



Dispute Resolution Center Newsletter

Winter 2020

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A Mediation Success Story by Tom Pullyblank, Director of Court Programs

As many of you know, in my previous career I was a United Methodist pastor serving churches in Fly Creek and Schuyler Lake and then in Sidney. For me, the career change was a lateral one; I see conflict resolution as a different kind of ministry. As a mediator colleague once put it, mediation is like lighting one small candle at a time to dispel the darkness of the world. To use the language of our agency's mission statement, the work we do is an "active witness to the Scriptural values of mercy and justice." There's a sacred aspect to our work as the parties who enter the mediation room become peacemakers in their own lives and in the lives of their families.

Since its inception in 1968, my United Methodist family has been in conflict. As with so many other religious organizations, the basis of the conflict is human sexuality, specifically whether gays and lesbians can serve as clergy and, more recently, whether same-sex couples can be married in the UM Church and by UM clergy. The lines of conflict are drawn geographically, with churches in California, the Pacific-Northwest, New England and the Metropolitan Mid-Atlantic generally in favor of equal rights for homosexuals and with churches in the Midwest, South and outside the United States generally opposed. Within New York State, the conflict has a rural/urban dimension as well, with many suburban and city churches taking a more progressive stance and with rural churches, especially in Western New York, taking a more conservative position.

Like a messy custody battle, the half-century conflict between the two sides has often gotten ugly. Each side has accused the other of betraying the basic

teachings of Christianity. Each side has insisted that its own position is right and that the other side's position is wrong. Especially at quadrennial General Conference meetings, where the issue is always on the agenda, shouting matches have drowned out reasonable discussion and questionable tactics have been employed in an attempt to convince moderates to join one side or the other. For twenty years the two sides have been locked in an acrimonious stalemate. A 2019 special meeting of church delegates to break the stalemate ended in failure and frustration. The 2020 General Conference, to be convened in Minneapolis in May, promised more of the same.

But then something extraordinary happened. Disillusioned with church politics as usual and attuned to his church family's pain, a conservative bishop from Sierra Leone reached out to several of his progressive and moderate colleagues and suggested mediation. Just last week, the results of that mediation were announced: an agreement between leaders on all sides to split the church amicably and equitably with the intention of minimizing the pain of that split.

I am not going to get into the details of the split, which anyone interested can find here: <https://cdnsc.umc.org/-/media/umc-media/2020/01/03/15/48/Protocol-of-Reconciliation-and-Grace-through-Separation>. Instead, I want to look at a few aspects of the mediation process in this case to show that even the most intractable conflict can be resolved if the parties sincerely want to resolve it.

And that is the first point to make: like all mediations, the United Methodist one was entered into voluntarily. The bishop from Sierra Leone took the first step, and his commitment to seeking peace convinced others to follow. (Cont. page 2)

A Note of Self-Introduction from Patrick D. Legay, Program Director

Dear Mediators,

I am writing to introduce myself as the new Program Director for the Catholic Charities DRC. Christy Houck, as our Associate Executive Director, will be retaining an oversight role over the DRC, but I will be taking on the more direct leadership.

I am very excited to be a part of this program. Previously, as a lawyer, I represented clients in mediation and arbitration proceedings related to workplace disputes. From that experience I saw again and again how much better the outcomes were when the parties themselves were able to decide upon the resolution between them, instead of battling it out in the formal judicial process.

On top of helping people get through these difficult disputes, we are also helping to build our communities. When we help people mediate, we show them conflict resolution strategies they can use when they go away, even if we weren't able to help them reach a full agreement. I think this is part of the reason why so many of our clients indicate on our surveys that they would recommend our services to others even when they themselves weren't successful in reaching a mediation agreement.

So, I am introducing myself to you, but I am also very much thanking you for the work you do for the program and your communities. April Rando will be your primary staff contact, but please do feel free to contact me if you think there is anything I should know about what's happening with the work you do, and in particular if you feel there is anything we can be doing better with the program.

Yours,

Patrick D. Legay,
Program Director
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(A Mediation Success Story, continued)

How often does it happen that the most important step in mediation is the first one, that initial, self-determined, often tentative yet always courageous move away from the same old argument and towards a new way of communication?

Second, the Methodists found the right mediator in Kenneth Feinberg, one of the world's most

accomplished mediators who has worked on several famous cases, including the 9/11 victims compensation fund. Participants in the mediation described Feinberg as brilliant at "keeping everybody at the table, helping them see possibilities 'no one had seen or been prepared to admit' and defusing tense moments with 'humor and hard truths.'" Feinberg set a few ground rules to the mediation that we are all familiar with. Confidentiality was one, quality of the process was another. In addition, Feinberg employed reality testing throughout the mediation process, asking the participants to strongly consider what the alternative to an agreement might be. (A good interview with Feinberg can be found here: <https://religionnews.com/2020/01/10/we-shall-see-mediator-kenneth-feinberg-on-brokering-united-methodist-schism-proposal/>)

Finally, the participants in the mediation agreed to stop fighting according to zero-sum rules and to seek a win-win alternative instead. They recognized that a split was inevitable. They let go of pie-in-the-sky magical thinking that the church could stay united. In the words of the participants, the decision to mediate:

"acknowledges that even in the midst of faithful attempts to stay together, we no longer can remain as one denomination. The divisions are simply too vast. This work is important because it provides a pathway of reconciliation and grace through separation and offers us an opportunity to bless and send one another into a new reality rather than continue to fight and rend our way into irrelevance and destruction."

