key will be an underlying fear or concern. Statements that are extremely negative almost always arise out of fear and hurt.

Clues to finding the reframe

Put yourself in their shoes. Assume that there is an understandable and appropriate concern or need behind the problematic statement. Ask yourself the following:

- “Why would I be saying something like that? What would I be wanting or needing?”
- “What would I be worried about if I said something like that?”
- “What fear or concern could lead to a statement like that?”

These questions will usually be the key to discovering how to reframe the statement.

Example

“He is such a jerk. He always thinks of himself first and foremost!”

Possible reframe: “Are you saying that you would like him to give more consideration to your needs?”

Common Ways to Reframe

- **Redirecting** an attack in the problematic statement away from the other party toward the problems inherent in the complaint.
- **Narrowing or Broadening** the focus of the statement to a specific, manageable complaint or a broad, generalized category (less personal).
- **Shifting from past blame to problem solving and future changes desired.** Understanding that you were not happy with the way this was handled, who would you like to see it done differently?
- **Deleting attacks** and highlighting the personal fear or concern behind the attack.

More reframing: “Meaning” reframes and “Context” reframes

A “meaning” reframe encourages a person to reexamine the meaning of something that has happened or that another person has done. What happened does not change, but the interpretation may change.

“He came into the classroom screaming and yelling about everything, and I knew immediately that he was angry at me.”

Reframe: “What else might that behavior mean? Is it possible that he might have been upset about something else, completely unrelated to you?”

A “context” reframe encourages people to understand that every behavior in the world might be understandable and/or appropriate in a particular context.

“She is so emotional and sensitive. She gets upset about the most insignificant things.”

Reframe: “Is her sensitive nature helpful in some areas?”

Do not forget: Offer your reframe as a potential interpretation and then seek confirmation that it is accurate. Let the party accept, reject, or modify it.

Thoughts on Saying No

- A “formula” provides clarity, structure (which humans need) and leaves the door open for further discussion.
- The importance of the relationship (the work before the no):
 - Building trust
 - Clear communication
 - The Cooperative Contract
- Listening intently and nodding does not mean you agree. It only means you are listening. “I understand...”
If you are afraid they think you are agreeing say “I really want to understand what you are saying and I think it would be important for you to know that this does not necessarily mean I agree.”
- Repeat back to them what they have requested, so they understand that you have heard them and ask them if your understanding is accurate. If your view is different, ask them to please listen to your perspective. If you need time to look into their request, be clear about what needs to happen next.
- Body language is 80% of any message.

Nine Rules for Effective IEPs

1. **Get agreement on Ground Rules** (“...for your consideration...” “I propose...”) (“Is there anyone who cannot work with these?”) and remind people of them.
2. **Get agreement on the Agenda.** (Most topics and the sequence are MANDATED by IDEA.) Once all agree on the agenda, keep the session on track unless the participants agree otherwise. (Careful! Most is mandated!)
3. **Use visuals to display agenda, ground rules, and agreements!** (chart paper, blackboard, whiteboard...) More than 80% of communication is nonverbal.
4. **Share the responsibility with all participants** to make the meeting effective.
5. **Use active listening skills and encourage others to do the same.** *Ask* more than you *tell*. Listen to *consider*...not to *defend*.
6. **Help clarify participant’s underlying INTERESTS, not just POSITIONS.** This opens ideas for resolution. (“What do you hope your child will be able to do if he gets ___?”)
7. **Give the discussion time to “bake”** or acceptable resolutions may not be “heard”.
8. **Check many ways and many times for understanding of ideas.**
9. **Build - and celebrate - *small* agreements.**

SAMPLES OF SPECIAL EDUCATION DISPUTE RESOLUTION TRAINING TOPICS

Listening

Making Meetings Work

Questions

Communication

Role of Grief

Challenging People/Behavior

Recognition

Techniques for Promoting Problem-Solving

Interests and Positions

Conflict Theory

Conflict Resolution Styles

Thoughts on Saying "No"

Learning - Practicing Process

Steps of the Process

Nine Rules for Effective IEPs