

Negotiation Principles, Techniques and Strategies

By Kathryn J. Murphy

Being an effective negotiator takes skill, practice, and preparation. When you negotiate in ways that work you will have a significantly better outcome.

Preparing for the Negotiation Process

Prepare for the negotiation by making sure you have all the information you need to negotiate, including financial, legal, and other information necessary to make informed choices, such as appraisals and expert opinions. Understanding the goals and interests of both parties can often lead to a creative win-win agreement – or at least a settlement that each party will find acceptable.

In preparing for the negotiation, an opening offer should be prepared in writing even if you decide not to present it to the other party first. It is also a good idea to prepare an initial draft of the settlement agreement prior to the negotiation so it can be carefully considered, and the draft can be compared to the final agreement to make sure all terms are included.

Problem-Solving Model

An effective problem-solving model is to identify the problem, brainstorm all options for solving the problem, discuss and evaluate the likely outcomes of each option, and select the most acceptable option. The options should be evaluated from emotional, financial, and legal perspectives. You should look at the options based on what might happen at the courthouse, and how important it is to have certainty instead of the risk of a judicial outcome.

Concessions

Negotiators should carefully plan their concessions and not make concessions too quickly or too large. It is also generally a mistake to make concessions when the other party is not moving. Negotiators should make concessions on issues that are least important to them. You offer the other party something valuable to them in exchange for something valuable to you. The concessions should taper toward the end to communicate to the other side you are nearing your walk away number or position. It is almost inevitable in negotiations that one party will suggest “splitting the difference” to close the gap. However, one party may have made significant concessions, and then when the other party suggests splitting the difference, it is as if the past never occurred.

Handling Impasses

An impasse can be handled by setting aside the major problem issues and talking about some of the smaller issues to gain momentum. Enough issues should be kept open so that both sides can feel they have won, and if you are down to one issue, determine if you can add other issues to the discussion. The dynamics of the negotiation can also be changed to create momentum, such as changing the people in the negotiating team, finding ways to ease the tension, restructuring the deal, or changing the style of the negotiations. Asking questions can also assist

with an impasse, such as – what would happen if we did this; what do you see happening as the likely outcome of the options; and what is the most effective thing we can do right now?

Ultimatums

You can project that you are prepared to walk away, and you are considering that option, however, ultimatums should be avoided. Ultimatums should only be used when you are prepared to do what you have threatened to do because most people who issue ultimatums are bluffing. You can respond to an ultimatum of the other party by calling their bluff and find a face-saving way for them to continue the negotiations.

Emotions In Negotiation

You should emotionally prepare for the negotiation to stimulate positive emotions that will enhance the effectiveness of the negotiation. You should have a clear understanding of the substantive issues and feel calm and confident enough to maintain a clear focus during the negotiation. If strong negative emotions such as anger, fear or frustration are unaddressed, there is a good likelihood they will prevent you from making a wise agreement. Some people believe they can behave aggressively in a negotiation to intimidate and weaken the other party. Those who have temper tantrums are often not effective negotiators as many temper tantrums are not genuine.

An apology can be very powerful in a negotiation. An apology should express empathy for the other person's feelings and express regret. If you believe you have not done anything that would require an apology, you can still apologize that the situation has caused the other party sadness and stress.

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