

The Hiring Negotiation – A Multistage Simulation

Rishi Batra, Texas Tech University School of Law (rishi.batra@ttu.edu)

Introduction:

This multistage simulation involves a negotiation between a graduating law student and a solo practitioner hiring an attorney for the first time. This scenario, based on the kind of negotiations that students have upon graduation, requires both the parties to gather criteria on salary and other possible negotiable items from the Career Services office before meeting for the face to face negotiation. Participants must use these sometimes conflicting criteria to arrive at a fair remuneration package. Students are also encouraged to draft the terms of their agreement in an email after the face to face negotiation is finished.

Purposes:

- Allow students to practice a common negotiation scenario – negotiating a job offer – with a set of facts keyed to a likely first offer
- Familiarize students with the use of criteria in negotiation
- Allow students to practice using criteria in a negotiation where power differentials are at play
- Teach students how preparation during the criteria gathering stage can lead to success or failure in the negotiation stage
- Acquaint students with the school's Career Services office and the resources available there
- Give students practice in drafting contractual terms over email

Simulation:

This negotiation takes place between two parties: (1) a graduating third year law student (2) a solo practitioner hiring a person for the first time. The practitioner has already extended an offer, but the parties have not yet met to discuss salary or other terms.

The terms to be discussed are based on concerns graduating law students are typically faced with. In addition to full time salary, the parties are encouraged, but not required, to negotiate over work during bar study, salary before and after finding out bar passage status, and possible contingencies if the student does not pass the bar. Other terms include start date, possible time off each year, and referral credit / bonus for work brought in to the firm.

The simulation does not give any information about appropriate salary ranges or other benefits to the potential employee or the solo practitioner. Both fact patterns suggest that this information is available from the local law school Career Services office.

Negotiation Stages:

Stage 0 – Learning about the hiring negotiation

This “stage” is designed to get students familiar with the framework of a hiring negotiation. Importantly, this presentation given by a member of the Career Services staff (usually the head of Career Services), keyed to the “Seven Elements” framework that is used as a preparation aide in class. (The presentation is available upon request). The presentation emphasizes (1) where students from your school and state can find relevant salary data for local jobs (2) that there are other terms that can be negotiated other than just straight salary (3) how to develop a negotiation strategy for a first job.

Stage 1 – Information gathering

During this stage, students visit with the Career Services office to get information on salary data. The visit is a required part of the simulation (checked off by Career Services staff). This allows students to become familiar with the offerings provided by Career Services, as well as gather multiple sources of data to be used as criteria. Depending on your Career Services Office, the staff may have access to specialized sources of data, recommend general salary websites, or share anecdotal information. After trying to use these different criteria during the negotiation, students are able to learn how different types of criteria are more or less persuasive during a negotiation.

Stage 2 – Face to face negotiation

Students meet face to face to perform the salary negotiation. This is typically done outside of the classroom. Other options include making this a phone only or email only negotiation. Participants usually face challenges in how to raise different criteria as relevant, and how to resolve differences when different sources of salary data give different possible ranges for salary.

Stage 3 – Drafting terms (optional)

Students are encouraged to draft terms from the negotiation to “finalize” the agreement. It is left to the parties to decide who drafts the terms. The email exchange can be a single email that is agreed to, or can involve multiple rounds of edits, depending on the parties.

Grading:

Students can be graded on the outcome of the negotiation relative to their peers (some provision must be made to weigh the non-objective outcomes, like vacation), how well the terms are drafted, or on their reflections on the exercise, whether written or in person. Some combination of these can also be used. Career Services can also report which students attended and did research on the negotiation, and which did not, which can factor in to the grade as well.

Debrief:

Possible topics with questions for the debrief include:

- [Preparation] Having done the negotiation, would you have prepared differently? Specifically, would you have researched criteria differently? How so?
- [Preparation / framing offers] How, if at all, did you use the research that you did to form the offers you made in during the negotiation?
- [Using criteria] Were there criteria / benchmarks you used that seemed more persuasive or less persuasive during the negotiation? Which ones, and how so?
- [Using criteria] Did you ever have a time when parties brought conflicting criteria on salary / benefits to bear on the negotiation? How did you resolve these conflicts?
- [Power dynamics / communication] For those playing the student, did you feel like you could not contradict the person playing the solo practitioner? Did you have to frame your criteria differently than they did?
- [Power dynamics / communication] For those playing the solo practitioner, did you feel like you had a power advantage? Did you use this power advantage during the negotiation?
- [Drafting] Who wrote up the initial contract term email? How did you decide who would do so?
- [Drafting] Were there multiple revisions sent back and forth? Did anyone have a different understanding of the terms as they were discussed and as they were written?
- [Strategy / Drafting] Did anyone try to use the drafting to change the terms or get a better “deal” than was negotiated at the table?
- [Outcome] For the people playing students, did you bring up all of the terms that were important to you? Why or why not?
- [Outcome] Did anyone agree to a follow up negotiation / review in a certain time frame (say, six months?) How might this help the negotiation?
- [Negotiation dynamics] Did anyone negotiate this offer over the phone or over email entirely? How did this change the negotiation in any way?

Contact:

For a copy of the simulation, the Career Services Presentation, or to ask any questions please contact:

Rishi Batra
Assistant Professor, Texas Tech University School of Law
rishi.batra@ttu.edu
806-834-6592