



The Legal Basis of Public Health

An Individual or Group Study Course in Ten Modules

Module 8 Negotiation

SS0008



CDC
CENTERS FOR DISEASE CONTROL
AND PREVENTION

The Legal Basis of Public Health

SS0008 - Module 8, Negotiation

Continuing Nursing Education (CNE)

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The Legal Basis of Public Health

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Course Contents

This course consists of the following ten modules and a Coordinator Guide, which includes suggestions for using the course materials.

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About this module

Overview

Cooperation can be more effective than confrontation.

Law is an important tool in achieving public health goals, but it is a tool of limited value if it can only be used as a club. Although lawyers value the adversarial nature of the legal system, effective public health administration is as likely to be based on cooperation as confrontation. There are ways in which the force of law can be used to help resolve public health problems without having to resort to confrontation.

Public health professionals can and do take legal action to protect the public when there is a threat to health or safety. However their first response should not be to litigate, but to try to reach a cooperative solution to the problem through negotiation.

The negotiating principles outlined in the following pages are applicable universally to any public health issue that requires resolution, including the distribution of funds, the allocation of other resources and responsibilities, and the development of ordinances, statutes, and programs. You can learn to apply these principles to resolve conflicts in a systematic way.

Module components

This module consists of the following components:

- Text and self-study exercises to be completed individually or discussed with your learning community. These exercises are meant to help you absorb what you have just read and immediately apply the concepts.
- A self-check review at the end of the text, with multiple-choice questions, which will help you assess your understanding of the material.
- Group exercises to undertake with your learning community, found at the end of the text.

Goals

This module is intended to help you:

1. Resolve conflicts efficiently, minimizing the expenditure of personal and agency resources
2. Achieve favorable outcomes that are commensurate with the goals of your agency
3. Identify and implement “win-win” solutions where feasible.
4. Develop confidence in negotiating.

Learning objectives

After completing this module, you should be able to:

1. Define the concept of “zone of agreement” and its centrality to the negotiation process.
2. Describe the fourteen essential steps involved in systematically planning a negotiation.
3. Identify negotiating strategies, tactics, and countermeasures that can be employed during a negotiation and distinguish when they are most appropriately used.
4. Explain why it is important to communicate with superiors, colleagues, allies, and opponents during the negotiation process.



Start with a network...

Whether you are studying this module alone or in a group, it is extremely helpful to have a network of people or resources you can turn to with questions. Take a minute to think about who within your agency (or a sister agency) may be an experienced negotiator.

Would he or she be willing to let you observe a negotiating session? To make the experience more meaningful, discuss the preparations and strategy with your colleague before observing the actual negotiation.

The negotiating process

Negotiation is used every day to resolve conflicts.

While you may not think of it as such, you probably often use negotiation in your work. For example, you may negotiate with a manager for consent to enter a facility; with peers, superiors, and staff on workload or the allotment of resources; with federal, state, and local officials on goals and implementation of federally-delegated programs; and with the representative of a licensed facility to settle an enforcement action. If you are involved in enforcement actions, negotiated settlements are a way to preserve precious resources, assure definite results, and control the timing of conflict resolution. Negotiation is the primary way that most social conflict is resolved.¹

What negotiation is

Definition

Negotiation may best be defined as a search for a zone of agreement. This search takes place through the controlled exchange of information between parties.² In order to understand what a zone of agreement is, consider the following examples:

Two examples of "zone of agreement"

Example A: A public health officer inspects a restaurant and issues a citation for food safety violations, with a possible fine of \$1,500. Because of the seriousness of the violation, the agency views the \$1,500 fine as justly deserved. The restaurant owner, on the other hand, believes that any fine is wholly unjustified, but would agree to pay \$200 in penalties simply to get rid of the matter. In this instance, there is no "zone of agreement"; and a controlled exchange of facts and information would probably end without reaching any agreement.

¹ The authors wish to acknowledge the Illinois Public Health Leadership Institute at the University of Illinois-Chicago School of Public Health for providing many of the examples used in this module.

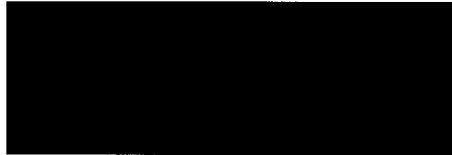
² Schoenfield and Schoenfield, 1988.

Figure 8a. No zone of agreement³

Public Health Agency

Opening position \$1,500

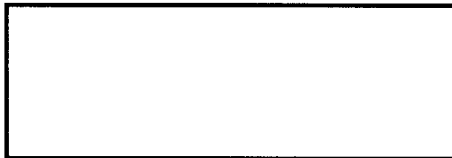
Bottom line \$1,250



Restaurant

No Zone of Agreement

\$200 Bottom line



\$0 Opening position

³ Adapted from Schoenfield and Schoenfield, 1988.

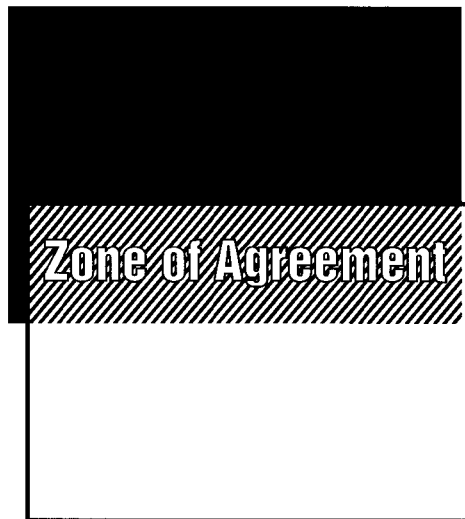
Example B: A public health officer inspects a restaurant and issues a citation for food safety violations, with a fine of \$1,500 possible but not mandatory. His supervisor gives him authority to settle the matter for a penalty as low as \$1,000. The restaurant owner realizes that he is in the wrong and is prepared to pay a fine, but definitely not \$1,500. While stating that he shouldn't have to pay any penalty, the restaurant owner has decided that he will pay up to but not more than \$1,250 to settle the case. In this instance, there is a "zone of agreement" and competent negotiation may readily conclude the matter with an agreement.

Figure 8b. Zone of agreement⁴

Public Health Agency

Opening position \$1,500

↓
Bottom line \$1,000



Restaurant
wants no fine but
will pay up to
\$1250
Bottom line

↑
\$0 Opening position

⁴ Adapted from Schoenfield and Schoenfield, 1988.

An example of the importance of controlled exchange of information.

You may ask, "Why negotiate? Why not just tell each other what you want rather than playing games?" To understand why controlling the exchange of information is important, consider a third variation on the above two examples.

Example C: A public health officer inspects a restaurant and issues a citation for food safety violations, with a possible fine of \$1,500. The restaurant owner realizes he is in the wrong and plans to pay the \$1,500 in full. When the restaurant owner comes in to discuss the violations, the public health officer recites the facts supporting the ticket, discusses the importance of food safety practices for protecting public health, and reaffirms the need for enforcement penalties for infractions of the law, but then says, "Because we have limited resources and cannot take every action to trial, we are willing to amend the citation so that the total fine would be \$1,000, provided you do not contest the matter."

The restaurant owner agrees, pulls out a corporate check and gleefully writes a \$1,000 check to the agency, happy to have saved his business \$500.

What happened? What should the public health officer have done? Might the results have been different? To answer these questions, you need to understand some basic negotiating principles.



Bringing it home...

Have you ever been involved in negotiations, either on behalf of your agency or in your community? What about buying a house or car, reaching an agreement with your neighbors, parents, your spouse or your children? List some of the occasions in which you have used negotiation.

Were you pleased with the results? If not, what do you wish the outcome had been?

What might you have done differently in hindsight?

Planning for negotiation

The importance of preparation

Preparation is necessary to be in control of the negotiation.

Preparation is the key to negotiating successfully. The definition of negotiation offered earlier referred to the *controlled* exchange of information. Control means knowing what information to exchange, what information to disclose or not disclose at any given moment in the negotiating process, and how to estimate what information the other side may be “holding.” Negotiation is a dynamic process that is complicated by uncertainty and lack of information, but their impact can be reduced through practice, experience, and *especially* proper planning for a negotiating session.

