



CORE COMMUNICATION SKILLS

LISTENING

"When I listen, people talk," proclaims a mediation button. The mediator's listening supports parties in speaking openly and honestly by conveying to them that they will be treated respectfully, impartially, compassionately and without blame or judgment. At the same time, mediators are striving to help each party understand the conflict from the other party's point of view. Important communication skills are involved in everything mediators say, how they say it, the body language used, how they elicit information, how they put the parties at ease, how they convey neutrality and how they enable the parties to speak to each other. Mediators refer to all this as **active listening**, which involves both listening and responding. As you listen:

Give each party equal time to speak. This demonstrates your neutrality and fairness and helps to build trust in the process.

Do not interrupt, give advice or suggestions or talk about your own similar experiences. The content of the mediation, including possible solutions, is left in the hands of the parties. It is not your job to solve their problem.

Pay attention to your nonverbal communication. Use posture, facial expression, tone of voice and eye contact to communicate interest and attention, but not your opinion or agreement. Eye contact does not have the same meaning in all cultures.

Note parties' nonverbal communication. Notice if there is a difference between what you hear and what you see. Be aware of the influence of the speaker's words on the other party.

Pay attention to the party's words and feelings rather than figuring out what you need to say next. Trying to determine the next step will only distract you and interfere with your fully hearing what the party is saying.

Paraphrase. (Sometimes referred to as *validating, active listening, responsive listening, restatement* or *reflective listening*.) Summarize the most important points a party makes in order to (a) check for the accuracy of your understanding of what is being said, (b) let the party know you are really listening and (c) provide the other party an opportunity to hear the situation filtered through a neutral speaker. Use "tentative" language when paraphrasing. *"What I think I hear you saying is..." "I'm getting the impression that..." "As you see it...Is that right?"*

Reflect feelings. Feelings, often at the root of a conflict, need to be acknowledged and addressed. You are not searching for deep psychological information but rather asking parties how they feel about the situation and reflecting back what you hear and observe.

Reframe. When paraphrasing, the mediator takes out any language used by a party which is inflammatory or derogatory or makes it difficult for the other party to hear what is being said (see p. 34).

Allow for silence. Some disputants need more time to digest what is being said

BENEFITS AND GOALS OF ACTIVE LISTENING

- ◆ De-escalates the situation, helps people calm down and feel safe
- ◆ Conveys mediator empathy and attention
- ◆ Builds trust between the parties and with the mediator
- ◆ Helps one party hear what the other said, often in a more objective way
- ◆ Allows the mediator to model respectful and effective communication
- ◆ Enables the mediator to learn what the parties want from mediation
- ◆ Identifies the parties' underlying needs
- ◆ Allows the mediator to learn about the parties' past relationship, if any, and their expectations for the future
- ◆ Helps the mediator identify common ground
- ◆ Assists the mediator in discovering and conveying positives
- ◆ Allows the mediator to convey information between the parties
- ◆ Helps the parties communicate effectively
- ◆ Aids the parties in exploring possible options for resolution
- ◆ Assists the mediator in exploring the parties' responses to options
- ◆ Helps the mediator discover room for movement in the parties' positions

USEFUL COMMUNICATION STRATEGIES

- ◆ **Encourage.** *"Can you tell us more about that?"*
- ◆ **Validate.** *"I can see that this is difficult for you both."*
- ◆ **Normalize.** *"Many people who come to mediation feel that way."*
- ◆ **Clarify.** *"Can you help us to understand when this occurred?"*
- ◆ **Summarize by paraphrasing often.** (This is particularly important before changing the subject or moving to the other party). *"So your three main concerns are..."*
- ◆ **Use open-ended questions.** *"What has brought each of you to mediation today?"*
- ◆ **Be positive.** *"Most people who come to mediation do resolve the dispute or at least come to a better understanding of the issues and of each other."*
- ◆ **Stay present and pay attention to what is being said.** (Try not to be formulating your next question while the party is answering your last one.)

