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IP Mediation in the Philippines

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IPOPHL Mediator/Trainer

Mediator's Dictum



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- “Let your speech be always full of grace, seasoned with salt so that you may know how to answer everyone.”
- Colossians 4:6

I. The concept of mediation



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Mediation is a process of settling disputes between or among the conflicting parties with the assistance of a trained neutral third party called the mediator.

II. ROLES OF THE MEDIATOR



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Conflict Manager



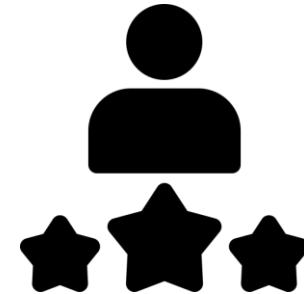
Diffuses tension



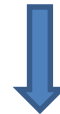
Effective Communicator



Proactively listens &
asks questions competently



Process Expert



Skillful in going
through the stages of
mediation

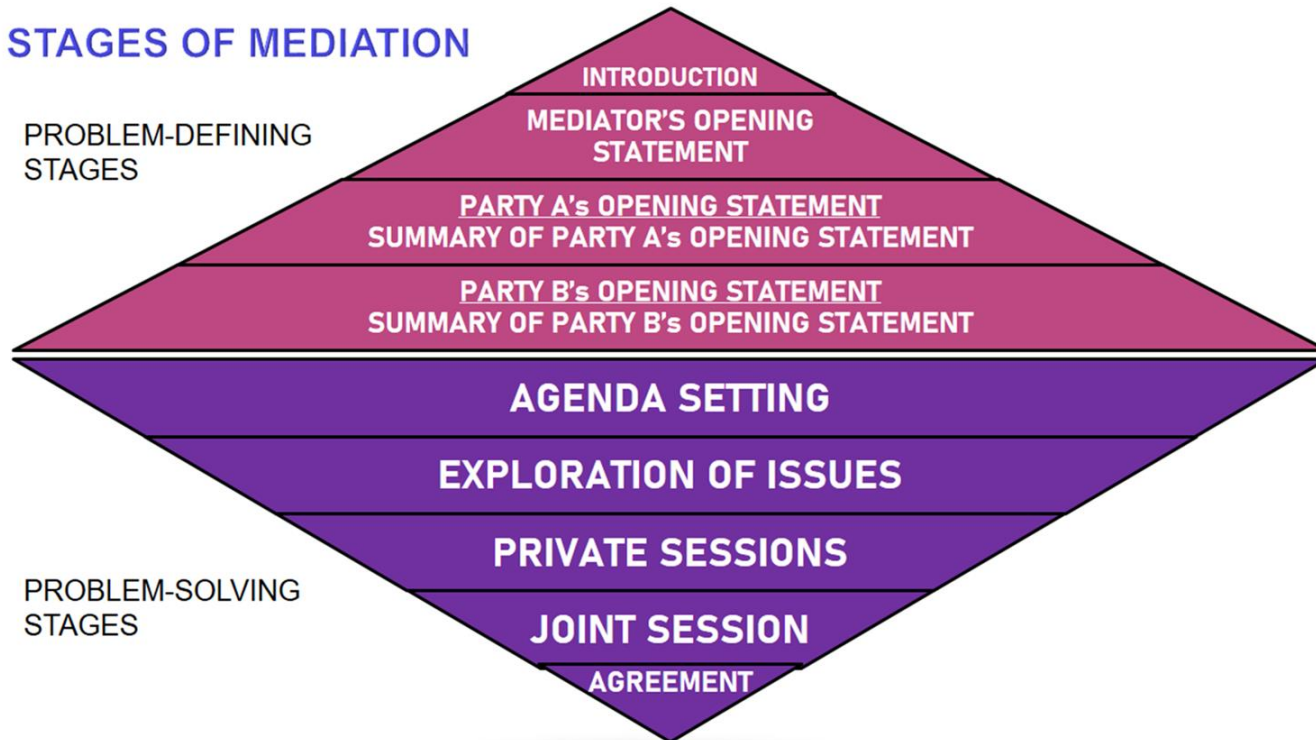
Mediation process



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STAGES OF MEDIATION

PROBLEM-DEFINING
STAGES



PROBLEM-SOLVING
STAGES

III. Unique features of mediation as practiced in the Philippines



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1. It is interest-based

The parties are encouraged to see their dispute as a mutual problem to be solved by them jointly as both parties look into their interests - priorities, expectations, aspiration, concerns, hopes and many more.



