



Visit us online at [www.CarolinaDivorceMediators.com](http://www.CarolinaDivorceMediators.com)

## A Fair Negotiation

By Jeffrey Cottrill

Negotiation skills will help you achieve some of your needs and wants without alienating or angering the other parties involved. Here's how to use negotiation to resolve disputes and to build better interpersonal relationships.

We've all heard about those nightmarish divorces that drag on in court for months or years because one or both parties is determined to get his or her way in the final outcome no matter the cost. There are also cases in which one party gets "cleaned out" by the other because of a failure to communicate or inability to stand against the other's more powerful demands. Truly adversarial litigation is a costly, damaging process that often results in at least one party getting shafted: the adversarial "win-lose" contest inevitably results in bitterness and dissatisfaction for somebody. That's one reason why mediation has become more popular as cooperative "win-win" methods of settling divorce. Rather than fighting it out until one party wins, it's far more constructive for both parties to work out an agreement together -- through the art of negotiation.

Negotiation is an important personal-relations skill -- one that enables you to get what you want without running roughshod over those around you. Whether you're dealing with your ex-spouse, friends, relatives, neighbors, co-workers and supervisors, professionals, or even your children, you have to be able to put everybody's point of view in clear perspective, so that you can create a solution that works for both of you.

### Be fair to the other party

You know what you want, of course. That's the easy part. It's when you show respect for what the other person wants that you move towards fair negotiation. Sometimes a solution that addresses both parties' goals is possible, and sometimes both parties' goals directly conflict with each other -- but once both parties understand and empathize with each other's point of view, the situation can change from an adversarial deadlock to a resolvable dispute.

One of the most difficult barriers to successful bargaining is when at least one party chooses a fixed position or "bottom line" and stubbornly sticks to it without considering its fairness to the other. For example, if both spouses in a divorce want full custody of the children and completely refuse to compromise, the process won't go anywhere. But if one spouse yields to the other -- or better yet, if both agree on joint custody -- the process can move towards resolution. Smart negotiators know that they will have to compromise on some issues to a certain extent and that they're highly unlikely to get everything they want.

Sometimes, however, a party will be immovable not because of needs or wants but out of a personal desire to "get back" at the other party. This only leads to escalated conflict and the kind of expensive, draining, adversarial mudslinging that you're trying to avoid. Don't give in to anger or hate. Even if you're still carrying hostility towards the other person over past issues, keep it out of the negotiation process. Remember that the goal is to reach a fair agreement, not revenge or "teaching a lesson."

Negotiation is about working together, not competing or contesting against each other. So if you want the other party to understand your needs and make a few compromises in your favor, you will have to do the same for him or her. So listen to the other person. Give the other party the space and time to make his or her needs clear. Try honestly to understand how the situation looks from the other side's point of view; this may be the most valuable skill you can master in bargaining with others, be it in a divorce or any other dispute situation. Listen to the other side in the way you would like them to listen to you. The more respect and attention you show to the other person, the more likely the other person will be to let down his or her defensive guard and show you the same respect.

Even if you know that something the other side wants is impossible or unfair to you, don't immediately criticize or judge the person for it. Saying, "You can't do that!" "Do I look stupid?" or "Over my dead body!" are all good ways to start an argument and burn down the bridge of understanding you're trying to build. Instead, hear the other party out first and then deal with how to reconcile your conflicting wants. Is there a solution to this that leaves both of you satisfied, as opposed to having one happy and the other unhappy? Also ask yourself if this particular issue is as important to you as you think it is. Would it really be that much of a loss if you made a sacrifice in this area, or just gave way a little? Or maybe there's a way both of you can "share" the benefits?

This will require you to "take the high road" and leave the past in the past. You can't drag old hurts and resentments into your negotiation and expect it to succeed. Find somewhere else to vent your anger and frustration -- with a counselor or a support group, for instance -- so that you can be as calm and cooperative as possible under the circumstances.

A complete understanding of the other person's perspective as well as your own is essential to negotiating a fair resolution to any problem.

## Be fair to yourself

Negotiation is about give-and-take. While it's important to let the other party feel that his or her needs are being addressed, be sure that you're being heard equally. As admirable as it is to be generous and give way on issues, a deal can't be truly fair unless you're receiving the same generosity and respect in return. Remember, the saying isn't "do unto others better than you would have them do unto you."

There are instances in which one party of a negotiation may give in too much to the other because of a power imbalance: the former may feel threatened or simply be too much in the habit of giving in. For example, this may happen in a divorce mediation for a marriage in which one spouse has always been dominant over the other; sadly, this pattern often continues even when the couple breaks up. There are also instances in which one party may want to give away the farm to ease his or her guilt -- particularly if the other party has been very vocal about supposed wrongs or injustices done by the former. But the object is not to right past wrongs or to keep the other person quiet: it's to achieve a fair resolution for both. This is where a neutral third party (such as a mediator) may be helpful in assuring that all get their say in a negotiation; he or she would be able to spot when one person is getting the short end of the stick or just isn't being heard.

If no neutral third party is available, you may have to stand up for yourself when dealing with somebody who tries to take advantage of your guilt or generosity. Listen to the other party's needs and concerns, but don't let them completely override your own. Be firm if you know for sure that you're not being treated fairly; don't give in to guilt or feelings of inferiority. If the person you're trying to negotiate with continues to be unreasonable, a fair final agreement may be impossible without the assistance of a trained mediator or collaborative lawyers. Sometimes, a more firm, confident attitude in bargaining can work wonders. A normally domineering or stubborn person may be baffled by your refusal to back down and eventually find no other alternative than to give in on the issue.

When the other party is being reasonable and agrees to let you have something your way, don't be ashamed to take it. In exchange, of course, assure the other person that some other issue will go his or her way. Accepting the other party's concessions is just as important to negotiation as offering concessions: both reinforce the fact that you are aiming at a "win-win" solution rather than either of you being short-changed.

As important as it is for you to understand the other party's viewpoint and needs, he or she has a duty to do the same for you. Negotiation is a cooperative process: it won't work if either of you is still trying to get the better of the other.

## A better outcome

There are many benefits to bargaining with somebody instead of arguing or fighting to the bitter end over an issue. Negotiation turns your opponent into a partner -- even, potentially, an enemy into a friend -- because you're working together to benefit both of you. You can avoid the increased resentment, hostility, and awkwardness that result from continued antagonism; you can avoid the wasted energy, stress, and emotional strain that are involved in clinging to your position and pursuing your wants at all costs; you can wind up with an outcome that's fair, pleasing, and the result of your own empowerment.

Master the art of negotiation, and you will be assured success in human relations in many situations. Follow the tips above, and you can reap benefits without having to risk being defeated in any "battles."



*At Carolina Divorce Mediators, we provide solutions to divorcing couples who want to avoid the tremendous financial and emotional costs of a court litigated divorce. Crafting comprehensive parenting solutions and satisfying equitable financial agreements through mediation helps couples meet their individual needs while creating a working foundation for effective future co-parenting of children. For more information, please visit our web site at [www.carolinadivorcemediators.com](http://www.carolinadivorcemediators.com) or call 704-896-5882.*

*You have received this e-mail because you specifically asked to receive it or expressed an interest in this service. We respect your privacy and do NOT share email or other contact information with anyone. If you believe that you have received this newsletter in error or wish to be removed from our database, please click [HERE](#).*