PARAPHRASING, MIRRORING, SUMMARIZING, REFRAMING

- ❖ **Mirroring:** Repeating back exactly what you hear, nearly verbatim (same words, same tone used by party). When used (rarely for some mediators), mirroring is most often done at the beginning of a mediation session to instill trust that the mediator is allowing each party to express themselves in their own way. Mirroring can also be helpful if paraphrasing does not seem to be working (especially if there is a perception that the mediator's paraphrasing isn't accurate).
- ❖ **Paraphrasing:** Repeating back most of what you hear, often with the same words and tone, but without all the details. Paraphrasing is used frequently, throughout the entire mediation process, to support good understanding of what is being said. Good paraphrasing requires an intent to authentically connect with the other person, rather than a rote repetition of words.
- ❖ **Reframing:** Repeating back most of what you hear, without "hot" or inflammatory words, or judgmental language. Reframing is used frequently, throughout the entire mediation process, to help both parties focus on core issues without the distraction of escalating language. Care must be taken to not use reframing in a way that prevents parties from expressing themselves using their own language and terms – mediators have to balance the need to create safe environments and the need to foster and protect self-expression. See page 34 for details on reframing.
- ❖ **Summarizing:** Summarizing key points from what you hear. Summarizing is often done at the end of a stage of the mediation – for example, as you move from understanding the story to problem-solving (tied with naming the issues to be resolved), as you finish discussing a particular aspect of the problem, or as you are finalizing agreements.

With any of these mediator responses, it is important to proceed tentatively – you're not dictating or saying definitively what someone else feels or thinks or experienced, but rather trying to understand and asking to be sure you're getting it right. For that reason, it's often helpful to end a paraphrase, reframe or summary with a question – "did I get that right?", "have I captured what you've said or what we've been talking about?", etc.

If you get something wrong, parties generally just correct you ... providing another opportunity to paraphrase and be sure you (and others) understand the intended message.

REFRAMING METHODS

1) Remove “hot” words/phrases

Example:

They're such jerks! They wouldn't even let me got out with my friends, they just want to ruin my life.

You wanted to go out with your friends, and they said no ... right?

2) Identify underlying need(s) (see needs list)

Example:

He didn't even include my name in the final report.

So you wanted acknowledgement for your work.

3) Focus on positive intent or desired outcome

Examples:

If they had just called me, we could have worked it out.

So if there had been more communication between you, you would have been willing to work things out; or

So you would like for there to be more frequent communication between you.

4) Adapted I-statement (non-blaming observation, feeling, need/underlying reason: “When _____ happens, you feel/felt _____ because _____”)

Example:

I don't know why she couldn't at least call if she was going to be late.

So when she didn't call last night before coming home two hours later than you expected, you were upset and worried, because you wanted her to be safe.

Effective reframing:

- Captures speaker's meaning
- Mirrors intensity of speaker's statement (taking care not to escalate the situation)
- Doesn't take sides
- Shows connection, desire to understand – not just going through the motions
- Models respectful communication
- Helps develop more positive environment for mutual understanding and problem solving

I-STATEMENTS, FEELINGS AND NEEDS

Using I-statements

An “I” statement is a useful tool in any communication. It focuses on feelings and behaviors, avoids blaming the other person and is more likely to be heard than an accusatory “you” statement.

I-statements use a formula, including non-judgmental observations about what you’re reacting to, and information about how you are feeling and why. The order can be changed around, but here is an often-used version:

When _____ (non-blaming description of an action or behavior) I feel _____ (feeling) because _____ (need, reason behind your personal reaction).
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Example: *“I feel upset when I don’t get a call from you when you’re late because I worry that something might have happened to you.”*

Mediators occasionally use I-statements to talk about what they’re seeing or experiencing in the mediation. For example, *“I’m noticing that you have said ____ several times, and I’m feeling concerned because I want to make sure I’m understanding what you mean,”* or *“I see that there have been several times in the last few minutes where one person starts speaking before the other seems to have finished. I want to make sure this process is working well for both of you. So I’m curious, how is that working for you?”*

As noted on page 34, as mediators, we can also adapt this I-statement formula for use when reframing inflammatory statements made by parties by substituting “you” for “I”.

