

SUBJECT: Collaborative Conflict Resolution with Polarized Groups
(Lesson Plan to supplement pages 34-40)

CONCEPT: The collaborative process is an inclusive process in which all parties affected by the dispute come together informally to discuss/negotiate the issue(s) and arrive at a solution consensually.

LEARNER OBJECTIVES: At the completion of this lesson, learners will be able to:

1. Understand the difference among dispute resolution processes of negotiation, mediation, and arbitration.
2. Understand the basic concepts of interest-based negotiation.
3. Move through the steps of interest-based negotiation in a hypothetical situation.

BEFORE PRESENTING THIS MATERIAL:

1. Review pages 34-40 in *Increasing Competence in Resolving Public Issues*.
2. Prepare transparencies “Definitions of Terms,” “Concepts of Interest-Based Negotiation,” and “Steps in Collaborative Conflict Resolution.”
3. Review and duplicate handouts “Concepts of Interest-Based Negotiation,” “Collaborative Conflict Resolution” (same as pp. 36-40 in *Increasing Competence in Resolving Public Issues*), and “Collaborative Conflict Resolution Resources.”
4. Clip newspaper articles on controversial issues or consider some of the following: employer/employee rights, child custody in a divorce with equally capable parents, environmental impact with endangered species and wetlands or forest areas, etc.
5. If using alternative activity, order and preview video “Extension’s Role in Environmental Policy Conflict.”

MEETING AGENDA FOR MATERIAL PRESENTATION:

1. Introduce conflict resolution. Highlight polarized groups, collaboration, and conflict resolution.
2. Define negotiation, mediation, and arbitration using transparency “Definitions of Terms.” Ask participants to share where they have experienced any of these methods of reaching a decision.
3. Define issues, interests, and positions using transparency “Concepts of Interest-Based Negotiation.” Distribute handout “Concepts of Interest-Based Negotiation” and ask

participants to read the scenario and individually or as a small group identify the issues, interests, and positions. Ask for discussion. What actions might have been taken? Solicit reactions to the librarian's solution.

4. Provide an overview of concepts using transparency "Steps in Collaborative Conflict Resolution" and handout "Collaborative Conflict Resolution" or pages 36-40 in *Increasing Competency in Resolving Public Issues*.
5. Use newspaper clippings or select a controversial issue. Ask participants to work in small groups to identify the technique that might be used in each step of the collaborative conflict resolution process. Ask each group to role play how they might work through a step. Ask observers to provide a "friendly critique" to give constructive suggestions to facilitate negotiation. What new understandings do you have about collaborative conflict resolution? How are the controversial issues in newspaper clippings different from the library scenario? What suggestions could you give a group faced with the need for collaborative conflict resolution? *Suggestions may include hiring a professional mediator or considering arbitration. Check the library for reading materials or workshops that can be attended to acquire more of these skills.* Provide participants with handout "Collaborative Conflict Resolution Resources" for additional self-study or learning opportunities.

(ALTERNATIVE ACTIVITY)

Show the video "Extension's Role in Environmental Policy Conflict," to identify the steps in the interest-based problem-solving process.

Discuss the Extension agent's role in the conflict situation.

This two hour video tape is available for \$25, prepaid, from North Carolina State University: Video Production, Agricultural Communications, Box 7603, North Carolina State University, Raleigh, NC 27695.

DEFINITION OF TERMS

***Negotiation* - consensual agreements worked out among the disputing parties themselves.**

***Mediation* - assistance provided by third parties who are more or less neutral.**

***Arbitration* - decision making imposed by third parties who resolve issues unilaterally after hearing and weighing arguments made by each of the disputing parties.**

CONCEPTS OF INTEREST-BASED NEGOTIATION

- ***Issues*** are the “what” of negotiations—
what the parties disagree about
- ***Interests*** are the “why” of
negotiations—why each party wants
what it wants and feels strongly about it
- ***Positions*** are the “how” of
negotiations—statements about how an
issue might be addressed

