

# Can-Effective-Negotiators-Be-Nice--

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## SPEAKERS

Congressman Greg Murphy, Emily Martin, US Trade Representative Tai, Chris Casillas

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Chris Casillas 00:09

Negotiations are a regular part of our daily lives on both a personal and professional level, with the stakes in both settings quite high in many cases, not surprisingly, there are numerous books, opinion columns and courses offering insight on what it takes to be a truly effective negotiator, and how to maximize your success in bargaining. But while opinions run abound as to what it takes to be effective at the bargaining table, is there any science or theory behind what strategies, personalities and approaches at the bargaining table are truly more effective than others? One point of contention on this question asks whether generally speaking, negotiators are more effective when they adopt a more cooperative or friendly persona in bargaining as opposed to a more adversarial or competitive approach. Put in a more colloquial fashion. Can you catch more flies with honey than with vinegar? In March of 2023, a seemingly routine congressional hearing involving the United States Trade Representative Katherine Tai and Congressman Murphy from North Carolina provide a unique real world example of perceptions around what it means to be effective in negotiations. And whether niceness for lack of a better term in bargaining is a useful trait. Please join us for this episode of the PERColator Podcast as your co host, Emily Martin and Chris Casillas, take a deep dive into this exchange between Congressman Murphy and Trade Representative Tai, and then explore the broader question of whether you can be both nice and effective at the bargaining table.



Chris Casillas 01:54

Hello, and welcome to the PERColator Podcast. My name is Chris Casillas with the Washington State Public Employment Relations Commission. And I'm joined by my fellow podcaster and co-host of the PERColator Emily Martin. Emily, how's it going?



Emily Martin 02:08

Great. How you doing, Chris?

**C** Chris Casillas 02:10

I'm doing awesome. Great to be with you today. And just had an exciting luncheon, which we'll get to here in a bit, and talk a little further about that. But so for today, I wanted to kind of confront this topic that I see personally come up a lot I hear a lot. I think I've mentioned maybe once or twice before that I teach negotiations at the law schools here in Seattle, and I teach in negotiations course a couple times a year, usually. And when I start that class, I often ask my students kind of what their biggest fear or concern coming into the negotiation course is, and I hear from a lot of students pretty regularly that they're worried about, you know, the conflict that's embedded in a lot of negotiations, they're worried about kind of being pushovers or they're not really, really kind of overly assertive, you know, conflict hungry kind of people. And they're worried about how they're going to manage those situations and advocate for their clients in those those situations. Interestingly enough, a couple months ago, this topic kind of came about in a somewhat roundabout way, and unusual fashion. But there was a congressional hearing in late March, I believe, that involved a congressman from North Carolina, Congressman Murphy, and the United States Trade Representative, Ambassador Katherine Tai. And normally, congressional hearings are not the necessarily the subject of a lot of interests outside of the beltway, and C span loving audience. But this, this exchange got a lot of interests, particularly among those who teach negotiations and dispute resolution work. And so I want to use that as kind of as a springboard for our conversation, Emily, and talk a little bit about this topic further and exploring kind of this question of, can you be nice and be a good negotiator? Is this possible? Like, are these two things mutually exclusive? So let me just play this clip. And we'll take it from there.

**C** Congressman Greg Murphy 04:33

Tai, I think you can sense the frustration, you're on this side of the dais because it just does not appear we are moving the needle on trade. And I don't know you're very well, you come very, very highly spoken of from members who worked with you previously. I personally think you're too nice a person to be in the job that you're in. Because I think you're handicapped because of administrative folks that you have to report to et cetera, that are handicapping you in your job, negotiators are usually very, very tough and sometimes mean people, they aren't nice people like you are.

**C** Chris Casillas 05:06

All right. So we'll stop there for a moment. Emily, yeah, take take it away, like, what are your, what are your reactions to that? What are your takeaways from from that initial exchange?

