

Collective Bargaining Skills Development

7 – 11 November, 2022



Trainers:

- Jimmy Valentine, FMCS Commissioner
- Liz Brenner, FMCS Commissioner



Welcome

Welcome and goals for the training

Training Goals

- By the end of this week you will learn...
 - Effective communication and social dialog skills
 - Conflict Styles and how they work
 - Handling sources of conflict
 - Neuroscience of conflict
 - Interest Based Problem Solving principles
 - Effective Labor-Management Committee structures
 - Styles, models, and challenges of collective bargaining
 - Navigating difficult behaviors and emotions



Icebreaker Activity



The Interview: “Hello Neighbor”

- In pairs, for next 5 minutes conduct an interview of each other and gather the following information:
 - First/Last Name _____
 - What Union or Employer do you represent? _____
 - What is your title or position?
 - Something interesting, unique or surprising about you outside of work _____
- Report Out: Intro colleague to group!



Overview of Training Agenda

Day 1: Communication and Social Dialog Skills

Day 2: Conflict Resolution, Neuroscience, Legal Overview

Day 3: Interest Based Problem Solving, Labor Management Committees, and Roles of Unions and Employers

Day 4: Bargaining Models, Difficult Behaviors and Emotions

Day 5: Reflections, Bargaining Practice, and Wrap Up

Federal Mediation and Conciliation Service (FMCS) Facts

- Began after passage of United States Labor Law called the Taft-Hartley Act (1947)
- Independent, Neutral, Non-Regulatory
- Promote sound and stable labor-management relations
- Prevent or minimize work stoppages
- Advocate collective bargaining, mediation, arbitration



Introduction to FMCS

FMCS Director reports directly to the President of The United States.

Why is “independent agency status” beneficial to FMCS?

It allows mediators to focus solely on helping the parties resolve disputes, without worrying about legal or rights-based questions.



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Collective Bargaining in the U.S.

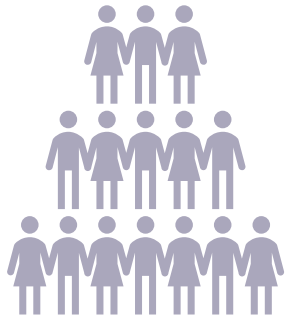
- In the U.S., collective bargaining is decentralized and generally takes place at the enterprise level.
 - If the parties fail to reach an agreement the solution is a strike or a lockout.
- Unlike in many other countries, there is no body that decides the terms of a CBA (and no one decides the outcome for the parties in a strike situation).



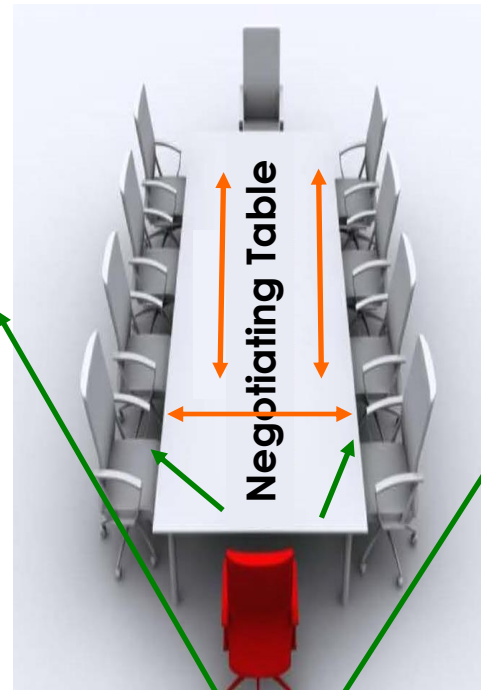
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The Dynamics of Mediating Collective Bargaining in the U.S.

Management Constituents
Not Present at the
Negotiating Table

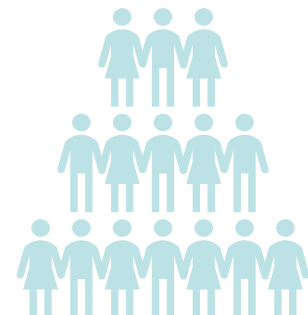


Upper Level Management
Vice-President for Human
Resources, etc.



Mediator

Union Constituents Not
Present at the Negotiating
Table



"Rank and file" members of
the Union covered by the
CBA



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FMCS and National Labor Relations Board (NLRB)

FMCS



- Does not adjudicate or enforce the law.
- Relies heavily on ADR-related processes, like mediation.
- Does not need to be concerned with unfair labor practices or who would prevail in court.

NLRB



- Adjudicates and enforces collective bargaining law.
- Generally, does not use ADR in their practice.
- Is concerned with CBA violations and legal outcomes.



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Key Principles of Our Work

1

Ethics – strict code of ethics (i.e. confidentiality, neutrality, freedom from conflict of interest, self-determination, voluntary consent, etc.)

2

Competence – recruiting high-quality talent, extensive training and mentoring programs, professional development, and National Labor Management Conference

3

Trust – professionalism standards, extensive ethical rules applicable to all government employees (i.e. gift policies)



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Evolution of FMCS Services

Over time, we have shifted our services from just resolving disputes, to preventing and managing them

- **1947 (Creation of FMCS) - "Firefighter" Era:** We Waited for the conflict to start, and then we came and "put it out."
- **1970s – "Preventive Mediation" Era:** All mediators also required to become skills trainers to help parties prevent and manage conflict.
- **2010s – "Conflict Management Professional" Era:** All mediators will be required to take a systemic approach to helping organizations manage change, and to gain competencies to manage interpersonal conflict.



Why Do Training?

Keeping things in the proper perspective





Why Do Training?

What can you learn by being observant

The Business Case for Labor- Management Cooperation

- At the enterprise level, the “Business Case” refers to the value labor conflict resolution and management services, in the form of enhanced revenue, reduced costs, improved customer service, and increased output toward fulfillment of the organization’s mission.
- On a macroeconomic level, the value to the national economy in the form of costs avoided as a result of labor dispute resolution services.

What Do We Mean by “Labor Conflict Resolution and Conflict Management Services?”

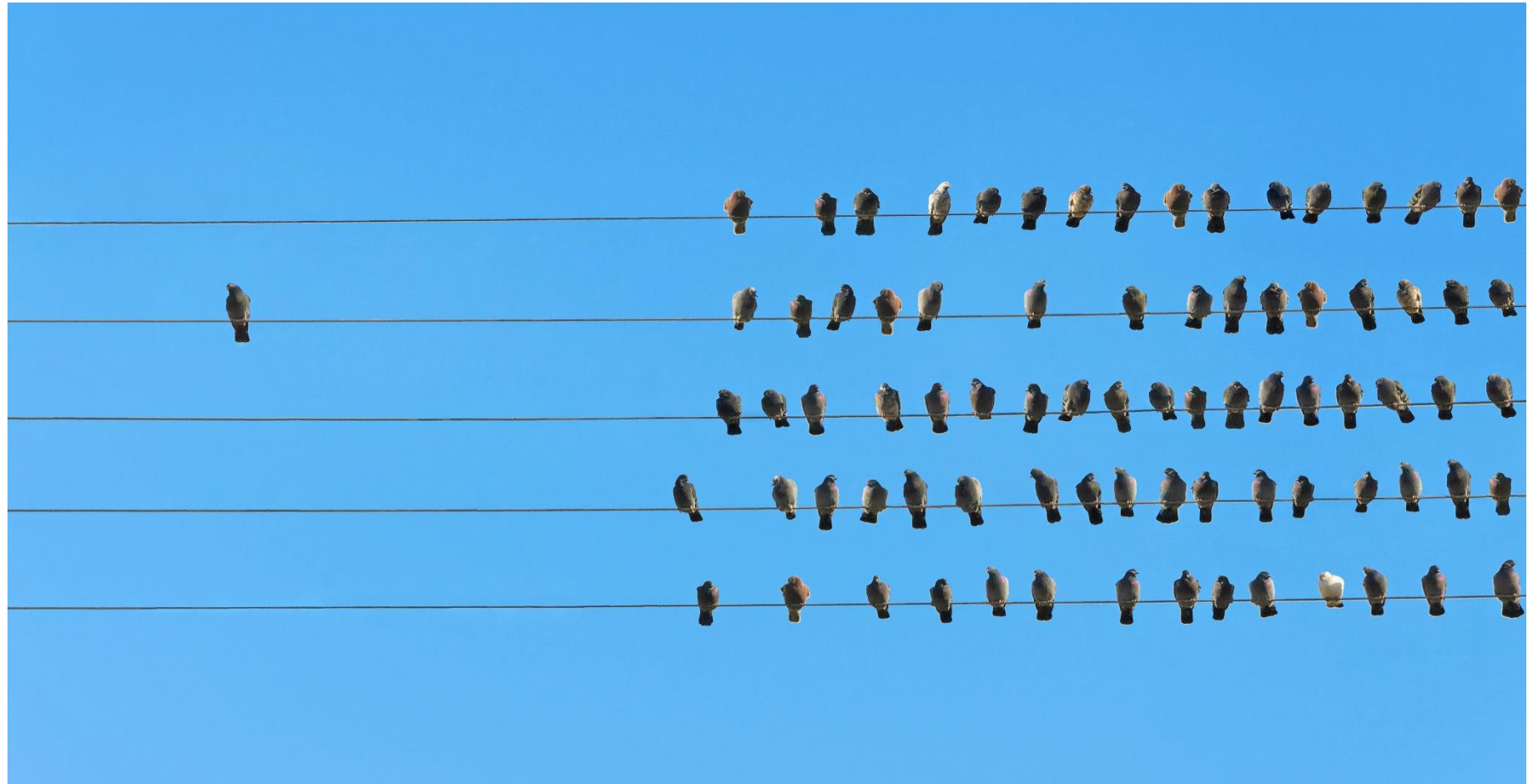
- Traditional and non-traditional mediation skills (**conflict resolution**)
- Meeting facilitation skills (**conflict resolution/management**)
- Communication skills (e.g., listening, non-defensive communication, perspective taking) (**conflict management**)
- Conflict management skills (e.g., externalizing issues, self awareness and self-management, problem solving, enhancing trust, and developing processes for ongoing conflict management) (**conflict management**)
- Training skills (**conflict management**)

Business Case for Investment in Dispute Resolution and Prevention Services at the Enterprise Level

- Management benefits from the perspectives, ideas and real time information from workers on the front lines;
- Workers benefit by knowing the purpose and reasoning behind decisions, and how their work connects with and impacts the rest of the organization;
- Improved creativity and innovation as a result of not only giving all in the organization a voice, but creating processes to combine those voices to brainstorm ideas for improvement

Business Case for Investment in Dispute Resolution and Prevention Services at the Enterprise Level

- Improved productivity due to a reduction in distracting conflict – e.g., rumor and gossip, gripes, or more formal processes such as grievances and lawsuits;
- Enhanced engagement and commitment to the mission on the part of workers and management alike; and
- Reduced turnover, with its accompanying costs.



ART OF
COMMUNICATION



Power of Words

<https://www.youtube.com/watch?v=Hzgzim5m7oU>

Why is Communication Important?

The basis of each relationship lies with communication

- Family: how well we get along with each other. Why we don't get along.
- Work: how we get things done. Why we feel anxiety at work.



