



# OMBUDS OFFICE

Harvard Medical School • Harvard Dental School • Harvard T.H. Chan School of Public Health

## SEVEN ELEMENTS OF EFFECTIVE NEGOTIATIONS

December 2008 – Jerome Slavik

*Adapted from Getting To Yes – Negotiating Agreements Without Giving In, R. Fisher and W. Ury*

### 1. RELATIONSHIP: AM I PREPARED TO DEAL WITH THE RELATIONSHIP?

- a) A good negotiating relationship is needed to address differences and conflicts.
- b) Separate people issues from substantive issues.
- c) Plan and prepare to build and maintain a good working relationship.
- d) Be respectful, trustworthy and unconditional constructive.

### 2. COMMUNICATION: AM I READY TO LISTEN AND TALK EFFECTIVELY? CREATING A LEARNING CONVERSATION

- a) Core Skills – Basic Communication Skills in Negotiation
  - i. Active listening – To do active listening, we must overcome some of our tendencies and habits that interfere with good listening.
  - ii. Acknowledging what has been said and felt – Have you effectively demonstrated to the other negotiators that you have heard and UNDERSTOOD what they have said? Use paraphrasing and summarizing.
  - iii. Listen to understand, speak to be understood – Have you thought about ways to communicate with the other party by using words (and at the right time) in a way that they will understand?
  - iv. Speak about yourself, not them – Have you let them know what are the crucial issues for you and your community and how you feel about the problem at hand? Use “I” statements.
  - v. Speak for a purpose – Have you thought through the timing and impact of what you wish to say? Be clear and concise.
- b) Core Skills – Communications to Gather Knowledge and Learn About Their Interests
  - i. Clarifying and Probing Skills
    - Have you thought about basic questions for clarification (including empathetic questions) you might ask to draw out the interests from the other negotiators? E.g. can you explain...?
    - Could you use consequential questions to draw out the other side? E.g. what would you need to...?

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ii. Integrative Framing Skills

- Paraphrasing – Have you given feedback in your own words or what you understand the key concerns and interests on the other side to be?
- Summarizing – Can you accurately draw together the main points of the discussion up to that point in time?

**3. INTERESTS: WHAT DO PEOPLE REALLY WANT?**

- a) Collectively identify and articulate the interests, concerns, and needs of all relevant parties (mine, yours, theirs). Remember: most parties do not know all their interests or necessarily agree on their interests.
- b) Identify and prioritize community interests together. Get on the same page.
- c) Probe for your and their unarticulated or underlying interests.
- d) Share and clarify the respective interests of the parties. Move beyond speculation about to acknowledgement of their interests.
- e) Identify and share common interests as a basis to develop options.
- f) Interests from the agenda.

**4. OPTIONS: WHAT ARE THE POSSIBLE AGREEMENTS OR BITS OF AN AGREEMENT?**

- a) Design options, not positions.
- b) Create options to meet interests of both parties.
- c) Remember when designing options they also must transparently meet their interests. Find ways to maximize joint gains for both.

**5. ALTERNATIVES: WHAT WILL I DO IF WE DO NOT AGREE?**

- a) Do we need to negotiate or can we satisfactorily meet our interests in other ways?
- b) Identify and articulate our best/doable alternatives to a negotiated agreement.
- c) Fully understand the implication, consequences, risks and costs of your and their BATNA.
- d) Select and improve our BATNA
- e) Identify the best and worst alternatives open to the other side.
- f) How can we make their BATNA worse for them? (i.e. keep them at the table)

**6. LEGITIMACY: WHAT CRITERIA WILL I USE TO PERSUADE EACH OF US THAT WE ARE NOT BEING RIPPED OFF?**

- a) Fairness is a governing consideration.
- b) Use external criteria and objective standards as a basis to legitimize your preferred options and as a shield against unreasonable proposals from the other side.

- c) Use demonstrable “fairness” of the process and outcome to persuade them of the merits of a proposal.
  - d) Offer their negotiator an attractive way to explain his decision to his principals (see number 8).
- 7. COMMITMENT: WHAT COMMITMENTS SHOULD I SEEK OR MAKE?**
- a) Get commitments at the end — not the beginning.
  - b) Identify all of the implementation issues to be included in the agreement. No post-argument surprises?
  - c) Plan the timeframe and steps to implement the agreement.
- 8. CONCLUSION: WHAT IS A GOOD OUTCOME?**
- a) Meets interests.
  - b) Demonstrably fair.
  - c) Better than BATNA.
  - d) Doable.