



TEACHING OPPOSITES

MEDIATION

Teaching Note

This simulation is one of three created for a mediation training program for the Ontario Teacher's College. It is intended to focus mediators on "core emotional concerns" that might have been triggered in the parties – two teachers in conflict. It references the "core concerns model" outlined in Fisher and Shapiro's *Beyond Reason: Using Emotions as You Negotiate* (Penguin 2006), adapted to a mediation context. The teaching point is that when practicing "active listening," a mediator is wise to target paraphrastic restatements to the core concerns they hear in the parties' situation or statement.

To keep this teaching note brief, I'm including chapter 4 from my book, *Client Science: Advice for Lawyers on Advising Clients Through Bad News and Other Legal Realities*, (Oxford 2012). That chapter explains how lawyers can use "targeted active listening," attuned to the Fisher and Shapiro's core concerns. My advice to mediators is the same.

As you'll see, both parties' roles contain instructions to exhibit certain attitudes and behaviors. This is intended to give mediators practice at intervening to de-escalate. To build trust with the mediator, and insight for all, the mediators and the process should be well served by active listening and particularly by "targeted active listening" – targeted to the core emotional concerns.

Not surprisingly, the other key to understanding and resolution lies in disclosing information and explaining divergent perspectives.

On the professional competency theme: these two teachers have different priorities when teaching 7th and 8th grade English. Clearly, both grammar and mechanics are important, as are engagement, ideas, and love of reading and learning. They could learn much from each other (and from Martin's experience). Better communication and collaboration will benefit the students. PJ can learn the detrimental effects of humiliating students and the benefits of positive classroom experiences. Dale can learn what grammar and mechanics are missing when their students move on to eighth grade.

On the related theme of assumptions and impressions regarding professional competence: PJ's assumptions about Dale led her to believe Dale didn't know eighth-grade grammar, and that's why Dale had the eighth-grade grammar text. Wrong! In fact, Dale was consulting it for sound professional reasons. PJ perhaps needs to learn that marking up beginning-of-the-year submissions with red ink is not the only way to teach. It seems to impinge on Dale's autonomy (why should Dale have to justify this to PJ), but Dale's decision to use these papers as a baseline, and to aim teaching toward common errors should make sense – even to PJ and the principal.



On the “privilege” them, Dale should not let their assumptions about class and background shape their views of PJ.

The mediator will be wise to enable both parties to explain their perspectives and interpretations regarding the precipitating “ugly scene” in which Dale sees PJ “pawing through” Dale’s personal belongings in their tote bag on their classroom desk. PJ’s motives were benign: acting on the request of another colleague to find a missing textbook. Dale’s anger when they came into the room and saw PJ going through the tote bag was understandable. And Dale’s reasons for having the textbook were laudable- to better direct their own teaching. No doubt, unkind words were spoken (or yelled). The physical choreography that landed PJ on the floor is also subject to differing interpretations of moves, reactions, and responses.

The plotline story about Martin, Dale’s son is also salient. No doubt, a son’s struggles in school are difficult (an identity issue) for any parent – even more so if obvious in a colleague’s classroom. The classroom teacher may also feel bad (an identity issue) if they can’t successfully teach a colleague’s child. The situation predictably generates defensiveness and accusations of fault. Some genuine understanding and empathy on both sides should help. Regarding Martin, PJ would benefit from understanding his teenage struggles outside of class, as well as how he responded to their classroom interactions. Dale would benefit from understanding how PJ interpreted his shorter and shorter essays, as well as the rejection of the parent-teacher conference offer.

In general, both teachers would benefit from learning more about each other’s background, reasons for teaching at that school, and current [difficult] circumstances - beyond stereotypes.

The plotline follows, as shortened versions of the parties’ perspectives, core concerns, and instructions for behaviors to exhibit in mediation.

The Plot Lines

From the perspective of teacher Dale Watkins:

Dale Watkins is 45 years old and has been teaching at the Catholic middle school for twenty years. Watkins and his spouse are Catholic, products of Catholic schools and working-class families. Watkins resents PJ Gannon as a “little snot” for their British accent, Ivy League pedigree, and seeking to “bring working stiffs to higher standards.” While Dale knows grammar has its place, they place a higher value on students learning to enjoy reading and analyzing literature and writing. Nit-pickers write tidy papers but lack ideas. Dale believes nitpicky and hyper-critical teacher makes students afraid to express their ideas and dislike writing. Thus, Dale and PJ rarely agreed in English department meetings.

Dale’s son Martin had been in PJ’s class the previous year, and Dale had been angry about the way PJ treated him. PJ emphasized neatness and clean sentence structure, not Martin’s



strong suits, and would single Martin out in class. Dale saw that Martin eventually wrote shorter and shorter papers for PJ's class, which gave PJ less to criticize and mark up. Dale did not raise Martin's issues with PJ for fear of retribution but believes the experience negatively affected Martin's feelings about school. PJ characterizes her soon as a bright boy who doesn't quite have his act together, going through social struggles, gangly and physically awkward. Dale didn't respond to PJ's suggestion for a parent-teacher conference written in comments on one of Martin's papers, annoyed that PJ hadn't bothered to talk with her about it as a colleague.