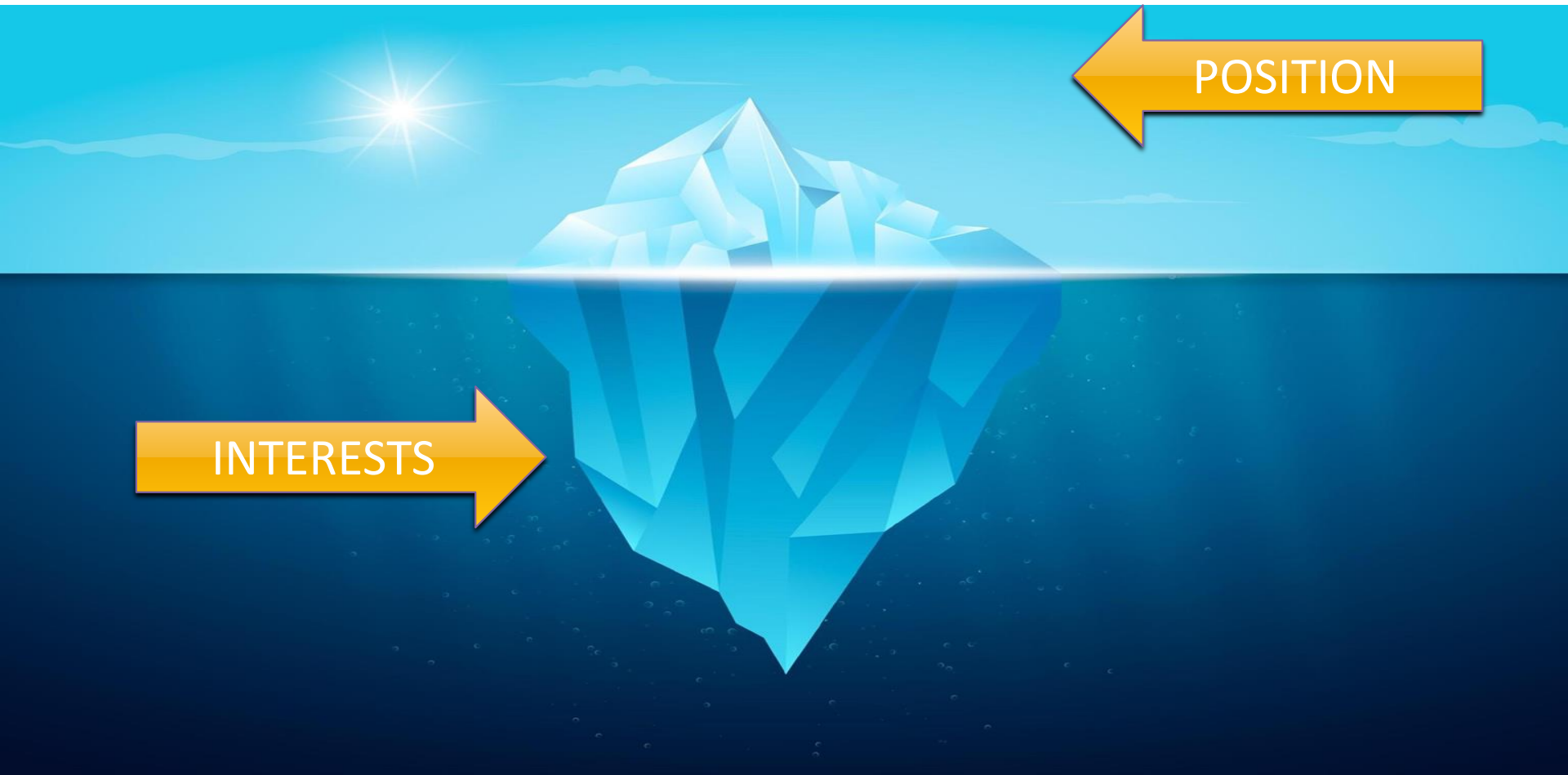
| Position | Interest |
|--------------------------------|--|
| What parties say they want | What caused the parties to say what they want? |
| Claim, demand, posture, stance | Reason or motivation behind the claim |