**E** Emily Martin 05:21

Um, I've heard it before. And every time I hear it, it makes my blood boil a little bit. So it's using the word nice, but he's not complimenting her, you know, he's telling her she's incompetent. In you know, in a way that doesn't feel like he would say that to a guy. And I think earlier, you mentioned that we did the Zoom today, we, every month, we have a like a discussion hour and everyone's invited. So if people aren't on the mailing list, join our mailing list, come to our

zooms. So I know, I'm not the only one who had this reaction. But yeah, he's just, he's, he's talking down to her and saying, well, first of all, he uses the word handicapped a couple times in a way that is really not so cool. And then he wants to stress, "Oh, I don't know you, but but you're too nice. You can't do this job." And that just ticks me off. Makes me think of times that people have said similar things to me. And I wasn't the only woman who felt, who expressed they felt a familiar sense from what what he was saying and how he was treating her. She's well qualified. I think, I don't know, I'm not an expert on who's qualified for a trade representative or not. And yeah, he might be from another party. And he might be trying to make the point that they that Biden's doing it all wrong. But he's not talking about Biden, he's not talking about the policy. He's just making it about, "Oh, you're too nice," in a really gendered way that rings too familiar. So if anyone needs me to over explain, don't, don't do that. Don't do that to people. Don't, don't think don't try to sugarcoat the, I'm gonna give you a compliment and say how nice you are. Because it's a it's a really loaded term. He also used the term mean, and I think in labor relations we often don't use, I've heard nice, I don't hear mean as much. I think we hear the word tough. You don't want to be a pushover, sometimes you need to be tough. And I think I think nice just feels especially gendered. So there's that piece, but the question of pushover versus toughness, I think, is a part of negotiations, because sometimes, you have to be able to appropriately and strategically decide how cooperative or how adversarial to be. And I was thinking earlier today about the prisoner's dilemma and whether or not you're cooperative, or you're, you're adversarial. And, and one of the strategies for good negotiation theory is called tit for tat. And it's also sometimes referred to as the sucker the jerk. And the idea is that it's better if both sides are cooperative, you get the win win, you get the most benefit. But if the person you're negotiating against is not being cooperative, and is being adversarial, or I don't know, the technical term for that, being a jerk, is important to you, too, sometimes proportionately, proportionate it is keyword, respond to get them back into the collaborative cooperative mode, and not let them just try to to walk all over you. And that that's a good strategy. So sometimes it is appropriate to to check. But it's also very key not to overdo it, because then they're going to overdo it, and then things are going to just keep getting worse and worse and worse. And that's kind of the worst outcome possible. But yeah, I think that it's sometimes an appropriate way to talk about strategies and standing up for yourself or making clear point or being direct. While, this term nice, just feels very problematic. I think part of the other conversation that we had today on the Zoom is for women often, you're supposed to be nice, but then if you are nice, you're a pushover. So and if you're not nice, you're deemed rude of your direct and you get to the point and you speak clearly and stand up for yourself. That is deemed rude when it might not have been considered rude if it came from a man. And so that's this, it's super frustrating. I think lots of people have lived through it. I think people have had different experiences and different degrees and then when you add other forms of the ways people get discriminated against or are being treated, especially for women of color, or people of color. This just, it's especially aggravating. So that's my response.

C

Chris Casillas 10:16

Yeah. And I think your point that, I mean, I just, I haven't had that same kind of lived experience as a man, but I just I can't imagine this exchange, starting the same way it did, if the Trade Representative was a man. I mean, it just, it doesn't seem like that is, you know, this is Congressman Murphy's time to kind of get his voice out there and pontificate on whatever he wants to and make whatever points he wants to, and his, his entry into that conversation is to point out or make this argument that she's not effective, because she's just too nice. She doesn't know how to, you know, negotiators have to be mean. And I just, I just, I think we can't

ignore the gendered and racial component of that, because it just doesn't seem like it's gonna, I can't imagine that happening if a white man is sitting at a table just doesn't seem like it's going to occur.

E

Emily Martin 11:18

Yeah, you know, and when I listened to it, I think about the moment I had a mediation and a negotiator pulled me into the hall, and he wanted to tell me, he didn't like how I was mediating. Right? That was the point he was trying to make. And he started out with, I think you're a nice lady, but and then he let me know what he thought of me. And I'm never gonna forget that moment. And I'm never gonna forget where I was and how that felt. And then how do I figure out how to continue to help him reach a deal, despite the fact that I wasn't really happy with him at that moment. But it, it's challenging. It's, it's challenging, and it happens. And I don't know, maybe somebody would say to you, Chris, you're too nice.[]

