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*Negotiating Inside the
(Regulatory and Legal) Box*

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Overview



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Objectives



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Why?

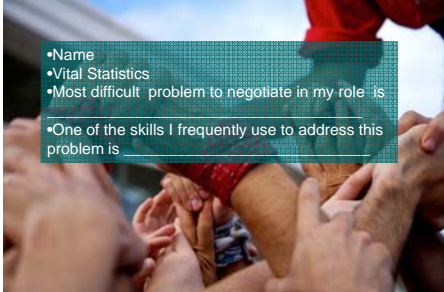


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Introduction



- Name
- Vital Statistics
- Most difficult problem to negotiate in my role is

- One of the skills I frequently use to address this problem is

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Report Back



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The measurements that many courts use for whether they're successful are whether or not they got the case done, and in a timely fashion. But I think you should add: did we get it done fairly? ...Fairness, it seems to me, means that you have a right to come to court and be listened to ... and you have a right to leave understanding what happened. You don't have a right to win, but you have a right to be listened to and to understand what is happening.

Judge Kevin Burke

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Substance/Process/Self




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Fostering Procedural Fairness



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Fostering Respect for System Participants



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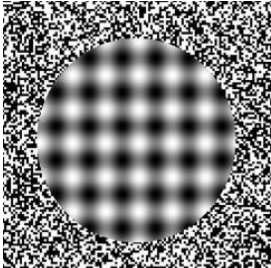
Coupon Caper



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Reflections



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Levels of Conflict




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This slide features the title "Levels of Conflict" and an image of an iceberg. The visible tip of the iceberg above the water surface is small and white, while the much larger, submerged portion below the surface is dark blue and jagged, illustrating the concept of hidden or deeper levels of conflict.

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Characteristics of Worldview Conflicts




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This slide features the title "Characteristics of Worldview Conflicts" and an image of a doorway. The walls on either side of the doorway are decorated with horizontal stripes of various colors (red, yellow, blue, white), representing different cultural perspectives or worldviews.

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Worldview Conflict Dynamics



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This slide features the title "Worldview Conflict Dynamics" and an image of the Great Pyramid of Giza in a desert landscape under a clear blue sky, symbolizing ancient or traditional worldviews.

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Increasing Capacity to Negotiate Across Worldviews



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This slide features the title "Increasing Capacity to Negotiate Across Worldviews" and an image of a colorful mosaic. The mosaic is composed of many small, multi-colored tiles (including shades of blue, yellow, red, and purple) arranged in a semi-circular pattern, representing the integration of diverse perspectives.

Negotiation Skills

Welcome, Introductions and Logistics

- Agenda
 - Definitions
 - Understand approaches to negotiation, the use of interests in negotiation
 - Describe individual styles of negotiating, yours and others
 - Think strategically about your approach to negotiation
 - Practice and build on your skills



Exercise



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“At bottom, all disagreements are over either facts, values or things. The resolution of a dispute over facts (descriptive, explanatory, or predictive) determines how true or false they are. The resolution of a dispute over values (moral, religious, or aesthetic) determines how right or wrong they are. The resolution of a dispute over things (material, symbolic, or psychic) determines how mine or yours they are.” (Applebaum, 1985)



Goals



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Basic Assumptions in Distributive Negotiation

- Negotiation is inherently competitive and antagonistic
- Resources are limited--what you win, I lose
- All that matters is today's decision
- Goal is to win as much as possible--and especially more than the opponent
- Concessions are a sign of weakness

Benefits

- Useful when parties must uphold principles
- Offers potential for winning
- Appropriate if no on-going or recurring relationship is anticipated

Risks

- If negotiators "lock into" their positions, this can impede negotiation or produce unwise agreements that do not meet the underlying concerns of the parties
- If negotiators start with extreme positions, this can increase dramatically the time and effort required to reach a settlement
- Contest of will can endanger a favorable ongoing relationship and are hard on the negotiators.



Basic Assumptions in Integrated Negotiation

- Negotiators are problem-solvers together
- Resources may be expandable or can be shared in a way that meets the needs of both negotiators
- Negotiators' interests can be interdependent
- There is more than one right answer--there are multiple solutions which could be mutually beneficial
- Goal is mutually agreeable solution that is fair to all parties and efficient for community

Benefits

- Useful for development of creative, mutually-beneficial solutions
- Appropriate when there is an on-going or recurring relationship
- Provides precedent for future problem solving
- Recognizes common or inter-related interests

Risks

- Can be time-consuming
- May bias negotiators toward cooperation
- May make negotiator more vulnerable to deception
- May make it more difficult to calculate aspiration levels and bottom line.

