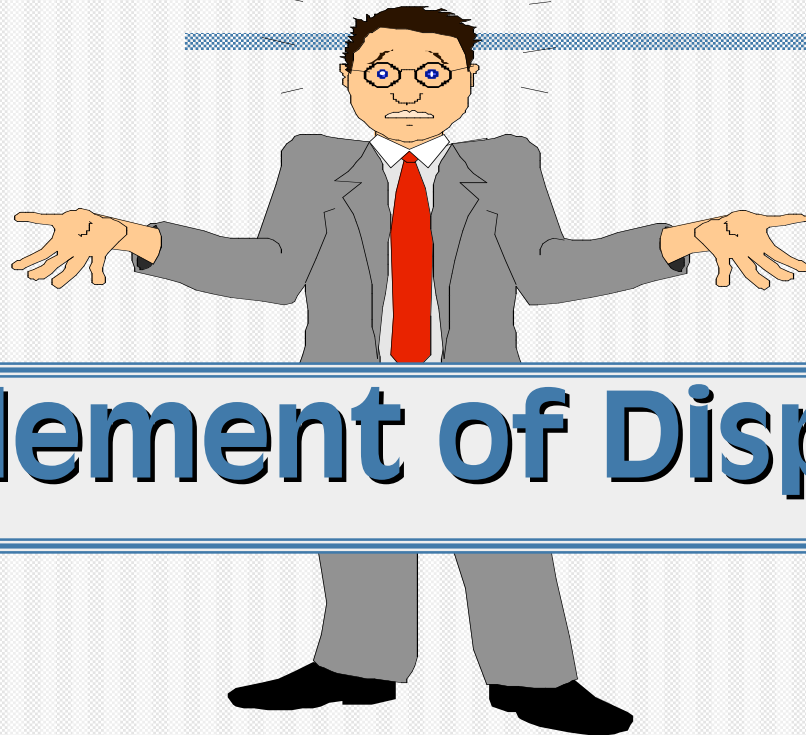


**Stanislaus County Planning
Commission Training Workshop
January 24, 2004**

**“Dispute Resolution in the
Planning & Environmental Process”**

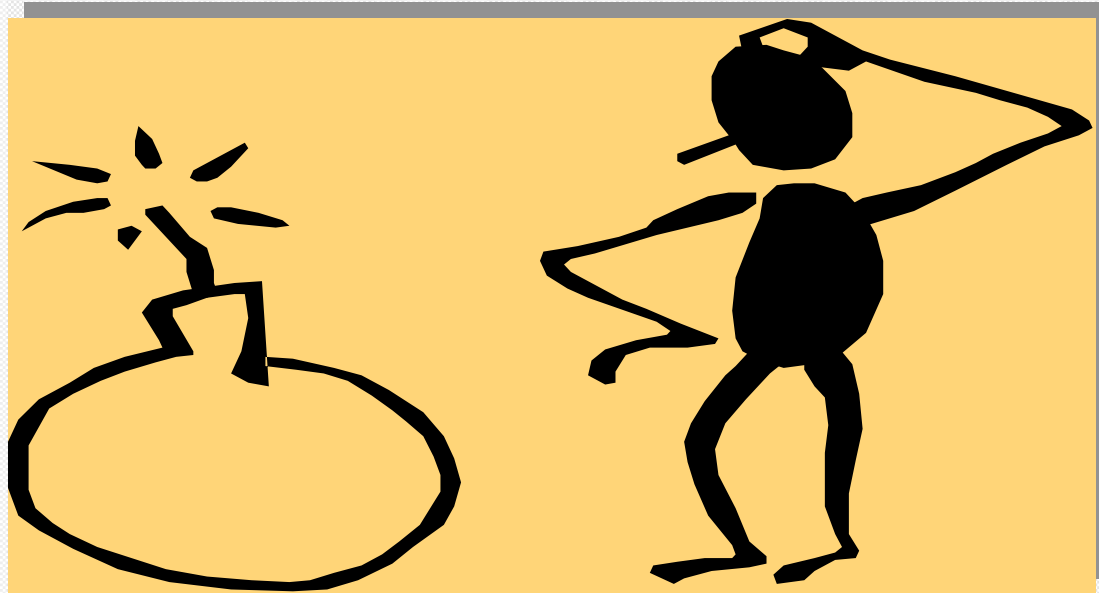
What is DISPUTE RESOLUTION?



