

Hamline University School of Law
Family Mediation
Summer 2013 Dispute Resolution Institute
Professor Aimee Gourlay
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Class Sessions:

July 25, 26, 27, 29, 30 (8:00 a.m. – 5:45 p.m.)

Note that law students are Rule 114 roster eligible ONLY IF they do not miss any part of any class.

The Course:

Family mediation gives people who are divorcing and/or co-parenting a creative alternative to the family courts for making decisions. It is a cooperative and constructive way to resolve differences and plan for the future. Minnesota District Court requires that parents consider alternatives to court early in the dissolution process and for family appeals. This course satisfies certification standards for Family Law Facilitative Neutrals under The General Rules of Practice for the District Courts Rule 114. The course covers conflict resolution and emotional issues surrounding divorce as well as specific techniques for mediating custody and property disputes. Special attention is paid to identifying families experiencing domestic violence. A variety of teaching methods are used, including demonstrations, role plays, discussions, and reflection papers.

Course Highlights:

- Negotiating and communication skills
- Mediating relationship issues
- Child-focused parenting plans
- Psychodynamics of divorce and separation
- Barriers to resolution/impasse techniques
- Domestic violence awareness
- MN Family law
- Ethical issues

Required Reading:

- Pre-Course Reading. A Dropbox has been set up at <https://www.dropbox.com/sh/m092mqp5oilfdm2/JgR64RP1qW> (Complete reading before course begins).
- Family Mediation Skills supplement and appendix (Available before the class through the Hamline Law Bookstore, not necessary to read before the course begins). Bring to class.
- Class Role-play Handouts (Handed out in class).

Course Objectives:

- Understand family mediation theory and practice;
- Learn the various forms of family law neutrals;
- Improve skills in listening, questioning, problem-solving, persuasion, and professional judgment that are necessary for effective mediation;
- Identify the dynamics and challenges for mediation when domestic abuse is present;
- Encourage active reflection on dispute resolution (as a representative of parties in conflict, or as a neutral intervener).

Attendance Policy:

Attendance at all class sessions is mandatory.

Preparation/Participation/Feedback:

Your class participation is essential to this class; it will be a benefit to you and, importantly, your classmates. I will be looking for comments that offer unique but relevant perspectives that move the discussion and analysis forward. Effective comments demonstrate recognition of key concepts, with concrete links where possible to assigned reading.

Role Play Participation:

For the role play simulations, each student is expected to read the facts ahead of time and make a good faith effort at playing an assigned role as realistically as possible (always keeping in mind that you, too, will be serving as a mediator!). In giving feedback to mediators after simulations, please be honest and respectful; be specific i.e., identify the specific language or behavior which triggered your observations; include positive and (constructively) negative critique; and relate your feedback to the concepts we are studying.

Grading:

Your grade will be based on the following. More specific details about each assignment will be distributed in class:

- 40% -- You will have the opportunity to mediate at least twice, and be a party, lawyer or observer four other times. You will respond to two sets of reflection questions based on two of these role plays: one as a mediator and the other as a lawyer or party to the mediation. (4 -5 pages per reflection maximum). **Due by Tuesday, August 6, 2013.** *This is not submitted anonymously.*
- 30% -- Take-home Ethics Short Answers. **Due by Tuesday, August 6, 2013.** *Submit anonymously through the registrar.*
- 10% -- Written feedback to a family law client on a mediator's summary of the client's interim mediated agreements. (2 -3 pages.) **Due by Tuesday, August 13, 2013.** *Submit anonymously through the registrar.*
- 20%-- Mediation Challenge Scenarios. You will read short descriptions of a challenges that might face a mediator or advocate in mediation and respond with what you would do and why. **Due by Tuesday, August 13, 2013.** *Submit anonymously through the registrar.*

- Exceptional class participation (active and constructive contributions to class discussions, role plays and simulations) will earn you a bump up in your grade; exceptionally poor class performance may result in a lowering of your grade.