STEPS IN COLLABORATIVE CONFLICT RESOLUTION

PRE-NEGOTIATION PHASE

- 1. Getting started**
- 2. Representation**
- 3. Ground rules and agenda**
- 4. Problem definition**
- 5. Joint fact-finding**

NEGOTIATION PHASE

- 6. Criteria development**
- 7. Generating alternatives**
- 8. Evaluation and creating agreements**
- 9. Binding the parties to the agreements**
- 10. Producing a written agreement**
- 11. Ratification**

IMPLEMENTATION PHASE

- 12. Linking information agreements to formal decision making**
- 13. Monitoring implementation**

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Source: Dale, D. D. and Hahn, A. J. (eds.). (1994). Public Issues Education: Increasing Competence in Resolving Public Issues. Public Issues Education Materials Task Force of the National Public Policy Education Committee and PLC and PODC subcommittees of the Extension Committee on Organization and Policy. Madison, Wisconsin: University of Wisconsin-Extension.

Read this scenario and identify the issues, interests and positions.

Two men were quarreling in a library. One wanted the window open, the other wanted it closed. They bickered back and forth over how much to leave it open: just a crack, halfway, three-quarters. They were arguing so loudly the librarian came over to find out what was the matter. She asked one man why he wanted the window open. He replied: “To get some fresh air.” She asked the other why he wanted it closed. He said, “To avoid a draft.” After thinking a moment, the librarian left, went into the next room, and threw open the window, bringing in fresh air without a draft.

The two men viewed their problem as a conflict over positions and limited their discussion to those positions. If the librarian also had focused only on the two men’s stated positions, the dispute would not have been resolved with both men receiving benefits. By looking instead at the men’s underlying interests, the librarian invented a mutually acceptable solution. Solutions reconcile interests, not positions.

Adapted from: Fisher, R. & Ury, W. (1981). *Getting to Yes: Negotiating Agreement Without Giving In*. New York City: Houghton Mifflin.

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Steps in the process

Collaborative conflict resolution processes generally involve three phases:

- pre-negotiation, when stakeholders set the conditions for collaborative problem-solving
- negotiation, when the stakeholders work together to create, choose and document solutions
- implementation, when public authorities adopt, implement, evaluate and possibly re-negotiate the solutions reached by stakeholders.

Within each phase, the parties work through several steps or activities as they try to build consensus for a final agreement. The steps are not mandatory, however; the collaborative conflict resolution process must remain flexible to be adapted quickly to a particular situation. The following section describes the steps in the process⁵² and suggest a number of techniques that educators and mediators have found useful in key stages.

Pre-negotiation

1 **Getting started.** Someone has to raise the possibility of dispute resolution and initiate the process. If no stakeholder is willing to approach the others to suggest that they attempt to reach agreement, a trusted outsider ("convener") might be able to make this suggestion. One way to help parties decide if collaboration is in their best interest is to help them determine their BATNA, or Best Alternative to a Negotiated Agreement. Identifying the expected results of the process can help participants think about potential positive outcomes of the problem solving process. In addition, as participants learn how other disputants expect to use the agreement, a sense of trust in the process and in the other participants can begin to develop.

Techniques you can use to identify how participants will use the outcome of the process:

- Define the potential products. "If we come to an agreement, what form would the agreement be in?"
- How might we use the agreement when it is developed?
- How might each party use the agreement?

Source: Dale, D. D. & Hahn, A. J. (eds.). (1994). Public Issues Education: Increasing Competence in Resolving Public Issues. Public Issues Education Materials Task Force of the National Public Policy Education Committee and PLC and PODC subcommittees of the Extension Committee on Organization and Policy. Madison, Wisconsin: University of Wisconsin-Extension.

2 Representation. Answers must be found to the following questions: Can the key players be identified? Are they willing and able to collaborate with the other parties? Can legitimate spokespersons be found for stakeholder groups? Do reasonable deadlines exist? Which issues are negotiable? Do sufficient resources exist to support the effort? Identify parties who have an interest in the outcome. Include interests which could be affected, as well as parties who might prevent any agreement from being implemented.