Settlement of Disputes

Public Disputes

Complicated Network of Interests



PLANNING & ENVIRONMENTAL PROCESSES ARE COMPLEX

1. Laws & Regulations

2. Design Consideration

5. Political Approval

3. Environmental Analysis

4. Socioeconomic Analysis

COMPLICATED NETWORK OF INTERESTS

1. Many Times, The Parties Are Groups Or Organizations, Not Individuals

COMPLICATED NETWORK OF INTERESTS

2. New Parties Emerge

COMPLICATED NETWORK OF INTERESTS

3. Different Forms Of Power

COMPLICATED NETWORK OF INTERESTS

4. Lack Of Continuing Relationships

COMPLICATED NETWORK OF INTERESTS

5. Different Decision Making Procedures

BROAD RANGE OF ISSUES

- 1. New Issues Emerge At Any Time During The Process**

BROAD RANGE OF ISSUES

2. Technical Information
(e.g., DUALING EXPERTS!)

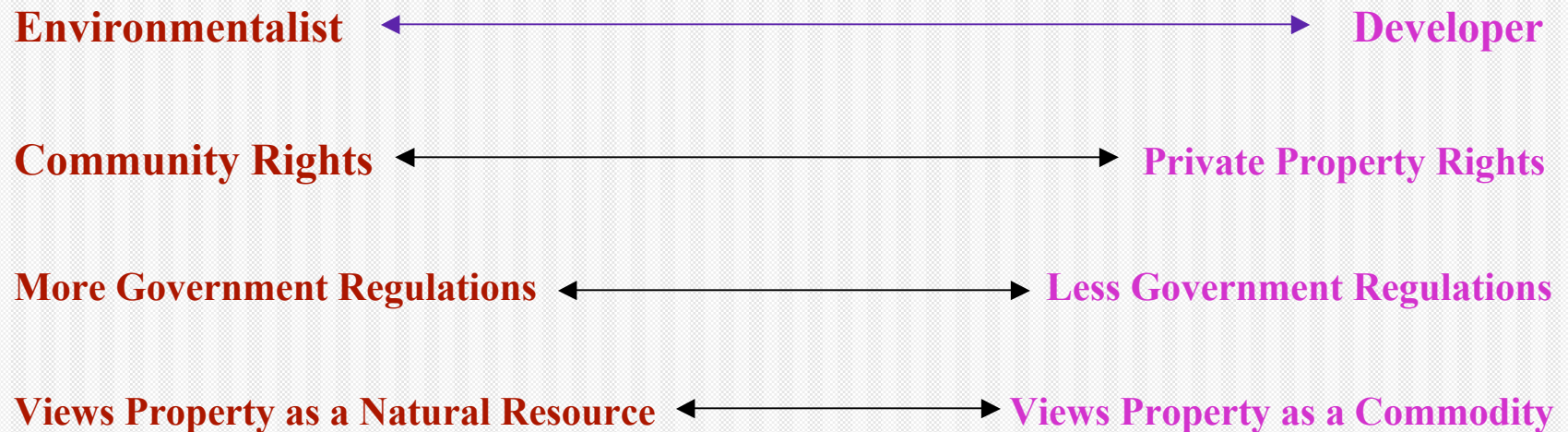
BROAD RANGE OF ISSUES

3. Legal Determinations

BROAD RANGE OF ISSUES

4. Strongly Held Values

Planning Takes One Into Ideology



STAGES OF UNMANAGED CONFLICT

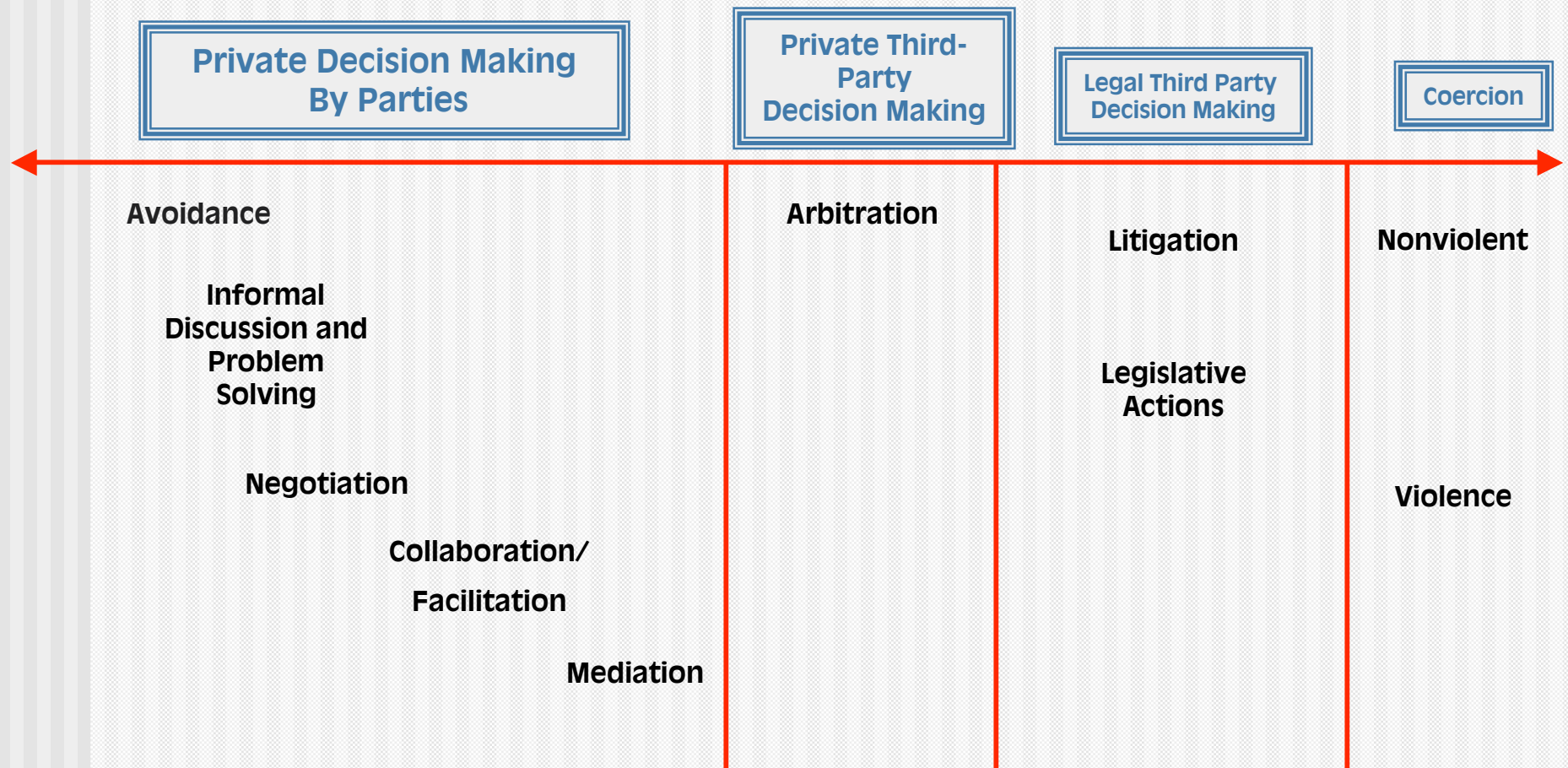
CONFLICT IS DYNAMIC!

