

Using Mediation to Resolve Organizational Disputes – A Case Study

DOE Safety Culture Sustainment and Best Practices Workshop

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ORAU

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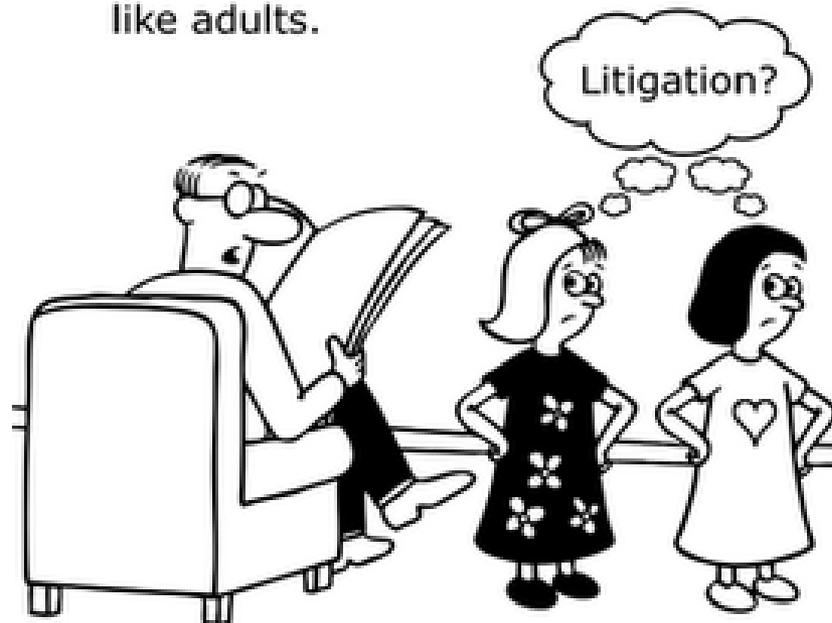
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Name: Paul Wasilko Date: October 9, 2014
Programs & Projects





Children,
let's settle this
like adults.



