

USC Gould

School of Law

ADR Law and Policy: Mediation and Arbitration - LAW 715

Units: 3

Fall 2024 – Wednesday – 6:00-8:50 PM

Location: Classroom 130

Instructors: Professor Sean Galliher and Professor Joseph Jeong

Office Hours: By appointment

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SYLLABUS

Course Description

The ADR: Law and Policy: Mediation and Arbitration course is a survey of dispute resolution, primarily domestic, and is highly interactive with regular classroom simulations and activities. The course will begin with an introduction to the full spectrum of dispute resolution options, including negotiation, mediation, arbitration, litigation and hybrid processes. We will review the ways in which the processes differ, and discuss how to identify the best process for a particular dispute.

Following this, students will then turn to the study of negotiation, with a focus on the foundations and strategies of effective negotiation. The class will then move to the study of mediation, including the processes of mediation, the role, goals, styles, and skills of mediators, as well as the representation of clients during the mediation process. The third segment of this course will focus on arbitration, including structuring of arbitration agreements as well as the legal framework supporting arbitration. Next, we will explore ways of combining ADR processes to match the process to the dispute. Each segment will also include a discussion of the applicable ethical standards and applicable rules

Learning Objectives

By the end of this course, students will be able to:

1. Describe and differentiate dispute resolution processes of negotiation, mediation, arbitration, litigation and hybrid processes as measured by responses to discussion board queries.
2. Demonstrate emerging negotiation and mediation skills by applying the concepts and strategies studied in the course as measured by regular classroom simulation exercises.
3. Analyze and select the most appropriate dispute resolution process or processes for particular disputes as measured by the final exam.

Prerequisite(s); co-requisite (s); or recommended preparation: NONE

Required Materials

Resolving Disputes: Theory, Practice, and Law – 3rd Edition Folberg, Golann, Stipanowich & Kloppenberg, Aspen Publishers (2016) [ISBN-13: 978-1454838746 ISBN-10: 1454838744] (Make sure you purchase the 3rd Edition)

The course text is available at Amazon.com (And other book sellers):

https://www.amazon.com/s/ref=nb_sb_noss?url=search-alias%3Daps&field-keywords=Resolving+Disputes+Theory+Practice+and+Law+%E2%80%93+3rd+Edition&rh=i%3Aaps%2Ck%3AResolving+Disputes+Theory+Practice+and+Law+%E2%80%93+3rd+Edition

Description and Assessment of Assignments

There are three components to assignments and grading for this course: 1) class attendance and participation; 2) five discussion board queries; and 3) the Final Exam. These components and criteria for grading are described below:

A. Class Attendance and Participation (250 possible points-25%)

Weekly class attendance is required. A total of 250 possible points will be awarded for class attendance and participation. Because of the large number of students enrolled in this course, class participation points do not require a student to actually speak in class each week. However, students will be called upon during class to answer questions. If a student is asked a question in class by the instructors and is not prepared, or the student has not read the reading assignment for the week, points may be deducted at the discretion of the instructors. Points may also be deducted if a student fails to participate in a class simulation or other in-class activity when requested to do so.

If a student is absent without appropriate excuse, and without prior notice to the instructors when feasible, the student will not receive class attendance/participation points for that week. The absence make-up policy is provided below:

Absence Make-up Policy

If a student is absent with an “appropriate excuse,” attendance/participation points may be made up by completing the following tasks within two weeks of the missed class:

1. Review the recorded lecture for the missed week; and
2. Submit a two-page reflection paper on the topic(s) for the missed class as described in the syllabus reading assignment for that week. A reflection paper includes your reaction, ideas, and opinions regarding the reading material and/or classroom discussion and discussion board postings. The paper should be double-spaced, 12 point, Times New Roman font, with one-inch margins.

“Appropriate excuse” includes religious observance, illness, family emergency, or other unavoidable or reasonable causes as approved by the instructors.

PLEASE NOTE: The absence make-up reflection papers may be used for no more than 2 absences and any make-up reflection papers must be submitted within 2 weeks of the absence or they will not be accepted.

