



Negotiation Skills Workshop

Nevada Department of Transportation (NDOT)

April 19, 2022 – Day 1 of 2

Conducted by:

MWI – *Negotiation & Mediation Services and Training since 1994*

10 Liberty Square – 4th Floor

Boston, MA 02109

www.mwi.org/negotiation

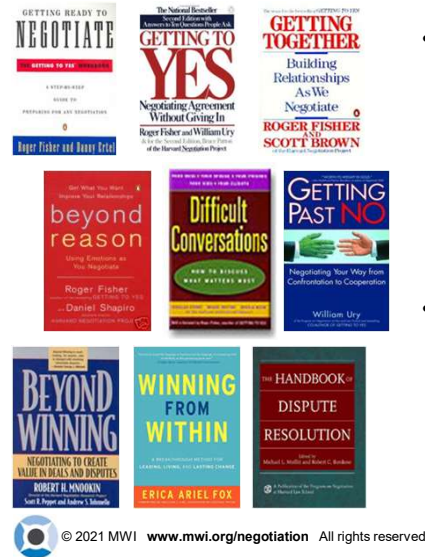
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Workshop Purposes

- Increase Awareness
- Provide Analytical Frameworks
- Enhance Skills
- Provide a Low-Risk Learning Environment

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History of MWI



- Since 1994, MWI has provided dispute resolution training and services to a range of clients worldwide including:
 - Coca-Cola Enterprises
 - General Motors
 - Analog Devices
 - Visa International
- MWI's Negotiation Programs are based on the work of Roger Fisher, co-author of 'Getting to Yes', and his colleagues at the Harvard Negotiation Project (HNP)



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HISTORY

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Your Challenges



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Make As Much As You Can

- You will be randomly split into different teams
- Each team will compete with three other teams
 - There will be multiple “universes” competing at the same time (ex. A1-D1, A2-D2)
- Your goal: make as much money as you can for your team



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PURPOSES

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Make As Much As You Can

- The game is played over the course of eight rounds
- In each round, each team submits an “X” or “Y”
- Depending on each team’s submission, the Payoff Chart below shows how much each team will make or lose in that round

Make as Much as You Can	
4 X	Everyone loses 1 (million dollars)
3 X	X gets 1
1 Y	Y loses 3
2 X	X gets 2
2 Y	Y loses 2
1 X	X gets 3
3 Y	Y loses 1
4 Y	Everyone gets 1



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AWARENESS

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Make As Much As You Can

- The game moves quickly – you only have two minutes between each round to decide what you want to submit in the next round
 - If you aren't ready to make your submission when the trainer comes to collect from your team, they will decide for you (and you might not like what they pick)
- Your team will have five minutes to decide the following:
 - Who is our spokesperson/notetaker?
 - What is our strategy?
 - What is our submission for Round 1?



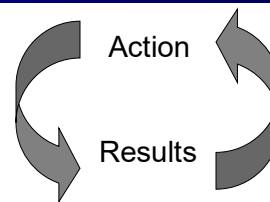
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PURPOSES

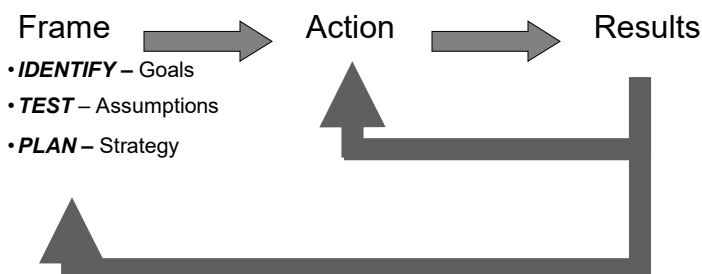
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Common vs. Strategic Loops

Common Loop:



Strategic Loop:

