

# ~ Creating Agreement ~

## Collaborative Problem Solving in Early Intervention and Special Education

100<sup>th</sup> Anniversary of School Social Work  
Conference

Carol Auer, AASA

Steve Button, SSWAA

Terry Jackson, IDEA Partnerships

Lorena Morales, Fiesta Educativa

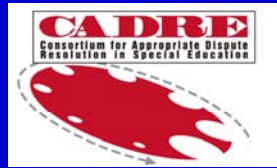
Philip Moses, CADRE

March 29, 2006

Boston, MA

# Jointly Developed By:

---



The Consortium For  
Appropriate Dispute  
Resolution In Special  
Education (CADRE)



The IDEA Partnership  
Project (at NASDSE)



With funding from the US Department of Education,  
Office of Special Education Programs (OSEP)

# Development Team

The following individuals & organizations participated in the development of this presentation



- American Association of School Administrators
  - Carol Auer



- American Occupational Therapy Association (AOTA)
  - Carol Gryde



- Consortium for Appropriate Dispute Resolution in Education (CADRE)
  - Loni Elliott
  - Philip Moses
  - Marshall Peter
  - John Reiman
  - Richard Zeller



- IDEA Partnership
  - Joanne Cashman
  - Terry Jackson



- Fiesta Educativa
  - Lorena Morales

# Development Team (cont.)

The following individuals & organizations participated in the development of this presentation



- **National Education Association (NEA)**

- Judy Richards



- **New York Long Island Families Together (LIFT)**

- Helene Fallon



- **School Social Work Association of America (SSWAA)**

- Steve Button



- **Statewide Parent Advocacy Network (SPAN)**

- Diana MTK Autin



- **Wisconsin Family Assistance Center for Education, Training & Supports (FACETS)**

- Nelsinia Ramos



- **Wisconsin Special Education Mediation System**

- Nissan Bar-Lev

- Jan Serak

---

“Seek first to understand, then to be understood.”

Stephen Covey, “Habit 5”  
Seven Habits of Highly Effective People

# CADRE/IDEA Partnerships

## Dispute Resolution Workgroup Vision

---

- ❑ Educational outcomes will be improved when families, schools and service providers are working together effectively.
- ❑ Provision of training and educational opportunities to a diverse group of stakeholders enhances the capacity to engage in collaborative problem solving and shared learning that is responsive to individual students' needs.

# Workshop Outcomes

---

Participants will acquire an increased awareness of the breadth of issues and strategies associated with Special Education Dispute Prevention/ Early Resolution including:

- ❑ Gaining a better understanding of conflict and the ways that people respond
- ❑ Learning about programs and strategies that comprise the “Continuum of Conflict Resolution Practices”
- ❑ Understanding the power of listening in preventing and resolving conflicts
- ❑ Gaining an awareness of interest based problem solving strategies
- ❑ Understanding the important role of cultural issues in relation to resolving disputes
- ❑ Becoming aware of useful resources for additional information

# Our Assumptions...

---

- ❑ Different cultures may have differing perspectives on conflict and how it's most appropriately approached
- ❑ Conflict is a healthy reflection of a diverse and changing society
- ❑ Most parent/school relationships are or can be positive and mutually respectful
- ❑ Skills can be acquired that help facilitate productive relationships



# Our Assumptions...

---

- ❑ Early opportunities exist to collaboratively address differing viewpoints on how to best serve the child
- ❑ Adversarial processes should be reserved for situations where other options have been exhausted
- ❑ The cost of adversarial processes can be high in personal, relationship and financial costs

# Conflict

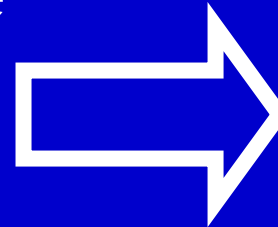
---

What does the word “conflict” bring to mind?

