

Interest-Based Negotiation Skills

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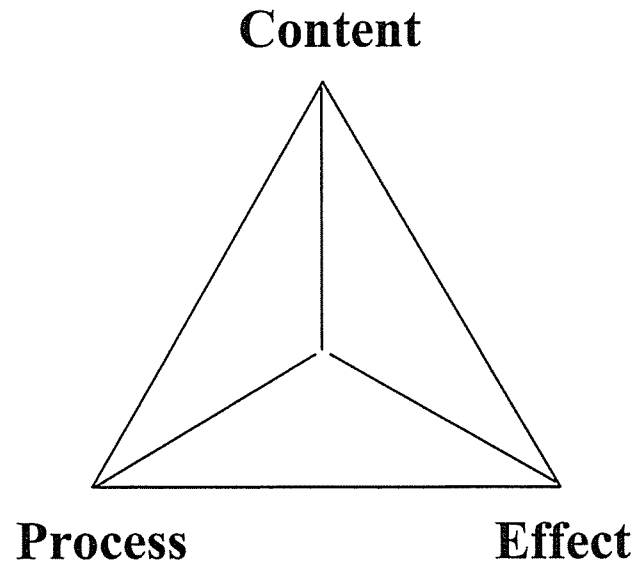
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Negotiation is a Multi-Dimensional Process



Working with challenging people requires good conflict management negotiation skills. Effective facilitators focus on maintaining a *balance* of three key elements of a negotiation: content, process and effect.

content – the facts, data and technical details that characterize the conflict.

process – the system for getting things done, communicating, making decisions and managing the conflict.

effect – the effect that the conflict has on individuals, outcomes and the relationships of everyone involved.

Getting to No - Positional Negotiation

“Humans have a penchant to seek out and put store in evidence that supports their beliefs and judgments while eschewing and devaluing the evidence that does not.”

- Morgan Jones, *The Thinkers Toolkit*

“Arguments only confirm people in their own opinions.”

- Booth Tarkington

Many negotiations are based on a process of positional bargaining. A position is someone's solution to a problem. For example, if two employees are involved in a dispute over the late completion of an assignment, each might believe that they are not at fault and take the position that the other party should be held responsible for not meeting the deadline. Unfortunately, blaming will not solve their problem.

Positional negotiation is based on a give-and-take between the solutions each party brings to the table. Negotiators in such a situation will argue a case that justifies their position. Each party has a different set of facts, and a different first-hand experience. They use their case to justify getting the most favorable settlement. A common result of this approach is that people convince themselves, but rarely convince the other party. They end up making it easier for the other party to say “no.”

If neither party gives in to the other's arguments and solutions, conflict will escalate. Reasoning gives way to persuasion. When persuasion fails, frustrations rise and negotiators go on the attack. The anger level rises, and the ability to make rational decisions decreases. To escape the discomfort of the moment, negotiators become more willing to make decisions that they normally would not agree to.

Finding a solution that works best for everyone is difficult when all that the parties have to work with is each other's positions. Both parties cannot have a solution based entirely on one party's terms; something has to give. Positional negotiation, therefore, results in compromise. In order for one party to win something, the other must lose something. This is known in negotiation theory as a “zero-sum game.” Compromise also invites us to focus on what we did *not* get. This feeling is often the motivation behind lawsuits, appeals, grievances, complaints and even acts of violence.

Diversify Your Problem Solving Portfolio

“When all you have is a hammer, every problem looks like a nail.” - attributed to A. Maslow

Shift from Positions to Interests

The pitfalls of win-lose outcomes can be avoided if people focus on interests before outcomes. Effective negotiators look at more than just the facts of the case; they explore what is important to everyone involved in the conflict. They define the criteria for a fair settlement, then work together to create options. They demand accountability and mutual respect along the way.

Re-define Competition

Today’s culture places the highest value on competition as the road to success in business, sports and personal life. Managers are still taught that competition leads to the best results. Unfortunately, competition alone yields the kind of compromise results that lead to broken agreements. Competition – based on persuasion and force – is a hammer; it is a very handy tool, but not suited to every use.

The key to knowing how and when to use these skills successfully is in shifting the focus of competition from “Me vs. You” to “Us vs. the Problem.” The “problem” to be solved is how to find the solution that best meets everyone’s needs.

Be a Facilitator, Not an Adversary

“If you limit your view of a problem to choosing between two sides, you inevitably reject much that is true.”

- Deborah Tannen, *The Argument Culture*

Think beyond winning the argument

Another cultural norm is the high value placed on being evidence-based in problem solving. People try to get others to agree with their solutions by winning arguments. They reason that if they win the debate about cause, effect and settlement, the other party will have to follow their solution. They usually only end up convincing themselves. They rarely convince their opponents, or at best, “agree to disagree.” Either way, the problems keep returning because unmet needs have not been identified and addressed. A winning argument, like a hammer, is a good tool, but it is not enough.

A strategy more effective than winning an argument is to let go of the need to be right by focusing on being successful. You can be successful by negotiating an agreement that meets your needs.

