

Following is a definition of INTEREST-BASED BARGAINING (IBB):

INTEREST-BASED BARGAINING (IBB). A bargaining technique in which the parties start with (or at least focus on) interests rather than proposals; agree on criteria of acceptability that will be used to evaluate alternatives; generate several alternatives that are consistent with their interests, and apply the agreed-upon acceptability criteria to the alternatives so generated in order to arrive at mutually acceptable contract provisions. The success of the technique depends, in large measure, on mutual trust, candor, and a willingness to share information. (Compare with the duty to bargain in good faith.) But even where these are lacking, the technique, with its focus on interests and on developing alternatives, tends to make the parties more flexible and open to alternative solutions and thus increases the likelihood of agreement.

IBB often is contrasted with "position-based" bargaining, in which the parties start with proposals (which implicitly are solutions to known or inferred problems). However, even in position-based bargaining the parties normally are expected to justify their proposals in terms of their interests by identifying the problems to which the proposals are intended as solutions. (There is no case law in which FLRA has held that a refusal to so justify proposals constitutes bad faith bargaining.) Once the interests are on the table, the parties are in a position to evaluate their initial and subsequent proposals--whether generated by group brainstorming (a common method of generating alternatives in IBB) or by more customary methods--in terms of the extent they are likely to effectively and efficiently solve problems without creating additional problems. For an analytical treatment of the process, see Walton and McKersie's discussion of "integrative" bargaining in *A Behavioral Theory of Labor Negotiations*. For a popular treatment of the process, see *Getting to Yes*, by Fisher and Ury.

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Santa Rosa Junior College
Interest Based Problem Solving
Ground Rules

1. When the parties reach consensus on a straw design, it is each individual's ethical responsibility to actively, publicly support and promote it to constituents.
2. Individuals will come to meetings prepared. Identify tasks at the end of each meeting including who is responsible and the deadline.
3. Before the first negotiating session, the parties will have surveyed their respective constituents and identified the issues for negotiation and the underlying interests associated with each issue.
4. The parties will mutually identify and develop data used in issue resolution, including criteria and/or standards.
5. The parties will not leave the interest phase of issue resolution until each negotiating team can restate the other party's interests.
6. Respect one another at all times. This means language used, body language, facial expressions, tone and tenor of voice.
7. Every member is empowered to refocus the group's attention to the ground rules.

Elements of Interest-Based Problem Solving

1. Describe the problem.
2. Identify stakeholders & their interests.
3. Create options.
4. Evaluate options against their interests.
5. Commit to solutions.
6. Agree to a plan of action.

How to Be Effective & Principled—Negotiating Money

Santa Rosa Junior College

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Annie Song-Hill

Center for Collaborative Solutions

Objectives

- Understand:
 - Major **mistakes** made by negotiators
 - How to be **strong** and **principled** negotiators
 - How to negotiate **economic issues**
 - The **cycle** of school finance
 - The requirements and consequences of **AB 2756**

Diplomacy is the art of letting
someone else have your way.

Daniele Vare, Italian diplomat


Five Critical Mistakes of Negotiators

 Lack of Proper Preparation

 Taking Inflexible Positions

 Failure to Go Beneath Proposals

 Failure to Establish Yourself as Trustworthy

 Making It Personal

Mistake #1

Lack of Proper Preparation

Common Mistake

- Fail to develop a meaningful rationale for proposals
 - What problem or issue are you trying to solve?
 - What are your needs or interests?
 - Why did you choose this particular solution?

Common Mistake

- **Lack credible data or facts**
 - Inadequate or no data
 - Failure to identify needed data
 - Asking for data too late in process
 - Not discussing up front how to collect data
 - Failure to do your own research
 - Selective presentation of data

Principles

- Be **prepared** to explain **how** you came up with a proposal
- Make your thinking process **visible**
- Ground proposals in **credible data**

Mistake #2

Taking Inflexible Positions

Definitions





- **Positions**

- Potential solutions to which you become attached or committed

- **Needs or Interests**

- The underlying motivation for what you want
- Your goals, desires, concerns, fears

Need or Position?

