

## **EXERCISE 32**

### **THIRD-PARTY CONFLICT RESOLUTION**

#### **Objectives**

To understand the criteria that third parties use when they intervene into a dispute and help others resolve it.

To illustrate how these different criteria result from different assumptions about strategies that the third party needs to pursue to resolve the dispute.

To practice mediation as a third party resolution strategy.

#### **Exercise 32: Third Party Conflict Resolution**

##### **ROLE FOR SAMANTHA ("SAM") PINDER EXECUTIVE VICE PRESIDENT OF FINANCE**

You are Samantha (Sam) Pinder, Executive Vice-President Finance and head of the main office staff for Levver Corporation. Brenda Bennett (Director of Human Resources) and Harold Stokes (Vice-President Engineering) are about to arrive in your office. Brenda phoned you this morning saying that she had to speak with you about Harold's violation of the procedure for hiring summer interns. Apparently, the Engineering Department (at Harold's request) has been hiring interns directly into the Department without going through Human Resources. You asked if she had tried to discuss the problem with Stokes, and she said that she had.

Neither Bennett nor Stokes works for you directly. Bennett reports to the Senior Vice President for Human Resources (who works in another office); Bennett has an indirect ("dotted line") reporting relationship to you because she works in the main office. Stokes reports to the Senior VP for Research and Development in a different part of the organization. Nevertheless, you are the most logical one to try to solve this problem. Both Stokes and Bennett are tough, but reasonable, people. You feel that if you can bring the two of them together, the problem can probably be settled. You called Harold to set up this meeting.

##### **BRENDA BENNETT DIRECTOR OF HUMAN RESOURCES**

You are Brenda Bennett, Director of Human Resources for the Levver Corporation. You have just taken over the position of Director of Human Resources, and have inherited a lot of ill-will and dead weight. Past human resources practices have been less than perfect. However, the people running the summer intern program this year are some of the best that you have.

Several weeks ago, the Engineering Department requested two summer interns. Jim Lexington, your subordinate and head of the intern program, informed Engineering that they

would have to wait because the hiring would not begin for at least two weeks. Then, without further consultation, Engineering went and hired two students on their own initiative without permission.

You are concerned for several reasons. First, the intern program comes out of your budget, and you will be damned if you will pay for two students not hired through your staff. Second, both students are white males, sons of friends of Joe Barnes. You are concerned about the E.E.O. implications. Third, the intern program involves some general overall orientation and development work before students are assigned to projects, and these students will be out of phase. Fourth, from your view there seem to be better applicants. Finally, you feel it is necessary to begin establishing Human Resources' "territorial rights," and this is as good a time as any. You have a good case.

With these thoughts in mind you called Stokes, and he put you off before you had a chance to explain your concerns. Thus, you called your boss, Samantha (Sam) Pinder to discuss the problem. You report primarily to the Senior Vice President of Human Resources of Levver, who works at another location and only have an indirect ("dotted line") reporting relationship to Pinder. Nevertheless, since Pinder manages the office you work in, he/she has the responsibility to try to handle this problem.

You only had a chance to tell Pinder the basic problem on the telephone, but not any of the details. You know Pinder will expect some compromise from you, and you are willing to seek common ground, provided most of all of your five concerns are somehow alleviated.

### **HAROLD STOKES VICE PRESIDENT OF ENGINEERING**

You are Harold Stokes, Vice President of Engineering for the Levver Corporation. Your electrical engineering group is far behind on a major power station project. Much of the work on this project involves relatively simple drafting; it requires minimal engineering competence if supervised properly. However, it must be started right away. You and your staff decided that a few summer interns would be perfect for the job. Joe Barnes, your manager of Electrical Engineering, tried to hire interns through the Human Resources Intern program; however, he was told that hiring could not begin for at least another two weeks. Remembering your past skirmishes with the former Director of Human Resources (Brenda Bennett's predecessor), you just told Barnes to go and hire two students (friends of Barnes' son in college) whom he knew, so he could get the job started.

