

# Mediation and Negotiation

Engagement range	Partnership
Difficulty level	Medium to Hard
Cost	Medium (\$1,000 to \$10,000)
When might you use it	To communicate an issue To build alliances, consensus To discover community issues To develop community capacity To develop action plan
Number of people required to help to organise	One-three, depends on the audience size and level of complexity
Time to organise	Medium (six weeks to six months)
Size of audience	Small (up to 10) to Medium (11-30)
Issues/resources to think about	Publicity; Venue rental; Catering; Staffing; facilitator; Expert; Recorders; Audio and visual recording and amplification; Props for working in groups (pens, paper, pins, etc.); Furniture; Children's requirements
Innovation level	Medium to high

## Description

Negotiation is the process of searching for an agreement that satisfies various parties. An agreement may be reached either through an arbiter or through real negotiation. An arbiter allows only one party, the one in a position of power, to 'win'. The other party is forced to accept something of lesser value. A real negotiation implies a 'win-win' situation in which all parties are satisfied.

Mediation is the attempt to help parties in a disagreement to hear one another, to minimise the harm that can come from disagreement (e.g. hostility or 'demonising' of the other parties) to maximise any area of agreement, and to find a way of preventing the areas of disagreement from interfering with the process of seeking a compromise or mutually agreed outcome.

## Objective

- To resolve differences in a creative and positive way, and to find a solution or a way for people to hear and appreciate the differences between their perspectives.

## Desired Outcome

- Discussion of contentious issues and agreements found through consideration of differing opinions.

## Uses/Strengths

- Generally used when normal participation methods fail.
- Attempts to provide a 'win-win' outcome rather than settling on a single course of action.
- Can improve satisfaction of all parties.
- May allow areas of convergence (areas where there are some mutual goals or agreements).

## Special Considerations/Weaknesses

- Generally requires a specialist moderator who is independent.
- Moderators can be costly, and their lack of knowledge of the content can be a drawback in the kinds of questions posed.
- Works best when the parties concerned are engaged; less well when a representative is asked to negotiate, as they may not feel they have the authority to be flexible in their solutions.
- Needs to get beyond set 'positions' (I/we are only willing to do this or that) and look at the interests of all parties (what they are trying to achieve in broad general terms (e.g. do we want clean sand, clean water, access to the beach, etc.) to create mutually satisfying outcomes.
- Needs all parties to agree to objective criteria by which to assess the 'fairness' of solutions.
- Can be time consuming; could take months of meetings to find a mutually satisfactory outcome.
- 'Win-win' is not guaranteed.

## Step by Step Guide

Negotiation and mediation are highly specialised activities and a simplistic methodology is not available. Specialists are generally required for negotiation and mediation. The following excerpt has been provided as an introduction:

1. Analyse the interest of the parties. This is important to understand the perceptions, the style of negotiation, and the interests and principles of the counterparts, as well as one's own.
2. Plan the negotiation, and determine:
  - 2.1 What are the expectations from the negotiation?
  - 2.2 What are the terms of the negotiation?
  - 2.3 What are the non-negotiable terms and what can be modified?
  - 2.4 What is the minimum that an agreement can be reached on?
  - 2.5 What is the negotiation strategy?
  - 2.6 What are the most important interests of the other parties?
  - 2.7 How does one interact with or manage people?
3. Select the appropriate negotiation technique from among the following:
  - 3.1 Spiralling agreements: begin by reaching a minimum agreement, even though it is not related to the objectives, and build, bit by bit, on this first agreement.
  - 3.2 Changing of position: formulate the proposals in a different way, without changing the final result.  
Gathering information: ask for information from the other party to clarify their position.
  - 3.4 Making the cake bigger: offer alternatives that may be agreeable to the other party, without changing the terms.
  - 3.5 Commitments: formalise agreements orally and in writing before ending the negotiation.
4. Negotiate: be sensitive and quick to adapt to changing situations, but do not lose sight of the objective. Avoid confrontational positions and try to understand the interests of the other party. Some aspects that could interfere with the negotiation are:
  - 4.1 Personal positions and interests.
  - 4.2 Psychological and emotional aspects of the persons (place, placement of chairs, body language, gestures, etc.).
  - 4.3 Difficulties in communication (differences in languages, different meanings of the same words, etc.).