

Just Listen to ME!:

Effective Communication
When Dealing with Difficult
People and Difficult Issues

ACHRO Conference
Sacramento, CA
October 11, 2018

Presented by:
Darren C. Kameya
Robert A. Unger

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WHO WE ARE & WHAT WE DO

Lozano Smith is a full-service education and public agency law firm serving hundreds of California's K-12 and community college districts, and numerous cities, counties, and special districts. Established in 1988, the firm prides itself on fostering longstanding relationships with our clients, while advising and counseling on complex and ever-changing laws. Ultimately, this allows clients to stay focused on what matters most – the success of their district, students and communities they serve. Lozano Smith has offices in eight California locations: Bakersfield, Fresno, Los Angeles, Mission Viejo, Monterey, Sacramento, San Diego and Walnut Creek.

AREAS OF EXPERTISE

- Charter Schools
- Community Colleges
- Facilities and Business
- Labor and Employment
- Litigation
- Local Government / Municipal Law
- Public Finance
- Public Safety
- Special Education
- Students
- Technology and Innovation

COST CONTROL is always a huge issue in education and an area we have mastered. We recognize and understand the financial restraints placed on those in education and work tirelessly to provide the very best legal representation with those limitations in mind. One of the best ways we keep legal costs to a minimum is through strategic, preventive legal services. These include Client News Briefs to keep you up-to-date on changing laws affecting education. In addition, we offer extensive workshops and legal seminars which provide the tools needed to minimize liability, thus reducing the need for legal assistance down the road.

CLIENT SERVICE is our top priority and we take it very seriously. With premier service as the benchmark, we have established protocols and specific standards of practice for each of our offices statewide. Client calls are systematically returned within 24 hours and often sooner when required.

DIVERSITY IS KEY and we consciously practice it in all that we do. It is one of our core beliefs that there is a measurable level of strength and sensitivity fostered by bringing together individuals from a wide variety of different backgrounds, cultures and life experiences. Both the firm and the clients benefit from this practice, with a higher level of creative thinking, deeper understanding of issues, more compassion, and the powerful solutions that emerge as a result.

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Darren C. Kameya

Partner

Darren C. Kameya is a Partner in Lozano Smith's Los Angeles office and is the co-chair of the firm's Investigations practice area. For many years, Mr. Kameya has advised school district clients in both the northern and southern California regions. Mr. Kameya's legal experience includes labor and employment matters and extends to issues of board governance, public meetings laws, charter schools, facilities use agreements, student rights and discipline, tort liability, insurance coverage issues, public records and privacy rights. Mr. Kameya's background covers other public agencies as well, including cities and special districts. As a litigator, Mr. Kameya has represented clients in federal and state courts, including representation of the City of Carson during trial and on appeal in a published case involving public financing issues. *City of Carson v. City of La Mirada* (2004) 125 Cal.App.4th 532. Mr. Kameya has lectured at educational conferences and other gatherings, including California School Boards Association (CSBA), Community College League of California (CCLC), Association of California School Administrators (ACSA), California Latino School Board Members Association (CLSBA), School Employers Association of California (SEAC), Leadership Association for Asian Pacifics (LEAP) and the Center for Collaborative Solutions (CCS).

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Robert A. Unger

*Acting Vice President for Human Resources
Southwestern Community College District*

Robert Unger is the Acting Vice President for Human Resources at Southwestern Community College in Chula Vista, California. Previous to that, he was the Acting Director of Human Resources at Southwestern College. He is also a licensed attorney. Prior to assuming his role in Human Resources, he served as a professor at Southwestern College and at other local colleges in San Diego for more than 20 years. He has also served in various leadership roles in the Faculty Union at Southwestern College including serving in the roles of Union President and Grievance Chair. Mr. Unger's experience has given him a view from "both sides" having worked as both a Human Resources administrator and as a grievance and litigation rep for the faculty union for a CTA local chapter.

WELCOME



Roadmap



Overview

Mediation and Interest-Based
Techniques

Exercises

Overview

Communication



Confrontation



Intervention



Overview

In the old days, we were trained to be reactive leaders.



Overview

In today's world, educational leaders must be more proactive.



Overview



Strategic leadership

Managers often lack expertise in human relations.

Managers need to lead with a broader vision.

Requires Messaging, Educating, Reminding.

Overview

- In 2018, we have more conflict, greater unrest, and greater distrust in institutions such as higher ed.
- Gallup poll in December 2017: 67% of one of our political parties had little to no confidence in the work that colleges do.
- In 2015, Gallup poll: Only 37% of the same party had little to no confidence in colleges.
- During the same period of time, the other party slightly increased in confidence in colleges, from about 22% to 19%.
- Gallup noted that, during the two year period, the party with great confidence swung members with messaging that was highly critical of colleges.

Overview

- How does this apply to specific issues at my college?
- How does this apply to my difficult conversations back on campus?
- Using mediation techniques and an interest-based approach can foster solutions – even in today's environment.



