

# Mediation as a Conflict Resolution Process

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## WHAT'S COVERED

In this lesson, we will discuss further options for conflict resolution by giving an overview of the four types of mediation. The areas of focus include:

## 1. Mediation as a Conflict Resolution Process

**Mediation** is a conflict resolution method in which a neutral third party brings the conflicting parties together to talk about and resolve the conflict. Mediation can be an alternative to litigation, a process of resolving a dispute through civil court, which can oftentimes be costly and time consuming.

During mediation, the mediator manages the conversation in order to help the parties collaborate and communicate their needs.



There are four different types of mediation:

- Facilitative mediation
- Transformative mediation
- Evaluate mediation
- Mediation-arbitration

Which type is best for a given situation depends on the nature of the conflict.



#### TERM TO KNOW

##### **Mediation**

A form of conflict resolution in which a neutral third party helps disputing parties to communicate effectively in order to alter their relationship, reach an agreement, or both.

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## 2. Types of Mediation

### 2a. Facilitative Mediation

**Facilitative mediation** is the most common form of mediation. In this method, the mediator does not offer suggestions or opinions but rather guides the process toward an agreement between parties.

The mediator thus does not have any investment in the outcome; they are simply there to create a safe space and atmosphere in which the parties can:

- Identify their needs
- Talk about the issues
- Reach an agreement they are both comfortable with
- Manage and facilitate that process



#### TERM TO KNOW

#### Facilitative Mediation

A style of mediation in which the mediator does not offer suggestions or opinions and guides the process towards an agreement between parties.

### 2b. Transformative Mediation

**Transformative mediation** is a style of mediation focused on changing the relationship between disputing parties, regardless of whether or not an agreement is reached.

Like facilitative mediation, the mediator is definitively neutral; they are not sharing opinions or coming up with resolutions.

The idea behind transformative mediation is that the conflict is really a crisis in communication; the mediator is helping the conflicting parties to:

- Look at their interactions
- Consider their communication style
- Improve the way they're relating

If these things happen, then the process is considered a success even though it may not end in an actual settlement or agreement.



#### TERM TO KNOW

#### Transformative Mediation

A style of mediation focused on changing the relationship between disputing parties, whether or not an agreement is reached or written.

### 2c. Evaluate Mediation

**Evaluate mediation**, or evaluative mediation, is a style of mediation in which the mediator is allowed to offer suggestions or opinions for consideration or inclusion in an agreement.

This style differs quite a bit from facilitative and transformative mediation because the evaluative mediator's opinions can contribute to the resolution.

However, the mediator can only offer these opinions if the parties agree that they would like this to happen.

➔ **EXAMPLE** Evaluate mediation could be appropriate in a situation where the mediator has some particular expertise or informational resources that the parties don't have. In this case, the parties might like to hear about these resources from the mediator.



#### TERM TO KNOW

#### Evaluate Mediation

A style of mediation in which the mediator is allowed to offer suggestions or opinions for consideration or inclusion in an agreement.

## 2d. Mediation-Arbitration

Lastly, **mediation-arbitration** (sometimes referred to as med-arb) is a style of mediation in which the mediator has the authority to switch roles to that of an arbiter in order to decide on an outcome if parties are unable to reach an agreement.

Because this style enables the mediator to actually step out of the neutral role and make a decision for the two parties if they can't come to that decision on their own, mediation-arbitration goes a little beyond the scope of evaluate mediation.



### THINK ABOUT IT

Consider the most recent conflict you encountered:

- Did you use any of the four mediation processes to resolve this conflict?
- If so, which one did you use, and why?
- If not, which do you think would have been best for this particular conflict, and why?



### TERM TO KNOW

#### Mediation-Arbitration

A style of mediation in which the mediator has the authority to switch roles to that of an arbiter and decide an outcome if parties are unable to reach an agreement.



### SUMMARY

In this lesson, you learned about **mediation as a conflict resolution process** in which a neutral third party brings the conflicting parties together to talk about and resolve the conflict. You also learned about the four different styles of mediation: **facilitative mediation, transformative mediation, evaluate mediation, mediation-arbitration**. You now understand that while the mediator in the facilitative and transformative processes is simply there to manage the conversation between parties, they have the ability to become more involved in the conversation if the parties are using the evaluate or mediation-arbitration style.

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### TERMS TO KNOW

#### Evaluative Mediation

A style of mediation in which the mediator is allowed to offer suggestions or opinions for consideration or inclusion in an agreement.

#### Facilitative Mediation

A style of mediation in which the mediator does not offer suggestions or opinions and guides the process towards an agreement between parties.

**Mediation**

A form of conflict resolution in which a neutral third party helps disputing parties to communicate effectively in order to alter their relationship, reach an agreement, or both.

**Mediation-Arbitration**

A style of mediation in which the mediator has the authority to switch roles to that of an arbiter and decide an outcome if parties are unable to reach an agreement.

**Transformative Mediation**

A style of mediation focused on changing the relationship between disputing parties, whether or not an agreement is reached or written.