

ALTERNATIVE DISPUTE RESOLUTION ONLINE ADR TRAINING SYLLABUS

Training Description

The training will examine the dynamics, benefits, constraints, and skills related to third party intervention in the resolution of legal disputes. It will explore mediation as a collaborative process of resolving conflict, the legislative, ethical, and practical constraints on its use, as well as the skills needed to serve in a mediation capacity.

This training is designed to familiarize you with the many kinds of arbitration and equip you with insights that very few members of the public—or even lawyers—have. Those trainees who do know something about arbitration will deepen their knowledge and skills, and reconsider some of their preconceptions.

The training will also examine how the obvious and not-so-obvious cultural differences impact resolution of interpersonal and interstate (international) disputes. Specifically, the training will bring an international perspective to understanding the impact of culture in the most commonly used international and domestic dispute resolution practices (negotiation and mediation). It will survey the impact that cultural differences, stereotypes, and attributions have on key dispute resolution processes and on conflict generally. It is designed to build theoretical knowledge, equip students with an analytical framework useful in determining suitable dispute resolution processes, and instill practical skills and strategies to enhance effectiveness in cross-cultural contexts. Cultural differences in language, customs, values, legal systems, and world-views are examined along various dimensions: orientation toward the individual or the collective community, importance of career success over quality of life, deference to authority, long- vs. short-term orientation, extent to which expectations for behavior are implicit or express, perceptions of time and personal space, and aversion to risk.

The philosophical assumption of this training is that good lawyering and dispute-resolving require a basic understanding of psychology (the science of how people think, feel, and behave), conflict (the outcome of difference in needs, perceptions, or values), and communication (the expression and exchange of information). The training will therefore cover psychology of Conflict Communication, covering the intersection of psychology, law, conflict, and dispute resolution with application to human communication. It will specifically explore psychological phenomena, frameworks for analyzing conflict that result from these phenomena, and communication skills to address these conflicts. It is designed to provide insights from cognitive and social psychology, neuro-collaboration, and communication theory; these insights are applied to dispute resolution, lawyering, and negotiations.

Program Learning Objectives

1. Cognitive Apprenticeship Goal (CA)

Trainees will demonstrate knowledge and understanding of conflict and dispute resolution theory and procedure, and when appropriate, applicable governing law.

2. Professional Lawyering Skills Apprenticeship (LS)

Trainees will demonstrate professional dispute resolution skills, including lawyering skills.

3. Moral, Ethical, and Professional Apprenticeship (ME)

Trainees will demonstrate knowledge and understanding of a dispute resolution professional's (including lawyer's) moral, ethical, and professional responsibilities.

Trainees Learning Outcomes

Trainees will be able to:

- Demonstrate knowledge and understanding of a methodical approach to mediation
- Articulate and apply mediation techniques in a legal dispute.
- Differentiate between ethical and unethical practices in mediation and identify potential ethical dilemmas and solutions.
- Demonstrate awareness of legal and public policy concerns regarding the practice of mediation.
- Differentiate between kinds of arbitration processes and understand how arbitration may be tailored to serve different goals and circumstances.
- Compare and contrast arbitration with mediation and other “ADR” approaches, and with litigation in court.
- Demonstrate knowledge and understanding of arbitration usages in business relationships, and the role of arbitrators.
- Demonstrate knowledge and understanding of how arbitration/dispute resolution agreements can be developed to reasonably serve parties' goals.
- Show an understanding of key differences in leading arbitration rules and procedures, includes differences in arbitration provider institutions, and arbitrator appointment procedures.
- Instill the basics of “the art of arbitration”-- practical skills for arbitrators and advocates.
- Describe how to prepare for and conduct an arbitration hearing from the commencement of the process through the rendition of an arbitration award including the pre-hearing conference, development of a procedural order and setting a timetable for arbitration.
- Differentiate between ethical and unethical practices in arbitration and identify potential ethical dilemmas and solutions.

Class Schedule and Activity

Learning Alternative Dispute Resolution involves three activities: exposure to descriptive information; simulation exercises; and group discussions. Most of the exposure to descriptive information will occur in readings and the Asynchronistic class sessions.

During the training, there will be skills exercises, which will take place during the live-class sessions. Discussions will take place after most class exercises in the live class sessions. Because of the complexity of some ADR simulation exercises, it may be necessary to engage in some of the preparation for the exercises outside of the normal class period.

Topics

1. Session one

- (i) Sharing personal experiences in mediation
- (ii) Introduce Mediation
- (iii) Conflict Resolution Process Overview
- (iv) Intro Star System for Teaching Mediation-
- (v) Riskin's Grid of Mediator Styles
- (vi) Mediation Confidentiality

2. Session two

- (i) The Opening Stage
- (ii) Providing Structure
- (iii) Opening Statements
- (iv) Protocol
- (v) Defining Issues
- (vi) Setting an Agenda

3. Session three

- (i) Facilitating Communication
- (ii) Questioning
- (iii) Listening
- (iv) Validation
- (v) Caucus

4. Session four

- (i) Facilitating Negotiation
- (ii) Assisting Distributive Bargaining
- (iii) Assisting Integrative Bargaining

5. Session five

- (i) Paradigms for the sources of conflict
- (ii) Managing personalities in conflict resolution
- (iii) Emotional intelligence competencies and conflict resolution
- (iv) The myth of rationality and decision-making
- (v) Cognitive biases
- (vi) Narrative conflict resolution
- (vii) The psychology of happiness

6. Session six

Convening and Ethics

7. Session seven

- (i) Cross-Cultural dispute resolution

- (ii) Communications across Cultures Cross-Cultural Negotiation
- (iii) What Is Cross-Cultural Decision-Making?
- (iv) Cross-Cultural Negotiation vs. Mediation

8. *Session 8*

- (i) Arbitration in the Dispute Resolution Spectrum
- (ii) Arbitration vs. Litigation
- (iii) The Contractual Foundations of Arbitration
- (iv) Overview of the Arbitration Process
- (v) Arbitration and Settlement
- (vi) Court treatment of arbitration awards

9. *Session 9*

Multi-party environmental mediation