1. The Problem Emerges
2. Sides Form
3. Positions Harden
4. Communication STOPS
5. Resources are Committed
6. Conflict Goes Outside Community
7. Perceptions Become Distorted
8. Sense of Crisis Emerges

Outcome Varies Depending on Type of Dispute
Resolution Technique Used At Each Stage

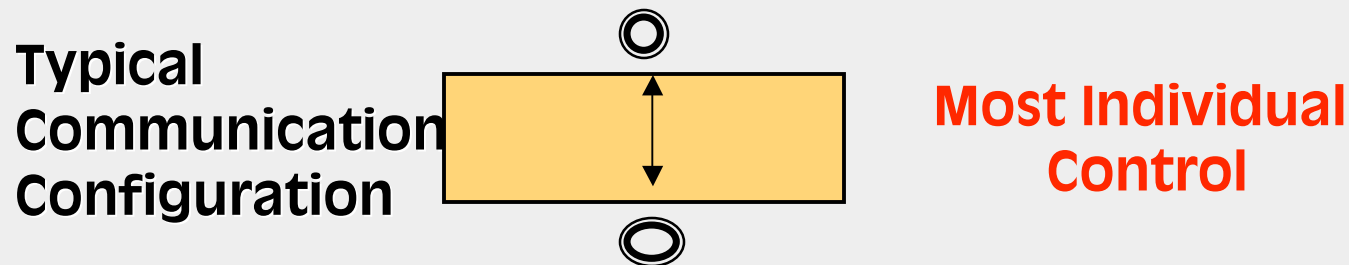
**ALTERNATIVE DISPUTE
RESOLUTION (ADR) vs.
DISPUTE RESOLUTION**

DISPUTE RESOLUTION TECHNIQUES



NEGOTIATION

**A Communication
Process That People Use
to Plan Transactions and
Resolve Conflict**



TYPES OF NEGOTIATION

Distributed Bargaining

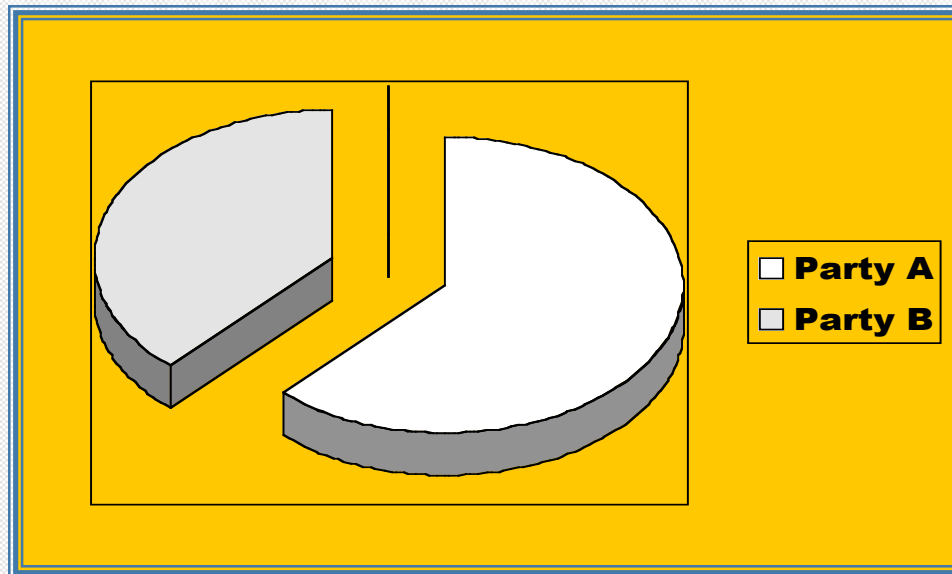
Integrated Bargaining

DISTRIBUTED BARGAINING

No Gains Available for The Parties to Share Jointly Through Bargaining.