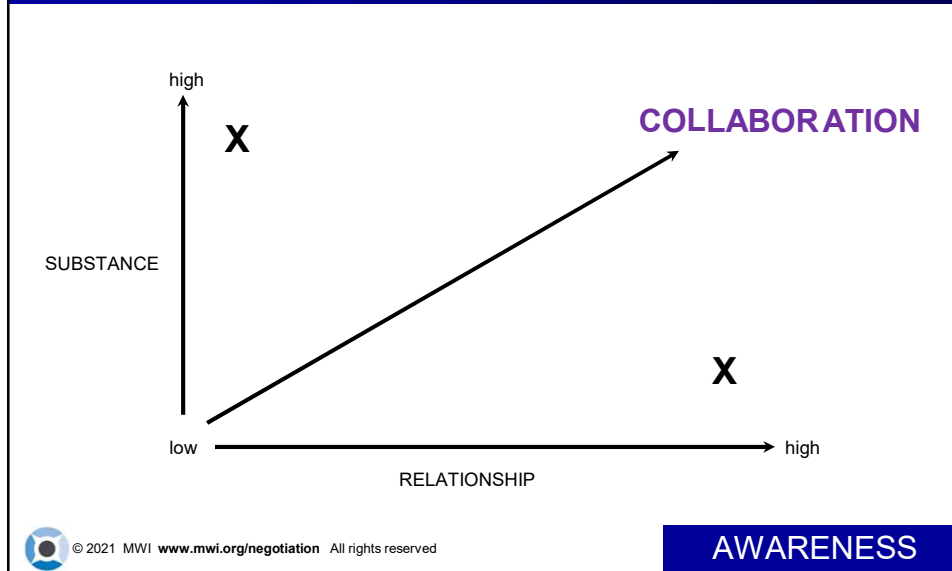


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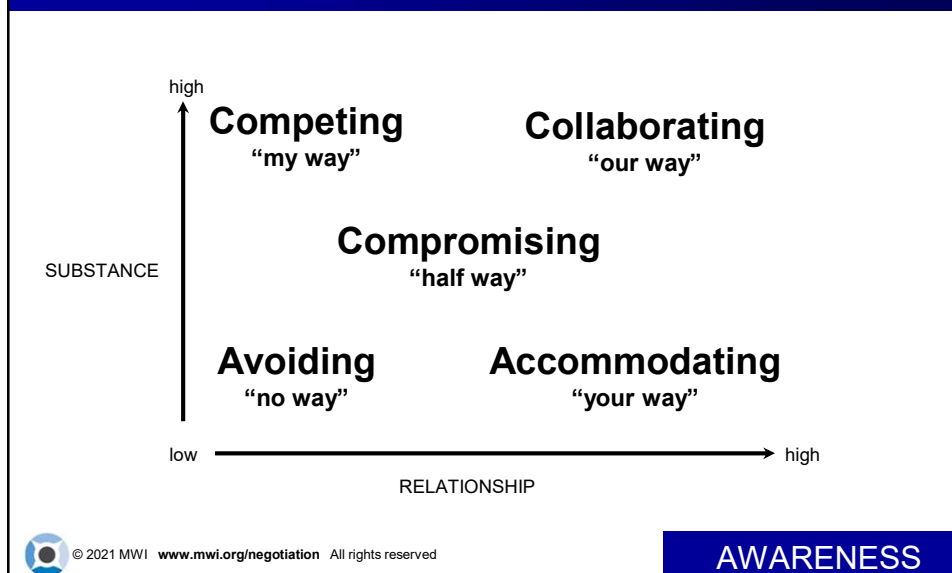
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Substance and Relationship Tension



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Negotiation Styles



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What is Your Definition of Success?

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AWARENESS

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Positional Haggling

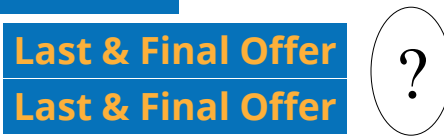
High Ball

Small Concession

Last Offer
(Bluff)



Threaten to walk



Last Offer


Small Concession

(Bluff)



Threaten to walk

Low Ball

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AWARENESS

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Problematic Definitions of Success

Typical definitions of success through Positional Haggling or other “less principled” approaches include:

- They moved more than you did
- Brinksmanship (they *seemed* ready to walk away)
- Reached an agreement (*any* agreement)
- It *felt* fair (based on *what?*)
- Didn’t “give in” (to your *own* detriment?)
- You “won” (whatever *that* means to you)



