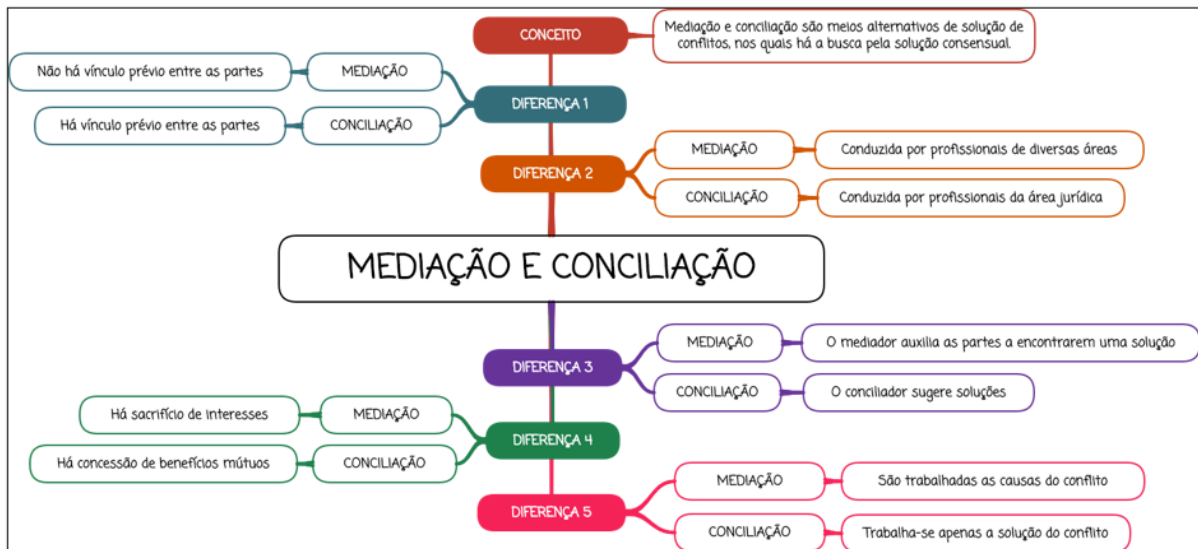


Conciliation and Mediation



The word derives from the Latin “conciliare” which means:

- act or effect of conciliating
- adjust
- achieve agreement between people, harmonize, be at peace, calm down
- combine or compound differences

In the judicial process, there is a tendency for conflict to become more accentuated in the development of the procedural relationship:

Logic of the Heterocompositive Process – analyzing past facts to establish who is to blame and attribute responsibility, based solely on Positive Law.

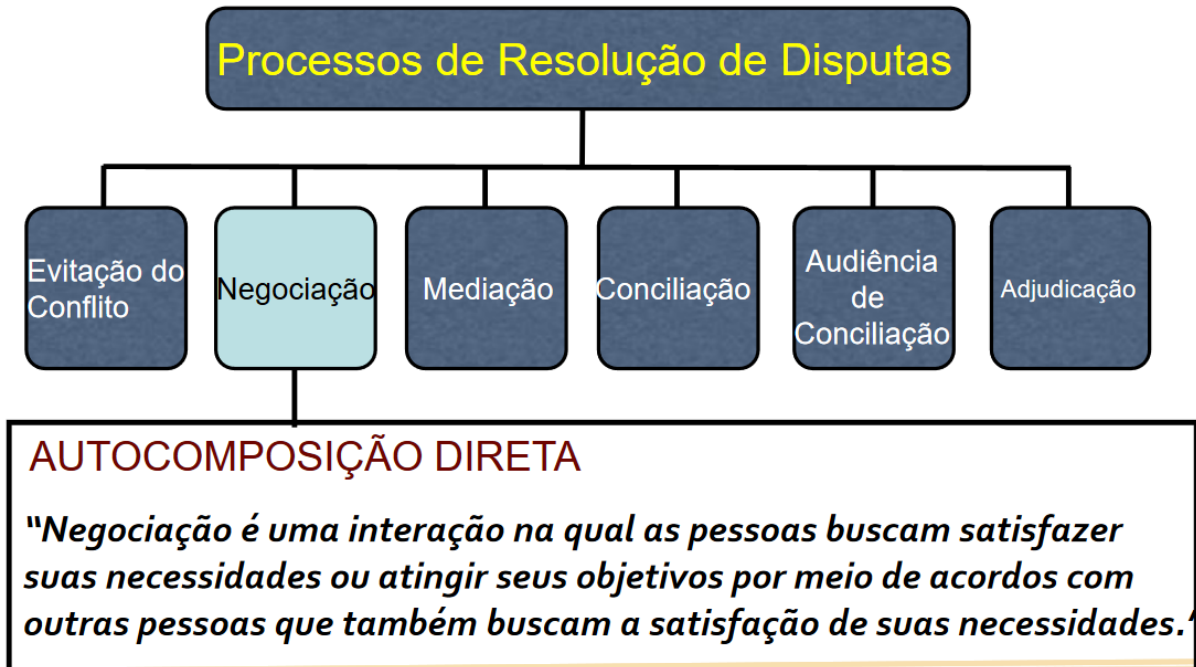
Revictimization – in addition to excluding aspects that may be more relevant than the legal aspect, it makes the party experience the entire unpleasant situation again.

This method favors the formation of Destructive Spirals – the conflict takes on competitive features (each party is concerned with “WINNING” the dispute, creating new points of dispute).

The role of the conciliator will be focused on facilitating:

- encourage the parties to perceive the conflict in a more positive way;
- bring the parties closer together (overcoming communication barriers for productive dialogue with information exchange and mutual understanding);
- create an environment of cooperation (reduce the effects of devaluing reactions and personality clashes on negotiation);

- encourage the parties to reveal their interests in order to generate options for mutual gains (to the detriment of unilateral positions, attribution of blame and discussions disconnected from the conciliatory purpose).



THE RULES GOVERNING CONCILIATION:

- I- Information - duty to clarify those involved about the work method to be used, presenting it in a complete, clear and precise way, informing about the deontological principles I, the rules of conduct and the stages of the process;
- II- Autonomy of will - duty to respect the different points of view of those involved, ensuring that they reach a voluntary and non-coercive decision, with freedom to make their own decisions during or at the end of the process and to interrupt it at any time;



Conciliation is a faster procedure and, in most cases, is restricted to a meeting between the parties and the conciliator.

It is a very effective mechanism for conflicts in which there is no significant relationship between the parties in the past or ongoing in the future, therefore, they prefer to seek an agreement immediately to put an end to the controversy.” (NETO; SAMPAIO, 2007)

Mediation differs from conciliation in several aspects. In it, what is at stake are months, years or even decades of relationship (...). It does not aim purely and simply at agreement, but at achieving the satisfaction of the interests and needs of those involved in the conflict” (NETO; SAMPAIO, 2007)