

EAS-533

NEGOTIATION SKILLS IN ENVIRONMENTAL DISPUTE RESOLUTION

Fall 2018 (September 6 – October 25)

Tuesdays, Thursdays 3:00-6:00 p.m.

Room 2024 Dana

(3 credits)

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All of us negotiate. Negotiation occurs in the informal bargaining that characterizes interpersonal interaction such as that between parent and child, debates over the resolution of multiple party environmental disputes, and international climate change talks. *Negotiation is simply the process of jointly making decisions in the face of divergent human interests.* It involves reconciling different interests in an environment that often is characterized by many interested parties operating with incomplete information, uneven power, unclear preferences, and incentives that tend to heighten rather than diminish conflict.

While the term bargaining has a negative connotation -- the image of a sleazy used car salesman trying to put something over on the innocent young couple -- negotiation is a necessary part of life in a heterogenous or pluralistic society. Diversity creates a need for mechanisms to reconcile differences. In the best of worlds, effective negotiation is a process of joint problem-solving that can result in outcomes that leave all parties better off.

This course develops skills in bargaining and negotiation as they can be applied to the resolution of environmental and other disputes. It will help a student prepare for and carry out a negotiation, become a more effective communicator and listener, and understand the psychological dimensions inherent in negotiation processes. In addition, the course will examine mechanisms for assisting negotiations -- facilitation and mediation.

We believe that negotiation skills are best developed through an iterative process that presents frameworks for negotiation analysis and allows students to exercise them through experiential learning. Accordingly, the course will employ a series of gaming simulations that allow students to engage in controlled bargaining situations, followed by debriefings that critique strategy and styles. Drawing on literature in the areas of decision analysis, social psychology, and public policy, a framework for analysis will be interwoven into the debriefings of the simulations.

Readings

Four books are required:

Getting to Yes: Negotiating Agreement Without Giving In, 2nd edition, by Roger Fisher, William Ury and Bruce Patton (New York: Penguin Books, 1991);

Getting Past No: Negotiating Your Way from Confrontation to Cooperation by William Ury (New York: Bantam Books, 1993);

Difficult Conversations: How to Discuss What Matters Most by Douglas Stone, Bruce Patton and Sheila Heen (New York: Penguin Books, 2000);

How to Make Meetings Work by Michael Doyle and David Straus (New York: Jove Books, 1993).

All four books are available in the bookstores, and copies are on reserve at the University Reserves desk in the Shapiro Science Library.

Assignments and Grading

Since the course stresses the development of intuition through experiential learning, we want to encourage you to be as active a participant in the learning process as possible. For that reason, your grade for the course will be based on two elements:

- The quality and level of preparation and participation in simulations and other class sessions (one-half of grade);
- A collection of short written reflections on what you learned in the simulations, other class sessions, or other personal/professional negotiations in which you have participated. We are calling this a journal (one-half of grade).

Journal Assignment

We ask that you keep a written journal on a weekly basis that collects your thoughts on the lessons you drew from the negotiation exercises or speculates on strategies, behaviors, or issues you found of particular interest. These entries are intended to be reflective and useful to you in the future. Entries should be concise and thoughtful rather than rambling. We ask that you organize your thoughts prior to writing, so that the entries are better than stream of consciousness writing. *An appropriate length for weekly installments is 3 to 4 double-spaced typed pages* (12 point, Times New Roman).

Journals will be collected at three points in the semester:

First Installment (*Weeks 1-3 Reflections*; approx. 8 pages total)

Due Friday, September 21 by 5:00 pm

Second Installment (*Weeks 4-6 Reflections*; approx. 10 pages total)

Due Friday, October 12 by 5:00 pm

Final Installment (*Negotiation Planning Guide/Checklist*; approx. 3-4 pages)

Due at final class meeting, Thursday, October 25

Obviously there is no "right answer" to this assignment. We will base this portion of your grade on the level and quality of thought and effort that we see reflected in your writing. We also view the journals as a way to engage in a dialogue with each of you on topics that are of your choosing and interest.

