

**UNIVERSITY OF OREGON
MASTER'S PROGRAM IN CONFLICT RESOLUTION**

CRES 614: NEGOTIATION

FALL 2019

Class Meetings: Mondays and Wednesdays, 2:00 PM – 3:50 PM

Class Location: Law 282

Instructor: Michael Moffitt, mmoffitt@uoregon.edu

Office Hours: Mondays 4:00 – 5:00, Law School 409L
Tuesdays 11:00 – 1:00, Chapman Hall 210
Wednesdays 4:00 – 5:00, Law School 409L

On a few days during the Fall, I will be away from my office during one of these timeslots. I will create make-up office hour slots when that happens. Signups for office hour appointments will be available online according to instructions I provide at the beginning of the course.

COURSE DESCRIPTION

This class explores how negotiations work, what makes negotiators effective, why negotiations fail, and how to identify and manage pitfalls in the negotiation process. As a skills-based class, the focus is on developing your observational and analytical skills with respect to negotiation, as well as improving some of your negotiation skills in selected contexts.

LEARNING OBJECTIVES

As a result of taking this course, students will be able to:

- Understand and apply basic negotiation concepts and terminology.
- Observe relevant dynamics in a negotiation, including interpersonal, substantive, strategic, and procedural aspects of negotiation.
- Identify and skillfully approach distributive aspects of negotiation.
- Identify and make use of opportunities for value creation.
- Skillfully prepare for negotiations.
- Identify circumstances in which a particular skill or combination of skills are most appropriate.

COURSE APPROACH

During the ten weeks of this course, we will engage in an introductory exploration of the practice(s) of negotiation. My goal is to help you to improve your skills in understanding and conducting negotiations in a variety of contexts. I do not believe that there is a single “best” or “correct” way to negotiate. At the same time, my experience suggests that there are better and worse sets of practices. I have every confidence that over the term, you will develop an improved sense of the approach(es) to negotiation that you believe will serve you best in various contexts. With some hard work and careful reflection, I believe that you will become more observant, purposeful, analytically skilled, behaviorally agile, and persuasive negotiators. I have designed the course toward those aims.

This course is structured somewhat differently than many courses you may have taken previously. This course requires significant attention and effort during the term. You will be asked to prepare a number of materials for each class session. In many ways, the ideas we will cover in Negotiation are not terribly complex – until you try to put them into practice. I suspect that you will find the course exhausting at times, and I hope that you will find it rewarding as well.

Before describing the course in more detail, I would like to share a few thoughts about negotiation and about the class with you.

1. Negotiation is everywhere. For purposes of learning, I think the most helpful definition of negotiation is broad. I would suggest that a useful definition of negotiation is any effort to influence or persuade someone else to a particular course of action, though I am open to many other competing definitions. The important thing is to note that by “negotiation” I do not refer simply to the highly formalized or stylized negotiations that make for blurbs in the news. You negotiate with your roommates, your friends, your colleagues, your professors, and any number of other people all the time. (Indeed, you negotiate with yourselves perhaps most of all. Some of that, though, goes far beyond what we will study in this course.) I strongly suspect – and hope – that as you go through this course, you will begin to observe some of your interactions with others with a new perspective.

2. Like any skill, negotiation aptitude can improve with careful work. There is a popular perception that some people are “born negotiators,” while others among us somehow “don’t have it.” In fact, all of us are born negotiators. Anyone who has ever dealt with infants and children for very long knows that negotiating begins very early in life. Since the time when we were very young, most of us have broadened our negotiation repertoires through a process of observation, experimentation, and reflection. The course aims to provide you with intensive opportunities to do all three of those things. Unlike a course in Civil Procedure or Medieval Poetry or Antitrust or Differential Equations, to which you come with very little personal experience, you come to this course with many years of experience negotiating. While you may not have yet negotiated in a particular professional setting, there are some important lessons to be drawn from the experience you already have.