What a powerful statement giving witness to the magic of mediation!

The recent United Methodist mediation shows that even decades-old conflicts can be resolved when the parties seek alternative methods to resolve their dispute. As Kenneth Feinberg said when asked about why he agreed to help, "I just thought that it was important in contemporary America with all of the trouble we have now — social unrest and the division politically, cultural differences, et cetera — I thought it was in the public interest to preserve the integrity and the effectiveness of the church...I thought it was a good example of an issue where I might be able to make a contribution in making sure that the church survived, was healthy, would move forward."

As we continue to mediate the disputes that come before us in our small corner of the world, my hope is that we too can shine a spotlight on mediation as a way to effectively help people move through conflict with integrity.



Save the Date! The following are trainings offered at other CDRCs. Please contact the CDRC for more information or to register.

March 9-13, 2020: Basic Mediation Training with Duke Fisher DRC of Orange, Putnam, Sullivan and Ulster Counties will be offering a Basic Mediation Training in March 2020 in Middletown NY for individuals willing to make a commitment to volunteer with DRC for a few hours a month. Contact Jolynn Dunn 845-551-2668 or adrregional@drcservices.org or apply online at drcservices.org. Find the training flyer here: [march_2020_mediation_trainin.pdf](#)

March 21-22, 2020: Restorative Circles Training, Albany, NY. Designed for GSA student leaders, their faculty advisers, and other student support staff, this two-day training offers hands-on and skill-focused learning experience. Participants will gain the understanding, skills, mindset needed to become confident circle keepers in their school communities. Please contact Dan Kos at dkos@nycourts.gov for more information, or go to this link: https://docs.google.com/forms/d/e/1FAIpQLSerISHNtOBT1aj9djW6wEGFcHQ5RMK8NMmIN5jeK_eZnSr1CQ/viewform

March 27-28, 2020: Custody/ Visitation Training with Duke Fisher, Common Ground Dispute Resolution Center, 11 William St., Catskill, NY. Contact Dawn Wallant, Executive Director, dwallant@commongroundinc.org, 518-943-0523



Reader's Corner Book Review
by April Rando, Outreach and Volunteer Management Coordinator

Joint Custody with a Jerk: Raising a Child with an Uncooperative Ex– A Hands-on Practical Guide to Communicating with a

Difficult Ex-Spouse by Julie A. Ross, M.A. & Judy Corcoran (Publisher: St. Martin's Griffin, NY; 2011)

Recently, I have had some especially challenging mediations with parents who simply could stand to be in the same room together. The intensity of emotions was palpable. All the hurt and bitterness of the past spewed out, like venom from the fangs of a serpent. A mother complained that her ex was not involved enough with their child, while at the same time refusing to share information about their child's school activities and doctor's appointments. A father claimed that the mother was trying to prevent him from seeing their child, and that the real reason why she was being this way was that she wanted more child support.

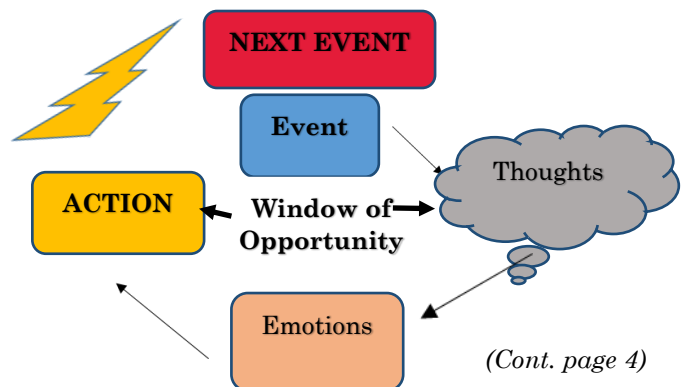
The most common complaints that I hear from parents are that the other parent is stubborn, won't listen, does things to create more problems, and that he or she is the biggest "jerk" on the planet! Which leads me to this awesome book, *Joint Custody with a Jerk: Raising a Child with an Uncooperative Ex*, by Julie Ross and Judy Corcoran. *Joint Custody with a Jerk* is a guide for divorced parents on how to manage and understand the source of conflict, as well as offer strategies to improve communication.

The Think-Feel-Do Cycle

According to Dr. Michael Popkin, when conflict happens it is the result of a combination of thoughts and emotions which cause a person to react to an event. That response leads to another event, triggering more thoughts and more intense emotions, and so forth. This cycle, however, can be managed with more productive responses to triggering events.