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AWARENESS

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A Framework for Negotiation

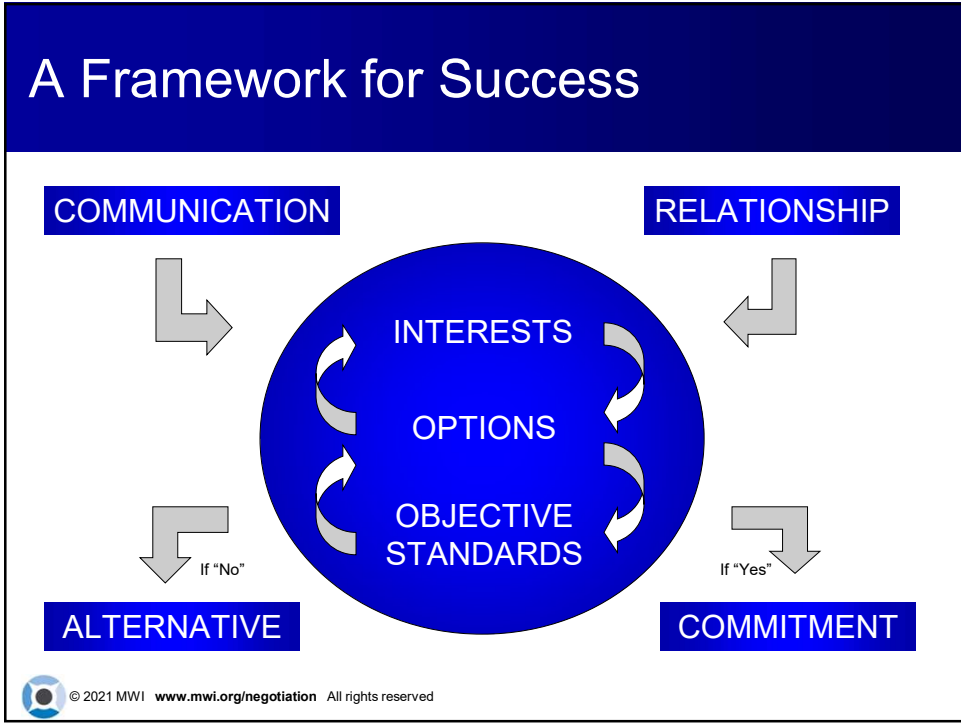
- INTERESTS
- OPTIONS
- ALTERNATIVES
- OBJECTIVE STANDARDS
- COMMUNICATION
- RELATIONSHIP
- COMMITMENT



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FRAMEWORK

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Preparing to Negotiate

<p>PARTIES/POSITIONS: Who are the people involved and what are they demanding?</p> <p>Us: _____ Them: _____</p>	<p>OBJECTIVE STANDARDS: Standards of fairness recognized by the negotiators. Industry standards, precedents, company policies, laws, expert opinions, etc...</p>
<p>INTERESTS: What motivates each side to negotiate: their goals, hopes, fears, needs</p> <p>Our Interests: _____ Their Interests: _____</p>	<p>RELATIONSHIP: The quality of the negotiators' interactions and level of trust.</p> <p>Describe current relationship: _____ Describe future ideal relationship: _____</p>
<p>OPTIONS: What everyone could do together to meet their interests.</p> <p>_____</p>	<p>COMMUNICATION: What and how messages are sent and received.</p> <p>Questions to ask (inquiry): _____ Messages to send (advocacy): _____</p>
<p>ALTERNATIVES: What each side could do on their own to meet their interests.</p> <p>What we would do if no agreement: _____ What they would do if no agreement: _____</p> <p>ID your BATNA: _____ ID their BATNA: _____</p>	<p>COMMITMENT: How everyone will negotiate and what the result will look like.</p> <p>Plan to explicitly discuss process: Meeting agenda ID attendees & roles Length and number of meetings Ground rules and guidelines</p> <p>Plan to explicitly discuss outcomes: Expected outcomes Dispute resolution Agreement structure</p>

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FRAMEWORK

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Preparing to Negotiate

- Use the Seven Elements Framework to analyze and prepare for your negotiation
- Fill in the categories on the Seven Element Prep Sheet
 - Not a “stepped” process – move back and forth between the elements as necessary
 - Use one set of elements to inform/feed into the other
 - Begin as far in advance as possible – proper preparation takes time



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FRAMEWORK

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Preparing to Negotiate

- PARTIES:
 - Identify the parties in the negotiation
 - What are they demanding?
 - What are you demanding?