# Conflict

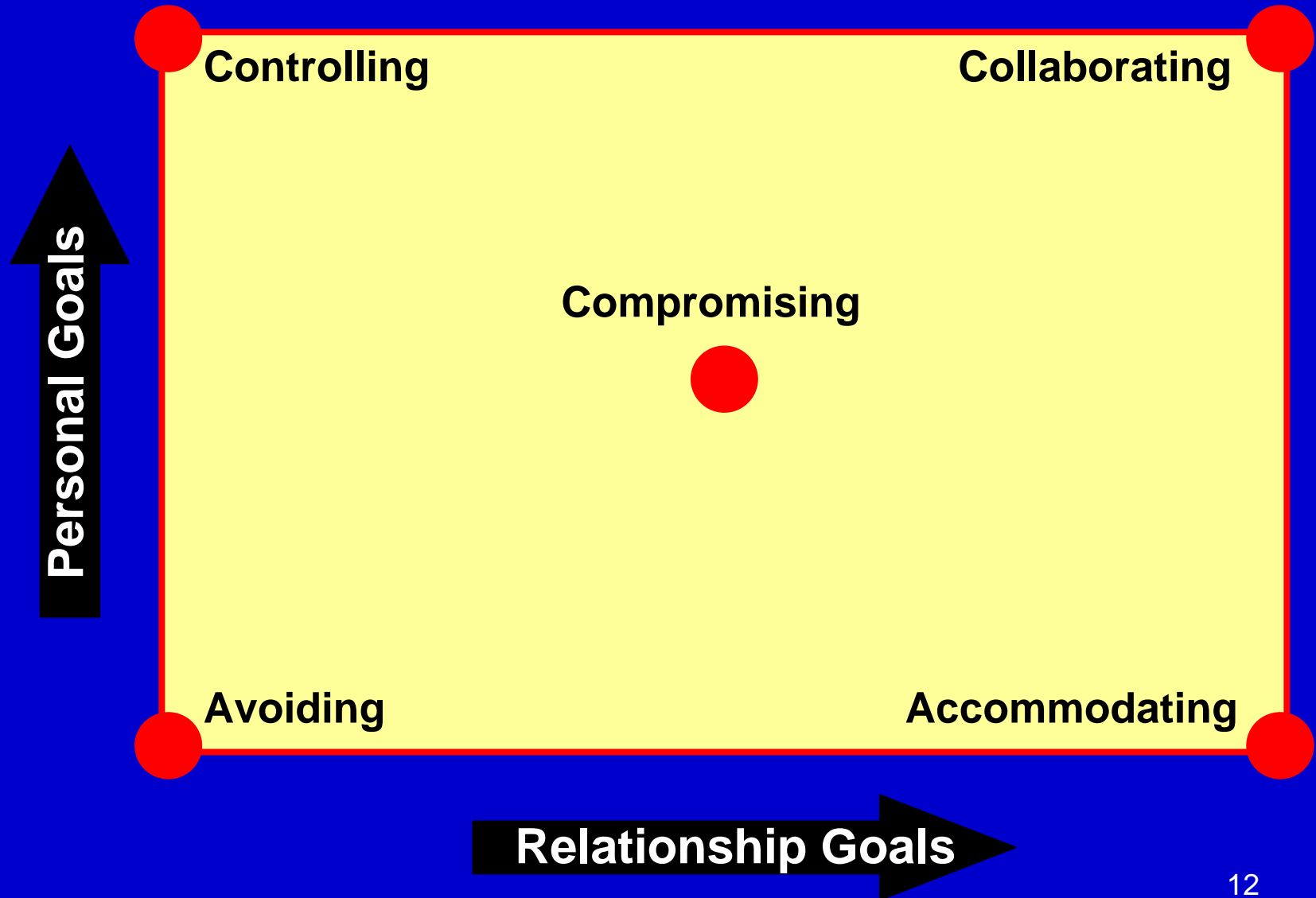
---

- ❑ Expressed struggle
- ❑ Two or more people
- ❑ Interdependent
- ❑ Strong emotion
- ❑ Perceived blockage

