07/12/2016

Negotiation, Mediation and Dispute Resolution

Course Number: PA388K (unique number: 60720)

The course is offered during Fall Semester 2016 as a graduate course with the LBJ School of Public Affairs at the University of Texas at Austin

Instructor: David Eaton, Ph.D. Bess Harris Jones Centennial Professor of Natural Resource Policy Studies Email: <u>eaton@austin.utexas.edu</u> Telephone 512-471-8972(o); 512-626-0333(cell) Office: SRH 3.344 Office Hours: Fridays, 1-4 pm Class Meetings: Mondays, 6 PM to 9 PM during the Fall Semester Faculty Assistant: Ms. Jayashree Vijalapuram, email: <u>jayashreev@austin.utexas.edu</u>; phone: 512-471-8959

COURSE OBJECTIVES AND DESCRIPTION

The course approaches the study and practice of mediation from four perspectives; skill development; practice theory; and the law. Initial classes explore dispute resolution with particular emphasis on negotiation. The course focus then shifts to mediation process and the skills needed for mediators to assist parties in resolving issues. This course also addresses mediation regulations and trends and examines the role of the mediator, including ethical responsibilities, explicit authority and limitations. Participants will also consider and experience mediation from the perspective of advocates representing clients in mediation. This course enables participants to learn, integrate, and apply the knowledge and skills of negotiation, dispute resolution and multi-party mediation. Participants in the class will be able to: (a) assess when to use mediation; (b) advise clients about the process and potential of mediation; (c) assist clients effectively before, during, and after mediation; and (d) demonstrate the skills necessary to be an effective mediator.

The instructor uses diverse training methods to address different learning styles, including: (a) lectures; (b) group discussions; (c) mediation simulations; (d) role plays and mock negotiations; (e) videos of simulated or actual meditations; (f) other structured participatory activities. Participants will complete 45 hours of in-class training and at least one outside-of-class mediation exercises. Participants will observe different types of simulated and videotaped mediation or negotiation sessions to evaluate behavior of disputants and mediators. A minimum of 40 percent of training hours shall be spent in participatory activities, defined as supervised and structured activities that require interaction among two or more people. These exercises are designed for students to develop their negotiation and mediation skills.

Mediation training is organized in a way that guarantees that each participant receives individual attention and feedback for improving her/his skills to assure that each participant can finish the course with a realistic understanding of her/his abilities as a mediator. The course has been designed so that the practice portion of the course fulfills requirements for a "Certificate of Completion" of the Texas Mediator Trainer Roundtable standards for a forty-hour 'Basic Mediation" course, so a person can achieve the initial steps

to be certified as a Mediator in Texas based on the mediator training requirements under Texas ADR Act.

Attached to this syllabus are four appendices. Appendix 1 lists class rules that comply with syllabus requirements established by The University of Texas at Austin. Attachment 2 lists the rules for mediator certification in Texas by the Texas Mediator Trainer Roundtable. Appendix 3 lists the content of each class, by approximate time period. Note that during the semester the instructor may either go faster or slower than the syllabus. The syllabus will not be changed. What may be changed is the content of any particular class. Powerpoint slides will be made available to students after each class to reflect the actual progress made in completing the content of the class. The instructor reserves the right to modify the class content at any time during the semester. Appendix 4 contains drafts of memos that will be sent out after every class as a freminder to the class members to to what is due prior to the next class. There will be no change in the assignments and the weighting of those assignments for a class grade.

INTRODUCTION

Prior to, during and after World War II, the US Army conducted research on the topic of 'how to teach adults.' Researchers reported that the most productive approach was to have adults practice an activity without fully understanding it, then learn about it, and then practice it again. That process of 'do it, learn it, do it, to master it' motivates the teaching in the course.

Participants will complete 45 hours of in-class training that use diverse training methods to address different learning styles, including: (a) lectures; (b) group discussions; (c) mediation simulations; (d) role plays and mock negotiations; (e) videos of meditations; (f) other structured participatory activities. Participants will observe different types of simulated, videotaped, or actual mediation or negotiation sessions to evaluate behavior of disputants and mediators. A minimum of 20 training hours will be spent in participatory activities, defined as supervised and structured activities that require interaction among two or more people. Each participant will contribute to role-plays as a mediator, disputant, an advocate or as an observer in role-plays. Each person will either mediate or co-mediate in at each three role-plays.

