

Alternative Dispute Resolution
Law 348-001
George Mason University Antonin Scalia Law School
Course Description and Syllabus
Fall 2022
Wednesday, 11:20 a.m. until 1:20 p.m.

Adjunct Professors: Brian Hirsch, bhirsch3@gmu.edu, 703-867-8298, and Renee Kostick Reynolds, rreynol@gmu.edu, 703 298-7702

Required Texts: Blankley and Weston, *Understanding Alternative Dispute Resolution*.

Course Objective: This experiential course will introduce students to a range of dispute resolution options that attorneys use as alternatives to litigation to successfully represent their clients. Attendance and participation are important aspects of this class. Options that the course will explore are negotiation, mediation, arbitration, and collaborative law. Students will have the chance to observe live mediations in D.C. or Fairfax Courts, to practice dispute resolution skills, and to use these skills in various role play exercises, simulation activities, and interactive lectures. The class will focus on both the perspective of the attorney representing the client and of the neutral working with parties who are trying to resolve a dispute. The course will also address the role of emotions, gender, race, and culture in dispute resolution, as well as ethical issues.

Course Policies: Attendance, participation, and completion of all reading and writing assignments are mandatory in order to receive full credit for this class. Active participation is essential in order to learn the skills and concepts that make up this course. You are expected to attend all scheduled classes. Excused absences will be granted in the case of a medical or family emergency, illness, or religious holiday. It is the student's responsibility to inform us in advance if you will be absent from class. It is also the student's responsibility to collect information distributed during an absence. All assignments must be handed in on time. Any assignments handed in late will result in a significant impact on a grade. Because the course is interactive and experiential, we may alter the syllabus to reflect class interests and to enhance learning opportunities.

Writing Assignments: Each student will be required to keep and bring to class a typed conflict resolution journal throughout the semester. The one-page journal entries should be concise and thoughtful rather than rambling. Each week you will be required to make one entry that is relevant to the topics discussed during a previous class. The journal entry can be in the form of an insight that you have gained regarding a specific issue. Each student will be required to submit one typed entry with no advance notice given on two separate class days; these two entries will be graded. Submitted entries should be one typed page. Your entire typed journal must be handed in at our last class (12 entries).

Other writing assignments may include: participating in an email negotiation, drafting an arbitration opinion, drafting a detailed settlement agreement, and drafting a client memo. You will be given several days to complete such assignment and a stated deadline to hand in the assignment.

A final 10-page research paper will be due on Wednesday, November 30, 2022 no later than noon. Final paper topics and one-page outlines must be submitted by Wednesday, October 19, 2022.

Grading: Grading will be based upon class participation (35%), three (3) short writing assignments (30%), and the final research paper (35%).

Learning Outcomes: During the course and by the end of the course, students will:

- Demonstrate knowledge of the basic principles of negotiation, mediation, collaborative law and arbitration;
- Learn and practice dispute resolution skills and apply these skills in regular role play exercises;
- Learn the basic similarities and differences between negotiation, mediation, arbitration, collaborative law, and litigation and be able to discuss the pros and cons of each ADR method;
- Be able to apply the course information and negotiation/mediation skills learned to real world situations; and
- Have a greater appreciation and understanding of the roles bias, emotions, gender, race, and culture play in the different ADR methods.

Fall 2022 Schedule

8/24 – Welcome, introductions, discussion of backgrounds and interests of students, motivation for taking class. Chapter 1 (Introduction to Dispute Resolution), pp. 3-7

8/31 – Representation. Client Interviewing and Counseling, Chapter 2 (Client Interviewing and Counseling), pp. 9-28

9/7 – Negotiation, Perception, Fairness, Psychological Traps, and Emotions, Chapter 3 (Negotiation), 29-47 (handouts provided)

9/14 – Mediation, The Mediation Process, Chapter 4 (The Mediation Process), pp. 49-73

9/21 -- Mediation, Mediation Techniques and Styles, Chapter 4 (The Mediation Process), pp. 74-92.

9/28 – Mediation, Legal Issues in Mediation, Chapter 5 (Legal Issues in Mediation), pp. 95-114.

10/5 – Mediation, Advocacy in Mediation, Chapter 6 (Mediation Advocacy), pp. 117 – 136.

10/12 – Mediation, Mediation Observation Week in DC or Fairfax Courts. No class this day due to student observations of live mediations during the week.

10/19 – Collaborative Law, Chapter 7 (Collaborative Law), pp. 137-147, also readings to be distributed and will include the Collaborative Participation Agreement and The Role of the Mental Health Professional in Collaborative Divorce. Guest Speakers: collaborative lawyer Jennifer Bradley and mental health professional Lisa Herrick, Ph.D.

10/26 – Collaborative Law, Chapter 7 (Collaborative Law), pp. 137-147, also Collaborative Law, reading to be distributed. Guest Speakers collaborative lawyers Karen Keyes and David Ginsberg.

11/2 – Arbitration, The Arbitration Process, Chapter 8 (The Arbitration Process), pp. 175-198.

11/9 – Arbitration, Legal Issues in Arbitration, Chapter 9 (Legal Issues in Arbitration), pp. 201-223. Guest Speaker Judge Dennis Smith.

11/16 – Other ADR Processes (Other ADR Processes, pp. 225-249. Review class and ethics discussion.

11/30 – **Final papers due no later than noon** (submit by email).