

  OFFICE of GOVERNMENT INFORMATION SERVICES

## FOIA Negotiation Skills

### ASAP · OGIS

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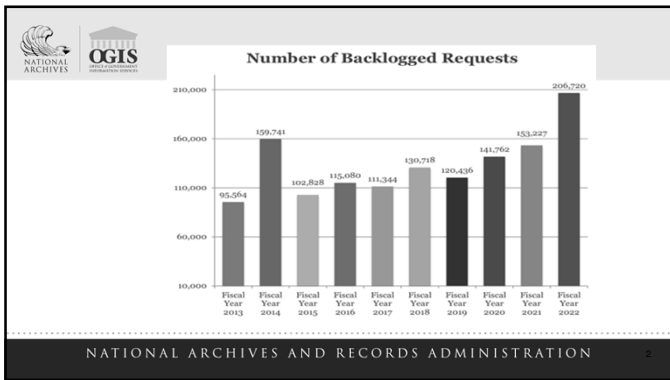
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## Negotiation and FOIA

What is negotiation and why is it important?




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 **Barriers to Negotiation**



What makes it hard to communicate with someone?

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 **Agreement**

<b>Trust</b>	<b>Opponents</b> opportunity to negotiate	<b>Allies</b>
	<b>Adversaries</b>	<b>Bedfellows</b>

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 **Resolution through Negotiation**



Positional bargaining vs. Principled negotiation

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 **What is Principled Negotiation?**

- Separate the person from the problem
- Focus on interests, not positions
- Generate a variety of possibilities before making a decision
- Decide based on an objective standard

Roger Fisher and William Ury, *Getting to Yes*

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 **Person vs. Problem**



- Disrupt perceptions
- Acknowledge emotions
- Communicate

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 **Disrupting Perceptions**

- How do requesters and agencies view each other?
- How can our actions change that?



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 **Acknowledging Emotions**



- How do our emotions impact our ability to communicate?
- How can we manage those feelings?

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 **Communication that works**

- Brief
- Informative
- Friendly
- Firm



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 **Positions vs. Interests**



Shifting our focus to make room for negotiation

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 **Focus on Interests, Not Positions**



Positions

- what they say they want/deserve
- their own solution to the issue
- one-sided

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 **Positions vs. Interests**



Interests

- why they want a particular outcome
- the underlying concern about an issue
- what is really important to them

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 **Key Communications Skills**

Curiosity  
Open Questions  
Active Listening  
Reframing



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 **Cultivating Curiosity**



- Stay calm
- Refrain from judgment/conclusions
- Seek to learn
- Eliminate distractions

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 **Cultivating Curiosity**

Approach negotiation with a learner's mindset

Stay open to unexpected outcomes

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 **Open Questions**

What are open questions?  
Why are they important?



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 **Open Questions**

- How can [my office] help you today?
- Can you tell me more about what you are looking for?
- What do you think it is important for requesters to know about how the agency keeps its records?

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 **Active Listening**

“We think of negotiation as being about talking. In fact, it’s really about listening. If you study the behavior of successful negotiators, you find that they listen far more than they talk. After all, we’re given two ears and one mouth for a reason. We should listen at least twice as much as we speak.”

William Ury, “The Power of Listening”

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 **Active Listening**



- Key points
- Summarize
- Clarify
- Check in
- Seek elaboration

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 **Activity**

- Pick a partner
- Pick a topic that you disagree on
- Take turns sharing your viewpoint
- Practice curiosity, active listening, open questions
- 2-3 minutes each

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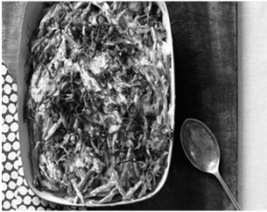
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 **Activity Ideas**

- Superior Thanksgiving side dish
- Must have cookout condiments
- Best 90's boy band
- Cats vs. dogs
- Dry heat vs. humidity



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 **Activity: Reporting Out**



- Tell us your partner's point of view
- Use neutral language
- Resist including your own opinion

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**Reframing**



How do past experiences shape our understanding and how can that impact future outcomes?

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**What are Frames?**



- Shortcuts that help us organize complex information
- May narrow our field of vision as we filter out conflicting information
- Can result in entirely different views of the same set of facts

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**Reframing**

- Disputants have their own interpretation of the problem
- Reframing creates a common definition of the problem that is acceptable to both sides
- This creates the potential for collaborative, mutually acceptable solutions

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 **Activity**



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 **Negotiation Tips**



- What works for you?
- Success stories
- Best practices

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 **Questions?  
Comments?**



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