

Building Your Negotiation Skills

Reasons You Should Consider Working Out A Settlement

Negotiation is Cost Effective

You can save time and money by working things out. Court battles can be costly and stressful. The more you can do to settle disagreements, the more you will benefit materially and emotionally.

1. **Agreement is better than litigation.** Extensive, lengthy, and expensive litigation often results when people are not ready to settle their disputes. Some people opt for a legal battle to punish the other person or because they are afraid they can't survive financially without the other person. The best thing you can do for yourself is to talk things out and reach a settlement. Later in this chapter we will give you guidelines for accomplishing this.
2. **The cost of litigation.** Costs escalate when litigation is contested. Your attorney and paralegal spend more time on your case. There are court costs, court reporters, appraisals, accountants, and the cost of obtaining documents. Expert witnesses may have to be hired. The costs can sometimes exceed those of sending a child to college. Litigation also takes an emotional toll on everyone.
3. **Empowering yourself.** You will have a smoother transition if you put the time and effort into working out a deal you can both live with. You can also gain confidence in yourself and learn negotiating skills. Compromise may make more sense to both of you than conditions imposed on you by a Judge.
4. **Children.** Keep in mind, that no matter what, you are both parents. You are each equal in the eyes of your children. Try to see the situation through the eyes of your child and feel their needs. Words like "primary custodial parent" should not be an issue. You will need to communicate for as long as your children are dependent. Make the effort to reach an agreement about the children so that they have a decent chance for emotional stability.
5. **Saving time and money.** Some disputes take longer to settle than others. It takes time and money to fight for property or principle. Not always, but usually, more than it is worth. You benefit financially and emotionally when you reach an agreement.

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Negotiation Techniques

The best outcome for negotiation is a win-win outcome. In order to achieve this you will have to do some adjustment. If you want everything, or are just willing to give it all away not to deal with the situation, negotiation will not work. If you let someone else make the decisions for you, you will probably both lose.

Prior to sitting down at the negotiation table

Do your homework! The better prepared you are and the more willing to compromise, the better your chances of making a deal you can both live with will be.

1. **Focus on solving the problem.** Take each problem, one at a time, and state specifically what the problem is. Work on it as a person willing to compromise. Do this on paper so you can review it as many times as it takes to feel comfortable with it.
2. **Focus on the underlying needs that you each have.** Don't get stuck arguing positions, such as who gets the house and who needs to move out. Look at the underlying need each person has. Who will adjust better to a move? Who can afford to keep the home? If one gets the house what will balance the deal for the other spouse? If you want the good china, let the other person have something of equal value.
3. **Develop several alternative options.** There are usually many options to resolve a dispute. For instance if you are arguing over a house you could: 1) Sell the house and both move; 2) Continue to live in the house together; (Usually not a good idea.) or 3) One of you could live in the house but pay the other for the privilege. Come up with as many options as possible prior to the actual negotiation.
4. **Negotiations must be based on fair and objective standards:** Lay some ground rules. No bullying. Say no to an unfair deal. No accusing or dragging up the past. Do not allow yourself to be taken advantage of. Put yourself in the other person's place. Fairness for both sides is crucial to successful negotiation.

Keep in mind that if you can't negotiate, you end up in court, the cost will escalate and the case could go on for months or years. If you have trouble negotiating, maybe a friend or family member could help. Be sure that whomever you choose is fair and totally impartial. If that does not work, use a professional mediator.

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Negotiation Guidelines

The following ideas should help you make the negotiation process less stressful.