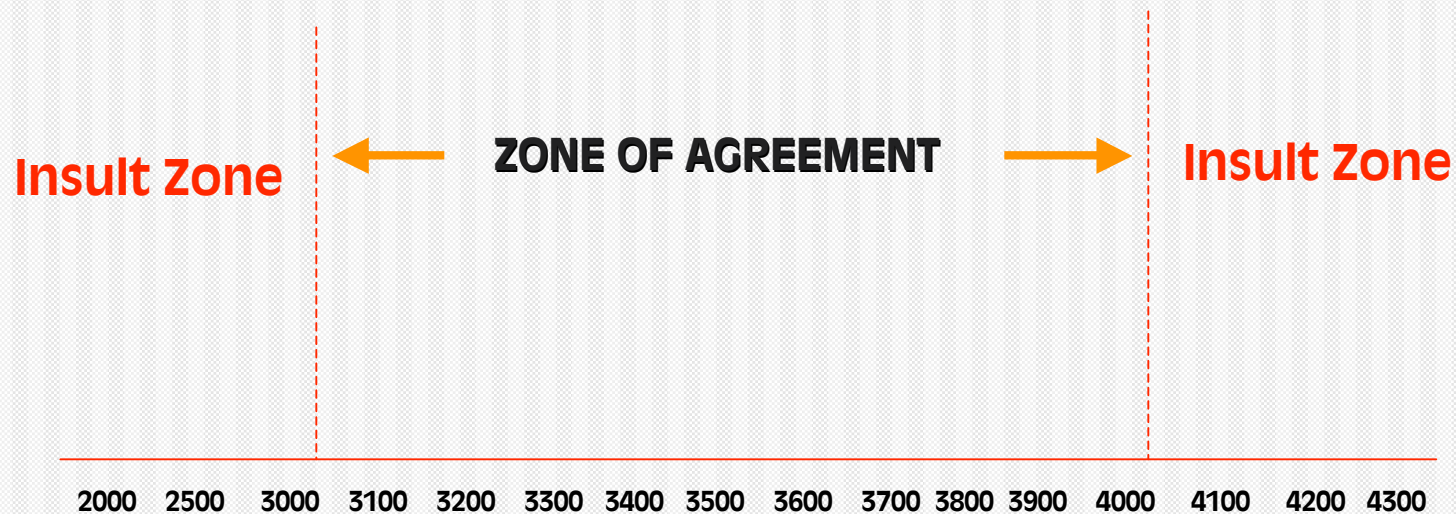
Any Proposed Solution Will Result in an Increase for One Party and a Decrease for the Other.

ZERO-SUM BARGAINING



NEGOTIATION DANCE

A Pattern of Concessions



INTEGRATED BARGAINING

√Joint Gains

√Creates Value

NON-ZERO SUM BARGAINING

Separate **PEOPLE** from the **PROBLEM**

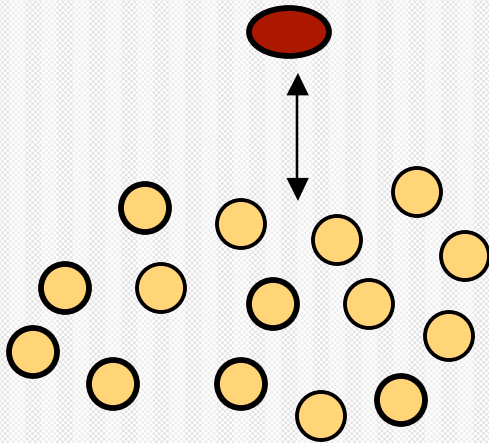
Focus on **INTERESTS** Not **POSITIONS**

Invent **OPTIONS** for **MUTUAL GAIN**

Insist on Using **OBJECTIVE CRITERIA**

COLLABORATION/FACILITATION

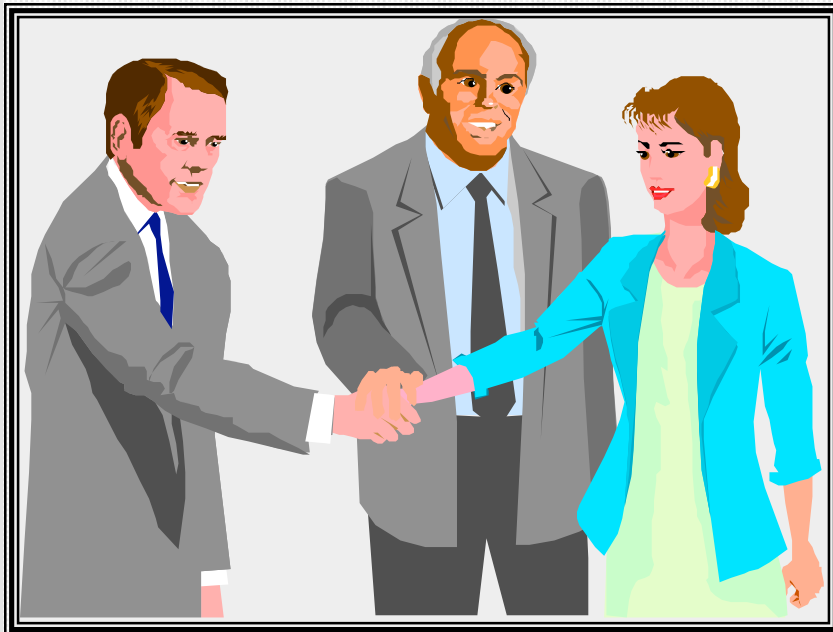
Work Cooperatively With Stakeholders To Formulate A Consensus



