

ADR & the Air Force Leader

Written By

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“One of the best ways to persuade others is with your ears.”

Dean Rusk

Former Secretary of State

Reducing conflict is a critical leadership skill, but you cannot always resolve conflict by simply telling someone what to do. This article will explore the concept of Alternative Dispute Resolution (ADR), but will focus predominately on the mediation/facilitation process. We are not suggesting mediation skills should be used for all dispute resolutions; only that it is a valuable leadership tool, that when used appropriately, can help resolve conflict at the lowest level.

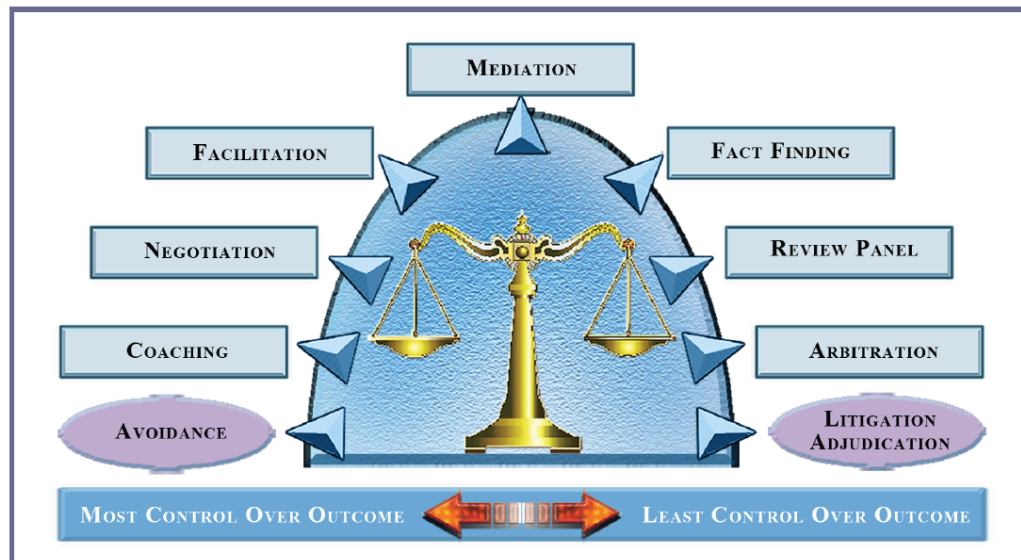
ADR is term that encompasses many different means to resolve conflict. The term “alternative” comes from the Administrative Dispute Resolution Act (ADRA) of 1996 which states that ADR is an alternative to litigation in the Federal courts. For this article, we’ll begin by providing background information about ADR, then shift to how you can use ADR, specifically mediation skills in the workplace.

Formal complaints or workplace grievances can take up to a year and a half or more to complete. Now consider someone who works in your organization, whether they have a pending complaint, or are simply living with an unresolved issue, and how these distractions could impact mission accomplishment. Without placing blame or prejudging the individual, from a psychological standpoint, how productive do you believe an individual will be while awaiting resolution?

The Air Force has recognized the value of a formal problem solving process designed to deal with conflict at the earliest stage. AFI 51-1201 *Conflict Management and Alternative Dispute Resolution Workplace Disputes* states that: “Maintaining a productive work environment in which disputes are prevented or settled quickly and at the lowest possible organizational level is essential.”

DoD Instruction 5145.05 *Alternative Dispute Resolution (ADR) and Conflict Management* directs: “each DoD Component to establish and implement ADR program(s) to resolve disputes at the earliest possible stage of the conflict and at the lowest possible organizational level. Any conflict or dispute, regardless of subject matter, is a potential candidate for ADR.” (Para 1.2 POLICY b.)

The graphic below provides a visual example of the ADR spectrum. It highlights different problem solving processes. As you start at the left side of the graphic, each process gives participants more control over resolution outcome. As you move to the right, whether by law or choice, participants start to give up some or all outcome control. For example, in litigation the parties have the least amount of control, giving up that control to a judge who has the ultimate authority to decide the outcome.



Alternative Dispute Resolution Sample Spectrum
 (Air Force Mediation Compendium, *How to Manage and Mediate Workplace Disputes*, 4th Ed, 2012)

For this article we'll focus on the ADR concept called Mediation. Mediation is a form of dispute resolution where parties retain control of the resolution outcome while relying on a neutral third party to assist with the process. The ADRA defines a neutral as someone who has “no official, financial, or personal (conflict of interest) with respect to the issues in controversy.” In other words, the neutral has nothing to gain or lose and is there to help the parties at the table develop their own resolution. In an official mediation, a neutral serves at the will of the parties. Why is this critical? If participants in a mediation, whether perception or reality, believed the mediator was biased, pushed for a resolution, or favored one party over the other, trust in the mediation process would break down and become ineffective.