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FRAMEWORK

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The Seven Elements: *Interests*

- *Definition*
 - The needs, concerns, goals, desires and fears that inform parties' actions, and underlie their positions in negotiation
- *Measure of a good outcome:*
 - Satisfies both parties' interests in order to make a durable outcome
- *Note*
 - **Interests** are different than **positions**
 - Positions are not the only way to meet our interests

Preparing to Negotiate

- INTERESTS:
 - What are your interests? What are their interests?
 - NOTE: You can only *speculate* about their interests and must always test your assumptions

The Seven Elements: *Options*

- *Definition*
 - The range of possibilities on which the parties might agree
- *Measure of a good outcome:*
 - Maximizes creative potential
 - Leaves no joint gain on the table
- *Note*
 - Options are created “On the table”



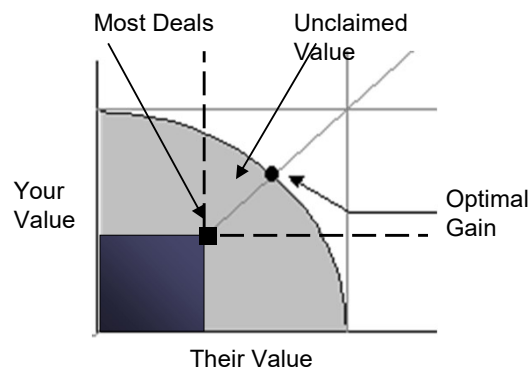
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FRAMEWORK

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The Pareto Frontier

- Portrays value attained in most deals vs. achievable optimal value
- It is often possible to increase the value for one party at little cost to the other



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Preparing to Negotiate

- OPTIONS:
 - What creative options can you generate together that would maximize value for all parties?
 - Is there anything you could offer that would be of high value to them and low cost to you?

The Seven Elements: *Objective Standards*

- *Definition*
 - The use of outside criteria to help the parties determine a range of fairness
- *Measure of a good outcome:*
 - Result perceived as fair; no one feels taken
- *Note*
 - Objective standards may include: law, precedent, community standards, expert opinion, industry regulations, contract language and market prices

Preparing to Negotiate

- OBJECTIVE STANDARDS:
 - What standards can help define a “fair agreement” for both parties?
 - NOTE: Finding applicable standards requires research and diligence

The Seven Elements: *Alternatives*

- *Definition*
 - Things we can do either by ourselves or with a third party, without the other side’s agreement. Our “**BATNA**” is our **Best Alternative To a Negotiated Agreement**
- *Measure of a good outcome:*
 - Any agreement made should be better than our BATNA
- *Note*
 - **Alternatives** are different than **Options**
 - Alternatives are created “Away from the table”

Preparing to Negotiate

- ALTERNATIVES:
 - What are your/their alternatives if agreement is not reached?
 - NOTE: You can only *speculate* about their alternatives / be sure to test your assumptions
 - NOTE: Take your time to increase and improve your alternatives

The Seven Elements: *Communication*

- *Definition*
 - The exchange of thoughts, messages or information by speech, signals, writing, physical cues or other actions
- *Measure of a good outcome*
 - Effective, Efficient and Authentic
 - Message sent = Message received
 - Speaker feels heard and the listener is engaged
- *Note*
 - Don't assume you understand or have been understood

Preparing to Negotiate

- COMMUNICATION:
 - What messages would you like to send?
 - What information would you like to receive?
 - How will you convey that information?