The precipitating conflict between them arose when Dale came back to their classroom shortly after the school date and saw PJ Gannon going through items in Dale's tote bag on their desk. The tote bag contained a batch of student papers, books, wallet, prescription medicine, and other personal items.

Dale said, "Drop the bag," and grabbed it from PJ's hands. Dale's description of the ensuing altercation is that PJ pushed them - HARD. PJ then grabbed the back of the heavy metal desk chair with both hands and started to lift it, clearly intending to hit Dale with the chair. Dale PJ not to touch the chair and to back away. When PJ refused, Dale swung at them with the tote bag, to avoid being rammed by the chair. The chair must have been heavy, because PJ then fell backward onto the floor, screaming (though there were no injuries). Then PJ started stammering and sputtering something about needing the grammar book. Dale said that no one has a right to go into their classroom and steal from their bag, "not even Princeton nitwits."

At that point, according to Dale, PJ went into a completely offensive self-righteousness rant and started lecturing them about keeping student papers too long. At first, Dale ignored it, but was outraged that PJ would tell them about how to manage their work?! Then Dale saw this as PJ's strategy of blackmail and a good offense. Dale figured PJ was afraid of being reported to the principal. That explained why PJ offered not to report Dale for late papers. PJ apparently saw these papers as "evidence" against Dale and was threatening to use them.

Over the next few days, PJ repeatedly asked Dale about the student papers. Dale ignored it. A week later, PJ again asked about the papers and suggested Dale might want to help with them. Dale blew up, told PJ to stop the harassment, and decided to make a formal complaint.

Dale was outraged but not surprised when PJ made a counter-complaint for professional misconduct and incompetence (apparently based upon the alleged assault and the ungraded student papers).

(If pressed about the papers, Dale would say were submitted by the students at the beginning of the school year. Dale had originally planned to mark them up and hand them back. While the student's ideas weren't too bad, the grammar and sentence structure were indeed atrocious – unacceptable even for Dale. It would have taken unbelievable time to go through them carefully. Dale's home life has been extremely difficult, as their spouse is a firefighter and was injured several months ago. Their recovery has been slow. Dale has run the



household and done all chauffeuring for their three kids. Dale finally decided to hold onto the student papers, consider them as the “baseline,” and teach a unit to address the most prevalent problems. Dale had been reviewing the eighth-grade grammar text to see how it presented certain concepts. After that unit, each student’s paper would be compared to that originally submitted, to determine whether the student had made progress. No grades would be recorded for the initial papers.)

From the perspective of PJ Cannon, Teacher

Originally from England, PJ was educated in private British boarding schools and Princeton University in the US. At Princeton, PJ enrolled in the teacher certification program and loved teaching. PJ chose teaching as a profession instead of a more lucrative career paths. PJ has taught eighth-grade English for three years at this school and for two years elsewhere. PJ moved to this school when your spouse, who is of Middle Eastern descent, lost their job as an engineer; the family wanted to be close to nearby relatives.

PJ was angry and upset but not surprised to learn that Dale Watkins had filed a formal grievance against you, alleging harassment and professional misconduct.

PJ has had numerous run-ins with Dale at teachers’ staff meetings over the importance of correcting students’ grammar, punctuation, or sentence structure errors. PJ thinks Dale is lazy and spends time addressing deficiencies in Dale’s students’ writing when they get to PJ’s class. Concerned for the students, Dale has repeatedly brought this up in English department meetings. Dale took the criticism personally and complained to others that PJ was a “harasser” and a “stickler without substance.”

The tension between them rose last year when Dale’s son, Martin, was a student in PJ’s eighth-grade class. PJ thought Martin was a disaster as a student. He lacked any concept of punctuation, grammar, or order, and submitted assignments that were sloppy and too short. To PJ, this displayed a complete lack of thought or care. PJ spent considerable time marking up his papers and suggested a parent conference, but Dale never followed up. Dale gave Martin’s papers the low grades they deserved. PJ found Martin to be inattentive, obnoxious, and belligerent and eventually stopped calling him in class. PJ once heard him snickering about them as a “little English snot.” Though PJ never discussed this with Dale, PJ suspected his attitude came from what Dale must have said about them.

Recently, PJ and Dale became embroiled in a very ugly dispute. It all began when, shortly after the teaching day ended, PJ was asked by another eighth-grade teacher to help look for a missing grammar text and its package of teaching materials. These were sometimes borrowed by 7th-grade teachers for advanced students. When PJ knocked on the door of Dale’s classroom, no one answered. PJ entered and began looking for the missing book. PJ was horrified to see a stack of student papers spilling out from a tote bag on Dale’s desk. PJ saw that the student papers were dated eight weeks earlier. They were sitting on top of the grammar text, inside the tote bag. The other missing teaching materials were sitting on the desk nearby. PJ suspected Dale was consulting the text to correct student papers.