A trained neutral is also an individual who meets specific criteria for mediating workplace disputes. This criteria includes complying with foundational training requirements and continuing education that includes standards such as self-determination, impartiality, confidentiality, and competence. These standards are designed to serve as fundamental ethical guidelines and have been adopted by the American Bar Association, American Arbitration Association, and the Association for Conflict Resolution. The primary goal of these standards is to guide the conduct of mediators, to protect the mediating parties, and to promote public confidence in mediation as a process for resolving disputes.

A military leader may use the concepts of mediation, but is never truly a neutral when dealing with conflict in their own organization. They might have UCMJ authority and execution of this authority could lead to conflicts of interest. Conflicts of interest that mediators avoid at all costs, but a military leader will never be able to avoid. These interests include commander's intent, maintaining good order and discipline, and when appropriate, ensuring orders or directions are followed. For that reason we define your role not as a mediator, but more of a facilitator. That said, as you continue through this article, consider how mediation concepts can benefit you as a leader. Also, and possibly more important, recognize that trained mediators can be called on to support your organization, by reducing conflict at the lowest possible level. You may never serve as a neutral or have the official training as a formal mediator, but understanding the skills of mediation can not only help you serve as a facilitator, but also help you know when to ask for outside support.

The mediation process provides valuable leadership concepts. For example, when appropriate a leader can allow the parties to retain responsibility for resolution outcome. As you facilitate this process, your role will be to assist the parties by helping them understand underlying interests instead of simply focusing on positions. In essence, you will be helping the parties use negotiation skills to resolve their conflict. Often problem solving from a positional basis can lead to one party or the other using legitimate or illegitimate forms of power in an attempt to resolve the conflict in their favor. A skilled mediator/facilitator can help the parties negotiate a resolution, using interest-based problem solving techniques.

Interest-based problem-solving techniques are characterized by focusing on a person's interests, not positions. Positions are pre-determined outcomes or demands that the parties believe would resolve the dispute in their favor. It's what they want. In contrast, interests are the underlying reasons why a party is aspiring to a certain position. It's why they want what they want (or what they need). A mediator/facilitator will help the parties determine their underlying interests, using a series of critical thinking questions. Often the mediator/facilitator encourages an open exchange of information, while guiding the parties towards a mutually beneficial resolution.

Trained mediators use a defined process (See Figure 2) to move discussions from what happened in the past to a focus on the future. The mediator typically opens the mediation by setting clear ground rules that include mutual respect (no interruptions), and explains the process from beginning to end. Most mediators encourage the parties to explain their views about the nature of the problem and have them explore ideas to best resolve the issue. As the mediator maintains process control, a psychological movement unfolds... the parties move from anxiety, fear, and/or distrust, to a mutual trust in the process. This takes time, but as the parties sense that the other side is listening, tensions ease and the parties are usually willing to open up and discuss underlying issues. With coaching from the mediator, the parties typically begin to move from speaking with the mediator, to communication with each other in what is called a joint session.

The key to this process is that mediators do not impose a solution. The mediator's goal is to help the parties explore the underlying interests and guide them to a solution using active asking and listening techniques. Their power lies in process control and although they may suggest a solution, the parties may or may not accept the recommendation.

During a mediation, the mediator may speak with one party at a time, attempting to build trust and find common ground among the parties. This one-on-one session is called a caucus and is used to

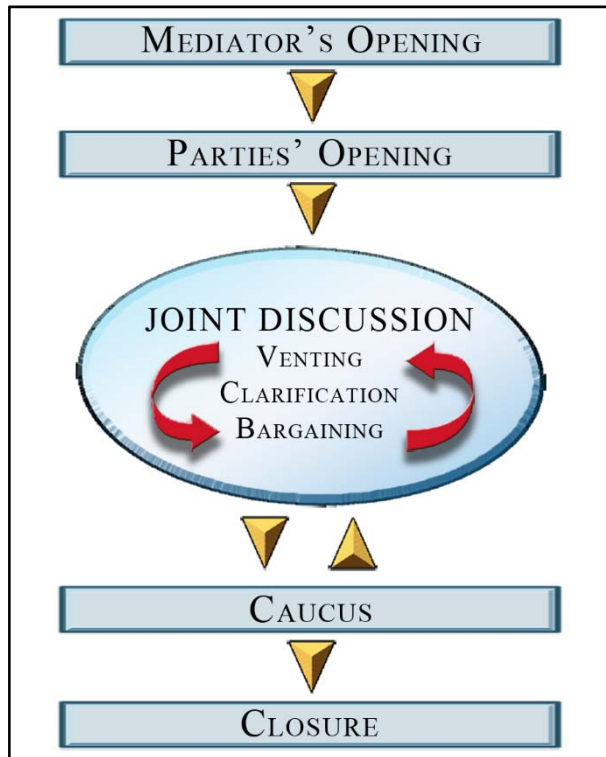


Figure 2 (Air Force Mediation Compendium, 4th Ed, 2012)

allow more direct and private questions. The same direct questions in a joint session could inadvertently give the perception of favoritism. As the mediator begins to learn about underlying interests, they typically encourage the parties to come back together in joint session to discuss the issues, often resulting in movement toward resolution.

