

How U.S. Unions Negotiate and Resolve Labor Disputes

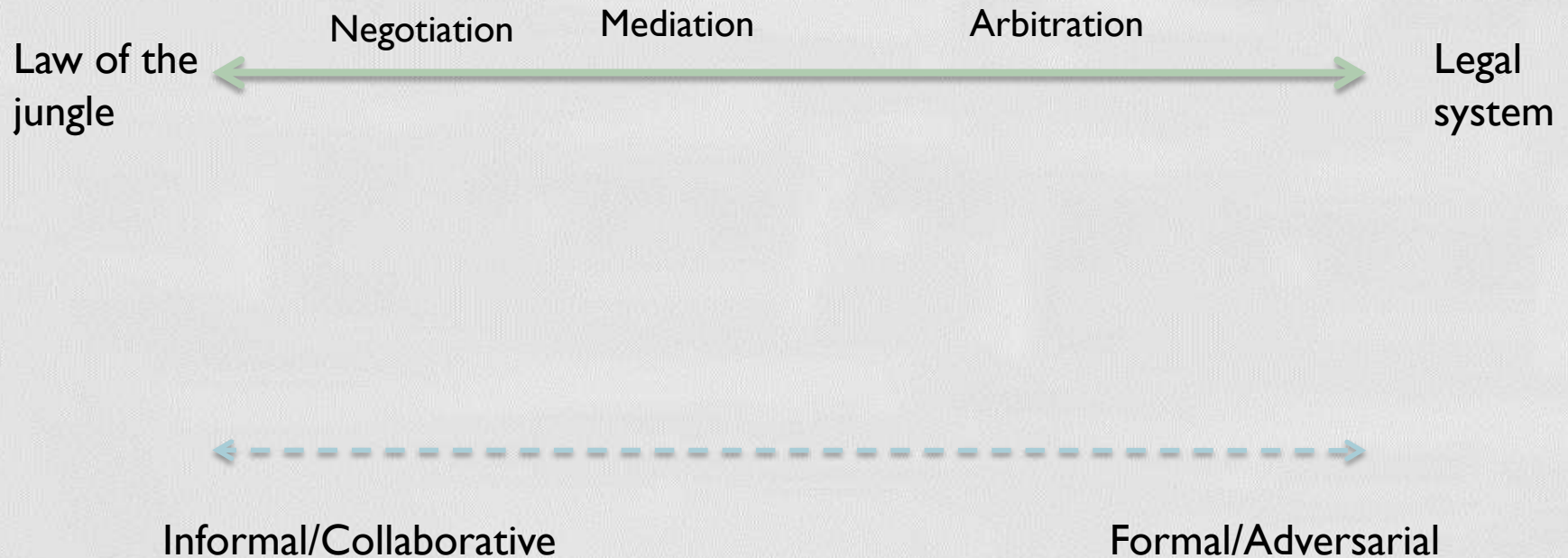
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Different Collective Bargaining Methodologies Are Used Depending on the Situation and Relationship

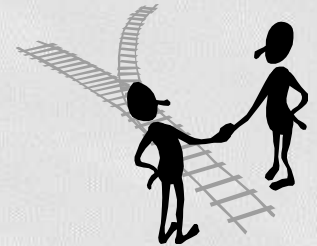
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The Dispute Resolution Spectrum



Conflict Resolution Techniques Defined



- A. **Negotiation**: A private, voluntary dispute resolution process in which the parties confer with each other to seek an agreement.
- B. **Mediation**: A private, voluntary dispute resolution process in which a third party assists the disputants to identify issues of mutual concern, developing options for resolving those issues, and seek resolutions acceptable to all parties.
- C. **Arbitration**: A dispute resolution process where the parties to a dispute agree to submit the dispute for binding resolution to a third party.
- D. **Litigation**: An formal, public process for dispute resolution, in which a government-appointed or elected judge and/or jury determines facts and decrees an outcome based on adversarial presentations by each party.

Contrasts Between Negotiation/ Mediation and Arbitration/Litigation

Negotiation/Mediation

- less formal
- less costly
- less time consuming
- relationships preserved
- parties retain ownership of the issues
- parties persuade each other
- parties decide
- parties select the neutral in mediation
- predictable resolutions
- win-win resolutions
- customized resolutions
- parties control outcome
- confidentiality preserved
- compliance more likely
- resolution is more enduring

Arbitration/ Litigation

- more formal
- more costly
- time intensive
- relationships are threatened
- parties abdicate control over their outcome
- parties persuade a neutral
- neutral decides
- In litigation neutral is appointed
- outcome is uncertain
- win-lose resolutions
- law/rule based outcomes
- no control over neutrals decision
- open to public scrutiny
- compliance less likely
- Resolution is more precarious

Principled Negotiation Techniques

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REACHING A MUTUALLY ACCEPTABLE RESOLUTION

Follow these steps to reach a mutually acceptable resolution:

1. Separate the people from the problem.
2. Focus on interests, not positions.
3. Create multiple options for mutual gain.
4. Rely on objective criteria to test the effectiveness of the proposed grievance resolution.