To be in control you must be prepared. Regardless of how glib, experienced, or aggressive the opposing party may be, you are likely to have a successful outcome if you have done your “homework.”

There are 14 steps in planning.

Negotiation theorists Schoenfeld and Schoenfeld have identified fourteen essential steps to systematically planning a negotiation. Each step is discussed briefly below with an example of a negotiating plan. For further information, see the materials listed in “References” at the end of this module.

Summary

- Step 1: Gather information**
- Steps 2&3: Identify the goals and issues**
- Step 4: Analyze the market**
- Step 5: Assess the strengths and weaknesses of each side**
- Step 6: Estimate the other side's opening position and bottom line**
- Step 7: Consider win-win options**
- Step 8: Set your opening position**
- Step 9: Set the bottom line**
- Step 10: Choose strategies and tactics**
- Step 11: Consider concessions and trade-offs**
- Step 12: Establish an agenda**
- Step 13: Analyze timing**
- Step 14: Establish the mode of communication**

Step 1: Gather information

You gather information throughout a negotiation.

Information is one of the essential ingredients of a well-executed negotiation. You begin to gather information as a first step and continue to do so throughout the negotiating process. Always consider the following:

- What do you know about the subject?
- What critical information is missing and how can you find it?

Find out as much as you can about the other side.

According to Schoenfeld and Schoenfeld, before negotiating you need to know as much as possible about the following:

- The goals, issues, markets, and vital interests of each party
- The strengths and weaknesses of each side
- The bottom line of each party
- Any economic, social, or political influences or constraints that may affect the parties

Each of these topics will be explored in Steps 2 through 14.

Know how to take the other side's perspective.

The important point to remember is that you must not only analyze the negotiation from your own perspective, but you must also gain sufficient information to make an educated guess about what the negotiation looks like from the other side. Ask yourself, What do they want? Why do they want it? What do they think you want? How much do they know about you?



See Group exercise 8.1 at the end of the module.

Steps 2 and 3: Identify the goals and issues

Know your personal and professional goals, as well as those of the agency.

To negotiate successfully, you must be clear on your goals—that is, what you want to gain from the negotiations and why. While seemingly a simple question, the answer may be quite complex. Depending on the situation, you may have both personal and professional goals.

You must also take into account your agency's goals. Any conflict among these should be acknowledged, and may themselves have to be negotiated.

Finally, you must also anticipate the other party's goals. Just as you may have multiple goals, so might they.

Tangible and intangible goals

Goals may be tangible or intangible. For example, a community-based organization may seek increased resources from a public health agency (a tangible goal), but may also be seeking increased recognition and legitimacy (an intangible goal). Meeting the community organization's latter goal could improve relations, even where scarce resources make it impossible to satisfy the group's primary goal.

The issues are what must be negotiated in order to reach goals.

Issues arise when the goals of opposing parties conflict. For example, parties to a sales contract will usually have the following goals: the buyer seeks to minimize costs and the seller seeks to maximize profit. The goals clearly conflict in this case and the sales price becomes an issue to be negotiated.

Public health goals may be complex.

Determining the issues to be negotiated is often complicated in a bureaucracy where multiple needs must be satisfied. In a large public health agency, several supervisors and divisions may be involved, each with its own goals, agendas, and prioritized interests, some of which may be explicit and others difficult to identify.

Don't mistake positions for goals.

A word of caution about identifying goals and issues: often a decision-maker's stated "goal" is really a "position." In *Getting to Yes: Negotiating Agreement Without Giving In*, a leading book on negotiating, Fisher and Ury warn against positional bargaining.

Get behind stated positions to discover each side's true interests.

"Positional bargaining" occurs when the negotiators haggle over their stated positions, rather than attempting to meet the underlying interests of both sides.⁵ As a negotiator, you must delve beneath positional statements and uncover underlying goals. To engage in positional bargaining without analyzing everyone's true interests is the surest road to stalemate. An example may clarify the distinction between positions and interests.

Illustration of positions vs. interests

In anticipation of a new state lead contamination law, the section chief of the city health department's lead enforcement unit insisted that lead inspectors from the building department receive a three-day lead inspection course before the law took effect. The local university had space available in a certified lead inspector training course at substantially reduced rates for city employees. But the building department's bureau chief adamantly opposed any training of his inspectors until after the law took effect. He refused to give in and a stalemate ensued.

⁵ Fisher and Ury, p. 40

Further discussion revealed a serious backlog of buildings to be inspected. The bureau chief was unwilling to approve training that would tie up his entire unit for three consecutive days, during which no inspections could be made. Once the true interest behind his position was revealed, accommodation was reached among the bureau chief, the health department's section chief, and the local university. Building inspectors were trained two at a time over a period of six months at the same reduced rates.

In this example, the position of the building department's bureau chief—"no training until the law takes effect"—was mistakenly accepted as his goal until he expressed his real concern about clearing up the backlog.

A good way to get beyond positional bargaining is to engage in tactical questioning. Ask the other side, in a non-threatening tone, why their position is important to them and what they hope to gain.

Tactical questioning reveals underlying interests.



Stop and think...

Choose one of your examples from the "Bringing it home" exercise above. What were your goals?

What were the goals of the other side?

What were some of the issues that had to be negotiated?

Step 4: Analyze the market

Value may be objective or subjective.

Virtually every good and service has a price based on its value within the relevant market, whether it is a house, a car, or the vaccination of children. The market value of an item should be taken into consideration when planning. This value is objective and widely shared.

For example, to prepare for labor negotiations with state employees, management must analyze data on salaries, including both wages and fringe benefits. Management should also find out what employees with comparable training and experience are making in the private sector. Employees may use the same objective information during bargaining to persuade management of the need to provide other job perquisites.

However, a party may place value on an item or issue which is based on personal or subjective factors. The subjective value may be quite different from the market value. An example might be the value that a labor union places on issues for which there is not a ready market, such as work practice rules or job security clauses.

Situational constraints may affect subjective value.

The subjective value placed on these issues may be influenced by situational constraints, such as whether the union is simultaneously negotiating with other state units. Management might ask themselves, "Would concessions the union makes in negotiating with us affect its bargaining position with the other state units?" If so, the subjective value of the concessions may be much greater than the actual dollar cost.

By looking at the opposing side's situational constraints, you can begin to estimate the subjective value the other side places on an issue. A party's subjective valuation of an item will affect his or her opening position and bottom line.

Step 5: Assess the strengths and weaknesses of each side

Strengths and weaknesses determine leverage.

In assessing the strengths and weaknesses of each side, you are asking what leverage each side has for achieving its goals. Situational pressures and constraints and the vital interests and needs of the parties will determine their strengths and weaknesses. By assessing your own strengths and weaknesses, you may find ways to enhance your bargaining position. For example, must you reach a particular agreement to achieve your goal, or do you have other viable options?

Developing options can strengthen a bargaining position.

Here is an example of how to strengthen a bargaining position. Wapon County Health Department is planning to privatize its mental health residential services program, and one of its goals is to ensure that its current employees do not lose their jobs. Of the two private mental health agencies in the county, the health department prefers Agency A based on its history and capacity. But Agency A may not want to hire the health department's employees. To strengthen its bargaining position with Agency A, the health department is also negotiating with Agency B and at the same time is helping the latter become more competitive by improving its addiction treatment services.

By carefully assessing—and even guiding—the strengths of the relevant players, you can enhance your negotiating options and control.

Step 6: Estimate the other side's opening position and bottom line

Schoenfield and Schoenfield define the bottom line as “the point at which no agreement is preferable to the best deal the other party is willing to offer.” The opening position is set in relation to the bottom line. It is usually set optimistically high and allows room for some amount of concessions and trade-offs, the standard expectations of a negotiation.

Be reasonable but optimistic in estimating the most you could achieve.

When estimating the other side's bottom line, you should be realistically optimistic, that is, estimate the *most* you could reasonably hope to achieve out of the negotiation. Schoenfield and Schoenfield call this your "lucky day" fantasy. If you set your sights too low and underestimate the amount that the other side is willing to give, you will fail to demand the best settlement possible for your side.

