

BUILDING A TEAM AGAINST THE PROBLEM

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Whether you are a manager, mediator, lawyer or other type of professional dispute resolver, one of the common problems you face today is how to resolve high-conflict disputes when the disputants have an on-going relationship – such as in the workplace, as parents in a divorce or as family members in an elder mediation. It's common for a professional to try to meet with the parties separately to resolve all the issues, in order to keep the tension down and to get to a solution as quickly as possible. Another approach is to meet with the parties together, but to be highly controlling of the discussion in order to keep the parties focused on the specific decision(s) at hand.

These approaches have their appeal and work in some cases. However, high-conflict disputes in families and workgroups have a way of prolonging themselves and simmering, rather than actually being resolved by any one decision. In this article, I suggest a slightly different approach, which focuses the dispute resolver on team-building and “managing the conflict,” rather than resolving any one specific dispute. This is especially important when working with high-conflict people who tend to resist dispute “resolution.” They often blame the dispute resolver for pressuring them to make decisions and undermine any resolutions as soon as they can.

Why Team-Building is So Important

High conflict clients tend to see all relationships as adversarial. They truly “split” people in their minds into those who are all-good and those who are all-bad. Therefore, unless they buy into the dispute resolution process, they will fight against the process. Unless they feel a positive connection to the dispute resolver, they will fight the dispute resolver. And unless they are restrained from venting their upset emotions on their usual Targets of Blame in the family or workgroup, they will be preoccupied with blaming and will prevent any constructive work from getting done.

Team-building is a good way to manage splitting. If the whole process is structured around working together as a team – and team behavior is required and reinforced – then splitting will be blocked or at least minimized. This emphasis must be made from the start. Each individual and the whole group must see that splitting behavior is redirected into team-building behavior at every step. This doesn't have to be hard, but it does take practice.

The key is to avoid becoming responsible for their problem, despite the desperate efforts of high conflict people to shift responsibility onto dispute resolvers. You're not responsible for the outcome, just the process. This emphasis on the team being responsible for the solution steers dispute resolvers away from the twin minefields of trying to determine the “true facts” of the case (which high-conflict people just argue about and never agree upon) and trying to sell “the solution” (as only you see it) to the problem. These two approaches are guaranteed to trigger defensiveness, blame and splitting when one or more high-conflict people are involved.

Building the Team

Whether it's just two people, such as in a divorce mediation, or several people, such as in an elder mediation, building the team against the problem is the first priority. With high conflict people, "the issue's not the issue" anyway. Their personalities are the issue, and therefore your relationship with them is your primary issue. Building a team is the way you establish a positive working relationship with them.

The best way to build a team is to take time to listen to each person. You can do this separately or together, or both. The way you listen to them will determine your relationship with them. Show your interest in getting to know them and their concerns. Explain the process and how important they are to resolving their dispute. Make it clear that the outcome is up to the parties involved, and that you are only responsible for the process and assisting them with your experience and knowledge. The final decisions are up to them.

Explain how you are going to discourage adversarial behavior, such as saying: "The focus will be on the future and what we can do about it." "Any criticism can be turned into a proposal." "Everything will be by the agreement of all of the parties." Let them know that they have the right to say "No" every step of the way. This tends to reduce the amount of saying "No," because they don't have to fight for that right. (High conflict people are constantly fighting for rights they already have, but don't "feel" they have.)

When they challenge or confront you, you can remind them that you are only in charge of the process and that they are in charge of the decisions. "That will be up to you," is something that you can say a lot when a high conflict person wants to argue about decision-making. "You don't have to agree on the past" and "You don't have to defend yourself" are statements that often help. "All you need to do is to reach an agreement about what to do in the future about this problem." They will often complain about each other and possibly about you, but you can calmly remind them that all that matters is resolving the dispute at hand, not deciding who has been good and who has been bad.

The team-building focus is your goal. Their goal is to resolve the dispute. You don't need to talk to them about team-building – that's your issue not theirs. It's the way you talk about the problem and the way you listen that helps build the team. Act like you assume that they are working together and are committed to solving this dispute. Focus on positive efforts and ignore negative comments or explain why the negative comments are unnecessary. Do not take a punitive approach, or you will become their next Target of Blame.

The Team Defines the Problems

If you meet with them separately first, don't reach any conclusions about defining the problem until you meet with them all together. Then, ask them to take turns defining the problem(s) that need to be addressed. ("What are your interests or concerns?") You can even list the problems on a white board or flip chart. But try to avoid being the one who tells them what their problems are. Let them "own" the problems, not you. If they can't think of what needs to be addressed, then after you have let them try to define the problem(s) you can add some likely related issues that they may not know about.

Educate the Team

You probably have knowledge about similar disputes and how they were resolved. After the problem(s) have been listed and identified, give them general information about how they might resolve their disputes and factors to be considered. By taking an educational role, you are less likely to become viewed as an adversary to be targeted. They also tend to be less anxious the more informed they are.

The Team Proposes the Solutions

Likewise, the team needs to own the solution(s). Regardless of how hard they try to make you responsible for solving their problems, stay focused on having them come up with solutions. You don't need to know all the "facts." They know the facts better than you do, and they don't agree on the facts anyway. By keeping them focused on the future and brainstorming solutions about the future, you help them feel more comfortable with problem-solving and more responsible for succeeding at it.

Be very respectful in considering any solutions, so that they feel your confidence that they can solve the problem this way, and so that they use their problem-solving skills rather than shifting to their defensive thinking, which blocks rational problem solving. If they run out of ideas after really trying, you can offer some ideas from what you have seen works for other people. Usually it's best to offer three ideas, as one idea will be opposed by one party and two ideas may be fought over, with each party favoring the opposite idea.

The Team Makes the Decisions

Finally, it's tempting to pressure the parties to adopt an obvious solution – one that's obvious to you. Especially if you are a lawyer or a judge, it's easy to see what the legal standard is and try to get the parties to accept it. Yet, if the parties are not a team yet, you will just split them further. Instead, it is more effective to keep working on helping them "own" the problem and come up with their own solution(s). This can require incredible patience on your part, but it is far more effective in the long run.

The secret to managing high conflict people is to manage your own anxiety. Breathe deep and understand that it often takes three times as long for high conflict people to resolve their disputes. They have to go through calming their own emotional responses before they can really solve problems. Help them do this by remaining calm and not appearing to be upset or frustrated that they are not simply adopting the obvious solution.

No One's Perfect

The strategies described here will vary with their success. You can't reach all high conflict people and some disputes require an outside decision-maker to impose a solution. But remember that imposed solutions are rarely followed by high conflict people – they are just another bump in the road of adversarial thinking. While you can't reach everyone, it's worth a try to build a team against the problem and you may calm a family or workgroup enough to keep them out of court – or your office – in the future.

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