C

Chris Casillas 12:08

[laughing] I don't think anyone's ever accused me of that. [laughing] But I'll let you know if it happens. I'm curious too, I wanted to kind of bring this point up to you, because you talked a little bit about kind of being cooperative in negotiations. And, and I don't know, maybe we can discuss this for a minute, because I don't know if niceness and being cooperative are synonymous terms. Right? There's there's some different components to that. But it did remind me there's actually been a couple studies out there where scholars have kind of researched this question of, of, you know, are negotiators more cooperative? Are they more adversarial? Are they more, you know, go along, get along? Are they more kind of in your face? And there's two studies that I know of, on this point. One, somewhat more recently done by Andrea Schneider, who I want to talk about, again here in a moment. But both studies found two interesting things. One, when when people were asked to rate their counterparts in a negotiation, most people rated their counterpart as being more cooperative than more adversarial. So there was there was a lot more kind of cooperative negotiators out in real world experiences than perhaps you know, what we might kind of otherwise imagine. And, importantly, those rated more cooperative were seen as much more effective, at least by the person on the other side of the table negotiating against them. And, and again, I don't I don't know if if those ideas are synonymous with one another, niceness and cooperative. But there is some there is some research out there that that shows that a lot more negotiators, at least in the studies of real world negotiators kind of engender more of a cooperative approach to the process and are rated more effective as a result of that, which tends to kind of push back against this idea that he kind of goes on to saying like to be good at negotiating, you have to be, you know, mean and tough. You know, I think that's kind of an interesting point as well. Any thoughts there?

E

Emily Martin 14:28

Well, I think there is this pound the table story we have in our head of what a, what happens in you know, take them out to the woodshed and twist their arm. You know, there's all those metaphors and those are metaphors I got taught early on in labor relations, and does it feel the same when it comes from a woman or when it comes from a guy? You know, like, is that an old

school way? I think there's some tradition there. But yeah, I don't, [sigh] labor relations has a lot of tough conversations and a lot of strong emotion. And we have things like the thick skin test, and that there's a reason why that's embedded into labor law. But, you know, is it that you have to be the biggest jerk in the world? I think, I think good negotiators have a whole range of skills and are able to be strategic and mindful and decide when and how to use it. And being a tough jerk over and over again, is often not the best strategy. And they sometimes can't figure out where the off ramp is, if they just rely on power, and threats, and bullying. And I understand why people use different strategies. And I understand that sometimes standing up for the little guy, or standing up for a client that's getting pushed around means that you need to show some strength and, and speak in tones or speaking on topics that your client themselves might want to, want to come out of their individual mouth. But I think this assumption that, that you have to you have to be miserable. You have to make everybody else miserable, really isn't true. And it is interesting. And there are moments or other moments I was thinking about today where somebody was trying to strategies, and how do I deal with it. And you know, sometimes, sometimes you have to like, push back. And sometimes you have to figure out a way to slip past them in a way that that doesn't confront. But that focuses on the prize and gets the deal done. And if they want to dwell in conflict, and they want to dwell in this mode, well, it's to their loss, they're not going to be able to serve their client as well or, or negotiate as good of a deal as they could have. But we're all human. And that's why it's why negotiations is a field, it's why mediation is a field, it's why conflict resolution exists. So it's going to be, it's never going to be quite a simple answer. But I don't think, I don't think trying to bully your way through everything is going to be a great strategy. And and if that is a strategy people want to use, just make sure you build a bigger, bigger toolbox, because that tool is not going to work in lots of settings.

