

United States Department of Agriculture

Farm Service Agency

Office of Business and Program Integration

Outreach Staff

Agriculture Mediation Program





USDA Certified State Agricultural Mediation



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Agricultural Disputes

- Conflict often emerges out of routine circumstances.
- Conflict is usually brought about by what is perceived to be a significant change.
- Conflict, if not managed, can significantly affect people's quality of life – both an emotional and financial strain.
- Conflict can often be managed at an early stage or avoided all together.
- There is often no right or wrong issues of conflict.

Agricultural Mediation

- **Understand the nature of conflict**
- **Alternative dispute resolution techniques**
- **The agency role in resolving conflict**

Nature of Conflict

- How many people enjoy conflict?
- How many people enjoy conflict sometimes?
- How many people are scared to death?
- Be aware of strategies and options.
- Be aware of choices.

Managing Conflict

- **Avoid conflict**
- **Compete**
- **Accomodate**
- **Compromise**

Ways to resolve conflicts

- Power – if I have enough
- Rights – Standards of fairness or behavior
- Interests – nothing to do with power/rights

Interests

- Understand different interests
- Acknowledge conflict and mutual gain
- Outcomes better than alternatives
 - Efficient – can't waste time and money
 - Relationships should be better than before process started
 - Recurrence
 - Reduce frequency of conflict

Conflicts affecting farming

- 1) Credit
- 2) Water pollution – surface & ground
- 3) Waste management – handling & disposal
- 4) Air pollution – odor, dust or noise
- 5) Land degradation – erosion, compaction, salinization, depletion, contamination, etc.

Conflicts affecting farming

- 6) Wildlife and fish protection – including habitat protection
- 7) Resource management – including preservation of wild parkland & green spaces
- 9) Public access – to public & private land used by farmers and trespassing

Conflicts affecting farming

- 10) Zoning and planning – farms and residential subdivisions too close together
- 11) Unkept farmsteads – offend neighbours and passers by 0000000
- 12) Chemicals – of all kinds at all stages in food production and processing system

Dealing with Disputes

Do's

- Listen before you speak
- Avoid being judgmental
- Be open to all point of views
- Use open, clear, straight forward questions
- Acknowledge the limits of your mandate
- Recognize over-riding interest of other parties
- Clearly explain your role when meeting other people
- Clearly understand and explain to people their options in the event there is no resolution
- Involve the appropriate government level at the appropriate times
- Seek more information when required

Dealing with Disputes

Don't

- Don't become argumentative
- Don't rely on question that only require yes or no answers
- Don't be judgemental
- Don't allow yourself or your committee to become involved where you have no authority or jurisdiction
- Don't come to conclusions until you have heard all information
- Don't make decisions or recommendations in the absence of required information

ADR Continuum

**INFORMAL
VOLUNTARY**

**FORMAL
MANDATORY**

Facilitation

Mediation
"Assisted
Negotiation"