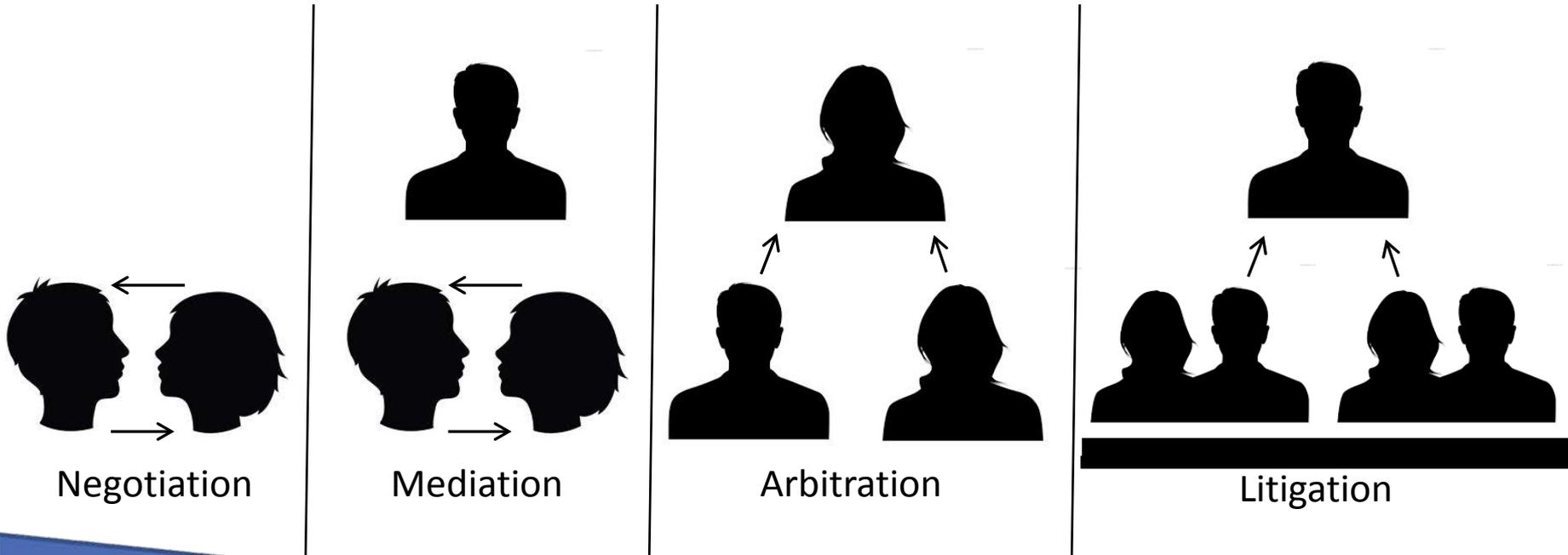
A Primer on Mediation



Four Forms of Dispute Resolution

Possibilities for the Future

Remedies for the Past



Degree of Control over the Outcome



Role of the Mediator

- Provide structure
- Assist in communication
- Monitor progress
- Attempt to motivate parties
- Empower parties to reach a conclusion that is acceptable to both
- Maintain neutrality

