



MODULE 2

DEVELOPING YOUR NEGOTIATION SKILLS

OVERVIEW

This module introduces students to a useful life skill – negotiation. Most students already use this skill every day when they negotiate with their parents to get permission to go out, stay up, get new clothes, etc., or with their friends to decide which activity they will do that day. Of course, business negotiations have greater consequences and for this reason we might think of them differently. Negotiation is a process, which when followed, can improve the odds for great results. This module introduces students to negotiation concepts and skills, which are integral to any real estate transaction. Students are invited to look at different types of negotiation styles, with a particular focus on the differences between interest-based and position-based negotiating. Students are asked to analyze different negotiation scenarios and identify the most appropriate negotiation strategy. This module will prepare students to analyze and resolve conflicts through a multi-perspective approach in future modules.

Learning Objectives

- To introduce students to key negotiation concepts, strategies, and tactics.
- To foster an appreciation and facility in both interest-based and position-based negotiating.
- To cultivate student listening, speaking, reasoning, and persuasive skills.
- To encourage empathetic understanding and a multi-perspective approach to analyzing and resolving conflicts.

Materials

- Copies of *Introduction to Negotiation* (one per student)
- Copies of the *Negotiation Scenarios* (one per student)
- A deck of cards (one deck per class)
- Copies of *Developing Your Negotiation Skills* (one per student)
- Copies of *Additional Negotiation Exercises* (optional)

Teaching and Learning Strategies

1. Introduce the topic of negotiation by presenting the following movie clips, which highlight various types of negotiations, to students:

- *Just Go With It*: <https://www.youtube.com/watch?v=898OUCyBulM>
- *Erin Brockovich*: <https://www.youtube.com/watch?v=5Jdk3riKKwo>
- *Summer School*: https://www.youtube.com/watch?v=LzdoMQL_jR8
- *The Godfather*: <https://www.youtube.com/watch?v=MSa51BOE72Q>
- *Moneyball*: <https://www.youtube.com/watch?v=iV8yuhQZXkE>

Discuss the following as a group:

- Which negotiations were the most successful? Why?
- Which negotiation tactics did you observe?
- What kinds of behaviours make someone more or less successful when negotiating?

2. Provide an overview of basic negotiation concepts, types, styles, tactics, and techniques by having students review the handout, *Introduction to Negotiation*. Check for understanding and clarify any points that are unclear.

Teaching and Learning Strategies

3. Once students have a better understanding of negotiation, have them revisit the movie clips and discuss the following for each one:
- Was the negotiation distributive or integrative?
 - Did the negotiators adopt a competitive or cooperative style?
 - What tactics and techniques were used in the negotiation?

Have students watch the following video, which provides an analysis of the negotiation used in the first movie clip:

Analysis of the *Just Go With It* Negotiation - <https://www.youtube.com/watch?v=BAj2j26kuzo>

4. In pairs or small groups, have students complete the *Negotiation Scenarios* exercise. Students should identify which would be the most appropriate negotiation strategy (i.e., distributive or integrative) and style (i.e., competitive or cooperative), and identify two possible negotiation tactics that could be used in each scenario. Some scenarios may justify using either a distributive or integrative approach, however students should be prepared to provide a rational justification for their choice. Discuss the answers as a class.

Teacher's Key – Negotiation Scenarios

Answers will vary. Some possibilities are as follows.

SCENARIO	NEGOTIATION STRATEGY	NEGOTIATION STYLE	NEGOTIATION TACTICS
1. Purchasing a souvenir from a street vendor while on vacation	Distributive	Competitive	Ultimatum or walkaway
2. Couple deciding on which movie to watch at the theatre: one wants an action flick, the other a romantic comedy	Integrative	Cooperative	Log rolling
3. Consumer visits car dealership to buy a new car	Distributive	Competitive	Early anchoring or splitting the difference or walkaway
4. A married couple tries to decide where to spend their two-week vacation: one wants to go to the mountains, the other wants to go to the seashore	Integrative	Cooperative	Expand the pie or focus on interest or log rolling
5. Owner of rental car agency visits dealership to buy new cars	Distributive or integrative	Cooperative	Focus on interest or open information exchange

Teacher's Key – Negotiation Scenarios

Answers will vary. Some possibilities are as follows.

