

“Advocacy Establishment for Students through Ombudsman Position” (AESOP)  
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## TRAINING MATERIALS FOR OMBUDSPERSON

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# MEDIATION, PSYCHOLOGICAL SUPPORT OF STUDENTS: EUROPEAN EXPERIENCE



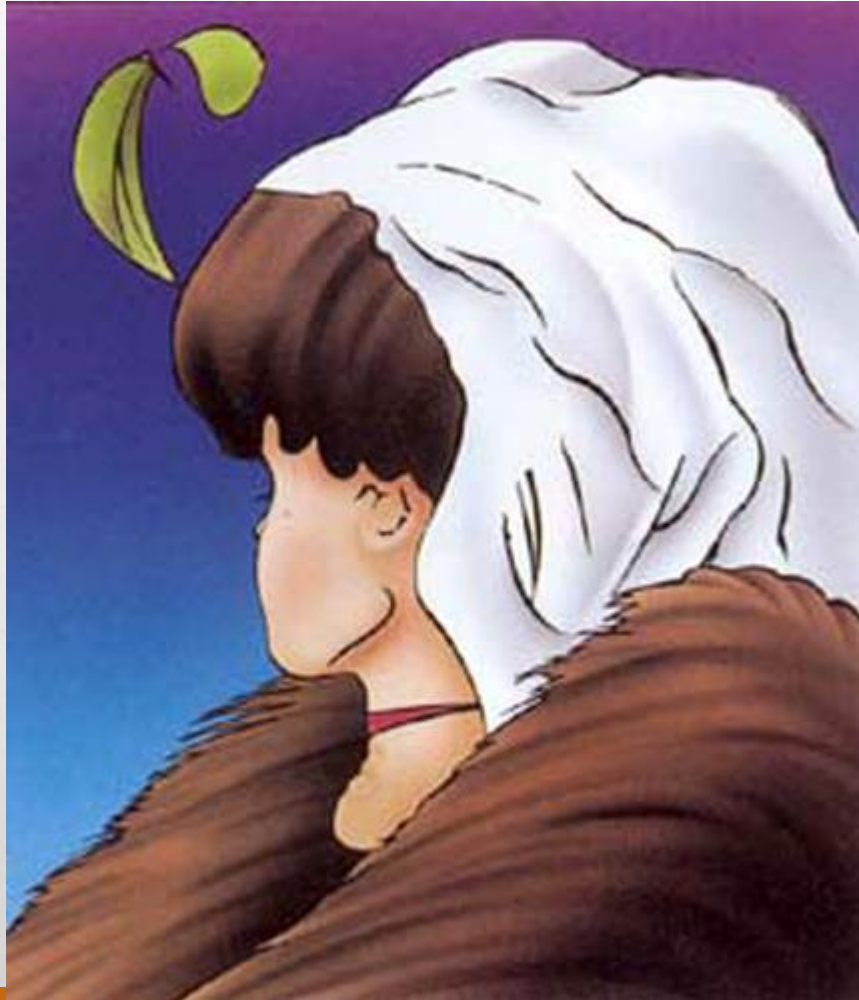
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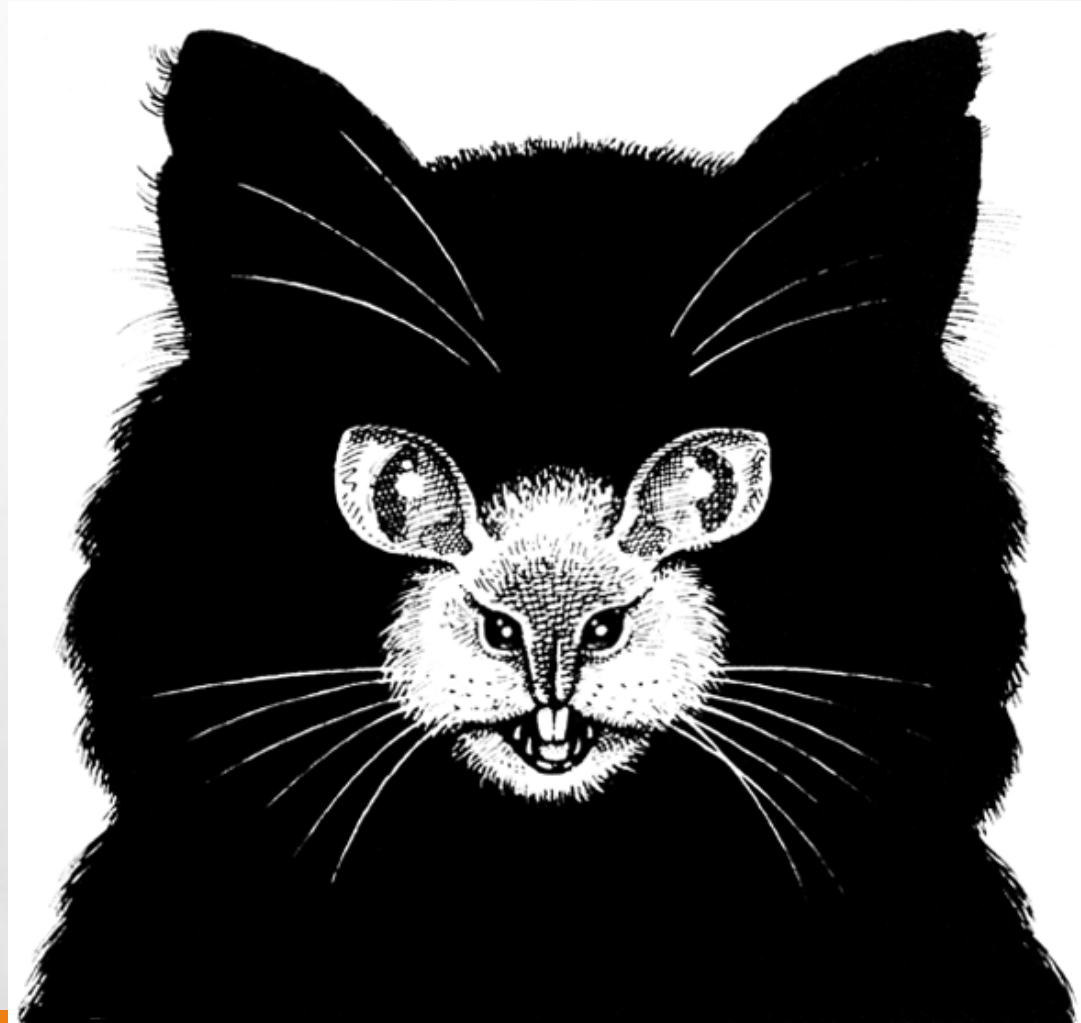
RESOP