B. Discussion Board Queries (50 points/query = 250 possible points-25%)

These queries will specifically relate to reading materials and class discussions. Each student must provide at least **one response for each query posted by the instructors, and one reply to a posting by one other student**. (You are not required to provide a *reply* to every student’s comment. You are only required to *reply* to a *response* of one other student for each query.) Note the difference between “*response*,” and “*reply*.” A *response* is what you provide to the original query by the instructors. A *reply* is what you provide to one other student’s response posting. Each *response* or *reply* posting should be a minimum of 2-3 paragraphs in length. The following grading rubric will be used for your discussion post assignments:

POINTS	PERFORMANCE CRITERIA
50	The comment is relevant and demonstrates that you read and reflected upon the assigned material (or your colleague's point of view in the case of a reply), and is well written. The comment adds substantial discussion to the course, and stimulates additional thought about the issue.

40	The comment lacks at least one of the above qualities, but is above average in quality. The comment makes a significant contribution to the understanding of the issue being discussed.
30	The comment lacks two or three of the required qualities. Comments that are based solely upon personal opinion or personal experience without reference to assigned readings and other authoritative sources often fall within this category.
20	The comment fails to demonstrate analysis and/or reflection on assigned readings and/or posts of colleagues. However, the comments may provide important class participation and contribute to a collegial atmosphere.
10	The comment adds little or no value to the discussion but at least something was posted.
0	No posting

C. Final Exam (500 possible points – 50%)

The final exam will be an open-book take-home exam, and the use of personal student notes will be permitted. It will consist of short essay questions, and may include multiple-choice questions.

Grading Breakdown

Grading is based upon the *Exam and Grading Policies* as provided in Section 6, of the law school *Student Handbook*. In determining a final grade for the course, assignments will be weighed as follows:

Assignment	Points	% of Grade		
Class Attendance & Participation	250	25		
Discussion Board	250	25		
Final Exam	500	50		
TOTAL	1000	100		

Assignment Submission Policy

Assignments are due on the date and at the time specified. Late submissions may not be accepted or may be subject to a reduction of points, at the discretion of the instructors.

PLEASE NOTE: In the event an extension of time is granted by the instructors, no discussion board assignments will be accepted if posted more than one week from the due date. It is too difficult tracking late submitted assignments throughout the semester and it is not fair to students who submitted their assignments in a timely manner.

Additional Policies

Class Participation

Students are expected to read all materials assigned for each class meeting and are expected to be prepared to participate in discussions, simulations and presentations when called upon.

Communication with Instructors

Students are encouraged to contact the professors with any questions or concerns regarding the course, materials for the course, assignments, etc. via email, text, or cell. Telephone calls and emails will typically be responded to the same day or at the latest within 24 hours (weekends excepted).

Classroom Computer Usage

You may use your laptop computer during class for the purpose of taking notes or other tasks directly related to, and supportive of your participation in class. The use of a computer in class for activities or purposes unrelated to the course causes a significant distraction for other students and severely disrupts the ability of those students to participate fully in class. Therefore, any improper use of a computer during class (including, but not limited to, composing, sending, or reading emails; instant messaging; searching or browsing the Internet; playing games; and/or viewing movies) is prohibited.

Course Schedule and Assignments: A Weekly Breakdown

Week/Date	Topics/Daily Activities	Readings and Homework	Deliverable/ Due Dates
Week 1 8-28-24	Dispute Resolution - Negotiation and Conflict	Pages 1 – 35 Chapters 1 & 2	1. Reading

Week 2 9-04-24	The Inner Game & Negotiation Styles	Pages 37 – 94 Chapters 3 & 4	1. Reading
Week 3 9-11-24	The Negotiation Dance	Pages 95 – 151 Chapter 5	1. Reading 2. Discussion Board Assignment #1
Week 4 9-18-24	The Negotiation Dance	Pages 95 – 151 Chapter 5	1. Reading
Week 5 9-25-24	Negotiation Impasse/Agreement & Gender, Culture and Race; Negotiation-Ethics and Law	Pages 151 – 192 Chapter 6 Pages 193 – 250 Chapters 7 & 8	1. Reading 2. Discussion Board Assignment #2
Week 6 10-02-24	An Overview of Mediation- The Big Picture	Pages 253 – 302 Chapter 9	1. Reading
Week 7 10-09-24	A Deeper Look into the Process Representing Clients: Preparation & During the Process	Pages 303 – 411 Chapters 10, 11 & 12	1. Reading 2. Discussion Board Assignment #3
Week 8 10-16-24	Specific Applications & Court-Connected Mediation and Policy Concerns	Pages 413 – 479 Chapters 13 & 14	1. Reading
Week 9 10-23-24	The Law of Mediation & Ethical Issues for Advocates and Mediators	Pages 481 – 539 Chapters 15 & 16	1. Reading 2. Discussion Board Assignment #4