You are aware that this action probably caused some trouble for the Human Resources Department. As a matter of fact, you are sure of this because Bennett called Samantha (Sam) Pinder, the Executive Vice President, to complain about your actions. Bennett is not necessarily like her predecessor and probably deserves a chance to prove herself. However, the two students are here now, and they appear to be working out well; when Bennett called in a real huff, you told her the students were here now, and "that's that!" Moreover, some of the interns that Human Resources have sent in the past have been complete "duds." You feel that the placement officers in Human Resources do not consult well enough with the host departments when making placement decisions.

Bennett's call to Pinder has prompted Pinder to get involved to try to resolve this conflict. Your reporting relationship at Levver is directly to the Senior Vice President for R & D, who

works at another location. You don't report directly to Pinder and Bennett only reports to Pinder indirectly; nevertheless, Pinder has the most direct responsibility for trying to resolve this conflict.

You know that Pinder is going to expect some compromise, and you and your department will accept anything reasonable—provided the two students stay—acquires more control over intern hiring decisions.

## COMMENTARY

When managers consider and evaluate ways to intervene, they typically borrow models from the legal system or labor arbitration. Similarly, theorists themselves have borrowed the language and models of the legal system to describe what managers do. Thus, students often describe their actions as follows:

When discussing the case, students traditionally seek to achieve one (or more) of four primary objectives: efficiency, effectiveness, participant satisfaction, and fairness.

*Efficiency.* To solve the problem with a minimum expenditure of resources—third party time, disputant time, capital outlay, and so forth. Solving the problem quickly would be an example of procedural efficiency.

*Effectiveness.* To solve the problem so that it is solved well and stays solved. Making sure that the third party listens to all parties who have a relevant perspective on the conflict is an example of procedural effectiveness (brainstorming) to invent the best possible solution and one that will "work" (i.e., one that will not bring the parties back in the next few weeks) are examples of outcome effectiveness.

*Participant Satisfaction.* To solve the problem so that the parties are satisfied with the solution. Giving all sides an opportunity to "present their case" is an example of participant satisfaction for procedures.

*Fairness.* To solve the problem so that the parties believe the outcome is fair (by some standard of fairness—equality, equity, and so forth). Again, giving each party an opportunity to present their case is traditionally equated with procedural fairness.

When intervening into conflict, third parties tend to use one of several styles. These styles have been described and classified by Sheppard (1983, 1984) according to the degree of control that the third party is exerting over the outcome of the dispute and the process by which it is resolved .

*Judges* exert high degrees of control over the outcome of the conflict but not the process by which it is resolved. A judge typically acts like a judge in an American courtroom—he/she allows both sides to present whatever facts, evidence, or arguments each desires; and then the third party decides the outcome of the conflict and, if he/she has the power, enforces it on the disputants.

*Inquisitors* exert high degrees of control over both the outcome and the process of conflict resolution. An inquisitor is more typical of a judge in a European courtroom, or a Magistrate in

an American court. He/she directs the presentation of evidence by the disputants, may ask questions or act as a referee, call for evidence that was not willingly presented, and then decides the outcome of the conflict.

*Mediators* exert high degrees of control over the process of conflict resolution but not the outcome. A mediator may initially separate the parties to interview each and determine their "side;" he/she may then bring the parties together or separate them and ferry proposals back and forth in order to help the disputants forge their own solution to the conflict.

*Avoiders*, *Delegators*, and "*Impetus Providers*" exert low degrees of control over both the process and the outcome. Avoiders prefer to find ways to either ignore the conflict or minimize its importance. Delegators recognize that the conflict exists, but try to delegate it back to the disputing parties to get them to handle it or to give it to someone else to attempt resolution. Finally, the Providing Impetus style (often called "Kick in the Pants") delegates it back to the parties with a threat—either they resolve it themselves or the third party will resolve it for them, and "nobody will like the solution." Research by Sheppard (1983) and Lewicki and Sheppard (1985) indicate that managers in organizations tend to use the inquisitorial style most frequently, followed by the judge and providing impetus styles. Managers believe that they use the mediation style frequently, but in fact seldom give the disputing parties real control over the outcome. Managers are more likely to use strategies that exert control over the outcome when they are operating under time pressures, when they think disputants will not be likely to work together in the future, and when the settlement has broad implications for the resolution of other disputes.

