

"Writing Contest"

Mediation certification should be added to the Army Management Staff College curriculum to enhance student's leadership skills and encourage critical thinking.

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I certify that the following is entirely my own work.

Abstract

The Department of the Army has problems with complaints and grievances within its organization. Such complaints and grievances, cause a loss of money, time, morale, trust, and peace, and can no longer be tolerated in the work place, especially considering the continued climate of downsizing. This paper discusses the advantages of mediation in the workplace. The paper identifies what, when, why and how it should be used, and the advantages to the Army Management Staff College for producing new leaders with this added tool in their toolbox. The Army will be forward thinking if it prepares its new civilian and military leaders in mediation skills.

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"Peace is not simply the absence of war.
It is not a passive state of being.
We must wage peace, as vigilantly as we wage war."

The XIV Dalai Lama
(Joel Edelman, Mary Beth

Crain)

Two women had known each other for 30 years. One of the women had been reporting to and working for the other for the last eight years. In those eight years, the two women had not spoken to each other except when it was absolutely necessary. What causes such a rift in the work place that people stop communicating altogether? Can this kind of problem be resolved? Well, this is a real example of a work place dispute. Misunderstandings and misconceptions caused this. After only two days of the mediation process, this dispute was headed toward a solution.

What is mediation? What makes it mediation? When do you use it? How do you use it? These are all questions new leaders in the Army should ask themselves.

What is Mediation?

Webster's dictionary gives the definition of mediation as follows: "To intervene between two or more disputing parties in order to effect a settlement, agreement, or compromise." However, in the workplace and for the people

involved in the process, mediation is "something better, more accessible and understandable to the lay-person, less adversarial, expensive, and time-

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consuming, and more likely to produce an outcome that matches the interests of the disputants." ([Texas Law Review](#))

What Makes it Mediation?

Successful mediation is another way of resolving work place disputes. It is made up of the following five vital elements. 1. The mediator serves as an impartial. The skills they bring to the table, are as a neutral facilitator, with no investment in the problem or the people. The mediator guides the process, aids the parties in a neutral fashion, and guides the parties to solutions in their own best interests. 2. This same mediator protects the confidentiality of the proceedings and preserves the integrity of the proceedings. All notes from the process are normally destroyed and the mediator cannot be subject to subpoena. 3. Each of the parties must enter the process in good faith. For mediation to be successful, each party participates voluntarily. 4. If necessary, outside parties must be present to resolve the problems. 5. Generally, the mediation is held in a conducive, neutral site.

When do you use mediation?

Not all workplace disputes are resolved by mediation. Each case is separate and screened to see if it is in the best interest of all parties to use mediation.

All workplace disputes are given mediation screening, rather than doing

nothing, or reacting too quickly. Conflict is not easy, but avoidance, of it, just to ward off potential Equal Employment Opportunity (EEO) complaints or grievances, is not the answer either. Some of the most annoying, confusing,

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and stressful conflict situations that we are likely to encounter in our lives occur in the workplace. The work place is a crucial activity center where most of us spend at least a third of our lives. It is where our performance often directly affects how we spend the other two-thirds of our time. The rules of most workplaces do not naturally foster a sense of peace and relaxation. The nature of the "job" being what it is, most of us are under constant pressure to achieve an optimum level of productivity while at the same time keeping our emotions under control and putting our best face forward.

If you have ever worked for anybody, however, or if you have ever been in a management position, you know that the above expectations present a built-in-dilemma. On the one hand, in order for things to run as smoothly and efficiently as possible, conflicts on the job need to be kept at a minimum. On the other, precisely because expectations and demands are so high, stress levels mount and the workplace becomes chaotic. More often than not, this causes a breeding ground for disagreements, resentments, power plays and all sorts of other dynamics in which human beings, being human, tend to engage.

Conflict is not just specific to the work place; however, the elements of work place conflict prevention and response are the same as in other types of

conflict, with one important exception. Conflict on the job has a unique aspect to it, in that you are obligated to be at that job eight hours a day, five days a week. You may be able to get a "divorce" by changing jobs. Work place conflicts have a great effect on income, self-concept and issues of status and

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power. These all directly affect our relationships with spouses, lovers, family and peers.

In other words, job conflict affects our sense of self-esteem and emotional and physical security. We become attached to our jobs because they provide us with an identity and the financial means by which to survive. Thus, when conflicts or potential conflicts arise in the workplace, they may be more difficult to deal with. The strong element of fear present on part of both employees and management, each of whom may feel that sense of self-worth and/or job security, is being threatened.

However, as we have seen in so many conflict and potential conflict situations, our fears have often very little to do with reality. When it comes to handling problems and disagreements on the job, we generally have far more power, and many more options, than we realize. The essential steps involved in the process of preventing and responding to conflict help us to realize that conflict situations can actually be opportunities for improving our work environments. Our relationships with our co-workers, employees or employers, and our sense of personal power and self-esteem are affected. Stepping back

and viewing a situation objectively, gathering information, exploring alternatives, understanding and respecting the other person's position, and having the intention and willingness to come to an amicable and mutually beneficial solution relate to mediation.

