



**TRANSFORMATION OF  
HIGH CONFLICT DISPUTES  
THROUGH MEDIATION**

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**2 Types of Conflict Resolution**

<ul style="list-style-type: none"> <li>• <b>PROBLEM-SOLVING BRAIN</b></li> <li>• Slower; takes time to analyze problems</li> <li>• Flexible thinking (many solutions to every problem)</li> <li>• Managed emotions</li> <li>• Moderate behaviors (so can maintain relationship)</li> </ul>	<ul style="list-style-type: none"> <li>• <b>DEFENSIVE BRAIN</b></li> <li>• Fast; shuts down higher thinking &amp; problem-solving to focus on quick action</li> <li>• All-or-nothing thinking (eliminate or escape the enemy)</li> <li>• Intense emotions drive fight or flight behavior</li> <li>• Extreme behaviors (to defend self from life or death dangers or <i>perceived</i> life or death dangers)</li> </ul>
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**The Big Paradigm Shift of  
Mediating High Conflict Disputes**

- Your focus needs to be on ***your relationship*** with the parties, rather than the outcome. So as they move forward, then backward, you can calmly move them forward again. Don't become stressed by their "resistance."
- **The Paradox:** When you focus on the relationship rather than the outcome, you are more likely to get good outcomes.

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## Your Role as a Mediator: A Very Ethical Role

1. CONNECT with respect (Empathy, Attention and Respect throughout the process)
2. STRUCTURE a client-centered process from the start. Teach them to: *Focus on the future by making proposals and making agreements*
3. EDUCATE them about their choices and possible consequences of each choice

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## 1. CONNECT with Empathy, Attention & Respect

You'll be frustrated by the HCP's emotional reactivity and thinking distortions. It's easy to get "emotionally hooked," and to withhold any positive responses. It's easy to feel a powerful urge to attack or criticize.

Instead, consciously use your E.A.R.:

- EMPATHY
- ATTENTION
- RESPECT

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## E.A.R. Statement

- Example: "I can **understand** your frustration – this is a very important decision in your life. Don't worry, I will pay full **attention** to your concerns about this issue and any proposals you want to make. I have a lot of **respect** for your commitment to solving this problem, and I look forward to solving it too.

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### Fears and EARs for HCPs

<p><b>Their Fear</b> For any of these:</p> <ul style="list-style-type: none"> <li>• Being abandoned</li> <li>• Being seen as inferior</li> <li>• Being ignored</li> <li>• Being dominated</li> <li>• Being taken advantage of</li> </ul>	<p><b>Your EAR Response</b> Use any of these:</p> <ul style="list-style-type: none"> <li>• I want to help you</li> <li>• I respect your efforts</li> <li>• I'll pay attention</li> <li>• I'll listen</li> <li>• Its just rules we all have to follow</li> <li>• I understand this can be frustrating</li> <li>• I'll work with you on this</li> <li>• I know this can be confusing</li> </ul>
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### Cautions about E.A.R.

- Avoid believing or agreeing with content.
- Avoid volunteering to “fix it” for them (in an effort to calm down their emotions).
- Be honest about empathy and respect (find something you truly believe)
- Keep an arms-length relationship.
- You don't have to listen forever.
- You don't have to use words or these words.

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### Managing Your Own Anxiety

Remind Yourself (before, during and after dispute):

**It's not about you!** Its about their lack of skills

**The issue's not the issue.** The HCP's personality is the issue, so your relationship is your focus.

**You're not responsible for the outcome** – just providing your professional standard of care”

Change their thinking? **Forgedaboutit!**

**It's the parties' dilemma.** Keep responsibility on them.

When they resist, tell them **“It's up to you!”**

Picture them as 5 year olds – confused and in trouble

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## 2. STRUCTURE the Process

- Remember that HCPs are defensive reactors, more than planners. Their focus is on the past.
- Establish the structure from the start.
- Explain how the process is going to work.
- Establish your authority in managing the process, including sticking with each step.
- Stop them from interrupting each other (much more important than in ordinary mediation). Stop them from diverting the step you're in.
- Give them hope – this structure usually works.

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## Emphasize Separate Roles

Say: "I'm responsible for the Process;

"You're responsible for:

- Deciding what you want to talk about
- Making proposals and
- Making decisions"

High Conflict clients pressure professionals to become responsible for solving their problems

Keep responsibility for decision-making on the clients

Don't feel responsible for fixing clients or solving their problems: **You're not responsible for the outcome!**

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## Teach them to Make Proposals

Any concern about the past can be turned into a proposal about the future.

Proposals usually contain:

WHO does  
WHAT,  
WHEN and  
WHERE.

**When clients blame: *So, what do you propose?***

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## Teach them to Respond to Proposals

- When you hear a proposal, think about it and then just say: “Yes”, “No”, or “I’ll think about it.”
- Avoid criticizing a proposal. Just say Yes, No, or I’ll think about it.
- It’s okay to ask questions about a proposal, such as: “What’s your picture of what this would look like, if I agreed to do it?”
- And if you don’t like a proposal, just make a new one!  
See article: *Yes, No or I’ll Think About It*

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## 3. EDUCATE them

- About making proposals.
- About legal, financial, parenting, etc. choices
- About consequences of various choices
- About what others have done in similar situations
- About where they might get more information

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## Summary: Your Role as a Mediator

1. CONNECT with Empathy, Attention and Respect throughout the process
2. STRUCTURE the dispute resolution process from the start. Teach them to: *Focus on the future by making proposals and making agreements*
3. EDUCATE them about their choices and possible consequences of each choice

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