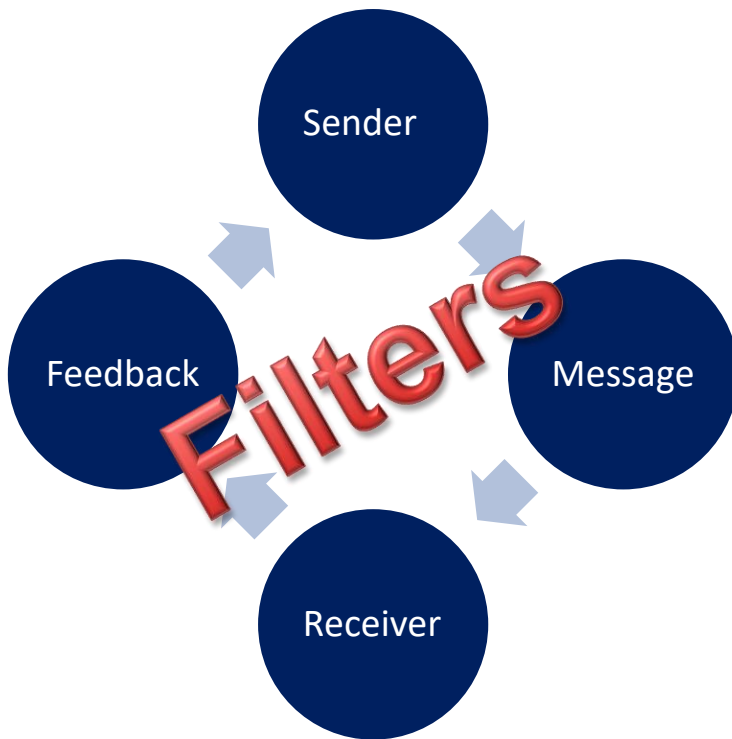


What is the power in being heard and acknowledged?





Communication Cycle



- Process of keeping others informed
- Transfer of knowledge or instruction
- An expression of opinion or emotion
- Direction to motivate or change behavior
- A method of establishing relationships

How does body language impact the effectiveness of our communication?



Active Listening, Defined...

The willingness to
be impacted by
what is being
communicated to you.



ACTIVE LISTENING



Communication

Speech: We speak 125 – 225 words per minute

Voice: We can hear, distinctly, 400 words per minute

Brain: Our brains can process 1,000 to 1,400 words per minute

LISTENING FACTS



After 48 hours people remember approximately 25% of a ten minute talk



When listening, people ignore, misunderstand or forget 75% of a conversation



The Cash Register



Active Listening

“7 of 10 people will misread a document and miss the point. More horrifying, 8 of 10 misunderstand verbal exchanges. It is easy to talk, but it is hard to listen well.”

- George Thompson, *Verbal Judo*

Listening Filters

Listening Filters Determine what we are paying attention to:

- Culture
- Language
- Values
- Beliefs
- Attitudes
- Expectations
- Intentions



ACTIVE LISTENING BENEFITS

1. You will increase your **knowledge**
2. You will **save time** because you will hear the message the first time
3. You will **reduce your stress**
4. You will **engage in true dialogue**



ACTIVE LISTENING BENEFITS

5. You will earn trust
6. You will understand
7. You will increase your self-esteem
8. You will become influential

CHECKLIST FOR LISTENER

- Give non-verbal clues of openness
- Acknowledge speaker
- Ask questions to understand
- Show that you care
- Be aware of non-verbal clues
- Use silence well
- Trust your gut
- Notice the attitude of the messenger

CHECKLIST FOR SPEAKER

- Be specific and simple in a direct way
- Give examples of what you mean
- State your assumptions
- Speak in receiver's "language" to relate
- Ask listeners if your message is clear and understood
- Watch for signs of confusion/inattention
- Ask listeners to repeat/restate their understanding of the message
- Speak to the entire group



Active Listening

“Listening is not a natural act. It is highly artificial and artistic. In fact, listening is *not* the opposite of talking... In our culture, the opposite of talking is more like waiting to interrupt.”

- George Thompson, *Verbal Judo*



Common Poor Listening Habits

- Being aggressive and attacking the messenger
- Interrupting the speaker
- Mentally rehearsing response while message is being delivered
- Blocking out unpleasant, difficult, or complex subjects



Improving Listening Power

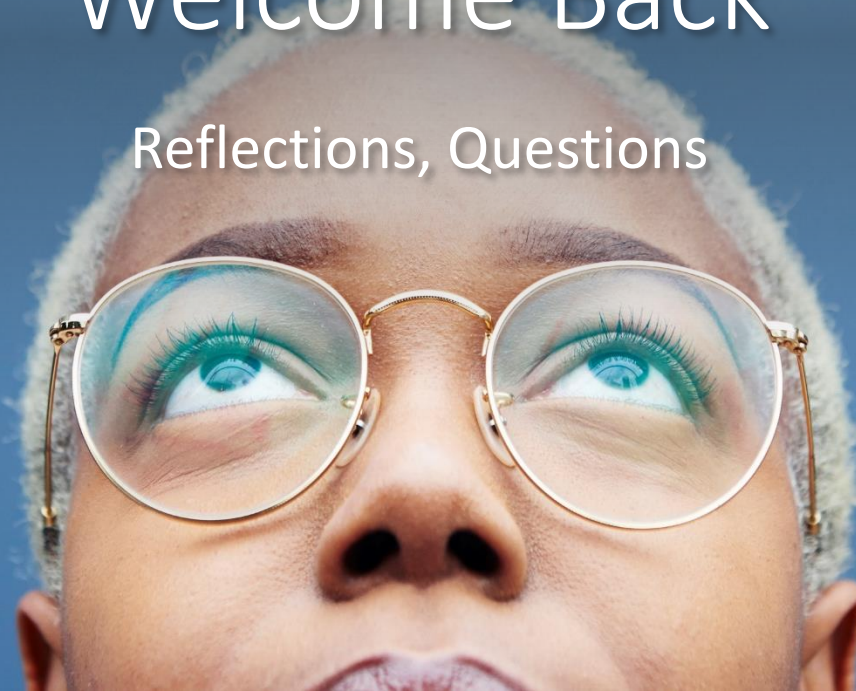
- **Don't Assume...** Instead, ask questions
- **Don't Anticipate...** Instead, try and have an open mind
- **Don't Attack**
- **Don't show disrespect by interrupting or talking down**
- **Don't react emotionally or too quickly...** Instead, think before you respond



Shapes-Exercise

Day Two Welcome Back

Reflections, Questions





Day 2

Conflict Resolution, Neuroscience, Legal Overview

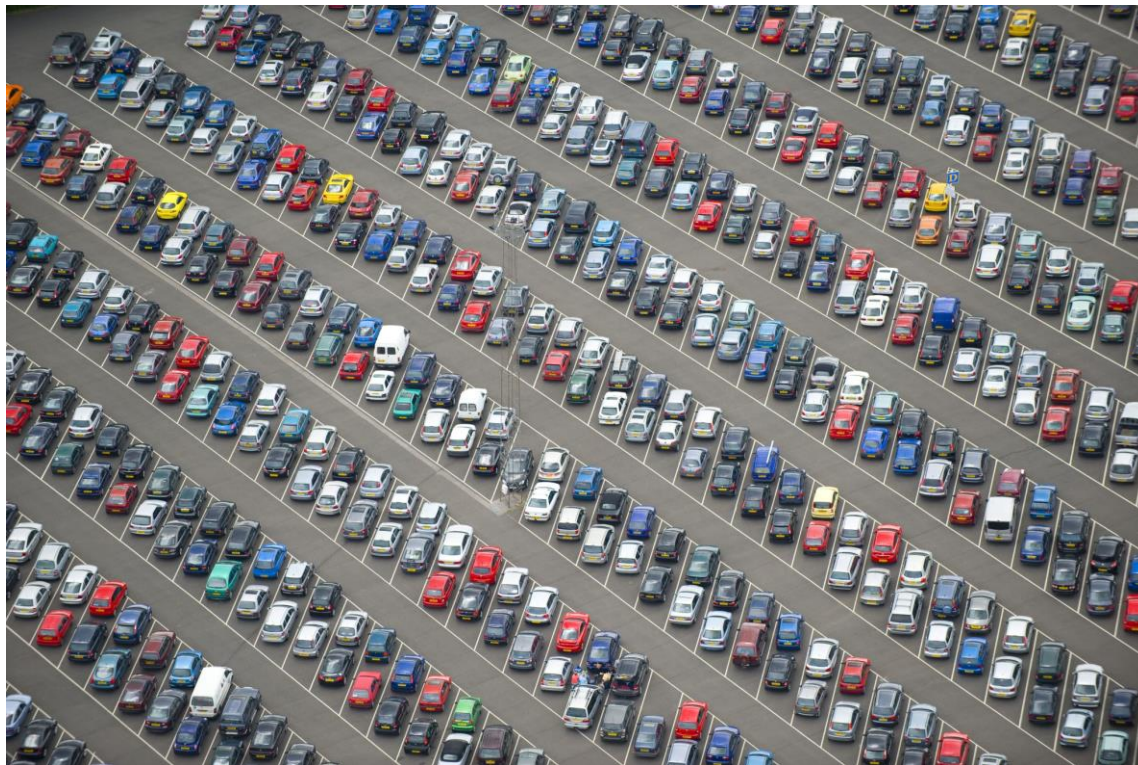


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What is Conflict?

Video Presentation: The Parking Lot





What is Conflict?

Derived from *confligere*, Latin for “strike together”

- More than a difference
- A disagreement that may result in my needs or values being frustrated
- Your definition . . .



Common Misconceptions Regarding Conflict

- Conflict is inherently bad and/or unhealthy
- Conflict is a matter of right vs. wrong
- Conflict is always a result of clashing personalities
- Conflicts resolve themselves
- People always know when they are in conflict
- Conflicts only impact parties directly involved



The Line of Conflict



Sources of Conflict

Information
Strategy
Goals
Values

Informational Conflict

- Individuals have different information, which can best be resolved by asking questions and getting better data.
- This is the Most Common source of conflict and the Easiest to resolve.

<https://www.youtube.com/watch?v=H4SpQqP2zuU>

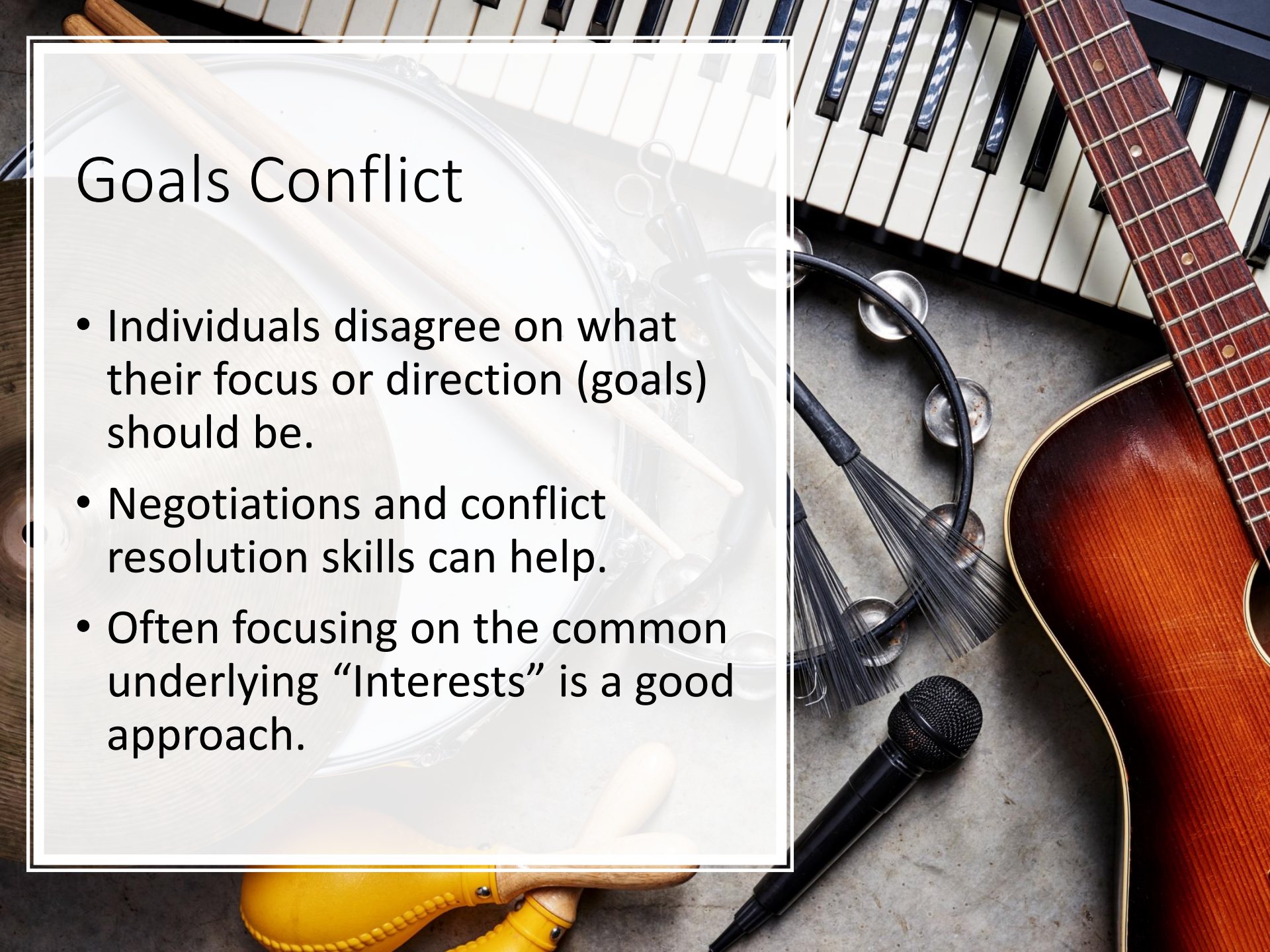


Strategy Conflicts

- Individuals disagree on strategies for a presumed common goal.
- They simply disagree on “how” to get there.
- A Problem Solving approach works well here.

