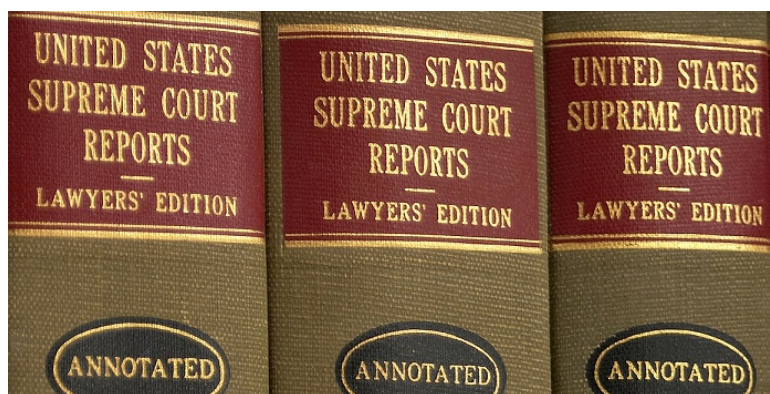




SUFFOLK ACADEMY OF LAW
The Educational Arm of the Suffolk County Bar Association
560 Wheeler Road, Hauppauge, NY 11788
(631) 234-5588



BUILDING CULTURAL FLEXIBILITY TO NEGOTIATE IN DIVERSE SETTINGS

FACULTY

Lisa Renee Pomerantz, Esq.

MODERATOR

Jarrett M. Behar, Esq., Suffolk Academy of Law Dean

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LISA RENEE POMERANTZ, ESQ.

Lisa Renee Pomerantz has more than thirty years of legal and dispute resolution experience. After graduating from Harvard University and Boston University Law School, Lisa clerked for a federal judge. Following a stint as a litigation attorney, she worked for fifteen years as a senior-level in-house counsel for a major corporation.

Since 2003, Lisa has practiced law in Suffolk County. She works primarily with entrepreneurs on commercial and corporate matters involving customers, vendors and collaborators, and to resolve business and employment disputes amicably and cost-effectively. She serves on the AAA's Roster of Neutrals as a commercial mediator and arbitrator and has served in a variety of leadership roles with the Association for Conflict Resolution, the New York State Dispute Resolution Association and the Suffolk County Bar Association.

Lisa is a popular keynote speaker at legal and business meetings and conferences, and publishes an email newsletter entitled "Making the Connection." She writes the ADR column for the Suffolk Lawyer and has contributed several articles to ACResolution Magazine. She also has provided on-line and live training for business and legal audiences.

Lisa has received numerous awards for her professional activities. She was named Member of the Year by Moxxie Network for 2015. Lisa also received an award in 2015 from the Association for Conflict Resolution for exemplary leadership. In 2010, the Long Island Business News named Lisa as a recipient of its Top Fifty Around 50 Award and in 2011 as a recipient of its Leadership in Law Award. In 2007, Lisa received the Suffolk County Bar Association Directors' Award in recognition of her service as ADR Committee Co-Chair and also received Awards of Recognition in 2004 for her contributions to continuing legal education and as IP Committee Co-Chair.

BUILDING CULTURAL FLEXIBILITY TO NEGOTIATE IN DIVERSE SETTINGS

Timed Outline

What are negotiations?	(5 minutes)
Where do attorneys negotiate?	(5 minutes)
What is culture and how is it expressed?	(5 minutes)
How do cultural factors affect negotiations?	(10 minutes)
The interplay between culture and legal systems	(5 minutes)
Gender-based differences across cultures	(5 minutes)
Utilizing cultural flexibility in the negotiation context	(10 minutes)
Q&A	(5 minutes)



Building Cultural Flexibility to Negotiate in Diverse Settings

LISA RENEE POMERANTZ

Attorney at Law

80 Orville Drive

Suite 100

Bohemia, NY 11716

T 631.244.1482 • F 631.567.0611

lisa@lisapom.com • lisapom.com

***Business and Employment Law, Training and Dispute
Resolution***

+ Negotiations



- Communications for reaching an agreement on a new transaction or relationship or to resolve a conflict
- Goals
 - Establish a blueprint for future interactions
 - Durable
 - Protect and serve the parties' interests
 - Deter and sanction wrongful conduct
 - Send signals to third parties



Where do attorneys negotiate?



