

# **MEDIATION**

Dispute Resolution Institute  
Hamline University  
January 2014

*Professors Joseph B. Stulberg and Daniel Weitz*

**TEXT:**                    **Mediation Theory and Practice, 3d Edition (A)**  
                                  **Alfini, Press & Stulberg**  
                                  **The Middle Voice (2d ed), Stulberg & Love (B)**

**CLASSES MEET:**    **9:00am- 4:30pm on January 2, 3, 4, 6, 7 and 8, 2014**

**OFFICE HOURS:**    **By appointment**

## **OFFICIAL COURSE DESCRIPTION**

Through discussion, simulations, and role-play, this course focuses on the structure and goals of the mediation process and on the skills and techniques mediators use to aid parties in overcoming barriers to dispute resolution. The course also examines the underlying negotiation orientations and strategies that mediators may confront and employ; the roles of attorneys and clients; dealing with difficult people and power imbalances; cultural, race and social identity consideration; and ethical issues for lawyers and mediators. In addition, special attention is devoted to the art of successful representation of clients in mediation.

## **COURSE PERSPECTIVE**

Disputes vary in shape, intensity and complexity. They arise in multiple settings. We transform some disputes into lawsuits and attempt to resolve them; for others, we develop other “angles of vision” to examine and address them. Whatever the dispute’s format, lawyers strive to help persons resolve differences in ways that are effective, responsive to participant interests, and consistent with fundamental conceptions of fairness and dignity.

Mediators make a special contribution to the resolution of disputes. They create a suitably dignified forum for addressing conflicts; they establish conversational guidelines for the informed, spirited exchange of information and ideas; they assist disputants to examine interests and reduce rhetoric to proposals; they capitalize on inconsistencies or latent possibilities to develop a framework for settlement; and they infuse the negotiation process with an energy and passion targeted to ensure that efforts to secure a workable, fair resolution will not fail for lack of trying.

Lawyers have particular contributions to make as mediators. They are steeped in traditions of due process. They appreciate the central contributions that capable advocates can make to a search for a resolution. They are comfortable with ambiguity. And they are problem solvers. This course examines the mediator’s role and the contributions law-trained persons can make in the resolution of disputes. It focuses on educating and training mediators in settings in which legal issues lace or shape the controversy but in which a poignant human drama defines its meaning.

## ASSIGNMENTS

### READING ASSIGNMENT TO BE COMPLETED BEFORE FIRST CLASS:

**Reading A: Chapters 1**

**Reading B: Chapters 1-4**

### Thursday, January 2, 2014 - 9:00 a.m. – 4:30 p.m.

Overview of Conflict and Dispute Settlement Processes

Introduction to Negotiation

Introduction to Mediation and the Role of the Mediator

Assignment for Friday, January 3:

**Reading A: Chapter 7 (pages 370-396)**

**Reading B: Chapters 5-7**

### Friday, January 3, 2014 - 9:00 a.m. – 4:30 p.m.

Beginning the Mediation Session

Accumulating Information: What Do Mediators Listen For?

Diversity Impact on Process

Assignment for Saturday, January 4:

**Reading A: Chapter 4 (pages 147-174)**

**Reading B: Chapters 8, 9 and 12**

### Saturday, January 4, 2014 - 9:00 a.m. – 4:30 p.m.

Developing and Structuring the Negotiating Agenda

Techniques for Generating Movement

Assignment for Monday, January 6:

**Reading A: Chapter 5 (Sections B, E, F); Chapter 6 (Section D)**

**Reading B: Chapters 10, 11**

**Preparation for group presentation**

### Monday, January 6, 2014 – 9:00 a.m. – 4:30 p.m.

Conducting the Caucus

Group Presentations: Law and Policy Issues

Closing the Mediation Session

Assignment for Tuesday, January 7:

**Reading A: Chapters 8 (pages 413-435); Chapter 10 (533-578 )**

**Reading B: Chapter 13, 14**

**Tuesday, January 7, 2014 – 9:00 a.m. – 4:30 p.m.**

Group presentations: Law and Policy Issues  
Drafting Agreements  
Representing Clients in Mediation  
Ethical Issues for the Mediator  
Designing Mediation Programs

Assignment for Wednesday, January 8

**Reading A: Chapter 9 (463-532)**

**Wednesday, January 8, 2014 – 9:00 a.m. – 4:30 p.m.**

Minnesota Rules, statutes and practices governing mediation  
Mediation Simulations  
The Possibilities and Limits of Mediation

**GRADING**

Grades for degree-seeking students will be based on the following elements with the designated weights:

1. Class participation: 20% (Please note: the group presentation will constitute 15% of the class participation grade)
2. Take-home Paper: 80%. The final paper will be based on the syllabus readings and various simulations conducted in class. Grading is anonymous and consequently students should only include their exam number on their exam. The final paper will designate maximum word limits for answers to respective questions. The due date for the submission of the take-home paper will Tuesday, January 21, 2014 by 4:00 p.m. Instructions regarding exam submission will be provided in class.

Attendance at ALL class sessions is required.

Written assignment: Only degree-seeking students, including Certificate students, must complete the final paper.

**Students should be aware of the following Hamline University School of Law 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.**