

School for New Learning

DePaul University

HC 201 Negotiating Contracts: Strategic, Legal, Ethical, and Modern Technology Considerations

Winter 2016-17

SYLLABUS (LATE START)

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Location: Loop Campus

Dates/Time: Wednesdays 5:45 – 9:00 p.m.
1/10, 1/17, 1/24, 1/31, 2/7, 2/14, 2/21, 2/28, 3/7, 3/17

Credit hours: 4

Course Description

We enter into contracts and negotiate deals every day of our lives. Negotiating contracts with integrity proves successful both professionally and personally. Negotiating with integrity requires utilization of a technique labeled principled negotiation. In this course, we will distinguish principled negotiation from positional negotiation. When all parties in a negotiation recognize everyone's values and interests, the stage is set for principled negotiation. In order to uncover the underlying values and interests of all parties in the negotiation, we will learn the process to manage our perceptions and the techniques to manage the other party's perceptions. We will recognize the value of various types of questions. In learning to communicate with others we will utilize a technique called "matching. With the stage set, the parties are on their way to joint problem-solve their way to a principled negotiation, where all parties walk away a winner. We will address techniques to improve joint problem-solving: expanding the pie, generating options, and brainstorming.

Because examining perceptions, managing perceptions, and effective communication is critical to a successful negotiation, we will delve into the realm of analyzing our world as we perceive it and the art of entering into the realm of another's perception. We will explore a model of spiritual development, the Toltec Wisdom of utilizing the "four agreements" as an approach to relating to others. We will recognize this model as a tool to be used as a method of managing our perceptions and the perceptions of others, and as an approach for communication.

Generally speaking, contract formation is the goal of a successful negotiation. Understanding basic contract law is key to improving a negotiation. We will examine the development of contract law. We will cover the basics of contract formation: offer, acceptance and consideration. We will identify which contracts require to be in writing. We will explore statutes addressing electronic communications. We will examine the remedies available when a contract is breached. We will review various examples of contracts to evaluate the practical application of what we learned.

We will put our basic understanding of contract law and our acquired negotiation skills, including using the model of spiritual development of the “four agreements,” to use by participating in a contract negotiation as a final class project.

The course will meet on-campus every week. Attentive participation is expected and welcomed. In addition, there will be ample opportunity to meet with the instructor on an as-needed basis.

The assignments for this course are organized to provide outcomes-based learning for students who are enrolling for the core section—CCH and also include some assignments for students who are completing a competency-based credit. Students enrolling for the 4-credit CCOH section will complete the assignments identified for H1D and H3D—those are competencies that correspond to the core outcomes of the course.

Competencies Offered

H-1-D: Can explain a system of law that governs a society.

1. Identifies a system of law for analysis.
2. Understands the interrelationships among the laws of that system.
3. Interprets the presuppositions or applications of the laws of that system.

H-3-D: Can employ the skills of negotiation, mediation, or interpersonal communication in the resolution of a problem.

1. Identifies the components of a specific interpersonal relationship and describes the problem that exists within that relationship.
2. Applies principles of mediation, negotiation, or interpersonal communication to resolve the problem.
3. Evaluates the effectiveness of the intervention and of the theoretical model underlying it.

F-X: Understands and can apply negotiation skills and contract law in a variety of settings.

Students may contact instructor if interested in negotiating changes to the FX statement to fit better into their own Focus Area Plans.

Expected Outcomes

By the end of the course, students should be able to enter into a contract negotiation addressing the values and interests of all parties. Students should understand the basics of contract formation, the influence of electronic communication on contracts, and the available remedies upon breach. Students should have a heightened understanding on how effective interpersonal communication skills influence the outcome of a negotiation. Students should be able to apply the four agreements to improve interpersonal communication skills.

Learning Outcomes

H-1-D: Can explain a system of law that governs a society.

