

# MWI's Mediation Training Program

# Welcome!



# MWI's Mediation Training Program

- Purpose
- Methodology
- Challenges
- Expectations
- Logistics
- Agenda Review
- Questions?

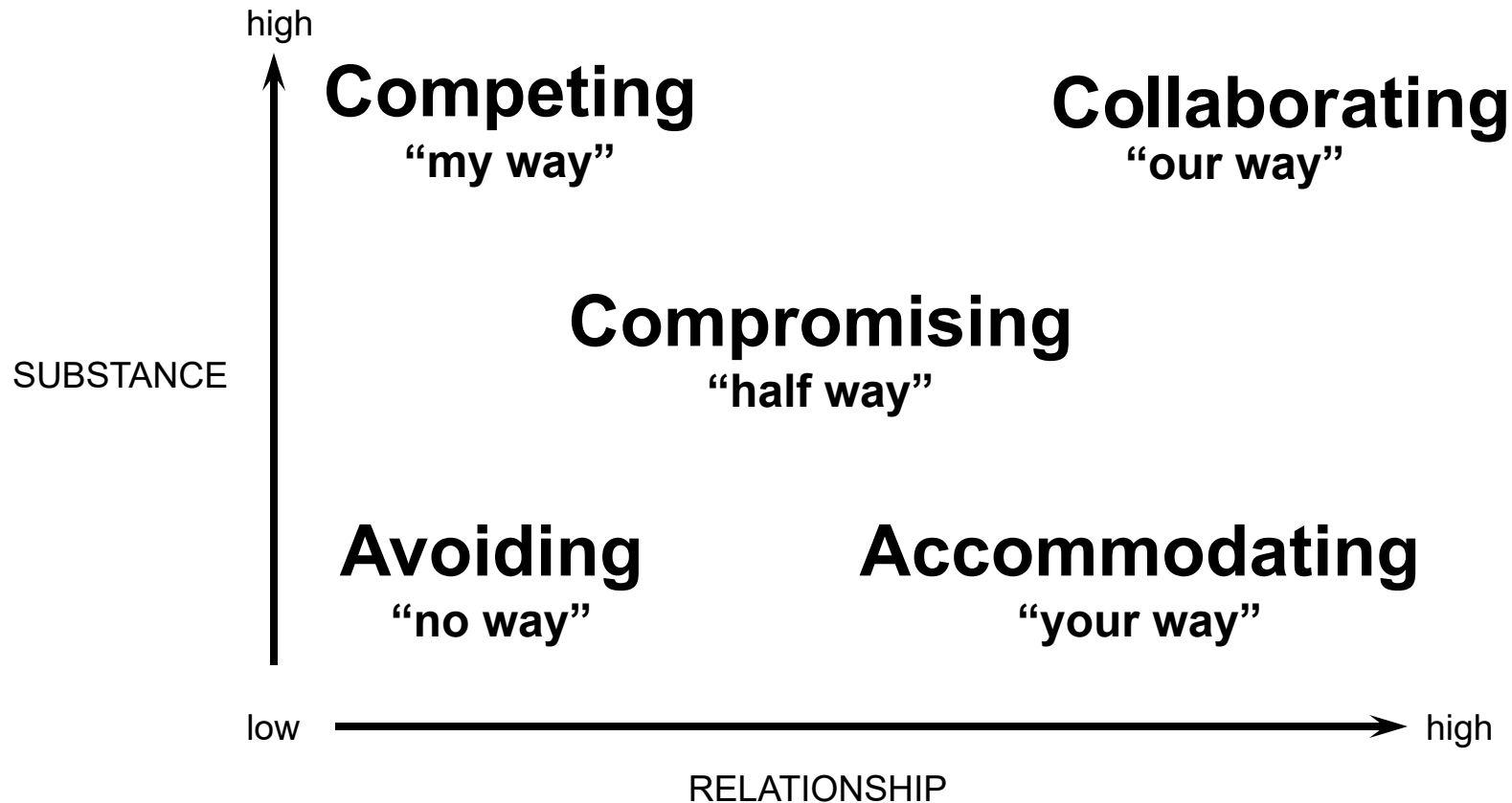


# Zoom Overview

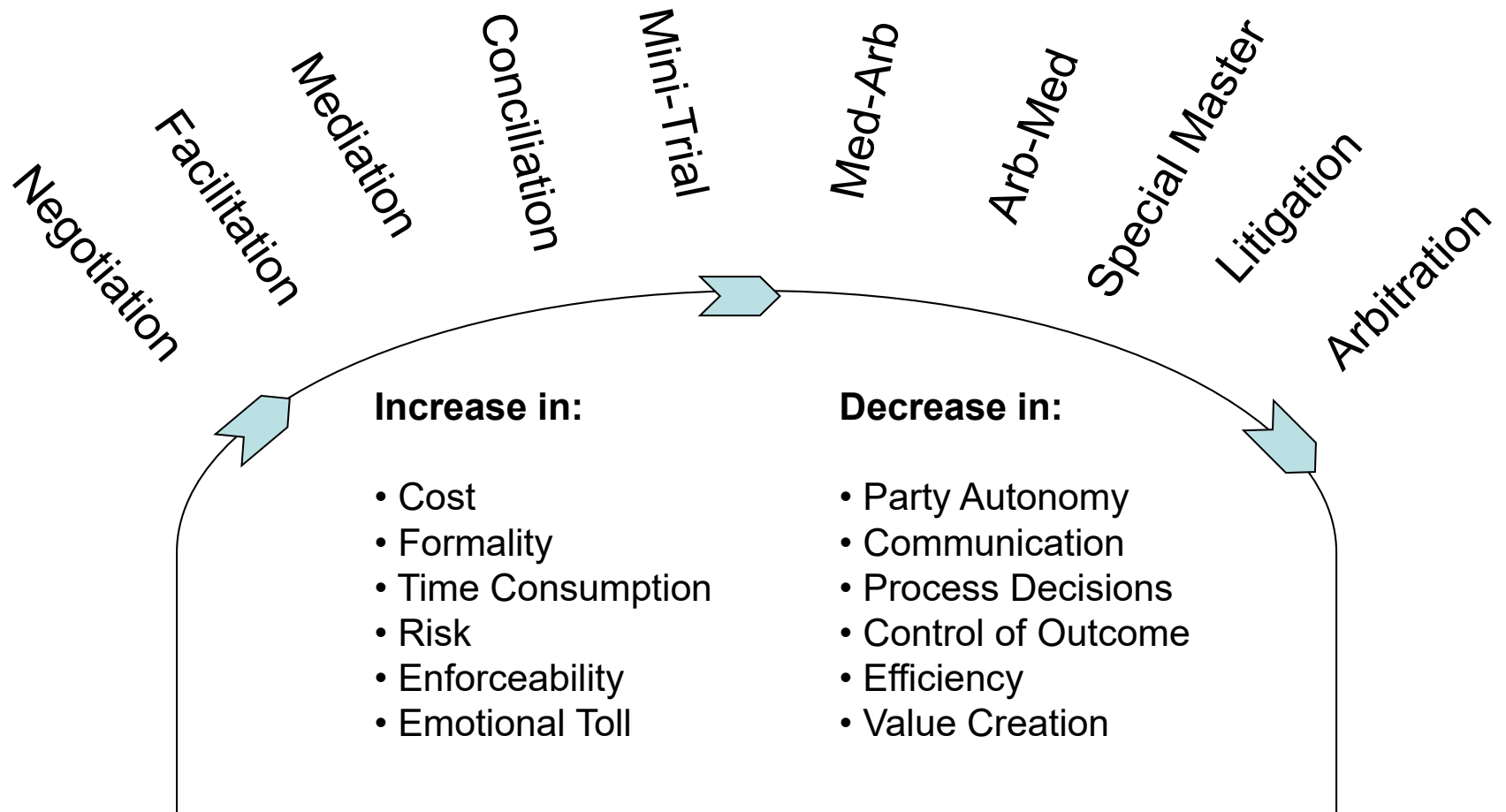
- Two views (top right-hand corner) – Gallery (see everyone) vs. Speaker view
- Leave camera on during the training
- Chat feature will be on – check if you're sending a message to everyone vs. a specific person
- Raise hand - Alt+Y (PC) / Option+Y (Mac) to ask a question
- Check that your name is correct
- Please mute your mic when you are not speaking. Hold spacebar down to temporarily unmute your microphone.