- Transactions
- Private settlement negotiations
- Judicial settlement conferences
- Increasingly in private and court-ordered mediations
- With colleagues, clients, vendors, etc.



What is culture?

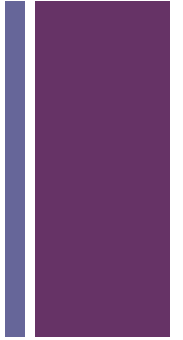


- the customary beliefs, social forms, and material traits of a racial, religious, or social group
- the set of shared attitudes, values, goals, and practices that characterizes an institution or organization

<https://www.merriam-webster.com/dictionary/culture>



Cultural Variables



- Individualistic vs. Collectivist
- Hierarchical vs. Egalitarian
- Tolerance for Risk
- Competitive vs. Cooperative
- Short vs. Long Term Oriented
- High vs. Low Context Communications
- Doing vs. Being
- Introversion vs. Expressiveness

+ How does culture affect negotiations?

- Methods and types of expression that are appropriate and/or effective
- How decisions are made
- Preferences, parameters and limitations as to substance of potential agreement



Consequences of failure to recognize and adapt to cultural context



- Miscommunications
- Unnecessary conflict
- Sub-optimal outcomes
- Missed Opportunities



Why is cultural competence so important now?



- Diverse and mobile workforce and population
- Globalized marketplace for goods and services
- Online commerce
- Spur innovation and creative thinking



How do differences in legal systems affect negotiations?



- Legal systems reflect and affect culture
- Legal systems define:
 - What business arrangements are permitted?
 - How are legal documents interpreted and enforced?
 - Applicable and available conflict resolution mechanisms



How do gender-based differences affect negotiations?



- The type and range of roles and methods of expression viewed as “acceptable” within a culture varies by gender
- Gender-based differences vary in magnitude among cultures



Preparing for Cross-Cultural Negotiations



- How can you communicate and negotiate in a way that your message will be correctly heard and understood and that you will achieve a desirable outcome?
- What range of outcomes is likely to be acceptable to the other side?
- How does the other party typically schedule and conduct negotiations?
 - Role and duration of Pre-Meetings and Meetings
 - Use of agendas
 - Initial Proposals
 - Presentations
 - Visual Aids
- What is its decision-making process?
- Who needs to be involved in the negotiations?



Making the Most of Meetings



- Welcoming the other party
 - The Formalities
 - Customs as to business cards, gifts, etc.
 - Use of first or last names
 - Shaking hands, bowing, etc.
 - Is small talk customary or anathema
 - Make people comfortable
 - Attend to physical comfort
 - Offer or serve appropriate refreshments

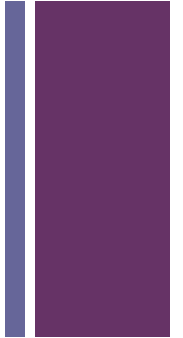


Flexing Your Negotiation Style

- Come to the table with an open mind and heart
- Don't take or give offense
- Err on the side of formality and courtesy
- Be explicit and confirm arrangements and agreements
- Be organized
- Be attentive and observant
- Don't make assumptions
- Ask questions
- Show interest in and concern for other party
- Don't be dismissive or judgmental
- Avoid inappropriate use of humor
- Be authentic



References and Resources



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- Country Guides to Culture, Customs and Etiquette
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- Adam Grant, Originals: How Non-Conformists Move the World (2017)
- Linda Babcock and Sara Laschever, Women Don't Ask: Negotiation and the Gender Divide (2002)
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- Thalma Lobel, Sensation: The New Science of Physical Intelligence (2014)



SCBA Lawyers Helping Lawyers Committee

The SCBA Lawyers Helping Lawyers Committee provides free and confidential assistance to those in the legal community who are concerned about their alcohol or drug use and/or mental health or wellbeing or that of a colleague or family member.

Assistance is available to the legal community including attorneys, members of the judiciary, law students, and family members dealing with alcohol or substance abuse disorder, other addictive disorders, anxiety, depression, vicarious trauma, age related cognitive decline and other mental health concerns that affect one's well-being and professional conduct.

**Please call the
Lawyers Helping Lawyers Helpline at (631) 697-2499
to speak with an attorney who will provide support and recommend
resources. All calls are private and confidentiality is protected under
Judiciary Law Section 499. (Lawyer Assistance Committee)**

Feel Free to Join Us at Our Weekly Recovery Meeting