Objectives

By the end of this program, you will be able to:

• Identify and implement effectively listening techniques

• Explain how to reframe a negotiable issue in neutral, forward-looking language

• Structure an agenda of negotiable issues for a constructive conversation in the context of a specialized docket
Agenda

- Identifying ideas for effective listening to
  - Make Voices Feel Heard
  - Develop Respect & Appreciation
  - Enhance Understanding

- Developing skills to “reframe” negotiable issues
  - In a neutral manner
  - To enhance discussion of forward-looking ideas

The Power of Listening
<table>
<thead>
<tr>
<th>Poor Listeners</th>
<th>Active Listeners</th>
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</thead>
<tbody>
<tr>
<td>Glance at their watch, tap their feet, and drum their fingers.</td>
<td>Make eye contact, nod occasionally, and say words of encouragement.</td>
</tr>
<tr>
<td>Finish people’s sentences and make assumptions.</td>
<td>Paraphrase the speaker’s words, clarify, and summarize.</td>
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<tr>
<td>Interrupt to disagree and rush to correct the speaker.</td>
<td>Are patient and calmly state their views when appropriate.</td>
</tr>
<tr>
<td>Focus on the speaker’s delivery or mannerisms.</td>
<td>Focus on the content of the message.</td>
</tr>
<tr>
<td>React emotionally.</td>
<td>Remain non-defensive.</td>
</tr>
<tr>
<td>Ignore non-verbal cues.</td>
<td>Pay attention to non-verbal cues.</td>
</tr>
<tr>
<td>Tell others how they should feel.</td>
<td>Respect others’ feelings.</td>
</tr>
<tr>
<td>Control others’ feelings.</td>
<td></td>
</tr>
<tr>
<td>Talk more than they listen.</td>
<td>Listen more than they talk.</td>
</tr>
</tbody>
</table>

**Three Basic Tools for Active Listening**

- **Inquire**
  - Open-ended question which does not narrow the range of answers
- **Summarize / Paraphrase**
  - ... while remaining open to correction
- **Acknowledge Feelings**
  - Humanize and Develop Empathy
How do you know…
You’ve been listened to & believed

2 nonprofit executives
2 interfaith leaders
3 community organizers / advocates
2 think tank staff
2 law academics
1 bar association leader
1 big-law partner
1 common pleas judge

Framing Issues for a Constructive Conversation

1. Highlight Common Interests
2. Identify Negotiable Issues, framed in Neutral Language
3. Develop a Structure for the Conversation
Focus on Interests not *Positions*

**Position:**
- One Person’s proposed solution
- Typically expressed as a demand

**Interest:**
- Reasons behind a position which may develop a solution: *needs, concerns, hopes, fears*

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Why is Focusing on Interests Valuable?

- In a negotiation, interests are the foundation for parties to find resolution that addresses interests on both sides
- Understanding one’s own interests can lead to new ideas
- Understanding the interests of the other party may lead to recognition of the other party’s basic needs
- Parties may discover that they share common interests
- Helps parties prioritize (interests) and analyze (proposals)
Negotiable Issue

A Behavior (or lack thereof) of one party which frustrates the need of another party

- Separate the people from the problem.
- Reflect parties’ interests not legal issues.
- Framed in neutral terms.
- Forward-looking, not about past actions or blame.
- Flexible and sufficiently broad to allow option generation,
- Realistic and sufficiently narrow to be mediated.

Wedding dress became discolored when dry cleaned:

- Let’s talk about ruining the bride’s dress.
- Let’s talk about the poor customer service.
- Let’s talk about the wedding dress.
A woman complains about harassing phone calls from her former boyfriend:

- Let’s talk about the harassment.
- Let’s talk about your ex.
- Let’s talk about the telephone calls.

**Structure the Conversation**

**HELPS**

- Highlight common interests
- Easy issues first
- Logical categories and sequence
- Priority for pressing deadlines
- Stability and balance

*Love & Stulberg, The Middle Voice (2nd ed. 2013)*
Successful Negotiation Involves

- Separate the people from the problem
- Focus on interests not positions
- Invent options for mutual gain
- Insist on objective criteria
- Know your Best Alternative To a Negotiated Agreement (BATNA)

Fisher, Ury and Patton, Getting to Yes: Negotiating Agreement Without Giving In

Objective Criteria

jean françois bonachera, porto-005, June 12, 2017, CC BY-NC-ND 2.0
Specialized Docket Simulation

Reading for Addressing Conflict

• Fisher & Ury, *Getting to Yes*
• Stulberg & Love, *The Middle Voice*
• Susskind & Cruikshank, *Breaking Robert’s Rules*
**Contact Information**

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