



ЗАСГИЙН ГАЗРЫН ТОХИРУУЛАГЧ АГЕНТЛАГ
**МЭРГЭЖЛИЙН ХЯНАЛТЫН
ЕРӨНХИЙ ГАЗАР**

Mediation

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Opener activity – The Mediator

Scenario:

Two inspectors are in dispute.

HR has decided to bring in a **mediator** to help the inspectors resolve their differences.

(Question for you) What skills should a mediator have?

— Agenda

1. Mediation in context
2. Types of mediation
3. Interest-based mediation
4. Interest-based negotiation
5. Mediator's toolkit

Mediation is a form of **Appropriate Dispute Resolution (ADR)** also known as **Alternative Dispute Resolution**.



The Mediator facilitates negotiations between disputing parties

Poll: Mediator challenges

What's your biggest meeting challenge when it comes to facilitating a difficult conversation between two disputing parties:

- 1. Emotions.** Dealing with the participant's emotions
- 2. Process.** Establishing an effective process for running the meeting
- 3. Content.** Managing the meeting content; the issues and many details of the dispute

Negotiation – two or more parties confer with the goal of resolving differences between them, without assistance from another party.

Mediation – a neutral 3rd party assists conflicted parties to confer with the goal of resolving differences between them, in a manner that leaves the outcome in the hands of the parties.

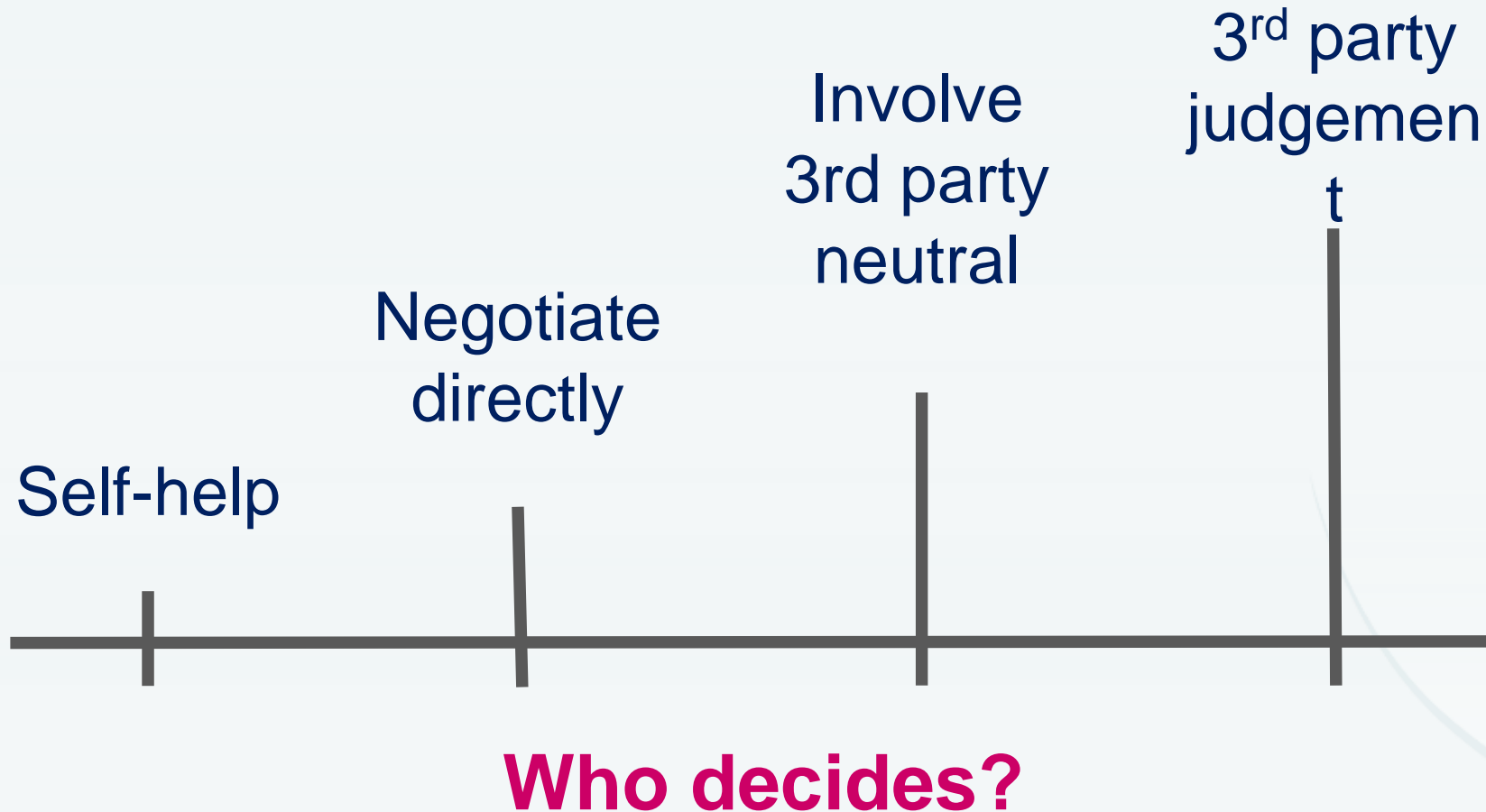
Arbitration – a 3rd party listens to conflicted parties and makes a decision regarding issues of dispute between them. The parties have more control over the process than in adjudication, but fewer options with regard to appeal of outcome.