Techniques for identifying all affected parties:

List the individuals and groups who:

- could claim legal standing
- have political clout to draw elected and appointed officials into the dispute
- could block implementation of an agreement
- have sufficient "moral claim" to gain the public's sympathy.

3 Establishing ground rules and setting the agenda. Before parties begin substantive negotiations, they should agree on ground rules for communicating, decision making, and organizing the process. They also need to agree on objectives for the process and on the issue agenda. Agreeing on these matters provides the first opportunity for participants to have a positive experience in the problem solving process. The procedural agreements lay the groundwork for achieving fairness for all parties.

Purposes of procedural agreements:

- identifying the process to be used in addressing conflict
- articulating specific behaviors that will and will not be tolerated within the group
- determining the steps to take in the problem solving process
- providing acceptable procedures to use when disputants begin to argue over substantive issues.

Examples of possible ground rules:

- not speaking all at once
- stating something only once
- recording a group memory
- sharing information with interest groups
- creating the agenda
- sharing leadership opportunities
- agreeing on the need for a facilitator and recorder
- agreeing on how the group will make decisions—consensus or majority vote.

4 Defining the problem. Often each party has a different perception of exactly what the problem really is. How we define the problem often leads us down a road toward one type of solution. It is important in this stage to clarify the problem from each party's point of view. History, present status, and need for change are important elements in defining the issue. It is also important to legitimize all perceptions, understanding that each definition of the problem could be "right" and that each definition of the problem might yield a different "right answer." If any of the participants believes that his or her point of view is not being treated as legitimate, the process is very likely to break down.

Techniques for defining the problem:

- Legitimize the issue: "What do you see as the problem?" Accept the fact that each person may see the problem differently. Write down each definition of the problem so all can see.
- Find out how your definition of the problem makes you feel.
- Identify the real problem.
- Whose problem is this? Can/should we deal with it?
- Best/worst/most probable: What is the best and worst possible thing that might happen if we solve this problem?
- Define the problem in terms of a question: "How can we address this issue? How can we solve this problem?"
- Clarify definitions of the words used. It is very important that each person understand what is meant.
- Is/is not: What is and is not part of the problem?
- Ask the group to draw a picture of the problem, including who is affected.

5 **Joint fact-finding.** The parties must agree on what technical background information is pertinent to the dispute, what is known and not known about the technical issues, and on the methods to be used for generating answers to relevant technical questions. It is important to identify what is known about why the problem exists and how different parties are affected. This step involves the parties completing the following tasks: determining what information they have regarding the issue; identifying the portion of the information that is accepted as accurate by all the parties; and determining what additional information, if any, they need to negotiate effectively. Filling gaps might involve input from experts or the sharing of information known or collected by the parties themselves. This step is ongoing.

Techniques to identify and clarify knowledge gaps:

- Break down the problem into manageable parts.
- What are all the forces keeping it from getting worse? Who wants to perpetuate the problem? Who wants it to change?

In these pre-negotiation stages, public issues educators might use needs assessment techniques, including telephone contacts and informal meetings, to identify parties and determine if they have an interest in the issue. Discussion of how the process will be conducted and what the educator's role will be is critical. Clarifying the problem from each party's point of view, legitimizing the various viewpoints, defining the problem, the history of the issue, and the need for change can be done through an expanded needs assessment or applied research project. Each stakeholder group's knowledge of the issue, objectives, willingness to participate, and thoughts on possible outcomes of the negotiation process can be assessed through group or individual interviews by telephone or face-to-face. (In general, in-person interviews are preferable for establishing trust and a good working relationship.) Interview results can be analyzed and used to educate stakeholder groups on each other's perspectives. A summary paper can be mailed to the parties. An overview of stakeholder perspectives can be an effective part of the introduction when stakeholder groups convene for negotiation.⁵³