Journal entries can be of any of the following type:

1. For any or all of the six major simulations, ask yourself:
 - a. What did I learn from participating in and observing the behavior of others in the negotiation?
 - What worked? Why?
 - What didn't? Why?
 - What was particularly challenging? Why? What strategies might effectively deal with these challenges?
 - What do these reflections suggest about my preparation and behavior in future negotiations?
 - b. What might I have done differently if I were doing it all over again?
 - c. What skills did the other participants demonstrate effectively?
 - Who got the best outcome for their role? Why? What was their strategy?
 - Who got the worst outcome for their roles? Why? What might they have done differently?
2. Since we all are involved in a range of negotiations outside of class, you may analyze a situation you were involved in by asking the above questions and describing the parties in the negotiation and their interests.
3. Effective negotiation involves developing personal skills of a variety of kinds. Listening, expressing feelings such as anger, pride or disappointment, being assertive, interrupting, being considerate, changing your mind, being stubborn, being spontaneous, confronting, disagreeing in an agreeable way are all behaviors that can be of value in a negotiation. Almost any such behavior can be employed to good use in a negotiation. You can use a journal entry to think about skills that you possess and how best to employ them in negotiations, or to reflect on skills that you want to develop and demonstrate more fully. For example, ask yourself the following questions:
 - a. What personal skills that can be employed in negotiation do I need to develop?
 - b. What would the improved skill look like in practice?
4. The topic areas that relate to negotiation are broad and contain a host of interesting research and normative questions. A journal entry can be triggered by an idea that occurs to you in class, or a question that we don't quite answer. You have the opportunity to spend a little time reflecting on it.

5. From time to time, we may give you a specific question that we want you to think about in journal entry for the week.
6. For your **Final Journal Installment** we ask that you synthesize what you have learned during the course, both about yourself as a negotiator as well as about the negotiation process, into a "planning guide" or checklist that you can refer to in the future as you prepare for and participate in negotiation situations. What do you want to remind yourself to do and think about before a negotiation? What do you want to be aware of during the negotiation? This guide should be tailored to your specific needs, and be structured so that you can easily reference it in the future.

In general, *the journal should not be primarily a play-by-play account of what you did, but rather of what, upon reflection, you have learned from what you and others did.* Nor should it regurgitate the lessons we draw out of the simulations during our class debriefings. Rather, it should expand on our in-class discussions. We hope that the completed journal will be of use to you when you get into future negotiations. We encourage you to make your journal entries regularly after each negotiation/class. Stale entries are less useful and interesting.

Ground Rules

Since simulations are used as a primary teaching device, several ground rules need to be established about the logistics of the course.

1. Attendance is required. Because many of the simulations are multi-party negotiations, one absent party affects six or eight other students.
 - a. If you are sick, however, we would prefer that you not expose the rest of the class. In the case of illness, contact one of the instructors as soon as you can so that we can rearrange simulation groupings.
 - b. If you *must* be absent for reasons other than illness, let one of the instructors know by the end of the first two weeks of the course so that a substitute can be arranged. Since each class session in this compressed course is essentially a week's worth of material, absences for reasons other than illness will result in a half grade reduction in a student's final course grade.
2. Preparation for the simulations is critical. Again, since individual learning depends on joint efforts, inadequate preparation harms everyone's experience.
3. Keeping role descriptions confidential is necessary. We use these simulations under an agreement that requires that the individual role descriptions are not copied or distributed. Sharing role descriptions across the class prior to a negotiation will damage the experience and the lessons that can be drawn. Similarly, giving this information to others who may participate in future simulations destroys the effectiveness of the exercises and violates our agreement with the authors.
4. Use of laptop and tablet computers, cell phones and other electronic devices are not permitted during plenary (full-class) sessions because they are distracting to users and those seated around them. Use of laptops is permissible during group activities.