- Ascertain where contract law finds its basis in the law.
- Gain knowledge of contract formation: offer, acceptance, and consideration. Learn what recourse the law provides when a contract is breached.
- Recognize the impact of contract law on how negotiations are conducted.
- Become familiar with the state, federal and international laws affecting contracts that are formed through electronic media, i.e., Uniform Electronics Transactions Act (UETA); Electronic Global and National Commerce Act (ENSIGN Act); and, Electronic Commerce Security Act.

H-3-D: Can employ the skills of negotiation, mediation, or interpersonal communication in the resolution of a problem.

- Become skilled in the techniques employed in principle negotiation.
- Utilize the *four agreements* when negotiating a contract.
- Recognizing that contract formation is a common goal of negotiation, understanding how to form a contract assists in implementing a contract.

Learning Experience

This course aims to a) make students aware of their own perceptions; b) help them develop those processes used to identify their values and interests; c) help them employ those processes to recognize another's values and interests; d) acquire the skills to enter into a principled negotiation f) acquire the basic understanding of contract formation: offer, acceptance and consideration; g) understand the legal impact of electronic communications in contract formation; h) recognize the remedies available upon breach of a contract; and, h) incorporate the acquired negotiation skills when negotiating a contract. This involves an emphasis on the skills and strategies of managing perceptions as well as practice in the recognition, construction and evaluation of communication skills. In pursuing these goals, we touch on principles of managing perceptions, communication, contract law, strategies of persuasion and techniques of negotiation.

The course presents a variety of readings, exercises, and a negotiation project designed to help students develop competence in the following areas: negotiating with integrity, analyzing how perceptions effect our values, exploring techniques to improve communication, examining the development contract law, understanding the requirements needed to form a valid contract, and appreciating the impact of how successful interpersonal communication leads to successful principled negotiation.

Learning Strategies & Resources

A variety of learning strategies will be employed, including textbook readings, class discussions, informal lectures, case law review, contracts review, individual and group exercises, including a negotiation project. D2L will be updated weekly to include any additional required readings/homework assignments.

Required Texts

- Lyons, Carl. *I Win You Win*. London, England: A & C Black, 2007. Buy used or on e-reserve
- Ruiz, Miguel. *The Four Agreements*. San Rafael, CA: Amber-Allen, 1997 New: \$12.95 Used: \$1.99.
- Blum, Brian. *Contracts*. Sixth Edition. New York, NY: Aspen Publishers, 2013. Buy used.
- Negotiation Exercises: 4 @ \$3.50 each = \$14.00

Attendance & Participation

Attendance and participation are essential. In the event of an absence it is imperative that you (1) let the instructor know ahead of time and (2) contact a classmate ahead of time to be your "tutor" for the missed section. Always consult the course D2L page for handouts and assignments.

Criteria for Demonstration of Competencies

Evidence covering all competencies listed for this course

- Homework and In-class exercises (15%) + discussion (15 %) = 30%
- Negotiation project: written offer/counter offer (7%) + final agreement (7%) + oral negotiation (6%) =20%
- Final written evaluation of your negotiation, one to two typed pages, double spaced = 20%

Evidence covering specified competencies*

- Examination: (objective/essay) covering competencies H-3-D, F-X (15%)

- Examination: (objective/essay) covering competences H-1-D, H-3-D, F-X (15%)
- Brief 3 cases covering the H1D competence. (15%)

If student is taking this course for fewer competencies than offered, the student must advise the instructor in writing by Monday, January 15, 2018, of the competencies student is electing to delete. Once you commit to delete a competence, you cannot switch back.

Grading Scale

A: 92 to 100 B: 91 to 83 C: 82 to 74 D: 73 to 65 F: 64 and below IN: Incomplete

If you wish to take the course pass/fail, you must inform your instructor in writing by Tuesday, January 16, 2018. Once you commit to taking the course pass/fail, you cannot switch back to a letter grade.

Written Work Will be Evaluated as Follows

A= designates work of high quality; reflects thorough and comprehensive understanding of the issues at hand; reflects a clearly identifiable thesis and argument that demonstrates cogent and creative development and support of idea.

B= designates work of good quality; reflects clearly organized and comprehensive understanding of issues at hand; presents substantive thesis and argument with evident development and support of ideas.

