



# 11.255 Negotiation and Dispute Resolution in the Public Sector

Spring 2021  
Class #16

## + Scenario #5 Mediation

- A global corporation proposed to build a trash-to-energy plant in the city of Rimsdale, and there are a lot of good arguments for and against the plant.
- There are at least 15 obvious players who need to be involved, from various city agencies to different community associations and advocacy groups.
- Everybody wants to know from you (1) how long will it take to mediate this dispute; (2) what will you do to make sure that everyone is treated fairly (including those without the money to hire lawyers and technical consultants to represent them); and (3) how will you guarantee that whatever is worked out informally will get implemented.

## + Breakouts

[student names redacted]

# + Scenario #5 Mediation

- Group facilitators - how did you respond to the questions posed by stakeholders:
  - How long with the mediation process take?
  - What will you do to make sure that everyone is treated fairly (including those without the resources to hire lawyers and technical consultants)?
  - How will you guarantee that whatever is worked out gets formally implemented?
- Others - what are your thoughts? Putting yourselves in the shoes of the various parties, would you hire a mediator on the basis of these answers?

# + The accountability problem

- To whom and how should environmental mediators be held accountable?
- What makes public sector (e.g. environmental) disputes so different from more traditional conflicts (e.g. labor issues)?
- What *criteria* can we use for evaluating these mediation efforts?
- Who represents *diffuse and inarticulate interests*?
- What has changed in public sector mediation in the last 30 years?
  - Professional association
  - Legal framework
  - Agency buy-in and public awareness

# + Criteria of principled negotiation

- Results must appear fair to the community
- Results are Pareto optimal
- Results are consistent with principles reflecting pre-existing practice
- Agreement sets a good precedent
- Agreement reached quickly and at low cost
- Improves rather than exacerbates relationships between parties
- Parties readily accept the outcomes

# + Activist mediation

- What does it mean to take an activist mediation approach?
- What might be some of the problems associated with taking an activist approach?
- How might these challenges be overcome?
- How do we decide when the power imbalance necessitates an activist approach, and when not?
- What does it mean to be neutral when taking an activist mediation approach?
- Can planners act as effective mediators? Why or why not?
- What other professionals might act as activist mediators and how?

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