For example, a disputant says: *“There’s no way I am going to give her more time to pay this bill. She hasn’t ever paid me on time and she never will!”* The mediator can reframe using the formula as follows: *“So you feel upset about how bills have been paid in the past and you are concerned about how the present bill might be paid based on your past experience.”*

If you are unclear what the disputant is feeling or needing, or if you’re unsure of the underlying reason someone is saying something, you can ask a follow-up question such as, *“How did you feel when that happened?”*, *“What do you need in this situation?”* or *“Tell me more about why this is so important to you.”*

FEELINGS*

Feelings when your needs are satisfied:

- Affectionate (friendly, fond, loving, open-hearted, tender, warm)
- Confident (empowered, open, proud)
- Engaged (absorbed, alert, curious, engrossed, enchanted, entranced, fascinated, interested, intrigued, involved, spellbound, stimulated)
- Inspired (amazed, awed, wonder)
- Excited (amazed, animated, astonished, dazzled, eager, energetic, enthusiastic, giddy, invigorated, lively, surprised, vibrant)
- Exhilarated (blissful, ecstatic, elated, enthralled, exuberant, radiant, thrilled)
- Grateful (appreciative, moved, thankful, touched)
- Hopeful (expectant, encouraged, optimistic)
- Joyful (amused, delighted, glad, happy, jubilant, pleased, tickled)
- Peaceful (calm, clear-headed, comfortable, centered, content, mellow, quiet, relaxed, relieved, satisfied, serene, still)
- Refreshed (rejuvenated, renewed, rested, restored, revived)

Feelings when your needs are not satisfied:

- Afraid (apprehensive, dread, frightened, panicked, scared, suspicious, terrified, wary, worried)
- Annoyed (aggravated, dismayed, disgruntled, displeased, exasperated, frustrated, impatient, irritated)
- Angry (enraged, furious, indignant, irate, livid, outraged)
- Aversion (appalled, disgusted, dislike, horrified, hostile, loath, repulsed)
- Confused (ambivalent, baffled, bewildered, dazed, hesitant, lost, mystified, out of it, puzzled, torn)
- Disconnected (alienated, apathetic, bored, cold, detached, distant, distracted, indifferent, numb, removed, withdrawn)
- Disquiet (agitated, alarmed, disconcerted, disturbed, rattled, restless, shocked, troubled, uncomfortable, uneasy, unnerved, unsettled, upset)
- Embarrassed (ashamed, flustered, mortified, self-conscious)
- Fatigue (beat, burnt out, depleted, exhausted, lethargic, listless, sleepy, tired, weary, worn out)
- Pain (anguished, bereaved, devastated, grief, heartbroken, hurt, lonely, miserable, regretful, remorseful)
- Sad (depressed, dejected, despair, despondent, disappointed, discouraged, disheartened, gloomy, melancholy, unhappy, wretched)
- Tense (anxious, cranky, edgy, fidgety, frazzled, irritable, jittery, nervous, stressed out)
- Vulnerable (fragile, guarded, helpless, leery, reserved, sensitive, shaky)
- Yearning (envious, jealous, longing, nostalgic, pining, wistful)

FEELINGS IN MEDIATION

Unlike other methods for resolving conflict, mediation offers a unique opportunity for the parties to acknowledge and even vent feelings. If the parties are able to see a situation from the other's point of view and understand the other's feelings, it is likely they will be able to transform the conflict. Even if an agreement is not reached, they will have a significantly different perception of the situation.

Mediators ask disputants how they feel about a situation, paraphrasing both what is said and the feelings associated with it. Sometimes mediators make guesses about feelings – when done respectfully and with genuine curiosity, this can help parties clarify for themselves what they are indeed feeling, and correct or add to understandings of their experience. Mediators and the other parties may make assumptions about expected reactions to a particular situation that can be quite inaccurate – a good question helps clarify those misperceptions.

Mediation isn't therapy, so mediators aren't generally trying to go deeply into the psychological motivation for behaviors – but we do need to go “below the surface of the iceberg”. We also need to recognize that different people (and different cultures) have varying reactions towards emotions and expressing feelings. Insisting on talking about feelings with a party that doesn't want to go there may not be helpful, and some parties may only feel comfortable talking about feelings without the other person being present.

Watch out for thoughts and judgments posing as feelings ...

I feel + judgment (fat, I am worthless, you look better in blue, John is sad, etc.)

I feel like + statement (I am a loser, etc.)

I feel as if + statement (you hate me, etc.)

Watch out for words mixing judgment and feeling ...