Goals Conflict

- Individuals disagree on what their focus or direction (goals) should be.
- Negotiations and conflict resolution skills can help.
- Often focusing on the common underlying “Interests” is a good approach.



Values Conflict

- Most difficult type of conflict to resolve because it is rooted in differing values or ideologies of the individuals involved.
- Understanding and Respect for each other's Perspective is critical and may be extremely difficult.
- Finding a resolution that does not require either party to change their values is the gold standard and thus may not be attainable.





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Types of Conflicts

- Communication Conflicts
- Different Needs Conflicts
- Personality Conflicts
- Resource Conflicts
- Values Conflicts
- Conflicts/ Biases from Past Experiences with Others
- Conflicts based on Feeling Wronged

Sources of Conflict

Difficulty to Resolve

Informational

Strategic

Goals

Values

- Disagreement over facts – greatest source of workplace conflict
- Agreement on what we want; disagree on how to get there
- Different goals for the same issue or for connected issues
- Deals with ideology



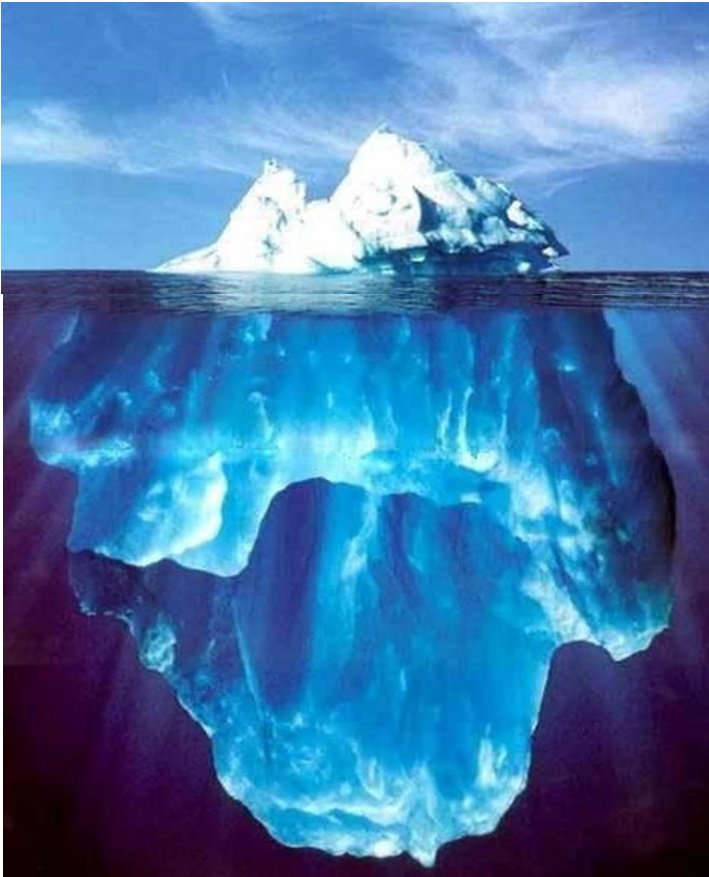


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Conflict Principles

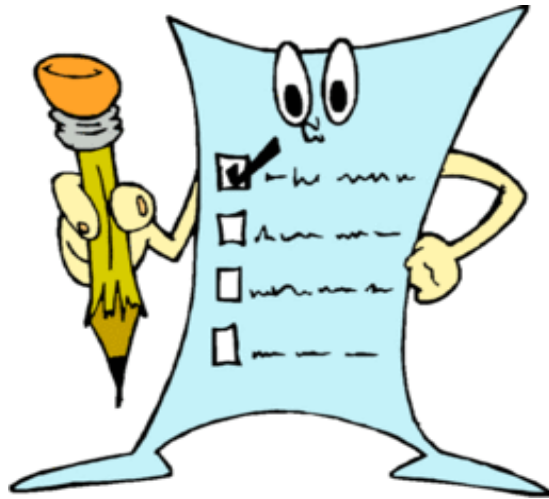
The Conflict Iceberg



- What we see
 - Issue
- Below the surface
 - Emotions
 - Personalities
 - Interests
 - History/Baggage
 - Hidden Agendas

Source: Cloke, K. & Goldsmith, J.; Resolving Conflicts at Work

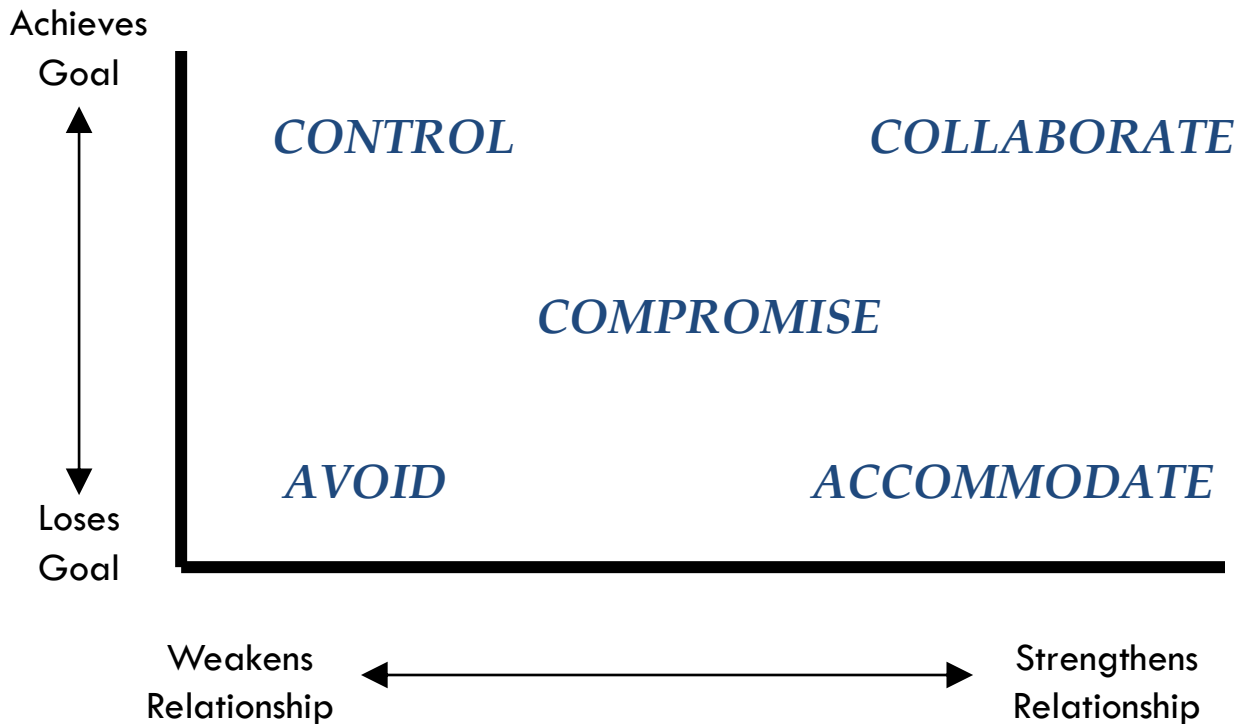
What is My Conflict Style...



Conflict Styles

- **Control** = Urgent, crisis, result over relationship;
- **Avoid** = Now is not the time + Achieving result not driving issue for you;
- **Accommodate** = When you don't have time/resources/desire to address the interests
- **Compromise** = Pick your battles + Relationship is the principal driver
- **Collaborate** = Best Result if you have time, trust, transparency-seeks out Interests

Five Styles of Conflict Management



(*According to Thomas Kilmann Conflict styles)



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Styles....Tell Us What You Think

- What do you **LIKE** about your style?
- What can you appreciate about the other styles?



Gain As Much As You Can



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Elephant Exercise





Exercise . . .

- Why were the elephants different?
- Which one was correct?

Perception is Reality

What you Perceive is what you believe and what you believe usually dictates how you behave!

The Neuroscience behind Conflict

Understanding how our brains work can help us

- understand *ourselves*
- *and others* in conflict
- and help us manage conflict





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A word about “Influences”

The part of our brain that controls perception and behavior is guided by our stored memories.

Live





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About Patterns



It's all about Prediction!



What I learned about Bees...



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Scanning for Patterns

Fear/Avoidance Reflex

- Processed by the *“Reptilian Brain”*
- Fight, flight, freeze
- Survival instincts
- *“Non-thinking”*



Reward/Approach Reflex

- Processed by the Neocortex
- Rational reflection
- Higher order thinking & learning





Fight, Flight, or Freeze

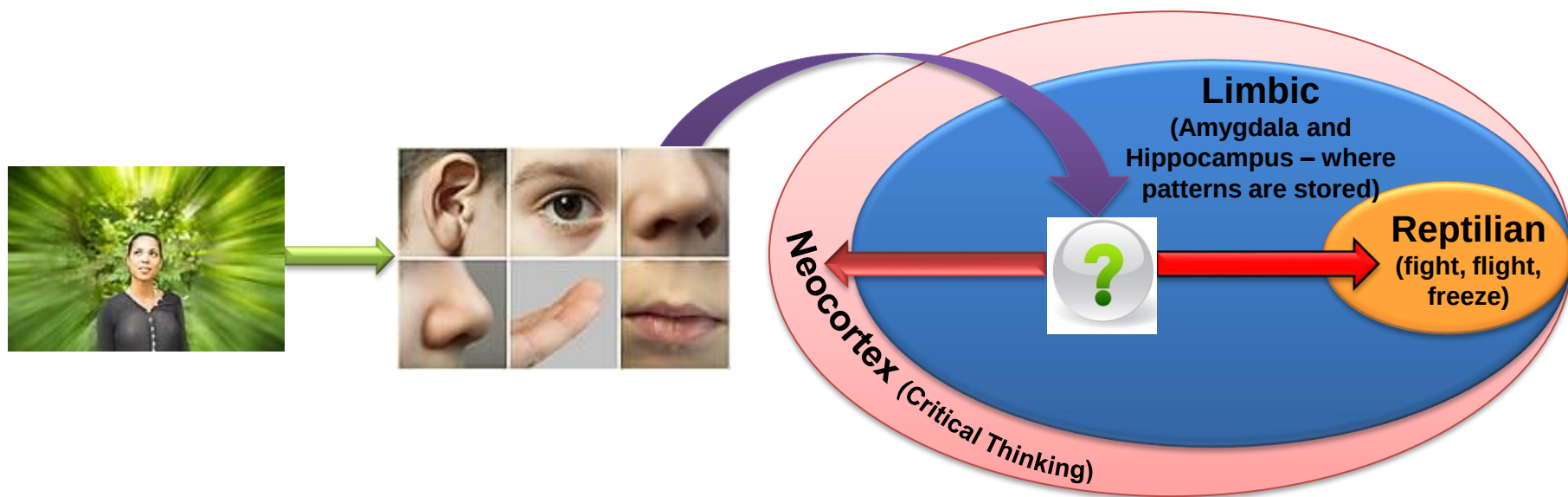
When in “Fight, Flight, or Freeze Mode” our conscious, productive, listening and decision-making functions are impaired.