Adjudication – a 3rd party (e.g., Judge) listens to conflicted parties and makes a decision regarding issues of dispute between the, which the parties may accept or appeal. The parties do not have control over the process, but may be able to appeal the outcome.

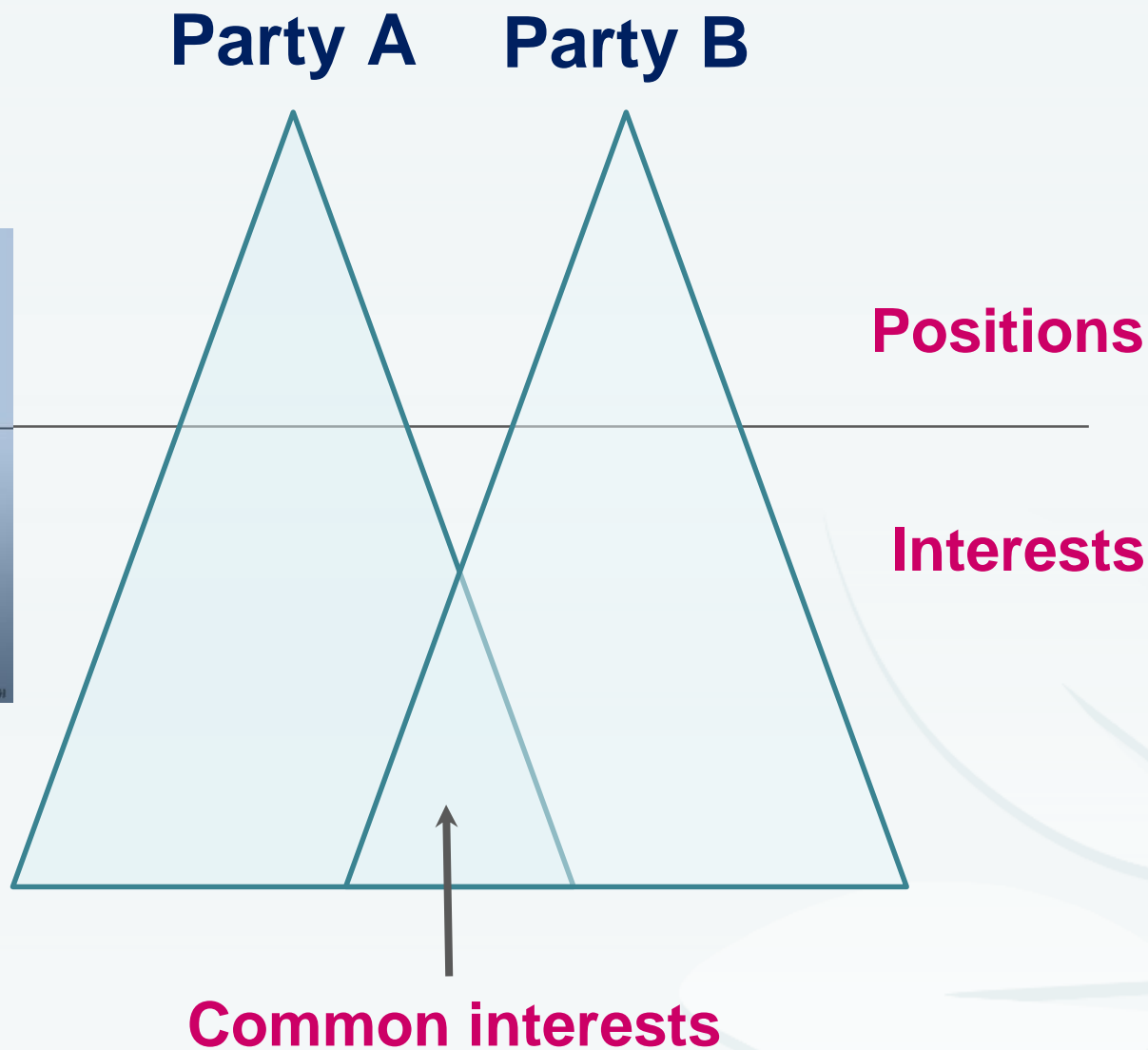
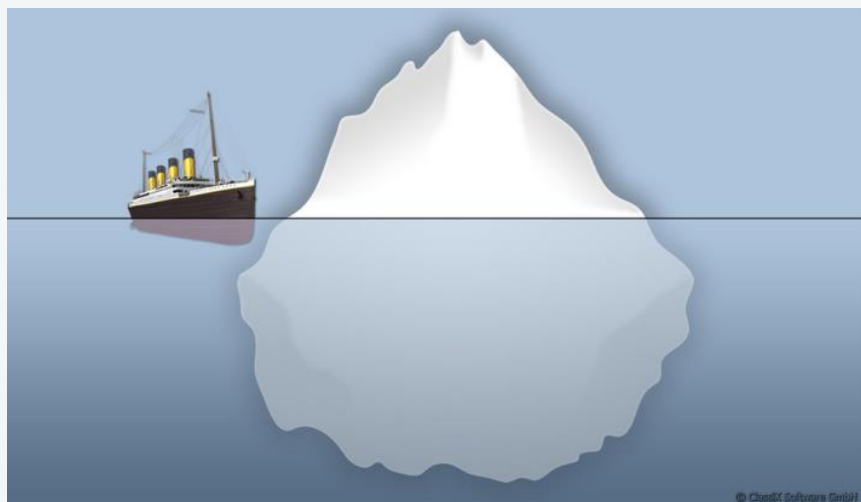
Comparison

	Characteristics of these options:
Negotiation & Mediation	<ul style="list-style-type: none"> • Parties have most control over the process • Less formal • Interest-based • Lower cost • Confidentiality determined by parties • Voluntary • Decisions made by parties
Arbitration & Adjudication	<ul style="list-style-type: none"> • Parties have less control over the process • More formal • Legal norm-based • Expensive • Public • Involuntary • Decision by 3rd party board or adjudicator

Resolve disputes appropriately

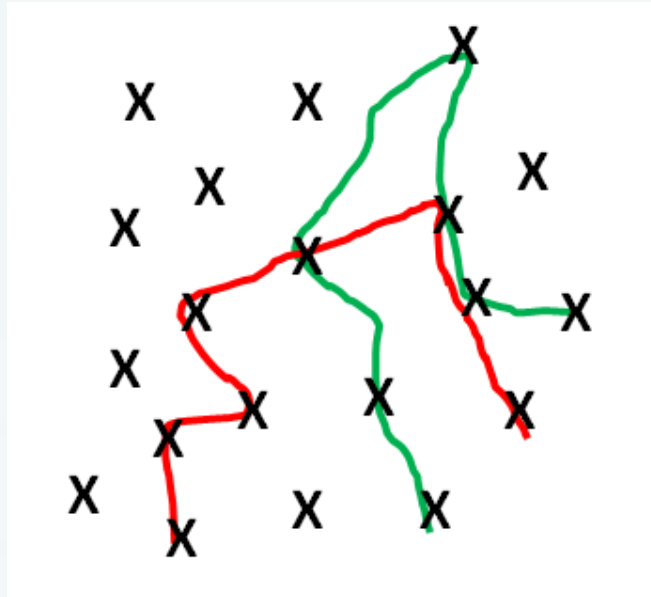


Interest-based Mediator (helps parties build on common interests)