Suddenly, Dale opened the door and shouted: “What the F___ do you think you’re doing stealing my things?” Dale ran toward PJ, pushed them aside roughly, and yanked away the tote bag and the stack of papers. PJ pushed back and said: “Hey, watch it, don’t be so rough” and then reached to grab the chair to stop from falling. Dale yelled: “Oh, now you’re going to slug me with a chair?” Dale twisted and grabbed the chair from PJ, knocking PJ to the floor, and then swung the heavy tote bag, which hit PJ in the face.

PJ screamed for Dale to stop. From a humiliating position on the floor, PJ yelled: “Stop being ridiculous! I was just looking for a missing book.” Dale didn’t apologize, didn’t help PJ off the floor, but yelled: “You conniving snotty thief! How dare you go into my personal bag, and steal my things? What gives you the right to enter my classroom? No one has the right to go through my papers, not even an F—ing Princeton nitwit.”

PJ tried to explain that Dale had misunderstood, that PJ hadn’t meant to look through anything personal, that the book was needed by the eighth grade and belonged to the school, and that Dale shouldn’t wait eight weeks to hand back student papers. While making a hasty retreat, PJ tried to reassure Dale that they wouldn’t report the physical attack and hoped the papers would be handed back soon. PJ said they hoped no harm would come from the misunderstanding.

A few days later, Dale ignored PJ when they asked about the student papers. PJ began to wonder more about Dale’s competency. PJ knew that Dale preferred teaching reading and analyzing poetry. PJ had observed that Dale’s diction and grammar were not perfect in faculty meetings and memoranda; perhaps Dale wasn’t secure about grammar rules. PJ knew Dale’s family was less affluent, and suspected Dale resents their privileged background. PJ decided to try to mend things. The next day, PJ again asked if Dale wanted help with the papers because these take a long time to mark. Dale blew up and told PJ to stop the “constant threats and harassment.” Apparently, Dale then decided to make a formal complaint. PJ also made a complaint about Dale, based upon the outrageous unprofessional language and physical assault, as well as professional incompetence.

The Core Concerns and Behaviors – Supplied in the Parties’ Role Information

Dale Watkins’ role information describes their Core Concerns and instructs them to exhibit related behaviors in mediation, as follows:

Status: You feel that PJ is considered “higher status” because PJ went to an Ivy League School and come from an upper-class background. You are also aware that people know your spouse is a firefighter, with only a high school education, and PJ is an engineer. Within the school, you sometimes feel people defer to PJ, listening to PJ’s views over yours. PJ seems to be on a “fast track” while you have been in the same career place for a long time. You also think people look down on you because of Martin’s shortcomings, as if his poor school performance reflects your failure as a parent or your inferior intellect or work habits.



If PJ or the mediator makes ANY comment reflecting the status differential, you will be very angry.

Appreciation:

You feel that no one values the type of openness and enthusiasm for literature and expression that you promote in your classroom. They are tied up over grammar and rules and think your approach is inferior. You think that kids learn to write from reading, and comparing their writing to those of the greats, not only from a teacher's red pen.

Autonomy:

PJ's intrusion into your things was an invasion of your space and your privacy. PJ's repeated exhortations to hand back the papers were a brazen attempt to tell you what to do as a teacher.

Behaviors you might exhibit in the mediation:

Insist on talking about PJ's stealing your bag and papers FIRST in the mediation,

Dismiss PJ's explanation of their motives as ridiculous.

Insist PJ admits coming into your classroom to look through your things; that is not allowed.

Attack/denigrate the validity of PJ's teaching priorities.

Insult PJ's "prissiness" or "snottiness."

(If you can work it in) State that PJ has no business teaching in a Catholic school when they are not Catholic, and PJ's spouse is not a Christian.

At some point, withdraw from the dialogue (because you feel it's stacked against you).

PJ Gannon's role information describes their Core Concerns and instructs them to exhibit related behaviors in mediation, as follows:

Affiliation

You believe Dale resents and despises you and everything you represent. You don't see that you have anything in common. You suspect that Dale is resentful because of your wealthy background and Princeton degree. You think Dale is suspicious because you are not Catholic (in fact, you are an atheist), and your spouse is a Muslim of Middle Eastern descent. You know that Dale and Dale's spouse are faithful Catholics, products of Catholic schools. You have your doubts about Dale's work habits. You know that Dale is enthusiastic and charismatic, and students like their freewheeling style.

You also know that Dale's son Martin HATED your English class, and you are sure Martin said terrible things about you to Dale.

Appreciation

You feel that Dale looks down on you because you are young and less experienced, and that Dale doesn't value how hard you have worked to fit into the school.



It also galls you that you had initially decided NOT to press charges against Dale and had even offered to HELP with the ungraded papers. Dale is giving you NO credit for being constructive, or for your pure motives when searching for the book in Dale's classroom.

Behaviors You Exhibit

Deny all accusations (even if they are a little bit true).

Blame Dale for everything possible.

Repeat arguments and comments.

Accuse Dale of incompetence.

Take as much "airtime" as possible – interrupt.