C= designates work which minimally meets requirements set forward in assignment; reflects some organization and development of ideas but develops argument in a superficial or simplistic manner; may only address part of the assignment or be otherwise incomplete.

D= designates work of poor quality which does not meet minimum requirements set forth in the assignment; demonstrates poor organization of ideas and/or inattention to development of ideas, grammar, and spelling; treatment of material is superficial and/or simplistic; may indicate that student has not done reading assignment thoroughly.

Policy on Academic Integrity

All work done for this course must observe the Guidelines for Academic Integrity as outlined in the *Code of Student Responsibility* (in the *DePaul Student Handbook*). For the code's Plagiarism Policy, see Addenda at end of syllabus.

Student Deadlines

The last day to drop a class without academic or financial penalty occurs Monday, January 15, 2018. The University issues a grade of "W" when a student drops a course after this date, and up to Monday, February 19, 2018. The last day to select auditor status is Monday, January 22, 2018. The last day to withdraw from this class is Sunday, February 19, 2018.

Policy on Incompletes

Unfinished work or work requiring revision will be given an incomplete (IN) grade if (1) there is a significant extenuating circumstance evidenced by the student (e.g., medical and/or significant personal issues) and (2) the student initiates and files a SNL CONTRACT FOR THE ISSUANCE OF AN INCOMPLETE (IN) GRADE before Friday, March 2, 2018. The Instructor may elect to deny this request. If the Instructor grants your request to receive an IN, you must complete and submit the evidence required for the completion of the course competency by Monday, March 19, 2017.

An IN grade should be issued only when the student has been making acceptable progress toward completing the course requirements, with unforeseeable circumstances preventing the student from completing all requirements. An IN grade may be issued only when a limited number of assignments have not been finished by the end of the

course, and in cases where the completion of the remaining assignments does not require that the instructor re-teach the course material to the student on a private basis.

For the DePaul University Incomplete Policy, see Addenda at end of syllabus.

Week One 1/10

Assignments to be completed prior to class

- Lyons: Read Introduction; Chapter 1, *Focus on Values and Interests, Not Positions* (27- 36).
- Ruiz: Read Introduction, *The Smokey Mirror*; Chapter One, *Domestication and the Dream of the Planet*.

Introduction to course (H-1-D, H-3-D, F-X)

- Syllabus
- *Negotiation Project* explained. The negotiation project is a course long project designed to utilize the negotiation strategies we learn throughout the course and apply the principles learned in contract law to negotiate an enforceable contract. The negotiation project is designed to satisfy all competencies for this course.

Power Point and class discussion (Lyons H-3-D, FX) introducing principles of negotiation.

- Classify a good agreement.
- Identify what type of negotiator are you.
- Define what does negotiating with integrity mean.
- Compare positional negotiation vs. principled negotiation.
- Recognize our own values and interests before entering into a negotiation.

Power Point and class discussion (Ruiz H-3-D, F-X) expressing and comparing how we develop our perceptions.

- Make sense of our different perceptions of reality.
- Articulate how society's rules evolve from a collective dream.
- Experiment how we discriminately utilize our senses to focus our attention on what we want to perceive.
- Examine the concept of the domestication of humans: surrendering our beliefs by agreeing to collective dream.

In-class Activities

- Negotiation Exercise (Flea Market) exemplifying distributive negotiation. H-3-D, H-1-D, FX

Week Two 1/17

Assignments to be completed prior to class

- Lyons: Read Chapter 1, *Focus on Values and Interests, Not Positions* (36 – 52).
- Ruiz: Read Chapter 2, *Be Impeccable with Your Word*; Chapter 3, *Don't Take Anything Personally*; Chapter 4, *Don't Make Assumptions*; Chapter 5, *Always Do Your Best*.
- Read Case: O'Shield v. Lakeside Bank. Be prepared to answer what could have the O'Shields done when negotiating their contract to avoid their predicament.
- Submit in dropbox proposed subject matter for negotiation project.
- Submit in dropbox answers to three questions on Page 31 of Lyons, and complete the priority list on Page 32.