(Getting to Yes, Fisher and Ury.)

Positive Steps to Conflict Resolution

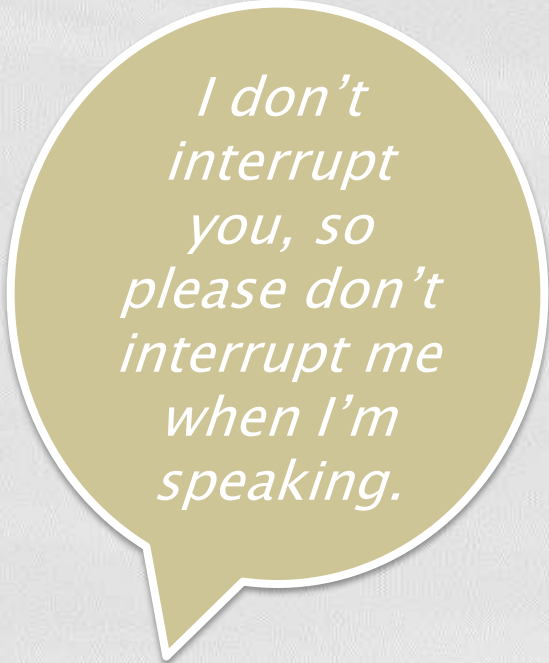
- ▶ Positive view of conflict (opportunity to resolve and improve relationships)
- ▶ Positive (partnership) attitude
- ▶ Atmosphere
- ▶ Learn from the past/ look to the future
- ▶ Distinguish between wants and needs
- ▶ Clarify perceptions and identify interests vs. positions
- ▶ Develop multiple mutual benefit options
- ▶ Build on smaller issues/ work up to the more difficult Issues
- ▶ Anger to be used only as a tool

Separate people from
the problem


- Why are people the problem?
- Focus on perceptions, emotions, and communications
- Whose behavior can *you* control?

Techniques to consider


- Take a break
- Allow their emotional outburst
- Recognize the techniques used by the other party
- Be aware of hot button issues or emotional language
- Step to their side—how do they see things?



*I don't
interrupt
you, so
please don't
interrupt me
when I'm
speaking.*



*Sorry, but I
make the
rules
around
here.*



*Let me
EXPLAIN
this to you
in simple
terms.*

HARDBALL

- Participants are adversaries
- The goal is victory
- The parties demand concessions as a condition of continued relationship
- The parties distrust each other
- The parties dig into their positions
- The parties make threats and mislead each other
- Negotiations are a contest of wills
- Each party insists on one sided gains and their demands being the basis of the resolution
- Each party exerts pressure on the other to capitulate

Hardball Tactics

- Stonewalling, being inflexible
- Dragging feet
- Threatening to walk out of negotiations
- Veiled threats
- Direct threats
- Threats of retaliation
- Using Your Values Against You
- Deliberate Deception
- Personal Attacks
- Divide and Conquer

Hardball Tactics

- Take It or Leave It
- Just a Little More
- We Forgot to Mention
- We'll Have to Check This With --- and Then Get Back to You
- Good Guy – Bad Guy
- We Would Like To – But
- We're Under a Lot of Pressure
- Ambiguous Authority

TACTICS TO RESPOND TO HARDBALL

- If they push, don't push back.
- When they assert their position, do not attack it.
- When they attack your ideas, do not defend them.
- When they attack you, do not Counterattack.
- Break the vicious cycle by refusing to react.
- When they push, sidestep the attack and deflect it against the problem--exploring interests and inventing options for mutual gain.