-  Eliminate supervisor favoritism in selecting employees for promotional positions
-  Post jobs internally for five days before going outside the agency
-  Senior qualified candidate gets the job
-  Improve the quality of work

Common Mistakes

- Presenting proposals without explaining the rationale
 - Leaving the other party to guess why you want your proposal
 - Leaving no room for other party to solve your problem without capitulating

Common Mistakes

- **Becoming attached to a particular solution**
 - Strongly advocating for a position instead of your interests
 - Lack of creativity and flexibility

Principles

- Be **strong advocates** for your **needs** and interests
- Be **flexible** about positions or **outcomes**

We do not have
permanent friends.

We have
permanent interests.

Barry Broad, Teamster lobbyist

Mistake #3

Failure to Go Beneath Proposals

Common Mistakes

- **Not asking questions**
 - Not trying to discover other party's
 - problems
 - story & perspective
 - goals and interests
 - Assuming you already understand
 - the other party's motivation and point of view

Common Mistakes

- **Failure to reframe your own proposals or rationale**
 - based on what we hear are the needs of the other party
- **Failure to brainstorm other ideas**
 - Not floating other ideas without commitment
 - Not thinking “outside the box”

Principles

- **Seek to understand** before being understood
- Make their thinking **visible**
- Be **adaptive & creative**

Mistake #4

**Failure to Establish Yourself
as Trustworthy**

PROBLEM

Which Game Should You Play?

SOFT

Participants are **friends**. The goal is **agreement**.

Make concessions to cultivate the relationship.

Be **soft** on the people and the problem.

Trust others.

Change your position easily.

Make **offers**.

HARD

Participants are **adversaries**. The goal is **victory**.

Demand concessions as a condition of the relationship.

Be **hard** on the people and the problem.

Distrust others.

Dig in to your position.

Make **threats**.

PROBLEM

Which Game Should You Play?

SOFT

Disclose your bottom line.

Accept one-sided losses to reach agreement.

Search for the single answer; the one they will accept.

Insist on agreement.

Try to avoid a contest of will.

Yield to pressure.

HARD

Mislead as to your bottom line

Demand one-sided gains as the price of agreement.

Search for the single answer: the one you will accept.

Insist on your position.

Try to win a contest of will.

Apply pressure.

PROBLEM
Which Game Should You Play?

SOLUTION
Negotiate on the Merits

SOFT

Participants are **friends**. The goal is **agreement**.

Make concessions to cultivate the relationship.

Be **soft** on the people and the problem.

Trust others.

Change your position easily.

Make **offers**.

HARD

Participants are **adversaries**. The goal is **victory**.

Demand concessions as a condition of the relationship.

Be **hard** on the people and the problem.

Distrust others.

Dig in to your position.

Make **threats**.

PRINCIPLED

Participants are **problem solvers**. The goal is a **wise outcome** reached efficiently and amicably.

Separate the people from the problem.

Be **soft** on the people, **hard** on the problem.

Proceed independent of trust.

Focus on **interests**, not positions.

Explore **interests**.

PROBLEM
Which Game Should You Play?

SOLUTION
Negotiate on the Merits

SOFT

Disclose your bottom line.

Accept one-sided losses to reach agreement.

Search for the single answer; the one they will accept.

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Yield to pressure.

HARD

Mislead as to your bottom line

Demand one-sided gains as the price of agreement.

Search for the single answer: the one you will accept.

Insist on your position.

Try to win a contest of will.

Apply pressure.

PRINCIPLED

Avoid having a bottom line.

Invent options for mutual gain.

Develop multiple options to choose from; decide later.

Insist on using objective criteria.

Try to reach a result based on standards independent of will.

Reason and be open to reasons; yield to principle, not pressure.