A mediation process

Stage 1	How are we going to talk?	<ul style="list-style-type: none">• Set the tone (i.e., respectful)• Agree on the mediation process• Get parties commitment to participate (voluntary)
Stage 2	What are we going to talk about?	<ul style="list-style-type: none">• Allow each party to tell their side of the story• Frame the issues• Agree on the agenda – e.g., order issues will be discussed
Stage 3	What is important to us about the topic?	<ul style="list-style-type: none">• Ask open-ended questions• Probe for greater understanding• Identify common interests• Paraphrase and summarize interests
Stage 4	What are we going to do about it?	<ul style="list-style-type: none">• Identify and explore solution options• Define evaluation criteria (to evaluate options)• Negotiate and write-up agreement (include both agreement and enforcement terms)



Stories connect. Stories help us connect the dots, the discrete events and experiences into some sort of whole. Like in the graphic; how I connect them is my story (red). How you connect them is your story (green). Different stories, with some common touch points.

Questions for group:

1. When people are in conflict, what can happen if they change their story?
2. What role can a mediator play when it comes to the stories that people in conflict tell?

A mediator creates a space where its safe to fail

**Supportive
environment**



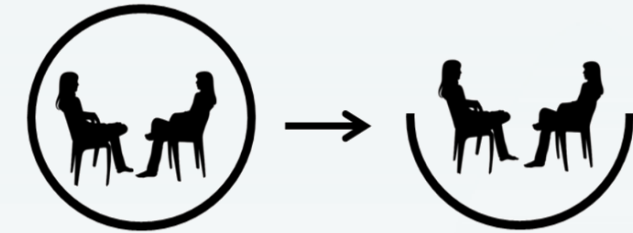
**Open to
discovery**



Activity – creating a supportive environment

Questions for discussion in small group (Zoom breakout)

As a mediator, one must create a supportive environment in which all disputants feel safe to openly share their personal story and discuss their concerns and interests.