The Seven Elements: *Relationship*

- *Definition*
 - The quality of interaction between negotiators
- *Measure of a good outcome:*
 - The process used today improves our ability to negotiate tomorrow
- *Note*
 - Treat every relationship as long term
 - Having a good working relationship does not mean we always agree

Preparing to Negotiate

- RELATIONSHIP:
 - What is the relationship like now?
 - How would you like it to be? Similar? Different?
 - What steps will you take to achieve the desired results?

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The Seven Elements: *Commitment*

- *Definition*
 - An agreement about what each party will or will not do
- *Measure of a good outcome:*
 - Optimal / Realistic / Operational
- *Note*
 - There are many possible degrees of commitment – drafts, joint recommendations, agreement in principle, binding contracts

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Preparing to Negotiate


- COMMITMENT:
 - What processes can you discuss and commit to?
 - What type of agreement would you like to leave with?

Define Success in Advance

An optimal agreement is one that:

- Meets both sides' **Interests** and needs (not positions)
- Is the best of many creative **Options**
- Is based on **Objective Standards** and is supported by criteria that is viewed as fair by both sides
- Is better than each party's **Alternatives** – what each party could do without the other's consent
- Improves, supports, or at least does not damage, the **Relationships**
- Is based on clear **Communication**
- Involves **Commitments** that are realistic and operational

Preparing to Negotiate

PARTIES/POSITIONS: Who are the people involved and what are they demanding? Us: _____ Them: _____		OBJECTIVE STANDARDS: Standards of fairness recognized by the negotiators. Industry standards, precedents, company policies, laws, expert opinions, etc...	
INTERESTS: What motivates each side to negotiate: their goals, hopes, fears, needs Our Interests: _____ Their Interests: _____		RELATIONSHIP: The quality of the negotiators' interactions and level of trust. Describe current relationship: _____ Describe future ideal relationship: _____	
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ID your BATNA: _____ ID their BATNA: _____		FRAMEWORK	
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Ground Rules for Negotiating

- Instructions are confidential
 - Don't share them
- Instructions are summaries
 - Fill in the blanks, but don't change the facts
- Don't be a bully or a pushover
- Reaching agreement is not necessary
 - Return on time
- If you finish early, try to improve the deal and/or give each other feedback/coaching
- Focus on Process

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FRAMEWORK

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Whirly World Photos

Disney's Animal Kingdom, *Disney World, FL*



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FRAMEWORK

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Whirly World Photos

Disney's Animal Kingdom, *Disney World, FL*



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Whirly World Photos

Disney's Castaway, *Cay Island, Bahamas*



Disney's Magic Kingdom, *Disney World, FL*



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FRAMEWORK

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The "NO" Exercise

GOAL: To get three people to say no to you

RULES:

- Person should be able to say yes to your question
- Ask for something you want
- Ask a variety of questions to a variety of people
- Don't tell them it's an exercise
- Keep it legal

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FRAMEWORK

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The “NO” Exercise

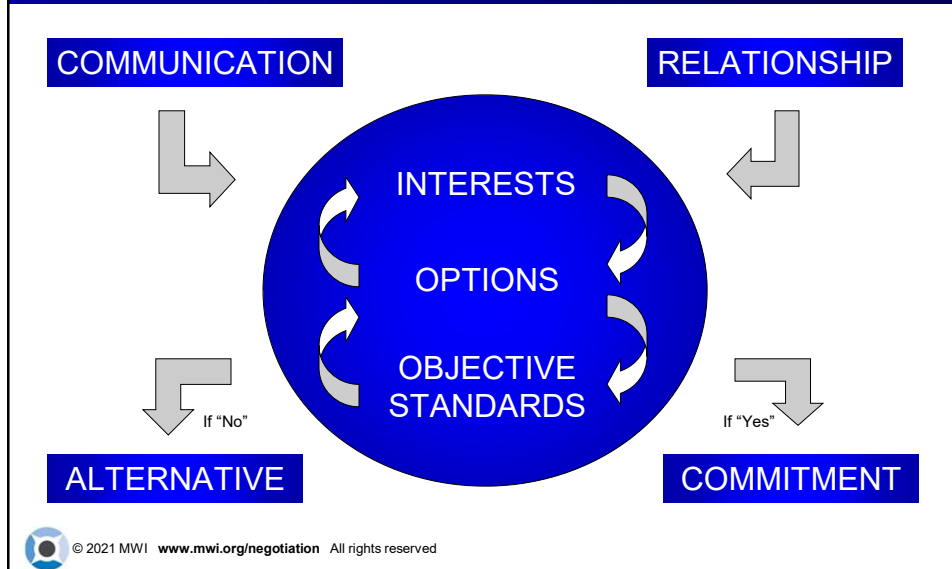
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RULES:

- Person should be able to say yes to your question
- Ask for something you want
- Ask a variety of questions to a variety of people
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A Framework for Success



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Systematic Advice: *Communication*

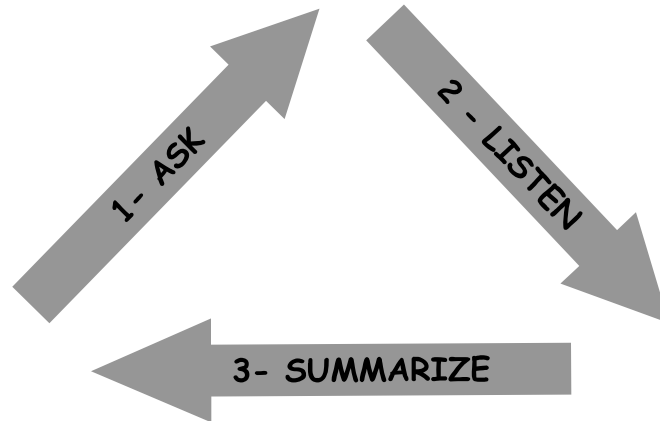
- Balance advocacy and inquiry
 - Advocacy comes naturally, focus on inquiry
- Listen and demonstrate understanding
- Pay close attention for verbal and non-verbal cues
- Understanding ≠ Agreeing

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APPLICATION

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Interactive Listening Skills

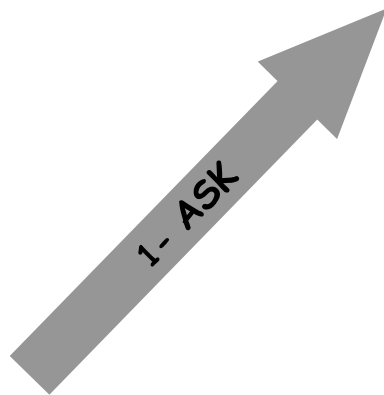


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APPLICATION

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ASK



- Negotiate with yourself to be curious
- Use open-ended questions
- Keep it simple and succinct



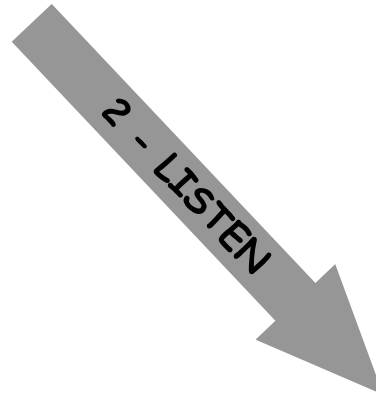
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APPLICATION

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LISTEN

- Quiet your inner-voice
- Check body language
- Work on being present
- Consider how listening to the other person will help you



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APPLICATION

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SUMMARIZE

By demonstrating your understanding of the speaker, you will:

- Let the speaker know you have heard them
- Confirm your understanding
- Identify and clarify miscommunication



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APPLICATION

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Using Interactive Listening Skills

- Use interactive listening skills particularly when:
 - They aren't listening to you
 - You're not sure you understood them correctly
 - The conversation is not going anywhere
 - They are repeating themselves over and over

Why Listen?

