Chapter 11

The study and practice of effective mediation is a natural fit for students of communication and conflict.  For those who have gone through formal training, it is clear that it offers a practical application of many skills taught in undergraduate interpersonal communication and conflict management courses.  However, we must shift our thinking from dealing with our own conflicts to helping others resolve theirs.  
  
When should we intervene in other people's conflicts?  Help is needed when a dispute exists, meaning that the two parties are unable to resolve the conflict on their own.  Unlike other alternatives to dispute resolution, such as conciliation, ombudsperson, arbitrator, and adjudication/litigation, mediators are unbiased third parties who facilitate communication between the conflicting parties so that the conflicting parties can work out their own agreement.   
  
A typical mediation usually proceeds through the following steps:  
1). One or both disputants seek mediation or a mediator may talk them into it.  
2). The mediator brings the disputants together and makes an opening statement.   
3). Following the mediator's opening statement, each person takes a few minutes to describe the dispute from his or her point of view without interruption.  
4). The mediator finds common ground on which to build an agreement.  
5). The mediator writes up the final agreement.  
6). The mediator ends the mediation.  
  
When drafting the agreement, mediators need to employ the following format:  X agrees to this, and Y agrees to that.  The mediators should attempt to keep the agreement simple.  They use clear, specific details (spelling out who, what, where, when, how).  It helps to think of the agreement as a list of behavioral commitments because it enumerates the specific observable actions each party needs to take to fulfill the agreement.  In developing the agreement, the mediators should strive for balance or "something for everyone".  The agreement also needs to address questions of feasibility and practicality - both parties  should find the agreement workable.  Finally, the culminating step occurs when the mediators ask both parties to sign the agreement.  
  
The chapter concludes our presentation of the core concepts involved in effective conflict management.  The afterword presents an overall view of the effective conflict manager.   
  
Chapter Objectives:  
At the end of this chapter, the student should be able to:  
1). Describe the difference between formal and informal mediation.  
2). Define mediation and contrast it with the other alternatives to dispute resolution (ADRs).  
3). Explain when a third party should intervene as a mediator.  
4). Describe the role of the mediator.  
  
  
Personal Note:  
I trained as a mediator at the end of 2010 in Nevada County.  The trainers were a panel of licensed Therapists, Lawyers, Businessperson, and lay volunteers.  The training was amazing!  As in most mediation trainings, we did a lot of role playing.  We were given manuals, tools, and experience to bring us up to a place where we could safely mediate as experts.  After the training I volunteered at the Nevada County Courthouse to observe and practice my mediation skills.  The process was fascinating.  All of the tools the trainers gave us were put into practice, just as we had experienced during our training.  
  
Because we were volunteers at a courthouse (a partnership with the group of mediators and the courthouse), all decisions were submitted to the court as 'binding' agreements.  So not only were we able to mediate, the decisions that were made by both parties were signed, and submitted to the court.  Of course there were specific forms we needed to fill out, certain processes that needed to be followed, because we were, after all mediating court cases.  
  
I learned many things throughout my mediation training and volunteer work.  A few of the main principles that I learned were these:  
  
1). Mediators keep all information **confidential**.  That means that what is discussed at the mediation STAYS at the mediation table.  (You know the phrase, "What happens in Vegas stays in Vegas"?  Yeah, same principle here!).  
2). Mediators must remain **neutral** at all times.  
3). Expert communication skills are absolutely **essential** to the mediation process.  
4). Have **faith** in the mediation process.  Highlighting common ground, reflective listening and reiterating respect is key.  
5). There is a vast **difference** between the mediation process, arbitration process and litigation process.   
  
The process of mediation is wonderful.  Not only can a mediation help with unresolved issues, more times than not emotional issues are brought up, hurts, anger, values, misinformation, etc...  The list goes on and on.  There is certainly a place for arbitration and litigation in this world, however, it can be argued that most disputes can be settled with mediation.  
  
I hope you liked this chapter as much as I did!  
  
Here's a brief video of a staged mediation:

<http://www.youtube.com/watch?feature=player_embedded&v=heUcre2d9wg>

-Abigail, R.A., & Cahn, D.D.