

Bargaining-Table

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SPEAKERS

Chris Casillas, Emily Martin, Matt Greer

- C** Chris Casillas 00:09
The bargaining table is both a metaphor and reality for those of us engaged in collective bargaining negotiations. When we invoke this image of the table, it can bring to mind other situations where people gather around tables, including family meals or diplomatic summits. In those environments, folks often pay considerable attention to how those tables are set, including what's on the table, where it's placed, and where everyone sits. In many ways, the collective bargaining table is no different. But often, parties overlook the significance of setting up the bargaining table in a way that might help shift the dynamics in your negotiation, and even possibly create a more collaborative environment. Today, in the PERColator, Matt, Emily and Chris discuss the topic of the bargaining table, offering some thoughts on why you might want to give some greater consideration to this at your next bargaining session.
- E** Emily Martin 01:20
Hey, Matt, Hey, Chris, how you doing today?
- M** Matt Greer 01:22
Good. Emily, how are you?
- E** Emily Martin 01:24
Good. How about you, Chris?
- C** Chris Casillas 01:26
Doing great. Good to talk to both of you again. Didn't sound very exciting. I'm sorry. Let me try that again. Hey, Emily, Hey, Matt. Good to hear your voice. That was just really a flat effect

there.

E

Emily Martin 01:47

Alright, today, let's talk about table like, like negotiation theory at the bargaining table. Like, I just thought like taking 10 minutes or so and chatting about the actual bargaining table could be a fun way to spend some time. So, so what do you think like, do you have any thoughts about the the literal table? How it set set up? Who sits where? What do you think? I know when I started mediating, I gotta tell you, the one thing I learned was the mediator who taught me how to be a labor mediator, his lesson to me was, always take the comfortable chair. If you walk into a room, and there's a whole variety of chairs, no mediator, grab that comfortable chair, you need it. It is, it is not, you don't have to give that up as the mediator, grab the comfortable chair.

C

Chris Casillas 02:37

Well, I, yeah, no, I think that's a that's a great idea. I start with a little bit of a confession. Just like some crime drama, true confessions, by Chris Casillas. But, I mean, honestly, like, historically, this is something I haven't given a lot of thought to. But I've come to recognize that, because it seems like a little thing, like, you know, like, I mean, do we really care where the tables and what the chairs look like? But I've come to realize, you know, a couple things. One is the little, the seemingly little things are not necessarily little, you know, this, this can have an impact. And if you want to have an adversarial bargain, a great way to set that up is to have like diametrically opposed tables, 20 feet apart, with each team on each side, you know, staring at one another, and kind of yelling. Because they're so far apart. I mean, that's the reality. You know, I mean, it will, it will, maybe that table setup doesn't necessarily, like 100% dictate that kind of approach, but it certainly contributes to it.

E

Emily Martin 03:54

Yeah. Oh, one more, and also bring in microphones and set up in front of you and the other side, so that everything is on the record.

C

Chris Casillas 04:02

Yes. Yes, exactly. Yeah, like if you want to, if you want to prime the pump, for an adversarial setting, do those kinds of things. I mean, if that's if that or if you don't care, do those kinds of things. But if you want to try and change the dynamic, I think you have to pay attention to these kinds of things. And, and it's not gonna like, it's not, you know, rainbows and unicorns, by like, you know, so you create this wonderful environment, if you just create all the, pay attention, all these things, but it is going to have an impact, it is going to make a difference, or at least it will change the tenor of the conversation or shift the dynamic a bit. And if you want to try and get in a more kind of collaborative, collegial problem solving mentality. I think these are things that you need to pay attention to.

M

Matt Greer 04:55

I agree totally with you, Chris. I hadn't really thought about too much. Although, my mentor I first started mediating, what lessons I was taught was I should be the first person in the room, figure out where the room is, and I should feel free, in fact I should adjust the room and move things around in a way that I thought was helpful. So I still kind of do that it's been so long since I've done an in person mediation, like what I really still do that? It seems so weird now to think about doing that. But I do think also, this kind of ties in with the other kind of the physical space that we're talking about the room, I think sometimes there isn't a whole lot of flexibility, like a lot of times that people who are negotiating, there aren't a whole lot of choices about what tables to use, or what room to use, or, or what space we have. So I think the key point, though, is that be thoughtful about it, because I think sometimes I've been in a room that's been crappy, because it's been too small, or maybe the tables too big for the room. And so just just there have been many times when we went to mediation, where one party got there first, and they sat on the side of the table, close the door, in a very small room with a big table. And the other party had to like maneuver themselves awkwardly to the other side of the table to find their seats. And so it just weird it was it kind of felt like a power play, even though maybe it wasn't, right? So I think it's one of those things that even if you don't have a whole lot of flexibility in terms of your actual table in your actual group that you have, I think giving some thought to little small things can be helpful, too. But um, just want to throw out there that I realized that sometimes we're talking about sounds like we're envisioning a world where there's tons of options, which may not always be the case. Right.

