

Negotiations

Class 1 - Introduction

Welcome to the negotiations course. I hope that you find the semester useful. I also hope that by taking the class you will learn some practical skills and information that will help you in your legal practice as well as in your everyday life.

Aspirations For the Course

There are a number of ways in which this course is unique compared to other law school classes. For one, we won't be talking about a lot of substantive law. Occasionally, we will discuss legal concepts, but that discussion is usually limited to giving context to a particular situation in which a negotiation is taking place. For example, the substantive law of contracts may affect what kind of arrangement the parties in a transaction come up with. And later in the semester we will spend some time looking at the rules of professional conduct that deal with negotiations. Other than that, the discussion of negotiations is about the techniques and processes by which transactions occur.

Negotiations also will be helpful to you in areas outside of the law. Regardless of whether you practice law, you are certain to encounter situations in which the information and skills you learn from this course will be of use. The major emphasis will be on legal negotiations, but most of the principles you will learn apply in broader contexts as well. And of course in your personal life you will be called upon to negotiate. There are big transactions into which you will enter, like buying a home or a car; and there are other smaller transactions that you will encounter on a day-to-day basis.

Negotiation is one of the most important means by which disputes are resolved. When we think of dispute resolution, we often jump ahead to think about the process of courts entering judgments and applying remedies. But as we will explore, most disputes are settled outside of court. And of course negotiations happen in many other contexts beside dispute resolution. You may find that taking this course, as well as any other alternative dispute resolution

courses, will give you an advantage over your law school classmates who have not engaged in this field of study.

Syllabus

The syllabus is available at <https://negotiationsclass.com>. The syllabus has a lot of important information that you will need throughout the semester. My contact information is near the top. Please feel free to reach out to me at any time if you have any questions about the course, whether substantive or procedural.

Reading Materials

The [syllabus](#) contains links to the required reading materials for the course. Notice how each week's reading has a wide right margin - that's to give you space in which to take notes if you print it out.

I also recommend – but do not require – that you procure for yourself a copy of the book [Legal Negotiation: Theory and Practice](#) (Third Edition) by Gifford and Rhee. Much of the content that we will cover in the course is loosely based on Professor Gifford's techniques that are set out in that book. Like many law school textbooks, it is overpriced, so I do not require that you buy it. But if you are very serious about negotiation, it is a good investment.

As an essential part of the course, I ask you to choose a book (other than the Gifford and Rhee text) about negotiation, and read that during the semester. As we discuss further below, a part of your final grade in the course comes from submitting a video of you presenting a short summary of a topic in this other book that you choose to read. I ask you to read another book so that you are exposed to a broader perspective on negotiation than what you will get in class. Much of what you will learn this semester is based on my approach, that I have developed in my legal practice. You will find, however, that negotiation is both an art and a science. The way of approaching negotiation varies depending on from whom you seek guidance. I hope that you will find what I teach you in the course to be valuable, and I also hope that you will gain value from seeing the broader perspective from reading another book. There is a list of suggested other books about negotiation in the syllabus.

Grading

Grading for the course is pretty simple. 70% of your grade comes from being present in class and meaningfully participating. Be willing to answer questions and offer your perspective.

The other 30% of your grade comes from two different activities. We already talked about the short video concerning a topic in your additional reading. That is 20% of your grade. The remaining 10% is from a final project where you will be conducting a multiparty negotiation with a number of your classmates. You will submit a video of your negotiations as the final work product.

The syllabus contains an anticipated schedule. We will cover a number of topics that are set out in the chart on the second page. Depending on the way that the semester falls, there may be adjustments. But you can get a good sense of what we will cover by looking at the chart.

What Will the Classes Be Like?

Each class session will, for the most part, fit a certain pattern. We will often have some time at the beginning of each class to share real-life negotiation stories. Then I'll generally lecture on the topic or topics for that class. Then we will normally break up to do hypothetical negotiations. Most of those are one-on-one, but some of them are larger group activities. I will usually email you a fact pattern prior to class to use in the exercise. Sometimes one party will get a set of confidential facts about the situation, and the other party will get its own version of confidential facts. You will turn in the exercise by filling out an online form. The important thing is to conduct the negotiation in good faith and with reasonable diligence. You are not graded on the outcome of the negotiation – the important thing is that you are participating. I take attendance for each class by looking at the names on the negotiation results that are turned in.

Final Introductory Thoughts

I look forward to getting to know you during the semester. Please feel free to reach out at any time. My contact information is in the syllabus.

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