Initial classes explore dispute resolution with emphasis on negotiation and mediation processes and the skills needed to assist parties in resolving issues. The course will discuss relevant mediation regulations, and trends. The role of the mediator is examined, including ethical responsibilities, explicit authority and limitations. Participants will consider and experience mediation from the perspective of parties, advocates representing clients in mediation, the mediator and as an observer. Each student will be assigned to a group of participants and will meet regularly with the group during class hours for participating in exercises. Mediation training is organized in a way to enable that each participant to receive individual attention and feedback for improving her/his skills. One expectation of the class is that each participant can finish the course with a realistic understanding of her/his abilities and limits as a negotiator and as a mediator.

The course design satisfies the requirements for a "Certificate of Completion" of the Texas Mediator Trainer Roundtable forty-hour 'Basic Mediation" course, so a person can begin the credentialing process to be a Mediator in Texas, based on the mediator training requirements under Texas ADR Act. This curriculum follows the Mediation Training Standards for the 40-hour basic mediation training as set down by the Texas Mediation Trainers Roundtable (TMTR). This course meets for 4.5 contact hours during each of 10 weeks (45 hours). Thus, participants exceed standards for a minimum of 40-hours established in 1993 and adopted by the Texas Mediator Credentialing Association (TXMCA), an organization promoting quality mediation throughout Texas. The 40-hour training is a required first step for achieving the status of a "Candidate for a Credentialed Mediator" (see <u>www.tXMCA.com</u> for more details).

In addition to a forty-hour classroom requirement, the TMTR requires experience, including:

* Trainees must participate in at least three role-plays as a mediator and two role-plays as a disputant under the supervision of a trainer; the instructor will try to keep track of your role-plays, but you should be active in assuring that you exceed the number of mediation and disputant role-plays.

* Trainees must observe at a minimum one simulated, videotapes, or actual mediation; participants in this class will observe many

* A minimum of 20 class hours of training must be spent in participatory activities, which are defined as supervised and structured activities that require interaction among two or more people; the draft schedule exceeds the nominal expectations.

* Trainees must receive individual feedback from experiences mediators/trainers on their performance in training practice sessions. This can be accomplished by direct trainer feedback, trainer-facilitated coaching, trainee observation, or videotaping.

* Trainees must be present for 40 hours and must participate in all role-plays to gain a comprehensive understanding of course materials.

* Group interaction that fits into the 'participatory category' is identified with time measurements, in the event that there are any concerns as to adequate group process interaction.

STUDENT COURSEWORK RESPONSIBILITIES

CLASS ATTENDANCE

Attendance will be taken at each class. Participants are expected to attend all classes and participate in all discussions and role-plays. In order to complete the minimum statutory time requirement of a minimum of 40 hours mediation training to receive the mediator training certification, attendance and documentation of attendance is necessary. Unforeseen conflicts and emergencies happen and may cause you to miss a class or miss a deadline. In such a case, please notify the instructor in advance as soon as possible. If an absence is on the day of a role-play, please notify your simulation colleagues. When an unforeseen conflict or emergency causes a missed deadline, the participant and the instructor will discuss whether it is possible to fulfill the assignment to meet the forty-hour minimum training level for certification.

REQUIRED TEXTBOOKS (for purchase)

Golann, Dwight and Jay Folberg, **Mediation: The Roles of Advocate and Neutral,** third edition, Wolters Kluwer, 2016 (referred to below as "*Mediation3*").

Plante, Thomas G., **Do the Right Thing: Living Ethically in an Unethical World**, New Harbinger Publications, Inc., 2004

OTHER REQUIRED BOOKS

Fisher, Roger, William Ury, and Bruce Patton, **Getting to Yes**, revised edition, Penguin, Books, 2011.

Thomas-Kilmann Conflict Mode Instrument (TKI), Item #4813 CPP, Inc., <u>www.cpp.com</u>, 2007.