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**An old woman or a young  
woman?**



**Cat or mouse?**



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- **IS THERE A PROPER WAY TO SEE THESE PICTURES OF OPTICAL ILLUSION?**
- **WHY IS IT IMPORTANT TO RECOGNIZE THAT ANY SITUATION CAN BE VIEWED FROM DIFFERENT PERSPECTIVES?**



# LITTLE RED RIDING HOOD AND THE BIG BAD WOLF



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**AESOP**



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- **WHY? (CAUSES OF THE CONFLICT).**
- **HOW? (STRATEGY AND TACTICS OF CONFLICT BEHAVIOR).**
- **WHY? (GOALS, INTERESTS, BENEFITS)**



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# BAD RED RIDING HOOD AND POOR WOLF





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# MEDIATION

- **A PROCESS ... WHEN THE PARTIES ENGAGE A THIRD PERSON OR PERSONS ... IN ORDER TO PROVIDE ASSISTANCE IN THE PEACEFUL RESOLUTION OF DISPUTES CONCERNING CONTRACTUAL OR OTHER LEGAL RELATIONS, OR RELATED. THE CONCILIATOR HAS NO RIGHT TO IMPOSE ON THE PARTIES WAYS TO RESOLVE THE DISPUTE (MODEL LAW OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, 2002)**
- **A FLEXIBLE CONFIDENTIAL PROCESS DURING WHICH NEUTRAL PARTY ACTIVELY HELPS INTERESTED PARTIES TO REACH AN AGREEMENT IN RESOLVING THE CONFLICT OR DISPUTE, BUT THE LAST WORD IN THE DECISION MAKING OR THE TERMS OF THE AGREEMENT TO RESOLVE THE DISPUTE RESTS WITH THE INTERESTED PARTIES» (CENTRE FOR EFFECTIVE DISPUTE RESOLUTION)**