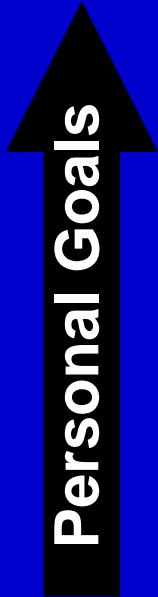


Needs  
Values

# The Five Conflict Handling Modes



# Avoiding



- What is it:
  - Sidestep, postpone, or withdraw from the issue for the present
- When to use it?
  - When potential harm outweighs benefits to resolve
  - When time is needed to collect information or cool down



# Accommodating

Personal Goals

- What is it?
  - Sacrifice your own personal goals to satisfy the concerns of the other(s)
  - Yield to another point of view
- When to use it?
  - When relationships are most important
  - Reach a quick, temporary solution

Relationship Goals

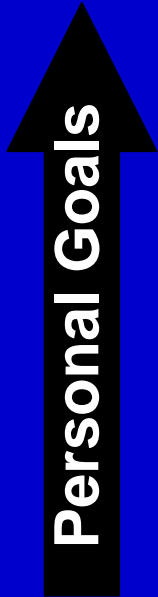
# Controlling

**Personal Goals**

- What is it?
  - Pursue own ends without agreement of others
  - Achieving one's personal goals paramount
- When to use it?
  - When unpopular actions must be implemented
  - When your family or organization's welfare is at stake

**Relationship Goals**

# Compromising



- What is it?
  - Quick, mutually acceptable alternatives
  - Both parties give up something
- When to use it?
  - When two parties of equal power are strongly committed to mutually exclusive goals
  - To achieve temporary solutions to complex issues