Information Based/Integrated Negotiation (Richard Shell)

- **Information-based bargaining involves getting as much reliable knowledge about the other side's business, personal needs, fears, interests, and demands as possible.**
- **Gathering information involves really listening.**
- **Successful negotiating also involves situational strategies -- there is no one-size-fits-all approach.**
- **The best negotiators have explicit guidelines for their conduct at the table regardless of what others may do--the "rules of the game."**

Know your Style of Negotiation and Conflict Resolution

Cooperation

- **Research shows about 60% are cooperative and 75% of effective negotiators are cooperative.**
- **Avoid defend/attack spirals and cycles of emotion-laden assigning of blame or disclaiming fault.**

Competition

- **Research shows about 24% are truly competitive.**
- **Only 12% of effective negotiators are competitive.**



Integrative (Information) Negotiation



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Conflict Styles - Thomas Kilman Conflict Mode Instrument

Avoiding

- Does not want to talk about it
- Does not pursue his/her own concerns or the concerns of others
- Prefers to deny that there's a problem

Accommodating

- The "fixer"
- Doesn't want to discuss it — does whatever is necessary to resolve the problem
- Neglects her/his own concerns to address the concerns of others

Competing

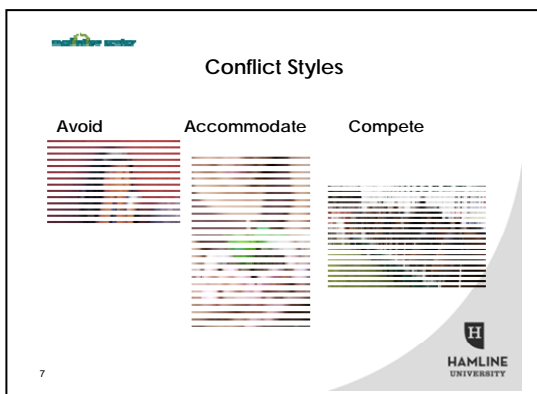
- Objective is to win
- Tends to pursue goals even at the expense of others
- Power-oriented

Compromising

- Tries to find the middle ground
- Willing to split the difference, find a "fair" solution
- The okay-okay approach — no one really wins and everyone loses something

Collaborating

- The win-win approach
- Tries to find a creative solution that will meet the needs of both (all) parties
- Believes you can learn from the other's insights



Active Listening

Listening is an art -- it can be learned. Active listening involves more than passively hearing what is being said. Active listening accomplishes the following:

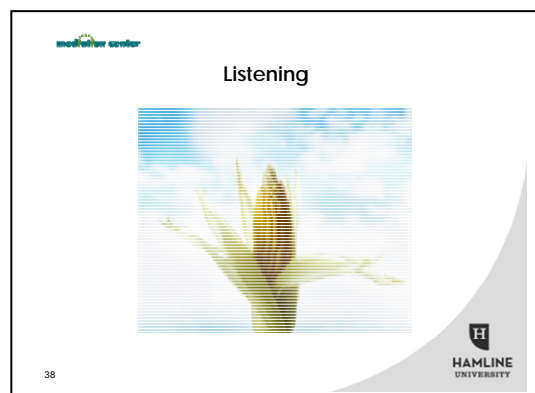
- Lets others know they are being heard and understood
 - Accurately assesses the situation as it is
 - Helps clarify what is being said
 - Communicates acceptance of feelings without agreeing with or approving of them
 - Reduces emotions that block problem solving
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Blocks to Listening

- Most people speak at about 125 - 140 words per minute. The ear can hear at about 400 words per minute. The brain is able to process information at a rate of 1,000 - 1,400 words per minute. The brain is able to tune in for a fraction of a second and process the words the speaker said and then tunes out before the next series of words arrives.
-

“FACES”

- **Focus:** Posture and eye contact should reflect the fact that you are listening
- **Attend:** Pay attention to the speaker's words and emotional affect, body language and other non-verbals
- **Clarify:** Paraphrase what you have heard to be sure you have not assumed an erroneous meaning for specific words, use open-ended questions which encourage the party to elaborate
- **Empathize:** Acknowledge feelings as valid, that each person is entitled to his or her point of view; ask questions that make the parties seem more real as people; recognize the difficulty of the process
- **Summarize:** Using neutral language, re-state your understanding of the person's concerns and issues, providing the speakers with an opportunity to confirm or amend the meaning of what s/he has said



Managing High Emotions

- **C**ontrol your reaction
 - Strategies when emotions attack
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- **A**lternative hypothesis
- **L**isten for the interests
- **M**indfulness
- **E**mpathize
- **D**eflect