Power Point and class discussion (Lyons H-3-D, FX) classifying the effectiveness of the various types of questions:

- Directive questions vs. nondirective questions
- Empowering questions vs. disempowering questions
- Possibility questions

Satisfying multiple interests
Ensure outcomes match values

Power Point and class discussion (Ruiz H-3-D, FX) on the identifying the four agreements and how best to put them to practice by making sense of the following:

- What does it mean to be impeccable with your word?
- Recognize the value of a word when communicating
- Why shouldn't we take anything personally?
- What does it mean when we say people operate from their own *dream world*?
- What are the pitfalls to making assumptions?
- What does it mean to always to your best?

In-class Activities

- In-class negotiation (*All in the Family*) H-3-D, H-1-D, F-X
- Analyze *O'Shield v. Lakeside Bank*. H-1-D, H-3-D, F-X
- Students taking course for H-1-D receive instruction on how to brief a case. Briefing the cases will involve 1) summarizing the pertinent facts 2) identifying the issue before the court 3) identifying the rule of law the court utilized 4) stating the Court's conclusion. Students will take turns leading a class discussion on the selected cases.

Week Three 1/24

Assignments to be completed prior to class

- Lyons: Read Chapter 2, *Managing Perceptions*; Chapter 3, *Communication*, Pages 79 -95.

Power Point and class discussion (Lyons H-3-D, FX) on negotiation principles and skills.

- Understand the impact our perceptions have on our ability to negotiate successfully.
- Recognize the way we perceive affects our beliefs.
- Categorize disempowering beliefs vs. empowering beliefs.
- Recognize techniques used to influence perceptions.
- Evaluate the technique of perceptual contrast to reframe perceptions.
- Identify psychological principles that influence our perceptions.
- Articulate how to build constructive relationships in a negotiation.
- Discover how to build rapport with the person we wish to enter into a negotiation.
- Experiment to identify what predominant senses we use to communicate.
- Evaluate analyzing body language of the other party in a negotiation.

In-class Activities

- Debrief last week's in-class negotiation and conduct phase three of negotiation. H-3-D, H-1-D, F-X
- Matching exercises. Students break down into pairs to perform matching exercise. Students regroup and share their experiences. H-3-D, F-X
- Students share examples of failing to be impeccable with one's word. Students dissect the reasoning behind the failure to be impeccable with one's word and develop appropriate language that would lead to a more productive outcome. H-3-D, F-X
- Students assigned partners for contract negotiation project. H-1-D, H-3-D, F-X

Week Four 1/31

Assignments to be completed prior to class

- Submit in dropbox the subject matter of contract you and your partner will be negotiating for the negotiation project. Identify Offeror/Offeree.
- Read a court case -TBA.
- Students taking the course for H-1-D shall submit in discussion thread a) a briefing of a court case -TBA, and b) a response to another Student's entry.
- Students taking the course for H-3-D or FX shall prepare for examination covering through page 95 of Lyons and Chapters 1-5 of Ruiz: objective and essay.

Power Point and class discussion (Contracts H-1-D, H-3-D, F-X) introducing contract law as the system of law we will be analyzing.

Describe the historical development of contract law.

Introduce the basic understanding of contract formation: offer, acceptance and consideration.

Distinguish Common law vs. the Uniform Commercial Code vs. Uniform Vendor and Purchaser Risk Act.

Recognize that contractual intent is necessary to form a contract.

Understand what is meant by mutual assent to a bargain (Meeting of the Minds).

Power Point and class discussion (H-3-D, F-X) on Distributive Negotiation Strategies and the following concepts: BATNA, Reservation Price, Bargaining Zone, and Target. Illustrate how to incorporate integrative negotiation into a distributive negotiation.