C

Chris Casillas 17:32

Well, that's that's an excellent segue to this other point I wanted to raise coming out of this, because as I was listening to this exchange, I was reminded immediately of this article, I mentioned Andrea Schneider earlier, she wrote a piece a few years back called Negotiating While Female, in it she kind of takes on a lot of myths associated with how effective women can be in bargaining and at the negotiation table. And one of those myths being that you have to be really assertive to be a good negotiator. And women just can't do that generally as a group. And she deconstructs that myth on on a number of different levels. But one of the points she raises there is that what we see kind of in the research and the scholarship is that a complete negotiator actually exhibits a lot of different traits and characteristics, that kind of toolbox that you mentioned, is filled with lots of different characteristics. And, and while assertiveness is is kind of a piece of that it also involves these other, these other traits that make someone kind of more of a complete negotiator. And I wanted to kind of tick those off real quickly, maybe briefly explain them, see, see what you think. But, this clip did remind me of that whole exchange. And so she she talks about the five traits of an effective negotiator, which she lists says, One assertiveness is certainly part of it. And Two being empathy. Three, being flexible, Four having social intuition, and Five, acting in an ethical manner. But you know, with each of those, like with Assertiveness, for example, it's not so much just like being mean or aggressive or yelling or something like that. It's more about being able to kind of effectively prepare different arguments and assert those and talk about what's important to you and what you need in this situation, what your interests are, and to do that persuasively so that that is a piece of it, but it's not really connected to you know, how it's delivered. It's more of the idea of being able to articulate those interests in a persuasive way. With Empathy, you know what she's talking about there is kind of civility and desire to gain some understanding as to what the other side

needs and recognize kind of where they're coming from in a particular situation. So kind of the flip side of assertiveness, in some ways, with Flexibility, what she's talking about, there is both kind of the ability to change, change your own style, or change your own approach in a given situation, depending, I think, you know, to the point you spoke of earlier, like if somebody's coming across in a particular way, kind of maybe responding in kind to that to kind of meet that challenge, but also then being able to pivot back to another approach, but also being flexible and thinking about different solutions and being creative and finding value in the deal itself, with Social Intuition, just recognizing the relational component of any negotiation, and being able to have some self awareness and read the situation and your counterpart and kind of what, what's going on there. I think a lot of times we forget about that social component to a negotiation, it really is relational. And so those skills are really important there. And then finally, with Ethicality, kind of being able to harness and build a good reputation in the community that you work in, operating in a trustworthy way. So that kind of people know what to expect with you. So I think, you know, it's a good, you know, maybe you have some other ideas there, you know, we can kind of push back or pull on some of these different particular thoughts, but it does remind me kind of, of the importance of being holistic, and how we approach this process. And it's, it's not just all about this one thing like that, is the pathway to being effective. I mean, sometimes, maybe that's what you need to do. But there there are these other things. So anyway, any thoughts there?

E

Emily Martin 21:54

I think that's a great list. I think those sound like really important skills, I think. I think somebody could listen to that list and say, Well, maybe the self critical voice in their head would say, maybe that's not my strength. Maybe that means I'm a bad negotiator. And I don't think that's a useful way to see this list. I think this list is a good list to think these are four scores skills that will serve me well. And how could I improve my where I'm at with these skills. And one of the things about hearing that list is, I think about negotiators that I know that that really are really good at some of these things. And watching them and learning from them, and just observing them sometimes. And sometimes I'm observing them as a teammate, sometimes I'm observing them from the point of view of mediator, but I think we can learn a lot from, we can learn a lot from ways people mess up. And we can learn a lot from the ways that people do well. And besides the actual deal that's being struck in the moment, the process is sometimes really fascinating for those of us who, who are into conflict resolution, and are interested in developing our negotiation skills. There's a whole lot of teachers all around us and thinking about ways that we can emulate and see the good models in our life, and then figure out how to pretend to be more like them. Until you have those skills yourself. I don't know. But I think that's a really, those are four great things to keep in mind. And if anybody has a negotiator that that they're thinking of at this time, I think that's just a good thing to keep in mind on. What can you learn from that person? And how can you improve your, your strength in these categories? So I'm not going to add to the list? I think that's great. Yeah, it's a hard list, you know, when you're in the middle of a conflict, it's hard to do all those things at the same time. Not just react when you want to react.

C

Chris Casillas 24:00

That's why we get paid the big bucks, right? You know, you really, it really is a diverse and broad range of skills that you have to you have to bring in and every situation is different. So you just never know kind of what what you're going to need to bring out in a particular

circumstance. But thinking about these ahead of time and ways, I think, you know, some of us are kind of more natural and better at these in certain ways. But at the same time, I think all of these things can be learned and improved upon, right? Like we can, you know, empathy is not a trait that I would say that I'm generally like, just naturally great at but I can I can, I can learn how to be more empathetic, I can practice it more I can be more conscious of it, and be more aware of it and and and try and deploy that skill, you know, more successfully when interacting with other negotiators. So it is one of those things where even even where you're not great at it, are you don't feel it's the core strength of yours. I think you know, there are ways to practice it and build it and become better at it over time.