Arbitration

Adjudication

Unassisted
Negotiation

Conciliation/
Neutral Fact
Finding

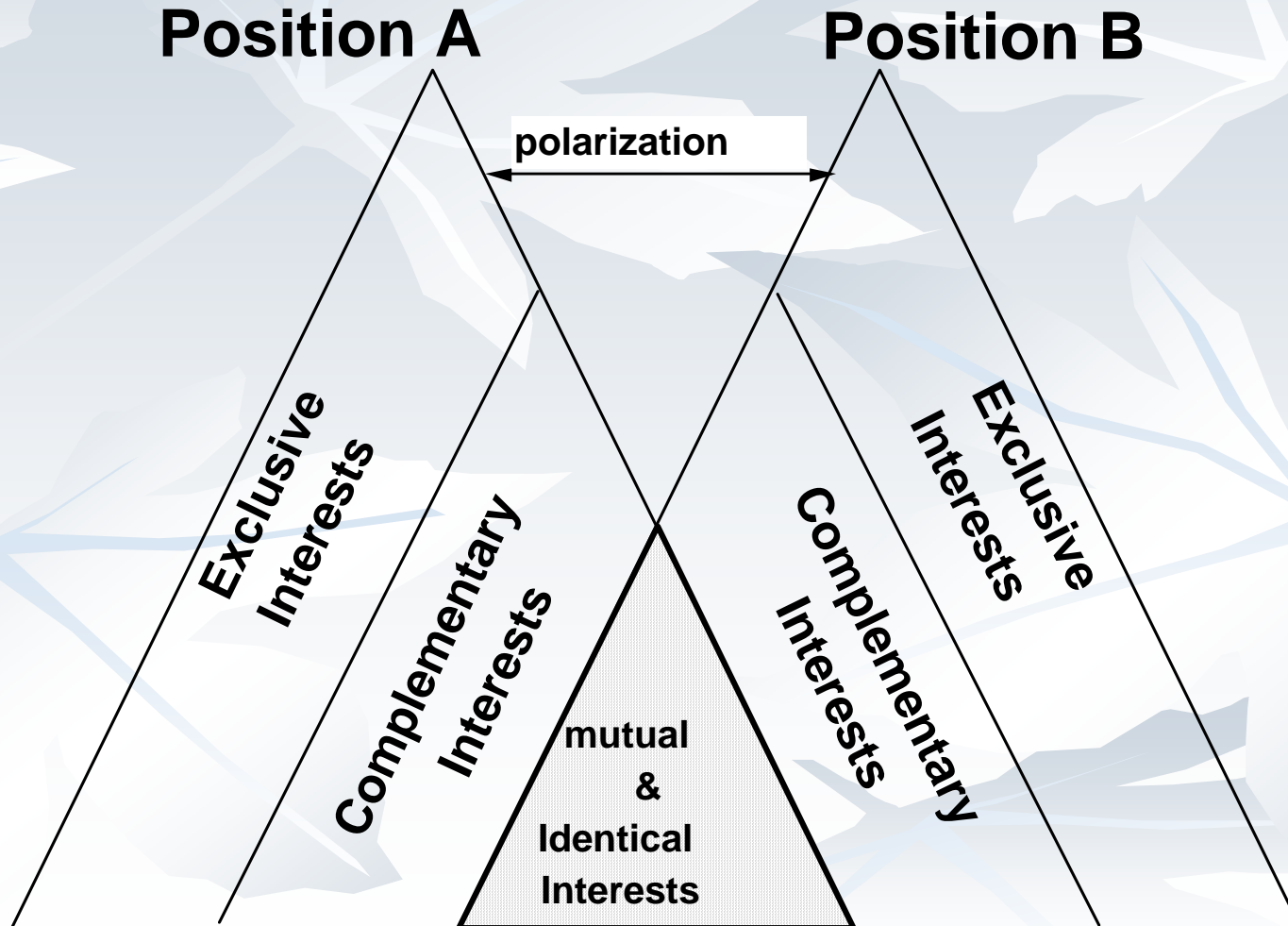
Med-Arb

Administrative
Tribunal

- ***Potential for Win-Win High***
- ***Disputants Directly Involved***
- ***Relationship Central***