Week 10 10-30-24	Arbitration – The Big Picture, Arbitration Agreements & Selecting Arbitrators	Pages 543 – 601 Chapters 17, 18 & 19	1. Reading
Week 11 11-06-24	Arbitration Procedures and Awards & Judicial Enforcement of Arbitration Agreements	Pages 603 – 673 Chapters 20 & 21	1. Reading
Week 12 11-13-24	Judicial Enforcement of Arbitration Awards & Fairness in Arbitration Part I: Employment, Consumer, and Adhesion Contracts; Fairness in Arbitration part II: Recent Legislative and Judicial Developments & Mixing and Matching the Process	Pages 675-801 Chapters 22-25	1. Reading 2. Discussion Board Assignment #5
Week 13 11-20-24	Dispute Resolution Design: Stepped Clauses and Conflict Management Systems & Looking Ahead: Opportunities and Challenges in ADR and Conflict Management	Pages 803 – 849 Chapters 26 & 27	1. Reading
Week 14 12-02-24* MONDAY	REVIEW Last Day of Class *There is no class on Wednesday, 11-27-24 due to Thanksgiving break. Wednesday classes will meet on Monday, 12-02-24 (see the Annual Academic Calendar)		1. Review
	Final Exam (Take-Home)		

Statement on Academic Conduct and Support Systems

Academic Conduct:

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in SCampus in Part B, Section 11, “Behavior Violating University Standards,” <https://policy.usc.edu/files/2020/07/SCampus-Part-B-2.pdf>. Other forms of academic dishonesty are equally unacceptable.

Support Systems:

Student Counseling Services (SCS) – (213) 740-7711 – 24/7 on call

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

<https://studenthealth.usc.edu/counseling/>.

See also this guide for Gould students to facilitate access to mental health resources on campus: <https://gould.usc.edu/assets/docs/directory/Mental-Health-Services-at-USC.pdf>

National Suicide Prevention Lifeline – 1 (800) 273-8255

Provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week. www.suicidepreventionlifeline.org

Relationship and Sexual Violence Prevention Services (RSVP) – (213) 740-4900 – 24/7 on call

Free and confidential therapy services, workshops, and training for situations related to gender-based harm. <https://studenthealth.usc.edu/sexual-assault/>

Sexual Assault Resource Center

For more information about how to get help or help a survivor, rights, reporting options, and additional resources, visit the website: <https://eeotix.usc.edu/>

Office of Equity and Diversity (OED)/Title IX Compliance – (213) 740-5086

Works with faculty, staff, visitors, applicants, and students around issues of protected class. <https://eeotix.usc.edu/>

Bias Assessment Response and Support

Incidents of bias, hate crimes, and microaggressions need to be reported allowing for appropriate investigation and response. <https://eeotix.usc.edu/>

The Office of Disability Services and Programs

Provides certification for students with disabilities and helps arrange relevant accommodations. <https://dsp.usc.edu/>

Student Support and Advocacy

Campus Support and Information is where members of the Trojan Family go to seek support for themselves, for others, and for the community. It is a one-stop-shop for care and support, troubleshooting and advocacy. <https://cwci.usc.edu/campus-support-and->

[intervention/](#)

If you are concerned about a fellow Trojan challenged with personal difficulties, you can file a report through Trojans Care for Trojans. The form can be found at:

<https://campussupport.usc.edu/trojans-care-4-trojans/>.

Diversity at USC

Information on events, programs and training, the Diversity Task Force (including representatives for each school), chronology, participation, and various resources for students. <https://diversity.usc.edu/>

Gould-specific information can be found at <https://gould.usc.edu/about/race-equity/> (Law, Race and Equity page) and <https://gould.usc.edu/students/diversity/> Students can submit anonymous EDI-related comments/complaints through the law portal:

<https://mylaw2.usc.edu/about/contact/anonymous-comments>

USC Emergency Information

Provides safety and other updates, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

<https://emergency.usc.edu/>

USC Department of Public Safety – UPC: (213) 740-4321 – HSC: (323) 442-1000 – 24-hour emergency or to report a crime.

Provides overall safety to USC community. <https://dps.usc.edu/>