Facilitate balanced communications

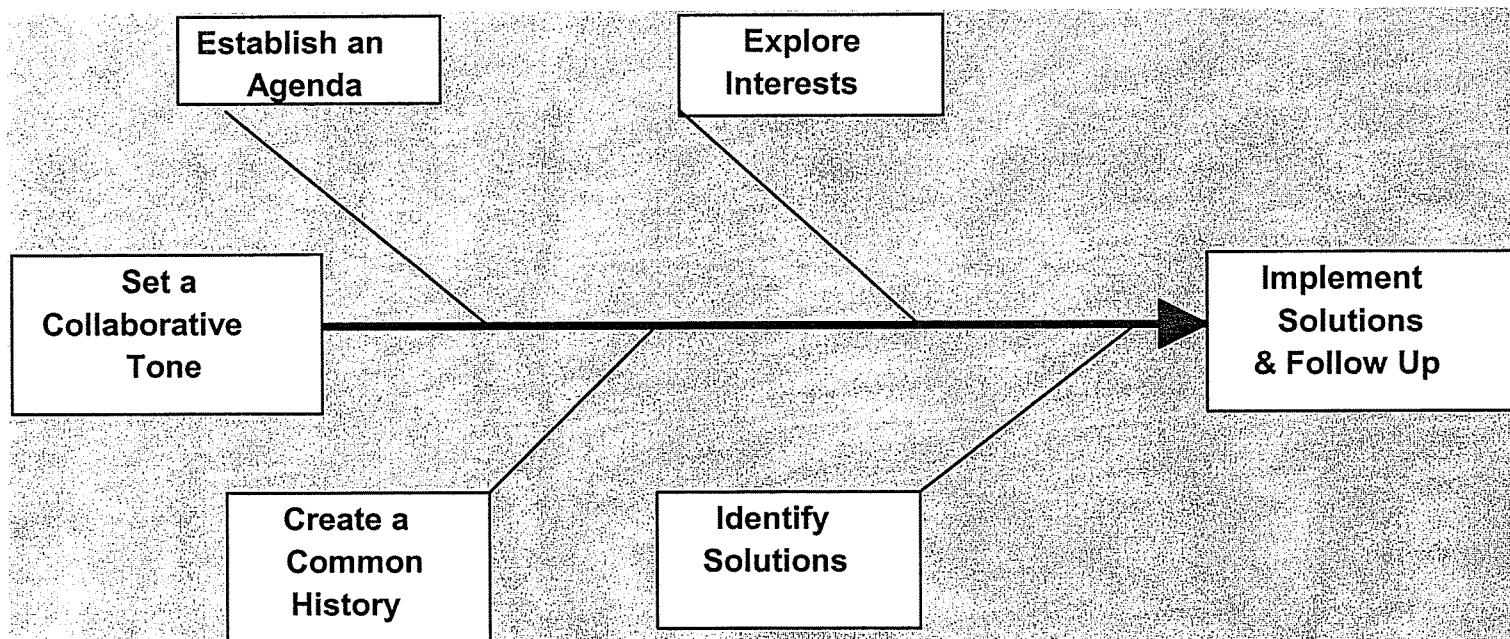
Problem solving works best as a process in which all parties have the same rights of communication. No matter how much people differ in ability, power, authority or station in life, all have an equal need to be heard and to understand what others are saying. An effective negotiator, leader, manager or problem solver seeks the strategic symmetry of equality in all communications. There are many good communication tools that can help level the playing field and improve the balance of content, process and emotion.

The Negotiation Process

“In sailing, you rarely if ever get to your destination by heading straight for it.”

- William Ury, *Getting Past No*

The process for resolving conflicts involves moving through stages of relationship building and problem solving. Each stage contains key elements needed for final settlement. As you move through the process, you will build on each previous stage:



How to negotiate yourself into a corner

“... pointing fingers become pointing guns because nobody listens to fingers.”

– Jeff Shaara

“*One ought not to return injustice, nor do evil to anybody in the world, no matter what one may have suffered from them.*” – Socrates

When people with conflicting views are exploring issues and facts, they might get into the kind of debate in which they feel personally attacked. They naturally try to defend themselves, often by going on the attack themselves. One of the signs of a negotiation out of control is the “statement-react” chain reaction. It might sound something like this:

A: “I think you should be more reasonable, and consider what will happen if you don’t accept this offer.”



B: “You call \$900.00 ‘reasonable’? You just think you can push me around because I’m a woman.”



A: “I am *not* trying to push you around, and you have no right to make accusations. You know I can justify an offer as low as \$750.00.”



B: “Oh, so now you’re threatening me so I’ll settle for your lousy \$900.00.”



A: “No, I’m just trying to show you that you’re getting a good offer. But *you* keep throwing accusations at *me*.”



B: “It looks to me like you’re more interested in looking good than being fair...”

How to break the chain reaction: Set A Collaborative Tone

“Facilitate what is happening rather than what you think ought to be happening.” – John Heider, *The Tao of Leadership*

Part of the business culture in which we work emphasizes “separating the people from the problem.” This is usually managed by making the personal issues off limits in meetings and negotiations. Keeping personal issues off limits is good for avoiding personal attacks and criticism, but does not address the underlying issues that lead to personal attacks.

