

Alternative Dispute Resolution
George Mason University Antonin Scalia Law School
Course Description and Syllabus
Fall 2021
Wednesday, 11:15 a.m. until 1:15 p.m.

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

Required Texts: Folberg, Golann, Stipanowich, Kloppenberg, *Resolving Disputes, Theory, Practice, and Law, Third Edition, 2016* and Roger Fisher and William Ury, *Getting to Yes, Revised Edition, 2011*

Course Objective: Attendance and participation are important aspects of this class. 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. 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 the 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 at least one entry that is relevant to 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.

A final 10 page research paper will be due on Wednesday, December 1, 2021 no later than noon. Final paper topics and one page outlines must be submitted by Wednesday, October 20, 2021.

Grading: Grading will be based upon class participation (30%), short writing assignments (40%), and the final research paper (30%).

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

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

Fall 2021 Schedule

8/25 – Welcome, introductions, discussion of backgrounds and interests of students, motivation for taking class. Dispute Resolution, The Big Picture, Chapter 1, pages 1-22, Folberg

9/1 – Bargaining techniques, Principled Negotiation, The Problem and the Method, pages 1-57, Fisher and Ury, Getting to Yes

9/8 – Negotiation, Perception, Fairness, Psychological Traps, and Emotions, Chapter 3, pages 37-58, Folberg; Email negotiation (handouts provided)

9/15– Mediation Observation Week in DC or Fairfax Courts. No class on Wednesday, 9/15 due to student observations of live mediations during the week of 9/15. Chapter 14, Court-Connected Mediation and Policy Concerns, pages 449-454, 464-479, Folberg

9/22– Mediation, The Big Picture, Chapter 9, pages 253-276, Folberg

9/29 -- Mediation, A Deeper Look into the Process, Chapter 10, pages 303-326, Folberg

10/6 – Mediation, Chapter 10 continued, pages 327-349, Folberg

10/13 – Stages of Mediation; Family mediation, employment mediation; pages 413-428, 436-447, Folberg

10/20 – Arbitration, Arbitration, The Big Picture, Chapter 17, pages 543-566, Folberg, **Final paper outlines due in class**

10/27 – Arbitration, Arbitration Procedures and Awards, Chapter 20, page 603-627, Folberg; Guest Speaker Judge Paul Sheridan

11/3 – Collaborative Law, reading 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.

11/10 – Collaborative Law, reading to be distributed; Guest Speakers collaborative lawyers Karen Keyes and David Ginsberg

11/17 – Last class: Review class and ethics discussion, Negotiation Ethics, Chapter 7, pages 193-212, Folberg

12/1 – **Final papers due no later than noon** (submit by email)