1. Empathize with and understand the emotions that motivate the other person. Are they feeling hurt, angry, or do they need reassurance regarding their financial security? Emotion plays a large part in any dispute. Don't be afraid to talk about true feelings. It is important to get these emotions out. Talk about them, cry, be angry if you must. Letting it out to clear the air is often necessary before real negotiations can begin. It helps if you know the feelings of the other person so that you can better understand the other person's needs and concerns during the negotiation process.
2. Encourage the other person to negotiate. Give them credit for working on an agreement. You both benefit when each of you commits to coming up with a fair solution.
3. Work with the other person through each step of the negotiation process. You are most likely to reach agreement if you both participate in creating the solution. It is easier to comply with the final agreement if you both direct the outcome.
4. List the points you and your spouse agree on. Then list the points you do not agree on.
5. It is common when two people discuss any form of settlement that mistakes are made. Apologize! If you don't apologize, the other person may make it a recurring issue. It is simple to say "I'm sorry" and mean it. If there is anger or tension in your voice, an apology will be meaningless.
6. Use active listening techniques stating the other person's position as clearly and fairly as possible. Use such phrases as "you feel that ...", "Let me see if I follow what you are trying to tell me...", or "from your point of view the situation looks like this..." You must show that you are listening and paying attention so that the other person will do the same.
7. What are the **needs** of the person you are negotiating with? They may want everything. What they want isn't the same as what they need. Often people ask for things because of fear of losing what is most important to them.

The following are some underlying needs that may help you understand what the other person's real concerns are:

- a. Need to belong.
- b. Need for recognition.
- c. Need for control over one's own life.
- d. Need to be treated with respect and an equal.
- e. Need to feel financially secure.

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You will both have some or all of these needs, perhaps even some others that are not mentioned. All of these underlying needs must be dealt with honestly and openly if any settlement is to be reached and work over time.

Rules for good communications

Whether you are negotiating or just communicating information, the following rules will help you eliminate potential problems.

1. **Never bring up events of the past.** When you start bringing up the past, especially faults or problems of the other person, you stimulate anger which leads to their becoming defensive or hostile.
2. **Focus on immediate or present concerns.** What you want to accomplish relates to what you want or need now. Don't lose sight of that.
3. **State the problem and propose a possible solution.** If the other person rejects your solution, ask them to suggest their own solution.
4. **Always speak respectfully to the other person.** Put-downs and character assassinations get in the way of open communication.
5. **Describe events as factually as possible.** Try not to be judgmental when describing events.
6. **Never interrupt when the other person is speaking.**
7. **Don't interpret the motives of the other person.** You can describe behavior because it can be observed. Motives and feelings are personal and may be hidden. Only the person having the experience can explain the motive.
8. **Your body language should always show respect for the other person.** In other words don't get up and walk away or pick up a book to read while the other person is talking to you. Pay attention to every word.
9. **Speak softly.** If the other person raises their voice you should purposely speak more softly to try to bring down the tone of the conversation.
10. **Men and women don't perceive things in the same way.** The words "can you?" to a woman means "will you do it now?" A man thinks it means "Are you capable of doing it." Women think indirectly and men think directly and literally. Interpretation will be your biggest challenge while communicating.

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Helpful Tips

Choose a place to talk that is neutral and has no distractions. Prepare yourself in advance for your discussion. Write down several proposals you think are fair. Consider using a third party if you think you will have difficulty communicating with each other. Choose a relative or close friend that you both feel comfortable with.

You may not be able to do it all in one sitting. Don't be afraid to say you need time to think about the things you don't agree on. Put the things you do agree on in writing and proceed from there the next time you get together.

This may sound like a lot for you to handle at this emotional time, but it will be worth the effort if you can come up with a fair settlement that will hold up over time.

Men and Women often speak different languages. They perceive different meanings to the same words. They can take the same conversation and give it a totally different meaning. When communicating the words we use are not always understood the way we mean them. Two books that will help you understand the differences are:

Men Are From Mars, Women are From Venus, by John Gray, Ph.D.
and

You Just Don't Understand, by Deborah Tannen, Ph.D.

To help you develop listening techniques and negotiation skills we recommend: "*Getting To Yes*," by Roger Fisher and Bruce Patton.

For dealing with children we think "*Parent Effectiveness Training*" by Dr. Thomas Gordon, will be of help.

NOTE

Not all people can be understanding or respectful. Emotions can run out of control and may need a trained mediator or attorney to guide you through the process. Our mediators are Florida Supreme Court Certified Mediators and can work on your behalf if you can't come to full agreement with your spouse.

Some court battles can be bitter. Negotiation may not be possible in all cases. In cases such as this you may need to rely on an attorney to work for you. Cooperation and education are keys to keeping your costs to a minimum.