Once you have estimated the other side's bottom line, you can predict their opening position. You should, of course, expect their opening position to offer less than their bottom line. To estimate the other side's opening position, place yourself in their situation. What do they know about you and your likely zone of agreement? What information might they gather about you from other sources or prior dealings which would help them analyze your bottom line position?

Their opening position will offer less than you want and will be based on what they know about you.

Remember, they—like you—want to set a realistically high opening position, so as not to undercut their room for negotiation. What they perceive as "realistically high" will be based on all the information they know or guess about how you are likely to proceed. It will also be based upon their own situational pressures and constraints.

You should estimate the bottom line and opening position for each issue and combination of issues you identify during Steps 2 and 3.

Continuing the Wapon County example, assume that Agency A is indeed interested in taking over the county's residential services program. The health department has learned that Agency A is concerned with three main issues:

1. An adequate subsidy for treating the health department patients, most of whom will require longer care than Agency A's other patients
2. Discretion on whether or not to hire county health department employees
3. The right to take over the health department's day treatment program as well as its residential services program

Estimate their opening position based on all available knowledge.

The health department estimates Agency A's opening position and bottom line for each of the above issues (and various combinations of the three issues) based on all the information it has gathered about:

- The agency, its political clout, client satisfaction, financial profile, etc.
- Other mental health providers in and around Wapon County
- Costs associated with treatment
- Employment opportunities in Wapon County
- Competing day treatment programs
- Any other essential items of information

Looking just at the subsidies issue, the health department expects Agency A to open the negotiations with a demand based on the total cost of providing residential treatment services to the most expensive long-term patients who are chronically mentally ill. The health department estimates that Agency A's bottom line is the average cost of treating all health department patients, not just the most expensive ones.



See Group exercise 8.2 at the end of the module.

Step 7: Consider win-win options

“Expand the pie” by devising new options for mutual gain.

In a win-win agreement, both sides gain or one side gains without the other side losing in any real way. It requires creative thinking to discover or create mutual gain or a low/no cost concession. Fisher and Ury insist that most disputes may be resolved amicably if options for mutual gain are devised. The authors refer to this as “expanding the pie.”

The following suggestions are some ways to find win-win options:

- Focus on the vital needs and true interests of the other side, remembering that each side assigns different values to the issues to be negotiated.
- Try to understand the problem from the perspective of the other side.
- Seek to achieve your goals by meeting the needs of the other side.
- Invent new ways to solve a problem.
- Expand the scope of the negotiations by adding issues that can be used as trade-offs.

For example, during negotiations the Wapon County Health Department offers to support Agency A's efforts to obtain additional mental health funds from the state health department. Wapon County's letter of support would be a considerable gain to Agency A, with little cost to the health department. If the additional funding could be used to hire Wapon County's displaced employees, the result would be a win-win situation for both parties.



Stop and think...

Think about your list of negotiation experiences. Did you come up with any win-win options that made both sides more willing to accept a settlement or reach agreement?

Step 8: Set your opening position

Make your opening position realistic with room for concessions.

Consider your own opening position for each issue and combination of issues you have identified. Set your opening position high enough to allow room for concessions, but make it realistic. It should not be so high that the other side decides there is no point in negotiating further.

Give considerable thought to this step, for it is the opening position that communicates both the tone and parameters for discussion. Once you have stated an opening position, it will be difficult (but not impossible) to raise it.

Example: License fees on food establishments

The Russian County Health Department, a small rural health department, would like the county board of commissioners to pass an ordinance imposing a licensure fee on retail food establishments. The levied taxes would be used to defray the costs of inspections conducted by the county health department. The board of commissioners rejected a similar proposal three years ago. The likely issues to be negotiated include:

- The fee structure
- The definition of "covered establishments"
- The effective date of the ordinance

As an opening position, the health department proposes:

1. A fee structure based on seating capacity, with a minimum tax of \$25.00 and a maximum of \$400.00
2. A definition of "covered establishments," which includes all retail places where food is sold, (Restaurants, taverns, delicatessens, school cafeterias, and mobile and seasonal operations would be among the types of establishments required to pay the licensure fee under this definition.)
3. An effective date of January 1

Back up your opening position with an alternative proposal.

The health department also prepares an alternative opening position, combining issues 1 and 2. The alternative proposal recommends a narrower scope of coverage, excluding schools, hospitals, and other not-for-profit institutions, but proposes a larger minimum tax, i.e., \$50.00 rather than \$25.00.

Step 9: Set the bottom line

Establish your bottom line before you start negotiation, based on available alternatives.

Just as you set an opening position for each issue and combination of issues, you should also establish a bottom line for each. Remember that the bottom line is defined as, "the point at which no agreement is preferable to the best deal the other party is willing to offer." Where you draw the bottom line depends on what alternatives are available.

Fisher and Ury describe this concept as knowing your "best alternative to a negotiated agreement" or BATNA. Because you base your bottom line on the available alternatives, *not* on anything the opposing party has to offer, you set your bottom line before negotiations begin and, as a general rule, should not change it unless new information is presented that causes you to reassess the value of your position and alternatives.

The Russian County Health Department examined its alternatives if the board of commissioners should refuse to pass a licensure fee ordinance. The only other way to raise the needed funds was for the local health department to impose its own tax on licensure inspections. But the health department was advised that its statutory authority to impose this tax would likely be challenged in court and that the challengers would have a fifty-fifty chance of prevailing.

Determine the bottom line in light of strengths and weaknesses.

Given its relatively weak negotiating position, the health department established the following bottom line:

1. A flat \$40 fee for all "covered establishments" regardless of seating capacity.
2. Schools, hospitals, other not-for-profit entities, seasonal operations, and temporary licensees would be exempted from the fee.
3. The fee could be phased in over a four-year period.

If it did not achieve this bottom line, the health department decided it would impose the inspection tax on licensed facilities and risk a challenge to its legal authority.



Stop and think...

Choose one of the examples of negotiation you listed above. What was your opening position?

Did you ever have a sense of what the other side's bottom line was?

Step 10: Choose strategies and tactics

Schoenfeld and Schoenfeld define "strategy" as the overall approach taken in the negotiations. "Tactics" are particular actions taken to implement the strategy. The art of negotiating lies in carefully planning and crafting your strategies and tactics. The challenge is found in planning and successfully executing your strategies and tactics, and in anticipating, observing, and countering those of the other side.

The next section of this module will help you gain familiarity with an array of strategies and tactics that you or the other side may employ during a negotiation, as well as possible measures you can take to counter the other side's strategies and tactics ("countermeasures").



See Group exercise 8.3 at the end of the module.

Step 11: Consider concessions and trade-offs

Concede the unimportant points.

Deciding what points you can concede and what issues you can trade off is extremely useful. Planning for concessions and trade-offs helps you avoid making costly concessions during the heat of the negotiation. The ideal concession is one that is of little consequence to your side but that meets a need of the other side.⁶

Offer rationale for concessions.

As a general rule, you should make concessions only in small increments and should offer a rationale for each point conceded. Making concessions without offering a persuasive rationale may lead the other side to believe that you are simply playing games or stalling and that you are likely to concede even more.

Use trade-offs with multiple issues.

Trade-offs occur in multi-issue negotiations where each side has different vital interests and goals. Fisher and Ury caution that virtually every negotiation has multiple issues even where it appears that only one issue is at stake. Discerning the vital interests and situational constraints of the other side will help you find additional issues for trade.

Consider a simple enforcement action where a restaurant has corrected its food safety violations and agreed to pay a fine. At first glance, the only issue may appear to be the amount of the penalty. A closer look at the true interests of the restaurant management, however, may reveal other needs. For example, the dollar amount of the penalty may be less significant than whether the violation is made public, whether payment may be made in installments, or whether the payment must be labeled a "penalty."

If the agency's goal in such an action is to impose a large penalty for its deterrent value, the agency may be able to obtain a larger penalty by agreeing not to make the violation public or allowing payment in installments.

⁶ There is further discussion of concessions in the next section on "Strategies and tactics."



Stop and think...

Continuing to refer to your own list of examples, what concessions have you made in negotiating an agreement?

What concessions has the other side made?