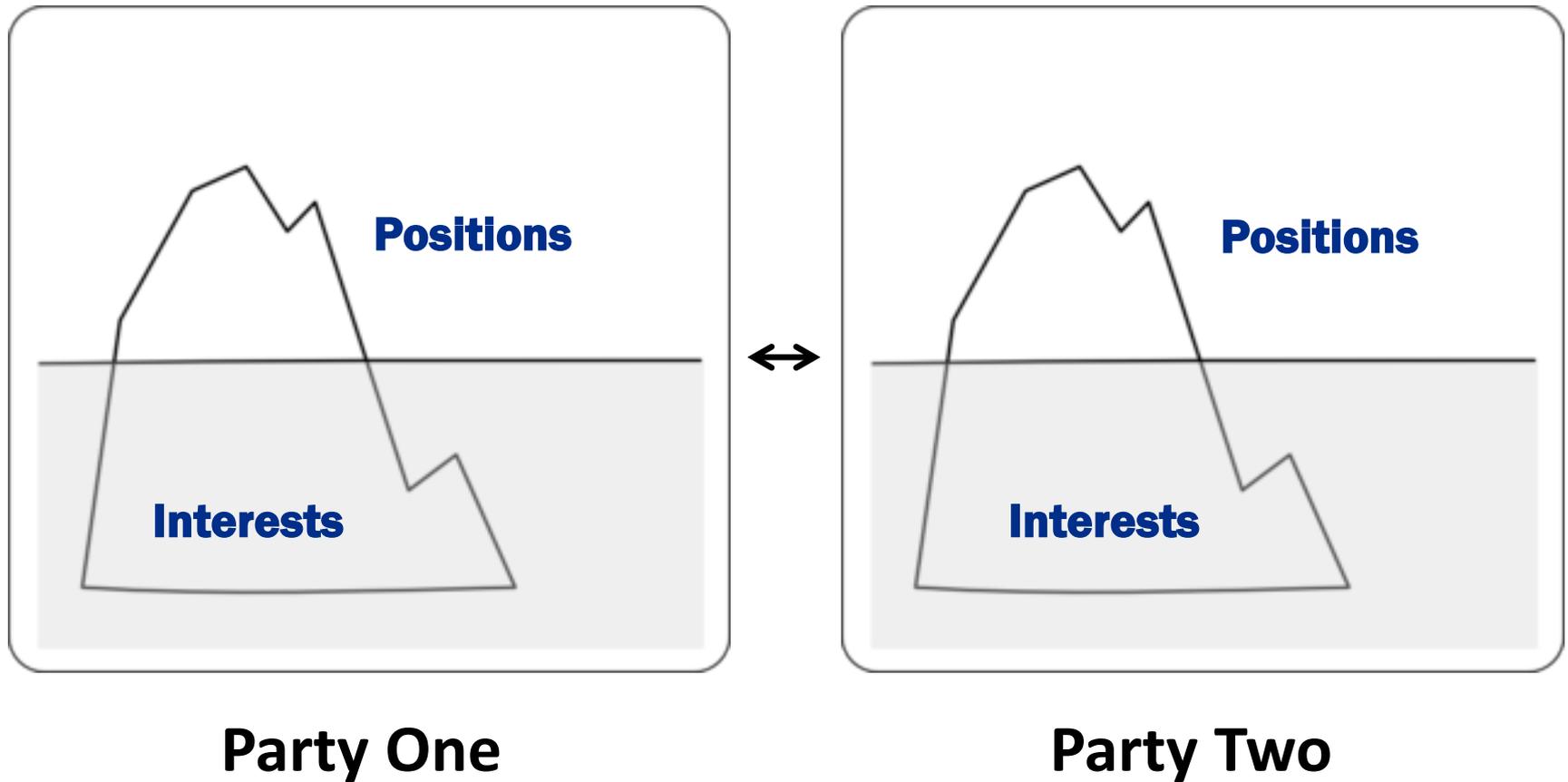


Mediation vs. Arbitration

Mediation	Arbitration
Collaborative	Adversarial
Maximum range of solutions	Limited range of solutions
Win/win intent	Win/lose intent
