Conducting Successful Virtual Negotiations

February 26, 2021

Columbia Law School Mediation Clinic

Welcome and Introductions

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Goals for this Workshop

- Discuss obstacles to productive negotiations in both in-person and virtual contexts

- Share strategies to successfully steer negotiations

- Identify resources to navigate these conversations and spaces

Icebreaker

Icebreaker

What challenges have you encountered in transitioning to working in a virtual environment?

Challenges of Going Virtual

- Human connection is optimized when people **talk in person**
- Non-face-to-face communication can lead to **misunderstanding** & **disconnection**
  - Distance creates lack of trust
  - Harder to register emotions
  - Harder to process information without body language
- **Technology issues** can be disruptive (i.e., phone cutting out, internet connectivity issues, user error)
- Participants are more susceptible to to **distractions** (i.e., checking email and social media)

Challenges in Different Virtual Settings

Text Only (Email, Messaging)	Audio Only (Conference Calls)	Video Calls (Zoom, Teams, etc.)
- Lack of facial expression and body language make it harder to read emotions or understanding - More likely to attribute negative intentions without audio or visual cues	- Lack of facial expression and body language - Hard to tell who is speaking - More likely to interrupt one another in conversation	- Lingering silence - Firm endpoint creates undue sense of finality - Increased distractions, self-consciousness, sense of intrusion "Zoom fatigue"; eye strain - Technology difficulties and user error

Elements of Successful Virtual Conversations

- Process

- Skills

- Building Culture and Trust

Manage the Process

Control the conditions

- Establish time, day, participants, platform, number
- Determine whether certain speakers will call in from same location
- Reserve a quiet room and bandwidth for optimal sound/video quality

Set reasonable expectations for call length

- Changing circumstances may mean changes in childcare or other factors that make long calls challenging
- Consider a series of short calls rather than one long one

Speaking procedure and order

- One speaker at a time
- Non-speakers should mute their microphones to reduce background noise
- Establish procedures for raising hands, giving non-verbal feedback, or voting

Manage the Process

Self-identify before speaking
- Especially important for audio conferencing, or when speaking with new people

Encourage requests for repetition
- Let people know at the outset they should speak up if something is difficult to hear and that requests for clarification are welcome

Use video where possible and maintain eye contact
- Helps maintain communication and gives maximum information

Make accommodations to allow participation from all
- Closed captions
- Participating by text
- Interpreters
- Support people

Skills

Asking the Right Questions

Consider the type of question that will be most useful.

- **Open questions** can be helpful to gather information
  - E.g., "Tell me more about x…,"

    "What are your thoughts on…,"

    "Help me understand"
- **Closed questions** are helpful to confirm information and move forward

In a virtual setting, it may be helpful to **identify the person** you would like to answer or suggest a sequence for responding.

Summarizing

- Summarizing consists of repeating the essence of what the person said

- It can be helpful to begin with:
  - "If I understood you correctly..."
  - "If I hear you right..."
  - "You are saying that..."

- Focus on **positions, interests,** and **feelings**

- Find commonalities

- Be **clear, concise,** and **direct**

- After summarizing, confirm that your summary was accurate
  - "What did I miss?"
  - "Does that sound right?"

Reframing

- Reframe the Facts, Interests, Issues, Feelings
    - **Facts:** the "what"

    - **Interests:** could be economic, social, psychological, or legal

    - **Issues:** concrete, tangible things that need to be bargained about, changed, or exchanged

    - **Feelings:** the emotions underlying a view of the facts

- **Individual** concerns → **Shared** concerns

- Stories about the **past** → questions about the **future**

Agenda Setting

- Setting an agenda can help ensure the participants **understand** the process and feel **comfortable**

- Agendas ensure that conversation remains **timely** and **organized** on key issues

- Agenda-setting **steers the conversation (both substantively and procedurally)** and can **focus the discussion** on the most important points

Acknowledgment

Acknowledging emotions or contributions and validating effort makes participants feel **appreciated**, highlights **constructive behavior**, and **improves morale.**

Acknowledgment helps people to feel **heard** and **understood.**

If in a **group setting** and on **difficult subject matter**, consider also doing one-to-one calls to leave space for acknowledging emotion.

Building Culture and Trust

Building Culture and Trust

- <u>Be intentional when building culture and trust.</u>
  - Transparency is key: The virtual format allows for increased flexibility so it is important to share information openly regarding work schedules and project progress.
  - Build rapport before negotiating: Use moments at the beginning of a negotiation to steer the relationship!
  - Beyond business goals, share your goals for team relationships and support. Bring the same presence on the phone/over video that you are in person.

- <u>Recognize diversity and be identity-conscious.</u>
  - Ask parties what pronouns they use or how they would like to be addressed.
  - Welcome engagement from all parties and elevate diverse voices.

Building Culture and Trust

- <u>Recognize differences of experience and comfort with the virtual setting.</u>
  - Just as we all have different experiences of in-person conversations, recognize that people will experience virtual conversations differently.
  - Normalize asking parties to repeat themselves.
  - Offer accommodations for individuals who need or ask for them.

- <u>Create an open forum for team members to submit ideas and feedback.</u>
  - Create a place for members to store ideas.
  - Invite them to evaluate how the virtual arrangements are meeting or not meeting their needs.
  - Check in one-on-one.

Achieving Goals via Virtual Collaboration

What is your goal?	Problems that might arise	Techniques to help
Forming a new team		
Sharing Information		
Negotiation/ Making Decisions		
Updating Status		

What is your goal?	Problems that might arise	Techniques to help

Forming a new team

1. Negative impressions
2. Reduced cohesiveness/ commitment
3. Leaders less likely to emerge

1. Share biographies, images
2. Break the ice, encourage one-on-ones
3. Consider assigning leadership explicitly

Sharing Information

1. Talking about info already shared
2. Few members dominating discussion
3. Attributing others less generously

1. Solicit new information in advance
2. Solicit input from all on the call
3. Give credit for good ideas

Negotiation/ Making Decisions

1. Reduced participation
2. Coalitions
3. Shift toward extreme options

1. Consider smaller subcommittees
2. Dig underneath "us v. them" positions
3. Ask questions and summarize

Updating Status

1. Longer time required
2. Drift of alignment/cohesiveness
3. Losing shared understanding

1. Relax time constraints
2. Smaller sessions to maintain commitment
3. Solicit feedback to ensure understanding

QUESTIONS?

STAY IN TOUCH!

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