In-class Activities

- Examination Today (objective/essay) covering Lyons, through page 95 and Ruiz, Chapters 1-5 (15%) H-3-D, F-X.
- Debrief phase 3 of previous negotiation. H-3-D, H-1-D, F-X
- In-class negotiation (Coffee Contract). H-3-D, H-1-D, F-X
- Analyze a court case - TBA. H-1-D, H-3-D, F-X
- Negotiation partners meet to identify concerns of each party. H-1-D, H-3-D, F-X

Week Five 2/7

Assignments to be completed prior to class for this week

- Contracts: Read Chapter 4, *Offer & Acceptance*.
- By Friday, February 2, Offerors submit in dropbox, and send to Offeree, prepared offer (7%).

Power Point and class discussion (Contracts H-1-D, H-3-D, F-X) on two of the elements of contract formation: offer and acceptance, and on laws impacting the effects of an offer or acceptance. We shall cover the following:

Offer: contractual intent; definite and certain terms; communicated

Rejection by Offeree: express; counter offer; lapse of time

Rejection effective when received

Revocation by Offeror: direct vs. indirect

Revocation effective when received

Termination by Operation of Law: death or insanity; destruction of subject matter; supervening legal prohibition

Acceptance: unequivocal, communicated, objective manifestation of assent

Modes of acceptance

Types of Contracts: bilateral vs. unilateral

In-class Activities

- Debrief last week's in-class negotiation. H-3-D, H-1-D, F-X
- Analyze case examples at the end of Chapter 4. H-1-D, H-3-D, F-X

Week Six 2/14

Assignments to be completed prior to class for this week

- Contracts: Read Chapter 7, *Consideration* and Chapter 5, *Standard Form & Electronic Media Contracts*.
- By Friday, February 2, Offerors submit in dropbox and send to Offeree prepared offer (7%).
- Read Kipnis v. Mandel Metals.
- Students taking the course for H-1-D shall a) submit in discussion thread a briefing of Kipnis v. Mandel Metals, and, b) a response to another Student's entry.

Power Point and class discussion (Contracts H-1-D, H-3-D, F-X) on understanding the third element of contract formation, consideration; the legal impact of electronic communications in contract formation; and, the statute of frauds. We shall cover the following:

- Consideration: bargained for exchange; legal value
- Defenses to Formation: mutual mistake; illegal
- Defect in Capacity
- Defense to enforcement of certain terms
- Statute of Frauds
- When do contracts have to be in writing?
- Uniform Electronics Transactions Act
- Electronic Global and National Commerce Act
- Electronic Commerce Security Act

In-class Activities

- In-class negotiation exercise (Architectural Design). H-1-D, H-3-D, F-X
- Analyze case examples at the end of Chapters 7 & 5. H-1-D, H-3-D, F-X
- Analyze Kipnis v. Mandel Metals. H-1-D, H-3-D, F-X
- Negotiation partners meet to discuss Offeror's offer. H-1-D, H-3-D, F-X

Week Seven 2/21

Assignments to be completed prior to class for this week

- Contracts: Read Chapter 18, *Remedies*. Chapter 11, *Statute of Frauds* (Optional).
- Lyons: Read Chapter 3, *Communication* pages 95 – 117.
- Offerees submit in dropbox, and send to Offeror, prepared counteroffer (7%).
- Read Knolls v. Czerwinski.
- Students taking the course for H-1-D shall submit in discussion thread a) a briefing of Knolls v. Czerwinski, and b) a response to another Student's entry.

Power Point and class discussion (Contracts H-1-D, H-3-D, F-X) on exploring the remedies and defenses available upon breach of a contract.

- Identify what recourse are available when someone breaches a contract.
- Compare remedies.
- Define damages: expectation, reliance, stipulated, and punitive.
- Distinguish rescission, restitution and specific performance.
- Define promissory estoppel
- Classify invalid contracts: void, voidable and unenforceable

Power Point and class discussion (Lyons H-3-D, F-X) improving the flow of communication during a negotiation.
Illustrate how to set the tone of a negotiation.
Determine skills to improve the flow of communication during a negotiation.

