THE NATIONAL JUDICIAL COLLEGE

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CLIMATE JUDICIARY PROJECT ELI

LEADERSHIP AND COMMUNICATION **DIVIDER 9**

Professor Kelly Tait

OBJECTIVES:

After this session, you will be able to:

1. Discuss the importance of getting others' perspectives in effective leadership communication;
2. Give examples of specific behaviors that connect to perceptions of you and that affect your effectiveness as a leader; and
3. Apply techniques for handling difficult conversations.

REQUIRED READING:

		PAGE
1.	Kelly Tait, *Leadership and Communication* (Mar. 2022) [NJC PowerPoint]	1
2.	Kelly Tait, *Active Listening: Clarifying and Confirming the Message* (June 2021) [NJC Document]	9
3.	Kelly Tait, *Listening Styles Survey* (June 2021) [NJC Document]	11
4.	Kelly Tait, *Guidelines for Better Listening* (June 2021) [NJC Document]	15
5.	Kelly Tait, *Helping Others Listen Better* (June 2021) [NJC Document]	17
6.	Kelly Tait, *Tips for Providing Constructive Feedback* (June 2021) [NJC Document]	19
7.	Kelly Tait, *Guidelines for Receiving Feedback Constructively* (June 2021) [NJC Document]	21
8.	Kelly Tait, *Human Tendencies That Can Affect Your Communication—and Leadership—Without You Even Realizing It* (Mar. 2022) [NJC Document]	23
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Leadership and Communication

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Overview ~ "Roadmap" of the Session

- How communication connects (to everything)
- Importance of perspective
- Effective nonverbal and verbal leadership behaviors
- Core skill: listening
- Techniques to guide interaction constructively

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Communication: Any behavior (or lack of) that can be interpreted as having meaning

Nonverbal Communication: Everything else that communicates ~ facial expressions, eye behavior, gestures, body position and movement, vocal elements, appearance...

Verbal Communication: The words (and only the words) ~ oral and written

3

Kelly Tait: [redacted]

Importance of Perspective **Getting**

"The secret to understanding each other better seems to come not through an increased ability to read body language or improved perspective taking but, rather, through the hard relational work of putting people in a position where they can tell you their minds openly and honestly."

~Nicholas Epley, *Mindwise: How We Understand What Others Think, Believe, Feel, and Want*

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Human Tendencies that Can Undermine Effective Communication

- Overconfidence error
- Confirmation error
- Framing error
- Anchoring error
- Attribution error and pro-self bias

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Nonverbal Communication

BOTH of these are true—we need to:

- Be sensitive to nonverbal cues and use them to adapt our communication
- Avoid over-reliance on what we assume they mean
  - Humans are chronically overconfident in our ability to understand the minds of others

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Kelly Tait: [redacted]

Nonverbal Pathways

Facial Expressions	Eye contact
Gestures	Body Position
Appearance	Voice
Proxemics	Others

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What is the best predictor of accurate interpretation of someone's behavior?

A. Experience and skill of observation
B. Familiarity with person being observed
C. Similarity between person and observer (age, gender, ethnicity, etc.)
D. When verbal communication (words) occurs along with the nonverbal behavior

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Constructive Communication Behaviors

- Receptive
  - Listening, empathizing, asking
- Active
  - Problem solving, giving information

~ Often best to have receptive behaviors early
~ First instinct often to go straight to active

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Kelly Tait: [redacted]

Tips To Increase Honest Communication with You as a Leader

- Offset built-in cognitive errors
- Start with curiosity
- Invite dissent
- Embrace the outliers; argue the opposite
- Ask good questions (the power of wording)

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Questions To Increase Participation

NOT This:	**This Instead:**
Question stacking.....	One question; wait
"Why".....	"How" or "What"
Binary: yes/no.....	"What" or "How"
Self-affirming.....	Self-educating
Leading.....	Neutral, open-ended

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Listening Is Powerful!

Everyone has a story...

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Kelly Tait: [redacted]

What Does (Law) School Teach?