The focus is **not** on who is right or wrong, or who has a stronger or a weaker case in court.

Very important: The mediator helps the parties to move away from their respective positions and to focus instead on their interests in general and eventually on their shared interests.



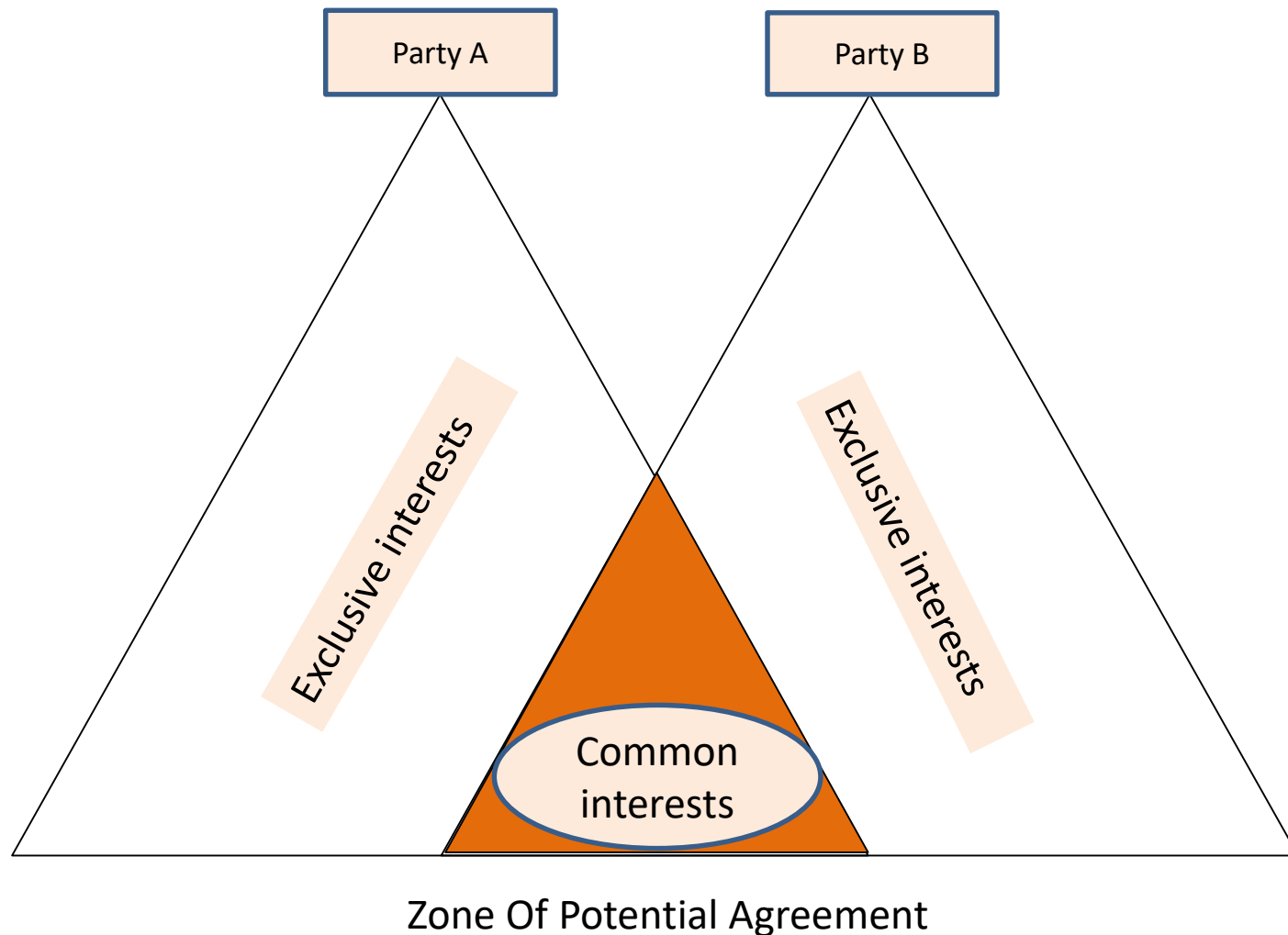
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Common interest or Shared interest