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# THE PURPOSE OF MEDIATION

- **THE PURPOSE OF MEDIATION IS TO ALLOW THE PARTIES TO FIND A RESOLUTION TO THEIR CONFLICT IN A SUSTAINABLE AND SELF-DETERMINED WAY. THE PROCEDURE IS CONSTRUCTIVE AND INVOLVES THE CHANCE FOR PERSONAL DEVELOPMENT AND SOCIAL GROWTH FOR THE PARTIES OF THE CONFLICT. THE PRINCIPLE OF VOLUNTARINESS AND THE DEVELOPMENT OF THE SOLUTION BY THE PARTIES THEMSELVES CARRY WITH THEM THE EXPECTATION OF SUBSTANTIVE JUSTICE. IT IS EXPECTED THAT THE RESULTS AGREED WITH BENEFIT BOTH PARTIES OR, AT LEAST, AVOID THAT ANYONE IS WORSE OFF AFTER THE MEDIATION.**



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# ADVANTAGES OF MEDIATION

- **PROCEDURAL FLEXIBILITY**
- **MEDIATION IS MUCH LESS COSTLY THAN CIVIL LITIGATION**
- **MEDIATION IS A FAR LESS FORMAL PROCESS THAN THE TRADITIONAL ADVERSARIAL MODEL OF CONFLICT RESOLUTION**
- **IN MEDIATION, THE PARTIES ARE FULL PARTICIPANTS AND CAN EXPRESS THEIR OWN OPINIONS AND CONCERNS**
- **MEDIATION ALLOWS THE OPPORTUNITY FOR PARTIES TO WORK TOGETHER AND REACH A SETTLEMENT AND CONTINUE TO WORK TOGETHER TO COMPLETE THE CONSTRUCTION PROJECT**
- **MEDIATION IS A PRIVATE PROCESS**
- **MEDIATION CAN PROTECT PARTIES FROM SOME OF THE EXTRA PROBLEMS ASSOCIATED WITH CIVIL LITIGATION, SUCH AS PUNITIVE AWARDS**



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# WHAT DO MEDIATORS DO?

- **CREATING A COMFORTABLE ENVIRONMENT FOR THE DISCUSSION;**
- **HELPING THE PARTIES TO DEFINE EXACTLY WHAT THEY ARE DISPUTING;**
- **MAKING SURE THE DISCUSSION STAYS ON TRACK;**
- **ASSISTING THE PARTIES TO IDENTIFY AND COMMUNICATE THEIR PRIORITIES AND CONCERNS; AND**
- **SUPPORTING THE PARTIES IN REACHING AN AGREEMENT.**



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# MAJOR MEDIATING MISTAKES

- **ARGUING AND JUDGING**
- **DELAYING THE OPENING OFFER**
- **WALLOWING IN PESSIMISM**
- **SIDELINING THE PARTIES**
- **IGNORING THE JUSTICE ISSUES**
- **TELLING THE PARTIES THAT THEIR CONCERNS AREN'T RELEVANT TO THE RESOLUTION**
- **FAILING TO MASTER YOUR OWN EMOTIONAL RESPONSES TO CONFLICT**





# FIVE PHASE MODEL OF MEDIATION

- **INTRODUCTION AND COMMENCEMENT: INFORMATION OF THE PARTIES, CLARIFICATION OF THE PROCEDURE AND THE ROLES OF THE PARTICIPANTS, DETERMINATION OF THE MEDIATOR REMUNERATION AND PARTICULAR ISSUES (CONFIDENTIALITY, ETC.);**
- **GATHERING INFORMATION: INVESTIGATION AND CLARIFICATION OF THE NEGOTIATION SUBJECT MATTER, THE ISSUES AND THE CONFLICT;**
- **CLARIFYING INTERESTS: INVESTIGATION OF THE INTERESTS THE PARTICIPANTS HAVE IN CONNECTION WITH THE DISPUTE AND ITS SOLUTION;**
- **DEVELOPING SOLUTIONS: SOLUTION ATTEMPTS BY THE PARTIES, THE MEDIATOR MAY HELP BY FACILITATING THE DISCUSSIONS OR EVEN GIVING EVALUATIVE FEEDBACK;**
- **CONCLUSION BY SETTLEMENT: SETTLEMENT AGREEMENT IS RECORDED AND LEGALLY IMPLEMENTED.**