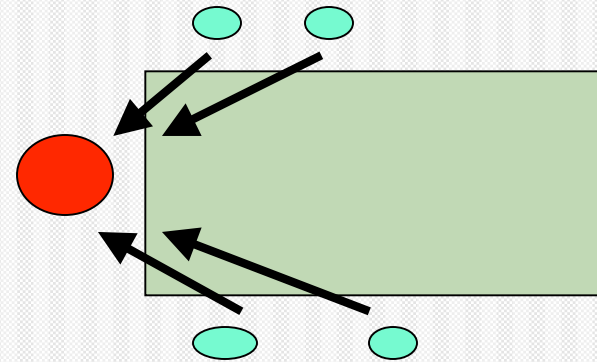
Open Dialogue/Exchange of Ideas



MEDIATION



FACILITATED NEGOTIATION



Neutral Third Party Acting As a Traffic Cop By Directing Communication

MEDIATOR'S FUNCTION

» Mediator's Function

- Manage the *negotiation process*
- Encourage *full participation*
- Promote *mutual understanding*
- Foster *inclusive solutions*
- Teach *new thinking skills*
- Remain *neutral*
- Deescalate* Conflict

TYPES OF MEDIATION

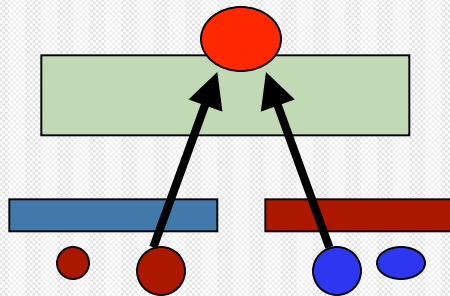
- **NEUTRAL** MEDIATION

- **STAFF** MEDIATION

ARBITRATION

Sole Arbitrator or Panel of Three Arbitrators

- √ Hearing Format
- √ Listen to All Sides
- √ Accept Evidence
- √ Render Decision



TYPES OF ARBITRATION

BINDING ARBITRATION

(Can't use in discretionary land use decisions
due to **DELEGATION DOCTRINE**)

NON-BINDING ARBITRATION

BE INCLUSIVE

Important
To Include

All Stakeholders

USE AND ENCOURAGE NEW COMMUNICATION SKILLS

Go from *DEBATING* to
DIALOGUING

DEBATE vs. DIALOGUE

- Monolog
- Persuasive
- Adversarial questions to contest opponents beliefs
- Assumes united front

- Interactive
- Personal sharing, listening and understanding
- Admits doubts and gray areas
- Uncovers differences

USE AND ENCOURAGE NEW COMMUNICATION SKILLS

- **Paraphrasing** (e.g., *"It sounds like what you are saying is . . ."*)
- **Drawing People Out** (e.g., *"What do you mean by . . ."*)
- **Mirroring** (Repeat the key words from speaker)
- **Gathering Ideas** (e.g., *"I'd like to take the next 10 minutes brainstorming."*)
- **Listening for Common Ground** (e.g., *"I'm hearing a lot of similarities."*)