- You learn about them
- You satisfy one of their key interests: being heard
- You increase the chance that they will listen to you
- You begin to affect a change in their attitude
- Listening breaks the cycle of argument
- Listening improves relationships

Systematic Advice: *Relationship*

- Analyze the state of all relationships
 - Where are they currently?
 - Where would you like them to be?
 - How will you shift them?
- Separate the substance from the relationship
- Be trustworthy, not trusting

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Systematic Advice: *Interests*

- Ask “Why?” with genuine curiosity to learn more
- Use both sides’ interests to generate options
- Use common interests to align your goals
- Use differences in interests to create more value

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Systematic Advice: *Options*

- Fully explore Interests before generating Options
- Brainstorm Options together
 - Separate option generation from option evaluation and selection
- Weigh Options using Interests
- Shift from “NO!” to “Yes, and...”

Systematic Advice: *Objective Standards*

- Use Objective Standards as a SHIELD and a SWORD
- Be open to persuasion
- Use the Test of Reciprocity
- Beware of positional use of criteria
 - Negotiate the use of Objective Standards
 - Multiple Objective Standards form a “zone” of fairness
- Two choices when presented with their Objective Standards
 - Discredit theirs
 - Present a new line of thinking

Systematic Advice: *Commitment*

- Commit to process at the beginning
 - Agenda
 - Time
 - Decision Making
- Commit to substantive issues only at the end
 - TACOW – Terms Are Contingent on the Whole
- Only commit to deals or terms that are better than your BATNA

Systematic Advice: *Alternatives*

- Acknowledge your BATNA (Best Alternative To a Negotiated Agreement) as a choice
- Alternatives can be improved
- Consider whether, when and where to raise your BATNA
- Two choices if they raise their BATNA with you:
 - Reality test their BATNA
 - Tell them yours

Difficult Tactics Have a Tendency To:

- Knock us off balance
- Implicate our self-image – our sense of worth and competency
- Drive us to react instead of diagnose
- Narrow our perception of the choices available:
 - Surrender or bypass (for now)
 - Play their game (hopefully better)
 - Quit the game



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Difficult Tactics: *Typical Responses*

- Diagnosis degenerates to reaction
- Our interests re-articulate themselves as positions
- Claiming the pie (or destroying it) seems preferable to enlarging it
- Ambiguous data points translate into definitive conclusions



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Difficult Tactics: *Digging Under for Meaning*

Tactics

- Ignores you/pretends you don't exist
- Imposes unreasonable deadlines/acts too busy to invest time on the relationship or on the negotiation
- Employs personal insults/threats, attacks engages in "emotional disruption"
- Demands advance commitment
- Says nothing: "Make me an offer"

Possible Motives

- To anger; establish dominance; throw you off balance
- Force concessions; create the perception s/he is more powerful or has a better BATNA
- To intimidate; to raise her/his status by lowering yours
- To limit flexibility & risk
- Gather data; assess weaknesses



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Difficult Tactics: *Diagnose*

- Don't react, DIAGNOSE
 - Which element are they focusing on?
 - Usually outside the Circle of Value
 - Meet them at that element
 - Bring them back to the circle



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Difficult Tactics: *Diagnose Cont.*

- Use the 3 positions:
 - *3rd position*: What is going on here? Describe the dynamic.
 - *2nd position*: What is driving them? What is their motivation? What game(s) are they playing?
 - Are they:
 - anxious?
 - unaware?
 - acting strategically?
 - *1st position*: What is driving you? What is your contribution?
 - Are you:
 - anxious?
 - unbalanced?
 - How might you be contributing?

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Dealing with Difficult Tactics: *Change the Game*

- Reframe to:
 - Interests
 - Options
 - Objective Standards
- Name the Game and Negotiate the Rules:
 - Describe your experience with the current dynamic
 - Inquire about their experience or purposes (don't assume or accuse)
 - Joint problem-solve for a new approach
- Change the Players
 - Suggest adding, subtracting or changing a party
 - Add a third party neutral to the assist with the negotiation

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Dealing with Defensive Recipients