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SOFTBALL

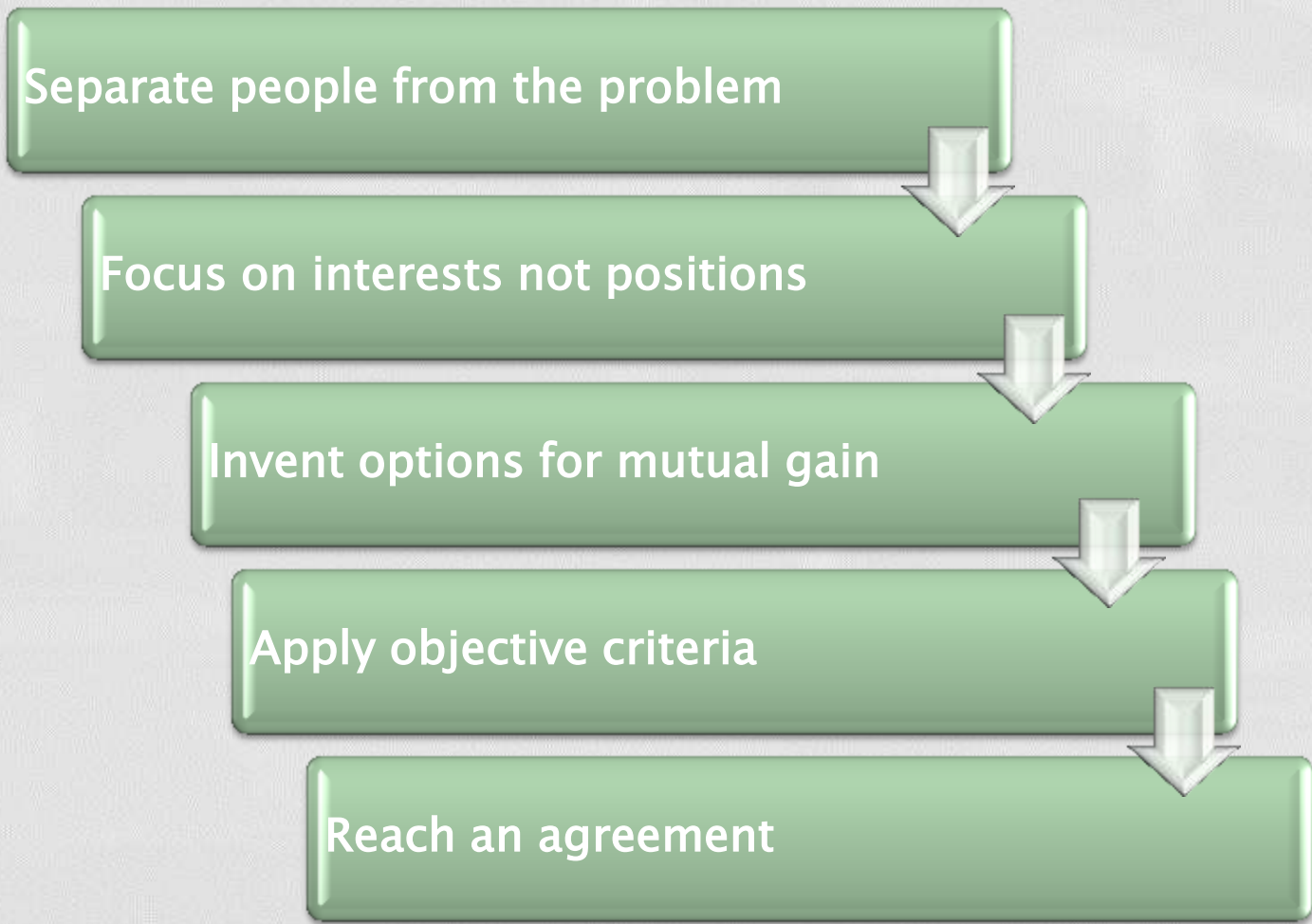
- Participants are friends
- The goal is agreement
- Each side makes concessions to cultivate the relationship
- The parties trust each other
- The parties change position to accommodate the other
- The parties are willing to accept unfavorable resolutions
- Each side is attempting to avoid a contest of wills and yields to pressure

Principled negotiations model



Problem

Principled negotiations model



PRINCIPLED NEGOTIATIONS INCLUDE

- Participants are problem solvers
- The goal is a wise solution that addresses the needs of each side
- Each side treats the other with respect focusing on the issue not the personalities
- Each side proceeds independent of trust
- Each side explores the interests of each other
- The parties develop multiple options for mutual gain solutions
- The parties avoid having a bottom line, but rather remain flexible
- Each side yields to reason not pressure

If You Fail to Reach an Agreement, You Must Know Your BATNA

Best
Alternative
To a
Negotiated
Agreement

BATNA Defined: In the event you fail to reach an agreement with your negotiating partner, what are your options/alternatives that you can act on independently to address your needs?

- Compare the proposed agreement with your BATNA
- Select your best option

Go with your best alternative option

- Live with situation/avoid
- Defer to the future
- Refer to higher authority
- Mediator, arbitrator, judge
- Unilateral action/power
- Strike

BATNA
Examples

BATNA

Best Alternative To A Negotiated Agreement

What is your fallback position?

