

Notes on Negotiation
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Outline of Topics/Suggested Readings

Readings:

Selected Readings, Goldberg, Sander, Rogers. *Dispute Resolution: Negotiation, Mediation, and other Processes*. These readings provide an overview of different styles of negotiating: competitive vs. integrative or “principled” negotiation.

-Competitive Negotiation (Win/Lose): See Meltsner and Schrag excerpt.

-Principled/Integrative Negotiation (Win/Win): See excerpts “Getting to Yes”, “Getting Past No.”

Proposed Topics Covered:

1. Overview of Competitive or Distributive Negotiation Strategies

Types of bargaining:

DISTRIBUTIVE: COMPETITIVE...ZERO SUM...WHAT I GET, YOU DO NOT GET. (Meltsner and Schrag)

INTEGRATIVE: COOPERATIVE (Ury and Fisher “Getting to Yes”)

Distributive about:

- 1) Establishing positions
- 2) Probing for strengths and weaknesses in their positions
- 3) Reaching a conclusion

See Meltsner and Schrag reading with tactics. Go over them...

Preparatory Tactics:

- **Arrange to negotiate on your own turf**

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- Balance or slightly outnumber the other side
- Time the negotiations to advantage
- Know the facts thoroughly
- Lock yourself in
- Designate one of your demands a “precondition”

Initial Tactics:

- Make the other side tender first offer
- Make your first demand very high
- Place your major demands at the beginning of the agenda
- Make the other side make the first compromise

General Tactics:

- Use two negotiators who play different roles
- Involve law or justice...something higher
- Be tough...especially against a patsy
- Appear irrational when it seems helpful
- Raise some of your demands as the negotiations progress
- Claim you have no authority to compromise (I use my wife)
- Clear the agreement with client before signing it
- Make your adversary feel good
- After agreement has been reached have your client reject it and raise his demands
- Promptly reduce the agreement to writing yourself

******In what situations in your work environment might this type of bargaining apply?***

Negotiating over a thing...what about over rules? Policy?

******Why might people bargain in this fashion?***

Because they want to win...the way they have been taught...
...high/low...settle in the middle.

******As you read this, ask yourself how well you might do if you face a Meltsner and Schrag student and you had never studied these tactics?***

How about the car lot? Or facing people very used to the tactics...have you faced someone that has used them before and you didn't know it?

Might you be at a major disadvantage?

2. Overview of Principled or Integrative Negotiation Strategies

See short overview of Ury and Fisher.

DON'T BARGAIN OVER POSITIONS...

WHAT ARE POSITIONS???

WHY SHOULDN'T WE BARGAIN OVER POSITIONS?

- 1) Produces unwise agreements...
- 2) Arguing over positions is inefficient
- 3) Arguing over positions endangers an ongoing relationship
- 4) When there are many parties, positional bargaining or competitive bargaining is even worse, why?
- 5) Many try to be nice...and LOSE...this book is not about being nice but finding solutions.

INTRODUCES PRINCIPLED NEGOTIATION INSTEAD...

NOT POSITIONAL...participants are problem solvers...the goal is a wise outcome that is efficient and amicable.

1. separate people from the problem...negotiators should attack problem, not each other
2. focus on interests not positions... positions are what you want...interests are why you want them...looking at interests may uncover win-win solutions or complementary interest that overlap.
3. invent options of mutual gain...may be interests that advance the interests of both parties...not necessarily who gets the most.

“orange example”

4. insist on objective criteria...some negotiations are not win-win...educate them on substantive reasons for why you want something...blue book value...home prices in the area of your house...etc.
5. Know your BATNA (Best alternative to a negotiated agreement) Think of what you might get if you don't negotiate...people negotiate for a reason...educate the other party on this...know as much about the other parties batna as a result...ask questions that help you get to their BATNA.

How does this type of negotiation differ from Meltsner and Schrag?

Less competitive...others?

What are its strengths and weaknesses?

... Give up a lot of info by telling your interests etc.

Might a Meltsner and Schrag pupil (or competitive bargaining) beat a Ury and Fisher pupil?

Some say no...you give up too much information...and the Meltsner and Schrag tactics might work against you.

Think of a situation in your work environment where this type of bargaining might be very useful.

3. “Getting Past No”: How to overcome a “difficult” person or a negotiation “deadlock”

Ury tries to respond to critics in this short article (40-47). Tries to get at the problem of how to deal with a “problem person” and those who are competitive or difficult.

3 types of Problems in Bargaining that they address:

Stonewalling: refusing to budge or refusing to negotiate.

Attacks: pressure tactics to intimidate you...making you uncomfortable to give in...yelling, screaming...personal attacks. “Insults/Bulling” “I want to talk to the person who is “really” in charge”

Tricks: using false data, phony figures, etc. “I have no authority to deal.”

Common Reactions:

- 1) **Act difficult:** “fight fire with fire” Attack back. Problem: Futile/costly confrontation
- 2) **Give in:** fight is more costly than its worth...weakness...problem: you feel guilty later...you feel “had”...gave into bullying..rewards them for poor behavior.
- 3) **Break off negotiation:** leave, don’t negotiate problem: costs financially, emotionally hurt, you don’t get what you are after.

Why Don’t they Cooperate?

They are afraid: fear of losing status/authority, etc.

They don’t know better: They don’t know how else to negotiate.

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Don't see what's in it for them: may not see their own interests...or batna.

Then think they can win! Greed/etc.

Five Steps to Breaking through the difficult ones:

- 1) **Don't react to their tactics**: detach yourself..."take a moment" (the biscuit from Ally McBeal)...regain control, think of your interests.
- 2) **Step to their side**: disarm them...do opposite of what they expect (a counter attack)...listen, acknowledge their points, and agree with them....acknowledge their authority.
- 3) **Don't Reject! Reframe!**: direct their attention to **THEIR** interests again. Ask: Why is it that you want that? What would you do if you were in my shoes?
- 4) **Build them a "golden bridge to cross"**: negotiate...give them a way out of their demands...bridge gap between their interests and yours.

Make outcome appear like a victory for them!

5) **Bring them to their senses; not to their Knees**:
Educate them that they cannot win w/o negotiating. **Focus them on their BATNA**. Show them the costs of not negotiating.