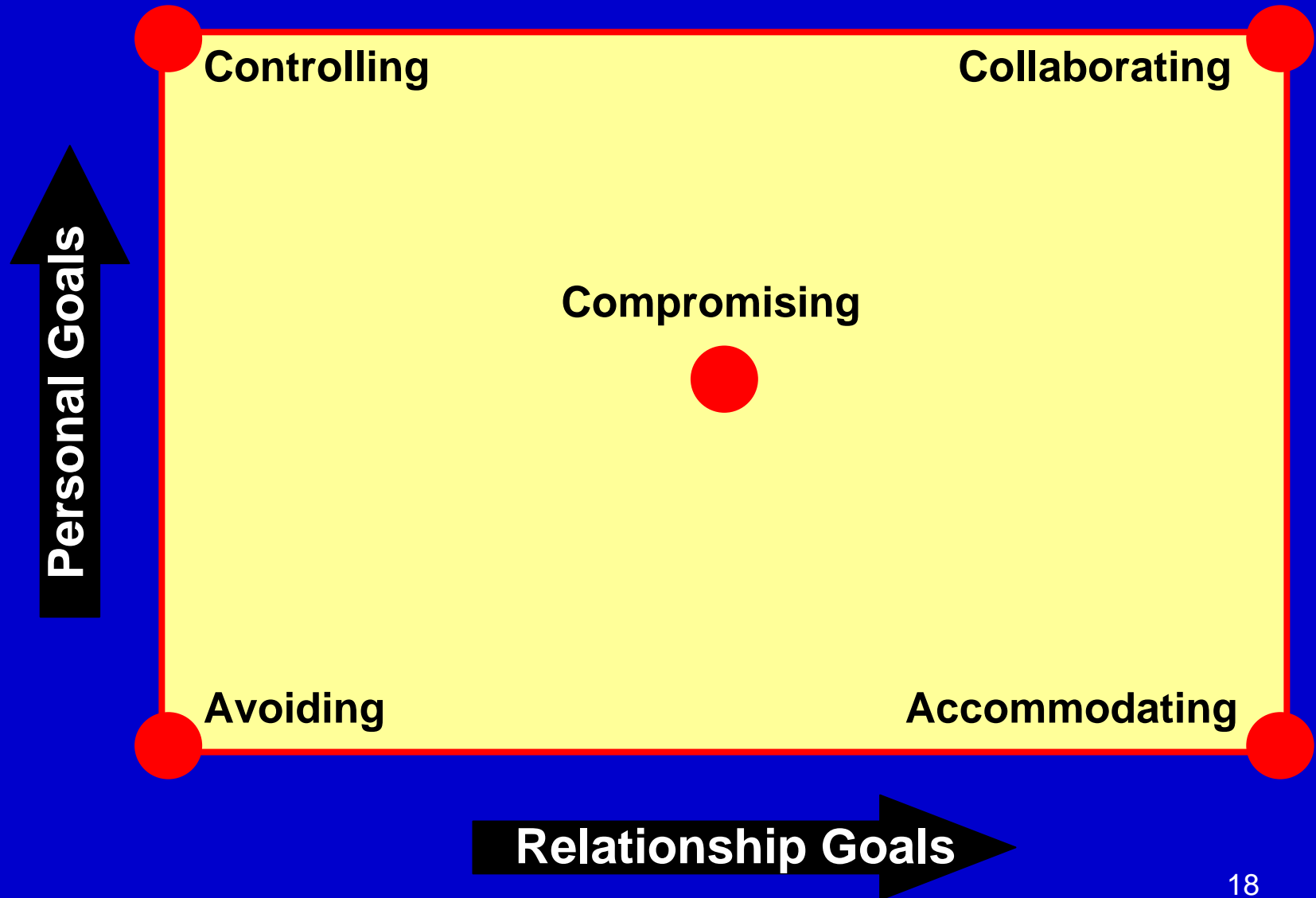
# Collaborating

Personal Goals

- What is it?
  - Identifying concerns of each person and finding alternatives that meet both sets of needs
  - Finding a solution that fully satisfies needs and concerns of both people
- When to use it?
  - When relationships & issues are both important
  - To gain commitment and acceptance for a high-quality decision

Relationship Goals

# The Five Conflict Handling Modes



# Costs of Conflict

---

- ❑ Financial costs
- ❑ Educational costs: bleeds energy away from instruction, can interfere with needed consistency
- ❑ Human costs: stress, burnout, marital discord
- ❑ Relationships: hurts relationships among people who have to work together
- ❑ Societal costs: parents, families, schools divided; bad press for special education; missed opportunities

# Comparison of Dispute Resolution Approaches

Informal Negotiation	Resolution Session	IEP Facilitation	Mediation	IDEA Complaint	Due Process
Private/Informal	Private/Informal	Private/Informal	Private/Informal	Public/Formal	Public/Formal
2-3 days	15-30 days	12 Days	21 Days	60 Days	45 Days
\$ ?	\$ ?	\$ ?	\$ ?	\$ ?	\$ ?
Future	Future	Future	Future	Past	Past
Voluntary	Voluntary	Voluntary	Voluntary	Involuntary	Involuntary
Win/Win	Win/Win	Win/Win	Win/Win	Win/Lose	Win/Lose

Source: Adapted from Wisconsin Special Education Mediation System

- ❑ How much do you think each of these processes costs?
- ❑ What do you include when you think about process costs?
- ❑ It's more cost-effective to resolve disputes early.

# Dispute Resolution Processes Under IDEA '04

---

- ❑ Written State Complaint (assumed to be in regulations)
- ❑ Mediation
- ❑ Resolution Sessions
- ❑ Due Process Hearings
  
- ❑ For more information, visit: [www.....](http://www.....)