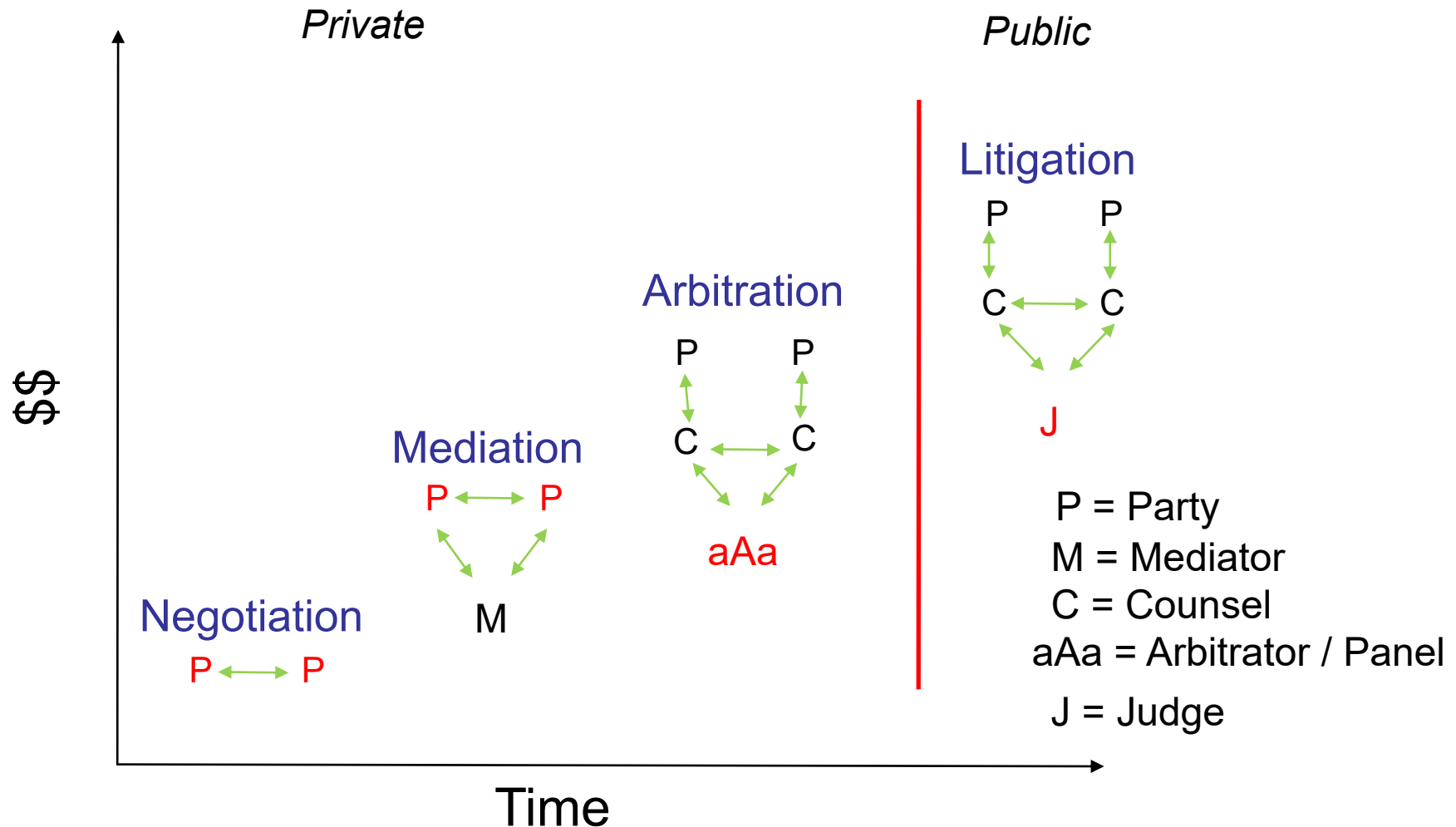
# Conflict Styles



# Dispute Resolution Processes



# Dispute Resolution Processes



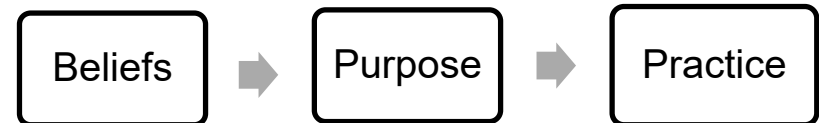
# Mediation Overview

- Definition – “Assisted Negotiation”



- Goals of Mediator:

- Manage process effectively
- Facilitate communication
- Focus on interests
- Help parties define and meet goals



# Principles of Mediation

- Voluntary
- Impartiality / Neutrality
- Confidentiality
- Informed Consent
- Self-Determination





# Structure and Stages of Mediation

## *Pre-Mediation* - Screening and intake / Preparation

- Initial Joint Session (public)
  - Defining an agenda / Identifying interests
- Individual Sessions (private)
  - Generating options / Analyzing alternatives / Making decisions
- Final Joint Session (public)
  - Reaching closure / Agreement Writing

## *Post-Mediation* - Evaluation / Follow-Up



# Mediators' Introduction

1. Welcome / Names
2. Explain process and roles
3. Voluntary
4. Confidentiality
5. Neutrality
6. Structure of mediation
7. Agreements
8. Confirm participation / questions



