

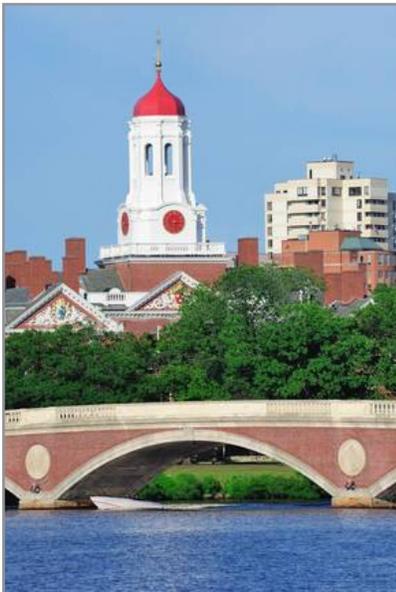
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HARVARD LAW SCHOOL



**SPECIAL REPORT**

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Negotiation Special Report #12

\$25 (US)



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The articles in this Special Report were previously published in *Negotiation*, a monthly newsletter for leaders and business professionals in every field. *Negotiation* is published by the Program on Negotiation at Harvard Law School, an interdisciplinary consortium that works to connect rigorous research and scholarship on negotiation and dispute resolution with a deep understanding of practice. For more information about the Program on Negotiation, our Executive Training programs, and the *Negotiation* newsletter, please visit [www.pon.harvard.edu](http://www.pon.harvard.edu).

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## 1. Negotiate your own role

MANY PROFESSIONALS HAVE A KNACK FOR creating value, claiming value, and building great deals. Yet few are capable of helping others enhance their negotiation performance. Some offer weak advice that they themselves wouldn't follow. Many are oblivious to the qualities that make them effective negotiators—and thus are unable to share these insights. Not everyone is cut out to be a negotiation coach. Yet an effective coach can be an invaluable asset, and such individuals most likely exist within your organization.

**What is a negotiation coach?** Anyone in an organization who can help teach others how to negotiate more effectively can become a negotiation coach. Coaching is best conducted one-on-one rather than in groups. Because few organizations formally assign negotiation training to their employees, most negotiation coaching is done “off the books.” And because the best advice will come from someone fully aware of the precise demands and constraints you're facing, look for your coach within your own organization.

Rather than simply telling you what to do in a particular situation, effective coaches focus on improving your skills. They are well versed in an explicit theory of negotiation (such as the mutual-gains approach taught at the Program on Negotiation at Harvard Law School) that allows them to explain and predict what will and won't work.

An effective negotiation coach helps you set goals, assists you in figuring out what techniques to try and what adjustments to make, and enables you to understand what happened after the fact.

**A good coach is consistent.** It's not uncommon for negotiation coaches to offer advice that's inconsistent with their own bargaining behavior. This inconsistency can leave trainees confused about which practices to follow. It arises when coaches lack a clear theory of negotiation to back up their prescriptive advice.

One simple way for organizations to improve consistency is to limit their pool of negotiation coaches. Not all senior managers should be expected to be able to give expert negotiation advice to their direct reports. Instead, organizations should identify and train a few senior managers with real coaching talent and let it be known that they're available to give advice companywide. These individuals would learn to be explicit about the theory of negotiation they depend on to diagnose others' strengths and weaknesses (as well as their own).

Employees may be reluctant to ask for negotiation advice from their direct supervisors for fear of revealing weaknesses that could be held against them during performance reviews or salary discussions. For this reason, many trainees may actually prefer to get help from coaches in other parts of the organization.

Adapted from "Finding a Good Negotiation Coach"

By Lawrence Susskind, *Negotiation*, August 2007

**TO CLOSE ANY DEAL**, you not only have to reach agreement with the other side but also convince your own organization of the deal's value. In fact, you may need to conduct *several* distinct negotiations within your organization to persuade various departments—such as the finance division, the general counsel's office, and the product development unit—to sign off on your negotiated transactions.

Consider that virtually all of us negotiate on behalf of someone else. In short, we negotiate as *agents*. Executives are agents for their corporations. Lawyers are agents for their clients.

To negotiate on behalf of others, you need a mandate from them—an authorization to act on their behalf. That mandate usually will take the form of instructions about the kinds of deals you may explore and perhaps tentatively agree to at the bargaining table.

Your mandate is crucial to your ability to negotiate for two important reasons. First, knowledge of your mandate leads the other side to deal with you seriously as a representative of your organization—someone who can deliver the goods. Second, the existence of a mandate gives you confidence that you can persuade your own organization to accept your negotiated deal.

