



The Impact of the Apology on Communication and Negotiation

Nina Meierding
Negotiation and Mediation Training Services

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Note: **The PowerPoint is currently available on the CADRE website:**
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Nina Meierding MS, JD

Negotiation and Mediation Training Services

Bainbridge Island, Washington

(206) 780-8487

nina@meierding.com

www.mediate.com/ninameierding

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Training Services

Types of Apologies

Full apology

"I'm sorry; it is all my fault."

(usually accompanied with a promise not to repeat the behavior; usually offered without defense)

Partial

"I'm so sorry that this has happened."

(sometimes seen as an expression of benevolence; other times seen as strategically avoiding liability issues)

Partial and insincere

"I'm apologizing for the conduct that it was alleged that I did."

(usually seen as a ploy to avoid responsibility; often seen as politically expedient or pressured, often called "the non-apology apology")

The Impact of Full and Partial Apologies

- Situation: Clear fault
 - **Full apology**: 73% accepted the offer
 - **No apology**: 52% accepted the offer
 - **Partial apology**: 35% accepted the offer
- Situation: Shared fault
 - **Full apology** still had the highest settlement acceptance rate, but more people accepted the **partial apology** than when there was clear responsibility.

J. Robbennolt study (Dispute Resolution Magazine, Spring, 2004)

More Types of Apologies

- Unilateral or bilateral
 - From one to the other or reciprocal
- Contingency and/or transactional
 - In exchange for something
- Public or private

Even More Types of Apologies

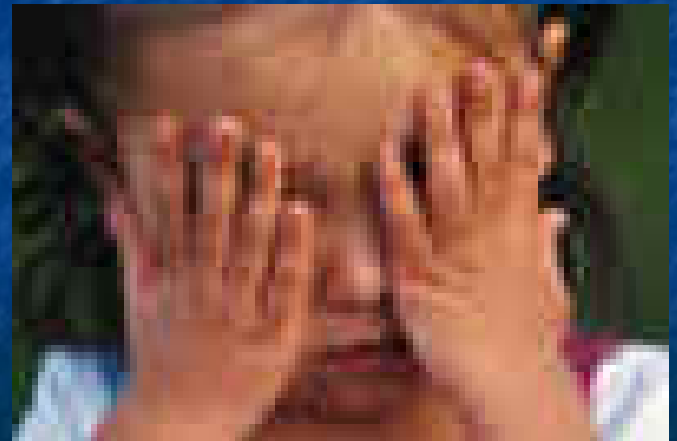
- Rapport
 - relational goal; not necessarily an acceptance of responsibility
- Ritual
 - restoration of relationship and rebalancing power
- Cohesion or dispersion
 - restore relationship or leave without guilt/anger

Attitudes Towards Fairness

- Legal standard of fairness
- Equitable standard of fairness
- Cultural standard of fairness
- Faith based standard of fairness

Need to Save Face

- Difference between:
 - **Ego** – individualistic cultures
 - **Loss of face** – collective cultures



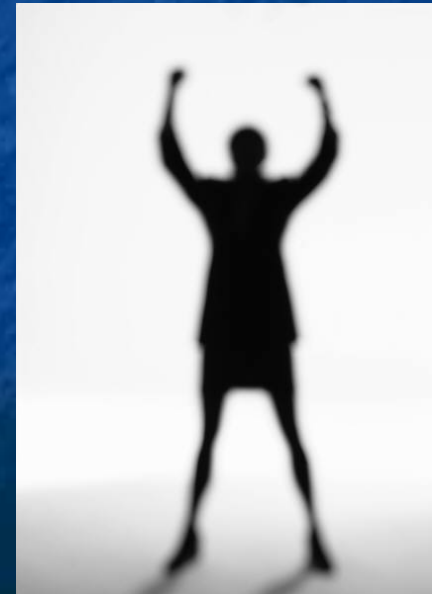
Timing

- Ripeness
 - Too little – too late
 - Too much – too expedient



Level of Emotion

- Comfort level of the parties – may be gender and/or culture based
- Comfort level of the mediator
- Be aware of your own bias towards the level of emotion



Level of Sincerity

- Not necessarily related to the level of emotion that is shown
- Acknowledgment of responsibility?
- Repentant? Remorseful?
- Offer of reparation or restitution?
- Changed behavior?



Apologies in Mediation

Why may an apology be important?

Some reasons include:

- **Reconciliation** (which may mean either a ritual, rapport, partial, private, cohesive apology – but not necessarily a full apology)
- **No repeat offense** (which may mean a full apology – but it could be that a partial, sincere apology with an offer or guarantee not to do the behavior may be acceptable)
- **Restitution** (which may mean a contingent, unilateral, confidential apology)
- **Restore reputation** (which usually means public, but could be full or partial, unilateral or bilateral, contingency or transactional apology)

Apologies in Mediation

- Who should make the apology?
 - Party to party, mediator on behalf of the party, leader of group?
- Who should be there?
 - Attorneys? Mediator? Who else?
- What kind of apology is needed?
- Where should it happen?
- When should it happen?
 - In mediation? Outside of mediation? (Both?)

Conclusion

- An apology should be “mindfully” made – understanding the complexity of how it should be delivered and how it may be received.
- Mindful apologies are just as sincere as spontaneous apologies. In fact, because they are thoughtfully done, they involve more reflection, thought, and intent.

Upcoming CADRE Webinar:

Tricia Jones on
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