SCENARIO	NEGOTIATION STRATEGY	NEGOTIATION STYLE	NEGOTIATION TACTICS
6. Two rural communities in discussions about using the only local water well	Distributive or integrative	Cooperative	Focus on interest or objective criteria
7. Company needs to downsize and lay-off workers, but is uncertain about how many to lay-off from each of the different departments	Distributive or integrative	Cooperative	Focus on interest or objective criteria
8. Renting a new apartment	Distributive	Cooperative	Objective criteria
9. New parents deciding on who will wake up to feed the baby in the middle of the night	Integrative	Cooperative	Log rolling
10. Canadian rug seller wants to buy rugs from supplier in Turkey	Distributive or integrative	Cooperative	Ultimatum or walkaway

- Review the handout *Developing Your Negotiation Skills* with students, including the Prisoner's Dilemma and the instructions for the negotiation game. Have students complete ten rounds of the game and record their results in the chart

provided. Discuss the results and the discussion questions as a class. Begin to make connections on how these negotiation skills link to the various situations where negotiation is required in the housing context.

Extension

For additional practice with negotiation, have students complete one or more of the exercises in the handout, *Additional Negotiation Exercises*.



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INTRODUCTION TO NEGOTIATION

BASIC NEGOTIATING CONCEPTS

Positions – Positions are “what” the negotiators say they want. They are really solutions that have been proposed by the negotiators. Positions are based upon the interests of the parties; interests are usually not disclosed, at least not in competitive negotiations. In most negotiations people take and then give up a series of positions. Behind every position lie many interests.

Interests – Interests are “why” the negotiators take the positions they do. Interests lie behind the positions of the negotiators. Interests represent the basic needs to be met. Money and price are not interests in themselves. Money represents purchasing power, the ability to acquire other needs, status, or power itself. Understanding interests is the key to understanding “win-win” negotiating. In many negotiations, the interests are never explicitly discussed. In fact, interests are usually kept secret. Successful “win-win” negotiating requires finding a way to disclose interests without being taken advantage of.

Best Alternative to a Negotiated Agreement (BATNA) – BATNA represents the best result that a negotiator can get somewhere else if an agreement cannot be reached with the other party. In other words, a BATNA is the alternative that the party will select if they must walk away from the negotiation. If the negotiation involves finalizing a deal, the BATNA is to walk away to another party who can offer you a better deal. If, however, the negotiation involves a lawsuit, the BATNA is to go to court.

Bottom Line – The bottom line or reservation price is the position at which the negotiator will walk away from the negotiation. Relative to a purchaser, it is the highest price a purchaser is willing to pay for goods or services. Relative to a seller, it is the lowest price at which a seller is willing to sell the goods or services. The bottom line is also known as the “reservation price.” If the negotiator cannot get at least their bottom line in the negotiation, they will vote with their feet and walk away from the deal.

Zone of Agreement – The zone of agreement represents the difference between the bottom lines of the parties. If there is no overlap in the bottom lines of the parties, no agreement is possible.



TYPES OF NEGOTIATION

People do not realize it but we negotiate every day in multiple situations. Whenever a decision must be made, it could be a negotiating exercise. Which movie do we go see? What restaurant do we eat in? For example, negotiating the purchase of a car is distinct from going to the grocery store. There, we take an item off the shelf, put it in our basket, and pay the sticker price at the cash register. There is no negotiation involved. Buying a stereo or TV, however, could involve negotiating the price or what is included (e.g., the warranty, delivery, installation). Similarly, getting a job and determining salary and employment conditions often involves negotiation. These situations do not have the same ramifications of a negotiation to buy a multi-million dollar business or property. The higher the stakes of the negotiation, the more thought and preparation that should be invested into the negotiation process.