Just because your CEO told you to negotiate a deal doesn't mean that your mandate is automatically strong. You'll secure such a mandate only after conducting internal negotiations with all necessary company departments. For example, to develop a mandate for its executives to negotiate the construction of a power plant in India, a U.S. energy company needed to conduct negotiations with various internal departments—finance, engineering, and legal, among others—to arrive at a common position on factors such as the minimum acceptable rate of return, the nature of required legal guarantees, and the types of technology to be transferred.

As you negotiate, one of your ongoing tasks is to continually educate key individuals in your organization about the special needs and challenges of your external negotiations. You can wage your educational campaign in a variety of ways. You might provide your principals with regular reports on local laws and regulations related to the emerging deal. You might keep them informed of similar deals being made by your competitors. You might arrange visits to your home office for important counterparts from the field. Finally, you might seek to persuade influential colleagues to travel with you to the places where you negotiate so they can learn firsthand the nature of local conditions and meet with people important to your company's business.

Adapted from "Great Deal—But How Will It Play at the Office?"

By Jeswald W. Salacuse, *Negotiation*, October 2006

## 2. Offer negotiation training that delivers results

EXECUTIVES OFTEN TAKE TIME OUT of their busy work lives to attend negotiation classes and training programs. Their teachers pass on interesting concepts and war stories about great negotiations. Yet when the executives return to their offices, the ideas and stories rarely affect their own actual negotiation behaviors. Why not? Absent a model for thinking about how to actually improve executive negotiation skills, each strategy is limited. Fortunately, there are a variety of ways you can increase the lasting value of the executive negotiation programs that you attend:

**1. Make mistakes.** Negotiation simulations, particularly those in which people are encouraged to make mistakes, follow psychologist Karl Lewin's insight that "unfreezing" of old thought processes must take place before an attempt to change can occur. Many of my students have accused me of setting up traps for them, watching them fall into the traps, and then saying "gotcha." In fact, this is exactly what I do. This approach succeeds at unfreezing past behaviors. By actively engaging in negotiation simulations, you can try out new skills—and make mistakes—in a safe, low-pressure setting.

**2. Listen for key concepts.** As Lewin has argued, there is nothing more practical than a good theory. Be open to concepts and theories, while noting their relevance for your own practical needs. Concepts generalize to your own negotiations better than stories. So when you're enjoying a story, concentrate on figuring out the point and how it will help you at the bargaining table. If you don't get the main point of a lecture, simulation, or story, raise your hand and ask.

**3. Draw analogies.** In their research, Leigh Thompson, Dedre Gentner, and George Loewenstein argue that abstracting similar lessons from two or more episodes, such as learning to overcome the *mythical fixed pie of negotiation* in both a house purchase and a joint venture negotiation, creates insight that people can actually use in their next negotiation. For this reason, when I teach negotiations, I make sure that the same concept shows up twice in a program and encourage participants to draw analogies across different episodes. In the classroom, keep your ears finely tuned to such repetition of ideas.

**4. Accept your limitations.** The realization that you've been making decisions based on faulty intuition can be threatening to your self-esteem. Good teachers reassure their students that we are all subject to judgment biases. Having them doesn't mean that you're a bad negotiator; it just means that you're human.

**5. Practice, practice, practice.** Developing new ideas into intuitive strategies requires practice and time. As you prepare to transport newly learned strategies into your work life, you must leave the classroom with a sense of vigilance. Back

at the office, reflect on the entire training program and think about how you can consciously use your new strategies in multiple applications so they will slowly become second nature, taking the place of old patterns.

Adapted from “Putting Negotiation Training to Work”

By Max Bazerman, *Negotiation*, September 2005

### 3. Make the organizational changes needed to help negotiators succeed

TOO OFTEN, ORGANIZATIONAL ATTEMPTS to build individual negotiation skills fail to produce the desired results. Why? In part because management and outside trainers often concentrate too much on building individual negotiating skills and not enough on broader problems within the organization that are hindering strong results. Structural constraints that exist within your organization can be one significant barrier to effective negotiation. These three concepts can put you on the right track:

**1. Establish an organizational preparation process.** While it’s true that individual negotiators often fail to prepare adequately for talks, their leaders must also accept responsibility for failing to give them the mandate or resources needed for success. At one computer manufacturer, negotiators worked in advance with product managers to determine pricing targets, then aimed for these targets when bargaining with a customer and checked back with managers for approval of various counterproposals. Sensing their counterparts’ lack of authority, the customer’s team eventually began to go around negotiators to the computer company’s upper management. Negotiators and their superiors at both companies felt stymied when secondary negotiations between their legal departments dragged on over terms and conditions.

Individual skills training was a first step toward improving the manufacturer’s standard negotiation process. At least as important was management’s next initiative: forming a problem-solving team made up of product managers and legal staff that came up with a new negotiation preparation process for the com-

pany. Managers and the problem-solving team now were required to enumerate and rank all the company's interests prior to critical talks and gather key information and benchmarks from across the company. As a result, the procurement VP became comfortable granting negotiators greater authority to invent options. In the year that followed, the company ran billions of dollars worth of deals through the new process, with superior results.