3. There is no single, universal “best” way to negotiate. We will consider many different approaches to negotiation over the semester. Your goal should not be to hunt for the one that is the “right” answer. Negotiation is a dynamic, context-sensitive enterprise. I am deeply suspicious about efforts to create universal negotiation rules (“always/never give the first offer,” “always/never negotiate in private,” “always/never walk out,” and so on) because they ignore important differences in context, in personal comfort, in goals, and in counterparts. At the same time, I will encourage you strongly to develop a rich set of guidelines for yourselves – practices that form something of a personal default, from which you can vary if you perceive a strategic reason to do so. We will practice some scenarios that will permit practice of baseline approaches and some scenarios that will likely demand that you expand your repertoire in order to be successful.

4. Learning to negotiate need not be a competition. Many people see negotiation as a competition to be “won,” and we will talk at great length about whether and when this view of negotiation is accurate or helpful. Regardless of whether you view negotiation as a competition, however, my experience teaching negotiation has convinced me that learning negotiation need not and should not be a competitive endeavor. This is a course aimed at improving skills. By definition, it will require everyone in the class to experiment with different approaches, searching for the things that seem to work best. That kind of genuine experimentation can take place only in a learning environment that is open, supportive, honest and creative. I will ask your help in making sure that we structure our time together in ways that help us best to create that atmosphere.

COURSE TEXTS

- Roger Fisher & William Ury, *GETTING TO YES*.
- Douglas Stone, Sheila Heen & Bruce Patton, *DIFFICULT CONVERSATIONS: HOW TO DISCUSS WHAT MATTERS MOST*.
- Michael Moffitt & Andrea Schneider, *DISPUTE RESOLUTION: EXAMPLES & EXPLANATIONS* (3d ed. Aspen 2014). To assuage my own concern about the potential appearance of self-interest, I use any royalties I receive from this assignment to supplement my donations to the Public Interest fund here at the school. You should also feel free to use an earlier edition of this text for purposes of our course. The law and materials have changed considerably in some of the chapters later in the book, but for purposes of the Negotiation-specific materials, earlier editions will be fine.
- Supplemental materials posted on Canvas. Please do not make additional copies or distribute these materials to anyone not enrolled in this class.

The required books are available for purchase at the Bookstore. Additional reading materials are periodically circulated via the Course Listserv, so please ensure that your name is on the Listserv, via the link on Mylaw.

CANVAS

The course website is located on the University of Oregon’s Canvas system and can be accessed by using your Duck ID as your username and corresponding password. The class syllabus, announcements, and other materials, will be posted on the Canvas site. Please check the course website frequently for updates.

ATTEDANCE

Attendance is required for all sessions of this course. As with any course, if you miss a class, your own education will suffer. In this course, however, absences affect others as well. In essentially every class, we will be doing simulated negotiations or exercises that will have you paired with one or more of your classmates. If you are not present, your classmates will not have the experience they deserve and it will cause considerable logistical difficulties. I would ask, or even plead, that if you have to miss a class that you contact me with as much advance notice as possible. Where appropriate, absences will be reflected in a student’s participation grade. Multiple absences may result in denial of credit for the course. If you have any questions or concerns about this policy, please see me as soon as possible.

GRADING

Assignment	Percentage of grade
1. Reflection Paper #1	10%
2. Reflection Paper #2	10%
3. Final Video Analysis Paper	50%
4. Participation	30%

A Note on Negotiation Performance. In some schools, a student's grade in a negotiation course depends on her or his performance in the simulated negotiations. For a variety of reasons I'll describe in class, I do not believe that this creates an appropriate learning environment. I will not, therefore, factor your results into your final grade, with the following exception: On occasion, a student's performance in a simulated negotiation reflects a lack of adequate preparation. To the extent that you are inadequately prepared for a simulation, I will factor that into your overall Participation score. My expectation, however, is that all of you will be well prepared, and that you will have varying degrees of "success" in your outcomes in simulations because you will be experimenting with different approaches. Not everything you try will work out – that's the nature of good experimentation. Please experiment with various approaches – other than approaches that eschew preparation – without concern that it will affect your grade.