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Unique feature



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2. It is mandatory for the contending parties to go through the mediation process. However, the decision to enter into a compromise agreement is voluntary on the part of the parties.

Unique feature



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3. In IPOPHL, the Mediators have zero knowledge of the merits of the case brought before them because the parties are not required to submit their position paper.

Unique feature



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4. Other related cases involving the same parties may be included in the compromise agreement as long as the parties agree to it.

5. Confidentiality of information

- an attractive feature in mediation that encourages the parties to open up and be willing to negotiate with the assistance of the mediator as anything being talked about during mediation cannot be used against each other in court.

Unique feature



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6. The principal parties are represented by their respective counsel, instead of them appearing during the mediation proceedings as most of them are based in foreign countries.

Unique feature



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7. When the court or the Bureau of Legal Affairs Director or the Director General renders his/her decision based on compromise agreement, such judgment becomes final and executory.

Unique feature



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- 8. When the case is settled and the respondent complies with his/her obligation, it has the effect of a clean record on the part of the respondent as if there was no case filed against him/her.

Unique feature



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9. When there is an impasse or dead-end in negotiation, the mediator calls for a private session, one-on-one with each party, for the purpose of trying to discuss privately with each of them to offer a possible last acceptable solution to their conflict.



IV. Best practices:

- 1. How mediators work in IPOPHL
 - a. The IPOPHL mediators work as a team especially during the early part of the launching of mediation. The process experts teach the IP practitioners the skills and techniques needed to be effective in mediation; while the IP practitioners teach the process experts the rudiments in IP to understand the case brought before them.

Best practice



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b. IP Lawyers have become our friends so they are ashamed to make things difficult for the mediators; they show us their cooperative spirit and support to mediation as our friends.

Best practice



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c. Mediation fee is reasonable

Their payment of P4,000.00 per party (equivalent to \$80)

- entitles the parties to 4 sessions of one hour or less per session.

- Sessions are short and cordial.

Best practice



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d. The party litigants are treated with utmost respect. In IPOPHL, the mediation room is conducive to talking coupled with the pleasant demeanor, manner and soothing tone of voice of the mediator.

Best practice



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e. Mediation is resolved quickly as the procedures are flexible and not regimented; more so, if the parties are cooperative. It is quickly resolved and it is less costly.

Best practice



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Mediators find deep satisfaction in seeing parties relieved of their burden from court litigation; some relationships healed and restored and a number of cases settled when the parties see the perspective of the contending party with the able guidance of a trained mediator. Both parties feel they won their case.

V. Challenges



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1. How to increase the success rate of mediation in IPOPHL at this time.

Challenge



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2. How to engage the principal parties to join us in mediation considering the time zone difference.

Challenges



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3. How to reach the international stakeholders of IP to join us in an international webinar like this with focus on giving weight to the value of mediation in their business.

Maybe the EUIPO and ASEAN can include this in their future webinars.



Mediation is my passion because of the ministry of reconciliation that goes with the profession or vocation.



“Blessed are the peacemakers for they shall be called the children of God.”

Matthew 5:9



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***Towards a Creative
and Innovative Philippines***

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