1. DISTRIBUTIVE NEGOTIATION

Distributive negotiation is also sometimes called positional or hard-bargaining negotiation. It tends to approach negotiation on the model of haggling in a market. In a distributive negotiation, each side often adopts an extreme position, knowing that it will not be accepted, and then employs a combination of trickery, bluffing, and brinksmanship in order to give in as little as possible before reaching a deal. This is a “zero sum” negotiation where the negotiator claims as much of the ‘pie’ as possible. Usually there is just one issue for negotiation and more for one party means less for the other. Although the goals of the parties are in direct conflict, a negotiator can adopt either a competitive or cooperative negotiation style in a distributive bargaining situation.

DISTRIBUTIVE NEGOTIATION STRATEGY IDENTIFIERS

A distributive negotiation strategy is generally appropriate where:

- Parties do not know each other very well
- Parties are unlikely to work together in the future
- Negotiation is over a limited number of things or issues (e.g., price only)

NEGOTIATION TACTICS AND TECHNIQUES

- **Early Anchoring:** Anchoring is fixing or establishing the focus of discussion around a certain point, whether it is a figure, a range, or an issue, simply by asserting it. Early anchoring involves being the first party to make an offer that is beyond or at the fair margin of the range of credible or reasonable offers. This tactic has the effect of fixing the apparent bargaining range around this point, which is typically favourable to the person who anchors early.
- **Feinting:** Misleading the other party as to your true interests or objectives by stressing goals or interests that are in fact unimportant to you and then giving them up for concessions from the other side that are important to you. Such feints help to disguise your true bottom line and interests.
- **Misleading Concession Pattern:** It is common to make smaller and smaller concessions as negotiations converge on a negotiator’s bottom line. Knowing this, negotiators can mislead the other side by using a concession pattern that converges at a point above the actual bottom line. The other side, reading the concession pattern, may mistakenly conclude the conceiver has reached his/her bottom line and therefore settle in order to save the deal.
- **Splitting the Difference:** When the parties are stuck at different positions, one solution is to each compromise half the difference. For example, with offers at \$600 and \$1000, the compromise would be \$800. This technique gives the “appearance” of fairness.
- **Ultimatum (i.e. Take It or Leave It):** This occurs where a party claims to be submitting their final offer. The other side must take the offer or the negotiation is over. In reality, nothing prevents any party from making another offer at a later time.


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- **Walkaway:** This is a classic tactic in bazaars and markets. If you cannot get the price you want, walk away from the deal and maybe the other party will follow you. This tactic is a bluff. To work effectively, you have to be able to truly walk away from the deal and exercise your BATNA.
- **You Will Have To Do Better Than That (YWHTDBTT):** If the other side is told “you will have to do better than that,” often, they will make you a better offer. Some people claim not to even consider the first offer. They just ask for a better offer, no matter what the first offer was. They assume that the person who made the offer made an excessive demand. This is a particularly useful technique when the other side anchors first, forcing them to re-anchor negotiations around a point closer to your own desired result.

2. INTEGRATIVE NEGOTIATION

Integrative negotiation is also sometimes called interest-based or principled negotiation. It is a set of techniques that attempts to improve the quality and likelihood of “win-win” agreements with parties working together to increase the amount of resources to maximize mutual gain. While distributive negotiation assumes there is a fixed amount of value (i.e., a “fixed pie”) to be divided between the parties, integrative negotiation often attempts to create value in the course of the negotiation (i.e., “expand the pie”). Integrative bargaining often requires two or more issues so that trades can be made. The theory is that parties often have different underlying interests that can be integrated or reconciled to create joint gains that improve the situation of both parties. A negotiator can adopt either a competitive or cooperative negotiation style in an integrative bargaining situation.

