

Caucus: *The Often Forgotten Tool in County Mediations*

Leveling the field



"So, does anyone else feel that their needs aren't being met?"

CAUCUS. WHAT IS IT AND WHY?

Private Confidential Discussion between the Parties and the Mediator

Get to the Crux of the matter

Comfort level of the Parties

Gain information in private that may be reluctant to share in joint session

TO CAUCUS OR NOT TO CAUCUS

Judge for yourself:



Are the Parties at a Deadlock?

Are unrealistic demands being made?


More posturing rather than discussion
of interests/High Emotions

A need to share information in private

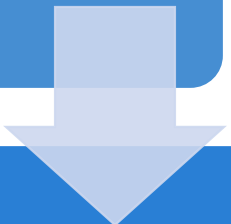
TO CAUCUS
OR NOT TO
CAUCUS.....

CONTINUED!

What are the conflict dynamics?



Is there a need to challenge one or both of the Parties about their strategy or positions?



Would the Parties be willing to disclose more information about their interests in private?

IF CAUCUS,

WHEN

AND

WITH WHOM

From the Start when Gathering
Information

Bargaining/Negotiation Stages

Party/Attorney,
Attorney/Attorney, Attorney

CAUCUS...?

MAYBE NOT!

WHY NOT?

Caucus eliminates face-to-face interaction

Limits the mediator's ability to reinforce and mirror empathy

Eliminates the ability of the parties to gain additional information

May reinforce the lack of ongoing communication between the Parties

Disrupting
Free Flow of
Information?

Group
Discussion

CONSIDERTIONS:

**Does Caucus interfere with
tranparency?**

**Contrary to the purpose of
mediation?**

- Maybe situational
- Is Future contact a consideration?

Compromise Neutrality?

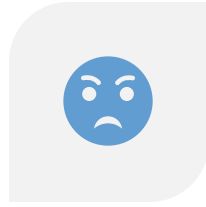
- Real or Perceived
- Safe guarding confidentiality

Acting as Agent/Negotiator?

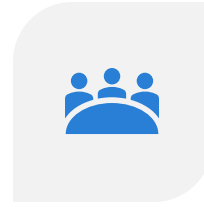
- Performing Dual Roles

Yes
to
Caucus!

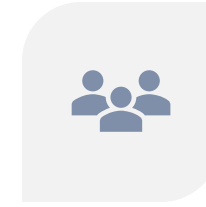
Reason why....



RELIEVES THE
TENSION IN THE
ROOM AND
DISSIPATES
HOSTILITY



PARTIES ARE
MORE LIKELY TO
BE MORE OPEN
IN PRIVATE
THAN IN JOINT
SESSION



CREATES A SAFE
ENVIRONMENT
FOR ONE OR
BOTH OF THE
PARTIES



LEVELS THE
PLAYING
FIELD-
ALLOWS
MEDIATOR TO
ADDRESS
BEHAVIORS



CONFIDENTIALITY
ALLOWS FOR
DISCLOSING
POTENTIALLY
DAMAGING
INFORMATION



OPPORTUNITY
TO PUT A
POSITIVE SPIN
ON NEGATIVE
STATEMENTS

GOING FORWARD WITH CAUCUS

What do you hope
to accomplish in the
Caucus session?

With Whom do you
meet first?

What barriers may
you encounter?

Instructions to the
party leaving the
Joint Session

Reinforce Rules of
Confidentiality

Positive Results of Caucus



Builds Trust and Rapport



Build unforeseen alliances



Redirect negative statements/positions



Address behaviors hindering the process



Encourage productive dialogue

Now What? Ending Caucus

Identify information you may share with the other party

Offer Caucus opportunity with second party

Allow second party to speak-gather additional information

Avoid the enthusiasm to “tell all” from the first Caucus

Do you continue mediating “in Caucus” or return to joint session?

Return to Joint Session

Thank both Parties for the opportunity of meeting in caucus

Who shall reveal the information obtained in Caucus?

Encourage the Parties to process the information exchanged

Review areas of agreement or suggestions if still far apart

Useful Tools while in Caucus

In Caucus, one of the goals is to get the party to reveal information that will help the mediation process move along.

Consider several techniques:

Reframing

Use of Questions

Active Listening

Reframing

- To Reframe means to change the concept or viewpoint from its current situation and place it in another “frame” which fits the same set of facts.
- You may be able to change a person’s frame simply by changing their emotional state.
- In order to reframe, you must consider the lens through which the party is viewing the situation (my perception is my reality!).
- **Example: Progressive Insurance Commercial**

Quarantine Reframing

My Friends and I can't see each other

My friends and I are protecting each other

I'm Stuck at home

I'm Safe at home

I've lost all my freedoms

I've sacrificed my freedoms for the greater good

I miss my favorite restaurants

I'll appreciate those restaurants and look forward to being there soon

Type of Questions...

ASKING THE RIGHT QUESTIONS FOR RESULTS

- Substantiating:

These sort of questions help the individuals identify and clarify the issues.

Examples of Substantiating Questions

These questions ensure that the crucial information is put on the table:

How did you decide to use this landscaper?

Are you pleased with any of the work done?

Have you used this landscaper before and if so how was your relationship up until now?

Have you tried to have a discussion about the issue?

Type of Questions...co nt'd.

- Contemplative:
- These questions draw the parties into the process by helping them explore options as well as their role in mediation. These questions will help set the environment for mediation.

Examples of Contemplative Questions

What would help you achieve your goals?

What are your expectations of mediation?

What did you hear that was new and different?

What would you like to ask the other party?

What might help you to better understand?

Type of
Questions....

continued

Closed questions:

These questions elicit a short, focused answer

Usually easily answered

Useful at the beginning of the mediation for fact finding

Examples of Closed Questions...

- Did you pay the contractor \$1,000?
- Is this your signature?
- Was it your dog ?
- How much was the deposit?
- What form was the payment?

Type of Questions... Cont'd

- **Leading:** This style of questions typically points the respondent's response in a certain direction.

Examples of Leading Questions

“How are you making out with the new computer program?”-This implies in a very subtle way that there is something wrong with the program and leads the person in that direction.

“Tell me how you are getting along with the new program?” This is less leading. There is no implied judgment in this form.

Active
Listening

Not Passive
Activity

- It involves a conscious listening and understanding the message
- The active listener remains neutral and does not inject self
- Active listening is non-judgmental
- Involves patience and not afraid of silence or long pauses
- Builds deep trust
- Broadens your perspective
- Makes you approachable
- Helps to detect and solve problems

Four Core Principles of Active Listening

- 1) Physical Attention-Posture, eye contact
- 2) Paraphrasing-helps you retain the information
- 3) Reflecting- You hesitated-why is that?
- 4) Clarifying- How so? What did you mean when..?

Active Listening Exercise

- ACTIVE LISTENING-GROUP ACTIVITY

Reframing Exercise

- GROUP EXERCISE---REFRAMING

FINAL NOTE:

A USEFUL
FILTER

The Test of Three

Truth

“Is it true?”

Good

“Is it something good?”

Useful

“Is it going to be useful?”

USE IT OR DISCARD