1. What does a safe, supportive environment look like?
2. Why does an unsafe environment look like?

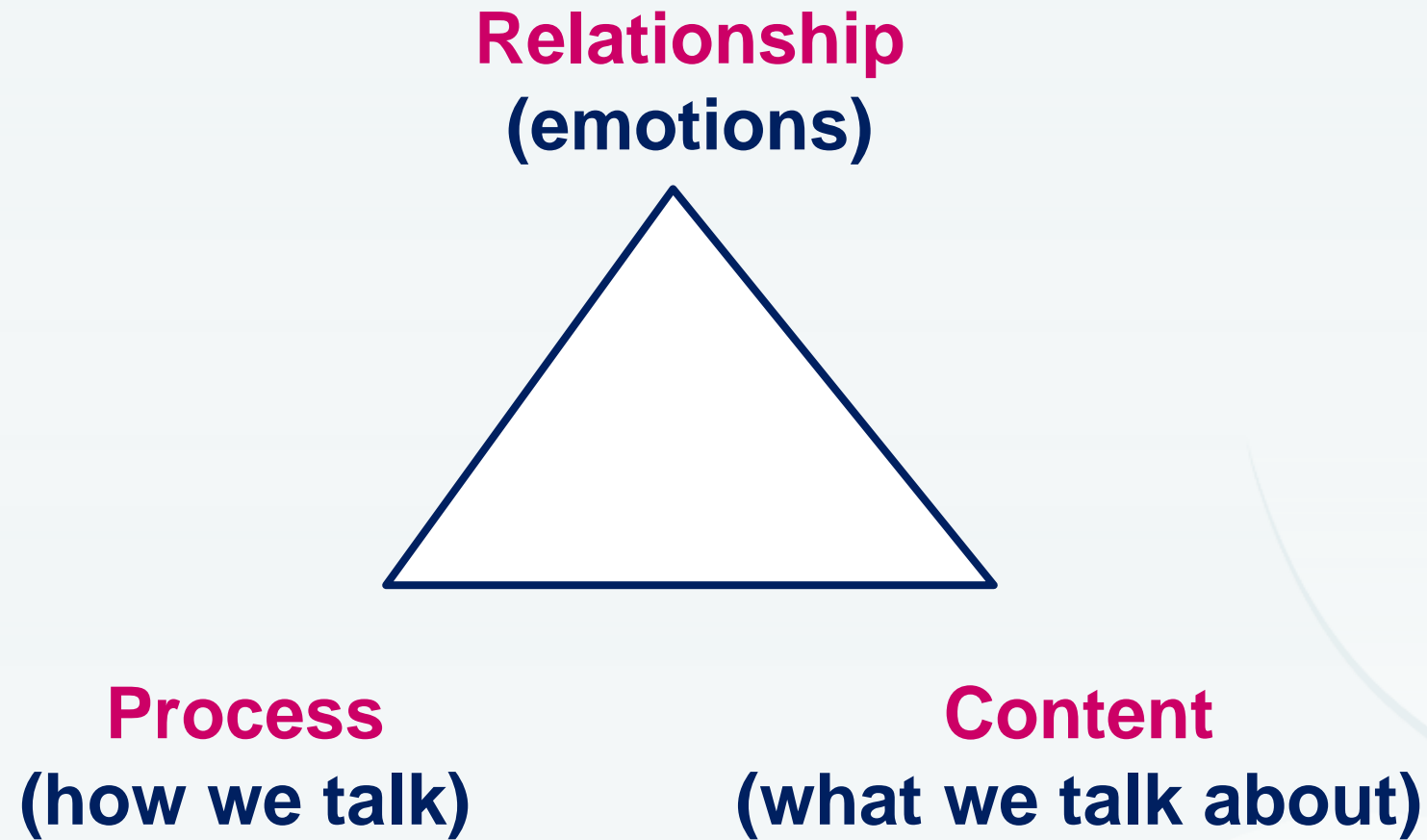
Activity:

1. Discuss questions in your assigned Zoom room/group
2. Return to main room
3. Share answers

3 Types of Mediation

- Peer Mediation
- Managerial Mediation
- External Mediation

A mediator balances:



Interest-based Negotiations

Preparing to Negotiate Worksheet

	Dorj	Best Renovations
Issues		
Interests		
BATNA (Best Alternative To a Negotiated Agreement)		
WATNA (Worst Alternative To a Negotiated Agreement)		
Objective Criteria (independent standards used in negotiations that are factual and therefore fair to both sides.)		
Possible opening positions/solutions		
Other: <ul style="list-style-type: none">· Best times/locations to meet· Who to consult/involve· Additional research?· Opening statements		

Questions for discussion in small group (Zoom breakout)

Recall the dispute in workshop #2 between Dorj and Best Renovations.

1. What might be each of their:
 - **BATNA**
 - **WATNA**
2. What might be **objective criteria** they could mutually agree on to assess the “quality of work”?

_____ A mediator's toolkit should include:

- Process templates; mediation frameworks, agendas, agreements, terms and conditions, etc.
- Communication and conflict management skills; e.g., self-awareness, constructive behaviors
- Facilitation skills
- Negotiation skills (a mediator facilitates negotiations!)
- Many strategies to break impasse
- Commitment to craft, continuous learning, and knowledge sharing; e.g., in community-of-practice
- ...

Wrap-up activity – What's your recipe for success?

Questions for small group discussion (**Zoom breakout**)

1. Reflect on the materials and discussions today.
2. Create your "recipe for success" to address today's topic.
What 3 action items can your organization do to build interest-based mediation skills and capacity?

Activity:

1. Identify 3 action items; your group's recipe for success
2. Return to main room
3. Share answers



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