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The Triune Brain





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Reptilian & Limbic Brain = Lizard/Puppy



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Reptilian Brain Characteristics (Lizard)

- Automatic Reactions
- Survival Instincts- Acts to Keep us Alive
- Fight/Flight/Freeze
- Never Turns Off!



Limbic Characteristics (Puppy)

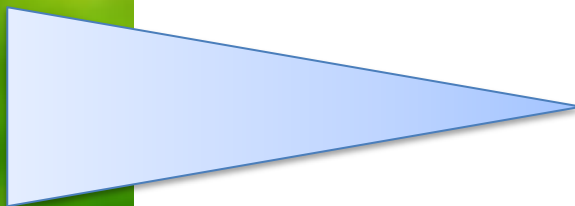
- Emotional Center
- Love/Hate
- Fear/Anxiety
- Worry/Panic
- Impulsive/Impatient
- Fully Developed by Age 18



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Our Pattern-Seeking Brains: Geared for Survival



Stored Memories/Patterns:
What do I see and hear?
What can I match that to?
What reaction will best
promote my survival?



SNAKE!



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Our Pattern-Seeking Brains

Non-physical danger situations



**Stored
Memories/Patterns:**
History, conditioning,
stereotypes, training.
Adversary!



Must protect!
Don't Trust!

Neocortex = Thinking



Neocortex Characteristics

- Cognitive thought
- Imagination
- Thoughts about the future
- Believes it is always in charge
- Tries to turn the Difficult/Complex into the Easy
- Last to Develop = 18-25

Using Your Brain

When Critical Thinking
needs to Happen: How
Can I Get From the Old
Brain to New Brain?





“Neuro-
commandments”
Relevant to
Workplace Conflict

People:

- Avoid and are more sensitive to danger/fear
- Seek reward/pleasure



“Neuro-
commandments”
Relevant to
Workplace Conflict

People:

- Relate & empathize “in-group”
- (but not “out-of-group”)



Some “Neuro-commandments” Relevant to Workplace Conflict

People:

- React negatively to *unfair* behavior

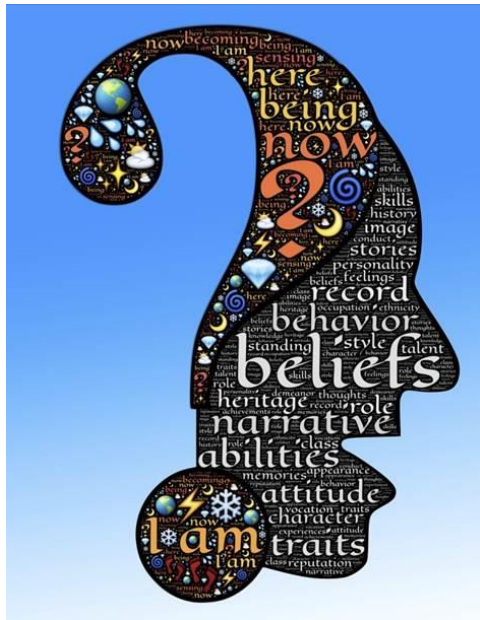


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nimals have morals.html](http://www.ted.com/talks/frans_de_waal_do_animals_have_morals.html)

[http://www.upworthy.com/2-monkeys-were-
paid-unequally-see-what-happens-next](http://www.upworthy.com/2-monkeys-were-paid-unequally-see-what-happens-next)



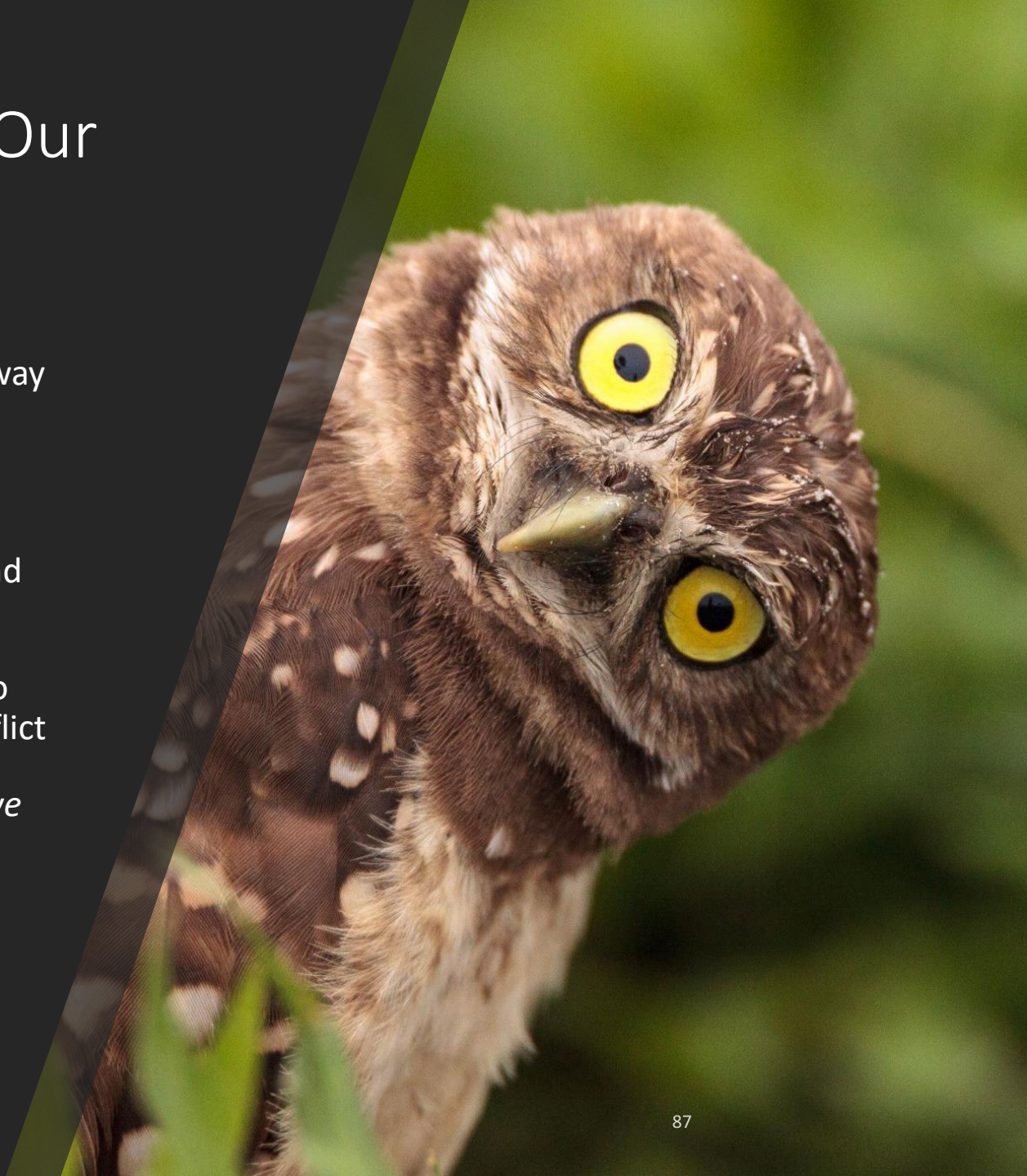
Neuroplasticity



Our brain has the ability to form and reorganize synaptic connections, especially in response to learning or experience or following injury.

Knowing How Our Brains Work

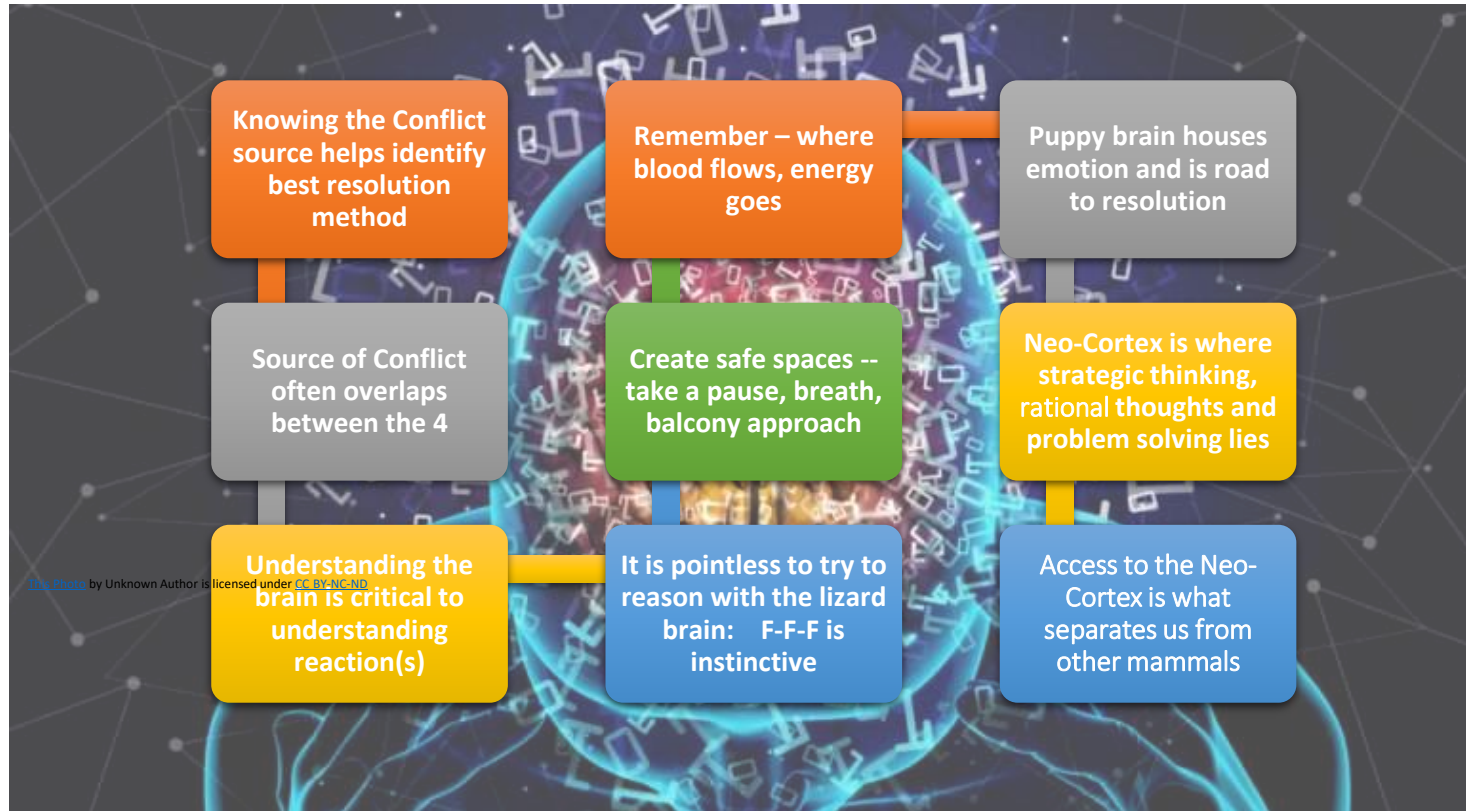
- Allows us to see that the way people act in conflict is perfectly normal!
- Allows us to help people understand themselves and others in conflict
- Can suggest approaches to help us work through conflict
- Can make us more *effective*





Reflection Exercise – Small Group Discussion

What Matters for the Brain in Conflict....



