The mediation process, the role of the mediator (in comparison to legal proceedings) and the standards for mediation training derived from this.

Mediation is a principled form of conflict resolution in which an impartial third party (mediator) supports the persons concerned to reach on an amicable settlement b themselves. (Website SDM-FSM)

The training mediation is a generalist, interdisciplinary and practice-oriented qualification, which, from the point of view of the training institutes affiliated to the SDM-FSM, is based on the inclusion of equivalent competences and lecturers to ensure its quality.

What is the role of the mediator in the mediation process?

In the mediation process, which is facilitated by a trained third party (the mediator), the participants are guided to identify the conflict issue(s) and to work out their individual interests and needs. Based on the interests and needs shared by all, the parties to the conflict develop ideas for solutions on their own responsibility and with an eye to the future, which are then further concretized and negotiated with a view to reaching a win-win agreement.

 The central aspect of this structured social interaction is that the people involved are guided in dialogic-empathic ways in explaining what lies behind the conflict, in reflexively working on it, and in transferring it into new strategies for action.

The role of the mediator is therefore not only to accompany and guide the process, but also to explain it, and it is based to a large extent on the neutral relationship of trust with the parties to the conflict, which is to be established interactively, the ability to deal constructively with resistances, to grasp different processes of perception in relation to the recording of possible interests and needs, as well as to recognize different motivational factors.

What is the difference with legal procedures?

Both procedures have their legitimacy and advantages, depending on the initial situation and the objectives; the main difference being the degree of autonomy desired by all parties.

In this respect, the mediator's role is diametrically opposed to the advocacy, adversarial and strategic role. In legal proceedings, the focus is less on the autonomy and personal responsibility of the parties to the conflict and the durability of the solution, but rather on finding legal bases for claims and the enforceability of the settlement.

Both in terms of the actors' work and the objectives mediation and legal procedures aim at, mediation and advocacy roles are in complex tension. The lawyer's role includes fundamentally different core competencies, such as legally oriented information and advice competencies, strategic-investigative questioning techniques as well as tactical leadership competencies.

In the mediation process, on the other hand, the law becomes the context, the framework, within which the focus is primarily on the autonomy and personal responsibility of the parties to the conflict. These differences are reflected in particular in the corresponding rules of professional ethics.

What standards can be derived from this for mediation training? Interdisciplinary faculty and heterogeneous learning groups

The success of the mediation process requires above all the competent and varied application of a wide range of communication techniques, which methodologically derive from psychology and sociology, or systemic therapy and social pedagogy. Accordingly, the teaching staff is also trained in this respect as a standard, or at least in interdisciplinary composition.

Likewise, with regard to the learning group, heterogeneity criteria of the training are conducive in terms of structural expansion, self-efficacy experiences and learning transfer, so that mediation can exploit its interaction and innovation potential.

Key approaches/concepts:

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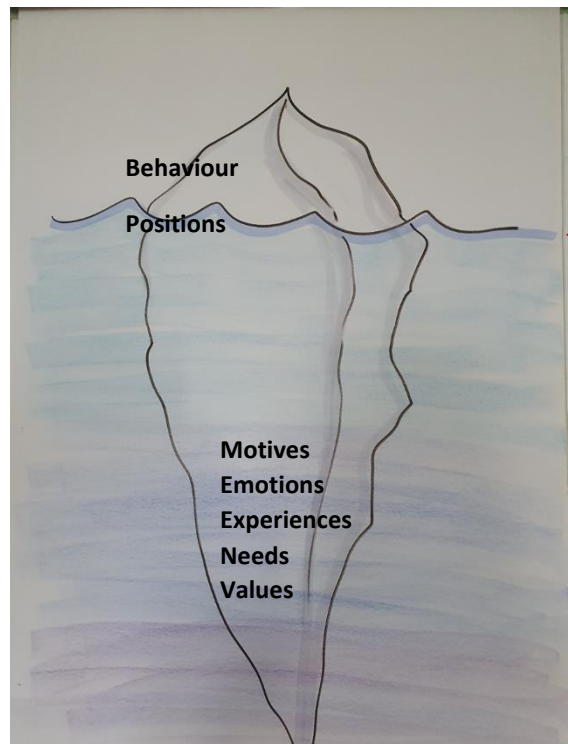Schulz von Thun, Friedemann (1981): Talking to each other
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