"In academic culture most listening is critical listening. We tend to pay attention only long enough to develop a counterargument, we critique (others') ideas, we mentally grade and pigeonhole each other. Seldom is there a deep, openhearted, unjudging reception of the other. And so we all talk louder and more stridently and with a terrible desperation."

~M. R. O'Reilly, in Weisberg and Peters, "Experiments in Listening," *Journal of Legal Education* 57/3

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Fill in the blank—

I would be a better listener if:

_____

_____

14

"It's difficult to think of a single communication behavior that is more fundamental for constructive conflict resolution than listening. But most people think they're better than they are."

~Jones and Brinkert, *Conflict Coaching*

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Perspective Getting: Ask and Carefully Listen

- HOW to ask so they're more likely to be open?
  - Context: where and when
  - What you say
  - How you say it
    - Voice: tone, pace, silences
    - Body & hands: positioning, proximity, gestures
    - Face: expressions, eye contact

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Active Listening: Clarifying and Confirming the Message

1. Focus on the speaker and his or her message
2. Draw out the message as necessary
3. Communicate your understanding of the message
4. Encourage confirmation or clarification of the meaning

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Techniques for Guiding Interactions Constructively

Lessons from mediation...

- Reframing
- Questions to get at solutions
- Summarizing
- Refocusing

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Kelly Tait: [redacted]

Lessons from Mediation: **Reframing**

- Reframe from position to interest:
  - **Position**—What person says they want
  - **Interest**—person's concern about an issue
- Reframe from past to future
- Reframe from blame to need
- Reframe from accusations to feelings

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Examples ~ Questions To Help Determine Others' Interests:

- Can you help me understand why that's important (to you)?
- What concerns you about the situation?
- What would make this idea work better for you?
- Is there some way we can meet both your need for _____ and others' need for _____?

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Questions to Get At Solutions

- What might work for you?
- What would make this idea work better for you?
- Is there some way we can meet both your need for _____ and the need for _____?

21

Kelly Tait: [redacted]

Summarizing

- Reinforce progress
- Identify concerns
- Point out areas of mutual agreement or interest
- Organize information
- Review work left to do

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Refocusing

- Shift the topic, shift the speaker, shift the process
  - Change tack: take a break, try brainstorming, ask them to change seats, try role reversal, etc.
- **Return to common ground: shared values**

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Communication:

Interwoven in All 5 of the Transformative Leadership Principles

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Kelly Tait: [redacted]

Active, Engaged Listening: Clarifying and Confirming the Message

Active listening usually involves four steps:

1) ***Focus on the speaker and his or her message:*** This involves both *being* attentive and receptive and *demonstrating* that you are attentive and receptive.

--Use nonverbal behaviors such as eye contact, nods, a positive tone of voice, and upright posture or a slight forward lean as well as verbal encouragers such as "I see..." "Mm hmm..." "Go on."

2) ***Draw out the message as necessary:*** You might need to initiate the interaction, to encourage fuller responses or bring the speaker back from a tangent, etc. To do this, ask questions. The type of question you ask will impact the answer you get:

- Close-ended questions allow for short, direct answers; they often start with *is, are, did, do, when.*[Use when you need very specific information and when you need to establish control of the topic or the proceeding]
- Open-ended questions allow for a broader range of responses; they often start with *what, how, why, describe, explain, tell, give an example.* [Effective when probing for information and when you need answers of greater depth. Examples include: "Help me understand..." "Tell me more about..."]

3) ***Communicate your understanding of the message:*** There are usually several levels of meaning in every exchange:

- Content: facts, information. Paraphrasing is one of the most useful tools there is for checking (and showing) understanding of the content of a message. ["If I understand you correctly...." "What I'm hearing is.... Is that right?" "So, you're saying _____?"]
- Emotions: feelings, reactions. When emotions play an important role in the message, it can be very effective to acknowledge their existence, even if the emotions aren't relevant to your decision. ["It sounds like you're very frustrated.... What I need from you now in order to move forward is..."]
- Intent: why they're giving you this message, what they're trying to achieve with it, what the connection to the overall proceeding is. ["You believe this information means that _____?"]