What difference did these concessions make in the negotiating process?

Step 12: Establish an agenda

Preferred order for discussing the issues

It is usually helpful to set an agenda for complicated, multi-issue negotiations. An agenda establishes the preferred order for discussing the issues. An established agenda also helps in planning the timing or sequence of concessions and trade-offs. Setting the agenda yourself gives your side a considerable power advantage.

Your order of preference will depend on the situation. The following are some points to consider:

- Discussing easily resolvable issues first can establish a tone of cooperation and commitment to the process.
- If it is likely that no agreement will be reached, it may be more efficient to negotiate the most contentious issues first, and not waste time and resources negotiating the easy points.
- There may be tactical reasons for discussing and reaching agreement on certain issues before discussing other issues.

The agenda is a flexible tool.

You should not expect the negotiation to follow exactly the course you planned. As Schoenfield and Schoenfield caution, it is unreasonable to expect the other side to adopt a unilaterally created agenda without question. The agenda and the negotiating plan should generally be viewed as a flexible tool to assist you in preparing for a negotiation.

Negotiate the agenda before the main negotiation begins.

While you should prepare an agenda for every multi-issue negotiation, in many instances it may be perfectly acceptable to agree to follow that of the other side, thereby indicating your willingness to cooperate. However, where it is important to you to discuss issues in a pre-determined sequence, it may be important to negotiate the agenda itself before proceeding to the substance of the negotiations.



Stop and think...

Can you think of some situational constraints that motivated you to negotiate an agreement at a particular time rather than sooner or later?

Step 13: Analyze timing

Decide when to negotiate.

You should plan the timing of the negotiation as thoroughly as all prior points. The optimal time to negotiate is when negotiating would be to your advantage and when the other side is under pressure to reach agreement.

Timing used to control information known by the other side

You may time the negotiation to control the amount of information known by the other side. Consider an enforcement case in which the key inspector is about to retire. It would be expedient for the agency to reach a negotiated settlement before her retirement is announced, otherwise the other side may take advantage of this information and stall the negotiations until after she leaves the agency. Once the inspector retires and is no longer available to participate in the negotiations, the agency's bargaining position will be weakened.

Timing used to wait for better options

For optimal timing, you might delay a negotiation until better options are available. For example, in an enforcement action, the best alternative to a negotiated agreement (BATNA) is typically to take the case to trial. Agency staff are in an increasingly stronger bargaining position as the prosecutor's office makes a commitment to prosecute a case and actually begins trial preparations. Without the strong commitment of the prosecutor's office, agency staff are frequently left with only vague bluffs and threats of prosecution. An opposing party can often detect these bluffs and—because the alternative consequence is weak or nonexistent—they may not be willing to settle on favorable terms or to settle at all.

Step 14: Establish the mode of communication

Several modes may be used.

Selecting the mode(s) of communication is the final step in planning for the negotiation.

Communication modes include: face-to-face meetings, telephone communications, letters, electronic mail, other written communication modes, and combinations of these.



See Group exercise 8.4 at the end of the module.

Strategies and tactics

There are many more strategies and tactics than those presented here.

Many strategies and tactics may seem like common sense, but a thorough review will make them more accessible and ready to use in an actual negotiation. It may also help you recognize strategies and tactics being used by the other side that you might not otherwise have realized were being employed.

Schoenfield and Schoenfield identify nine strategies and forty-four tactics. While an in-depth discussion is beyond the scope of this module, some of the more important strategies and tactics are described below.⁷ The brevity of this section is not intended to minimize the importance of this step.

Strategies to create the right atmosphere

Personal credibility

To negotiate successfully, you must gain the trust and confidence of the other side. As in any relationship, without personal credibility, meaningful communication is all but impossible.

The following characteristics have been associated with a credible negotiator:

- Confidence
- Preparedness and organization
- Knowledge of the subject matter being negotiated
- Honesty
- Firmness, e.g., following through on a promise or threat

Countermeasure to credibility

Be alert for the “Don’t you trust me? I’m a nice guy,” tactic. You can insist upon independent validation of statements made by the other side without arousing personal antagonism, simply by stating, “Agency policy requires us to verify all information we receive.”

Problem solving

All sides work together.

During problem solving, all sides work together—often using the brainstorming technique—to define the problem and to find inventive win-win solutions.

⁷ Material excerpted from Schoenfield and Schoenfield, 1988.

Problem solving is one of the most generally useful strategies if all sides meet two conditions:

1. The parties must want to use it.
2. The parties must share real mutual interests that allow them to act in good faith.

Tone

Tone determines the atmosphere.

Always consider the atmosphere or climate of a negotiation. Generally, it is best to adopt a pleasant, non-adversarial tone to avoid making the other side feel that it is being manipulated into making an unfavorable deal. However, you may vary tone to fit the course of a negotiation. For example, a change in tone from pleasant to outrage can sometimes be persuasive. At times you may need to use pressure to reach agreement. Whatever tone you use, you should monitor its effect on the other side and alter the tone to achieve the response you desire.

Patience

Patience prevents you from being pressured into premature concessions or agreements. Use deadlines as a countermeasure.

Creating a psychological commitment to agreement

Create the feeling of groups working toward a common goal.

This extremely useful tactic calls for creating a psychological commitment by the other side to reach agreement. The “work group phenomenon” often creates such a psychological commitment among negotiators who interact regularly working toward a common goal of attaining agreement. In this situation, negotiators develop divided loyalties when the interests of the parties they represent conflict with those of the negotiating group. Beware of this tactic which can be used subtly.

Informational tactics

Bargaining for information

Trade information for something else you want.

When you are concerned that the other side will not reciprocate if you disclose information, you may find it useful to trade for information or something else of value to obtain information from the other side. This tactic can often be used to open the flow of communication if one party otherwise fears that disclosure will not generate reciprocity.

Focus/downplay

Mislead the other side about your real interests.

Focus and downplay are used to learn the other party's real interests while, if appropriate, misleading them about your own interests. For example, when shopping for a used automobile, you may inquire about the price and special features of several cars on the dealer's floor to gain a sense of the auto dealer's willingness to negotiate. You would downplay your interest in buying one particular car (the car of your dreams), otherwise the auto dealer will be inclined to stick to his original asking price. Countermeasures consist of informational tactics.

Selective disclosure of information

Disclose information based on timing and the other side's reactions.

Selectively disclosing information is a critical tactic you can use to influence the other side's perceptions, expectations, and positions. Determine the effective timing of each disclosure. By reading the other side's verbal and non-verbal information, you can analyze their reaction to your disclosures. You must be careful that deflections and refusals to answer do not create distrust.

Snow job

Selective disclosure of information also includes the "snow job" where important information is obscured by producing it among an overwhelming mass of other information.

Creation of facts

Alter or add to what is already known.

Creation of facts refers to the legitimate alteration of the factual situation, including physical changes, a demonstration, new research study results, and credible threats, such as the threat of litigation. The tactic does not suggest creating "false" facts, but adding to what is known to present the situation in a new light. For example, you could introduce the idea of funding a study or hiring a consultant to come up with more information.

The funnel approach

Start with broad questions and narrow down.

This information tactic is best used with a party at least somewhat willing to disclose information. You start with broad, general questions, which may be presented casually, in an offhand manner, and follow-up with narrower and narrower questions. A countermeasure is the selective disclosure of information.

Information through discussion and debate

A common method for exchanging information is discussion in the form of a conversation, debate or an argument. Unless required, a less adversarial discussion is likely to be more productive. Use questions and silence to elicit information. Use the other parties' own policies or principles for persuasion. Informal or "off-the-record" discussions can lead negotiators to a revealing degree of candor.

Offers, concessions, and alternatives*Making or avoiding making the first offer*

Making the first offer is a useful tactic, if by doing so you can set a realistic bargaining range; otherwise it is useful to avoid making the first offer, unless forced to do so by time constraints.

First concession

This strategy is used in combination with others. By making the first concession, you can create goodwill and the perception of movement at the beginning of the entire negotiation or when beginning to negotiate a new issue. If you use this strategy, however, be careful not to create the appearance of weakness or the expectation that other concessions will soon follow.