ELECTRONICA

I invite you to bring computers, tablets, phones, and/or any of their electronic cousins with you to class. As you will see, in fact, I will be asking you to use them to record yourselves as you engage in a number of different negotiation exercises during the course. I will, however, ask you not to use them at all, for any reason, other than recording selected negotiation exercises. Indeed, so that they do not invite you to use them in some other way, I will ask you to have them **put away, someplace not visible to you, during the entirety of our class meetings, except when I specifically request that you use them.** Furthermore, you may not create a recording (in any format, using any medium, electronic or otherwise) of any portion of our class sessions without my specific consent, obtained in advance of class. You may, of course, take notes during class. My experience, however, is that almost all students take too many notes, rather than too few. Please let me know if you have any questions about this policy.

REMAINING CLASS POLICIES

The law school and university have a relatively standard set of policies I expect are reproduced in all of your syllabi. I've reproduced them here, in case you have any questions:

Accessible Education for All Students: The University of Oregon works to ensure inclusive learning environments for all students. We recognize that students bring a variety of learning styles to the course, and that some learning styles may require adjustment to course structure. We are happy to talk with you about such adjustments. Please be in touch with the professor if there are aspects of the instruction or design of this course that result in barriers to your participation as a result of learning style or diagnosed disability. If this course involves anonymous grading, please contact Assistant Dean of Student Affairs, Nicole Commissiong, nrc@uoregon.edu, for information on accommodations. For more information, you are also encouraged to contact the Accessible Education Center (formerly Disability Services) in 164 Oregon Hall at 346-1155 or uoaec@uoregon.edu.

Inclusion and Collegiality: Our community values inclusion. We are committed to equal opportunities for all faculty, staff, and students to develop individually, professionally, and academically regardless of ethnicity, heritage, gender, sexual orientation, ability, socio-economic standing, cultural beliefs and traditions. We are dedicated to an environment that is inclusive and fosters awareness, understanding, and respect for diversity. If you feel excluded or threatened or want to consult on related issues, please contact Chris Esparza, Director of Diversity, Inclusion, and Leadership Development at cesparza@uoregon.edu or 541-346-1565. You may also contact Jennifer Espinola, Law Dean of Students, at espinola@uoregon.edu or 541-346-1557.

Instructor's Reporting Obligations: As of September 2017, UO has a new reporting responsibilities policy (you can read more about the new policy here, <http://around.uoregon.edu/content/new-reporting-responsibilities-policy-take-effect-sept-15>). I am a student-directed employee. For information about my reporting obligations as an employee, please see [Employee Reporting Obligations](#) on the Office of Investigations and Civil Rights Compliance (OICRC) website. Students experiencing any form of prohibited discrimination or harassment, including sex or gender-based violence, may seek information and resources at safe.uoregon.edu, respect.uoregon.edu, or investigations.uoregon.edu or contact the non-confidential Title IX office/Office of Civil Rights Compliance (541-346-3123), or Dean of Students offices (541-346-3216), or call the 24-7 hotline 541-346-SAFE for help. I am also a mandatory reporter of child abuse. Please find more information at [Mandatory Reporting of Child Abuse and Neglect](#).

Academic Integrity: Students are expected to demonstrate high levels of academic integrity and professionalism, and are prohibited from committing or attempting to commit any act that constitutes academic misconduct. Plagiarism and other forms of academic dishonesty will be grounds for automatic failure in the course. If you have questions about conduct please ask your instructor or review the University Student Conduct Code or the UO Policy.

Pronouns: Note that most of the materials we will read, as well as much of our discussion in class about those materials, will use the pronouns “he/him/his” or “she/her/hers.” Gender is not binary, and some people prefer to use “they/them/their” or “ze/hir” for individuals. I try to limit the use of pronouns in class discussion. In writing, using pronouns that match their antecedent in number can be important for clarity. However, I respect the choice to use plural pronouns to avoid gendered pronouns; if you choose to use a plural pronoun to replace a singular antecedent ("a person... they"), please include a footnote in your paper indicating that it is a conscious choice. For more information on gender identity, please visit the LGBTQA3 office, <http://dos.uoregon.edu/lgbt>.