Navigating &
Understanding
Conflict
Resolution
Laws in
Indonesia





Welcome to Day Three!

Looking back: Questions and Thoughts from Yesterday



Day 3

Interest Based Problem Solving, Labor Management Committees, and Roles of Unions and Employers

Resolving the Substantive Issue

- Power
- Rights
- Interests





Power

- In the context of most labor-management relationships, everyone and every group has their own unique source of power
- When a party uses power, the other party usually responds with exercise of their own power, creating a “power struggle”
- When locked in a power struggle, the real issue/goal is neglected.

USS Montana





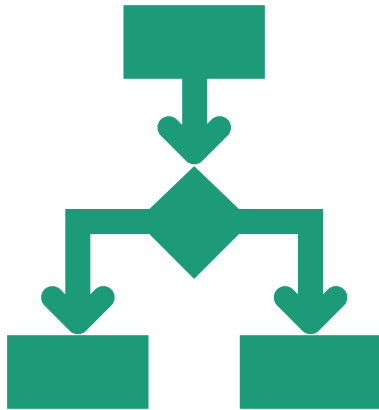
Rights

- Using a rights-based method for resolution of conflict is difficult without third-party intervention such as arbitration or civil proceedings – Why?
- Allowing a third party to decide takes important decisions out of the hands of those who are impacted the most.

A photograph of a business meeting in progress. Several people, mostly men in light blue shirts and ties, are seated around a long table. They are looking towards the right side of the frame, presumably towards a speaker or a presentation. The room has a whiteboard in the background. A semi-transparent dark green banner is overlaid across the middle of the image, containing the title text.

Interest-Based Problem Solving

Interest-Based Problem Solving



A method of Problem Solving in which the interests of all parties involved are addressed, multiple solutions and creativity are encouraged, and issues are addressed through open dialogue and information sharing.

What are the Basic Principles of Interest Based Problem Solving?

- ✓ Focus on the issue — One Team
- ✓ Explore underlying interests — The Why
- ✓ Discuss Options-Potential Solutions
- ✓ Share information — Be Transparent
- ✓ Build the agreement - No one gets Exactly what they want

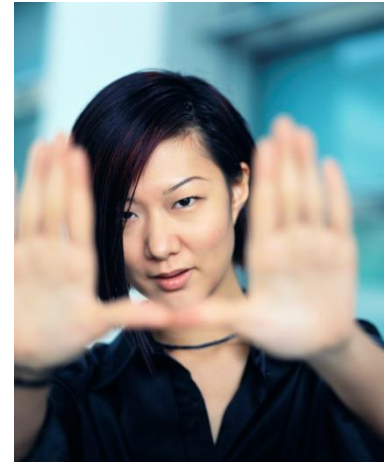
Interest Based Problem-Solving Steps

1. Frame and focus the issue (what's wrong?)
2. Identify interests (diagnostic - root cause – why?)
3. Generate options (how to solve the problem?)
4. Measure options against standards (will it work?)
 - 3 part test – Feasible, Beneficial and Acceptable
5. Develop a solution (by consensus!)
6. Evaluate the outcome (does it work?)

Framing the Issue

Develop an open ended question:

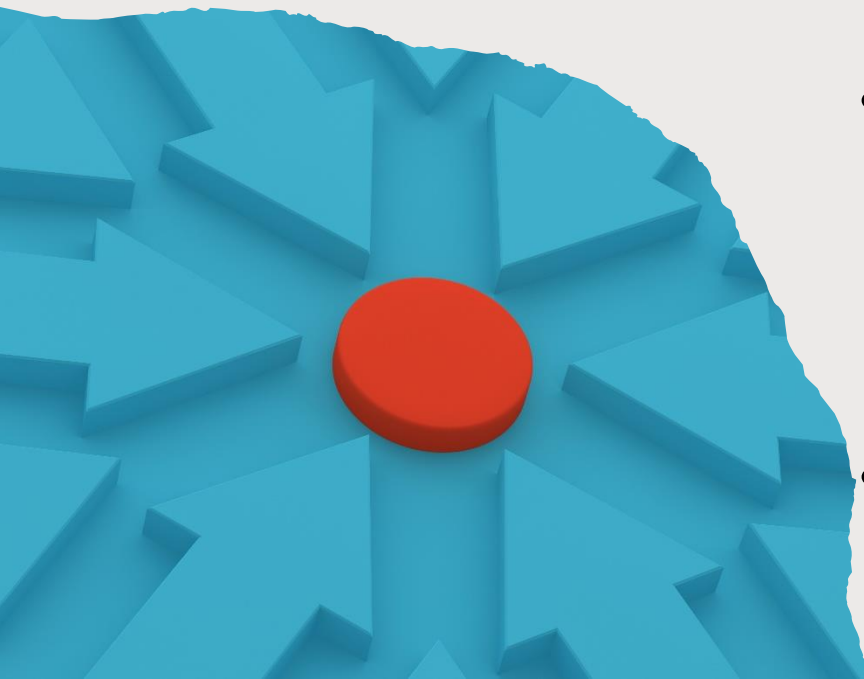
- of what needs to be addressed
- that cannot be answered “Yes” or “No”
- that contains no names, dates, interests or solutions



Begin the question with “*How might we...*”?
or “*What can we...*”?

Focus the Issue

- Tell your story:
 - Explain the reasons the issue is here
 - Answer the 4 “W’s” – who, what, when & where
 - Present the facts, history (not baggage) and parameters
- Ask any and all questions necessary to clarify the problem
 - Make sure that *YOU* understand the problem
- Record the problems identified





Identifying Interests

- Ask for background on issue, **why** it is important
- Use listening, restatement, summarization, to decode and uncover parties' needs and interests
- Interests can require time and vulnerability to discuss



Identifying Interests from Positions

A **POSITION** is a firmly held opinion about a desired outcome (*HOW* to address an issue), does not allow for alternative solutions:

Employees may only be used in their regular assignment on a holiday.

An **INTEREST** represents the needs, goals, desires, fears underlying an issue, option or position (answers *WHY* something is important to the person), allows for alternative solutions:

Job assignments and seniority must be recognized when scheduling for holidays

Position vs Interests

Iceberg Metaphor



Interests vs. Positions

Issue: A relative, Uncle Louie, who always gets upset at and tries to start fist-fights at the annual family reunion party.

Which of the following statements is an interest?

- “Uncle Louie will not be invited to the next family reunion unless he starts a yoga practice or some deep breathing exercises.”

or

- “When I go to the family reunion, I want to play a game of horse-shoes without Uncle Louie taking a swing at me.”

Interests vs. Positions

Issue: A wife who is frustrated with her husband because he channel-surfs during every TV commercial break.

Which of the following statements is an interest?

- “Sometimes, I would like to see some of the commercials to learn of new products.”

or

- “The next time he surfs during a commercial break, he and his Lazy-boy Recliner will be shipped out to sea.

Brainstorm Options

The “HOW” to solve the problem

- Follow brainstorming guidelines to develop options
- Focus on mutual interests as a primary source to generate options



Generating Options - Caution

During brainstorming, don't evaluate ideas – that comes later

Avoid saying things like:

- 💣 “that’s ridiculous” or
- 💣 “we have already tried that and it will never work” or
- 💣 “that won’t work because...”





Brainstorming
Practice

Uses of a
Paperclip

Evaluate Options

- Standards (or criteria) are essentially yardsticks to measure options
- Suggest a Three Stage Factor Analysis:
 1. Feasible (F)
 2. Beneficial (B)
 3. Acceptable (A)

Three Stage Factor Analysis

FEASIBLE

Relevant question: Is the option capable of being done?

Is the option:

- ☑ practicable
- ☑ workable
- ☑ legal
- ☑ affordable
- ☑ cost effective
- ☑ understandable
- ☑ simple
- ☑ flexible

BENEFICIAL

Relevant question: Does the option contribute to an improvement in the condition that caused the problem?

Does the option:

- ☑ satisfy important interests listed?
- ☑ harm important interests listed?
- ☑ help to solve the problem?

ACCEPTABLE

Relevant question: Will the option be approved (ratified) by your constituents?

If not, why?

Are there political problems?

Is the option worth re-working to make it acceptable?

Standards / Options / Action Matrix

Standards Options	Feasible <i>(Is the option feasible?)</i>	Beneficial <i>(Does the option benefit the stated interest?)</i>	Acceptable <i>(Do all decision-makers agree?)</i>	Action Steps <i>(What's to be done, who's will do it, and by when?)</i>
#1	Yes	No		
#2	Yes	No		
#3	Yes	Yes	Yes	Info / HR / date certain
#4	No			
#5	No			
#6	Yes	Yes	No	

Develop The Solution

Combine options that meet criteria and satisfy interests

- Reach consensus on the solution

Solution may include an action plan

- What must be done?
- Who will do it?
- When will it be started?
- When will the key milestones be completed

A group of business professionals in a meeting room, all looking towards the right side of the frame. They are seated around a long table with documents and laptops. A semi-transparent green box is overlaid in the center, containing the title text.

Decision Making By Consensus

Consensus



► Definition:

a form of group decision making. Everyone discusses the issue to be decided so that the group may benefit from the knowledge and experience of all its members. In order for consensus to occur, every member of the group must be able to support the decision.

Understanding the Definition of Consensus



- ▶ Everyone in the group has been heard
- ▶ Everyone in the group understands each others' points of view because of an open discussion and sharing of information
- ▶ Everyone can live with and support the decision even though it may not be their first choice
- ▶ Everyone has agreed to actively support the decision



Benefits of Consensus Decision Making

- Acceptance will be strong
- Implementation will be fast
- Not as much resistance
- All members' ideas have been heard
- Process aims to win
- No bargaining

Reaching Consensus

A group reaches **consensus** when each member can honestly say:

- ✓ I believe that **you** understand **my point of view**
- ✓ I believe that **I** understand **your point of view**
- ✓ Whether or not I prefer this decision, **I support it** because it was arrived at openly and fairly

The 70/100 Rule

When you, as an individual, are **70%** comfortable that you can support the group's decision **100%**, then you are in consensus.

70/100

Standouts

It's not unusual to have a “Standout” to an idea. It is also not a negative.

Standouts are those individuals who do not agree with the consensus decision

Standouts **SHOULD**:

- Explain their reasons and concerns
- Clearly explain why they disagree
- Try to offer a specific way to change the option to satisfy their concerns



Consensus Caution- Group Think

- A common problem in group decision making is the phenomenon of “group think”
- When in groups, people react to peer pressure and often do not raise objections they feel. This shuts down the conversation



Consensus Guidelines

Do:

- Listen and pay attention
- Share information/ideas
- Be open to ideas
- Offer alternatives
- Seek a win-win solution

Don't:

- Coerce
- Bully
- Bargain or trade support
- Argue blindly for your own ideas
- Vote

Test For Consensus

- Has everyone been heard?
- Can everyone live with the decision?
- Will everyone actively support the decision (even though it's not their first choice?)

Remember the **70/100 Rule**: Can you agree with the solution 70% and commit to supporting it 100%?

Consensus Activity

Activity: The Vending Machine



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LMC Overview

	TRADITIONAL	LMC
Participants	2 Groups: Union and Management	1 Group committee
Goals	Victory; win/lose	Mutual gain
Style	Adversarial	Collaborative
Process	Negotiation	Joint problem solving
Decision-Making	Compete or Compromise	Consensus
Agenda	Proposals	Problems or Concerns
Focus	Positions	Interests

What is a Labor Management Committee?