4) ***Encourage confirmation or clarification of the meaning:*** To make sure you got the message right, you need to give the other person a chance to verify or clarify your interpretation. ("Yes, that's what I meant;" or "Well, not quite. What I meant was...")

- For true active listening, you should always do this regarding the content of the message. Regarding the emotional aspect, you need to decide whether to focus on the emotions and to encourage confirmation or clarification of them. This is known as "reflective listening."
- Also consider when voicing your own feelings could be useful in conveying empathy: "It makes me quite sad to see how things have worked out;" "I am confused by what happened here."

Active, engaged listening helps ensure the communication is effective.

Listening Styles Survey

Adapted from Barker and Watson

PLEASE NOTE: Providing you with this self-assessment is NOT intended to over-emphasize "styles," but rather to help you ***reflect on your tendencies in terms of listening behaviors****, and to increase your awareness that effective leadership requires the ability to apply a wide range of listening behaviors appropriately.*

Instructions: Rate each of the following statements about yourself *in your work environment*-- write the number next to it that best describes you in relation to that item.

Use this scale: Always= 5, Frequently= 4, Sometimes= 3, Infrequently= 2, Never= 1

___1. I pay attention to a speaker's feelings when listening to him/her.

___2. When listening to others, I am quick notice if they are pleased or disappointed.

___3. I become involved when listening to the problems of others.

___4. I attempt to find areas of common interest when listening to someone I've just met.

___5. I use nonverbal behaviors such as use eye contact, leaning slightly forward, and nodding my head (if appropriate) to show that I am listening.

___6. I get frustrated when others do not present their ideas in an orderly, efficient way.

___7. When listening to others, I focus on any inconsistencies and errors in what is being said.

___8. I often jump ahead and finish a speaker's thoughts (to myself or out loud).

___9. I become impatient when someone rambles on when she/he is speaking.

___10. I ask questions (as appropriate) to help speakers get to the point more quickly.

___11. I wait until all the facts are presented before forming judgments and opinions.

___12. I enjoy listening to technical information.

___13. I prefer to hear facts and evidence in order to personally evaluate them.

___14. I like the challenge of listening to complex information.

___15. I ask questions (when appropriate) to probe for additional information.

___16. When I am in a hurry, I let others know that there is a limited amount of time to listen to them.

___17. I often begin an interaction by telling others how much time is available for the interaction.

___18. I interrupt others when under time pressure.

___19. I often find myself looking at a watch or a clock when there is limited time to listen to others.

___20. When under time pressure, my ability to concentrate on what others are saying suffers.

(See next page for scoring information and the page after for discussion of styles.)

Kelly Tait: [redacted]

Listening Styles -- Listening Styles Survey Scoring Sheet

Scoring Instructions: Count the *number of times* that you wrote a **4** or a **5** for each of the four sections, and write that number for each section in the blank space:

Section 1: Items 1, 2, 3, 4, 5

Number of times you wrote "4" or "5" for these items (#1-5):_____ = People Oriented Score

Section 2: Items 6, 7, 8, 9, 10

Number of times you wrote "4" or "5" for these items (#6-10):_____ = Action Oriented Score

Section 3: Items 11, 12, 13, 14, 15

Number of times you wrote "4" or "5" for these items (#11-15):_____ = Content Oriented Score

Section 4: Items 16, 17, 18, 19, 20

Number of times you wrote "4" or "5" for these items (#16-20):_____ = Time Oriented Score

Compare the totals for each section -- your highest totals indicate your strongest listening preferences.

OVERVIEW:

- There is no "best" style; in fact, it's more useful to consider these as clusters of listening behaviors. Each cluster has strengths; each cluster also has potential negative aspects. All of the listening behaviors could be useful at various times in judicial / leadership settings.
- In general, people who can use all of the behaviors *as appropriate* (based on the context, the goals, and the other participants in the interaction) tend to be stronger communicators overall. However, if you have a clearly dominant tendencies major changes might be confusing to others if they don't understand why you changed…so cultivate flexibility and be transparent about reasons for changes.
- Be aware that in stressful situations, people tend to rely on their strongest preferences, even though those are not necessarily the best for the situation at hand. Don't just default to your comfort zone—be purposeful in your approach.