## **Commentary:**

Mediation appears to have many advantages as a conflict-resolution strategy, but has been used less frequently than it might be compared to judicial and inquisitorial styles. The clear advantages of mediation, as described earlier, is that it helps disputing parties invent their own solutions to problems, thereby increasing the "ownership" of solutions, willingness to subsequent disputes.

There are many different stylistic approaches to mediation. The approach presented here is one of the two most common, and can be described as the "orchestration" approach. In this approach, the mediator attempts to work with both parties in the same room at the same time. In contrast, a number of mediators prefer the "shuttle diplomacy" approach, whereby the third party carries proposals back and forth between the separated disputants and tries to forge a common agreement from the efforts.

Mediation is enjoying increasing popularity as a mechanism for resolving disputes traditionally handled by the courts. In the past 8-10 years, mediation has become a popular and viable way of handling labor disputes, divorce, community conflicts, insurance claims, environmental and land disputes, and many small legal cases. Communities throughout the country are setting up mediation centers annexed to the court system to relive the significant backlog of trials awaiting courtroom dates. Mediation is preferred because it is frequently quicker implement them and live by them, and hopefully showing them a process they can use in than the courts, less costly in attorney and court fees, and, again, gives the disputing parties considerable control in shaping the actual settlement. In mediation, both parties can be winners; in adjudication, only one party wins, and sometimes, neither one wins.

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## STEPS IN A MEDIATION PROCESS

Step 1

INTRODUCTION AND  
EXPLANATION OF  
MEDIATION



PROBLEM DETERMINATION  
STATEMENT FROM PARTIES



PRELIMINARY  
CALMING MAY BE  
REQUIRED



Step 2

PROBLEM  
IDENTIFICATION  
(EMPHASIZE POSITIVES)



FACT FINDING:  
WHAT DO YOU WANT?

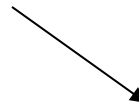


Step 3

GENERATION AND  
EVALUATION OF  
ALTERNATIVES



SELECTION OF  
ALTERNATIVE



Step 4

RESOLUTION

NO RESOLUTION



RECONCILIATION  
SUMMARIZE RESOLUTION  
ESTABLISH FOLLOW-UP  
MEETING

## THE MEDIATION GUIDE

### **The Steps:**

Step 1: Stabilize the Setting.

Step 2: Help the Parties Communicate.

Step 3: Help the Parties Negotiate.

Step 4: Clarify the Parties' Agreement.

### *Step 1: Stabilize the Setting*

Parties often bring strong feelings of anger and frustration into mediation. These feelings can prevent them from talking productively about their dispute. You, as mediator, will try to gain their trust for you and for the mediation process. Stabilize the setting by being polite; show that you are in control and that you are neutral. This step helps the parties feel comfortable, so they can speak freely about their complaints, and safe, so they can air their feelings.

1. Greet the parties.
2. Indicate where each of them is to sit.
3. Identify yourself and each party, by name.
4. Offer water, paper and pencil, and patience.
5. State the purpose of mediation.
6. Confirm your neutrality.
7. Get their commitment to proceed.
8. Get their commitment that only one party at a time will speak
9. Get their commitment to speak directly to you.
10. Use calming techniques as needed.

### *Step 2: Help the Parties Communicate*

Once the setting is stable, and the parties seem to trust you and the mediation process, you can begin to carefully build trust between them. Both must make statements about what has happened. Each will use these statements to air negative feelings. They may express anger, make accusations, and show frustration in other ways. But, with your help, this mutual ventilation lets them hear each other's side of the story, perhaps for the first time. It can help calm their emotions, and can build a basis for trust between them.