An extension of the collective bargaining process

A voluntary, cooperative process, between labor and management

An attempt to improve the L/M relationship

A way of dealing with workplace problems directly and effectively

A continuous, often uphill battle



A Labor
Management
Committee is
NOT:

- ⊗ A substitute for contract negotiations
 - ⊗ A quick fix for workplace problems
 - ⊗ Overnight solution to long standing concerns
 - ⊗ One-sided
 - ⊗ Power-based
 - ⊗ A way to circumvent other decision-making bodies
 - ⊗ A place to create side agreements
- 

Outcomes of a Labor Management Committee

- ✓ More committed workforce
- ✓ Constant flow of ideas
- ✓ Improve productivity & quality
- ✓ Reduce turnover & absenteeism
- ✓ Improved labor/management relations
- ✓ Less grievances
- ✓ Improved negotiations
- ✓ Adaptability

Basics of LMCs

What	Communication, problem solving, dispute resolution
Why	Enhance working environment, relationships
When	Monthly or quarterly meetings
Where	Comfortable, consistent locations, limit distractions
Who	Equal # of labor & management representatives. Leaders who can make decisions.

How Does the Committee Work?

- **Facilitators** – Both Labor & Management
- **Agenda** – Prepared and submitted in advance
- **Minutes** – What, by whom, and when
- **Ground Rules** – Decide as a group
- **Decisions** – By consensus

Ground Rules FOR EFFECTIVE TEAMS By Roger Schwarz

- 1. State views and ask genuine questions*
- 2. Share all relevant information*
- 3. Use specific examples and agree on what important words mean*
- 4. Explain reasoning and intent*
- 5. Focus on Interests, Not Positions*
- 6. Test assumptions and inferences*
- 7. Jointly design next steps*
- 8. Discuss Undiscussable Issues*



ACTIVITY

Labor and Management Officials

- Refer to as Stewards and Supervisors
- Front-line representatives for the parties
- Similar roles
- Similar goals: resolve disputes at lowest possible level



Labor and Management Officials' Roles

Representatives

Educators

Organizers

Negotiators

Knowledge of rules

Communicators

Fostering Positive Relationships between labor and management officials

- Be on time for all meetings
- Be thoroughly familiar with all issues to be addressed in the handling of the grievance.
- Expect arguments upholding viewpoints of opponents but allow viewpoints to be shared.
- Remember that the other party is human too. Don't try to make them look bad and then expect favorable treatment in return!
- If the other party is right, there is no harm in admitting that.
- Similarly, if the other party agrees you are right, do not gloat about it, doing so will only come back to haunt you.
- Know when to close a discussion. The facts need to be presented once in a calm, professional manner, not repeatedly in a fury of anger or frustration.

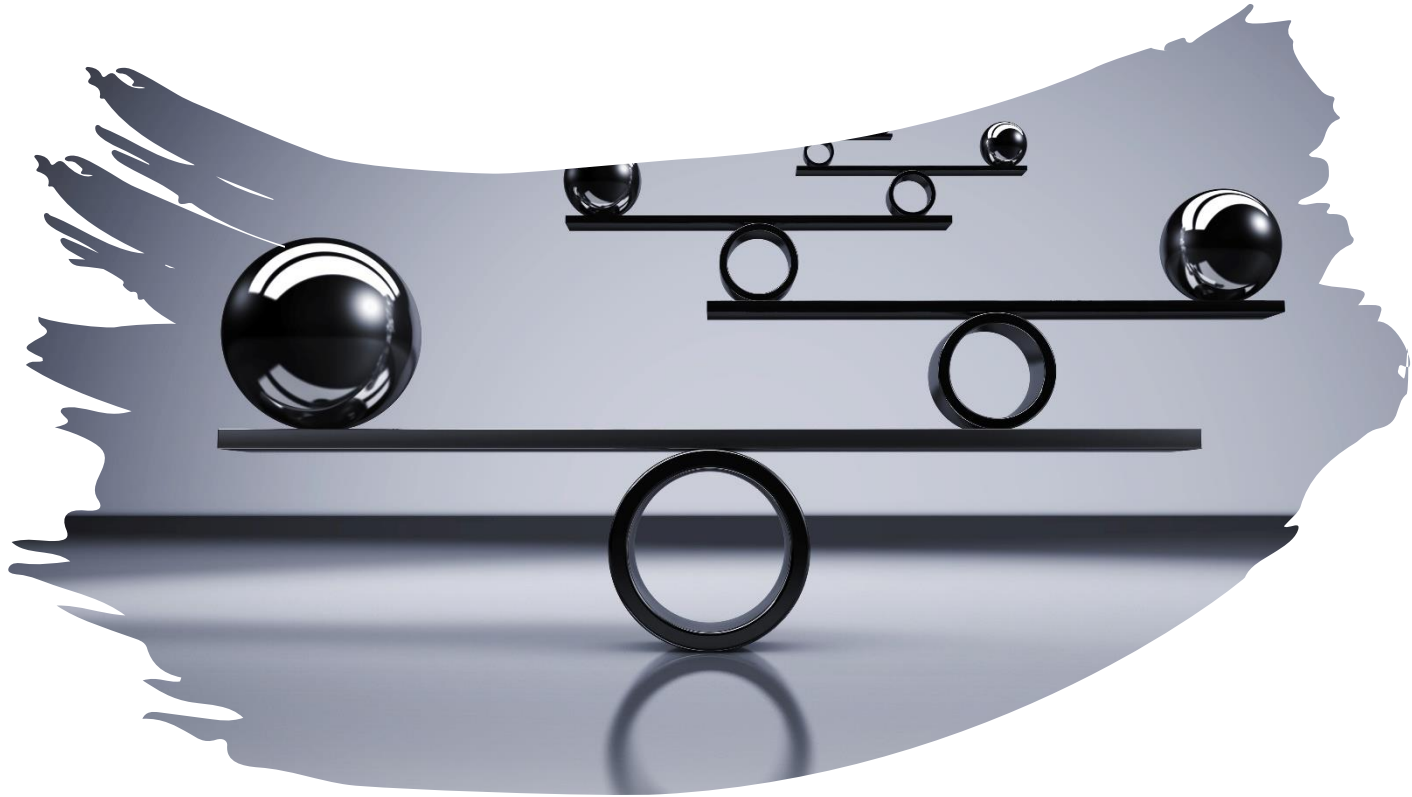


Understanding roles, responsibilities,
and necessary characteristics of union
and management officials

Group Exercise: Identify roles &
responsibilities for labor and management
officials in working through workplace
problems

- Also, list necessary characteristics for each

Please designate a member of your small
group to report out your list to the rest of the
class

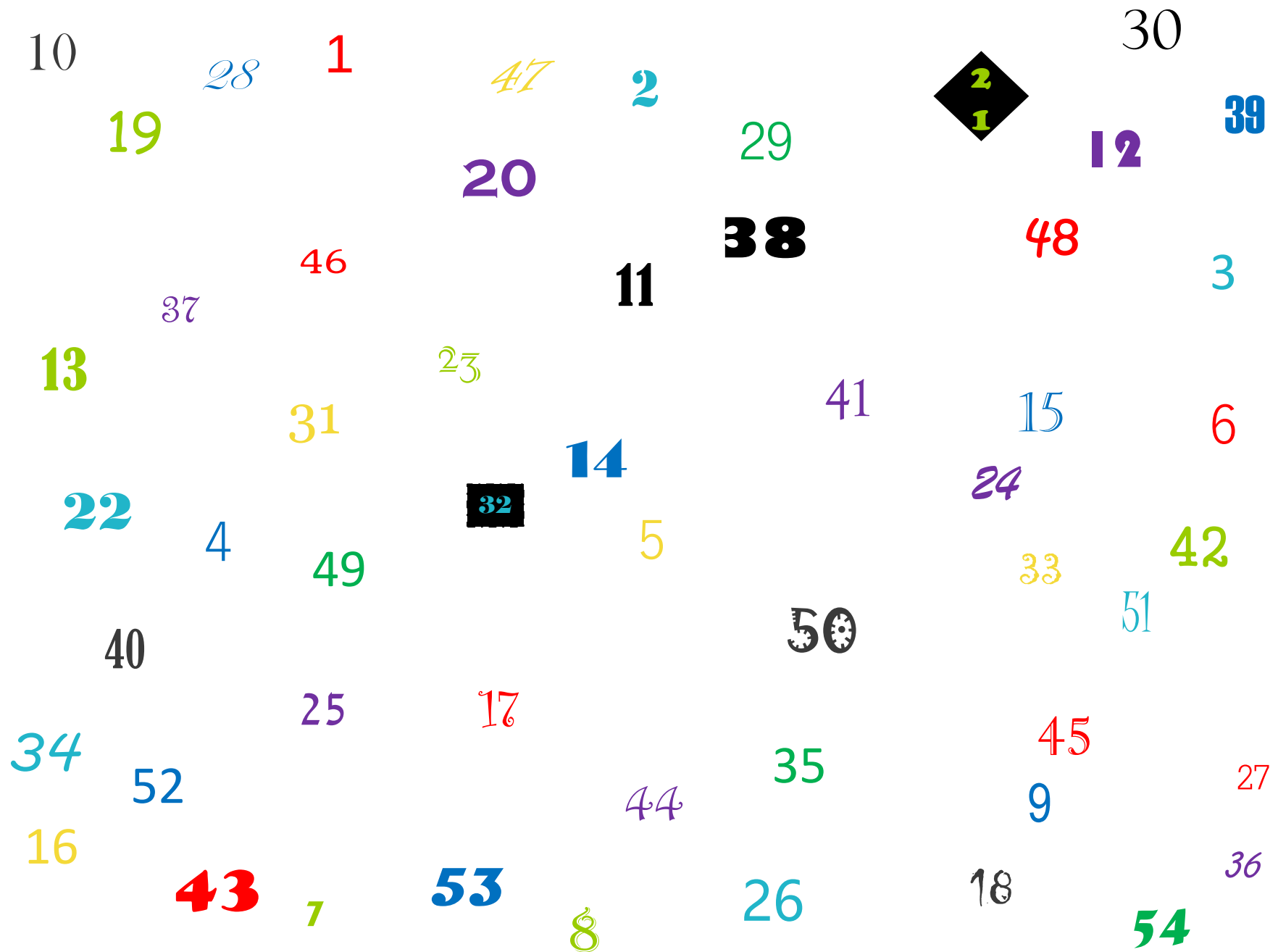


Welcome Back!