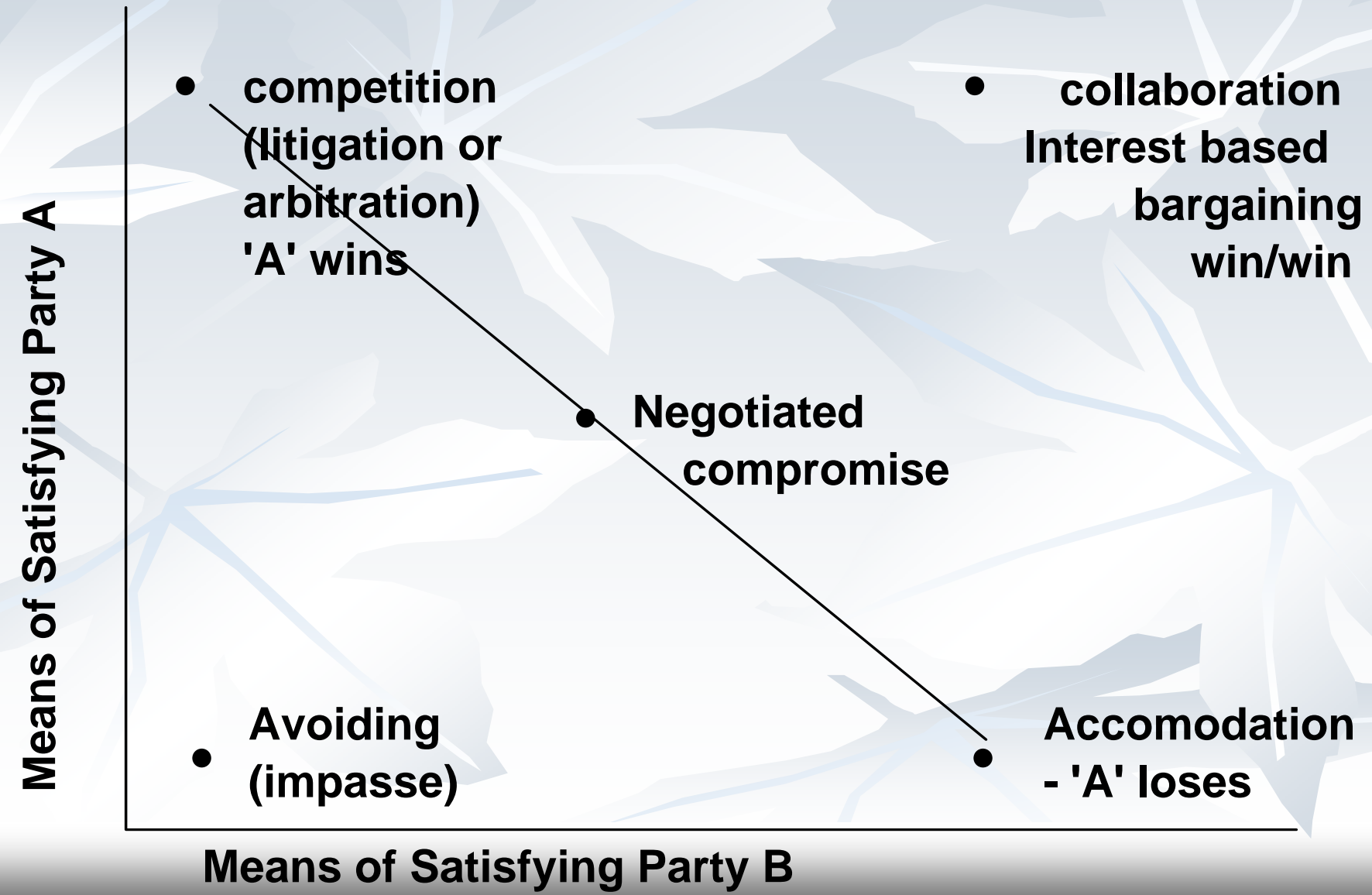
- ***Win-Lose***
- ***Disputants Not Directly Involved***
- ***Relationship Peripheral***

Moving From POSITIONS to INTERESTS expands solution potential



Interests (needs, desires, concerns, fears, hopes)

Conflict Resolution—Winner and Losers



Conflict between farmers, lenders & agencies

- Wetlands determinations
- Compliance with farm programs
- Agricultural loans
- Rural water loan programs
- Grazing on National Forest System lands
- Other rural issues

Conflict Resolution:

- Remain unresolved

- Resolved informally (discussion with county committee or staff)

- Resolved through formal procedure (ex. the courts)

- Resolved through mediation

- Other

The conflict will:

Why do we try to resolve conflict?

- Save money
- Save time
- Gain peace of mind
- To get along
- Other

What positive results are there from conflict?