Tools for Building Effective Relationships

- Create ground rules
 - Develop ground rules together
 - Clarify what they mean
 - Commit by consensus

Tools for Building Effective Relationships

- Surface relationship issues as they occur
 - Name the problem
 - Describe the behavior & its impact on you
 - Do **not** ascribe intent
 - Mutually develop or reaffirm norms

Common Mistakes

- Lack of an independent set of principles
 - Reacting instead of being proactive and deliberate
 - Basing your behavior on the other party's behavior

Principles

- Be **unconditionally** constructive
- Act on **your own principles** irrespective of the other party
- Try to create **common** norms

Mistake #5

Making It Personal

Common Mistakes

- **Personal attacks**
 - Name calling, demeaning comments, sarcasm
 - Responding in kind and escalating
- **Taking everything personally**

Common Mistakes

- **Not raising relationship issues**
 - Instead
 - Hardening on content
 - Personal attacks
 - Assuming we know the other party's intent
- **Losing sight of the goal**
 - a fair and balanced agreement

Principles

- Never **take** it personally
- Never **make** it personal
- Keep your eye on **prize**

How to Negotiate Economic Issues

Broader Considerations

- Cultivate a relationship **conducive** to problem solving
- **Understand**
 - the problem
 - the interests of all the parties
- Appreciate the **interdependencies**

Broader Considerations

- Be aware of each party's **risk aversion**
 - What elements will **inhibit** either party from saying yes?
 - Look for contingencies to **safeguard** those fears

Broader Considerations

- Search for **criteria**
 - What feels fair, and/or makes sense given the identified interests?
- Develop a data-gathering **plan up front**
 - so the right data is ready when needed

Basic Process for Developing Standards

- Identify each stakeholder's interests
- Clarify and prioritize core interests
- Identify mutual and interdependent interests

Basic Process for Developing Standards

- Define **criteria** by which to measure whether the core interests are met
- Decide what **data** you need
- Decide how to **jointly collect** and share the data

Basic Process for Developing Standards

- Define **criteria** by which to measure whether the core interests are met
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- Decide how to **jointly collect** and share the data

Criteria

- Means of **measuring** whether an interest is met
- **Objective, measurable and external** standards
 - by which to judge the legitimacy of possible solutions

Detailed Process for Negotiating \$

- Determine an appropriate negotiations plan with timelines.
 - Begin considering money early in negotiations
 - Plan enough time to select criteria and collect data

Detailed Process for Negotiating \$

- Define the **scope** of the issue:
 - Total compensation or salary or benefits?
 - What will be included in “total compensation?”

Detailed Process for Negotiating \$

- Identify the key stakeholders and their interests:
 - Identify and prioritize the core interests
 - Explore the mutuality or interdependence of the interests.

Detailed Process for Negotiating \$

- Brainstorm **possible criteria** to measure whether each core interest is met
 - Select what seems fair or makes sense

Detailed Process for Negotiating \$

- Explore the rationale for possible parameters
- Then choose the parameters

Detailed Process for Negotiating \$

- Identify the **targets** for application of the criteria, where appropriate, and
- the **rationale** for that placement.

Detailed Process for Negotiating \$

- Discuss in advance of data collection
 - What strategies you will use to apply available resources to move to the target,
 - How many.

Detailed Process for Negotiating \$

- Determine
 - What data needs to be collected nad
 - How you will collect the data
 - so the data will be credible for both parties

Detailed Process for Negotiating \$

- Plan **how to communicate** with constituents during the process
 - to avoid surprises

Detailed Process for Negotiating \$

- Discuss

- what is the **relative priority** of interests & criteria
- how should they **interrelate**

Detailed Process for Negotiating \$

- Develop **options** for compensation that use the criteria
 - Consider options for setting compensation in **future years** as well as the **immediate year**
 - Soft “formula” or standard components of compensation decision (e.g. effective COLA in your organization, contingencies in the event that ending undesignated balance exceeds projections, what to do with unanticipated income, etc.)
 - Consider any **political consequences** that emerged from the data

Detailed Process for Negotiating \$

- Negotiate to conclusion on a compensation design
- If you develop a formula, test it against prior years before finalizing,
 - so that you can spot the unacceptable results (risk aversion)

Detailed Process for Negotiating \$

- Determine **how to explain** the outcome and process to your constituents
- Determine how you will **monitor** and **refine** your plan over time