(See next page for discussion of the different listening styles)

--Continued--

Listening Styles *Continued:*
Strengths (+) and Potential Weaknesses (-)

(for Listening Styles Survey adapted from Barker and Watson)

People-Oriented Listeners ~ Tendencies:

- ❑ Listen for the emotional state of others
- ❑ Use listening as a way to connect

+ Tend to be nonjudgmental
+ Are attentive
+ Encourage interaction

- May take too much time
- Can be too informal and/or too expressive
- May seem to be agreeing

Action-Oriented Listeners ~ Tendencies:

- ❑ Listen for input related to task
- ❑ Use listening as a way to achieve goals

+ Concentrate on the task at hand
+ Help others concentrate on the task
+ Reward organized, concise messages

- Can be blunt and impatient
- May jump ahead and miss information
- Can be less open to emotional content

Content-Oriented Listeners ~ Tendencies:

- ❑ Listen carefully & evaluate everything
- ❑ Use listening as a way to get information

+ Like expert information and complex information
+ Look at all sides of an issue
+ Emphasize the credibility of sources

- Can get immersed in detail, waste time
- May seem intimidating
- Possibly discount non-technical information

Time-Oriented Listeners ~ Tendencies:

- ❑ Listen with time constraints in mind
- ❑ Use listening as a way to get to the point

+ Keep the process focused and on time
+ Give clear guidelines and cues regarding time
+ Discourage wordiness

- Interrupt a lot; can be impatient
- Stop concentrating when "time is up"
- Can create stressful environment for those with other styles

Guidelines for Better Listening

⟹ When **You're** the Listener...

1) **Shape your attitude:** State the need to listen carefully as a goal (to yourself and/or to others): "It's important that I listen carefully;" "I need to focus on the key components." Try to tune out distractions, including those created by the speakers themselves (e.g., nervous quirks) and your own internal distractions.

2) **Be physically ready to listen**. This usually includes erect posture, leaning slightly forward, and establishing eye contact. This not only shows attentiveness, it can *add* to your attentiveness.

3) **Work to see the situation from the speaker's point of view**. Understanding others' perspectives is *key* to effective communication. Ideally *ask* them about their perspective, rather than making assumptions.

4) **Withhold judgment** until a decision is required—once we label something as right or wrong, good or bad, credible or not, we lose objectivity. Give it a fair hearing before passing judgment.

5) **Use the 4:1 ratio** (4:1 = speed you think in relation to the speed people talk) to your advantage—stay on task by mentally reviewing, paraphrasing, summarizing (etc.) what the speaker is saying. Work to tune out distractions and avoid spending most of the time planning your response (= *illusion* of listening)

6) **Use two-way communication** when understanding is particularly important (both your understanding and others' understanding) -- seek and provide feedback. Make sure people know early in the process that they will have opportunities to speak up, then at the appropriate times, sincerely invite the interaction (e.g., "I'd really appreciate getting another perspective on this; I want to make sure I'm not missing something") and *wait* ... pause for 7-10 seconds (count to yourself). If needed, invite again it: "I really want to hear any thoughts or questions you have about this."

7) **Recognize** when you have stopped listening carefully and **develop techniques to get back on track:** take a break, ask a question, ask someone to summarize (let them know ahead of time), take sips of water, have a small mint, others....

8) **Build self-awareness and skills**: Get feedback on your own style and habits from a trusted colleague or via a recording. Are you sending the messages you intend? Pay active attention to others' nonverbal behaviors, and whenever possible check your perceptions—were your interpretations accurate?

Kelly Tait: [redacted]

Helping Others Listen Better

1) ***Make it clear what's in it for them.***

- ⊗ People "tune in" more if there's a clear reason to listen (a benefit for the listeners).
- ⊗ State the overall goal and/or the common ground of everyone involved in the interaction near the beginning, and touch back on it.

