

# Conflict Management

---



THE LAW OFFICES OF  
MICHAEL R. MAGARIL

114 South Euclid Avenue

Westfield, NJ 07090

(908) 389-0100

# The Rules of Engagement



---

- Stick to the topic
- Take your time
- Listen and repeat
- Ask, don't tell, don't threaten
- Don't interrupt
- Objectify facts – never say “never”

# The Rules of Engagement



---

## ➤ The course of calm control

- ✓ Time out and termination
- ✓ Sleep on it
- ✓ Timing of communications
- ✓ Method of communications
- ✓ The power of “no thank you”



# Establishing Collaborative Effort

---

## ➤ **Redefine Winning**

### ✓ **Transactional vs. Relational**

- The practical value of goodwill
  - Lay new ground rules for ongoing interaction
  - Easing through last minute and follow up issues



# Establishing Collaborative Effort

---

## ➤ **Redefine Winning**

- ✓ **Creative problem solving to maximize value**
  - Greatest overall benefit at the lowest overall cost for all parties
  - Uniquely tailored solutions for unique situations
  - Getting to the heart of the matter



# Establishing Collaborative Effort

---

## ➤ Create Joint Commitment to Process

- ✓ Plan and Consult
- ✓ Share objective information
- ✓ Limit discussions to planning
- ✓ Keep and share a written calendar
- ✓ Have a regular separate time to discuss scheduling and procedure as opposed to substance



# Maintaining a Collaborative Effort

---

- ✓ Make process as important as substance – protect its integrity
- ✓ Be flexible
- ✓ Stick to the plan
- ✓ Keep promises
- ✓ Forgive broken promises so long as collaborative effort exists

# Group Dynamics: Avoiding Conflicting Loyalties



## ➤ Keep others “out of the middle”

- ✓ Don't personalize -- avoid disparaging comments
- ✓ Don't gossip -- share information on a need-to-know basis
- ✓ Don't ask others to keep secrets provide intelligence reports or carry messages



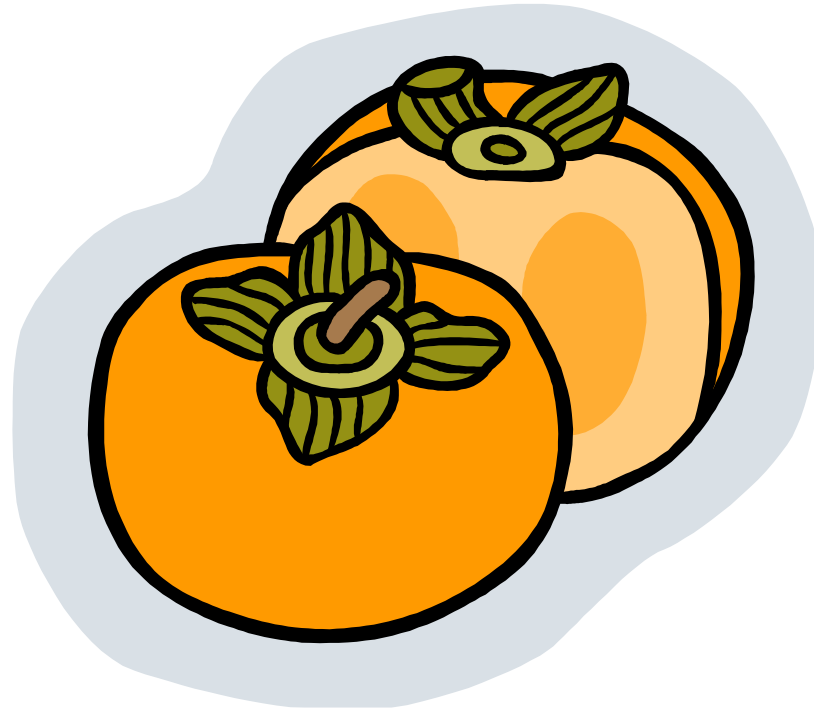
# Group Dynamics: Avoid Conflicting Loyalties

---

- Keep Others “Out of the Middle”
  - ✓ Don’t allow others to speak negatively of the other side
  - ✓ Don’t create factions
  - ✓ Value free speech and dissent

# THE PROBLEM SOLVING METHOD

---



# Two models of conflict

## management

Problem Solving Settlement

### Goals

- - ✓ Sound Problem Solving based on particulars of the dispute
  - ✓ Creative agreements based on reality
  - ✓ Self determination for the parties

### Goals

- - ✓ End conflict
  - ✓ Arrive at agreement as quickly as possible

# Two models of conflict management

## Problem Solving

- Assumptions
- ✓ Process is more important than settlement
- ✓ A skewed contribution to the conflict is possible
- ✓ Correct identification of core strategic problems is essential

## Settlement

- Assumptions
- ✓ Settlement is more important than process
- ✓ Parties are equally “at fault”

# Two models of conflict management

## Problem Solving

- ✓ Use of “Interrogatory Style”
- ✓ Activity directed at placing conflict in context
- ✓ Clear “strategic direction”

## Settlement

- ✓ Activity directed at deriving solutions and not concentrating on causes
- ✓ Little or no “strategic direction”



# The Interrogatory Style

---

## Question Types

- Information gathering questions
- Assessment questions
- Inventory questions
- Moving questions
  - ✓ climate changing
  - ✓ issue oriented
  - ✓ settlement oriented



# Mediation

---

- ✓ Independent neutral third party
- ✓ Parties reach agreement on their own
- ✓ Create solutions specially tailored to the your special needs
- ✓ Faster and cheaper than court

