



Introduction to Interest-Based Negotiation

Topics of Discussion

- Interest-based Mediation
- Preparing for the Mediation
- Summary and Questions

Different Processes

- Distributive
- Focus on positions
- Lawyer driven
- Compromise
- Does not deal with underlying conflict
- Interest-based
- Focus on interests
- Party driven
- Collaborative
- Can deal with underlying conflict

Interest-Based Negotiation

- Step 1: Establish ground rules for discussion
- Step 2: Share perspectives and summarize
- Step 3: Identify interests, injustices, and polarities
- Step 4: Generate options
- Step 5: Craft an agreement from the options

Step 1: Ground Rules

- One person speaks at a time
- Listener summarizes
- Remain respectful of each other's differences
- Keep the other person's interests at the same level as own interests
- Process has to remain fair

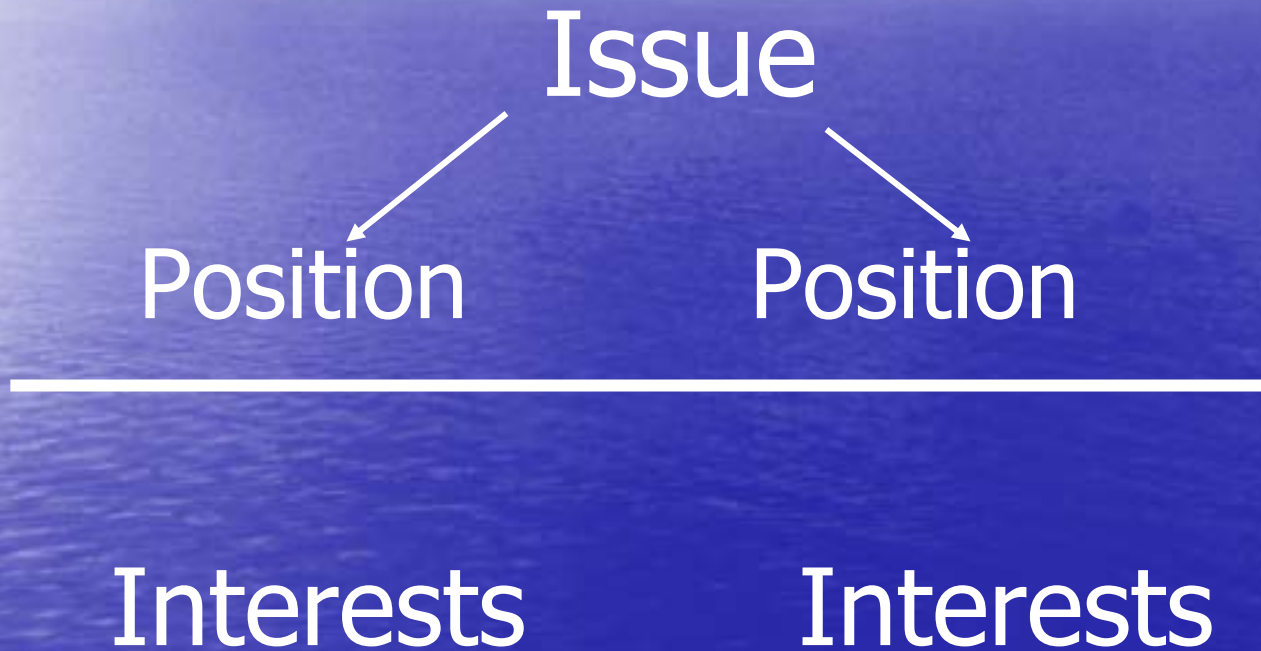
Step 2: Perspectives

- Legal perspective
 - Bargaining in the shadow of the law
 - Law is important, but not necessarily controlling
- Personal perspective
 - Clarifying personal experience of the conflict
 - Deeper insights from perspective sharing
- Understanding the other perspective
 - Willingness to acknowledge other's perspective
 - Without giving up one's own perspective

Step 3: Identify Interests, Injustices and Polarities

- Interests vs. Positions
- Injustices represent relationship and identity goals
- Polarities are unsolvable problems

Interests and Positions



Interests vs. Positions

- Position—Demand made on other person
- Interest—Needs or desires that underlie a demand
- Interests can be reconciled; positions cannot

Injustices

- Injustices arise from identity and relationship conflicts
- Injustices are any perceptions of dignitary injury or offense
- Some common injustices:
 - Disrespect
 - Unequal treatment
 - Exploitation
 - Violation of trust
 - Unfair treatment
- Injustices are a matter of perception
- Often, injustices are experienced on both sides

Polarities

- Polarities are issues that cannot be solved with a final solution.
- Elements:
 - Continuing in nature
 - Interdependent poles
- Examples:
 - Individual and Team
 - Flexible and clear
 - Centralized and decentralized
 - Autocratic and participatory

Two Critical Questions

- Does the satisfaction of any interest or injustice exclude the satisfaction of any other interest?
 - If so, you have probably identified a polarity.
 - If not a polarity, set the competing interests aside.
- If all of the interests are satisfied, do we have the basis for an agreement?

Importance of the Questions

- Demonstrates mutuality of interest
- Creates a commitment to agreement
 - Watch for any sign of hesitation
 - If you see it, call it out
- Minimizes hidden agendas and “nibbling”
- Challenges parties to be complete and thorough in their analysis
- Engages parties in collaborative problem-solving, not positional bargaining
- Satisfaction of all interests now becomes a joint problem shared by everyone

Step 4: Generating Options

- Three options per person
- Each option must address all interests, injustices, and polarities
- High premium on creativity and humor

Options re Interests

- Interests should not be cherry picked or ignored
- Best options look for ways to expand resources
- Satisfy the other's interests as much as one's own

Options re Injustices

- Injustices can only be reconciled, not satisfied
- Types of reconciliation:
 - Acknowledgement that an injustice is has been experienced as real
 - Apology
 - Forgiveness

Options re Polarities

- Recognizing the positive attributes of each pole
- Improving communication when the system slips into negative attributes of a pole
- Describing what a well-managed polarity would look like

Step 5: Crafting an Agreement

- No single option will usually suffice
- Take best idea from all options
- Framework approach
- Issue approach

Preparing Clients

- Help them with perspectives
- Identify interests
- Identify injustices
- Do not generate any options

Summary

- Interest-based mediation tends to preserve relationships
- Interest-based mediation fosters cooperative problem-solving over competitive power struggles
- Interest-based creates better agreements.



The End