Tends to maintain relationships	Tends to damage relationships
Final decision by parties involved	Final decision by arbitrator or panel



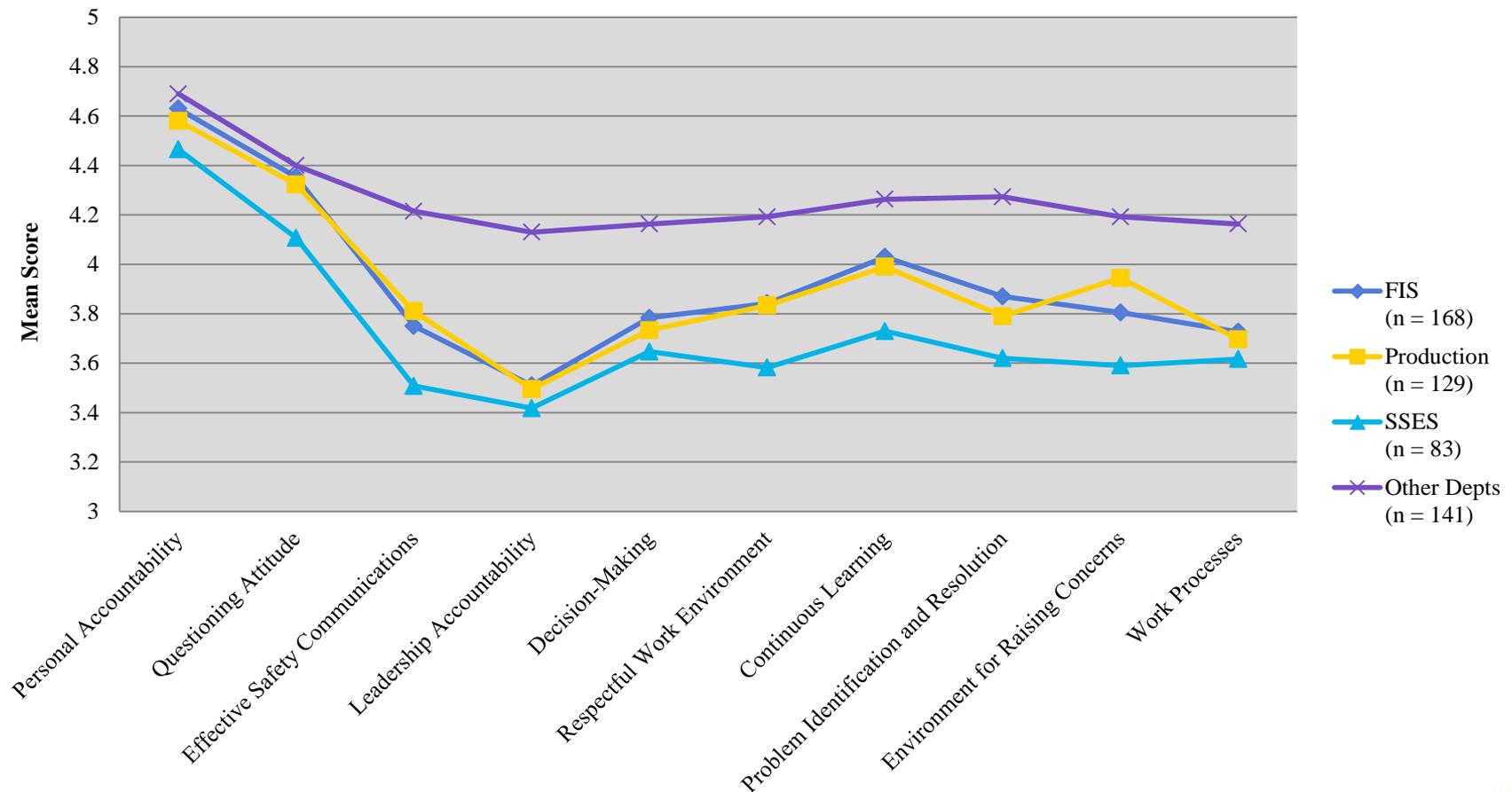
Possibilities are in the “Interests”