ASKING QUESTIONS

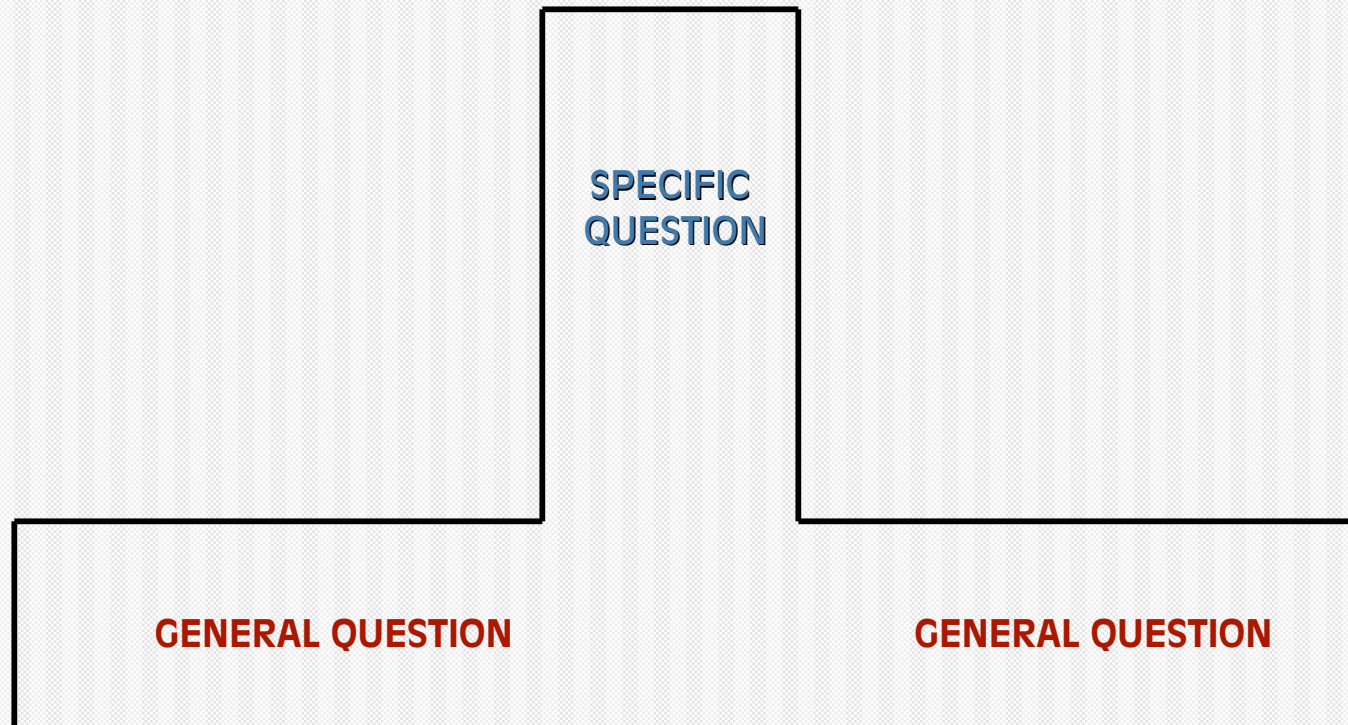
T-FUNNEL QUESTIONS (USE IF SOMEONE IS NON-ADVERSARIAL)

GENERAL QUESTION

GENERAL QUESTION

**SPECIFIC
QUESTIONS**

INVERTED T-FUNNEL QUESTIONS (USE IF SOMEONE IS ADVERSARIAL)



LISTENING SKILLS

→ **ACTIVE** LISTENING

→ **PASSIVE** LISTENING

BE AWARE OF PERCEPTIONS

Conflict occurs when two or more people
PERCEIVE incompatible
goals, objectives, or desires.

DE-ESCALATING CONFLICTS

- APPEAR CALM, DECISIVE AND IN CHARGE
- CALL FOR A BREAK IF DISCUSSIONS BECOME TOO HEATED
- CAUCUS
- LET PARTIES EXPRESS THEIR OPINIONS UNINTERRUPTED
- BE EMPATHETIC
- BE CAREFUL ABOUT PERCEPTIONS
- REFRAME STATEMENTS TO MORE POSITIVE STATEMENT

*“Conflict can be good, bad or ugly and
it can be
managed in good, bad and ugly way.”**

***YOU CAN'T SHAKE HANDS WITH
A CLENCHED FIST.***

Indira Gandhi