Planned concessions

One of the most useful strategies is to make a realistically high opening position and follow it with small planned concessions that have little or no cost. This strategy works best when there is no obvious pattern to your concessions.

Countermeasure to
planned
concessions

You can counter this strategy by engaging in your own planned concessions, by refusing to make further concessions or only deadlock breaking concessions, or by switching to a problem-solving strategy.

Requiring pre-conditions

Pre-conditions are substantive or procedural, non-negotiable concessions required for a negotiation to proceed. Countermeasures include no concessions (sometimes with face-saving) and reciprocity.

Concessions of greater value to one party

Concessions of little concern to your side may be very important to the other side.

Offering concessions of greater value to one party means structuring a concession to explicitly fit the parties' different values, including demands created solely as trade-offs and small concessions that appear to aggregate to a greater value. For example, in exchange for getting help with cleaning out the garage, a father agrees to let his daughter use the family car for a Saturday night date, a concession of far greater value to the teenager than to her father.

Bargaining

Bargaining is an offer to explicitly exchange one thing for another. Children often use bargaining to settle their disagreements. "If you let me play with your truck, I'll let you ride my bike." The trade is made without explanation or supporting rationale.

Conditional proposals

Proposals with strings attached

Conditional proposals are offers contingent on resolving other issues. For example, at an enforcement settlement conference, an agency may agree to reduce a penalty imposed on a food establishment if and only if the agency and food establishment reach agreement on a schedule for correcting the establishment's code violations.

The use of alternative opportunities

Pursuing alternative opportunities and disclosing their availability can be used to gain leverage during a negotiation. Countermeasures include face-saving, debate, funnel approach, and information bargaining.

Inserting new issues

Issues which have been held back or newly discovered

When it is advantageous to create a fresh opportunity for trade-offs during the negotiation, you can insert new issues. The "new" issues may have been previously withheld for this purpose, or they may arise from disassembling a proposed package deal. The tactic can be used to save face. Countermeasures include reopening all issues, refusing to include the new issue, inserting other new issues, and terminating the negotiation.

Surprise

Catch the other side off guard. By unveiling startling new, apparently attractive terms during the negotiation, you can catch the other side off guard and prevent a thorough analysis. The surprise tactic is useful unless the reaction will be counterproductive. Counter with patience.

Creating movement

When negotiation bogs down, create movement. Throughout a negotiation, consider whether it is progressing and, if so, whether it is moving in a favorable direction. When a negotiation gets bogged down, you should consider creating movement; otherwise the negotiation may fail even where there is a zone of agreement.

The following are tactics you can use to create movement:

- Disclose new information.
- Develop new facts.
- Alter the tone of the negotiation.
- If it appears that one issue is creating an impasse, agree to defer that issue until the others have been negotiated.
- Change negotiators.
- Engage in alternative methods of dispute resolution such as mediation or arbitration. Parties resolve disputes through mediation by involving an outside person (a mediator) who helps facilitate discussion between the parties. Arbitration means the parties submit their disputes to an agreed-upon third party who will hear the issues and make a decision.
- Work through allies to force the other side to move off its position.

Trial balloons

Shift the focus by throwing out new proposals. Suddenly shifting the focus of discussion by proposing new or considerably different settlement terms can sometimes break a dead-lock or otherwise create movement. The new proposal is made with a great deal of uncertainty about whether it will be accepted. Even if the proposal is not accepted, the tactic can be useful because the reaction of the other side may reveal vital information.

Focusing on the process

Focus on why communication is failing.

This tactic calls for focusing on the process for resolving issues rather than substantive issues. It is a useful tactic when negotiations have broken down as a result of personality conflicts or power struggles over how to negotiate. The tactic calls for putting aside the substantive issues of the negotiation, focusing instead on the causes of the breakdown, why communication is failing, and constructive ways to resume the process.

Adjournment

Adjourn temporarily to regroup or change the tone of negotiation.

Adjournment is a highly beneficial and frequently used tactic. Negotiators may temporarily adjourn the negotiations when it is necessary to regroup, to obtain new settlement authority, to verify new information, to change the mood or tone of the negotiations, or for any other such matter.

When you need to get tough*Deadlines*

A deadline must be credible, not just a power play.

Imposing a realistic, credible deadline can be used to force the other side to make larger concessions and to act more quickly in making concessions or reaching decisions. To use this tactic successfully, you must offer a credible reason for imposing the deadline, otherwise, the tactic may appear to be an artificial power play which can cause resentment and may prematurely end the negotiation.

Demanding responses to offers and positions

Don't negotiate against yourself.

A useful tactic is to demand a clear response to an offer or position from the other side, before modifying your offer. In short, do not negotiate against yourself. Where resistance to the tactic is met, you can propose to allow agreement on the substance without requiring agreement on the reasons for accepting an offer. Countermeasures include lack of authority, need for more information before responding, and silence.

No further concessions

You can employ the tactic of refusing to make further concessions if you can force the other side to make the last concession. You can use this tactic for the overall agreement or to resolve a particular issue in the negotiation.

Reciprocity

Turn about is fair play.

Reciprocity demands a concession from the other side for your giving or having given a concession. Negotiators will often say, "I've come down in my demand. Now it's your turn." On its face this seems fair and the temptation is to respond with one's own concession. You should resist the norm of reciprocity unless it is advantageous to you. A reciprocal concession may be warranted to keep the negotiations moving forward. However, at times the first concession may be of so little value or the person opened with such an extraordinarily high demand that the concession does not merit a reciprocal compromise.

Power

Power should be used only after considering long- and short-run intended and unintended effects to determine whether its use will be truly effective. For example, negotiations between a supervisor and a member of her staff involving flexible work hours to help the staff member meet his child-care responsibilities could readily be concluded by the supervisor simply saying "No" to the request for flexibility. Exerting her power in this manner however should only be done after considering the potential consequences, such as possibly having an angry and anxious staff member, or causing the staff member to quit.

Countermeasures include creating known adverse consequences.

Bluffs

Bluffs are positions that are presented as being non-negotiable, but that actually are negotiable, or adverse consequences that one side supposedly will cause to occur, when in fact that side will not really do so. This is a dangerous tactic for credibility. "New information" can provide the bluffing party with an escape. Countermeasures include refusal to yield to the bluff, selective information disclosure, debate, and face-saving.

Deadlock

Deadlock means the parties come to a complete standstill in the negotiations, each side refusing to make any further concessions or to otherwise move from their stated positions. This is a risky tactic to test the other side's strength or cause delay. Generally one should only threaten to or actually terminate a negotiation when less dramatic means fail.

Countermeasures include focusing on the process, informational tactics, adjournment, redefining issues, problem solving, win-win proposals, fact creation, new issues, a one-time concession, and threats to terminate the negotiation.

Ways to facilitate agreement and closure

Debate

Persuasion by an exchange of view.

Debate is an exchange of views designed either to persuade rather than merely to argue, or to convince the other negotiator that argument is futile. Offers are most persuasive if supported by reasons showing how the offer meets the *other* party's interests or needs. Countermeasures include different facts and interpretations, uncovering false assumptions, replacing a point with a stronger point, showing an argument's limitations, analogies, and face-saving.

Splitting the difference

When the difference is small and both positions are reasonable

"Splitting the difference" is a tactic appropriately used when: a) the gap is relatively small and b) each party realizes that the other's position is at least somewhat reasonable so that the split is fair. When the difference is truly relatively small, even unreasonable differences can be appropriate to split if time pressures or costs dictate, if closure results, and if an adverse precedent is avoided. Countermeasures include setting artificially high positions and making smaller concessions before the split.

Face-saving

Helping the other side avoid embarrassment or face-saving is an extremely useful strategy. The following are some ways to carry out face-saving:

- Offer the other party a justification for their changed position.
- Ignore extreme assertions made by the other side.
- Make a meaningless concession that the other party can treat as real.
- Create a non-threatening tone which allows the other party to concede easily.
- Tell a funny story to break the tension felt by the party who is forced to concede.

For information on other strategies and tactics, see the books cited in the References.

