

# Use this Harvard Law checklist to prepare for any negotiation

[Leah Fessler](#) November 30, 2017



Reuters/Adam Hunger

Be like the best.

When it comes to workplace conflict, many of us sabotage ourselves. Instead of preparing for difficult conversations—which requires dealing with uncomfortable emotions and complex strategies—we avoid the issue until we're forced to confront it, face-to-face. Emotions like anger and fear then get the best of us, inhibiting effective resolution.

Faculty at Harvard Law School's [Program on Negotiation](#) deal with this conundrum daily.

"It's my observation that too many negotiators wing it," says Douglas Stone, a negotiation lecturer at Harvard Law, a managing partner at [Triad Consulting Group](#), and co-author of [Difficult Conversations: How to](#)

[\*Discuss What Matters Most\*](#). "They react to what the other side does, or they have a grand strategy to, for example, ask for something unreasonably favorable and hope the other person is dumb enough to give it to them."

What negotiators don't do, but should, says Stone, is mentally prepare by reviewing five fundamental elements of a negotiation. Those include interests (what each party wants, and why); options (creative ideas for how both sides might get their interests met); criteria of fairness (what standards can both parties identify that will help them know what a fair deal looks like); and the best alternative to a negotiated agreement, or BATNA (which helps us figure out whether to say yes to a deal, or walk away from it).

"If you're prepared on these elements, you have a map, you know the whole terrain. So wherever the negotiation goes, you won't be lost," says Stone.

Beyond these fundamentals, Harvard's Program on Negotiation has created a [32-step checklist](#) to prepare for negotiations of any type, be they in business, or your personal life. Extensive as the list is, Stone advises reading it in its entirety before any potentially conflict-ridden negotiation, as the most important steps will always depend on context.

The checklist will steer you away from using "number of concessions" to determine whether you got a good or bad deal, which Stone says is an arbitrary factor, and a common mistake.

And beyond preparing for specific elements of the conversation, it's important to contemplate your personal dispositions. "If you tend to be aggressive, remind yourself of the value and power of listening and inquiry," says Stone. "If you tend to be a pushover, ask yourself what the other sides vulnerabilities might be, what's bringing them to the table, and what you have they might want."

This personal evaluation is particularly important if you're preparing for a personal negotiation, in which the goal often isn't to win, but rather to understand, communicate, and solve problems. In these situations, it's important to repeatedly ask yourself whether the other person feels included, heard, respected, and treated fairly, and, by the same token, whether you're able to assert your own interests, concerns, and views, says Stone.

"To a large extent, these conversations *are* the relationship, so having them well doesn't just help the relationship, it *is* the relationship," he says.

Here is the Harvard program on negotiaton's checklist, in full:

1. What do I want from this negotiation? List short-term and long-term goals and dreams related to the negotiation.
2. What are my strengths—values, skills, and assets—in this negotiation?
3. What are my weaknesses and vulnerabilities in this negotiation?
4. Why is the other party negotiating with me? What do I have that they need?
5. What lessons can I apply from past negotiations to improve my performance?
6. Where and when should the negotiation take place?
7. How long should talks last? What deadlines are we facing?
8. What are my interests in the upcoming negotiation? How do they rank in importance?
9. What is my *best alternative to a negotiated agreement*, or BATNA? That is, what option would I turn to if I'm not satisfied with the deal we negotiate or if we reach an impasse? How can I strengthen my BATNA?
10. What is my [\*reservation point\*](#)—my indifference point between a deal and no deal?
11. What is my *aspiration point* in the negotiation—the ambitious, but

not outrageous, goal that I'd like to reach?

12. What are the other side's interests? How important might each issue be to them?
13. What do I think their reservation point and BATNA may be? How can I find out more?
14. What does their BATNA mean in terms of their willingness to do a deal with me? Who has more power to walk away?
15. Is there a *zone of possible agreement* (ZOPA) between my reservation point and the other side's? If there clearly is no room for bargaining, then there's no reason to negotiate—but don't give up until you're sure. You may be able to add more issues to the discussion.
16. What is my relationship history with the other party? How might our past relationship affect current talks?
17. Are there cultural differences that we should prepare for?
18. To what degree will we be negotiating electronically? Are we prepared for the pros and cons of negotiating via email, teleconference, etc.?
19. In what order should I approach various parties on the other side?
20. What is the hierarchy within the other side's team? What are the patterns of influence and potential tensions? How might these internal dynamics affect talks?
21. What potential ethical pitfalls should we keep in mind during the negotiation?
22. Who are my competitors for this deal? How do our relative advantages and disadvantages compare?
23. What objective benchmarks, criteria, and precedents will support my preferred position?
24. Who should be on my negotiating team? Who should be our spokesperson? What specific responsibilities should each team member have?
25. Do we need to involve any third parties (agents, lawyers, mediators,

interpreters)?

26. What authority do I have (or does our team have) to make firm commitments?
27. Am I ready to engage in [interest-based bargaining](#)? Be prepared to try to create value by trading on differences in resources, preferences, forecasts, risk tolerance, and deadlines.
28. If we disagree about how the future plays out, can we explore a [contingency contract](#)—that is, stipulate what will happen if each side's prediction comes true?
29. What parties not yet involved in the negotiation might also value an agreement?
30. Have I practiced communicating my message to the other side? How are they likely to respond?
31. Does the agenda make room for simultaneous discussion of multiple issues?
32. Is an agreement likely to create net value for society? How can we reduce potential harm to outside parties?