E

Emily Martin 06:29

Well, I think in interest based bargaining, there's a tenant of interest based bargaining of alternating the seating. And so there are groups that that intentionally do that as a way to try to break up the us versus them dynamic. And, and I think, like it feels comfortable that the across a table and depends on the size that if you're too close, it's weird. If you're too far, it's weird. If there's big canyon in the middle, that could be give you extra space so that it's less, you know, claustrophobic but it also could feel like there's a canyon between you. So I think yeah, table can really influence the way you are. But I think in a lot of ways, we don't have that many choices. There's a mediator outside of labor relations one time, give the advice of, don't have parties, sit at a table, have them sit around a circle and nothing, nothing in front of them. So they can all talk to each other. And I can not imagine that and labor relations for a contract bargain. I mean, maybe for a grievance, it's about a relationship or something. But we need our notebooks, we need to take notes, we need a computer sometimes, you know, like, the idea that you can't have a table in front of you for the tools that you need felt really uncomfortable to me.

M

Matt Greer 07:39

Yeah, interesting. There was a I did a training not too long ago, where the the room was set up, I did out there was a decision that I made, but there wasn't gonna be a table it was for that very purpose. And there was some negative feedback to it, because some people thought there was a gendered thing that that women especially appreciate having some some a table in front of them was the people that are there have expressed that. And also size, like you're if you're a larger person, sitting in a small table, a chair next to somebody else, can also be a little awkward. So that was interesting things that I had never even considered or thought about,

because of my experience. But it's just interesting how those little things do kind of play out. And then I wonder, you know, somebody's sitting in the seat someplace where they feel uncomfortable or awkward or exposed, that's going to have an impact on how they participate in a negotiation in ways that may be easy to lose sight of.

C

Chris Casillas 08:32

Is this a good, do you think this is a good ground rules discussion? I know everybody doesn't talk ground rules. And you know, there's different varying ways of approaching it. But is this, I don't think I've ever, myself, put them in any kind of ground rules. But as we're sitting here talking about it, is that is that an appropriate space or time to have a conversation like that, like how we're gonna set things up?

E

Emily Martin 09:01

Well, I'm not a diplomat. But I think I've heard some things like when it comes to like summits, you know, in treaty negotiations, they have like days and days where they might talk about the shape of the table. And that's kind of a stereotypical ground rule dispute that you might have an international diplomacy. And I don't think anybody wants to open up that can of worms, but I do think that, that a skilled negotiator should think about what they're setting up and how they're leading their team and what they're inviting the other room into. And it might be, it might be sometimes not, I guess, I would just hesitate to say, Okay, everybody needs to make this ground roll. But I think like sometimes, there might be an avenue you guys walk, like people walk into a room and say, Oh, can we make this space better for our conversation? And, and maybe the other side doesn't want it to make it better for a problem conversation, maybe they want it to be adversarial. And then you get some information there. But like a, like a soft ground rule or something like, like, what do we call like the norm setting, or I don't know, the setting, the setting of space that that I think can happen. But I don't think I don't think anybody really wants to spend a lot of time talking about it is the the flip side. One trick I have is sometimes if I feel like I want to try to keep them from being face to face, and I'm mediating, I'm about to bring everybody in for a joint caucus, I won't sit at the head, I will sit sort of off centered a little bit in a way that keeps the parties from being face off on either side of the table, where I might mention the whole, like, when your face off, or that that that has a vibe to it. So like let's be mindful of that to try to keep that from taking over our brains. So I guess that's two tricks. One, I verbalize that, that bias that comes from space. And two, I might intentionally place myself in a way that sort of throws that off a little bit subtly, so that they're not quite as faced off in the same way. But I don't want to spend a lot of time talking about it.

C

Chris Casillas 11:16

Well, yeah, and you're revealing over secret aviator, Jedi mind tricks in play on everyone.

E

Emily Martin 11:23

Actually, I'm a mediator that tends to talk about, I probably end up telling the parties at some point, I did that on purpose, because they kind of like to know like, what am I doing? The Jedi mind trick. Sometimes parties I think like to talk to the mediator about that. And you just have

mind trick. Sometimes parties, I think like to talk to the mediator about that. And you just have to figure out how and when and what to share.

M

Matt Greer 11:43

I tend do same thing. I like that, that trick, I guess you want to call it trick of not sitting at the head of the table as a mediator, especially intense moments in the mediation, when we do a joint session, I think it is really effective. But I think I'm with you, Emily, I think I do I tell people that I'm doing that it's not something that I just do secretly and make them guess what's going on. So, but not that that's a bad approach, either. I don't want to like, share some mediators, in some circumstances, might want to throw things off a little bit or going a different direction and do things like that.

