

To BS or Not To BS. Is That The Question? (Brain Storming, Silly)
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Gretchen A. Kainz, District Court of Maryland ADR Office
Jonathan S. Rosenthal, Mediation and Conflict Resolution Office (MACRO)
Emmett J. Ward, Mediation and Conflict Resolution Office (MACRO)

Reporter: Gloriana Gonzalez, University of Houston Law Center

Program Description: This informative, entertaining, and interactive session will take a deep look at brainstorming and other techniques used by mediators to elicit solutions. Research shows that when people generate their own ideas for resolving conflict, they're more likely to reach lasting agreements. There have been numerous studies on effective team work, creativity in solution generation, and optimum techniques for brainstorming, all of which may help people not in conflict. But when participants are entrenched in conflict, the challenge to find solutions is even tougher. Join us to explore the history of brainstorming, other problem-solving techniques, and ADR research, and learn how they inform our choices in facilitating effective, lasting outcomes for participants.

This interactive conference session is the fourth module in the series; focusing on eliciting solutions by brainstorming and “brain writing.” Brain writing is the generation of ideas written down for yourself.

The first module in the series focused on the results from four studies including control and treatment group information, regression analysis, and an analysis of the results to determine program improvement and overall evaluation.

The first study focused on the District Court level and presented the impact of Alternative Dispute Resolution on Responsibility, Empowerment, and Resolution. The results in this part of the research displayed a change in the sentiment of the outcome, a shift in attitude with regards to the level of responsibility, and an improved relationship with the other party.

The second study examined mediator techniques and strategies and how that affected case outcomes on the day of trial mediations. In situations where mediators offered opinions and advocated for their own solutions, participants were less likely to find the outcome working or recommend ADR to others.

The third study presented the effect of mediator strategies in child custody cases in Anne Arundel, Baltimore, and Charles County circuit courts. The use of reflection and eliciting strategies led to a more positive outlook in the process and the parties were able to reach a more personalized agreement.

The final study highlighted the impacts of mediation on criminal misdemeanor cases by comparing cases referred to mediation and those not referred to mediation. Cases that were mediated were almost five times less likely to return to criminal court within the following year than those that were not mediated.

Key findings in the study had to do with the time mediators spent in caucus with the different parties and the type of strategies the mediator used during the session. In conclusion, some strategies used led to greater satisfaction with the process and a better relationship with the opposing party (more specifically in child custody cases).

Today's session had many great points on the importance of brainstorming. Brainstorming in practice allows the parties to generate solutions and remove judgment from ideas presented by the parties. One of the presenters did a short brainstorming session about how to use old shoelaces. The answers fell all across the spectrum: from tying a balloon, jewelry, or even has an office decoration.

Critical to the session were the following points –

- The setup of the conversation and tone taken by the mediator is important.
- The mediator must provide encouragement to the parties
- Ideas provided by the parties can sometimes feed off each other
- Through the process of brainstorming, parties can take the time to set up expectations
- Mediators should try to build trust between the parties
- Mediators should use one color marker – it can be easy for the parties to knock down words that were written by the other side).
- Mediators should not number the ideas (from the beginning) there is no need to rank/prioritize.

Even more interesting was some of the research done on brainstorming. A presenter stated that research showed that the majority of ideas come from extroverts, and not everyone participates. Sometimes brainstorming with a big group leads to “groupthink.”

Keep an eye out for more modules from the Maryland Judiciary Mediation and Conflict Resolution Office (MACRO) – including a module on how to have difficult conversations on high conflict topics.