INTEGRATIVE NEGOTIATION STRATEGY IDENTIFIERS

An integrative negotiation strategy is appropriate where:

- Parties know each other
- Parties are likely to have further interactions in the future

NEGOTIATION TACTICS AND TECHNIQUES

- **Focus on Interests not Positions:** “Positions” are “what” negotiators say they want; “interests” are “why” they take the positions. The interests of the opposing party are discovered by asking questions and putting yourself in the other’s shoes. This creates an opportunity to devise solutions that address these underlying interests. Although problem-solving negotiators may be willing to disclose their interests, be aware that competitive negotiators will try to learn your interests without revealing their own in order to gain an advantage.
- **Expanding the Pie (i.e. Create Value):** Sometimes it is possible to brainstorm and increase the resources to be bargained for. If the resources can be increased then perhaps both sides can get what they want, or at least find a sufficiently satisfying alternative. For instance, a cell phone retailer may not decrease the price but might be willing to throw in voicemail and call display into a plan package for the same cost.
- **Open Information Exchange:** This involves freely and honestly disclosing information to help the other side understand your underlying interests, objectives, and priorities. Sometimes something critical to one side is a minor concession to the other, and vice versa.
- **Log Rolling:** If two or more issues are in dispute, the negotiators may be able to do a series of trade-offs. One side gets their top priority on the first issue and the other side gets their top priority on the second issue.
- **Objective Criteria:** Instead of allowing the negotiation to be determined by a contest of power or to become a battle of wills, negotiators can select one or more objective criteria which can be used as standards for a ‘fair’ settlement (e.g., market price).



NEGOTIATION STYLES

A negotiator can adopt either a competitive or cooperative negotiation style in both distributive and integrative bargaining situations.

1. COMPETITIVE NEGOTIATION STYLE

Competitive negotiators want to “beat” their opponents. They use high demands, threats, and make few concessions. They generally try to undermine their opponent’s confidence and seek the maximum for themselves.

2. COOPERATIVE NEGOTIATION STYLE

Cooperative negotiators want to shift the nature of negotiations and “work with” their counterparts to make it more collaborative. Instead of moving from position to counter-position to compromise, negotiators try to identify their interests prior to the development of solutions. They use reasonable opening offers, show good faith, and initiate the exchange of mutual concessions. Once interests are identified, the negotiators then jointly develop a wide-ranging set of alternatives, and then choose the best alternative. Cooperative negotiators seek a fair and just settlement.


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NEGOTIATION SCENARIOS

For each of the following scenarios, identify what would be the most appropriate negotiation strategy (i.e., distributive or integrative) and style (i.e., competitive or cooperative), and identify two possible negotiation tactics that could be used in each scenario. Some scenarios may justify using either a distributive or integrative approach. Provide a short rationale for your choices in each column.

SCENARIO	NEGOTIATION STRATEGY	NEGOTIATION STYLE	NEGOTIATION TACTICS
1. Purchasing a souvenir from a street vendor while on vacation			
2. Couple deciding on which movie to watch at the theatre: one wants an action flick, the other a romantic comedy			
3. Consumer visits car dealership to buy a new car			
4. A married couple tries to decide where to spend their two-week vacation: one wants to go to the mountains, the other wants to go to the seashore			
5. Owner of rental car agency visits dealership to buy new cars			



SCENARIO	NEGOTIATION STRATEGY	NEGOTIATION STYLE	NEGOTIATION TACTICS
6. Two rural communities in discussions about using the only local water well			
7. Company needs to downsize and lay-off workers, but is uncertain about how many to lay-off from each of the different departments			
8. Renting a new apartment			
9. New parents deciding on who will wake up to feed the baby in the middle of the night			
10. Canadian rug seller wants to buy rugs from supplier in Turkey			