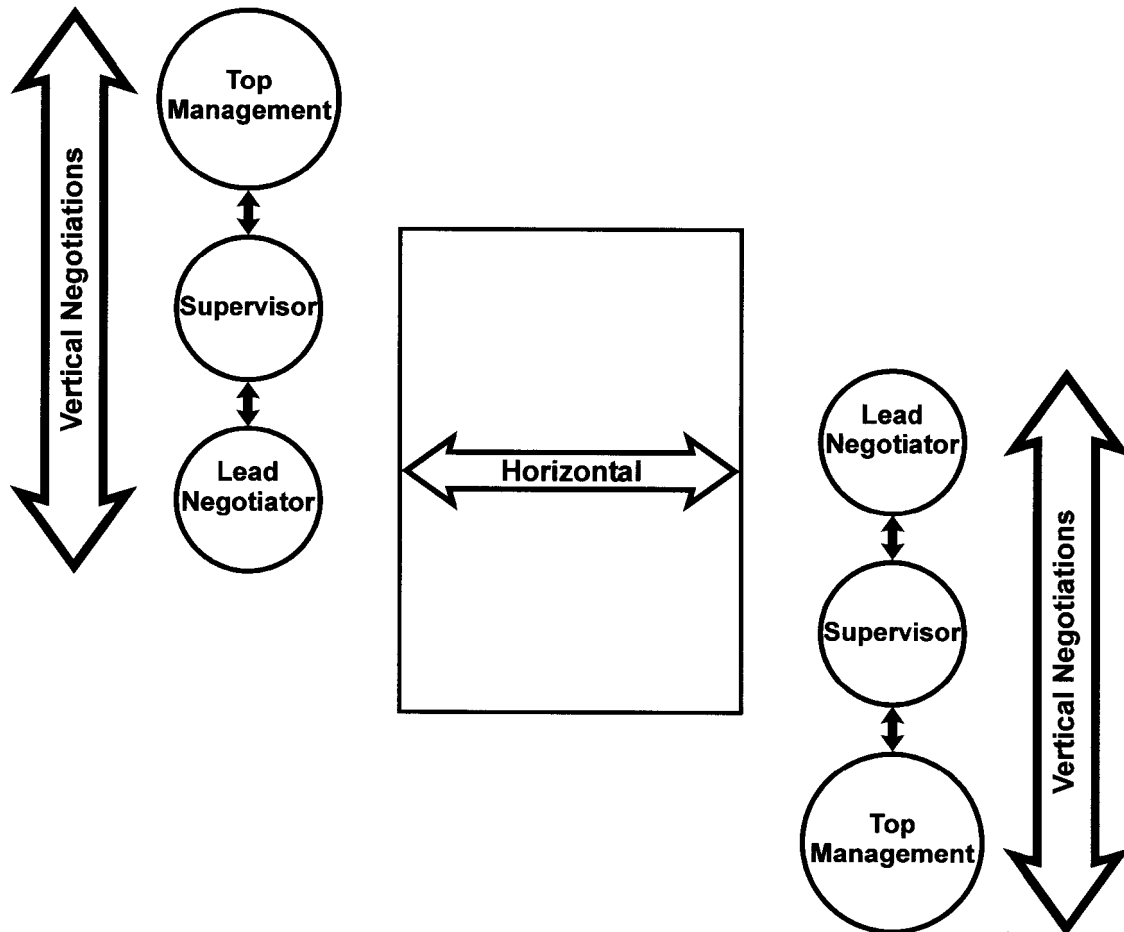
Teams and allies

Negotiation within the agency

Internal or vertical negotiations

Negotiating on behalf of a health department often requires that you first negotiate with others above and below you within your organization before negotiating with the persons on “the other side of the table.” Internal negotiations (vertical negotiations) are used to reach agreement on your agency’s bargaining plan. You must keep supervisors and the ultimate decision-maker informed of the negotiating plan, of its progress, and of any problems or changed positions that occur during the negotiations. Decision-makers will not happily concur with a final outcome that differs substantially from the originally approved negotiating plan unless they have been kept informed throughout the proceedings of any new positions taken and the rationale of any compromises made.

Figure 8c. Horizontal and vertical negotiations⁸



⁸ Adapted from Miller, J. And Colosi, T.

Team negotiations

Government negotiators frequently find themselves negotiating in teams. Team negotiations require careful planning and control by the team leader to ensure that each member understands and will abide by the negotiating plan and his or her assigned role.

Benefits of team negotiation

A team negotiation has both benefits and drawbacks. The benefits include:

- Persons with specialized knowledge are available at the negotiating table.
- One team member may remain silent and act as a note-taker and observer.
- Collective judgment can be used to assess offers that are made.
- Team members can role play "good cop, bad cop."

Drawbacks of team negotiation

Among the drawbacks are the following:

- The other side can observe non-verbal cues among the team members.
- The other side may have a better chance of eliciting information from team members who are less savvy about keeping certain information "under wraps."

Multi-lateral negotiations

Negotiations may also involve more than two parties.

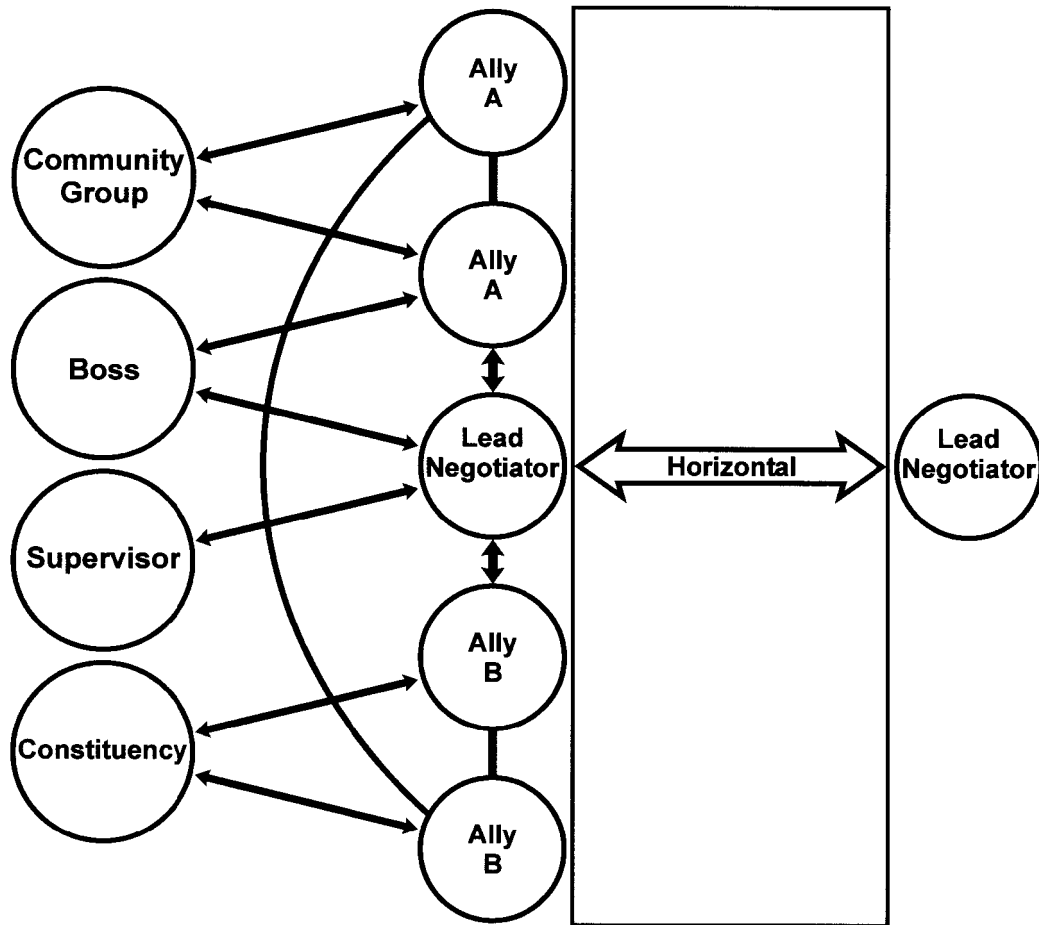
Sometimes negotiations take place among more than two parties. Some of the parties may be allies, and one or more of the parties may be represented by teams. In these instances, negotiations can be quite complex. You will need to negotiate within your team and with any allies as well as with the other side. But you should never negotiate with your team members or with your allies in front of the "other side."

