

NEGOTIATION SKILLS SELF-ASSESSMENT QUESTIONNAIRE

There are many ways to approach negotiations, and experienced lawyers use a variety of techniques. Along with individual styles, cultural background, gender or age may influence how lawyers communicate and perceive statements and actions of others, and therefore may affect negotiation dynamics. As a prelude to the program to be presented, this questionnaire is designed to have you reflect on your own approach to negotiations and to consider ways that you might improve or round out your negotiating skills.

Negotiation Strategy

1. How important do you think it is to prepare a detailed strategy for a negotiation session?
 - a. Very important.
 - b. It's important to have general parameters, but to remain flexible during the negotiation.
 - c. I don't let preparation get in the way of my gifted spontaneity.

2. When do you typically prepare your strategy?
 - a. Persistence matters. As soon as I get a case, I figure out a game plan and stick to it.
 - b. Early enough to gather information about the facts, the law and client objectives.
 - c. The night before or morning of – deadlines are a negotiator's best friend.
 - d. During the negotiation after the other party makes its opening offer/demand– I think best on my feet.

3. In preparing your negotiating strategy, which of these things are *most* important to you?
 - a. Knowing my client's bottom line
 - b. Knowing a range of options that would meet my client's needs
 - c. Knowing what the other side is likely to want and where that overlaps my clients needs
 - d. Knowing how settlement will affect my fees
 - e. Picking what color suit and shoes to wear

4. How do you interact with your clients when preparing for a negotiation?
 - a. It depends on the sophistication and wealth of the client.
 - b. I describe various tactics they can use or positions they can take, but let them decide – it's their money/ business/divorce and I can, like, do whatever.
 - c. I work to understand my client's interests and objectives, and while the ultimate decisions are up to them, I give them my best advice on tactics and positions most likely to meet their goals.
 - d. I find it best not to let clients know too much about negotiations –it just makes them nervous.

5. During a negotiation session, what kind of listener are you?
 - a. Active – I listen to what the other side says and repeat it back to be sure I understood.
 - b. Passive – I listen quietly. Best to let them talk until they hang themselves or trip up.

- c. Hostile – Listening is overrated. It's important to take control of the negotiation and hammer my points home through repetition
 - d. Disengaged – What was the question?
6. How do you go about making concessions during a negotiation?
- a. I never give on anything until I absolutely have to – giving in on even small points just makes the other side think you're weak and emboldens them to drive a hard bargain.
 - b. I give on all the small points in order to build momentum towards resolution on more significant points. It makes the other side like me and feel like they owe me.
 - c. I give on some points, as long as the other side is also willing to give on some points. The art is in knowing which points to give on, and when, so that the negotiation feels like a trade, or a win/win and not a win/loss for either side.
7. If the negotiation becomes heated and the other side raises his/her voice, what do you do?
- a. I raise mine and pound the table – nobody out-argues me. No time, no how.
 - b. To keep the negotiation going, I respond as calmly as I can to the points being made, not to the emotion being shown.
 - c. I tell them we need to take a break so they can get a grip and behave like an adult.
 - d. I acknowledge their emotion, ask questions to clarify the points being made, and neutrally suggest a bathroom or lunch break before we resume our discussions.
8. In a tough negotiation, which of these things do you consider to be ethical and permissible?
- a. Talk only about the facts and law that support your theories – it's up to the other side to argue for its position.
 - b. Spin the facts in the light most favorable to your position.
 - c. Imply you have a witness they don't know about, even though you don't
 - d. a and b, but not c.
 - e. All's fair in love, war and negotiations.
9. If the person you're negotiating with is of a different age, gender or ethnicity than you, how does that affect your approach to a negotiation?
- a. I consider how the differences might affect communication styles, points of view or ultimate positions and take that into account in developing a successful negotiating strategy.
 - b. I figure out what buttons I can push, and use whatever I can to intimidate, irritate or patronize my opponent. Keeps 'em off their game.
 - c. It doesn't matter to me who is on the other side. I am who I am, and I do what I do. As far as I'm concerned, they can like it or lump it. And their little dog too.

10. How do you know when it's time to stop negotiating and walk away?
- a. When the other side is entrenched in a position that is no more attractive than your client's Best Alternative to a Negotiated Agreement.
 - b. When the parties are so far apart it would take a whole lot of work to get them to agree.
 - c. When it's time to show the other side you're a tough cookie and they can't push you around.
 - d. When it's time for an Inn of Court meeting.