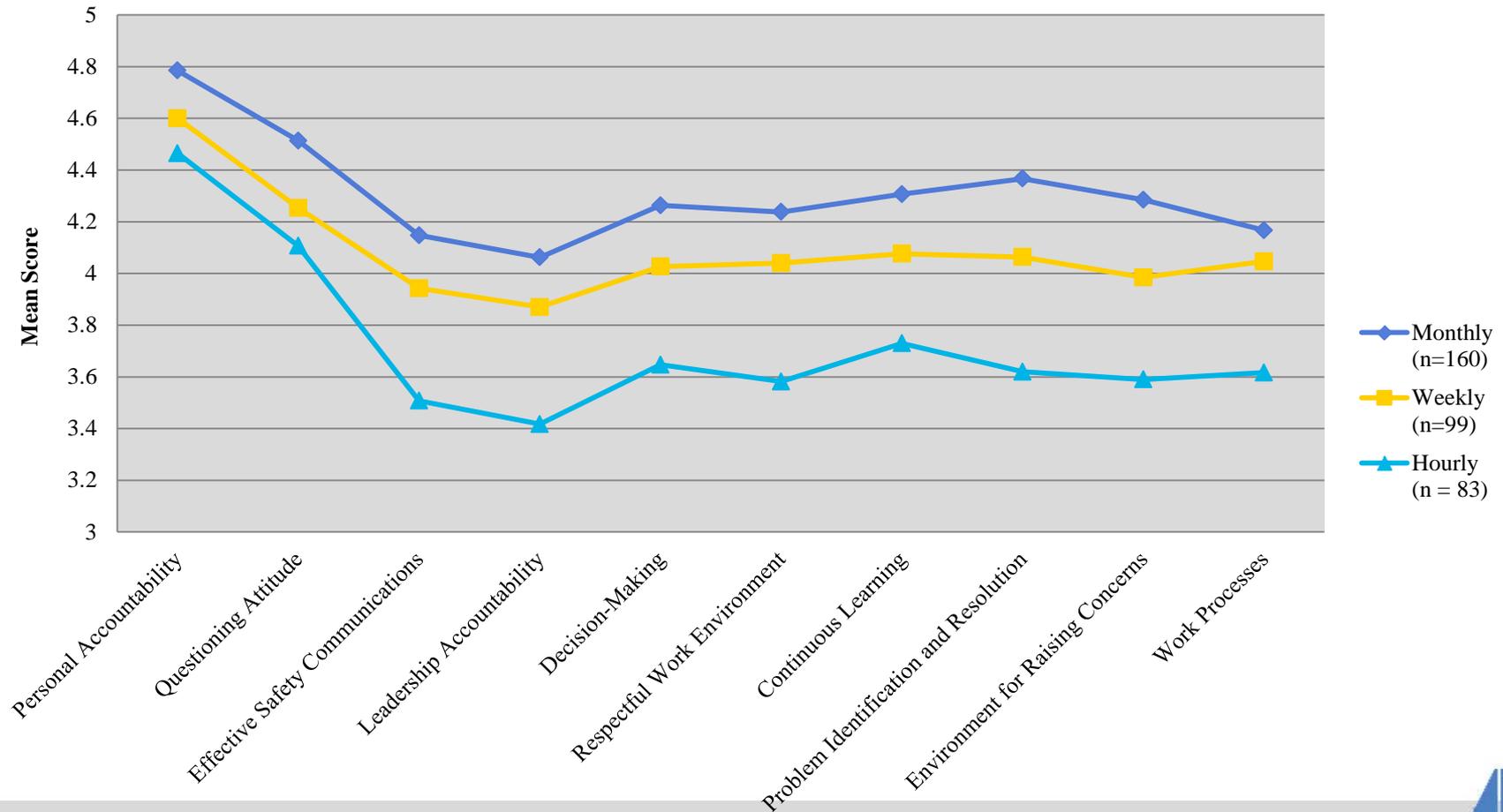
The Y-12 Mediation Case Study