COURSE OUTLINE

WEEK 1

September 6 (THURSDAY)

Introduction to the Course
 What is Negotiation?
 Course Objectives
 Two Parties, One Issue
 Simulation: Appleton v. Baker
 Debrief Appleton v. Baker
 The Characteristics of Distributive Bargaining
 Theory of Interest-Based (Principled) Negotiation

Assignments for Sept 6-11:

Prepare for DEC v. Riverside simulation
 Read Fisher, Ury, and Patton, *Getting to Yes*
 Read White, "The Pros and Cons of 'Getting to Yes'" and Fisher response
Weekly Journal Entry (approx. 1-2 pages for first week)

WEEK 2

September 11 (TUESDAY)

Two Parties, Multiple Issues
 Simulation: DEC v. Riverside

September 13 (THURSDAY)

Debrief DEC v. Riverside
 Integrative Bargaining
 Creating vs. Claiming Value
 Negotiation Analysis
 Preparing for a Negotiation

Assignments for Sept 13-18:

Prepare for Lake Wasota Fishing Rights simulation
 Read Ury, *Getting Past No*
 Complete the Thomas-Kilmann Conflict Mode Instrument and turn in scores by 9/20
Weekly Journal Entries (approx. 3-4 pages)

WEEK 3

September 18 (TUESDAY)

Multiple Parties, Multiple Issues
Simulation: Lake Wasota Fishing Rights

September 20 (THURSDAY)

Debrief Lake Wasota Fishing Rights
Power
Simulation: A Job for Terry Smith

Assignments for Sept 20-25:

Read: Allman, "Nice Guys Finish First"

Read: Stone, Patton and Heen, *Difficult Conversations*, Intro & Chaps 1, 2, 3, 5, 8-11

Read: Jamil Mahuad "On Using These Ideas in the 'Real World'"

Weekly Journal Entries (3-4 pages)

First Journal Installment due Friday, September 21 by 5 p.m. (8 pages total)

WEEK 4

September 25 (TUESDAY)

Psychological Factors in Negotiation
Individual Negotiator Cognition
Debrief: Terry Smith
Interparty Dynamics: Escalation, Social Traps, Perspective-Taking
Debrief: Thomas-Kilmann Conflict Mode Instrument

September 27 (THURSDAY)

Communication in Negotiation
Active Listening, Congruent Sending
Asking and Reframing Questions
Spinthrift Mills Exercise
Gender Differences in Negotiation

Assignments for Sept 27-Oct 2:

Prepare for Waste-to-Energy/Dioxin Simulation

Read/prepare inventing options exercise

Weekly Journal Entries (3-4 pages)

WEEK 5

October 2 (TUESDAY)

Negotiations With Technical Complexity/Uncertainty
Simulation: Waste-to-Energy/Dioxin

October 4 (THURSDAY)

Debrief Waste-to-Energy/Dioxin simulation
Dealing with Technical Differences and Disagreements
Exercise: Inventing Options, Packaging Issues

Assignments for Oct 4-9:

Prepare for A Development Dispute in Hawaii simulation
Read: Doyle & Straus, *How to Make Meetings Work*, chapters 2, 3, 6, 7
Weekly Journal Entries (3-4 pages)

WEEK 6

October 9 (TUESDAY)

Facilitated Negotiation
Simulation: A Development Dispute in Hawaii

October 11 (THURSDAY)

Debrief Development Dispute in Hawaii simulation
Coalitions/Representation
Facilitation

Assignments for Oct 11-18:

Prepare for and negotiate Woodstove simulation
Skim: Doyle & Straus, *How to Make Meetings Work*, chapters 8-16
Weekly Journal Entries (3-4 pages)
Second Journal Installment due Friday October 12 by 5 pm (approx. 10 pages total)

WEEK 7

October 16 (TUESDAY – FALL BREAK)

Optional in-class time to negotiate Woodstove simulation (or simulation will be negotiated outside of Fall Break time as arranged)

October 18 (THURSDAY)

Negotiated Rulemaking
Debrief Woodstove simulation
Single Negotiating Text
Video: Hacker-Starr Negotiation

Assignments for Oct 18-23:

Prepare for Mountain View Farm simulation

WEEK 8

October 23 (TUESDAY)

Two Party, Multiple Issues
Simulation: Mountain View Farm
Debrief Mountain View Farm

October 25 (THURSDAY)

Negotiation Styles
Taming the Hard Bargainer
Building Negotiation Intuition
Course Evaluations

*Final Journal Installment -- Your Negotiation Planning Guide/Checklist --
Due in-class October 25 (approx. 3-4 pages)*