DEVELOPING YOUR NEGOTIATION SKILLS

THE PRISONER'S DILEMMA

The prisoner's dilemma is a scenario that helps to demonstrate the tension between the desire to cooperate versus the inclination to act in one's own self-interest. The name "Prisoner's Dilemma" refers to an imaginary situation in which two people have been arrested for committing a crime together. The police are interrogating each of the two suspects in separate rooms; the suspects cannot communicate with one another. The suspects are guilty, but the police do not have enough evidence to convict them. If neither suspect confesses, the police plan to charge them each with a lesser crime that will put them both in jail for one year. In order to get a conviction for the full crime, they will need at least one suspect to confess. However, if either one confesses, implicating their partner, the confessor will get immunity for their part in the crime, and will be released free of charge. Meanwhile, their partner is convicted with the maximum sentence. If both suspects confess, both will get harsh sentences, but not as harsh as if their partner sells them out. The diagram below demonstrates the four possible outcomes of this scenario:

Criminal A

		Criminal A	
		Cooperate (Keep Quiet)	Defect (Confess)
Criminal B	Cooperate (Keep Quiet)	A gets one year B gets one year	A goes free B gets 10 years
	Defect (Confess)	B goes free A gets 10 years	A gets 7 years B gets 7 years

NEGOTIATION IN A REAL ESTATE AND HOUSING CONTEXT

Negotiation is an essential part of a number of real estate and housing law matters, including negotiating a rental lease with a landlord, a mortgage with a lender, and the purchase and sale of a home. You will be playing a game to help you begin thinking critically about the role of negotiation in this context. Unlike the original Prisoner's Dilemma scenario, which looks at incentives to avoid punishment, this game looks at how this same structure of incentives can work when participants are offered rewards. The same dilemma of cooperation versus self-interest applies.

INSTRUCTIONS

Pick a partner and ensure that each one of you has both a red card and a black card. Decide which one will be Player A and which one will be Player B. The card you choose to play represents whether or not you decide to cooperate with your partner. The possible outcomes are shown in the chart below. Black cards represent a decision to cooperate. Red cards represent a decision to act in your own self-interest. When your teacher calls on you or your partner, you must both decide which card to play. To play a card, hold it to your chest, face down and reveal them at the same time. Engage in ten rounds of play with your partner and record the results in the chart provided.

Player A

		Player A	
		Cooperate (black)	Compete (red)
Player B	Cooperate (black)	A gets \$3 B gets \$3	A gets \$5 B gets nothing
	Compete (red)	B gets \$5 A gets nothing	A gets \$2 B gets \$2

Results

Round	Your Card	Your Partner's Card	Your Earnings
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
Total			

Discussion Questions

1. Which strategy did you use in the game? Did you adopt a distributive or integrative strategy throughout, or vary the strategy in individual rounds? Why?
2. What was the thought process behind your decisions to either cooperate or compete?
3. What negotiation tactics did you apply in the game?
4. Were there any trends that emerged over time? If so, what?
5. In the card game, we used imaginary money as the incentive. What would be some incentives in a real life real estate situation (e.g., buying a home, renting an apartment, applying for a mortgage, etc.)?

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ADDITIONAL NEGOTIATION EXERCISES

THERE AREN'T ENOUGH ORANGES!

Divide students into groups of three (or three larger groups) and assign each person to be Buyer #1, Buyer #2, and the Mediator. Distribute the "Facts Known to All" to each person, and the additional facts according to the relevant role. 15-20 minutes into the negotiations, give the Mediator their Part 2 document. Give students 20-30 minutes to carry out the full negotiation. Debrief as a class.

FACTS KNOWN TO ALL

1. The only orange producing farm within the area has traditionally produced a surplus amount of oranges, enough to supply all who wanted to buy them.
2. The farm's top two buyers each buy and consume 100 oranges each year.
3. This year there has been a drought, insect infestations, and a fire, so the farm will have a total production this year of 100 oranges.
4. The farm knows it must first serve its two top buyers, but in order to choose which one or how to divide the limited supply of oranges, they have called a meeting of their two top buyers to help them decide who gets the crop.
5. In consideration for their top buyers business throughout the years, the farm does not want to choose one over the other and hopes that if both meet, they will come up with a solution.
6. There are no other viable options to obtain oranges beyond the crop produced by this farm. Any other crop is too far away and would not be able to provide the freshness or quality oranges to serve the needs of the two top buyers. They would also be too expensive to produce and therefore not economically viable.

