

BASIC NEGOTIATIONS: The Art of Communication and Persuasion

I. OVERVIEW – Why Negotiation Training is Necessary

A. Theoretical Reasons

B. Practical Reasons

II. BASIC NEGOTIATION TERMINOLOGY & PRACTICES

A. Distributive Bargaining (“Dividing the Pie”)

1. The “dance”
2. The math of distributive bargaining (Big moves → small moves)
3. Time

B. Integrative Bargaining (“Expanding the Pie”)

1. Win – Win (“Getting to Yes” model)
 - a) Separate people from problem
 - b) Focus on interests not positions
 - c) Invent options for mutual gain
 - d) Insist on using objective criteria
 - e) Determine your “Best Alternative to Negotiated Agreement” (BATNA) and determine **their** “Best Alternative to Negotiated Agreement” (BATNA)
2. “Going Below the Line” – Principled Negotiations

III. USES OF NEGOTIATION

A. Contracts

B. Lawsuits

C. Discovery Motions

D. Settlement Conferences

E. Other...

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IV. BECOMING A MORE EFFECTIVE COMMUNICATOR/NEGOTIATOR

A. Communication/Negotiation Styles

1. Competitive
 - a) Domineering
 - b) Manipulative
 - c) Aggressive
 - d) Argumentative
 - e) Hostile
 - f) Egotistical
 - g) Rigid
 - h) Intolerant
 - i) Threatening
 - j) Disinterested in fairness or others' needs
2. Cooperative
 - a) Trustworthy/ethical
 - b) Realistic
 - c) Courteous
 - d) Personable
 - e) Tactful
 - f) Objective
 - g) Flexible
 - h) Logical
 - i) Patient

{Healer v. Warrior} {Effective Cooperative v. Effective Aggressive} {Aggressive v. Problem Solver}

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j) Interested in others' needs

B. Body Language

1. Open stance
2. Closed stance
3. Mirroring

C. Active Listening – (Open-ended Questions v. Depo style Questions)

V. BECOMING A MORE PERSUASIVE NEGOTIATOR

A. Fashioning the Message (placing the message in non-polarizing terms)

B. Your Behavior as a Sender of Messages

C. Your Behavior as a Receiver of Messages

VI. NEGOTIATION STRATEGIES

A. The Importance of Planning

B. The Importance of Compassion & Face-Saving

C. “Don’t Draw a Line in the Sand”

D. Impasse “Breakers”

1. Rethink your options
2. Diagnose the cause
3. Ask for 3rd party help (i.e., arbitrator, expert, higher authority)
4. Time out
5. Change players
6. Change process

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VII. CONCLUSION

A. Suggested Reading:

1. Fisher, R. and Yury, W., Getting to Yes: Negotiating Agreement Without Giving In, Boston: Houghton-Mifflin Co., 1981
2. "Shattering Negotiation Myths: Empirical Evidence on the Effectiveness of Negotiation Style," 7 Harvard Negotiation Law Review 143-233 (2002)
3. "Perception, Reputation and Reality: An Empirical Study of Negotiation Skills," 6 Dispute Resolution Magazine (Summer 2000)
4. Fisher, R., Kopelman, E. and Schneider, A., "Beyond Machiavelli: Tools for Coping with Conflict," Harvard University Press, 1994