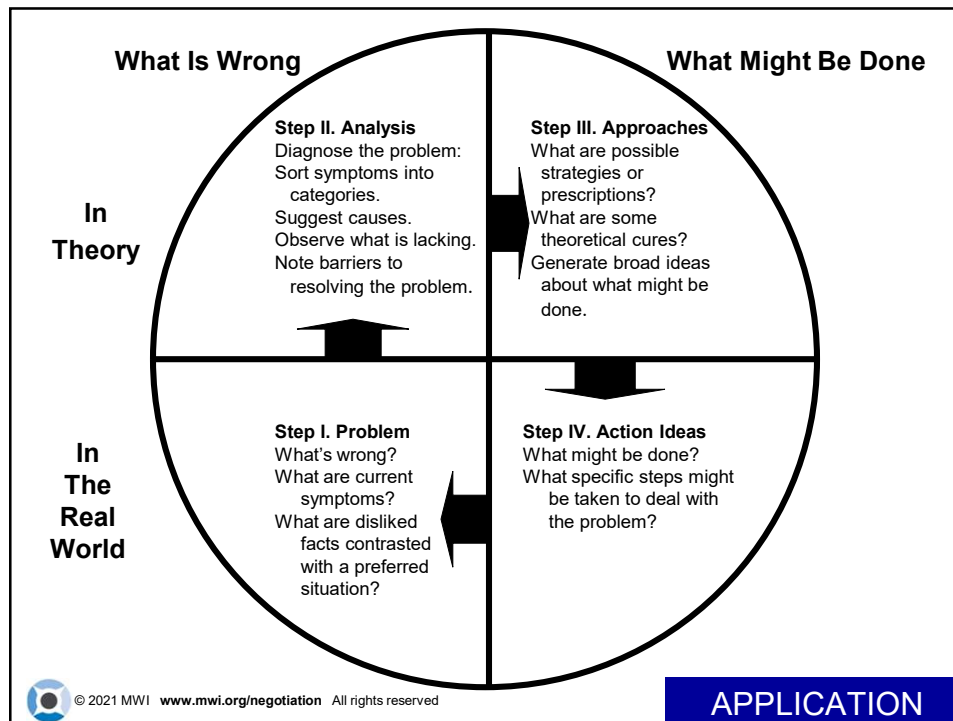
- Listen actively
 - A defensive person will continue to resist until he or she feels understood
- Respectfully disagree
 - Focus on facts and descriptions
- Take time-out and/or reschedule another meeting if necessary



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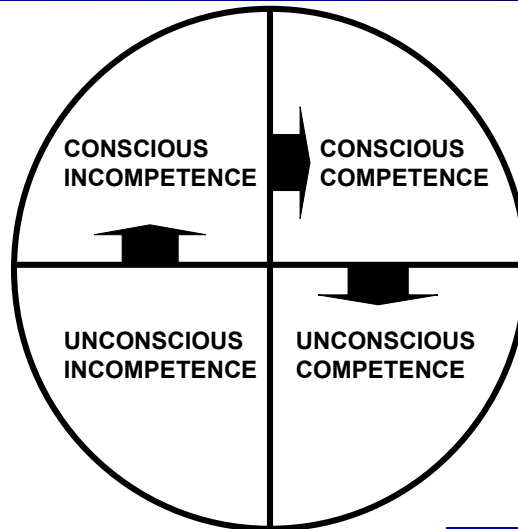


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Learning Cycle



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APPLICATION

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Going Forward: Continuing the Learning Process

- Practice, Practice, Practice
- Negotiate with yourself to prepare for your negotiations early, often and consistently
- Read and re-read "Getting To Yes" and see bibliography in the back of this manual for suggested titles on basic and advanced negotiation topics
- Prepare with your colleagues in groups
- Consult an expert for advice/suggestions in difficult situations

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APPLICATION

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Stay in Touch!

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– 917-302-3334

About MWI

MWI achieves success for our clients by maximizing their capacity to collaborate, find solutions to difficult disputes and communicate effectively. Since 1994, MWI has provided thousands of individual and corporate clients with negotiation consulting and training, mediation services, and mediation training.

Negotiation and Mediation Training Programs:


- Effective Negotiation Skills
- Difficult Conversations
- Getting Past No
- Influence Without Authority
- Mediation Skills Training


Dispute Resolution Services

- Business and Workplace Mediation Services
- Facilitation Services
- External Organizational Ombuds Services
- Divorce Mediation Services
- Dispute Management System Design

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Notes




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Notes



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