Avoid displaying differences within an alliance.

For example, if both the county and state health departments are allied in opposition to a position taken by the business community, negotiations between the county and state health departments should occur *before* meeting with the business community. An alliance can avoid displaying its differences in front of the other side by planning carefully and negotiating those differences in advance. When differences occur *during* the course of negotiations, the allies should seek a temporary adjournment to discuss their differences in private.

The planning steps discussed earlier also apply when you prepare for negotiations within your own agency or with an ally. Thus, you would determine your supervisor's or ally's goals, issues, and vital interests. Where they conflict with your own interests, you would have to negotiate the differences.

Figure 8d. Team negotiations⁹



⁹ Adapted from Milles, J. And Colosi, T.



Stop and think...

Who have been your allies in any previous negotiations? How did their goals and issues differ from yours?

Have you ever negotiated with someone who had allies? What do you think the allies' goals and issues might have been? Would they have been different from those of the main person or group with whom you were negotiating?

Recording the agreement

During lengthy or complex negotiations that involve multiple issues or parties, it is important to commit interim agreements to writing. This record may take the form of a short letter to the other party recapping areas of agreement and issues remaining in dispute. The letter may also restate areas that require further discussion and any procedural agreements, such as the date or location for the next meeting. The letter should end with the statement, "If you disagree with this memorandum, please let me know within ___ days, otherwise I will assume that I have recapped our discussions correctly."

The person drafting the agreement controls its language.

The person who drafts the agreement generally controls its organization and the phrasing of its terms. When verbal agreements are open to interpretation or when their meaning may be affected by the wording selected, it can be to your advantage to be the one who initially states the agreement in written form. Even though your expression of the agreement may later be modified by the other side, you will have maintained as much control as possible over the final form of the agreement.

Summary

Negotiation is a search for a zone of agreement through the controlled exchange of information between parties. It is also a highly dynamic process. To be successful, negotiators must thoroughly plan in advance of the negotiation, but remain flexible during the negotiation itself.

Flexibility is key to the process.

Flexibility requires that you continuously monitor the progress and direction of the negotiation to ensure that it is moving in a direction that is favorable to you. You must be prepared to modify your plan when the other side reacts in unanticipated and deleterious ways. Throughout the negotiation you must be sensitive to new information that will help you reassess your initial estimates of the other side's goals, vital interests, strengths, and weaknesses. These clues will help redirect your efforts as the negotiation unfolds.



See Group exercise 8.5 at the end of the module.



Review of terminology...

This module uses a number of terms that take on special meaning within the context of negotiations. You may find it useful to define them now in your own words. Feel free to add more terms.

adjournment

agenda

allies

arbitration

BATNA

bottom line

concessions

conditional proposals

controlled exchange of information

countermeasure

dispute resolution

downplay

face-saving

funnel approach

goals

issues

mediation
movement
negotiation
opening position
positional bargaining
selective disclosure of information
situational constraints
strategy
tactic
trade-offs
trial balloons
vertical negotiation
vital interests
win-win options
zone of agreement

Self-check review

Answer the following questions to assess your understanding of the module.

1. Which of the following elements is not part of a systematic process of negotiation?
 - A. Exchanging information in a controlled way
 - B. Searching for a zone of agreement
 - C. Forcing the other party to disclose more information than you
 - D. Trying to satisfy the other party's needs and interests

2. Which of the following statements about issues in a negotiation is true?
 - A. Issues arise when the parties' goals conflict.
 - B. Issues may involve both substantive and procedures matters.
 - C. Issues should be tentatively identified before the parties negotiate.
 - D. All of the above.

3. What is the basic reason that positional bargaining often results in stalemate?
 - A. The parties stop listening to one another.
 - B. The parties fail to detect and meet the underlying interests of both sides.
 - C. The parties repeat their positions *ad nauseam*.
 - D. The parties rigidly adhere to their bottom line.

4. Which of the following statements about personal credibility is not true?
 - A. Credibility is unimportant for public health officials because the law is on their side.
 - B. It is crucial to all negotiations because the process depends upon gaining the trust and confidence of the other side.
 - C. If one party lacks credibility, the other side may not be willing to communicate.
 - D. One may lose credibility by being unprepared or by lacking knowledge of the subject.

5. When negotiations are bogged down, the negotiator can create movement by:
 - A. Generating new facts to support his/her position
 - B. Improving available alternatives to reaching agreement
 - C. Using face-saving measures
 - D. All of the above

6. Which of the following statements about the bottom line is most accurate?
 - A. A person should never settle below his or her bottom line.
 - B. The bottom line should be changed only in response to new information.
 - C. The bottom line should be changed as necessary to reach agreement.
 - D. Parties should strive to achieve their bottom line in the negotiation.

7. What should parties do to create a win-win situation?
 - A. Identify new issues.
 - B. Assign the same value to each issue.
 - C. Explore the vital needs and true interests of each side.
 - D. A and C above

8. Which of the following is not a good reason to set a realistically high opening position?
 - A. To allow room for concessions
 - B. To set a proper tone
 - C. To prevent the other side from walking away from the negotiations
 - D. To allow room to change your bottom line

9. One can eliminate the uncertainty involved with negotiating by:
 - A. Conducting systematic planning
 - B. Adhering strictly to your goals
 - C. Thoroughly researching the subject to be negotiated
 - D. All of the above

10. Which of the following is not a true statement about a well-designed negotiating plan?
- A. It is a blueprint which should be strictly followed.
 - B. It represents a starting point for analyzing the dynamics of a negotiation.
 - C. It is a tool to be used throughout the negotiation.
 - D. It is a good tool to help the inexperienced negotiator.

Answers:

1.C, 2.D, 3.B, 4.A, 5.D, 6.B,
7.D, 8.D, 9.E, 10.A

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The National Institute for Dispute Resolution (NIDR) publishes and distributes a variety of books, periodicals, teaching materials and videotapes on the topics of negotiation and dispute resolution. To contact NIDR for a complete listing of their publications write to: NIDR, 1726 M Street, NW, Suite 500, Washington, DC 20036, (202) 466-4764.

Group exercises

Exercise 8.1

Discussion:

A state Public Health Department official is preparing to negotiate with a private laboratory to analyze blood lead levels of children examined at its state-run community health clinics. What preparatory information should the official gather before negotiating with the laboratory?

Exercise 8.2

Apply the concepts described in Steps 1 through 6 to the Wapon County Health Department example which starts on page 14. Discuss the following questions, creating hypothetical scenarios where necessary:

What are the potential strengths and weaknesses of the parties in the Wapon County Health Department example?

- What are the vital interests of each participant (i.e., why each side wants the deal)?
- What are possible situational pressures and constraints? For example, does one side need to reach agreement within x amount of time? Is there concern about setting a bad precedent?
- How can each participant ascertain the ability, personal interests and negotiating style of the other negotiators?

Exercise 8.3

Negotiating tactics

Have each member of your learning group select three or four tactics discussed in the section on “Strategies and tactics” and present examples of how the tactics were used by them or someone else during a negotiation. Examples may include situations from work, from the participant’s personal life (such as buying a car or negotiating with one’s children), or from public events described in the newspaper.

Exercise 8.4

Discuss the advantages and disadvantages of each of the following modes of communicating:

- Face to face meetings
- Telephone communications
- Letters
- Electronic mail and other written communication modes
- Combinations of the above

Exercise 8.5 Case study:

You are director of the Division of Health Promotion and Education in the Bloomin County Health Department. The top administrator, Director Margaret Chen, recently announced a reorganization plan for the Health Department.