- Identifying the relevant facts, regulations and impacts
- Pre-mediation, representing anticipated concerns of all parties and searching for compromise
- Acting as resource; bringing the parties together; encourage back and forth meeting
- Shuttle diplomacy – probe and advise both side separately

Win-Win Situation in Mediation

Step 1 – Clarify issues and interests

Step 2 – Review available information

Step 3 – Explore options

Step 4 – Use objective criteria to seek settlement

Step 5 – Report results of mediation

Conflict Resolution: Ways to Reduce Conflict

- 1) Focus on problems not personalities
- 2) Separate people from problems
- 3) Speak to be understood
- 4) Prepare
- 5) Invent options for mutual gain
- 6) Use objectives and criteria
- 7) Seek win/win
- 8) Put yourself in their shoes
- 9) Celebrate differences in opinions & ideas
- 10) Try to achieve self solving of problem

Ways to Inflame Conflict

- 1) Fight to win
- 2) Blame the other party
- 3) Promote only your solution
- 4) Don't divide the pie
- 5) React with heavy emotion
- 6) Focus on the past
- 7) Use rigid thinking – “one” right solution
- 8) Lock into an idea - entrench
- 9) Put personalities before issues
- 10) Be passive – aggressive, defensive

Key notes to remember:

- Almost always, the complaint will be legitimate in the eyes of the complainant.
- All parties have an interest in the issue (and these may be different).
- Lack of effective communication is the principal evil of all conflict.
- Ideally, all parties need to win in a win-win situation, but there might be situations where this will not occur.

Key notes to remember:

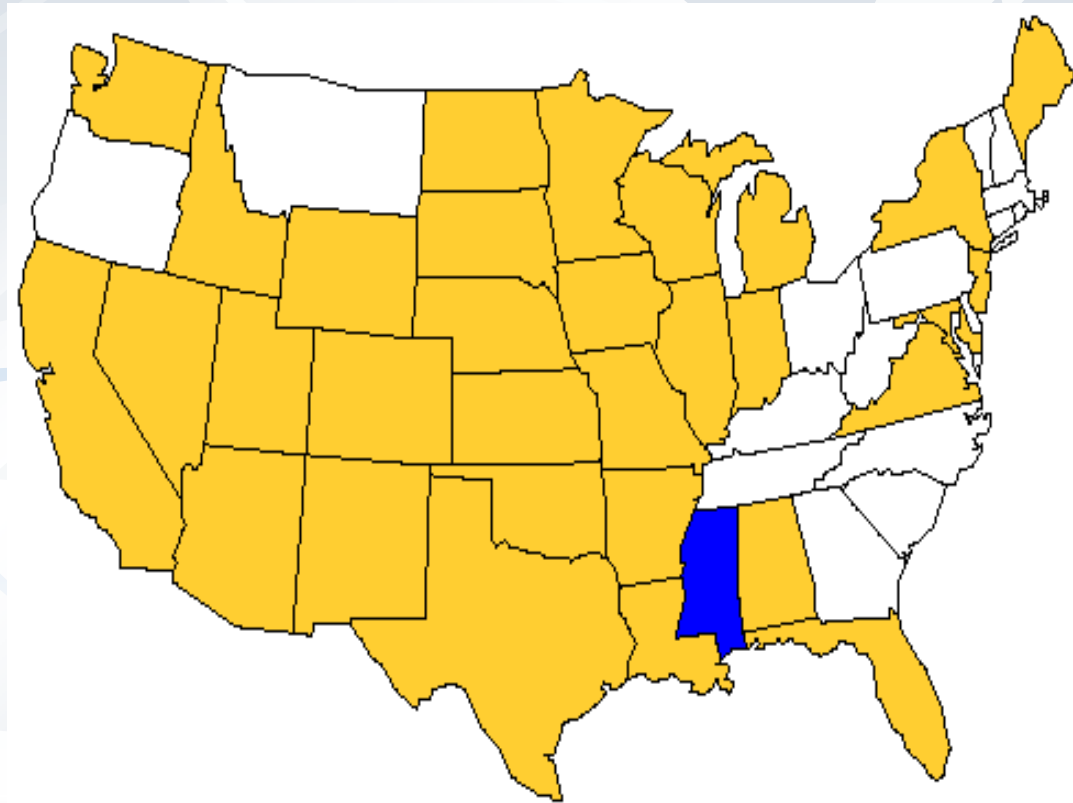
- Confidentiality is an important component of the mediation process. The details and contents of discussions with the people should remain in confidence.
- Each situation is unique and will need to rely on the willing participation of each party.
- Allow parties to determine solutions.