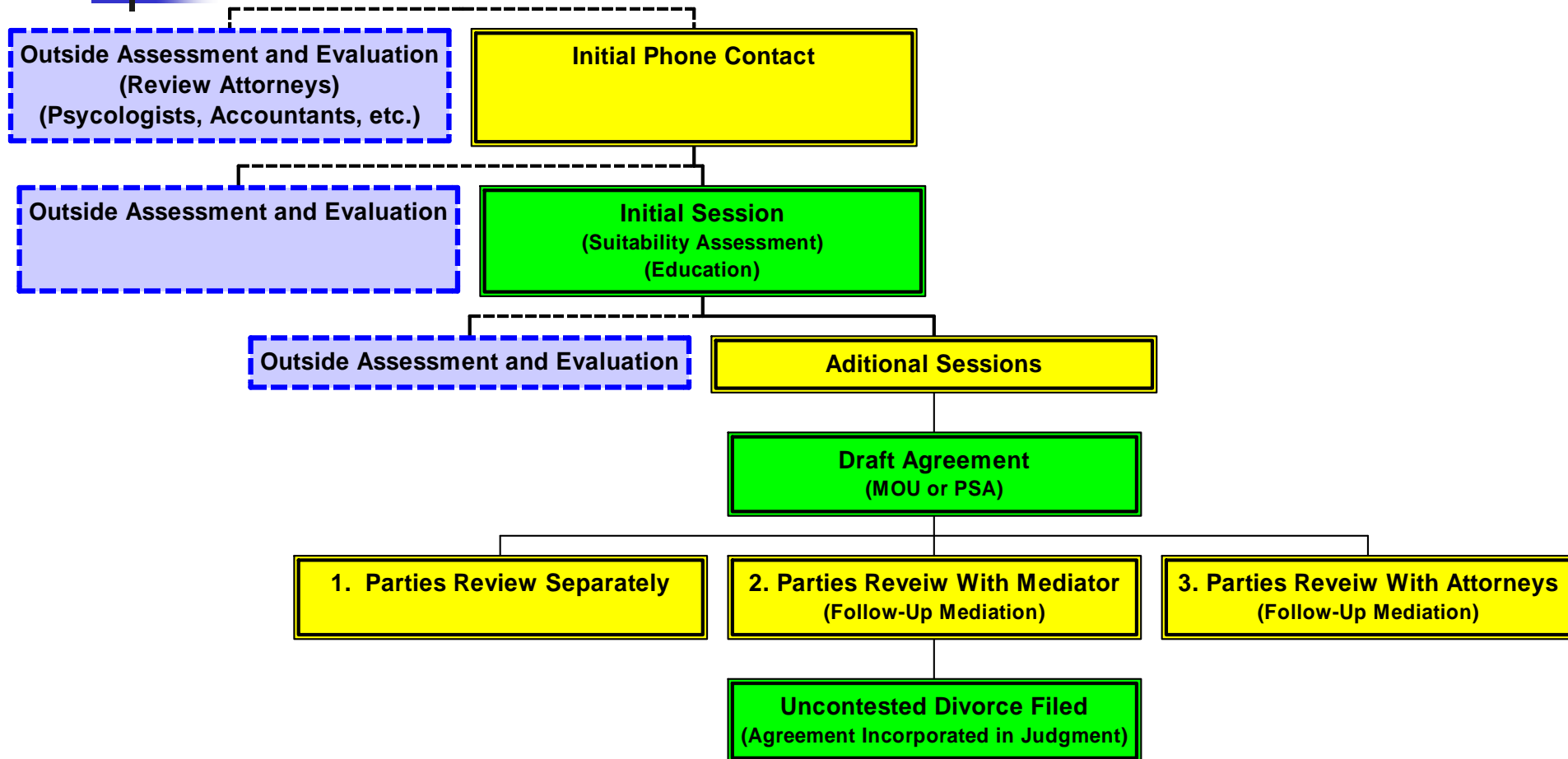


# Mediation

---

- ✓ Mediated arrangements are less likely to fall apart
- ✓ Self determination
- ✓ Develops conflict management skills for the future

# Mediation Procedure



# Responsibilities of the Parties

- 
- 
- **Commitment to process of mediation**
  - **Creating a level playing field**
  - **Management of interpersonal conflict**
  - **Deriving a mutually satisfactory solution**
  - **Commitment to full disclosure of information**
  - **Commitment to completing assignments**
  - **Payment at the time of sessions**



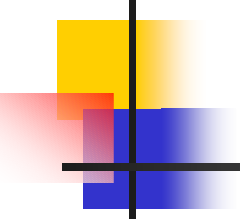
# The Role of the Mediator

## *Standards of Conduct*

---

- **Protect the principle of self-determination**
- **Maintain impartiality**
- **Avoid conflicts of interest**
- **Maintain confidentiality where possible**
- **Protect the quality of the process**
- **Competence**
- **Fees that are reasonable and fully disclosed**

# Skills for Mediator and Parties

- 
- 
- Objective factual investigation
  - Empathy and emotional restraint
  - Tolerance of opposing viewpoints
  - Inventiveness and problem solving
  - Logical persuasion



# Why Mediate?

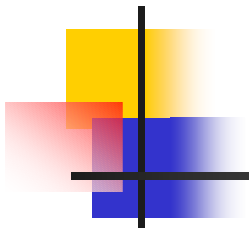
---

## ➤ **Conventional Wisdom**

- **Limit Conflict**
- **Save Time and Money**

## ➤ **Less Apparent Reasons**

- **Self determination and empowerment**
- **Lasting solutions tailor-made to unique situations**
- **Using divorce as a transitional event**
- **Personal development and new emotional skills**



# A Final Word of Don't Be Your Own Worst Advice Enemy

- Accept Change
- Don't fight for total control
- Don't escalate conflict
- Avoid self-help
- Look in the mirror
- Self-critical evaluation
- Set goals and stick to them – redefine winning