Orangetheory

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Mediation Roles

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Mediation Roles



What is the role of a mediator?

- Facilitator
- Evaluator

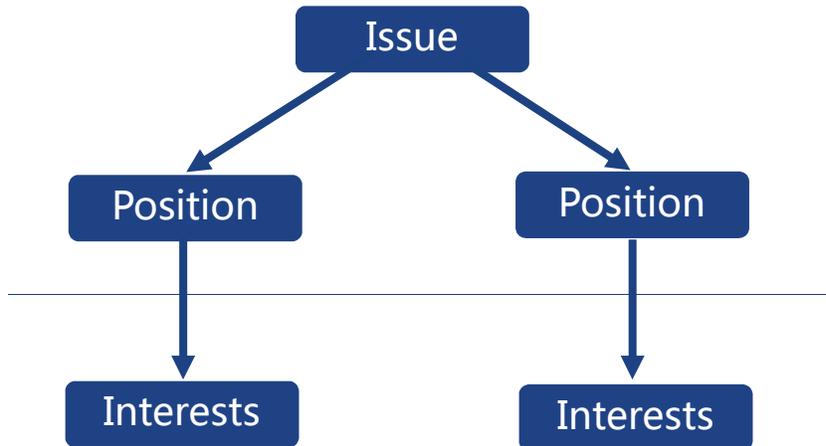
What is a durable settlement?

How does a mediator promote settlement?

How does a mediator promote a durable

Interest-Based Techniques and Tools

Interest-Based Techniques



Interest-Based Tools

- Interest Based Bargaining tools:
 - **DEFINE INTERESTS**: The WHY.
 - **IDENTIFY OPTIONS/BRAINSTORMING**: The HOW.
 - **DEFINE LEGITIMACY-STANDARDS**: Tangible benchmarks of progress or achievement toward a desired goal.
 - **DEFINE ALTERNATIVES**: The fallback position.

Defining Interests

- Interests - The nuts and bolts of agreements.
 - Running HYPO:
 - Board member, retired peace officer, is pushing for a new POST program to be established at the college.
 - Will cost \$250,000 up front and an additional payroll cost of \$1,000,000/year.
 - District can pay \$100,000 of the up front costs, and will be able to pay for only 80% of ongoing costs.
 - What do you think the board member's interests might be?



How can you find them out? _____

Communication Skills

- ✓ **KNOW THE ISSUES.** *Be clear in describing the issues.*
- ✓ **KNOW YOUR GOALS.** *Identify your goals.*
- ✓ **KNOW WHAT'S COMING.** *Anticipate what's coming.*
- ✓ **BE HUMBLE.** *Start with a dose of humility.*
- ✓ **BE ENGAGED.** *Be present and engaged.*
- ✓ **BE CLEAR.** *Be clear in the closing.*

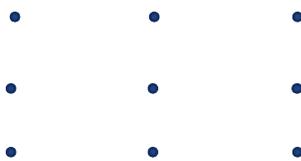


Identifying Options/Brainstorming



Identifying Options/Brainstorming

- Options should be identified that might satisfy the interests.
- Nine Dot exercise



- Running HYPO: Board member, retired peace officer, is pushing for a new POST program. What options can be created to address Board member's interests?

Defining Legitimacy Standards

- Legitimacy refers to external benchmarks, criteria, and principles beyond the will of either party.
- When devising standards, ask yourself the following question:

How are you going to measure the effectiveness of an option in meeting a particular interest?

- Running HYPO: What standards can be used to measure satisfaction of the Board member's interests?

Defining Alternatives

BATNA



*Best Alternative To a
Negotiated
Agreement*

- What you could get in the best scenario if you don't get a deal/settlement/agreement. In our case, let's say it stands for Best Alternative To the New Approach.
- BATNA: What is the alternative if I don't have this difficult conversation? What is the impact on the workplace/college if we don't take an interest-based approach to conflicts?
 - Running HYPO: What is the Board member's BATNA if the POST program does not get established as planned?

Exercises



Exercises

- Break up into pairs.
 - 5 minutes #1
 - 5 minutes #2



Exercises



- Group feedback. (5 min)
 - How did learning interests help to promote a more durable resolution of the issue?
 - What aspects of the dispute were not amenable to an interest-based approach?

Closing Thoughts

Closing Thoughts

"If I want to deprive you of your watch, I shall certainly have to fight for it; if I want to buy your watch, I shall have to pay for it; and if I want a gift, I shall have to plead for it; and, according to the means I employ, the watch is stolen property, my own property, or a donation. Thus we see three different results from three different means. Will you still say that the means do not matter?"

Closing Thoughts

"When the outcome drives the process we will only go to where we've already been. If process drives the outcome we may not know where we're going, but we will know we want to be there."

Bruce

Mau

Questions



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