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Thinking About Variations in Campus Mediator Style

by Bill Warters



As mediators become more sophisticated, and as the number of mediators and the range of settings where they work increases, so has the debate about how one should mediate, and what styles are most appropriate for any particular setting. In terms of format, programs can now choose (consciously or by default based on their choice of trainers) among a growing variety of mediation "styles." These differing approaches are given labels that are perhaps best understood as the endpoints on various continuums. A mediator's style may now be described as **bargaining vs therapeutic, problem-solving vs transformative, evaluative vs facilitative, or settlement-oriented vs restorative**, among other terms. A discussion of these different mediation varieties and all their subtleties is beyond the scope of this brief article. However, a general awareness of the different orientations is useful as programs determine their intended audience and consider what model would be most fitting. For instance, if a mediation program is designed to serve the community as well as campus, welcoming group disputes or so-called town-gown conflicts, the program must be capable of managing multi-sided and often multi-party conflicts. Often, the disputants in these cases have ongoing relationships; therefore, it would be important for the training to value and recognize that conflict is often set in a context of deep personal emotion that often is only ambiguously related to the immediate issues. However, if a program is linked to the Business School or Labor Relations Program within a college, serving largely contractual disputes, the philosophy of the mediators might be informed by collective bargaining characteristics such as bi-polarity and the need to reach a settlement that takes the form of a written agreement, requiring a training model compatible with this approach. Perhaps the program is designed to focus solely on students, building on the belief that mediation is a vehicle for personal change with an emphasis on future behavior. This too would effect the emphasis of the training. These kind of general philosophical assumptions can influence the choice of training model that best fits a campus's needs.

Evaluative vs Facilitative Approaches

The most commonly discussed style differences these days involve those between evaluative and facilitative mediators, and between the problem-solving versus the transformative model of mediation. Briefly stated, evaluative mediators are characterized as more prone to actively narrowing the topics for discussion, pushing hard for settlement, giving the parties their opinion of what seems fair, and of what a person's "case is worth," and working to narrow the "settlement range" in hopes that parties will agree. Facilitative mediators, on the other hand, are described as being much less controlling of the process, leaving the choice of topics and the evaluation of options clearly in the hands of the parties. Building on the increasing popularity of this kind of distinction, a [mediator style survey](http://www.mediate.com/articles/krivis4.cfm?plain=t) (http://www.mediate.com/articles/krivis4.cfm?plain=t) by Krivis and Macadoo is now available that asks mediators a series of questions to determine where they fit in terms of being evaluative broad, evaluative narrow, or facilitative broad, or facilitative narrow.

Problem-solving vs Transformative Approaches

The distinction between problem-solving and transformative approaches to mediation is also commonly discussed among mediators. The introductory material from a [website devoted to transformative mediation](http://www.colorado.edu/conflict/transform/tmall.htm) (http://www.colorado.edu/conflict/transform/tmall.htm) describes the essential differences as follows:

The goal of problem solving mediation is generating a mutually acceptable settlement of the immediate dispute. Problem solving mediators are often highly directive in their attempts to reach this goal--they control not only the process, but also the substance of the discussion, focusing on areas of consensus and "resolvable" issues, while avoiding areas of disagreement where consensus is less likely. Although all decisions are, in theory, left in the hands of the disputants, problem solving mediators often play a large role in crafting settlement terms and obtaining the parties' agreement.

The transformative approach to mediation does not seek resolution of the immediate problem, but rather, seeks the empowerment and mutual recognition of the parties involved. Empowerment, according to Bush and Folger, means enabling the parties to define their own issues and to seek solutions on their own. Recognition means enabling the parties to see and understand the other person's point of view--to understand how they define the problem and why they seek the solution that they do. (Seeing and understanding, it should be noted, do not constitute agreement with those views.)

Often, empowerment and recognition pave the way for a mutually agreeable settlement, but that is only a secondary effect. The primary goal of transformative mediation is to foster the parties' empowerment and recognition, thereby enabling them to approach their current problem, as well as later problems, with a stronger, yet more open view. This approach, according to Bush and Folger, avoids the problem of mediator directiveness which so often occurs in problem-solving mediation, putting responsibility for all outcomes squarely on the disputants. (Burgess, 1997)

For people interested in the transformative approach to mediation, the above mentioned transformative mediation website at the University of Colorado includes a [series of questions to ask potential mediators or trainers to elicit their perspectives](http://www.colorado.edu/conflict/transform/tmall.htm#Find) (<http://www.colorado.edu/conflict/transform/tmall.htm#Find>) and to determine if they would be considered to have a transformative approach.

Bargaining vs Therapeutic Approaches

The third (and rather similar) common style distinction is between bargaining versus therapeutic approaches. Back in 1985 Sally Merry and Susan Silbey, both professors at Wellesley College, identified many mediation styles on a continuum between "bargaining" and "therapy." At the "bargaining" end of the continuum, one finds mediators who have a negative view of the legal system because it is costly, slow, and inaccessible. At the same time, people who use a bargaining method feel their authority rests in their expert understanding of the law and the court system. At the other end of the continuum, mediators with a "therapy" style view the legal system negatively because they believe that it deteriorates personal relationships. Those working in this mode see their authority residing in their expertise in managing personal relationships. Below are two charts listing the characteristics of each end of the continuum as identified by Merry and Silbey:

Bargaining

- Purpose of mediation is to reach a settlement.
- Spends more time in individual sessions.
- Assumes parties know what they want.
- Focuses on demands that can be traded off.
- Assumes conflict is caused by differences of interests.
- Assumes settlement can be reached by trading of benefits.

Therapy

- Purpose of mediation is to help parties reach their own settlement.

- Encourages direct communication between parties.
- Assumes parties do not always know what they want.
- Helps parties to define their real issues.
- Assumes the source of conflict is a result of misunderstanding or failure of communication.
- Emphasizes resolution of conflict through rational discussion and compromise.

As should be apparent, there is much overlap between these different categorizations of the field. As commonly portrayed, the bargaining, evaluative, and problem-solving styles are very rooted in a pragmatic and often positional interests approach to conflict resolution, while the therapeutic, facilitative and transformative approaches are much more personal ones that seek to discover common personal interests and the clarification of values. Within the field of practicing mediators there are a variety of combinations of these characteristics creating a wide range of styles.

What seems most important is identifying those qualities that would best serve the needs of the program's targeted population. For example, a case between the administration and physical plant workers might be best served by a more "bargaining" approach to mediation, while a case involving formerly dating students might be better handled by a more "therapeutic" approach. Over time, it probably makes sense to have mediators representing a variety of styles available on campus so a wide assortment of cases could be handled effectively. Finally, it should also be noted that each mediator will contribute his or her own personal style: tone of voice, view of the world, physical conduct, and ethics, all of which will affect the shape of the process.

In addition to a host of journal articles, there are a number of books that can help you develop a deeper understanding of the range of mediation styles. Christopher Moore's book The Mediation Process (Moore, 1996) provides a sophisticated review of the mediation process and the techniques mediators use across a range of settings. Another key book called The Promise of Mediation (Bush and Folger, 1994) contrasts the problem-solving and transformative approaches to mediation, advocating for the latter. Finally, you may be interested in reading When Talk Works (Kolb, 1994) as it provides detailed portraits of mediators utilizing different styles as they actually carry out their work. In campus mediation work, it pays to be style conscious!

*NOTE: Portions of this article appeared previously in Bill Warters' book **Mediation in the Campus Community: Designing and Managing Effective Programs** (Jossey-Bass, 2000)*