This and other mediation skills have value for military leaders. Knowing when and how to apply these skills is the challenge. Consider how mediation skills could improve your ability to facilitate a dispute between two or more of your subordinates or coworkers. For example, when two people, with your support, work together to come up with a solution, the solution has a better chance of actually succeeding because it's their solution, not one that has been imposed on them.

You can learn more about the Air Force ADR program by contacting the Air Force Negotiation Center at AFCLC.NCE.MAILBOX@us.af.mil. Our goal is to help you understand the value of

implementing mediation skills in the workplace, but also help you know when to reach out to and what to expect from a well-trained mediator. When appropriate, a trained mediator can assist any organization to resolve conflict at the lowest possible level. One of the greatest leadership traits is to know when outside support is necessary and how that support could benefit an individual and ultimately the organization.

Real World Mediation Example

Here's an example of a possible EO complaint, if it had gone formal, could have resulted in a lengthy period of workplace animosity and reduced productivity as the complaint worked its way through the system. As already mentioned, formal complaints can take up to a year and a half to be resolved while the employees simply try to function within a cloud of unresolved issues.

This case involves two coworkers, one who has complained about a hostile work environment and/or actually believes he/she has been discriminated against. The other party is a senior coworker who is named as the possible responsible party. Management is not named in the dispute and as such, at this point, does not attend the mediation.

In this instance an EO office employee is speaking with the complainant (person with the issue) about the dispute. The case is in the pre-dispute stage and is assessed by the EO rep for possible mediation.

The party is informed about the pros and cons of a formal complaint, educated about the mediation process, and offered the opportunity to participate. The complainant, although unsure of the process, accepts the option to mediate. The case is turned over to a skilled mediator who is briefed only on the party's names and the overarching nature of the dispute. Management is informed of the case and a date is set for mediation.

Although on the verge of filing a formal complaint, the complainant arrives at the mediation, unsure of the process or doubtful about the possibility of coming to a resolution. The mediator opens the session by clearly explaining the process, establishing ground rules which include respect for each other and informing the parties that they will each have a chance, uninterrupted, to share their side of the story. Upon completion of the mediator's opening comments, the complainant is given the opportunity to speak, having a chance to share their side of the story.

The complainant is a younger staff member who says that he/she feels disrespected by the senior staff member (the respondent or party named in the complaint). The elder coworker is not in the chain of command, but the complainant believes that due to the coworker's age, she feels compelled to help the junior staff member learn the job. At the conclusion of the complainant's opening statement, the respondent shares his/her side of the story. The respondent believes that the junior staff member is also disrespectful and does not appreciate the wisdom and experience he/she brings to the table. The complainant (a minority), believes he/she is being discriminated against. The respondent believes he/she has the responsibility to correct and counsel the junior member. Keep in mind that regardless of your opinion of this case, if it goes formal it could take more than a year and a half to settle.

At the end of each party's opening statement, tensions are still high as the mediator moves to open discussion in what is called a "Joint Session." The mediator attempts to clarify comments made during the opening statements, repeats back some of what he/she heard, and senses that tension may be dropping. This could possibly be due to one or both parties beginning to feel like someone is listening to them, possibly for the first time.

After the mediator asks additional questions, it appears that both parties are still uptight and speaking to him/her (the mediator) instead of each other, so the mediator calls a caucus. (A private meeting with each party) The mediator meets with "each" party to ensure the perception of neutrality. Even if one party does not request the private meeting, the mediator still caucuses, if only briefly, to make sure each party has a chance to speak privately. During the caucus, the mediator learns that both parties are passionate about their work, but each perceives that the other is being disrespectful. They both actually respect each other's abilities, but rarely share this information. The mediator lets each party discuss the past, but then asks how to focus on the future or how to resolve the issue. It does not take long for the mediator to see common ground or interests, and offers suggestions, not demands, about how to rectify the problem. In an effort to maintain confidentiality, the mediator asks both parties what, if anything, could be shared in joint session. He/she recommends they share what they actually appreciate, professionally, about each other and ideas to solve this problem.

The mediator brings the parties back together and the discussion begins with the mediator asking both parties to share some of what they talked about in caucus. Although the process is slow, tensions continue to lower, and the parties begin to listen to each other's concerns. Interests are starting to be shared and the mediator organizes the ideas into a coherent agreement. Along with other resolution

ideas, one part of the settlement agreement included the senior coworker consenting to go through the boss when requesting the junior member accomplish specific tasks. They both agree that this would help reduce stress and improve their relationship.

This is an example of resolving conflict at the lowest possible level. The mediator simply provided a safe environment, helped the parties listen to each other, and provided an outlet for them to express their concerns. With support from the mediator, the parties were able to explore hidden biases, consider each other's perspective, and were able to formulate a solution based on mutual understanding.

Understandably, mediation is not the answer to all military disputes. There are appropriate times to use your authority to accomplish your will as a leader. But, consider how continual use of this power approach, especially with more senior employees, can negatively impact mission accomplishment. Simply telling someone what to do may work in some situations, but other circumstances may require additional tools or methods to help parties resolve conflict at the lowest level.