Negotiation

6 **Developing criteria.** To invent options for mutual gain, the parties must clearly state their interests to each other. Rather than asserting "positions"—what they want as a solution—stakeholders seeking a resolution to a policy dispute need to be able to discuss their "interests"—the reasons, needs, concerns and motivations underlying their positions. What are the major needs or interests that must be satisfied for everyone to agree on any solution? Interests constitute the reason "why" something is important. For example, lack of noise in the evening hours may be an interest or criterion; land use decisions might be the solution or position which determines how that particular interest is satisfied. Satisfying one another's interests should be the common goal of the parties' dispute resolution efforts. All should consent to use the agreed-upon interests as performance criteria in developing and judging alternative solutions.

Techniques to identify interests:

- Bottom-line: What is most important about this issue for you? What would it be like if the problem were solved? What do you want? Why do you want it? Continually ask, "Why is this important?" Each person in the group must have a chance to add his or her needs or interests to the list. The list becomes a set of criteria against which the alternative solutions are judged.
- Possible questions to draw out the interests of the parties: What does it mean to you that...? What would happen if...? What are the most important things about...? What do you want [the other party] to understand about...? How do you feel when...?

- **Consensus:** It is important that everyone be able to live with the list of criteria. "This does not mean that each criterion is important to you, but it does mean that you will respect each of the needs or interests incorporated in the agreement and work toward their accomplishment."

7 **Generating alternatives.** After the necessary information has been obtained and accepted and everyone's interests have been stated, the parties can agree to a period of "inventing without deciding." Brainstorming can be used to produce as many ideas as possible for solving the problem. It is important that all parties be able to suggest ideas and solutions. The ideas put forth at this time can include the parties' "positions." During this step, all must agree that they will not judge ideas or hold someone to any of the options. Creativity, not commitment, is encouraged at this stage.

Techniques for generating alternatives:

- **Brainstorming:** Share ideas, but don't evaluate them. Record the ideas where everyone can view them.
- **Braindrain:** brainstorming with a time limit of 2-3 minutes. Groups compete with each other to generate the most ideas in a short time.
- **"What I like about ..."** After brainstorming, give positive feedback on each idea.
- **Generate ideas using 5 x 7 cards** posted on the wall. Each person is asked to answer "what if" or future-oriented questions and post their answers. Example: "In two years, residents and environmentalists agreed that these ideas worked best to.... What are the three ideas?"
- **Form small groups, mixing participants** representing opposing interests. Give them the job of designing a solution based upon the criteria.

8 **Evaluating and creating agreements.** Once the parties feel they have invented enough options, they must decide which ones to include in a proposed agreement. To do this, they might develop joint criteria for ranking the ideas, make trades across different issues, and/or combine different options to form "packages" of agreements. The educator or mediator might re-emphasize that interests become criteria for evaluating alternatives and then suggest possible agreement packages for the group to consider. Sometimes, an agreement can be divided into parts, and subcommittees can be asked to prepare each part. The key is that the major interests or needs have been satisfied.

Techniques for conducting evaluations and creating agreements:

- **Consensus:** Consensus is based on the term "to consent" or "to grant permission." The solution may not be "my first choice," but I will "live with" the decision. Consensus means there is some level of commitment to implement the agreement.
- **Both/and:** Perhaps we don't have to choose between alternatives; there might be a way to build a solution from several ideas.
- **Straw voting:** Get a sense of how the participants feel.
- **Survey:** Ask, "What would it take for you to live with the decision?" Do not ask, "Why don't you like it?"
- **Negative voting:** Is there any suggestion that would be unacceptable under any circumstances?
- **Focus on agreements first:** What have we agreed on? Agreements ensure fairness by involving participants and establishing a sense of ownership and equity.