How to determine?

Ask yourself, “What will I do if by a certain time I don’t have an agreement with the other party?”

Generate options:

- strike
- quit work
- mediation

Select the best option(s)

Protect yourself from yourself

- Set your negotiating boundaries



THE LINE IN THE SAND

- Set your boundaries
- Determine in advance of negotiation what you are willing to give, and what you must end up in an agreement.
- Otherwise, in the heat of the negotiations you may give too much or end up with too little.



The Aim of Negotiation

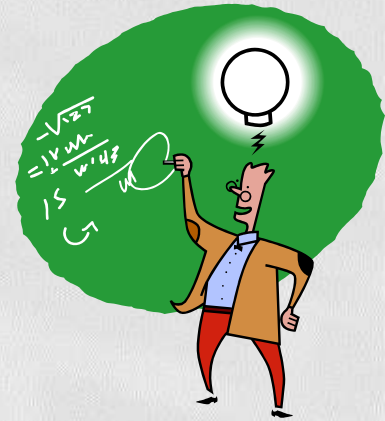
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AIM OF NEGOTIATION

- To reach a desired and durable result
- To reach agreement efficiently and fairly
- To keep the relationship intact



CRITERIA FOR JUDGING NEGOTIATION METHODS



- A wise agreement can be defined as one which meets the legitimate interests of each side to the extent possible, resolves conflicting interests fairly, is durable and takes community interests into account.
- They should be efficient
- They should improve or at least not damage the relationship between parties.
- Positional bargaining fails to meet the basic criteria of producing a wise agreement efficiently and amicably. It puts relationships in jeopardy and runs the risk that no agreement will be reached at all.

SUCCESSFUL PRINCIPLED NEGOTIATORS

1. Are problem solvers.
2. An ability to negotiate effectively with members of his/her own organization and win their confidence.
3. An ability to tolerate conflict and ambiguity and look beyond the conflict.
4. The courage to commit oneself to higher targets and take the risks that go with it.
5. A willingness to get involved with the opponent and the people in the organization; that is, to deal in personal and business depths with them.
6. A commitment to integrity and mutual satisfaction.
7. An ability to listen open-mindedly.
8. Self-confidence based on knowledge, planning and good intra-organization negotiation.
9. A stable person; one who has learned to negotiate with himself; one who doesn't have too strong a need to be liked because he/she likes himself.
10. An ability to discover interests and methods to accommodate interests mutually.



PRINCIPLED NEGOTIATING TIPS

Avoid Common Errors

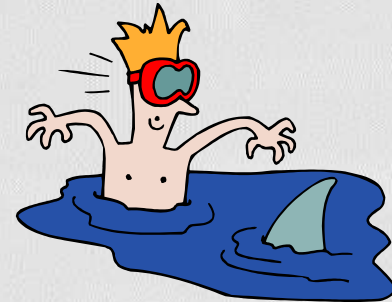
A good way to avoid errors when dealing with others is to be sensitive to common mistakes. Try to avoid the following:

- Failing nurture the relationship.
- Failing to recognize the need for face saving.
- Failing to show the proper respect for the other side.
- Wanting to be liked.
- Hiding your true feelings.
- Getting angry and arguing.
- Failing to listen to the other party.
- Inaccurate assumptions about the other party.



NEGOTIATION PITFALLS

- Being caught by surprise.
- Being poorly organized.
- Unwillingness to tolerate deadlock.
- Impatience.
- Failing to have appropriate deadlines.
- Reaching a very quick settlement.
- Poor planning.
- Inadequate notes and records.
- Take it or leave it proposals.
- Bluffing.

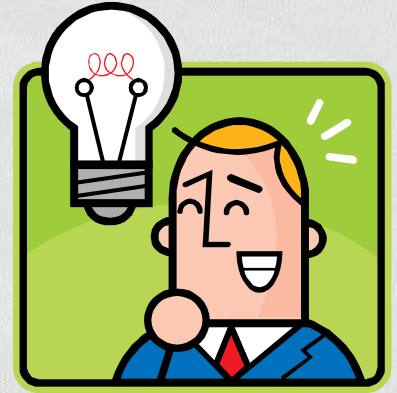


NEGOTIATING PITFALLS

- Win-lose beliefs.
- Low aspirations.
- Wrong estimate of wants vs. needs of self and other party.
- Not understanding the other person's interest.
- Failure to concentrate on interests.
- Large concessions early.
- Not knowing what your BATNA is.



Final Thoughts



- Principled negotiations:
 - Is the most effective and efficient form of negotiation
 - Addresses the needs of both parties
 - Preserves relationships
 - Depends on cooperation to succeed