Note Academic Rule AR-105(B)(8): A student who does not take a scheduled examination will receive a grade of "F" for that examination, unless properly excused. In addition, any student who does not turn in a required paper on the scheduled date will receive a grade of "F" for that paper, unless properly excused. Failure to meet any course requirement can be the basis for a final grade of "F" in the class, unless properly excused.

Because the class schedule is intense, written work will be due after the course ends. However, I highly recommend that you **read the reflection assignments that are distributed on the first day of class and make notes as insights occur.**

Expectations for Written Work:

Demonstrate in your written work that you are learning and using readings, class concepts, discussions and simulations. Don't just present your conclusions or use buzzwords; also reveal the full logic of analysis behind your conclusions. Take care to follow all instructions and answer all questions (and all parts of questions).

- **Effort.** As with most classes, trying counts for something. I favor papers that demonstrate high effort, and disfavor those papers where the authors merely went through the motions. Effort becomes apparent when you use the assignments as an opportunity to integrate class concepts, practice writing skills, and wrestle with personal/professional circumstances.
- **Clarity.** Each point is understood without having to read it twice; the order in which points occur is predictable and flows smoothly; writing is very concise; and the reader is not distracted by errors of grammar, syntax, punctuation, or spelling.
- **Rationale.** It is not enough for your insights to be correct; you must also provide convincing support for them. Support that convinces is copious, logical, and backed up with evidence. Spell out your logic: how do you get from A to B? Be specific about examples and conclusions.
- **Insight.** In writing a reflection paper, one common error students make is to spend several pages describing the situation or making general comments. Such pure description leads to little insight and therefore does not gain points. A combination of description and critique produces the most insight. Description should be included, but only to illustrate insightful points.
- **Nuts and Bolts.** Papers should be double spaced, normal margins. Papers due at the same time should be submitted all together. Please put page numbers and exam numbers on EVERY page. Page numbers should ideally say "X of Y."

Computer/Electronic Device Use:

Use of laptop computers is welcome during class lecture times, however not during interactive discussions and role plays. Use of computers or electronic devices to do work other than class or attend to personal matters should be limited to lunch and break times.

SYLLABUS

DAY ONE

- Setting the Context
 - Psychodynamics of Conflict, Separation and Divorce
 - The Legal Process
 - Rule 114 – Spectrum of Conflict Resolution Processes
 - Difference between Facilitation and Adjudication
- Mediation: Philosophy and Values
- Interest-based Negotiation – The Core of the Mediation Process
- Structure of Mediation and the Mediator’s Role
- Domestic Abuse Issues and Screening

DAY TWO

- The Mediation Process: Step One – Orientation
- The Mediation Process: Step Two – Information Gathering
- Identifying Interests, Issues and Positions
- The Mediation Process: Step Three – Framing Issues
- Interpersonal Communication and Conflict Psychodynamics
- Framing Issues
- Simulation: Reasonables, Part I – Identifying and Framing Issues
- The Mediation Process: Step Four – Identifying Interests
- Simulation: Reasonables, Part II – Child Custody
- Impact of Divorce on Children

DAY THREE

- Listening Skills
- Parenting Issues
- The Mediation Process: Step Five – Generating and Evaluating Options
- Generating Parenting Options Exercise
- Evaluating Parenting Options
- Simulation: Reasonables, Part III – Parenting Options
- Family Law: Payments and Property

DAY FOUR

- Generating Options Regarding Property
- Simulation: Reasonables, Part IV – Property Issues
- Paternity Law
- Simulation: Money Matters
- Intervening to Break Impasse
- Simulation: Hopkins
- Ethics I – Standards of Practice

- Caucusing with Parties
- The Mediation Process: Step Six – Closing the Mediation
- Writing Agreements

DAY FIVE

- Post-Decree Issues and Laws
- Simulation: Andersons – Post-Decree Issues
- Power Imbalance
- Domestic Abuse Issues
- Requirements of Rule 114 and Mediation in Minnesota
- Simulation: Ole and Lena
- Ethics II