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Conflict in the Army is an ongoing problem and considering the history of downsizing, rightsizing, or re-engineering, in the Department of Defense, the Army will most likely continue to have conflict. A report on Cable News Network (CNN) 19 Jan 99 reported that EEO complaints are seven times more frequent in the government sector than in the private sector - due primarily to downsizing. The report also stated that EEO complaints have cost the taxpayers \$866 million. (CNN) How, as leaders, do we brace ourselves for more complaints, from disillusioned employees that are constantly adjusting to a changing working environment? One way to be proactive and be ready for this possibility is to embrace mediation.

On 1 May 98, President Clinton signed a Presidential Memorandum supporting the Alternative Dispute Resolution (ADR) Act of 1996. He says in that memorandum, "as a part of an effort to make the Federal Government operate in a more efficient and effective manner, and to encourage, where possible, the resolution of disputes and issues in controversy involving the U.S., including the prevention and avoidance of disputes, I have determined

that each Federal agency **must** take steps to: (1) promote greater use of mediation, arbitration, early neutral evaluation, agency ombudsman, and other alternative dispute resolution techniques, and (2) promote greater use of negotiated rulemaking.” ([White House, Office of the Press Secretary](#))

One report from the Department of Justice claims that after setting up an ADR program that out of 29 cases studied, 17 cases were settled in mediation.

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In each case attorneys estimated that ADR saved an average of 100 hours of attorney time, six and a half months of litigation time, and \$12,000 in litigation costs. Attorneys also stated that the settlements achieved were better for the United States than if these cases were settled in court by an average of \$500,000 per case. ([Jeff Senger](#))

Mediation is cost effective. Unlike formal hearings, mediation has no transcript fees, no witness travel costs, and often no costs for attorney representation. The only cost is the time that the participants are willing to spend in trying to resolve the conflict. Most importantly, mediation can provide lasting agreements because parties may be more likely to adhere to a contractual agreement of their own making.

Why would the Army Management Staff College (AMSC) want this in their curriculum?

Let us first talk about the skills it takes to be a good mediator. Next to those skills, I have highlighted the skills that correlate with the AMSC skills

used in the classroom at the college. 1. Be a neutral discussion leader. **(Communicator)** 2. Able to listen actively. **(Listener)** 3. Distinguish between interests and positions. **(Evaluator)** 4. Work with others to devise a creative solution. Identify and separate the issues involved and frame these issues for resolution. **(Brainstorming and Problem Solving)** 5. Able to use clear, neutral language in speaking and writing. **(Oral and Written Communicator)**. 6. Earn the parties trust so they will share confidential information. **(Instill**

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trust) 7. Communicate information between the parties and translate that information into positive language. **(Guide)** 8. Help people reach an agreement. **(Negotiator)** 9. Help keep negotiations going when people want to quit. **(Coach)** 10. Guide the conversation from the past to the future **(Persuader)**. . A comparison of the two should be a step toward convincing the school that mediation skills are a definite addition.

Consider that these are the skills for mediation and good leadership. I have shown that conflict is a problem in the workplace. I have shown that costs to the taxpayer and the federal workforce in time and money are out of hand, just in EEO complaints. I have also shown that the Federal Government has an obligation to mediate by the ADR Act of 1996. The Army should also be interested in implementing this process, not only because they are legally obligated to, but also because it is just plain good business. The outcome of mediation is proven by its statistics. For example, the Government Accounting

Office (GAO) began a formalized mediation program in November 1990. Since then, the GAO has mediated over 100 grievances, with an astounding resolution rate of almost ninety-percent. One-half of the grievances that were mediated from 1991 to 1997 involved work relations, which is the same type of complaint that is normally received in the Department of Defense (DOD).

[\(Drew Swank\)](#).

How can mediation be implemented in AMSC curriculum?

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Mediation certification can be anywhere from a two to five day training course, a five-day class with a follow on of practical experience of co-mediations, mock mediations, or actual mediations. Some mediation centers also have a written examination. The number of hours required for certification depends on local rules. The trainees would receive lectures on the laws of mediation and confidentiality, rules of the local center, and mediator ethics. Other subjects often covered include the psychology of human conflict, and conflict resolution, and negotiation theory. Study and practice of mediation techniques, incorporated in the form of role-play as either a mediator or the claimant or respondent, would be covered. For the sake of this paper, I am going to assume that the certification of a three-day course, given by the Justice Center of Atlanta, with role-play incorporated in the course. The Army

recognizes this organization for valid certification. It would be the timeliest and the least costly for the college.

What is the benefit to the College?

My assumption is that the college wants to produce the best leaders that they can from its graduating classes. Since I have shown the direct correlation between mediation and leadership skills, the college could benefit the school to reinforce these skills through mediation certification. If we want the Army to reach its goal of the "Total Army" concept of civilians and military working in concert with one another, mediation certification at AMSC could be another way to achieve this goal. An added benefit to the Army and the local

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communities is the fact that all the skills learned are transferable to one's everyday life. The Army has long recognized the importance of the soldier and the civil servants to the local community. With these skills, not only will one become a better leader but also they could use these skills to volunteer in their local community. By volunteering, they certainly would enhance all of the seven Army values, i.e. loyalty, duty, respect, selfless service, honor, integrity, and personal courage.

In conclusion, mediation can be, to borrow a phrase from President George Bush, a "kinder, gentler way to resolve your disputes." (Peter Lovenheim) As a nation, we can no longer afford to expend so much energy, talent, and time on

litigation. As individuals, we are reasonable and capable enough, given the aid of a skilled mediator, to resolve many of our disputes ourselves.

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