The first step is identifying, owning, and taking responsibility for one's emotions. This is where "I"-statements can be very help. "I get impatient when my ex comes late to pick up our son for his visit." Within the Think-Do-Feel Cycle, however, can be a "window of opportunity" to change how one responds to another person's actions.

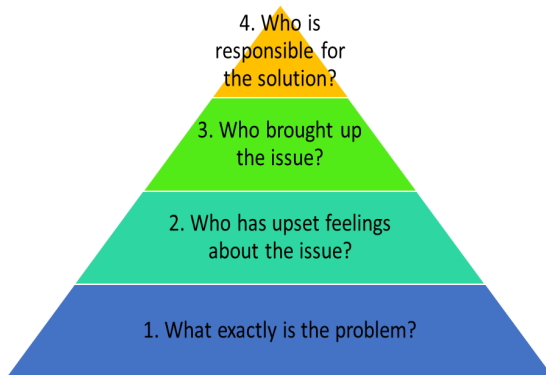
This "window of opportunity" requires that one breaks down the problem. What is it about the situation that trigger thoughts and emotions? What exactly is the problem? It is helpful to break down the problem into smaller, more manageable parts that rather than try to deal with a group of interconnected problems.



(Cont. page 4)

The Problem Pyramid

What happens when one parent doesn't think there's a problem and won't make an effort to see the other parent's perspective? Is it with you and not the other parent? But how can you know for sure? The Problem Pyramid can help identify who has the problem.



The first step is to identify the problem. Be specific. When identifying the problem, avoid using words like, "always," or "never." For example, "She never comes to pick up our son on-time. I always have to wait for her." He could say instead, "She picks up our son after the time we agreed upon." The second step is to ask who is upset about the issue. In this example, the father is upset. The third step is to ask who brought up the issue. Again, the father brought up the issue. Identifying the person or persons in questions 2 and 3 is essential for determining who will ultimately be responsible for finding a solution. Since the answer for questions 2 and 3 is "the father", then it will be the father's responsibility for finding a solution to this problem.

Again, "I" statements can be used along with a positive assertion can be one approach to changing the other person's behavior. Continuing with this example, the father could say, "I get really frustrated when you come late to pick up our son. Please be on time." It is also important for parents in conflict to understand and accept that the other parent may not be able to change their pattern of behavior. The father can only be responsible for his own behavior and not his ex's.

This book provides clear, helpful strategies for managing conflict and improving communication. In order to understand the what the problem is, one needs to be able to identify the emotions that drive behavior. Mediators can use these tools to guide parents in expressing what they need and finding that "window of opportunity" in creatively resolving the conflict.

Overcoming Common Challenges in Communication by Miranda Smith, DRC Case Manager

We thrive on communication, but there are times when communication can be challenging, especially when people are in conflict. The most common communication obstacles are conflicting versions of information, poor listening, conflicting expectations, poor timing, and hostility (emotionally-charged moments). Here are some tools in overcoming such obstacles:

Conflicting versions are conflicting interpretations of the same event that has occurred. We all have unique viewpoints. You can overcome barriers by gathering more information about the event from other sources. Having an overall understanding of the events is always helpful. Knowing the story leads to success.

Poor listening can sabotage any attempt of communication. You can overcome this barrier by devoting your full attention to the entire message. When dealing with a poor listener, explain that you need help in making sure you communicate clearly and test the listener's understanding of what you said: ask questions or get listeners to repeat the message back to you in their own words.

Conflicting expectations can cause disaster if everyone has different ideas about the purpose of a meeting or conversation. It is important to clearly establish this right from the beginning. Introductions within meetings are vital for this reason.


Poor timing can be devastating. Timing is everything in communication. Prepare yourself for communication and gather all the information you will need. Planning is key. Choose the best time for you and the other person (or group) and avoid times when others are under pressure or busy. It is best to communicate when others are open, receptive, and ready.

Hostility or times of emotional turmoil can impact communication negatively. When people are overly emotional, it is unlikely that any meaningful communication can occur. Give yourself and others time to calm down. Emotions can block constructive dialogue and rational decision-making. Apologize if appropriate and support the individual. When the time is right to approach a potentially difficult topic- focus on the positives first (what you agree on, similarities, etc.) then approach the disagreement when ready.

Effective communication is an art form and practice makes perfect. By assessing your own communication style, making an effort at overcoming barriers, and analyzing the communication around you can help you communicate more effectively.

Reference:

Parlay International & BYU-Idaho. (n.d). Overcoming Communication Obstacles. Retrieved from: <http://www.byui.edu/human-resources/>

 **WANTED: Community Mediators**
Do you know someone who might be interested in becoming a professionally trained, community mediator or a volunteer translator?
Please contact April Rando at arando@charitiesccd.org, or (518) 842-4202, ext. 3133.



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