Interpersonal conflict is a reality; ignoring it will not make it go away.

Attacks must be confronted in a way that breaks the statement-reaction chain and shifts the discussion back to the issues and interests. A particularly effective strategy for breaking the chain reaction is getting curious. Rather than reacting, defending or attacking, find out the underlying reason for the comment or behavior. Skills that help discussions get back on track include:

- **Questioning** - using open questions that enable people to focus on what is most important to them
- **Engaging** - being attentive by using *appropriate* eye contact, body language
- **Acknowledging** - reflecting on the content and emotion of what the other person says
- **Confronting** - using immediate, non-judgmental description of discrepancies
- **Refocusing** - recognizing when the discussion has deviated and pulling it back on track
- **Reframing** - translating a negative/accusatory statement into one that acknowledges an unmet need

Effective conflict management requires a negotiator who looks beyond the momentary struggle to facilitate a harmonious process. This can be difficult when the solution seems obvious or the other person’s behavior appears irrational. Remember: **all behaviors make sense**. The challenge is to be aware of what is happening in the moment and have the self-discipline and patience to clarify how the other person’s behavior makes sense to them. In doing so, an effective negotiator leads by example, laying the foundation for an interest-based settlement.

Open Questions

Open questions are the most effective kind for solving problems. They are questions that begin with *what, who, when, where, which, how and why*. They expand the scope of discussion by allowing the person answering to stress those aspects of the issue that are important to them. Open questions help diverge the focus of the content of the discussion most quickly to areas that address needs and interests. Divergence enables the people to go where they need to go, rather than where others might be trying to take them.

Effective communicators find open-ended questions the easiest kind to ask and the easiest kind to answer. Open questions help them create an equal balance of power in their communication process. People feel respected when they are allowed the flexibility to choose how to answer a question. They will inevitably pay the questioner back with the same respect as the negotiation proceeds. Building mutual respect in this way helps manage the emotional climate of the conflict.

The most common form of questions we hear is closed questions. Since we are used to hearing them, it is most natural for us to ask them. It takes some practice to get into the habit of asking open questions. Just about any closed question can be posed as an open one. One way to help make the shift is to establish your **context** for asking the question (why you're asking the question), and then re-phrase it as an open-ended one. For example:

Closed question: "Are you happy in this job?"

➤ Context: "*I've noticed that you've been really quiet at our recent staff meetings.*"

➤ Open question: "*How are things going for you at work?*"

Closed question: "Do you need some time to think this over?"

➤ Context: "*You stopped smiling and crossed your arms when you heard our offer.*"

➤ Open question: "*What do you think of our offer?*"

Listening

“Associated with Habit 5: Seek First to Understand, Then to be Understood is the endowment of courage balanced with consideration.”
- Stephen R. Covey, *Principle-Centered Leadership*

People need to be heard and understood when they negotiate. One of the requirements for success in an interest-based negotiation is that both parties understand each other’s point of view. When someone expresses a position or opinion, they will know that they have been heard if the other person can reflect it back to them - in their own words - in a way that demonstrates understanding. This is the skill of paraphrasing.

Effective communicators get others to make the effort to understand them by taking the lead in paraphrasing. They seek to understand and demonstrate understanding before demanding it of others. By being a good listener, they earn themselves a hearing. They also learn more about what will work best for good settlement.

One of the most difficult things about paraphrasing is that it often means stating a position or point of view that one disagrees with. In the following example, C responds to A’s offer to settle a vehicle collision claim:

C: “You call \$900.00 ‘reasonable’? You just think you can push me around because I’m 18 years old.”

The best way for A to break the statement reaction chain is to let C know - in his or her own words - that A understands how C views the offer. Then, A can offer an opinion. An example might be:

A: “So, you don’t think this amount is a fair one that would apply to everybody. I think the offer should be based on case law and what ICBC calls “pain and suffering” and what other people have gotten in similar situations. And, all cases are different. What do you do you think would be a fair basis?”

The important thing to remember here is that understanding is not the same as agreeing.

Paraphrasing the other person’s statement helps you clarify what they said and helps win you a hearing. Note that you do not ask the other person what they think is a fair settlement (i.e., ask them to take a position), but rather, ask what would be a fair *basis* for settlement.

Preparation Questionnaire

Please consider the following questions before attending the first negotiation meeting:

1. What are the issues to be resolved?
2. What are my interests, or needs, that must be met underlying each of the issues to be resolved? What are the interests, or needs of each of the other parties?
3. What facts do we need? What facts must be agreed on by all parties?
4. Who has the authority to make decisions, and who influences any decisions made by each of the parties?
5. What common ground do all the parties have? Which of our interests are in conflict?
6. What options or resources are available to resolve issues that benefit all parties?
7. If no agreement can be reached on a particular issue, what are my options for resolving the problem that do not depend on other parties? What is my best alternative (“BATNA”)? What is my worst alternative (“WATNA”)?
8. How do I know if an agreement will work for me? How do I know when an issue is not resolvable?