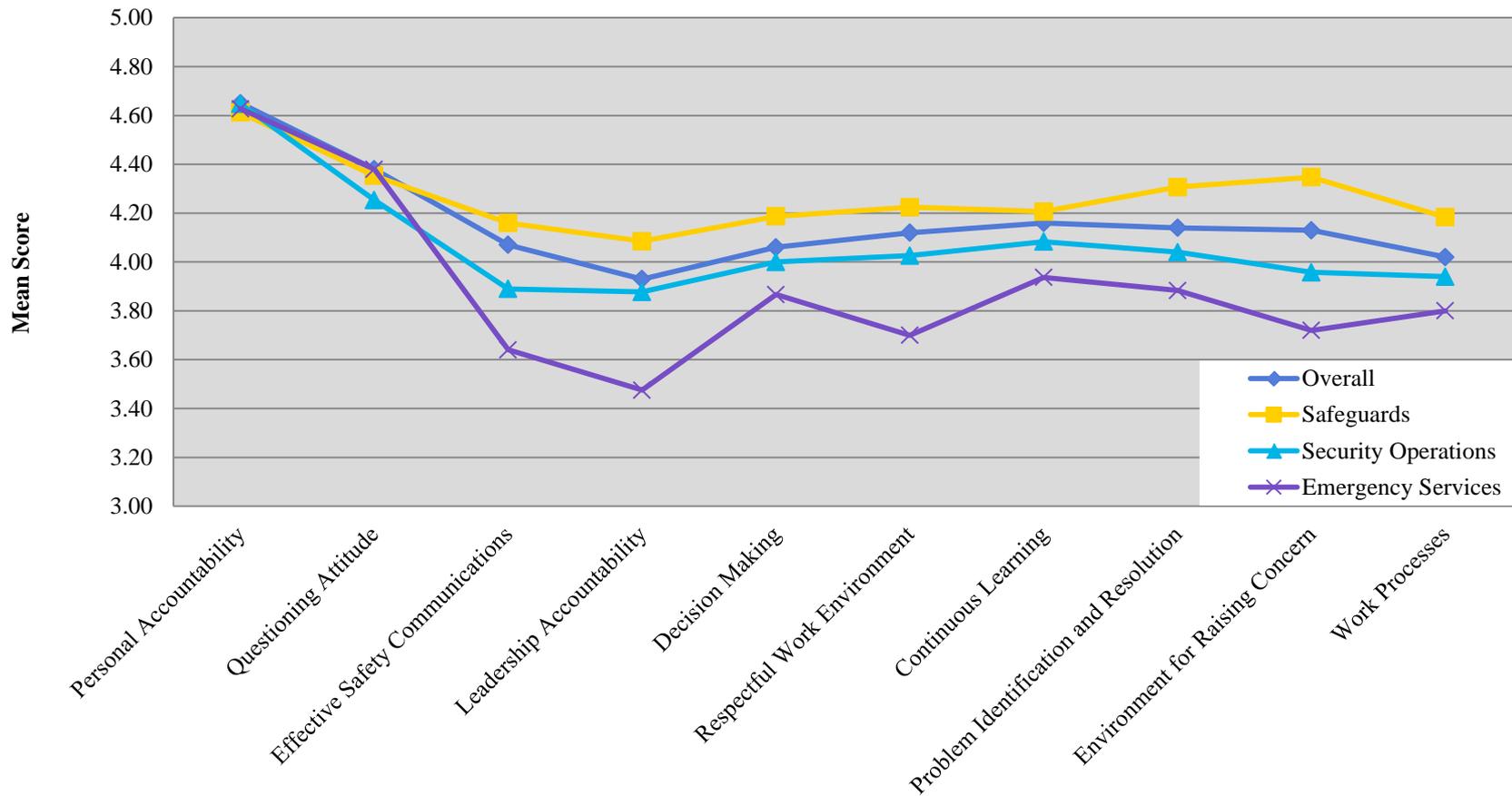
Perceptions of Safety Culture for Hourly Workers by Department