CONFIDENTIAL INSTRUCTIONS TO BUYER # 1

1. You are aware of the "Facts Known to All".
2. You are a major producer of orange juice and require 100 oranges a year to meet your multi-year minimum production sales quota for your customers. You absolutely need to meet your sales obligations, or else you risk losing customers and having to lay off your long time employees. You are the major employer for your community, which would become a ghost town without you.
3. You require the edible flesh of the orange to squeeze out the juice, which you produce in two varieties, with and without pulp.
4. Any reduction in production will have long term negative effects on your business and definitely require layoffs and the delay, if not outright cancellation, of the planned expansion of your business.



CONFIDENTIAL INSTRUCTIONS TO BUYER # 2

1. You are aware of the “Facts Known to All”.
2. You are a major producer of orange zest for baking, and require 100 oranges a year to meet your multi-year minimum production sales quota for your customers. You absolutely need to meet your sales obligations, or else you risk losing customers and having to lay off your long time employees. You are the major employer for your community, which would become a ghost town without you.
3. You require the rind of the orange to produce the zest, which you produce in two varieties, powder and liquid.
4. Any reduction in production will have long term negative effects on your business and definitely require layoffs and the delay, if not outright cancellation, of the planned expansion of your business.

CONFIDENTIAL INSTRUCTIONS TO MEDIATOR

1. You are aware of the “Facts Known to All”.
 2. You are called to the meeting by the farm to assist in the discussion about how the crop of oranges is allocated between the two top buyers. The farm knows that both buyers need the full crop for their production needs, but it does not have enough for both.
 3. You should instruct each buyer to speak about how many oranges they need. Canvass any considerations as to sharing the crop or other solutions each buyer might have.
 4. Advise both parties that the farm, in consideration of their buyers’ loyalty throughout the years, will not simply sell to the highest bidder. The farm has decided that the buyers have to share the crop or the farm is going to destroy the crop this year.
5. After about 10-15 minutes of discussion, if no solution is found, ask each buyer to consider why they need the oranges or what they plan to do with them. It is obvious, if they pay attention, that both can share, one needing the rind and the other needing the edible flesh of the orange. Both probably harvest what they need and throw away what the other needs. Encourage the parties to cooperate to both get what they need without telling them explicitly.

HOW LONG IS A MINUTE?

Select three observers (more depending on the size of the class). Have the remaining students all close their eyes. Instruct them not to open their eyes, look at their watches, or count seconds. Ask them to keep their eyes closed and remain silent until instructed otherwise. When you are ready, tell students to wait one minute and then raise their hand once they feel one minute has passed. Have the observers note what time each student raised their hand at (i.e. 20 seconds, 30 seconds, one minute, two minutes). Inevitably students will raise their hands at different times. Debrief with students the concept that just like our perception of time, individuals are ready to negotiate/mediate at different times. Sometimes, you simply need to wait for someone to be ready to settle an issue! A further discussion could be had with the students as to how one could encourage or prepare someone to be ready or in the right frame of mind to negotiate or settle.

WHAT CAN YOU DO WITH A PAPER CLIP?

Distribute a paper clip to each student. Ask them to get into groups and come up with ideas on what they can do with paper clips (e.g., hold paper together, earrings, etc.). Have students list all of the things they can think of to do with a paper clip. After a few minutes, have students discuss their ideas with the other groups in the class. Debrief with students on the important lesson in negotiation to think outside the box! Not everything is how it seems or only has one purpose or one way to be achieved. Explain to students that in negotiation, it is important to consider all of the ways that a problem or dispute can be resolved. Encourage them to use creativity in their negotiation strategies.