In-class Activities

- Debrief In-class negotiation. H-1-D, H-3-D, F-X
- Evaluate *Knolls v. Czerwinski*. H-1-D, H-3-D, F-X
- Analyze examples at the end of Chapter 18. H-1-D, H-3-D, F-X

Week Eight 2/28

Assignments to be completed prior to class for this week

- Lyons: Read Chapter 4, *Generating Options* and Chapter 5, *Using Objective Standards*.
- Students taking this course for H-1-D, H-3-D or F-X shall prepare for examination on contracts: objective and essay.

Power Point and class discussion (Lyons H-3-D, F-X) on the following techniques to improve the outcome of a negotiation:

Generating options
Create the appropriate forum
Create a menu of choices
Brainstorm with the other party
Manage the environment
Using Objective Standards: involve the right people and utilize authoritative standards
Agree on the standards early in the negotiation process
Never yield to pressure, only principle

In-class Activities

- Examination (objective/essay) on contracts (15%). H-1-D, H-3-D, F-X
- In-class mediation exercise (*Brookside v. Black*) H-3-D, H-1-D, F-X
- Negotiation partners meet to discuss Offeree's response H-1-D, H-3-D, F-X

Week Nine 3/7

Assignments to be completed prior to class for this week

- Lyons: Read Chapter 6, *Planning and Preparation* and Chapter 7 *Closure and Implementation*.

Power Point and class discussion (Lyons H-3-D, H-1-D, F-X) on the following techniques to improve the outcome of a negotiation:

Plan and prepare for each stage of the negotiation process.
Be clear about what you want to achieve ~ Keep your eye on the ball.
Be clear about alternatives.
Cultivate positive relationships.
Get yourself into the proper frame of mind before negotiations begin.
Calculate how reach closure and implement the deal?
Seek closure and get some form of commitment before you leave.
Have an implementation strategy
Understand the power of balance, but maximize leverage.
Deflect personal attacks by addressing it as an attack on the problem.

In-class Activities

- Debrief results of mediation. H-3-D, H-1-D, F-X
- Negotiation partners meet to finalize negotiation and prepare to execute a written contract reflecting their negotiated agreement. H-1-D, H-3-D, F-X

Week Ten 3/17

Assignments to be completed prior to class for this week

- Submit Final Agreement.
- Provide an oral presentation on how agreement was reached.

In-class Activities

- Negotiation Today (6%) H-1-D, H-3-D, F-X
 - ❖ Parties will provide a presentation on how agreement was reached or engage in a contract negotiation.

Final Negotiation Evaluation Due on Monday, March 13, 2017 H-3-D, H-1-D, F-X

- ❖ A written evaluation of your negotiation: one to two typed pages double spaced (20%)
 - Identify what techniques you used: why?
 - Identify what techniques you should/should not have incorporated: why/why not?
 - The students taking the course for the H-1-D competence shall include in the final reflection, a written reflection on how the student was able to incorporate the principles of contract law in the negotiation project and how it improved the results of the negotiation.

ADDENDA

See additional information pertaining to the grade designations for [undergraduate grades](#).

See [Pass/Fail Grading Options](#)

This course includes and adheres to the college and university policies described in the links below:

[Academic Integrity Policy](#) (UGRAD)

[Incomplete Policy](#)

[Course Withdrawal Timelines and Grade/Fee Consequences](#)

[Accommodations Based on the Impact of a Disability](#)

[Protection of Human Research Participants](#)

University Attendance Policy

Other Resources for Students

[University Center for Writing-based Learning](#)

[SNL Writing Guide](#)

[Dean of Students Office](#)

Faculty Biographical Sketch

Pat Rocco received her Juris Doctorate at The John Marshall Law School, Chicago; and Bachelor of Arts at Loyola University, Chicago. She is an Illinois licensed attorney practicing real estate law: residential and commercial. Currently, Rocco serves as a Trustee for the Village of La Grange Park. Her past teaching experience includes Business Law, Legal Environment for Business, Critical Thinking, Discover New Learning: What works in local government, Negotiating Contracts with Integrity, and Negotiating Contracts: Strategic, Legal, Ethical, and Modern Technology Considerations.