9 **Binding the parties to their agreements.** An important part of creating an effective agreement to resolve a dispute is developing provisions to ensure that the parties will honor the terms of that agreement. Every party must be assured that the others will carry out their part. This generally requires carefully sequencing the required actions and performance measures. Parties must discuss and agree upon methods for making such assurances tangible. It may help to include contingencies in the agreement to cover unforeseen circumstances or one party's failure to uphold the agreement.

10 **Producing a written agreement.** The parties should document areas of agreement to ensure a common understanding of their accord, and to make certain that the terms can be remembered and communicated unambiguously. This step is crucial, for it ensures that the parties will not leave the negotiations with different interpretations of the agreement. Rather than each party drafting his or her version of what was agreed upon, it usually is best to use a "single-text procedure." This means that one negotiator (or a small subcommittee of the participants working with the facilitator) is designated to write a draft of the agreement. The draft is then circulated among the participants for comments and changes until all have approved it.

11 **Ratification.** The parties must get support for the agreement from organizations that have a role to play in carrying out the accord. These organizations should have been identified at the outset of the process and involved either directly or through adequate representation in the previous steps. When a negotiator represents a group of constituents, he or she must submit the written agreement for their approval. Although each organization will follow its own internal procedures as it reviews and adopts the settlement, the negotiating group should agree on the form of ratification that is necessary from each party.

The various negotiation stages are often combined in one or more meetings where representatives of groups with a stake in the issue convene. These meetings may include discussion of interview results, educating stakeholders on the various perspectives, and stakeholder representatives discussing their concerns, pertinent facts, criteria for evaluating decision and outcomes, alternative courses of action, and then selecting one or more courses of action. Group facilitation and conflict resolution techniques are important educational tools. Your role as the educator is to create a situation in which stakeholder groups educate each other and jointly work through these stages. You must take care to use neutral language. If parties are stymied in generating ideas, you may suggest some yourself, but refrain from suggesting only one. Results interviews conducted in the pre-negotiation phase can help you keep everyone on track. In addition, you can pay careful attention to the criteria the parties select to design an evaluation for the educational program.⁵⁴

Implementation

12 **Linking informal agreements to formal decision making.** A ratified agreement must be linked to the decision making procedures mandated by state statutes and local ordinances. How this takes place depends on the substance of the agreement and at what point in the required decision making process negotiation occurred. Decision makers should have been involved, or at least well-informed, all along in the process. If a decision maker is assured that all parties affected by an issue have agreed to a solution, and if the solution accords with the criteria the decision maker must use to make the decision, the agreement is likely to be approved.

13 **Monitoring implementation.** The parties must determine how they will keep track of the success of their solution. They must agree to standards for measuring compliance and a schedule for carrying out the monitoring process. Subcommittees can be charged with responsibility for monitoring and calling the parties back together if “troubleshooting” becomes necessary. A procedure to reconvene the parties to affirm outcomes, resolve problems, renegotiate terms, or celebrate success should be spelled out in the written agreement. Communication and collaboration should continue as the agreement is carried out.

For you, the public issues educator, the implementation stages may include additional applied research and educational programs. For example, implementing an agreement on a nonpoint source pollution control program may involve educators working with stakeholders to develop an educational program, prepare materials, and teach about “best management” plans. You might also assist in monitoring implementation through a for-

mal survey, follow-up interviews, discussion with participants, or other evaluation techniques.⁵⁵

Implications for educators' roles

In comparison with traditional approaches to public issues education, interest-based problem solving expands the roles available to educators.⁵⁶ Educators' traditional tools, such as needs assessment, applied research, community-based education, and program evaluation, remain relevant. The Information Provider and Technical Advisor roles, described in Chapter 1, continue to be appropriate, while the Facilitator role would be expanded from emphasis on small-group facilitation to “issue facilitation,” including assistance in collaboration and conflict resolution, citizen participation, and consensus building. Issue facilitation is clearly a legitimate role for educators, since it promotes the mutual education of involved parties as well as an opportunity to learn a new approach to the resolution of community conflict—different from litigation or arbitration.