Abused	Interrupted	Pressured
Attacked	Intimidated	Provoked
Betrayed	Left out	Put down
Cheated	Loved	Rejected
Cherished	Manipulated	Screwed
Defeated	Misunderstood	Threatened
Devalued	Neglected	Unappreciated
Discriminated against	Nurtured	Unheard
Forced	Overworked	Unwanted
Harassed	Patronized	Used

NEEDS*

Acceptance
Affection
Appreciation
Authenticity
Awareness
Belonging
Beauty
Celebration
Challenge
Choice
Clarity
Competence
Connection
Consciousness
Cooperation
Communication
Closeness
Community
Companionship
Compassion
Connection
Consideration
Consistency
Contribution
Creativity
Discovery
Ease
Effectiveness
Empathy
Equality
Freedom
Growth
Harmony
Hope
Humor
Inclusion
Independence
Inspiration
Integrity
Intimacy
Joy
Learning
Love
Meaning
Mourning
Mutuality
Nurturing
Order
Participation

Peace
Play
Respect
Safety
Security
Self-expression
Space
Spontaneity
Stability
Support
To be known
To be seen
To be understood
To matter
Trust
Understandin

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ASKING QUESTIONS

The ability to elicit information by asking appropriate questions in a neutral, supportive, yet direct way is an essential mediation skill. A good question can transform a mediation, inviting parties to think of the situation differently, to clarify their own thinking, or to see the situation from the other person's perspective. Question posing that comes from a genuine sense of caring or curiosity is most effective.

Mediators most often use **open-ended** questions (questions which elicit more than a one-word, "yes/no" answer), although they may use closed-ended questions to clarify a detail. Try beginning questions with "how," "what," "tell me more about" or "please describe," and avoiding beginnings with "did you/do you," "are you/were you."

Questions also need to be **non-judgmental** – we often don't use "why" to start a question as it can create defensiveness, and we must be careful with our tone as we ask any question. It may be helpful to explain why you are asking a question.

BRINGING OUT NEW INFORMATION

Throughout the mediation session the mediator gathers information and reflects it back to the parties in useful ways. Specific information the mediator seeks includes:

- The facts about what happened from each party's perspective (*"Can you tell us what happened?" "How did you see the situation?"*)
- What each party hopes to get out of the mediation (*"What brought you to mediation, what do you hope the results might be?" "What kind of relationship do you want in the future?"*)
- The feelings and underlying needs of each party (*"How do you feel about the situation?" "When such-and-such happened, how did you feel?" "What is it that you need?" "What needs to be addressed in order for you to feel that the issues have been resolved?"*)
- The nature of the past and current relationship between the parties (*"How long have you been neighbors?" "Can you describe the relationship?"*)
- Understanding between parties (*"If you were in her shoes, how might you feel about it?" "What might you do if you were him?"*)
- Options for resolution (*"What are some possible ways to resolve this that seem fair to both of you?" "What criteria or standards do you think should be used to arrive at a fair settlement?"*)
- Benefits of agreement/costs of no agreement (*"How will you feel if you are able to resolve this matter satisfactorily?" "What do you think will happen if you are unable to reach agreement?"*)

OPEN-ENDED QUESTIONS

Question words:

- How, what – nearly always great ways to start open-ended questions
- Tell me more, please describe, could you say more about that – phrases that act like a good open-ended question
- When, where – sometimes open, sometimes not
- Why – watch out (often perceived as judgment)
- Did you/do you, are you/were you – closed-ended question

The following are example of lead-in phrases for open-ended questions, and open-ended questions mediators might often use:

- What brought you to mediation?
- How do you feel about what happened?
- What do you think is the most important issue here?
- Could you describe what you were thinking/feeling when ...?
- What else do you think was going on?
- Is there anything else you think we should know?
- What's important to you about ...
- What affects you most about this conflict?
- What's the impact that seems to strike you hardest?
- What do you want them to understand about this situation?
- What leads you to think that about ...?
- How do you think they think/feel about ...?
- What would help improve the situation/relationship?
- How would you like things to be between you in the future?
- What do you need to feel better about this situation?
- How does what they just said make you feel?
- What ideas do you have about what you can do to resolve this?
- What do you think about what they just said?
- What would need to happen for you to consider ...
- How would you know if the situation was improved?
- What haven't we thought of that could make a difference?
- What happens if you don't reach agreement here?
- How do you think this could be resolved?
- How do you feel about this agreement?