

WHAT IN THE WORLD IS MEDIATION?

By Nancy T. Welch, Ed.D

You have probably heard the term mediation but weren't sure what it was. Sounds like voodoo! Is it done, you might ask, by candlelight? Do people wear funny robes? Perhaps you have it confused with meditation. There might be some mediation in mediation and some mediation in mediation, but they are not the same.

Mediation is rather a unique process used to resolve conflict. It might be a dispute over money (usually is) or principle, something someone has said or done that someone else thinks is unfair.

There are 2 ways to solve this conflict "legally." That would be litigation or mediation. Litigation is in a court of law before a judge and 12 people you don't know! Mediation is a process where the person who has not been treated fairly in their mind and their lawyer sit down at a small table across from the person thought to have done the unfair act and their lawyer. The 5th person at the end of the rectangular table is the host, the neutral party, the person with no dog in the race or fight, the mediator! Always at the center of any conflict should be "what is in the best interest of everyone." With that in the forefront, then should it be negotiate resolution or litigate result?

There are two keys that make this process work. First, all parties need to WANT to be there in an effort to resolve the issue. If there is resistance on the part of any of the parties, resolution is more difficult. The picture that comes to mind is one of dragging a large dog into the bathroom for a bath! The owner has a collar and rope

but the dog has four well placed feet! Cooperation is necessary for this process to work with any kind of speed.

The second key is the table. Unlike a court of law, which is set up like a sporting event where each side is suited up in matching uniforms to face the opposing team. Both teams have spectators and 12 special viewers ready for the game of matching wits to begin. Mediation is not even in the same league with this event.

The Rev. Brandi Casto-Waters, a Presbyterian minister, once preached in a sermon, “think of the power of the table! Remember all of the news, both bad and good, delivered across the kitchen table:

- I failed the test
- I got a ticket
- I’m getting married
- We’re having a baby

If you are a person of faith, the table has even deeper and more symbolic meaning.”

For a mediator, the table presents a powerful opportunity to have people put their feet under a common table and their minds above a common problem. Think of the

examples just given. When news like this was dropped on the table, what happened?

Did people jump up and run into the traffic? Did they even leave the room?

Probably not. They might have wanted to but because of the strength of the table, they all faced the news together and began working together for a common solution.

There is a song from the '80, where Ann Murray sings, “You and me against the world.” Here we are going to ban together against the problem because within every problem lies the solution. This is mediation. No longer us against them but all of us

against the problem that, if not resolved, could be very costly in terms of relationships, reputation, financial gains and losses and a host of other possibilities. Sitting around a table with a neutral party to help the problem solving process, anything is possible. Most squabbles begin because people have unmet expectations. They thought they were doing a good job at work...they are fired. They thought they bought a product that worked...it didn't. They bought insurance to cover damage...it didn't. Expectations! It is human nature to monitor others against ourselves. Things are fine until we feel someone has taken advantage of us, not given us what we deserved or bottom line, someone else got what we should have gotten! They have tried to resolve this on their own, perhaps, at their own kitchen table to no avail. Clearly no one is walking in their shoes until they get to mediation. Now, there are 10 shoes under the table with the plan to try and give an opportunity to feel the other's pain on their journey. They want someone to listen and not a pre-recorded message. The person is now on the other side of the table...not the other side of the world.

Most of us want only 4 things:

- We want to be in control
- We want someone to listen to us
- We want to be validated
- We want to be treated fairly

Beyond these four things, we are just wash and wear! But look out if we don't get these four! What you resist persists! In other words, resolve it now or you will have to resolve it later.

Mediation incorporates these four elements into the dialog so that this very unique way, or as Harry Goodheart, an instructor in mediation, says, “an elegant way” of helping resolve conflict! The encouraging fact is that over 90% of all cases that are mediated are resolved and do not go on to the court. Mediation has really saved the courts that were dying of strangulation. These are better odds than you’ll find on anything else these days.

My hope is that you will never have a conflict that will require intervention for resolution. But my instincts tell me that either in your professional or your personal life there is a strong possibility that you will. If you do have an unresolved issue, I hope you will consider mediation as a means of resolution. In South Carolina, many cases are required to go through mediation first before going to court, so there is a possibility you won’t have a choice! Nonetheless, now that you know what mediation is, please explain it and recommend it so that no one will think it is voodoo!

Dr. Nancy Welch, is a civil mediator, NTWENT@charter.net