In addition, two new roles would be added:⁵⁷

- Promoter of dispute resolution—one who suggests that the parties consider facilitated collaboration (and may also recommend competent facilitators)
- Mediator—one who actually performs the third-party role in dispute resolution, intervening, interposing, helping to reconcile differences, and working individually or collectively with the disputing parties to increase their skills in collaborative problem solving. Although not all public issues educators will have the ability or desire to actually become mediators, anyone can add the Promoter of Dispute Resolution role to their professional repertoire.

COLLABORATIVE CONFLICT RESOLUTION RESOURCES

- Bauer, L., & Watt, P. K. (1990, November). Dispute resolution: A handbook for land use planners and resource managers. Prepared for the Oregon Department of Land Conservation and Development. University of Oregon Bureau of Governmental Research and Service.
- Bolton, R. (1979). People skills. Third Edition. Englewood Cliffs, NJ: Prentice Hall.
- Carpenter, S. (1990). Solving problems by consensus. Washington DC: Program for Community Problem Solving.
- Carpenter, S. L., & Kennedy, W. J. D. (1992). Managing public disputes. San Francisco: Jossey-Bass.
- Doyle, M., & Straus, D. (1976). How to make meetings work. New York: Jove Books.
- Fisher, R., & Ury, W. (1981). Getting to yes: Negotiating agreement without giving in. Houghton Mifflin.
- Fiske, E., Cleaves, D., Cooley, F., Faas, R., Gray, K., Meyer, N., Rogers, D., Schnabel, R., & Wallace, T. Resource notebook to accompany the February 1992 regional training workshop on environmental conflict resolution, Portland, OR (Available from: Western Rural Development Center, Ballard Extension Hall, Oregon State University, Corvallis, OR 97331).
- Gray, B. (1989). Collaborating: Finding common ground for multiparty problems. San Francisco: Jossey Bass.
- Halbert, S. (1994). On common ground. Chevy Chase, MD: National 4-H Council. (Workbooks, Teachers' Guides and videotapes on conflict resolution and group process).
- Madigan, D., McMahon, G., Susskind, L., & Rolley, S. (1990). New approaches to resolving local public disputes. Washington, DC: National Institute for Dispute Resolution.
- MIT-Harvard Public Disputes Program. Consensus: Helping public officials resolve stubborn policy disputes, quarterly newsletter. c/o Harvard Law School Program on Negotiation, 513 Pound Hall, Cambridge MA 02138. Also available on ConflictNet.
- Moore, C. W. (1986). The mediation process: Practical strategies for resolving conflict. San Francisco: Jossey Bass.
- National Council of State Dispute Resolution Offices. The council serves as a forum for information exchange and technical support among the staff of these offices. The statewide dispute resolution offices are resources for promoting and providing dispute resolution services within state government.
- National Institute for Dispute Resolution (NIDR), 1901 L Street NW, Washington, DC 20036. (202) 466-4764. Contact: Thomas Fee. Grants, technical assistance and teaching materials on conflict resolution.

North Carolina State University Cooperative Extension Service. Sachs, A., Danielson, L., Garber, S., Levi, M., & Mustian, D. (1993, February 17). Extension's role in environmental policy conflicts. Raleigh, NC: North Carolina State University Cooperative Extension Service. (Handbook and videoconference, February 17, 1993). Available from Agricultural Communication, North Carolina State University. Raleigh, NC 27695. (919) 515-7055.

Program for Community Problem Solving, 1301 Pennsylvania Avenue NW, Suite 600, Washington, DC 20004. (202) 626-3183. Contact: Bill Potspchuk. Housed at the National League of Cities, this program provides information and assistance for community collaborations.

Schwarz, R. M. (1994). The skilled facilitator. San Francisco: Jossey Bass.

Susskind, L., & Cruikshank, J. (1987). Breaking the impasse: Consensual approaches to resolving public disputes. Basic Books.

Ury, W. (1991). Getting past no: Negotiating with difficult people. New York: Bantam Books, 1991.