E

Emily Martin 25:07

And there is, Oh, we should do something on that future episodes, how to build your empathy skills. Build all four of these categories, right? I think there's a wealth of material here.

C

Chris Casillas 25:19

Yeah, no, we can certainly mine this for a few episodes. So more to come on that PERColator Podcast listeners. But, I don't want to, before we leave, I don't want to like bury the lead here. And like, forget about our trade Trade Representative and how she handled this particular situation. So I do want to, I do want to close out with kind of the rest of the exchange here, and how how she handled this particular situation. And we'll see if you have any thoughts or reactions to how she confronted Congressman Murphy on this point, and maybe what that says about the broader question we pose for all history,

C

Congressman Greg Murphy 26:00

What's happened with us? We are absolutely handcuffing the United States, because we worry more about green things. It's it's all the other distractions, we're in the Paris Climate Accord. We handcuff ourselves. And we give China the ability to buy, you know, build nine this past year, 27 more coal plants. And if you look at what we're doing to the United States, all we're doing is given the open door for China. It's just a fact we don't negotiate, we're talking about critical rare earth metals, and we're fine to tear them up and get them from China, where we're using slave labor, but we have them in our own country, and we're not able to do that. It puts us absolutely at a disadvantage. And you're stuck. Personally, I feel sorry for you, you're stuck in the middle of that.

U

US Trade Representative Tai 26:46

So Congressman, I can assure you that I know to be nice to members of the Ways and Means Committee. And I've never been, I've never been faulted for being too nice.

C

Congressman Greg Murphy 26:59

You have too nice a smile.



**U** US Trade Representative Tai 27:00

I also don't need you to feel sorry for me. So please don't, please don't do that.

**C** Congressman Greg Murphy 27:05

I just feel like you've been put in a tough spot personally, because there's just been this administration above you has just shown no interest in trade.

**U** US Trade Representative Tai 27:12

Ok, well, let me just take off the nice little bit. I don't need your pity. I stand up for the American people. And when I speak people listen, because I represent the interests of the United States.

**C** Chris Casillas 27:20

Well, there you have it, what do you think Emily?

**E** Emily Martin 27:22

Good for her! She just scored some points. But it was it was fun to hear it. She put him in his place. I mean, yeah, he started talking about like an actual issue, you know, green things, which is an interesting way to refer to environmental issues. But yeah, but then he went back and talked about her smile, and once again, just just ticks me off. Oh, I felt sorry for you. You know, it's it's the men put you in a bad spot. Oh, my gosh. All right. I gotta put this issue away. I enjoyed hearing her reaction. I enjoy seeing how she pushed back in a way that she said she's taken off the nice, but I don't know if I would. I don't know if everyone could be as diplomatic as she was in that situation. So I think she has a good model of how to make a point and be assertive, I guess. Is that what we're gonna call it.

**C** Chris Casillas 28:29

Well, to your comment earlier. I think, you know, that kind of tit for tat, where she, she gets, I think she she tried to save him from self there for a little bit, you know, she gave a little joke. And, and, you know, let's, let's move on here. And he just, you know, he just kept going and, and so she met, she met that with the with equal if not greater force on the other side. And I imagine after that, you know, she probably went back to, you know, just trying to do the do the business with the committee and get through things. But I think, you know, as you pointed out like that, she met that assertiveness or aggression or, you know, we could characterize it very differently to, with with her own kind of level of force, and, and also demonstrated that ability to kind of pivot, right, like, we talked about that a little bit too of, you know, that wasn't where she necessarily wanted the conversation to me, but she had to meet the moment. And she she



did it, and she did it exceptionally well. And then back back at it. So I mean, from my vantage point, wow, if I was grading her in this terrible exchange, she get an A plus for demonstrating a really, you know, artful deployment of these these skills. So good to know that she's working on behalf of the United States interests, because I imagine many of the conversations she has, with lots of folks are are pretty challenging.

E

Emily Martin 29:56

Yeah. Well, thanks for bringing this clip, Chris. I think it was a great conversation. So thanks for bringing a timely topic to the podcast

C

Chris Casillas 30:04

All right good talking with you, thanks Emily.