Perceptions of Safety Culture for SS&ES by Payroll Status



Perceptions of Safety Culture for SS&ES by Functional Group



“...strained relationship between management and the Firefighters”

- “Apparent lack of trust and understanding that has prompted numerous grievances and complaints according to interview and focus group participants.”
- “Tension appears to greatly influence perceptions of safety culture in a negative way.”
- “It will take a strong mutual desire, willingness, commitment, persistence, investment, and time to heal this relationship.”
- “Investment is crucial because fire protection and emergency services are cornerstones of safety at Y-12.”



Mediation as an Intervention

- Met with Y-12 management and union personnel to describe the mediation process, address questions, and gauge support.
- All parties agreed to participate in mediation.
- Y-12 management focused initial mediation effort on developing a fit-for-duty protocol (to address a prior commitment).



Mediation Logistics

- Overall – 12 participants plus a mediator and a scribe (7 union, 4 management, & SOMD)
- Five sessions ranging from one hour to three hours each (3/19 through 4/19)
- Agenda set by team for each meeting
- Documents developed between meetings
- Protocol tested between meetings



The Mediation Process

The mediation process followed the general outline below.

- Step 1 – Orientation
- Step 2 – Presenting Viewpoints (opening statements)
- Step 3 – Developing the Task Statement
- Step 4 – Generating Options (Brainstorming)
- Step 5 – Evaluating Options
- Step 6 – Concluding the Mediation



Y-12 Fire Protection Operations Agreement to Mediate

We have the following understanding about this mediation process:

- We are here voluntarily to mediate.
- We or the mediators have the right to stop the mediation at any time.
- We (not the mediator) will attempt to reach an agreement during the mediation.
- While not under oath, we agree to be truthful throughout the process.
- The mediator's primary role is to assist us in discussing possible means of addressing the issue related to "fit for duty" and physical requirements for performing fire protection activities.
- We will allow each other to speak without interruption and will listen carefully during the mediation sessions.



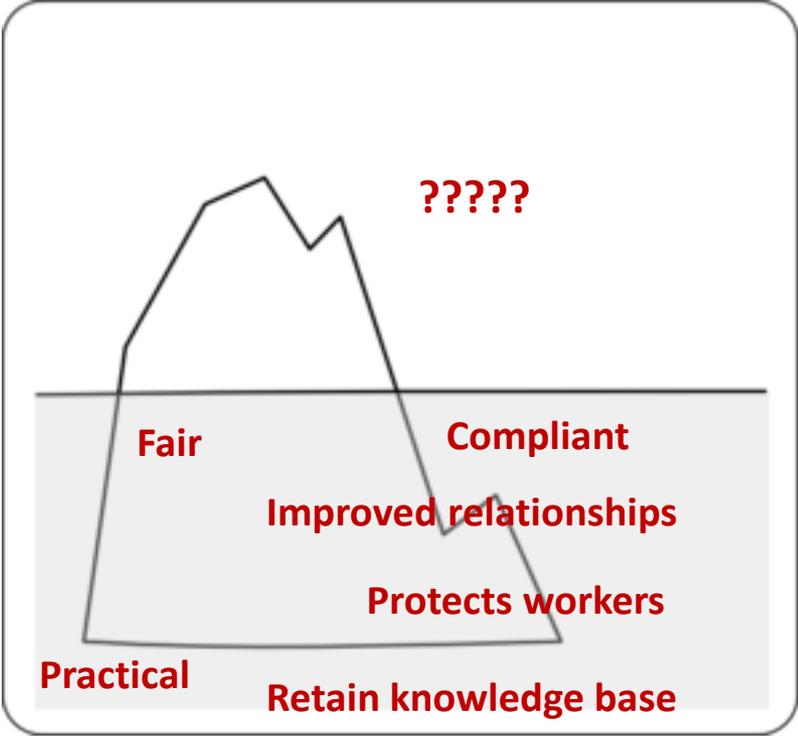
Y-12 Fire Protection Operations Agreement to Mediate

