

OBJECTIVE

To distinguish adjudication from mediation.

VOCABULARY

adjudication, adversary, confidential, disputants, neutral, win/lose, win/win

INTRODUCTION

Mediation is not a trial. You are going to learn the differences between adjudication and mediation. Let's start by listing the characteristics of each system.

- Write "Courts/Adjudication" on one side of the board and "Mediation" on the other side. Have students name attributes of each system. List them so students can compare and contrast the two procedures.

Some possible responses include:

COURTS/ADJUDICATION

- witnesses
- judge and jury
- lawyers take sides
- records are public
- blame is placed on one side
- guilt/innocence
- punishment assigned by judge and/or jury
- forced to appear
- feelings not important; just the facts
- costly
- SUMMARIZE: win/lose

MEDIATION

- no witnesses
- no judge and/or jury
- mediator is neutral
- information is confidential
- no blame; people do take responsibility for their actions
- no judging
- no punishment; disputants may agree to reparations or other consequences
- voluntary (alternative to punishment)
- feelings count
- free/ low cost
- SUMMARIZE: win/win

- Assign *Mediation Is Not A Trial! (S-4, S-5)*. Have students share where they placed each response and why they placed it there.
- QuickThink!** Share responses.

Discuss

- *Courts may address all cases, including the most severe. What are some cases that are not appropriate for school mediation? (legal issues such as physical or sexual abuse, harassment, drugs, weapons)*
- *If your school has peer counselors, student honor court, or similar programs, clarify also that mediation is neither punitive (as student court is) nor directive (as counselors may be).*

CLOSURE

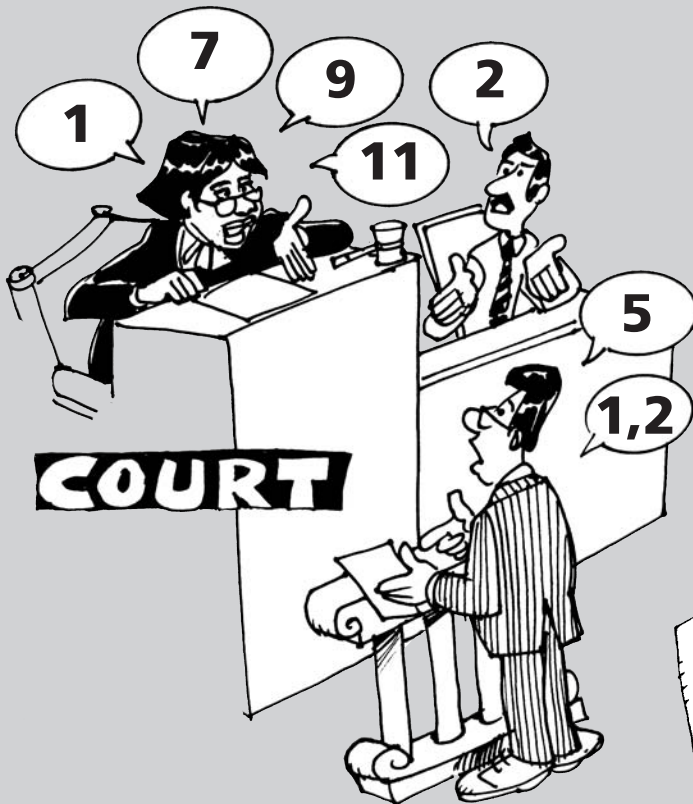
Mediation is not a trial. Mediators do not act as judges, lawyers, or counselors. Everyone works together to find a win/win solution, which both sides find fair, satisfactory, and acceptable.

MEDIATION IS NOT A TRIAL!



LET'S SEE IF YOU CAN

tell the difference between adjudication and a mediation. Which of these remarks do you think might be heard in court? In mediation? Place the number of each remark in the appropriate setting.



- 1 "Just answer the question — yes or no."
- 2 "That's not fair! I'm going to appeal!"
- 3 "Tell us your side of the story."
- 4 "Everything you say here is confidential."
- 5 "I call my first witness."
- 6 "How would you like to solve the problem?"
- 7 "Has the jury decided on the verdict?"
- 8 "Solving the problem is more important than finding out who's right or wrong."
- 9 "I find you guilty."
- 10 "How do you feel about the situation?"
- 11 "I sentence you to one year's probation."
- 12 "That's fair. I'll carry out my end of the agreement."