# Initial Joint Session

- Mediator 1 and 2 split the Mediators' Opening
- Mediator 1
  - Asks - who would like to begin? (Party A)
  - Informs Party B about next steps and lets them know they will have the same opportunity / Asks Party A – why here and what are you looking for
- Party A speaks
  - Mediator 1 thanks Party B for waiting and summarizes Party A's perspective to confirm understanding / Mediator 2 summarizes any additional points (if needed)
  - Mediator 2 invites Party B to speak – why here and what are you looking for
- Party B speaks
  - Mediator 2 thanks Party A for waiting and summarizes Party B's perspective to confirm understanding
  - Mediator 1 summarizes any additional points if needed
- Mediator 2
  - Asks both parties - Is there anything either of you wish to add? Summarizes
  - Asks each party to define what a successful mediation looks like for them | Listen and summarize

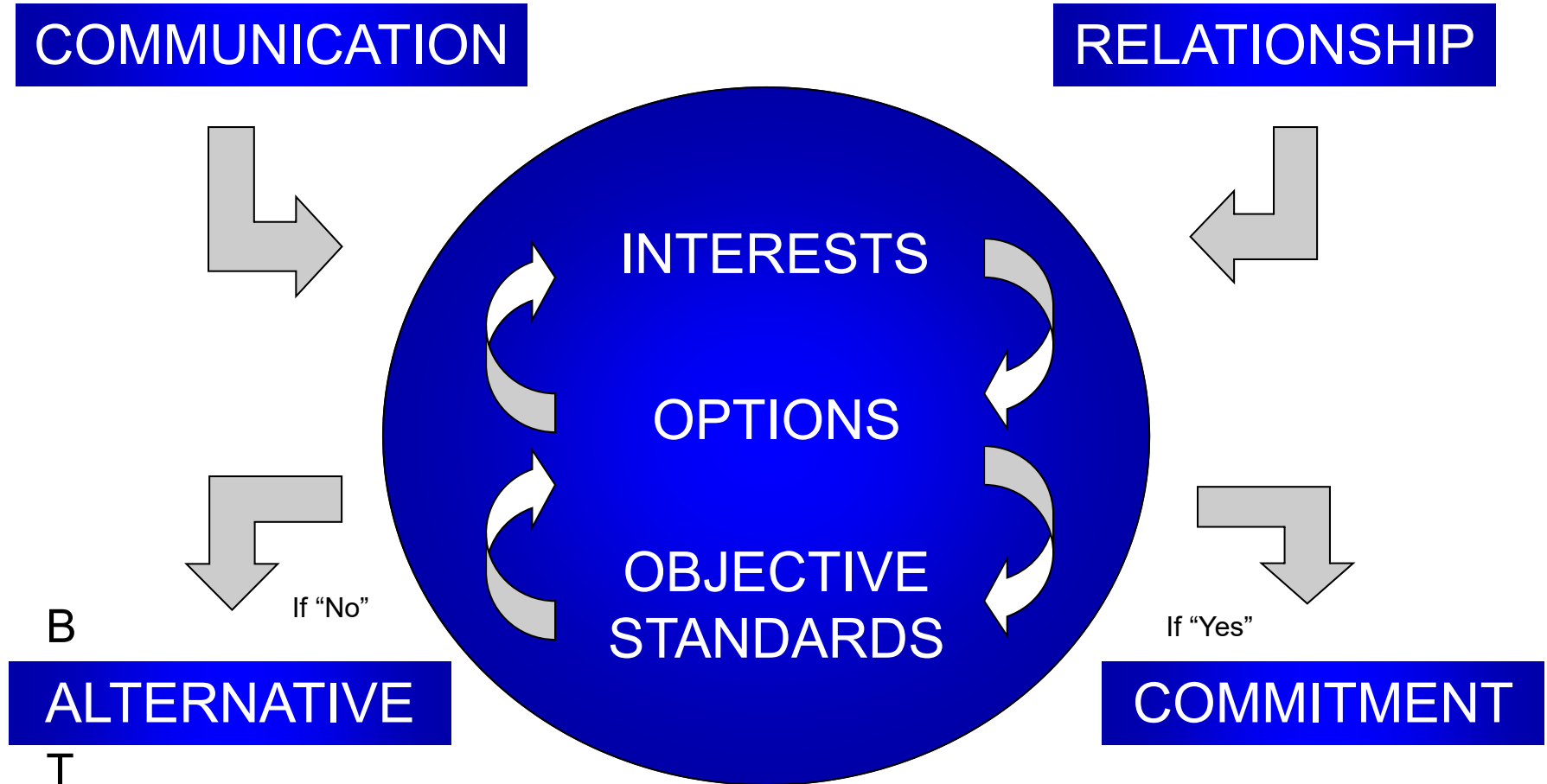


# Mediators Caucus

1. How are YOU doing?
2. How are WE doing as a team?
3. What do we know about each party's INTERESTS?
4. What do we do next and why?