Reflections and Thoughts from Day Three

Numbers

Activity developed by Thomas Lorenz
and Angelika Hocker



1
10

2
11

3
12

4

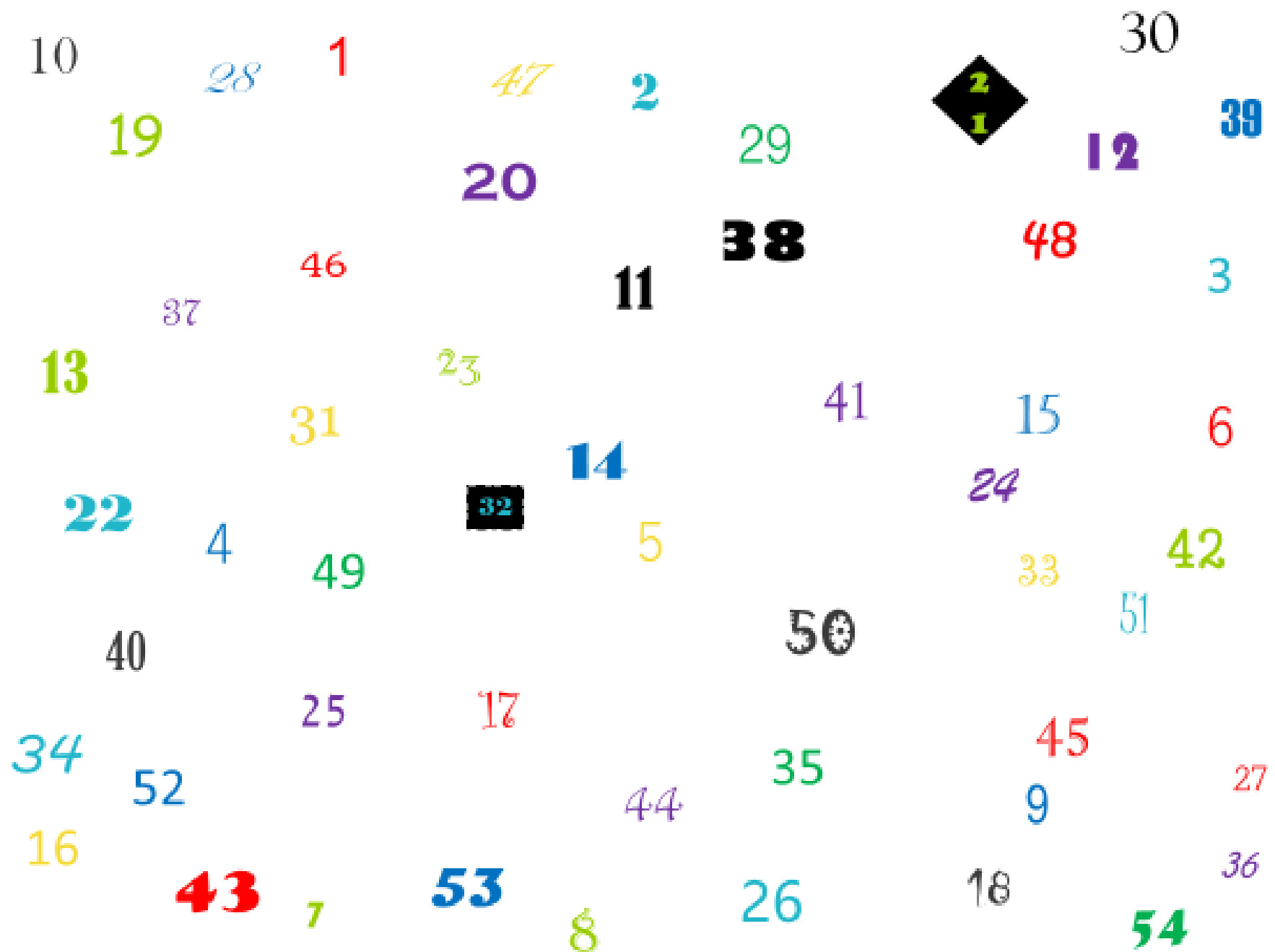
5

6

7

8

9



Bargaining Models

Dialog, Discussion and Debate

Is There A Difference Between Discussion, Debate and Dialogue?

- DISCUSSION

- General conversation, wide variety of topics, or central idea
- Our most common form of everyday communication



Discussion, Debate, Dialogue?

- DEBATE
 - Focus is on content
 - Competitive in nature
 - Often a winner / loser format

Dialogue

- Characterized by openness, honesty and genuine listening.
- Emphasis is on both contact and relationship between persons involved.
- Successful dialogue may inspire learning or change of attitude

Bargaining Models

Traditional	Interest-Based	Intentional
Adversarial	Joint problem solving	Clarity and sharing information
Focus on positions	Focus on interests	Focus on understanding
Pressure tactics	Reasoning, principled discussions	Group decisions
Win-lose	Win-win opportunities	Shared acceptance
Caucusing, private meetings	Open discussions	Mix of open and caucus work

Collective Bargaining

Do I need a collective bargaining
agreement?

Best Practices

Small Group Discussions

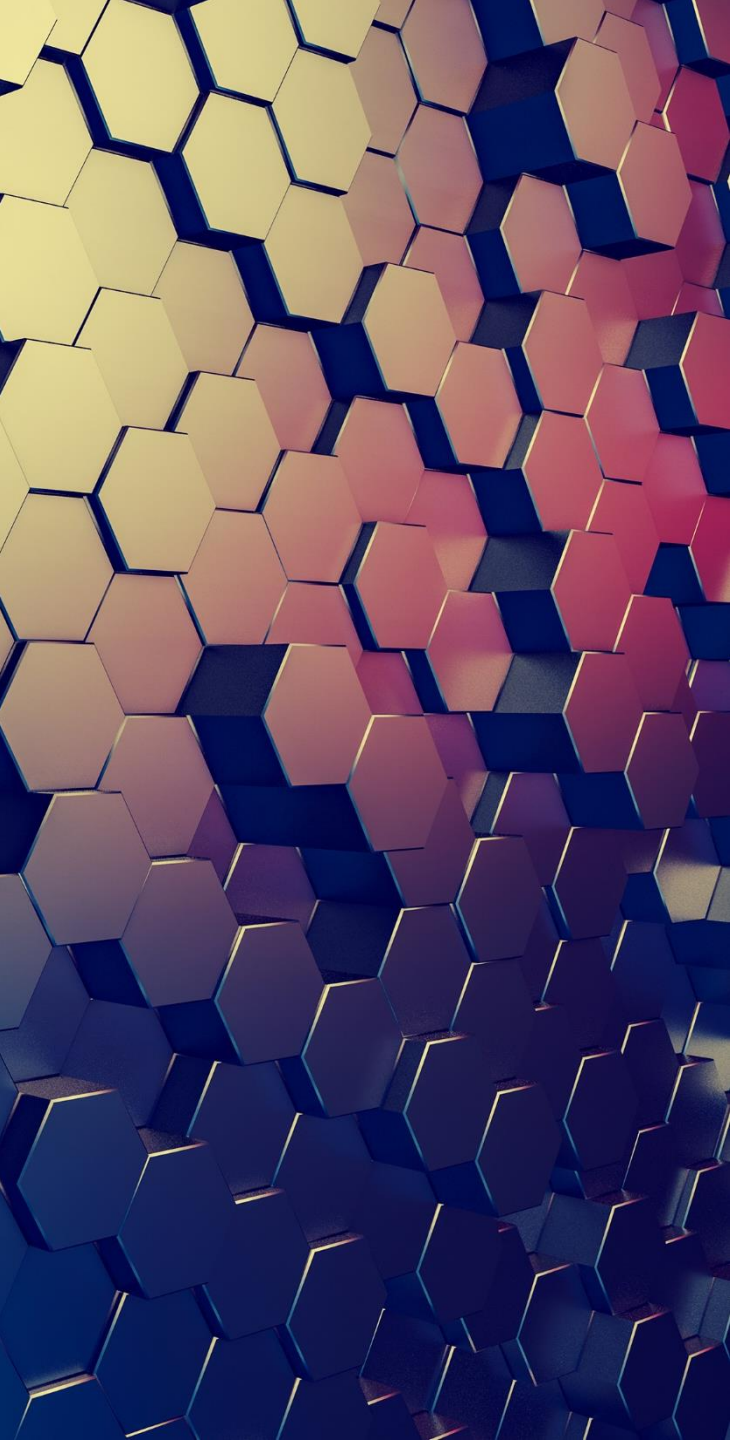


Components of a Collective Bargaining Agreement – Total Labor Agreement

1. **Contract/Written Agreement:** Provides the basic framework for the labor/management relationship
2. **Oral/Written Supplements:** Statements which help clarify the application of the contract in the workplace.
3. **Past Practice:** Actions or policies that are created by management or the union acting and creating a practice or allowing a practice to continue. Past practice is general in nature and is known to both parties.
4. **Grievance Settlements and Arbitration Awards:** Settlement of specific incidents that affect contract administration. While grievances do not set precedent in the same way as court decisions, they are instructive.



*Affinity
Economic
Bargaining*



Affinity Diagram

It is a simple tool that allows a team to:

- Generate ideas about a situation or problem
- Organize a large number of ideas, opinions, issues into meaningful groups
- Communicate their ideas in a simple and powerful representation

Where and When to Use Affinity?

The Affinity diagram is an alternative to brainstorming that is particularly useful when:

- The situations or problem is too large or too complex to be handled by a simple brainstorming session
- There is need to get agreement between a number of individuals
- There is a need to communicate the outcomes to other people
- There is likely to be issues around group dynamics where it is not possible to have a non-hierarchical group

AFFINITY PROCESS OVERVIEW



Identify Issues

- Identify Components
- Interest
- Identify Information Needed

Homework

- Baseline Info
- Gather Info.
- Costing Methodology

The Big Day

- Brainstorm(Post-its)
- Work the Puzzle (Separate Area)

Preparation for Collaborative Economics

- Review of basics of bargaining economics
- Identify economic issues
- Have an interests discussion (Share stories)
- Request/Share relevant economic data
- Schedule at least one homework session

Collaborative Economic Bargaining (Affinity) Preparation

- ✓ *Review the basics of bargaining economics.*
- ✓ *Establish base numbers – # of employees,*
 - *average salary, insurance, current benefits*
- ✓ *Identify economic issues. (“Silos”)*
- ✓ *Create “unit costs” for each issue:*
 - *1% = \$xxx, 1 day = \$yyy, insurance 1% = \$zzz*

BIRDS



INITIAL SET-UP

$E \rightarrow U$

$U \rightarrow E$



GENERATING OPTIONS

• INDIVIDUALS & SMALL GROUPS



POST OPTIONS



CONTINUE BRAINSTORMING



BUILD OFF OTHERS' IDEAS



INTERACT, DISCUSS

- KEEP GENERATING IDEAS!*





JOINT DISCUSSIONS

- *ASK QUESTIONS, CLARIFY, SEEK UNDERSTANDING*



CAUCUS???



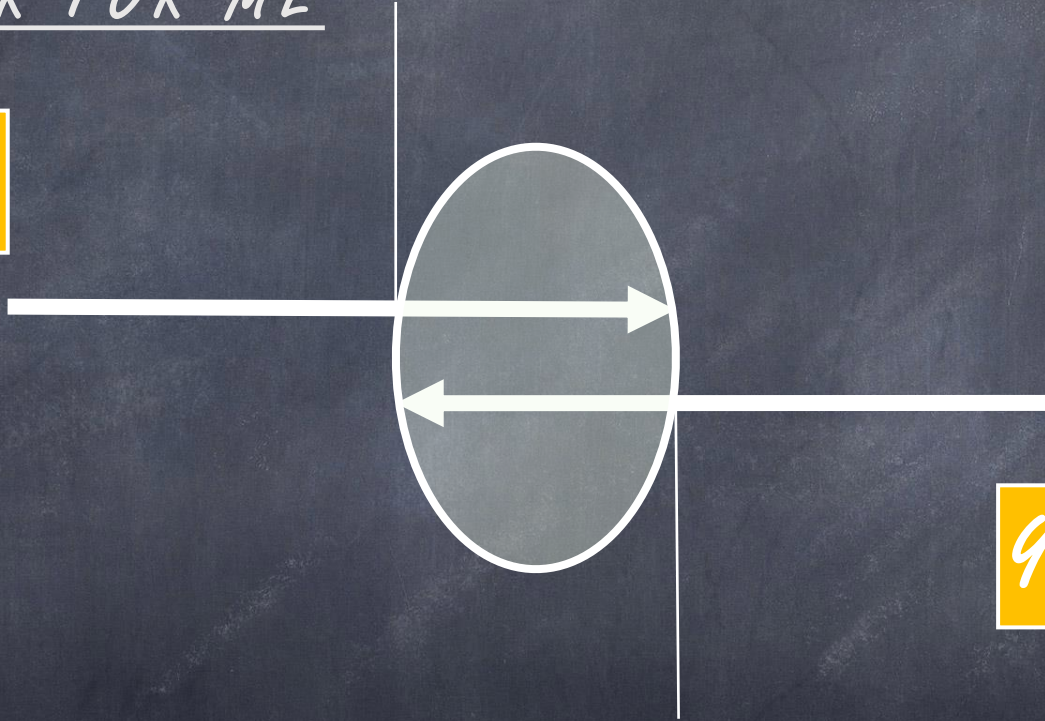
IDENTIFYING OPTIONS



ZONE OF POSSIBLE AGREEMENT

BETTER FOR ME

ME



YOU

BETTER FOR YOU

$E \rightarrow U$

$U \rightarrow E$

Zone of Possible Agreement



• *PLACING OPTIONS INTO ZOPA*

*DISCUSSING &
BUILDING THE
Tentative Agreement*





PACKAGING & DISCARDING



MODIFYING OPTIONS



SOLVING THE PUZZLE



SOLVING THE PUZZLE



GETTING CLOSE...