Late Assignments: You are expected to turn in your assignments on time. If you are unable to turn in an assignment on time, please contact me to discuss whether an extension is possible. In most cases, no extension will be possible. A late assignment may result in a lower grade or, in some circumstances, denial of credit for the assignment or course.

Building Safety: Emergencies are rare, but if they happen, we must know how to respond effectively and efficiently. The University's Emergency Management and Continuity group provides extensive resources for emergencies (see <http://emc.uoregon.edu/>). Please review these materials when you can, with special emphasis on the following:

- Identify all the exits in each of your classrooms;
- Practice being aware of your surroundings at all times; and
- Familiarize yourself with the basic procedures around **earthquakes** ("duck, cover, hold" at <https://www.youtube.com/watch?v=O-MycATjypp>) and **active shooter situations** ("run, hide, fight" at <http://emc.uoregon.edu/content/active-shooter-situations>).

We are all responsible for the safety and well-being of our community. For more on emergency procedures and building safety, please talk with me about the situation in our classroom, with Dean of Students Jennifer Espinola or with Erica Daley, Associate Dean for Finance and Operations.

WORKING DRAFT OF CLASS PLANS AND ASSIGNMENTS

Following is the working syllabus for the course this term. I may decide to alter the contents of the class plans based on experiences during the term. I will give you as much notice as I can regarding any changes to our plans. For each day, I have noted any reading assignments and cases to prepare.

You will see that I have indicated dates by which I will ask you to have read the entirety of GETTING TO YES and DIFFICULT CONVERSATIONS, along with the first three chapters of DISPUTE RESOLUTION: EXAMPLES AND EXPLANATIONS. I urge you strongly to start reading them earlier in the course. I will not assume that anyone has read them until the dates indicated on the syllabus, but it would represent a not-easily-managed level of reading if you were to wait until just before then to have read the books.

1 Wednesday 2-Oct Introduction to Negotiation

Preparation for Today:

- Read this syllabus with care. I will not go over all of its contents in class, but I will expect you to be familiar with all of it, throughout the course.
- Read #1 Peppet & Moffitt, *Learning to Learn to Negotiate*
- Read #2 Argyris, *Teaching Smart People How to Learn*

2 Monday 7-Oct Introduction to Negotiation

Preparation for Today

- Read and prepare the INSIDE OUT case. You will receive instructions for this case in class on October 2. You will each receive different instructions. Please do not share your materials or discuss this (or any) case with others.
- Please bring your phone/tablet/laptop for recording part of one of today's exercises
- A reminder that I will expect you to have finished reading GETTING TO YES by October 14. You do not need to read it (or even begin it) for this week, but I would urge you not to wait until the very last minute to do that reading.

3 Wednesday 9-Oct Small group reviews

Preparation for Today

- Read #3 Stone & Heen, *Bone Chips to Dinosaurs*
- Read #4 *Providing Useful Feedback*
- Watch the video recording of your INSIDE OUT negotiation. Select and note the timestamp of at least 2-3 moments during the negotiation you find most interesting.

Note that we will not be meeting as a class during the class hours on this date. Instead, you will meet in small groups to review videos of negotiations, according to instructions I will provide on Monday, October 7.

***** Homework / Written Product**

Submit "Reflection Paper #1" according to the more detailed instructions I provide in class. Your paper should be submitted via Canvas no later than 4pm on Sunday, October 13.

4 Monday 14-Oct Negotiation Basics

Preparation for Today

- Prepare the SALLY SOPRANO case
- Please bring your phone/tablet/laptop for recording part of one of today's exercises
- No later than the beginning of class today, you should have read all of GETTING TO YES.