2) *Make it active* *(and make it clear that it will be active)* - Listeners work harder to listen effectively when they know they are going to be *active* participants in the communication process, such as:

- ⊗ When they will have to answer questions
- ⊗ When they can ask questions and seek clarification
- ⊗ When they are asked to note information and/or complete a task with it

3) When you need to talk about something for a longer period of time, help listeners stay with you by giving them a framework that includes ***a preview, signposting, transitions, and a summary.***

- ⊗ *Preview:* Give a "mental map" of what's ahead (an overview of what you'll be talking about—"chunked")
- ⊗ *Signpost:* Verbal "signposts" help the listener keep track of the message more easily. ("The *second* point...") Also "flag" important information ("It is especially important that....").
- ⊗ *Transition* between segments of a proceeding or categories of a topic by making it clear how the parts connect (e.g., "Now that we've discussed ___, the next step is to....").
- ⊗ *Summarize* what's been said/done at relevant points (after major segments and at the end, for instance).

4) *Use supporting materials* - The task of listening is almost always made easier if you more than one channel (more than one sense) is used, and people are much more likely to remember it if they receive it through more than one channel. use the visual channel in addition to the auditory one,.

- ⊗ Consider if it would be helpful to the listeners to have visual information in addition to oral information.
- ⊗ Consider when supplementary written material might be useful (to read ahead of time or to read after).

5) *Create an appropriate listening environment:* Control the factors you can (sound level, temperature, etc.) that could make the room more conducive to effective listening.

Kelly Tait: [redacted]

Tips for Providing Constructive Feedback

Prof. Kelly Tait

Feedback: "Process in which the effect or output of an action is 'returned' (feedback) to modify the next action … In an organizational context, feedback is the information sent to an entity (individual or a group) about its prior behavior so that the entity may adjust its current and future behavior to achieve the desired result." (http://www.businessdictionary.com/definition/feedback.html)

Effective leadership communication often includes providing feedback to others. To make it more likely that the person you're talking to stays open to the message and less likely that she or he becomes defensive:

1. Begin with a positive statement.
2. Be specific—it will be clearer both what you mean & what to do about it.
3. Be honest but tactful (a real skill!).
4. Personalize your comments.
   --Use the person's name occasionally.
   --Use "I language" in place of "you" statements—describing your reactions can reduce defensiveness and establish rapport.
5. Reinforce the positive. Don't forget to mention what s/he has done well.
6. Let the person know what's in it for her/him (positive consequences of getting the feedback).
7. Problem-solve the negative. Propose ways to overcome problems.
8. End with a positive statement. Sandwiching the negatives between positives makes them more palatable.

Questions to Ask When Planning Feedback

(adapted from "The Art of Giving and Receiving Feedback" by Pamela Lizardi)

--Can I identify and accurately describe the behavior that needs to be redirected or reinforced, as well as that behavior's impacts on others? [Do I have specific examples of the behavior/effects?—This is especially important when the person might be resistant to the feedback.]

--Can I describe the results that I hope will result from the redirection or reinforcement? – The purpose of feedback is to plan for the future.

--How will I ensure that the person receiving the feedback understands the expectations for his/her behavior? [Are the expectations fair and reasonable? Is the recipient capable of meeting them?]

--Am I the best person to provide the feedback to this individual?

Kelly Tait: [redacted]

Guidelines for **Receiving** Feedback Constructively

1. Focus on the content, not the person.

- Assume positive intent on the part of the feedback giver.
- Be objective. Look for the truth in what you are hearing.

2. Make a commitment to listen calmly, openly, and attentively.

- Breathe deeply. This can help you relax.
- Tune in fully: most of us don't feel heard and your willingness to listen will often help "turn down the heat" quickly.
- Monitor any negative reactions you are having (for example, "My heart is pounding," "I can feel myself getting defensive," "I don't think this person likes me," and so forth) to keep them from escalating. Then use positive self-talk to balance the reaction (e.g., "Stay open minded," "I will learn something").
- Listen carefully. You are receiving a precious and fragile gift. Treat it with care and appreciate it for what it is.

3. Seek clarification or examples.

Don't antagonize the person by overwhelming them with questions. Ask clarifying questions only if you really don't understand something (rather than just not liking it), and do so in a non-defensive manner, (for example, ask, "Could you give me an example of _____, so I can understand what you mean?" not, "How can you say _____?").