# Dispute Resolution Options

**No Neutral**

**With a Neutral**

**C  
O  
N  
F  
L  
I  
C  
T**

**Informal / formal Negotiation**

**Telephone Call**

**Scheduled Meeting**

**Resolution Session**

**Facilitated IEP Meeting**

**Facilitated Resolution Session**

**Mediation Session**

**IDEA Complaint**

**Due Process**

**Litigation**

**Law Suit**

**Destructive**

**Slander**

**Hate Mail**

**Violence**

Least coercive

Most self-determination

Most coercive

Least self-determination

# CADRE Continuum of Conflict Resolution Options

Stage I			Stage II			Stage III			Stage IV			Stage V			Stages of conflict			
<i>Prevention</i>			<i>Disagreement</i>			<i>Conflict</i>			<i>Procedural Safeguards</i>			<i>Legal Review</i>			Levels of Intervention			
Participant & Stakeholder Training	Stakeholder Council	Collaborative Rule Making	Parent-to-Parent Assistance	Case Manager	Telephone Intermediary	Facilitation	Mediation Models	Ombudsperson	Third-Party Opinion/Consultation	Resolution Session	Mediation Under IDEA	Complaints	Due Process Hearing	Hearing Process (Tier II)	Litigation	Legislation	Assistance/ Intervention Options	
Third-Party Assistance									Third-Party Intervention									Dimensions that help clarify placement of the options along the continuum
Decision Making by Parties									Decision Making by Third Party									
Interest Based Based on mutually acceptable solutions									Rights Based Based on legally defined rights									
Informal & Flexible									Formal & Fixed									

# Use of Procedural Safeguards 2002-2003 – 50 States

---

- Mediations Held
  - 6,790 held
  - 4,722 with agreements (70%)
- Due Process Hearings
  - 12,889 requests
  - 2,184 hearings held (17%)
- Complaints Filed
  - 5,715 filed
  - 2,992 with findings (52%)



Place holder title

# Creating Agreement: The Mediation Process

---

- ❑ Setting the Stage: Environment, Expectations, Process
- ❑ Establish rapport and trust
- ❑ Uninterrupted Time for each participant
- ❑ Identify, clarify, summarize issues
- ❑ Discuss issues and listen for common ground
- ❑ Generate possible solutions
- ❑ Consider possible solutions
- ❑ Build agreements along the way

# Power Imbalances

---

## Inherent in Conflict

- ❑ Actual and Perceived Power may differ
- ❑ Participants may not be equipped/ supported to participate effectively
- ❑ Cultural differences may contribute

## Addressing Power Imbalances

- ❑ All voices encouraged, supported and welcomed
- ❑ Well-facilitated processes and trained participants
- ❑ Relationships well-built help overcome imbalance

What else can help address power imbalances?

# Advantages of Early Dispute Resolution

---

- ❑ Privacy/Confidentiality
- ❑ Flexible, informal
- ❑ Addresses underlying issues, concerns & priorities of participants
- ❑ Capacity for creative resolutions
- ❑ Future focused
- ❑ Relatively time efficient
- ❑ Voluntary
- ❑ Allows direct communication
- ❑ Process educates participants
- ❑ Win/win outcomes
- ❑ Potential to build, maintain & enhance relationships
- ❑ A place for an apology
- ❑ More comprehensive
- ❑ Accessible to wide range of participants
- ❑ Higher satisfaction

# Listening

“Listening is probably the most cost effective element of a conflict management system.”

Mary Rowe

# High Risk Responses

---

## Sending Solutions

- ❑ Ordering
- ❑ Threatening
- ❑ Moralizing
- ❑ Advising
- ❑ Logically Arguing
- ❑ Questioning

## Evaluating

- ❑ Judging
- ❑ Praising
- ❑ Diagnosing
- ❑ Name-Calling

## Withdrawing

- ❑ Reassuring
- ❑ Diverting

Takes the focus off the other person



## Certain Responses ...

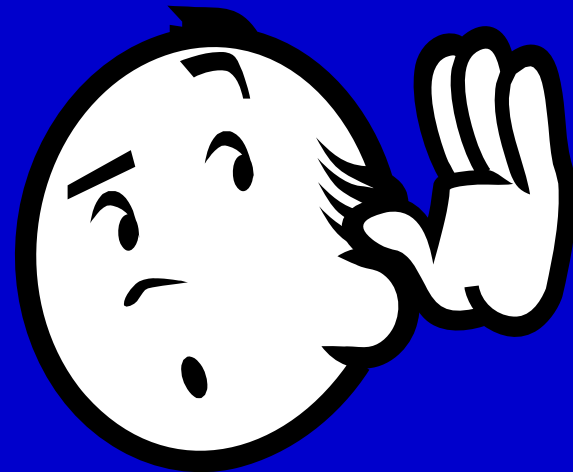
---

- ❑ Derail the conversation
- ❑ Take the focus off the other
- ❑ Block the other from finding a solution
- ❑ Lower the other's self-esteem
- ❑ Distance your self from the other
- ❑ Diminish the other's motivation