5 Wednesday 16-Oct A Negotiation Framework

Preparation for Today

- Prepare HACKERSTAR

6 Monday 21-Oct Applying a Negotiation Framework

Preparation for Today

- No later than the beginning of class today, you should have read EXAMPLES & EXPLANATIONS, *Chapters 1-3*
- Please bring your phone/tablet/laptop for recording part of one of today's exercises

7 Wednesday 23-Oct The Challenge of Distribution

Preparation for Today

- Prepare the KESNIA case
- Read #5 Shell, *Bargaining with the Devil without Losing Your Soul*
- Read #6 Banaji, Bazerman & Chugh, *How (un)ethical Are You?*
- Please bring your phone/tablet/laptop for recording part of one of today's exercises

8 Monday 28-Oct Value Creation

Preparation for Today

- Prepare the RUFFLES ABOUT RIFLES case
- Please bring your phone/tablet/laptop for recording part of one of today's exercises

9 Wednesday 30-Oct Difficult Negotiation Behaviors

Preparation for Today

- Review the Sally Soprano case again, as we will be using its basic facts for another class exercise

Note: Next week, you will be negotiating two different cases, each of which has some level of complexity. You will need to set aside some real time for each of those preparations, and so I urge you to begin that preparation early.

10 Monday 4-Nov Negotiation Decisions

Preparation for Today

- Prepare CHUCK'S WAGON
- Please bring your phone/tablet/laptop for recording part of one of today's exercises

11 Wednesday 6-Nov Difficult Conversations

Preparation for Today

- No later than the beginning of class today, you should have read all of DIFFICULT CONVERSATIONS.
- Prepare CASINO

12 Monday 11-Nov Difficult Conversations

Preparation for Today

- Read #7 Schneider, *What's Sex Got to Do With it*
- Please bring your phone/tablet/laptop for recording part of one of today's exercises

13 Wednesday 13-Nov Difficult Conversations

Preparation for Today

- Prepare AUTHOR! AUTHOR!
- Please bring your phone/tablet/laptop for recording part of one of today's exercises

***** Homework / Written Product**

Submit "Reflection Paper #2" according to the more detailed instructions I provide in class. Your paper should be submitted via Canvas no later than 4pm on Sunday, November 17.

14 Monday 18-Nov Complex Negotiations

Preparation for Today

- Read #8 Raiffa, *The Camp David Negotiations*
- Prepare the MAPO case
- Please bring your phone/tablet/laptop for recording part of one of today's exercises

15 Wednesday 20-Nov Complex Negotiations

Preparation for Today

- Continue your work on the MAPO case
- Please bring your phone/tablet/laptop for recording part of one of today's exercises

16 Monday 25-Nov Multiparty Negotiations

Preparation for Today

- Prepare the CARSON EXTENSION case

17 Wednesday 27-Nov No Class Scheduled

Note: We will not be meeting as a class during this afternoon. You will have preparation to do for the Carson Extension case. You and your colleague(s) may choose to use this class period to engage in that preparation, or you may choose another day/time for that work.

18 Monday 2-Dec Multiparty Negotiations

Preparation for Today

- Prepare the CARSON EXTENSION case
- Please bring your phone/tablet/laptop for recording part of one of today's exercises

19 Wednesday 4-Dec Multiparty Negotiations & Wrap-Up

Preparation for Today

- Prepare the CARSON EXTENSION case
- Please bring your phone/tablet/laptop for recording part of one of today's exercises
- Prepare your Final Video Analysis draft materials

Final Written Assignment

- I will distribute a detailed description of your final written assignment, a Final Video Analysis. In brief terms, it will require you to engage in a critical examination and assessment of multiple video recordings of negotiations from this course.
- The regular final due date for this course is December 11, 2019. I hereby grant a 48-hour extension to any student who wants an extension, for whatever reason, including no reason at all. I will expect, therefore, to see all final materials submitted via Canvas no later than **4:00pm on December 13, 2019**. I do not anticipate granting any additional extensions beyond the automatic extension listed above. Please let me know within the first week of class if you foresee any difficulty meeting this deadline.