4. Acknowledge the feedback giver's point of view, even if you don't agree with his or her interpretation.

- Point to common goals and objectives (e.g., "I know we both believe in ___").
- Express your willingness to engage in mutual problem solving.

5. Avoid defending yourself or over-explaining why you did what you did.

If necessary, take time before responding to make sure you are not being defensive. Even if you think you're right, consider the possibility that you might be wrong.

6. Thank the person for the feedback.

Be sincere -- consciously hold the thought that the feedback really could be helpful. Invite future feedback if you think that also could be constructive.

Adapted by Kelly Tait from *Retreats That Work, Expanded Edition*, © 2006 by John Wiley and Sons, Inc., among other sources.

Kelly Tait [redacted]

Human Tendencies That Can Affect Your Communication—and Leadership—Without You Even Realizing It

Kelly Tait

Much of our processing about the world and about other people is at an unconscious level. There are built-in, common errors in that unconscious processing that create distortions in the way we perceive reality; they lead to predictable mistakes in how we interpret others' behavior and how we respond to them. As a leader, you need to be able to recognize and offset these cognitive errors in yourself so you are able to see people and situations as they are to respond effectively.

1) **Framing Error**: Drawing different conclusions based on how information is presented—what "frame" it is presented in affects what we see

   --"Frame" narrows our focus, --lean on context much more than we realize, --example: when consider a loss: prone to take risks; when consider gains: we're more conservative

2) **Anchoring Error**: If we start with an initial position or value, we then adjust from there—and have the tendency to be biased toward the initial value

   --Rely too heavily on (anchor to) one trait or piece of information, -- adjustments (from starting point) typically are insufficient

3) **Availability Bias**: Tendency to base projections of probability/plausibility on how easily an example comes to mind

   --More common examples usually recalled better & faster, --BUT: biased toward vivid or emotionally charged examples, over-reported incidents, recency of example

4) **Confirmation Error**: Tendency to search for, interpret, and put more weight on information that confirms our preconceptions

   --Selective search & rationalization, --can be a reflex-like rejection of evidence that contradicts the accepted paradigm

5) **Attribution Error (and Pro-Self Bias)**: Tendency to over-estimate internal (personality) factors and underestimate external (situational) factors when explaining the behavior of others, but to do the opposite for ourselves:

   --For *others*: state/situational/external factors responsible when successful ("Good luck") vs trait/personality/internal factors for lack of success ("Lazy");

   --For *ourselves*: trait/ personality/internal factors responsible for our success ("I'm smart") vs state/situational/ external factors when not successful ("Bad luck")

6) **Overconfidence Error**: Tendency to think that increased confidence in a decision means increased accuracy

   --Those who jump to a decision early are the most confident but often are not the most accurate, --Confirmation Error contributes to this as well

7) **Affect Error (and Familiarity Principle)**: Tendency to judge people, objects, or events by an immediate feeling of goodness/badness; + develop preferences because familiar

   --Unfamiliar more likely deemed "bad" or "wrong," --feelings from an unrepresentative experience can override factors that should be considered

Kelly Tait: [redacted]

Resources: Leadership and Communication Skills

Compiled by Kelly Tait

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10. Marquet, L. David. ***Leadership Is Language: The Hidden Power of What You Say--and What You Don't***. 2020, Portfolio Publishing. Good book with effective examples of how changing the wording of questions can change the quality and quantity of answers.

Kelly Tait: [redacted]

11. Steinbrecher, Susan. "**4 Emotionally Intelligent Skills That Will Transform How You Handle Tense Conversations**," (12/2018) *Inc.* Self-regulation practices https://www.inc.com/susan-steinbrecher/4-emotionally-intelligent-skills-that-will-transform-how-you-handle-tense-conversations.html

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13. Weisberg, Mark, and Jean Koh Peters, "**Experiments in Listening**" *Journal of Legal Education* September 2007. Interesting, detailed article on listening in the field of legal education as well as in other professional and personal contexts. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=601182

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15. Center for Creative Leadership https://www.ccl.org/insights-research/