# Characteristics of Good Listening

---

- ❑ Think of a time when someone listened to you.
- ❑ What did he/she do that made you feel he/she was listening?
- ❑ What was his/her attitude toward you?



# Listening

---

Following the thoughts and feelings of others to understand what they are saying from their perspective, frame of reference, or point of view.

**Dignity and Respect**

EARS



EYES

UNDIVIDED  
ATTENTION

HEART

The Chinese characters that make  
up the verb “to listen” tell us  
something about this skill.

# Listening Problem Solving

---

- ❑ Sometimes speakers just need to be heard
- ❑ Sometimes listening clears up confusion
- ❑ Sometimes listening identifies a need for problem solving

# Reflective Listening

---

- ❑ The HEART of listening is:  
    EMPATHY, CARING & RESPECT
- ❑ Main rule:  
    KEEP THE FOCUS ON THE OTHER
- ❑ Basic skill clusters for reflective listening
  - ❑ Attending
  - ❑ Following
  - ❑ Responding

# Attending Skills:

---

- ❑ Posture
- ❑ Contact (distance, eyes, touch)
- ❑ Gestures
- ❑ Environment
- ❑ Interested Silence

# Following Skills

---

- ❑ Door-Openers
- ❑ Acknowledgement Responses
- ❑ Open-Ended Questions



# Responding Skills

---

- ❑ Reflecting Content
- ❑ Reflecting Feeling
- ❑ Reflecting Meaning  
(Content linked with feeling)
- ❑ Summarizing

# Listening is a disciplined skill

---

You can't do two things at once  
if one of them is listening.