POSSIBLE Tentative Agreement.

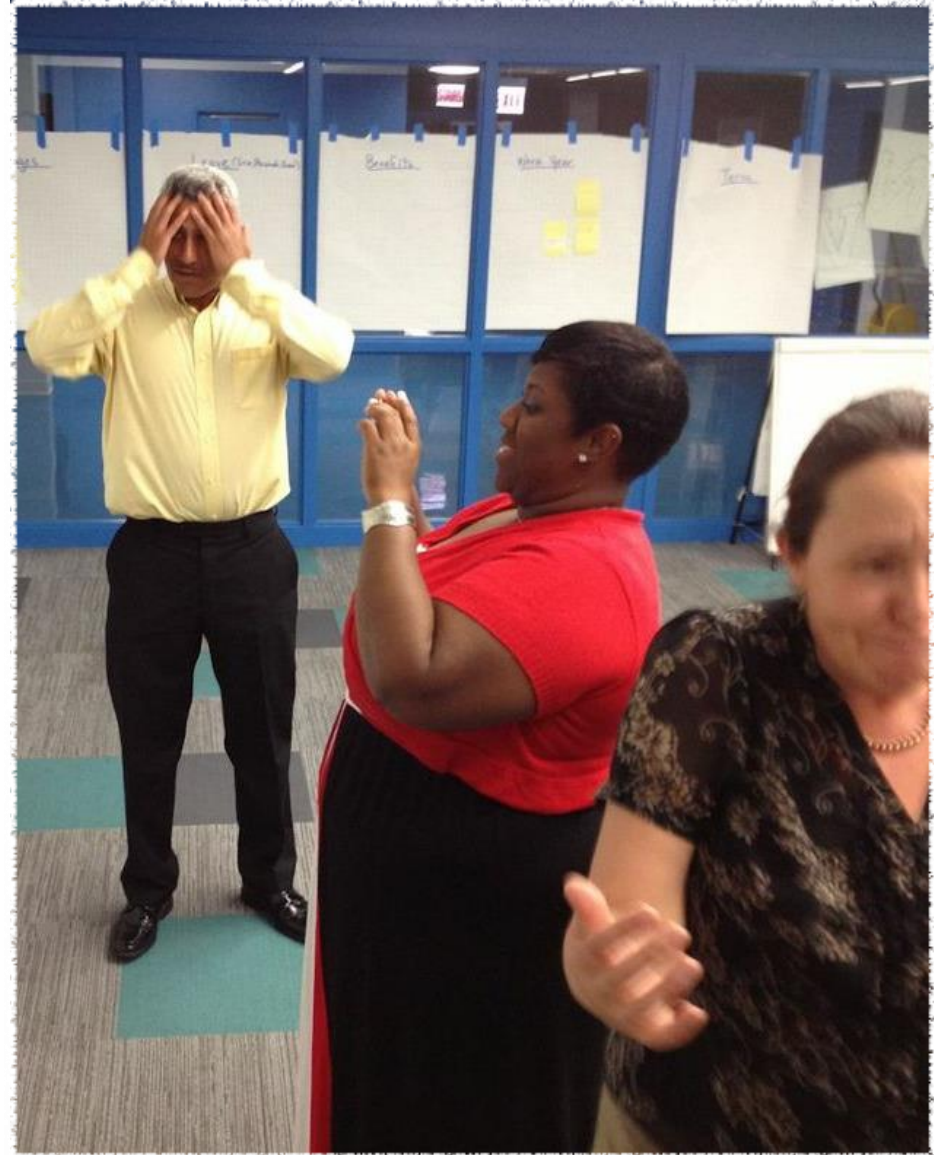


*REVIEWING POSSIBLE
Tentative Agreement*

12 inter session days

DATE	TIME	TOPIC	PRESENTER	CO-PRESENTERS	LOCATION
10/10/01	10.00-11.00	Introduction	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	11.15-12.15	Session 1	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	13.00-14.00	Session 2	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	14.15-15.15	Session 3	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	15.30-16.30	Session 4	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	16.45-17.45	Session 5	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	18.00-19.00	Session 6	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	19.15-20.15	Session 7	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	20.30-21.30	Session 8	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	21.45-22.45	Session 9	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	23.00-24.00	Session 10	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	24.15-25.15	Session 11	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	25.30-26.30	Session 12	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	26.45-27.45	Session 13	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	27.00-28.00	Session 14	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	28.15-29.15	Session 15	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	29.30-30.30	Session 16	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	30.45-31.45	Session 17	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	31.00-32.00	Session 18	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	32.15-33.15	Session 19	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	33.30-34.30	Session 20	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	34.45-35.45	Session 21	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	35.00-36.00	Session 22	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	36.15-37.15	Session 23	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	37.30-38.30	Session 24	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	38.45-39.45	Session 25	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	39.00-40.00	Session 26	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	40.15-41.15	Session 27	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	41.30-42.30	Session 28	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	42.45-43.45	Session 29	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	43.00-44.00	Session 30	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	44.15-45.15	Session 31	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	45.30-46.30	Session 32	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	46.45-47.45	Session 33	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	47.00-48.00	Session 34	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	48.15-49.15	Session 35	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	49.30-50.30	Session 36	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	50.45-51.45	Session 37	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	51.00-52.00	Session 38	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	52.15-53.15	Session 39	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	53.30-54.30	Session 40	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	54.45-55.45	Session 41	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	55.00-56.00	Session 42	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	56.15-57.15	Session 43	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	57.30-58.30	Session 44	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	58.45-59.45	Session 45	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	59.00-60.00	Session 46	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	60.15-61.15	Session 47	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	61.30-62.30	Session 48	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	62.45-63.45	Session 49	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	63.00-64.00	Session 50	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	64.15-65.15	Session 51	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	65.30-66.30	Session 52	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	66.45-67.45	Session 53	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	67.00-68.00	Session 54	Dr. J. Smith	Dr. A. Jones	Room 101
10/10/01	68.15-69.15	Session 55	Dr. J. Smith	Dr. A. Jones	Room 101
10/10					

JUBILATION!!!



What it Takes to Make it Work

- Willing to acknowledge Interests of both sides.
- Not swinging for the fence. Working toward a deal that BOTH sides can live with.
- Do your homework (Costing).
- Willingness to have an open discussion and explore all possibilities.
- People ACTIVELY working the puzzle.

What it Takes to Make it Work

- Transparency
- Curiosity
- Informed Choice
- Joint Accountability
- Compassion



Factors to Consider

- People/Personalities
- Working style preferences
- Constituent politics
- History
- Nature of Issues
- Nature of Relationship

Practice Session



Welcome to Day
Five!
Looking back:
Questions and
Thoughts from
Yesterday





Dealing with Intense Emotions

- Emotions have significant influence on conflict
- Need to acknowledge emotions
- Emotional rewards from resolution (e.g., good personal relationships, trust, respect, recognition, honor, sense of belonging, appreciation)
- Feelings that may block agreement include distrust, anger, fear, shame, and disappointment
- Dealing with emotions: active listening, apology, encourage hearing other perspective, venting, take a break

Responding to Verbal Attacks

- Treat the “attacker” with courtesy. If you stay calm, it is more likely that the party will become calm.
- Acknowledge the emotions even if the points are not accurate (e.g. “I can tell that you feel strongly.”)
- Help the party gain his or her composure if necessary.
- Ask clarifying questions that help both you and the party to understand the reason for the attack.



Dealing with Extremely Difficult People

- Personality Disorders, including:

- Borderline,
- Narcissistic
- Sociopathic
- Histrionic

- Serious anger management problems

- Addictions

- Boundary issues

- Note: (1) Rational discussion seldom works when there is a personality disorder; and
- (2) Such people often aim to keep a conflict stirred up

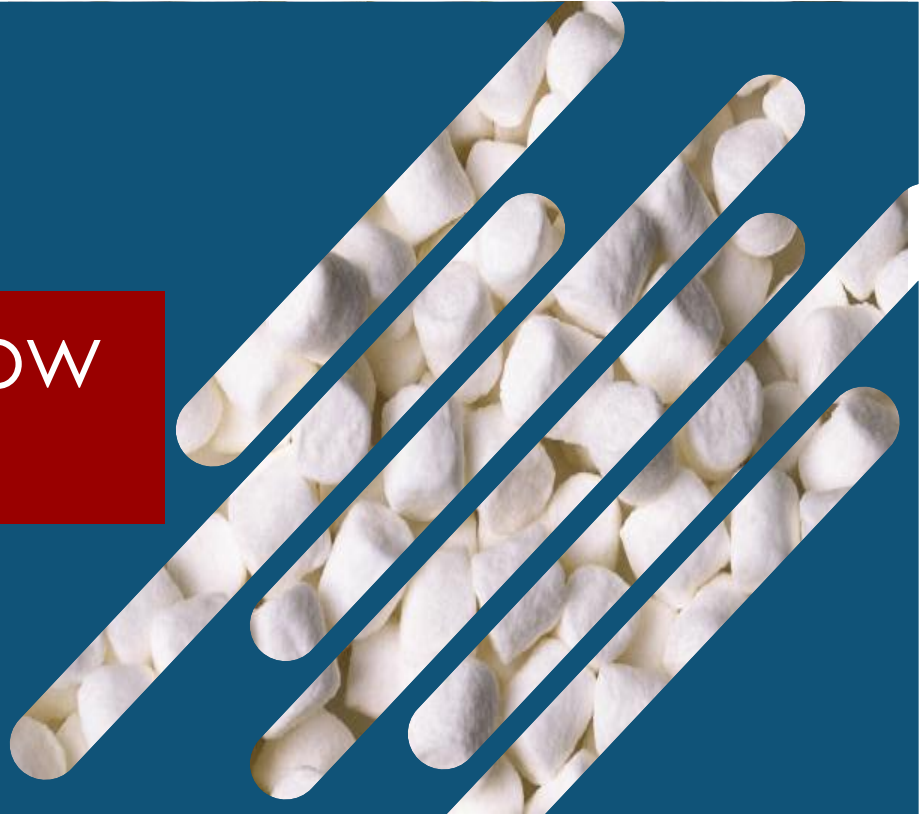
Ways to handle:

- Listen
 - Not = condoning/agreeing
 - Don't get trapped though
- Respond
 - Try to separate valid concerns
 - Don't overreact
- Encapsulate
 - Stick to ground rules and stay focused
- Limit
 - Confront misbehavior calmly and consistently; enforce limits
- Protect
 - Give safe channels to others
 - Consider ending discussion
- Empower
 - Ask them what they think should be done

TEAM BUILDING



Marshmallow Exercise



Marshmallow Challenge Rules



- Each team will have 18 minutes to complete the challenge.
- The largest freestanding structure wins as measured from the table top to the top of the marshmallow.
- The structure cannot be supported by anyone or anything that is not included with the kit at the time of measuring.
- The marshmallow needs to be supported on the top of the structure.
- Any team that cuts or eats part of the marshmallow will be disqualified.
- Teams are free to break up the remaining kit components any way they like.
- Teams are also allowed to use as much or as little of the kit as needed
- Any structure not freestanding with a marshmallow on top will be eliminated.

Challenge Reflection

When working as a team:

- What were the challenges?
- What were the benefits?



Challenge Reflection

- Why the Marshmallow Challenge?
 - Nature of Collaboration
 - Team Development
 - Shared Obstacle (not a competition within the team.)
 - Shared experience
 - Identify the hidden assumptions
 - The marshmallow is heavy.
 - Problem-Solving
 - Figuring things out.



Reflections and Closing

Questions & Parking Lot Issues





FMCS

FEDERAL MEDIATION &
CONCILIATION SERVICE

THANK YOU



Presentation of Certificates and Completion of Evaluations