1. Explain the rationale for who speaks first.
2. Reassure them that both will speak without interruption, for as long as is needed.
3. Ask the first speaker to tell what has happened.
  - a) Take notes.
  - b) Respond actively; restate and echo what is said.
  - c) Calm the parties as needed.
  - d) Clarify, with open or closed questions, or with restatements.
  - e) Focus the narration on the issues in the dispute.
  - f) Summarize, eliminating all disparaging references.
  - g) Check to see that you understand the story.
  - h) Thank this party for speaking, the other for listening quietly.
4. Ask the second speaker to tell what has happened.
  - a) Take notes.
  - b) Respond actively, restate and echo what is said.
  - c) Calm the parties as needed.
  - d) Clarify, with open or closed questions, or with restatements.
  - e) Focus the narration on the issues in the dispute.
  - f) Summarize, eliminating all disparaging references.
  - g) Check to see that you understand the story.
  - h) Thank this party for speaking, the other for listening quietly.
5. Ask each party, in turn, to help clarify the major issues to be resolved.
6. Inquire into basic issues, probing to see if something, instead, may be at the root of the complaints.
7. Define the problem by restating and summarizing.
8. Conduct private meetings, if needed (explain what will happen during and after the private meetings).
9. Summarize areas of agreement and disagreement.
10. Help the parties set priorities on the issues and demands.

### *Step 3: Help the Parties Negotiate*

Cooperation is needed for negotiations that lead to agreement. Cooperation requires a stable setting, to control disruptions, and exchanges of information, to develop mutual trust. With these conditions, the parties may be willing to cooperate, but still feel



driven to compete. You can press for cooperative initiatives by patiently helping them to explore alternative solutions, and by directing attention to their progress.

1. Ask each party to list alternative possibilities for a settlement.
2. Restate and summarize each alternative.
3. Check with each party on the workability of each alternative.
4. Restate whether the alternative is workable.
5. In an impasse, suggest the general form of other alternatives.
6. Note the amount of progress already made, to show that success is likely.
7. If the impasse continues, suggest a break or a second mediation session.
8. Encourage them to select the alternative that appears to both to be workable.
9. Increase their understanding by rephrasing the alternative.
10. Help them plan a course of action to implement the alternative.

#### *Step 4: Clarify Their Agreement*

Mediation should change each party's attitude toward the other. When both have shown their commitment, through a joint declaration of agreement, each will support the agreement more strongly. For a settlement that lasts, each component of the attitudes toward each other—their thinking, feeling, and acting—will have changed. Not only will they now act differently toward each other, they are likely to feel differently, more positively, about each other, and think of their relationship in new ways.

1. Summarize the agreement terms.
2. Recheck with each party their understanding of the agreement.
3. Ask whether other issues need to be discussed.
4. Help them specify the terms of their agreement.
5. State each person's role in the agreement.
6. Recheck with each party when they are to do certain things, where, and how.
7. Explain the process of follow-up.
8. Establish a time for follow-up with each party.
9. Emphasize that the agreement is theirs, not yours.
10. Congratulate the parties on their reasonableness, and on the workability of their resolution.

## CONFLICT MANAGEMENT CONCERNS

### Procedural Attributes

1. Fairness  
Perceived fairness  
Degree of neutrality  
Degree of disputant control  
Protection of individual rights
2. Participant Satisfaction  
Degree of privacy  
Degree of involvement  
Degree of injury
3. Effectiveness  
Implementability  
Quantity/quality of facts, ideas, arguments  
Degree to which dispute surfaces
4. Efficiency  
Cost of hassle  
Timeliness and time involved  
Disruptiveness

### Outcome Attributes

1. Fairness  
Equity  
Consistency  
Need  
Consistency with norms  
Perceived fairness
2. Participant Satisfaction  
Commitment to solution  
Benefit to participants  
Level of animosity
3. Effectiveness  
Level of resolution  
Performance of solution  
Likelihood of similar future outcomes  
Impact on participants
4. Efficiency  
Resolves the problem at hand

## **CONFLICT INTERVENTION STYLES**

Judge

Inquisitor

Mediator

Delegator

Avoider

Impetus Provider

## TYPES OF INTERVENTION STRATEGIES I

		Third Party Controls the Decision	
		YES	NO
Third Party Controls the Process	YES	INQUISITION	MEDIATION
	NO	ARBITRATION	PROVIDING IMPETUS  BARGAINING

## STRENGTHS OF INTERVENTION STRATEGIES II

		Third Party Controls the Decisions	
		YES	NO
Third Party Controls the Process	YES	<p>EFFICIENCY</p> <p>EFFECTIVENESS</p>	<p>SATISFACTION</p> <p>FAIRNESS</p>
	NO	<p>FAIRNESS</p> <p>EFFECTIVENESS</p>	<p>EFFICIENCY</p>