- We will avoid personal attacks on all participants in this mediation.
- We will try to understand each others' views and needs and work toward common goals.
- We will try to find a variety of ways to address this issue.
- We understand that we can ask to meet in separate sessions, if warranted.
- What we say in mediation is confidential. While the results of sessions may need to be shared with others, it will only be shared as needed to move the process forward.
- We have been introduced to the mediator and acknowledge that we have no personal, business, or family affiliation with him. Therefore, at this point, we accept him as being fair and impartial in this matter.



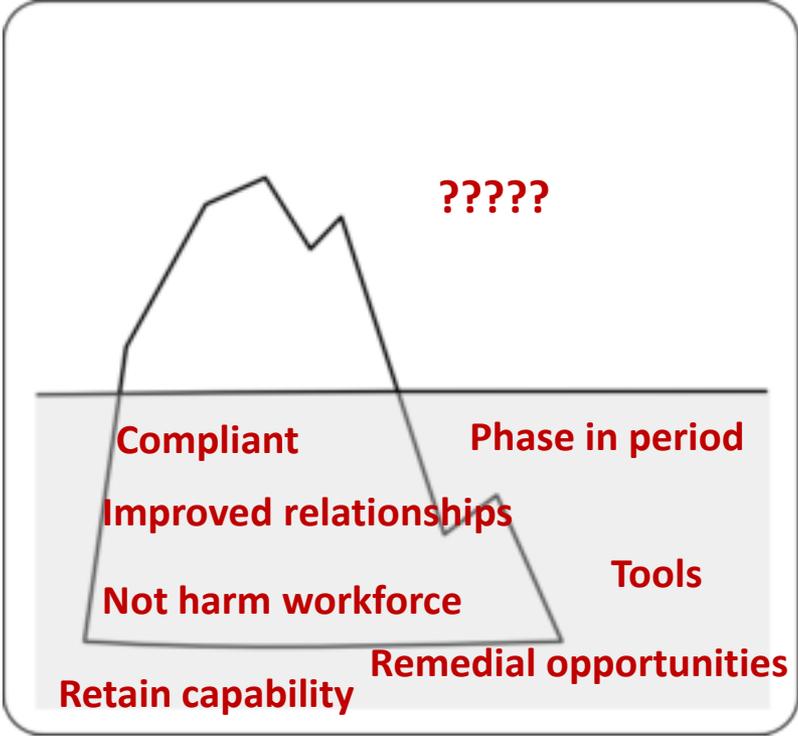
Powerful Opening Statements

Positions
Interests



Management

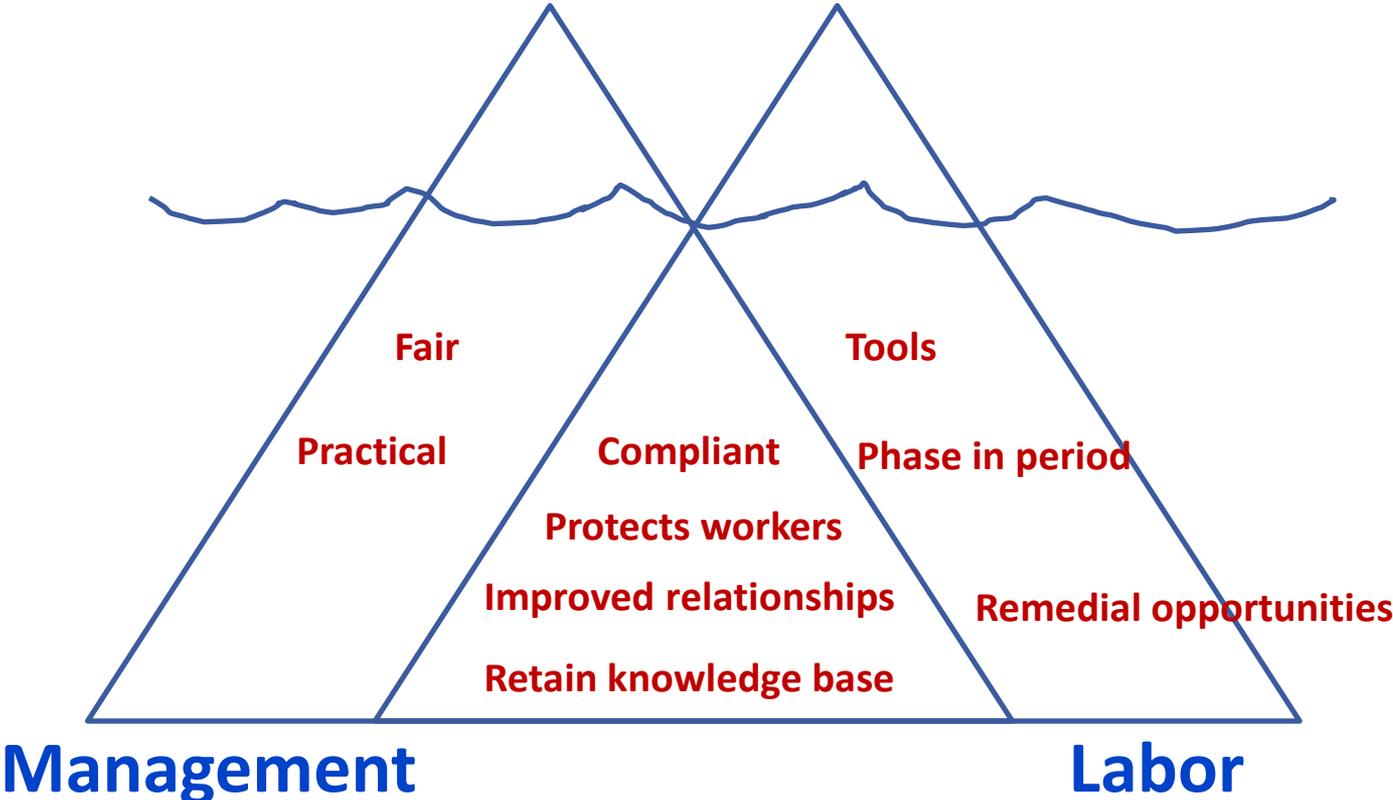
Positions
Interests



Labor



Significant Common Interests



Group agreed to the task statement:

Revise the Fire Department's Fit-for-Duty Program so that we meet our customer's expectations as required by our contract, while addressing the related concerns of current and future employees.

[Note: the original task statement referred to the Fire Department's Wellness program but the wording was changed to reflect subsequent discussion which involved the fit-for-duty program]



As a result of the group's efforts

- An implementation plan was developed, including the exercise protocol for determining fit-for-duty for emergency responders.
- Both the plan and protocol were considered to be **generally acceptable** to both parties as documented in *YAREA-F-0034, Y-12 Fire Protection Operations Fit-for-Duty Implementation Plan*.
- Further details of the plan and protocol were deferred to be determined by management directive or through negotiation.



Safety Culture Traits in Action

INPO Safety Culture Traits	As Demonstrated in this Case Study
Leadership Safety Values and Actions	Willingness to “break the mold”
Problem Identification and Resolution	Openness to hearing/addressing issues
Personal Accountability	Acted on what was learned
Work Processes	New decision-making process
Continuous Learning	Willing to try new approach
Environment for Raising Concerns	Openly listened without being critical
Effective Safety Communication	Stated own position effectively
Respectful Work Environment	Showed respect for thoughts of others
Questioning Attitude	Sought to understand needs
Decision making	Adopted approach determined by team



Final Observations

- Commitment of both parties to collaborate in good faith was the key to success for this case study
- Mediation, while not appropriate for all disputes, can provide an effective platform for empowerment and constructive problem-solving and decision-making