IDEAS TO CONSIDER

- Discuss solutions throughout process
- Transition – test proposals with parties as they develop
- Use of deadlines “the ticking clock”
- Tough on issues – Soft on people (keep trust)
- Don’t try to mediate values or ideology
- Restate agreement points – clarify
- Use single text agreement –write it down
- Emphasize the agreement “package”
- Parties may need to ratify with host group
- See to detail – Who, what, when, follow through dates

Coalition of Agricultural Mediation Programs

The map below shows the states throughout the U.S. that currently have USDA Certified Agricultural Mediation Programs in yellow. State in blue is pending application.



Coalition of Agricultural Mediation Programs

Participating States

1. Alabama
2. Arizona
3. Arkansas
4. California
5. Colorado
6. Florida
7. Idaho
8. Illinois
9. Indiana
10. Iowa
11. Kansas
12. Louisiana
13. Maine
14. Maryland
15. Massachusetts
16. Michigan
17. Minnesota
18. Missouri
19. Nebraska
20. Nevada
21. New Jersey
22. New Mexico
23. New York
24. North Dakota
25. Oklahoma
26. South Dakota
27. Texas
28. Utah
29. Virginia
30. Washington,
31. Wisconsin,
32. Wyoming

CAMP Mission Statement

The purpose of the Coalition of Agriculture Mediation Programs (CAMP) is to serve as a presence and voice for the use of mediation in rural disputes. CAMP serves as a clearinghouse and forum for sharing ideas; examining commonalities and differences; and for enhancing decisions about the conduct of rural mediation programs.

Background

- In 1988 Congress authorized USDA to help develop and participate in Certified State Farm Mediation Programs under the USDA Farm Loan Mediation Program — part of the Agricultural Credit Act of 1987.
- In 1992 Congress increased federal matching funds to 70 percent in support of state programs.
- In 1994 Congress expanded the program under the USDA Reorganization Act, authorizing USDA to offer mediation as an option as part of the informal appeals process with respect to adverse decisions on USDA farm program issues.
- Mediation programs assist agricultural producers, their creditors and various USDA agencies to address loan problems, USDA adverse decisions and other disputes. The programs do this in a *confidential* and *non-adversarial* setting outside the traditional legal process of foreclosure, bankruptcy, appeals and litigation.

Benefits of Mediation

- Mediation provides a confidential forum to discuss complex issues.
- Mediators are neutral — they do not make decisions — they help the parties find solutions.
- Mediation builds strong working relationships with producers, their lenders and government agencies they work with.
- Decisions are made rapidly by involved parties — streamlining government involvement.
- Mediation supports stability and diversity in rural economies.

Key Components and Issues

- **Neutrality.** It is critical that mediation programs are neutral in practice as well as in perception. Producers must have confidence that the program settles disputes in a fair manner.
- **Confidentiality.** Confidentiality is vital to the integrity and success of the mediation process. Without its absolute guarantee, participants may be apprehensive, or unwilling, to discuss personal financial and emotional matters.
- **Autonomy.** USDA certified mediation is a *state and federal partnership*. State agricultural mediation programs are not “federal programs.” To address the differences in state needs, priorities and expectations, state program autonomy is essential and was in fact, intended by Congress.

Growth

- Since the program was reauthorized in 2000, seven more states have a USDA Certified State Agricultural Mediation Program, bringing the total to 32 states, an increase of nearly 30 percent.
- To maintain a successful program, funding must keep pace with the program's growth.
- This program is growing for a good reason—*it works*. The number of mediation clients has increased from approximately 3,300 in Fiscal Year 2001 to more than 4,600 in Fiscal Year 2004.
- Appropriations from Congress were \$3,974,000 in Fiscal Year 2004.

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