Under the plan, your Division of Health Promotion and Education will merge with the Division of Epidemiology and Communicable Diseases, currently headed by Dr. William Mode. Director Chen's stated reason for the plan is to save money by reducing the number of mid-level managers. It is known that in merging the two divisions Director Chen intends to keep only eight mid-level unit heads. Currently, your division has six unit heads and Dr. Mode's division also has six unit heads. The functions of each division are as follows:

Division of Health Promotion and Education

Health Promotion
Vision and Hearing
Public Relations
Community Health Education
Well Employees Health Screening
Speakers Bureau

Division of Epidemiology and Communicable Diseases
Birth and Death Records
Laboratory Services, including
STD testing
Water testing
Throat cultures
Misc. cultures
Communicable Disease Control
TB Control
STD Diagnosis, Rx and Education
AIDS Testing/Counseling, Education, Consortium, and Case Management

Director Chen has asked to meet with you about leading the newly merged division. Discuss how would you plan for this meeting. [Hint: Go back through each of the fourteen planning steps.]

To register for continuing education credit and to evaluate this module

Registering for Continuing Education Credit

To receive credit for this module you must submit course enrollment forms and the answers to the **Evaluation and Test** (located on the following pages) to CDC. There are several ways to complete this registration process:

Complete the forms online.

- U** Go to the PHTN website www.cdc.gov/phtn and complete the registration and evaluation online. Directions will be given at the website.

Complete the forms on paper. There are two ways to obtain the forms from CDC. (If you plan to study additional modules, you may want to request enrollment materials for those modules also at this time.)

- U** Request the enrollment materials online by going to the following URL at the PHTN website <http://www.cdc.gov/phtn/legal-basis/req-form.htm> and completing the online request form. After the online form is submitted, an enrollment packet will be mailed to you with instructions.
- U** Request the enrollment materials by calling **1-800-41-TRAIN** (1-800-418-7246). At the prompts, press 1, then 3. Please clearly speak your name, mailing address, daytime phone number, and the correct module name and number. The enrollment materials will be mailed to you with instructions.

If you are unable to register online, you will have to wait several weeks until your course enrollment materials arrive in the mail. If this is the case, you might want to complete the Evaluation and Test immediately after you finish the module by marking your answers directly on the following pages (or make a photocopy) and then, when the enrollment materials arrive, transfer your answers to the answer sheet included with the materials.

Evaluating the Module

If you are registering for continuing education credit, you will be asked to complete an evaluation as part of that process.

If you are not interested in receiving continuing education credit, we ask that you please take time to evaluate the module. Follow the procedure specified above for getting continuing education credit, but indicate in the first question on the **Evaluation and Test** that you do not wish to receive continuing education credit. Although this is not required, your opinion of the module is important to us. By letting us know if this module was effective for you, we can improve future editions, as well as other PHTN courses.

Evaluation and Test
The Legal Basis of Public Health
Module 8, Negotiation
COURSE #SS0008

Objectives for *Module 8, Negotiation*

- g Define the concept of “zone of agreement” and its centrality to the negotiation process.
- g Describe the fourteen essential steps involved in systematically planning a negotiation.
- g Identify negotiating strategies, tactics, and countermeasures that can be employed during a negotiation and distinguish when they are most appropriately used..
- g Explain why it is important to communicate with superiors, colleagues, allies, and opponents during the negotiation process.

NPlease use the red *CDC Answer Sheet* included in the enrollment materials to complete the following questions.

Tell us about yourself...

- 1. What type of continuing education credit do you wish to receive?**
 - A. (CME) *Not Available for this Course*
 - B. Continuing Nursing Education (CNE)
 - C. Continuing Education Units (CEU)
 - D. do not want continuing education credit

- 2. Have you previously completed *Module 1, Introduction?***
(Completion of Module 1 is required before taking any of the other modules.)
 - A. yes
 - B. no
 - C. I have just completed ***Module 1, Introduction.***

- 3. Are you a**
 - A. Nurse
 - B. Physician
 - C. None of the above

Please note: Question 5 is a continuation of question 4. Please answer each question, but choose only **ONE** occupation. Your answer to one of these questions will be **F. None of the above.**

4. T F
A B C D E F

5. T F
A B C D E

- 4. Which of the following best describes your current occupation?**
- A. Epidemiologist
 - B. Health Educator
 - C. Laboratorian
 - D. Pharmacist
 - E. Physician Assistant
 - F. None of the above
- 5. Which of the following best describes your current occupation?**
- A. Field Inspector (nursing homes, restaurants, etc.)
 - B. Manager/Supervisor
 - C. Environmental Health Worker/Sanitarian
 - D. Lawyer/Attorney
 - E. Other public health professional
 - F. None of the above
- 6. Which of the following best describes the organization in which you work?**
- A. Academic
 - B. Private health care setting
 - C. Federal government
 - D. State government
 - E. Local government
 - F. Other organization

Tell us about the module...

- 7. How did you first learn about this module**
- A. State publication (or other state-sponsored communication)
 - B. MMWR
 - C. CDC website (not including PHTN website)
 - D. PHTN source (PHTN website, catalog, e-mail, or fax announcement)
 - E. Colleague
 - F. Other

- 8. How did you obtain this module?**
- A. Purchased from the Public Health Foundation
 - B. Downloaded from the PHTN website
 - C. Borrowed or copied materials from someone else
 - D. Other
- 9. What was the most important factor in your decision to obtain this module?**
- A. Content
 - B. Continuing education credit
 - C. Request from supervisor
 - D. Previous participation in PHTN training(s)
 - E. Ability to take the course at my convenience
 - F. Other
- 10. I completed this module**
- A. As an individual learner
 - B. As part of a learning group that organized itself
 - C. As part of a learning group that was organized by someone outside of the group
- 11. My completion of this module included interaction(s) with an expert(s) (or reasonably experienced person) on the topic?**
- A. Yes
 - B. No
- 12. My interaction(s) with the expert(s) on this topic could be described as follows**
- A. I had no interactions with an expert
 - B. One or more sessions organized by someone outside of the group
 - C. One or more sessions organized by someone within my group
 - D. One or more informal consultations that I initiated on my own
- 13. How long did it take you to complete this module?**
- A. 1 - 2 hours
 - B. 3 - 4 hours
 - C. 5 hours or more
- 14. How many of the ten modules comprising the *Legal Basis of Public Health* have you completed?**
- A. 1 or 2 modules
 - B. 3 to 5 modules
 - C. 6 to 9 modules
 - D. All 10 modules

15. **How many of the ten modules comprising *The Legal Basis of Public Health* do you plan to complete?**
A. 1 or 2 modules
B. 3 to 5 modules
C. 6 to 9 modules
D. All 10 modules
16. **Please rate your level of knowledge prior to completing this module.**
A. Had a great deal of knowledge about the content
B. Had a fair amount of knowledge about the content
C. Had limited knowledge about the content
D. Had no prior knowledge about the content
E. No opinion
17. **Please estimate your knowledge gain due to completing this module.**
A. Gained a great deal of knowledge about the content
B. Gained a fair amount of knowledge about the content
C. Gained a limited amount of knowledge about the content
D. Did not gain any knowledge about the content
E. No opinion
18. **If this module is further evaluated through the use of focus groups or other methods (e.g., follow up questionnaires) would you be willing to participate?**
A. Yes
B. No

Please use the scale below to rate your level of agreement with the following statements about this module.

- A. Agree
B. No opinion
C. Disagree
D. Not applicable

19. **The objectives were relevant to the purpose of the course.**
20. **I would recommend this module to my colleagues.**
21. **I believe completing this module will enhance my professional effectiveness.**
22. **The content in this module was appropriate for my training needs.**
23. **Reading the text on my own was an effective way for me to learn this content.**

24. The self-study questions contributed to my understanding of the content.
25. The group exercises contributed to my understanding of the content.
26. The Coordinator Guide contributed to my ability to have a learning experience appropriate to my (or my group's) needs.
27. Downloading the materials from the PHTN website was user-friendly.
28. Ordering the materials through the Public Health Foundation was user-friendly.
29. Ordering the materials through the 1-800-41-TRAIN phone number was user-friendly.
30. I am confident I can define the concept of "zone of agreement" and its centrality to the negotiation process.
31. I am confident I can describe the fourteen essential steps involved in systematically planning a negotiation.
32. I am confident I can identify negotiating strategies, tactics, and countermeasures that can be employed during a negotiation and distinguish when they are most appropriately used.
33. I am confident that I can explain why it is important to communicate with superiors, colleagues, allies, and opponents during the negotiation process.