E

Emily Martin 12:12

I guess the one other thing I might do is I'm inviting if I'm like with a group of like, we're gonna invite the other side in. Let's make space for them. I might try to do a little bit of soft directing, so that they don't have to climb over you to get to the other side of the table like, like, that might be something I might talk to a group about, can we can we create some space so that we can have a good conversation?

C

Chris Casillas 12:40

Yeah, all, good tips. One of the things we've been talking about across these podcast series is like, thinking about these subjects in the physical space, but also the virtual space do you either have you see any advantages or disadvantages of kind of setting the metaphorical table in the virtual space that's different, or potentially better.

E

Emily Martin 13:07

So like, giving a little transparency about our process, we have been filming these podcasts with our cameras off to have like the best quality bandwidth. But today, we actually left them on like right now, it is weird. I'm not used to talking to you guys with the cameras on with them when we have the microphones on. So I think it does strike me as so much about how in zoom, the there is no table, but there is a table and we're all able to look at each other across the table at the same time. So it's not, it's different.

M

Matt Greer 13:42

It's different. I've been using the, the serve as the host of the Zoom meeting as kind of a tool that I think is really important for the mediator to have have at their at their fingertips. One of the things I do is I, when we first start that meeting we have that start time, and everyone's kind of joining the waiting room, and I can see who's in there, I kind of wait till they see like, most people are there. And I bring everyone into the main room at the same time. You know, all the groups are there, even though I may be intending to separate everyone into their

caucuses almost immediately, I still think it's important to kind of get together and kind of have that moment where everyone kind of materializes in the room together. Kind of see who's there. You know, I kind of don't know, there's like little things like that. I don't know how intentional or thoughtful I am about doing it. But try I think I am at least on a subconscious level trying to recreate some of those in person dynamics where you can see people when they're there, if you aren't meeting a joint session, you can kind of see their team forming in their room or you know where they are, I kind of want to, I think it's important to have a little bit of those elements in the virtual world too. So nothing that seems like a perfect replication, but little things like that I think have some, do have some impact.

C

Chris Casillas 14:49

Yeah, it's definitely a difference in the sense that a lot of times I feel like in mediation, especially if you have a longer mediation where you've been at it for a while, like people just, you know, show up, and everybody's got their caucus room set up. And, you know, there's some mediations where I feel like they never even see each other. Whereas, whereas here, when you do that, at least it's a, it's maybe a fleeting moment. But there's a moment where everybody comes together and at least says Hi, which is a little bit different in terms of thinking about that setup.

E

Emily Martin 15:22

The other thing for me that's radically different is that as I'm sitting at this table, right now, it is a very different table than a typical bargaining table. When I show up at a bargaining table, I take a pad of paper and a pen, and I take my, I take the filings and everything else. But my main tools, I pad of paper in the pen, when I'm sitting here, right now, I'm in front of a computer, and I have a second monitor, and I have a mouse and I have a keyboard. And, and suddenly, we're all sitting in all not all, because it's not everybody's always in front of a computer. But a lot of us are in front of a computer. And a lot of us have the ability to pull up documents or throw things into chat. So you have like a table. And then you have the under the table, which can be the chat, which can be really, really productive. You know, there can be a, and I've, I've talked to some people who've done online work for years. And he said, you know, the chat is a way to equalize conversation sometimes because it's not the loudest and the most powerful person that can dominate the the vocal range. And zoom will gravitate to whoever speaking and hold on to that. And you won't hear the other people as they're trying to talk necessarily. But you can throw into the chat, I want to make sure we talk about x today. And there's a way to equalize that power balance in a really interesting way. And then we can like, share documents differently and work on documents differently. Because we're sitting at computers, and sometimes even work on a document all together at the same time. And that feels really different as a table. And that's the bargaining tables I've been at for the last I mean, that's the bargain tables the three of us have been at for the last 15 months. And it really feels different to me.

C

Chris Casillas 17:02

Yeah, it's almost like there's multiple tables happening at the same time. You've got the video screen, the audio, you've got the chat, you've got document shares going on. Like there's, you know, it's just and different things can be happening in those different spaces. At the same

time, sometimes that certainly changes the dynamic.

E

Emily Martin 17:30

Right. Well, thanks for chatting about the table today.

M

Matt Greer 17:33

Good conversation, very helpful. I thought about things that I hadn't thought about before. So it's helped me out. And I am curious to hear clientele out there. If there are things in negotiation that, we come from a mostly from mediator standpoint here, but let us know if there's anything that you think has been interesting in your virtual table setting at the negotiation table. I'm sure would be we'd love to hear about it.

C

Chris Casillas 17:56

All right. Until next time, thanks you two.

E

Emily Martin 17:59

Thank you. Thank you