# Negotiation Framework for Mediators



B

ALTERNATIVE

T  
M  
A

If "Yes"

COMMITMENT

# Early Private Session Mechanics

[check with party not going to private session / give homework]

- Welcome back
- Confidentiality overview
  - This session will be as confidential as you want it to be
  - We'll check in with you at the end of this session about what you want us to keep private from the other party
- Anything to add?
- Allow for venting
- Summarize / reframe to interests:
  - Ask “Why?” / Follow-up with “Anything else?”
  - Ask / listen for options once interests are out
  - Wrap-up with summary of interests / options
- Confidentiality check / give homework

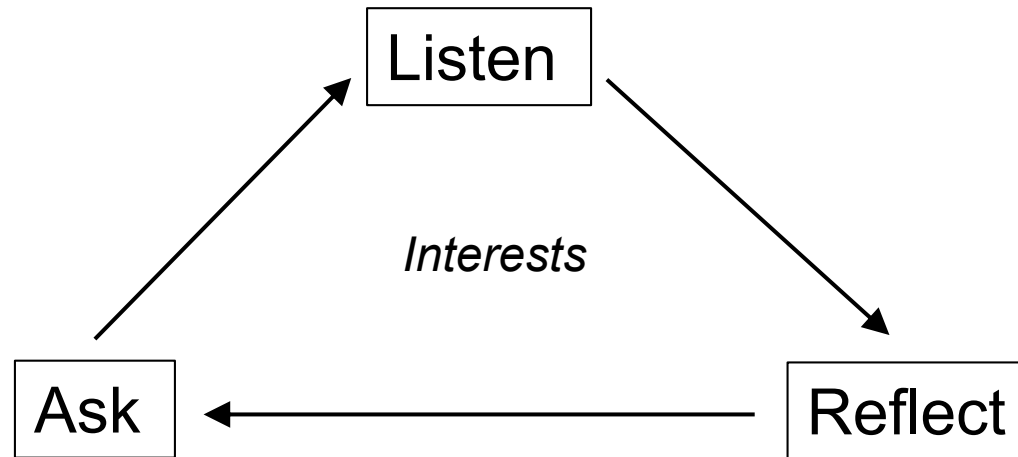


# Later Private Sessions

- *Goals*
  - Develop / Refine options
  - Evaluate alternatives / Address impasse
  - Prepare to reach agreement or end mediation
- *Mechanics*
  - Welcome back / Begin with confidentiality
  - Ask about homework and explore options
  - Address barriers to agreement
  - Conduct Reality Testing
  - Examine / Discuss alternatives
  - Prepare for final joint session
  - Close with confidentiality



# Listening Triangle



- OEQ (open-ended questions)
- CEQ (closed-ended questions)

- What are hoping to achieve in mediation?
- What would be a successful outcome?
- Tell us more...
- Why is that important to you?
- Is there anything else?

- Repeat
- Summarize
- Reframe
  - Positions to interests
  - Negative to positive
  - Past to present





# Final Joint Session: Mechanics

- Welcome back
- Identify progress (if any)
- Summarize interests
- Ask parties for options
- Manage process
  - Memorialize agreement
  - Watch for and manage breakdowns in communication
  - Congratulate parties and counsel for their accomplishments



# Elements of an Effective Agreement

- Drafted in the words of the parties
- Addresses the interests of the parties
- Present / future oriented
- Workable, realistic, implementable
- Clear, precise, specific
- Legible
- Anticipate contingencies
- Plan for breaches (ADR provision)
- Confirm terms with parties
- Opportunity to review by counsel
- Do not bind absent third parties



# Dealing with Difficult Behaviors

As you observe the simulations, prepare to answer the following questions:

1. What was the difficult behavior?
2. What did you see the mediators do?
3. What else could be done?



# Rule 9 – Uniform Rules Ethical Duties

- Impartiality
- Informed Consent
- Fees
- Conflict of Interest
- Responsibility to Non-Participating Parties
- Advertising
- Confidentiality
- Withdrawing



# Ethical Dilemmas

1. Review dilemma
2. Identify the challenged Ethical Standard(s)
3. Discuss options (no need to reach consensus)
4. Select spokesperson to provide summary of dilemma to class
  - Groups 1 & 2 – Dilemma 2
  - Groups 3 & 4 – Dilemma 5
  - Groups 5 & 6 – Dilemma 6



# Learning Cycle