# Positions & Interests

# Positions & Interests

---

## **Position**

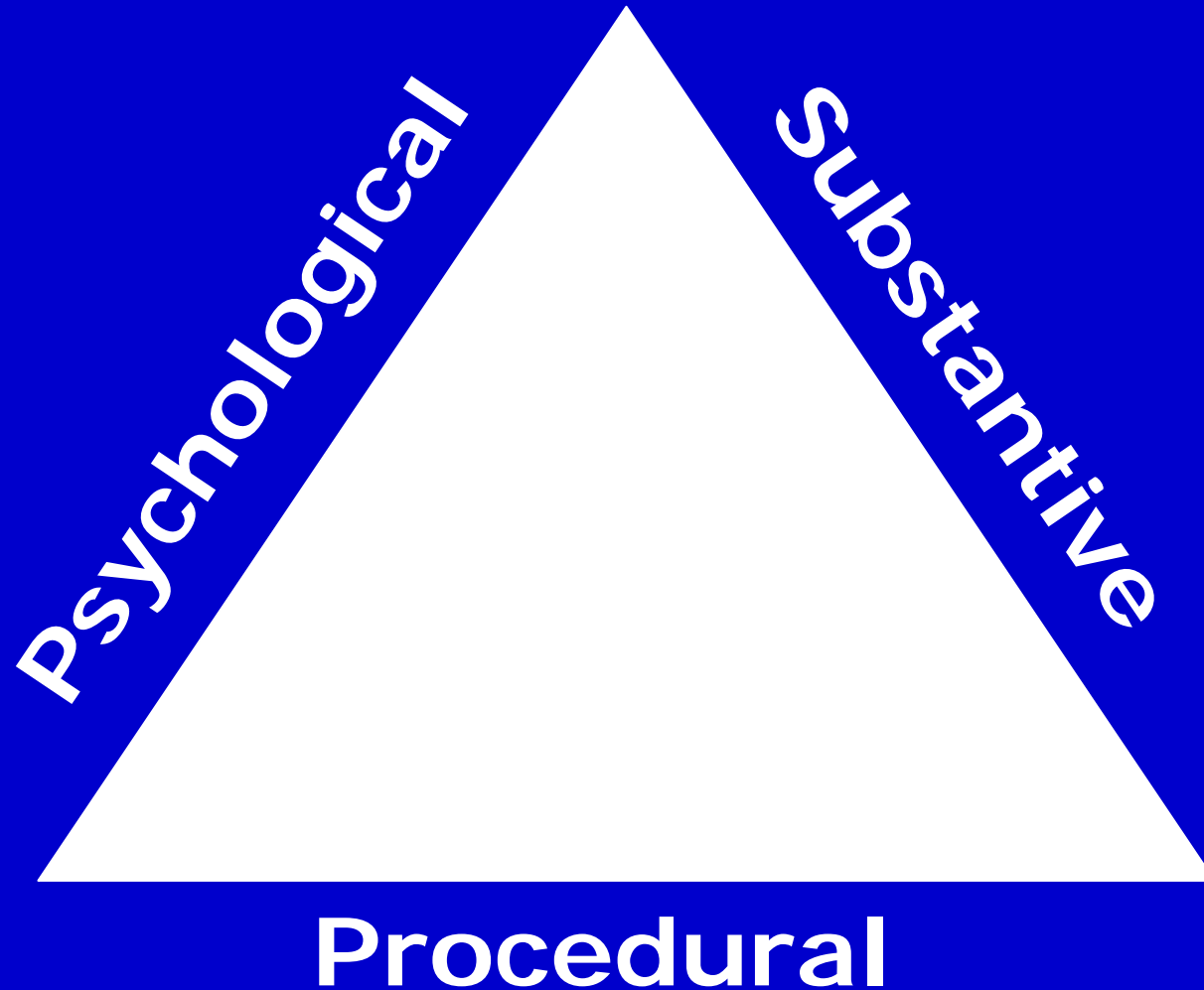
Specific solution proposed to resolve problem - the “WHAT”

## **Interest**

Underlying real need/desire that gives position its life (i.e., beliefs, expectations, values, fears, priorities, hopes, concerns) – the “WHY”