QUICK THINK: ADJUDICATION OR MEDIATION?

Place a check mark in the appropriate column:



		MEDIATION	COURT
1	Each party's feelings are important.	✓	
2	It's important to find out who's guilty.		✓
3	The procedure is confidential.	✓	
4	Witnesses come in to testify.		✓
5	Disputants are expected to cooperate to resolve the conflict.	✓	
6	There is no punishment.	✓	
7	A jury of peers issues a verdict.		✓
8	The goal is a win/win solution for both disputants.	✓	
9	It is voluntary.	✓	

Would you rather go to court or to mediation? Why? _____

(Typically, students like the fact that mediation gives them a chance to get their story out and to have it heard respectfully. Rather than having some arbitrary punishment imposed, they get to create their own outcome — one that actually helps solve the problem. Mediation can help minimize the damage to whatever relationship the disputants share, and provides an opportunity for genuine reconciliation.)

What are some cases that would not be appropriate for mediation? _____

(Make sure student understand points from the lesson plan: simply put, anything that might involve legal charges — weapons, drugs, theft, sexual harassment or abuse, physical violence — is not suitable for peer mediation.)

WHAT IS WIN/WIN! MEDIATION?

- 1 Disputants are empowered to work together as partners, not adversaries, to work out a fair resolution to their conflict.
- 2 Disputants see the other person as a human being through open communication and understanding.



ACTIVITY 12 THE ONE MINUTE REPORT

OBJECTIVE

To apply attention to nonverbals, listening, and paraphrasing skills to actual content and process.

To begin offering concrete, constructive feedback on skills.

INTRODUCTION

- 1 Select in advance one simple topic for all speakers to use (Examples: my favorite website; a person I admire, and why; a movie I would like to make; an interesting thing I've done.)
- 2 Briefly review *Effective Listening* (S-14) with students.
- 3 *The One Minute Report* will help us take these skills up a notch. Each of you will take a turn in each of three roles: speaker, listener, and observer. Use all your skills—verbal, nonverbal, listening, paraphrasing.

Put students in trios and have them select initial roles of *listener*, *speaker*, and *observer*.

The **speaker** will look directly at the listener, speaking clearly and to the point for one minute on the topic, “_____.” The **listener** will listen attentively without interrupting, using only nonverbal encouragement, not asking questions. When I signal the end of the speaker's time, the listener will have a half-minute to paraphrase the speaker's report.

All this time, the **observer** will pay careful attention to both speaker and listener, making notes on the **Observer's Checklist** (S-17). When I signal to end the listener's paraphrasing, the observer will have one minute to give feedback to both persons, based on that form.

We will rotate the roles over three rounds so that everyone serves in each role: speaker, listener, and observer. I'll give you a signal when you should change roles. Any questions? (It may help to verify: “Who'll be your first speaker? Listener? Observer? How about in round two? And round three?”)

Watch the time closely. Give a clear signal to let students know when to move on to the next task. At the end of the first two cycles, remind all students to change roles.

Discuss

- What skills did you find yourself using best, most naturally?
- What did your observer tell you that either reinforced something you already know, or that surprised you to learn?
- What one skill do you now know you'll work on most to improve?
- How will this help our training? (As we learn how to mediate, we'll need to know our strengths, and to stay open to helpful feedback.)

CLOSURE

Effective listening skills are essential to solving conflicts. When disputants see that mediators are really listening, and care about their feelings and their problem, they trust the process. The conflict becomes easier to resolve. Keep focusing on what you already do well, and what you can learn to do better.



bserver's Checklist

Name of observer

Names of listener and speaker

SPEAKER

Yes No

Looked directly at the listener

Spoke clearly

Used appropriate body language
(hand gestures, facial expressions)

LISTENER

Yes No

Looked attentively at the speaker

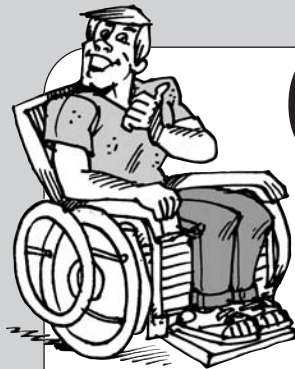
Listened without interrupting

Used nonverbal encouragements
(facial clues, head nodding or shaking)

Used verbal responses (uh-huh, yes)

Paraphrased accurately

List any other behaviors that were helpful or not helpful: _____



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