**2. Manage principal-agent dynamics.** Imagine that after you have built a strong relationship with a long-term client, she tells you that her superiors have assigned a consultant to participate in your upcoming renegotiation. The consultant has promised the client firm substantial savings—and yoked his compensation to these results. It's the classic "principal-agent" problem: the consultant's negotiation goals may conflict with those of his principal—not to mention yours. The client's agent is likely to be focused on short-term savings, while you and your counterpart prefer efficiency and continuing quality of service.

To overcome this inherent structural dilemma, you'll have to negotiate ground rules, such as a way for you to communicate with your counterpart as well as her agent. Spell out for your counterpart the tradeoffs represented by packages that include short-term savings but create certain long-term risks. In addition, make her aware of any benchmarking data you present to her agent, as well as your willingness to walk away from an unreasonable proposal.

**3. Examine your organization's budgeting process.** Large organizations often earmark training expenditures for a particular type of service, such as individual coaching, group classes, or consulting work. When a coach or consultant encourages a more systemic solution that could yield a higher return on investment, management often responds, "I have money available only for training." Champions of such approaches may find the firm's HR budget is not set up to handle such efforts.

One solution: training sessions that encourage employees to share their past negotiating experiences. More often than not, participants and trainers will recognize that improved outcomes are unlikely without broader attention to

strategic and structural challenges. The trainer should present such recommendations to an organizational leader who appears willing to try a new approach. Change is most likely when leaders look beyond budget constraints and acknowledge that negotiation is not just an individual capability but also an organizational one.

From “When Individual Bargaining Skills Aren’t Enough”

By Hal Movius, *Negotiation*, March 2007

**IN WORKPLACES ACROSS THE COUNTRY**, concerns about accountability loom large. Demands for accountability often play out at the level of negotiations: Who should answer to whom, and for what? By establishing accountability systems based on explicit rewards or punishments, you can improve decision making in your organization and increase the value that you and your employees gain and create in negotiation. Here are six strategies for improving negotiator performance in your organization:

**1. Demand accountability before talks begin.** Negotiators need to understand *before* they enter a negotiation that they will need to justify their decisions—and be responsible for them. Why? Because once we’ve assimilated information into our impressions, we have a hard time reinterpreting that information.

**2. Emphasize accountability for processes, not just outcomes.** It’s important to specify not only *when* people will be held accountable but also *for what* they will be held accountable. Researchers Itamar Simonson and Barry Staw have found that accountability for decision outcomes leads negotiators to escalate commitment to previously chosen courses of action, even when such plans are failing. By contrast, decision makers who are accountable for decision processes evaluate alternatives more evenhandedly. Presumably, negotiators feel less defensive if they know that their procedures are sound and well reasoned.

**3. Downplay irrelevant information.** Simply enacting accountability doesn’t guarantee better negotiation outcomes. While accountability can encourage negotiators to think more carefully, it can also lead them to overanalyze irrelevant informa-

tion. Apparently, the desire to provide a sound justification for our predictions can lead us to overanalyze the data at hand. For this reason, negotiators should have a clear understanding of the issues that are critically important to their constituents prior to negotiation. By raising these issues in advance, you can prevent irrelevant information from muddling negotiators' thoughts.

**4. Reduce contentiousness.** Several studies have found that negotiators become contentious and competitive when held accountable to others. To reduce contentiousness, implement an accountability system that leads negotiators to think through the interests of the other parties in advance. "Thought exercises" not only prompt negotiators to anticipate the demands of others, but to devise creative solutions that can benefit everyone involved. When negotiators expect to interact cooperatively with each other in the future, they become less contentious, and accountability improves their outcomes. For this reason, you and your company should encourage employees to view negotiations as long-term relationships rather than one-shot interactions.

**5. Reward objectivity, not partisanship.** When setting up an accountability system, seek to reward negotiators for objective assessments—and discourage their attempts to please you and other constituents. A negotiator needs to know that she will be rewarded for accuracy even if her proposed negotiation plan differs from her boss's uninformed view of how talks should proceed.

**6. Promote teamwork.** When an entire negotiating team, rather than just an individual negotiator, is held accountable for a specific goal, contentious behavior diminishes. Try to pre-empt contentiousness by telling groups of negotiators that they will be judged as a whole for their performance rather than as individuals. Groups can buffer the stress induced by high-stakes accountability while maintaining a competitive advantage.

Adapted from "Create Accountability, Improve Outcomes"

By Jennifer S. Lerner and Katherine Shonk, *Negotiation*, January 2006



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