# Three Kinds of Interests

---

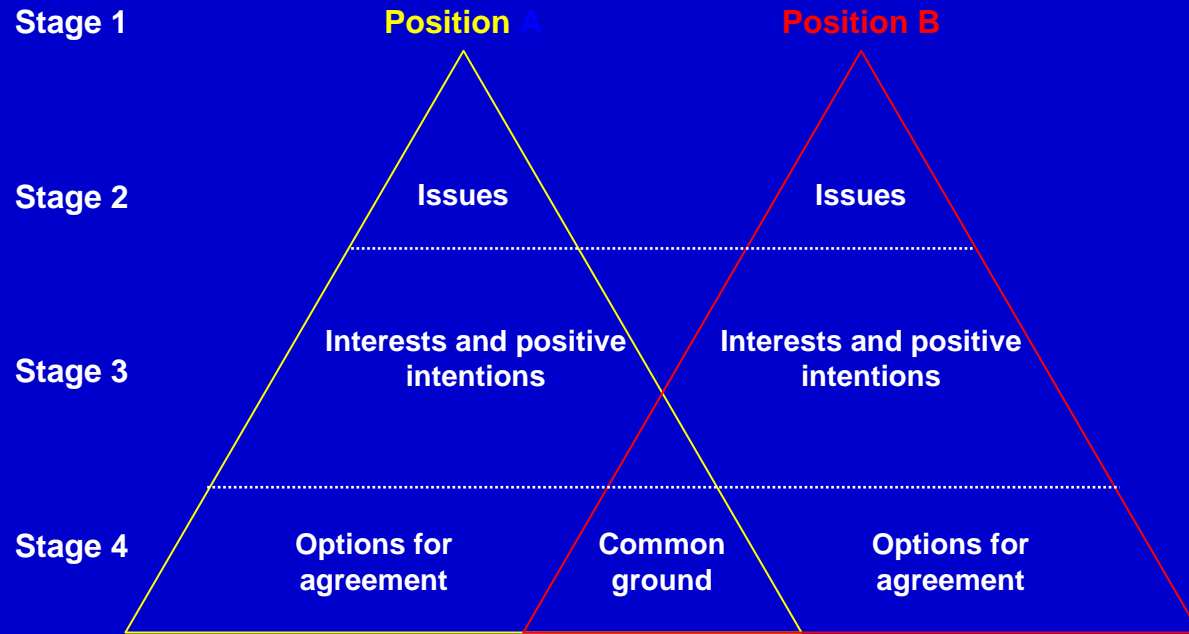


# Sample Positions:

---

- *"The target level for appropriate interactions in my classroom must remain at 50%."*
- *"We want an American Sign Language interpreter in that English Lit class."*
- *"I demand an apology now!"*
- *"Rob has a right to a full time instructional assistant next term"*

# Finding the Interests



<b>Position:</b>	One party's solution to the problem/ situation. Often a self-serving solution
<b>Issue:</b>	Elements or subject matter of the problem. Elements at issue between the parties that must be negotiated in order to reach agreement.
<b>Interest:</b>	Factors that motivate/ drive parties to reach agreement and take positions Interests underlie positions in that the parties' positions are intended to meet and or address their interests (hopes, wants, needs, fears, concerns)

# Finding the Interests

---

*Question, question, question...*

- *"Why is that solution so important for you?"*
- *Why are you suggesting...?*
- *"What would you accomplish in getting what you want?"*
- *"What if that did/didn't happen?"*
- *"How will you be affected by...?"*
- *"Imagine that you got \_\_\_\_\_; what would be taken care of?"*



# Finding the Interests

---

- ❑ What need is the person taking this position attempting to satisfy?
- ❑ What is motivating the person?
- ❑ What is the person trying to accomplish?
- ❑ What is the person afraid will happen if a demand is not fulfilled?

# Summary: Interest-based Negotiation

---

- ❑ Aims not to change the other person, but to change negotiation behavior
- ❑ Shifts from "your position versus mine" to "you and I versus the problem"
- ❑ Involves a mutual exploration of interests to yield more creative options.
- ❑ Uses objective criteria

Adapted from Highnam, K. (2001). Interest-based negotiation, CSSEA 2001 Fall Conference and AGM. Surry B.C, Canada. CSSEA; Fisher and Ury, *Getting to Yes*.

# Cultural Competence & Diversity

# Cultural Competence and Diversity

---

- ❑ Understand the role of differences that affect or define status, relationships and socially acceptable behavior
- ❑ Provide ongoing training and support in diversity, cultural competence, flexibility
- ❑ Provide qualified, trained and prepared interpreters when needed
- ❑ Modify communication methods, processes and materials to respond to individual circumstances

# Cultural Competence and Diversity

---

- ❑ Recognize that many people communicate and process information differently
- ❑ Check-in, monitor and behave responsibly
- ❑ Allow time for reflection, don't always fill silent spaces
- ❑ Engage community leaders and cultural liaisons
- ❑ Actions and words don't always have impact we intend

# Cultural Competence and Diversity

---

The Platinum Rule:

“Do unto others as they would have you do unto them.”

Tony Alessandra

# Student Involvement

# Fundamental Value:

---

The student should be present and participate as much as possible in any meeting regarding their services.

“Nothing about me  
without me.”



# Student Participation

---

- ❑ What are the advantages?
- ❑ What are the challenges?
- ❑ What are the things to keep in mind?

---

For more information, contact

CADRE, the National Center on Dispute  
Resolution in Special Education  
[www.directionservice.org/cadre](http://www.directionservice.org/cadre)

~&~

The IDEA Partnerships  
[www.ideapartnership.org](http://www.ideapartnership.org)