READINGS ON CANVAS

Advisory Committee on Negotiated Rulemaking in Texas, **Texas Negotiated Rulemaking Deskbook**, The University of Texas School of Law, Austin, TX, October 1996 (75 pages).

Administrative Procedures and Practice, Tex Gov't Code Chapter 2001, 50 pp.

Administrative Procedure Act (5 U.S.C. Subchapter II), 35 pp.

CPP, Inc., "Introduction to Conflict Management," item #4816, CPP, Inc., <u>www.cpp.com</u>, updated.

Foundation for International Environmental Law as Development (FIELD), **Help for Multilateral Environmental Agreement Negotiators Who Encounter Problems**, FIELD, London, Great Britain, 2011.

Negotiated Rulemaking Act of 1996, Public Law 104-320, 5 U.S.C., 7 pp.

Texas Alternative Dispute Resolution Act, Civ. Prac. & Rem. Code Ann., Ch 154, 6 pp.

The Governmental Dispute Resolution Act, Tex Gov't Code, Chapter 2009; 7 pp.

The Negotiated Rulemaking Act, Tex Gov't Code, Chapter 2008, 8 pp.

REQUIRED VIDEOS (on Canvas)

Dulay, Marcel, seven Leon River Basin water quality narratives, undated.

Dwight Golann, **The Skills of a Legal Mediator**, JAMS Foundation, undated.

JAMS Foundation, Mediating a Sexual Harassment Case: What Would You Do? undated.

Various participants, The Teaching DVD: **Resolving Disputes-Theory, Practice, and Law**, Wolters-Kluwer, undated.

Various participants, **How to Share a Mediator's Powers**, JAMS Foundation, undated (Mediation Advocacy).

Various participants, **Representing Clients in Giovernment Mediation**, undated (Mediation Advocacy).

Various participants, **Representing Clients in Mediation**, undated (Mediation Advocacy).

CLASS PARTICIPATION

There are two elements of class participation: contributing to the discussion during class hours and participation in role-plays (otherwise called simulations or peer-exercises). During every week there will be at least one short memo to write. During some weeks there may be a peer-exercise to conduct outside of class.

SIMULATIONS AND EXERCISES

Class members will participate in negotiation and mediation simulations as well as other role-play exercises. For each simulation, class members will be assigned or self-assign to roles as observers, parties/disputants, advocates/lawyers for disputants, negotiators or mediators. For each exercise, each participant will receive general instructions as well as confidential information specific to a role. In the event that the negotiation or mediation does not resolve within the time limit within class, that is a reasonable outcome. A role-play simulation in class will end at the class time limit, whether or not the case has been resolved. During some weeks there may be a role-play outside of class.

Simulations allow class members to experience the negotiation or mediation process as a disputant, advocate, mediator, and observer. Each role provides or learning opportunity to develop skills essential for negotiation, mediation or advocacy. Each participant ought to comply with the role-play instructions and not share confidential information. During the semester the instructor will provide individual feedback to each participat/student on her/ his role-plays as a mediator. Performances in training sessions will be assessed through direct instructor feedback, comments from colleagues, self-assessments, and via recorded media. As the simulations require an intricate coordination of students, rooms, and roles, if a participant is absent, that absence harms the learning process for other participants and can create logistical problems. Consequently, participation in simulations is mandatory.

The simulations will occur during class hours, both in the classroom and in other classrooms on the third floor of the LBJ School. On days scheduled for role-play simulations (effectively every class day), participants will move to assigned rooms at a defined time to conduct the negotiation or advocacy mediation. Students will be asked to "upload" all peer exercises to a UT-Austin cloud site with adequate storage. Mediators or co-mediators within each student group will be responsible for operation of equipment and video uploading. The instructor is available to meet students outside the classroom to review recorded simulation results.

DETAILED COURSE OUTLINE AND ASSIGNMENTS

Ten short memos will contribute 60 percent of the grade. A short paper will contribute another 20 percent of the grade. Two self-assessments contribute 10 percent of the grade. Class leadership counts for 10 percent of the final grade, including class participation (5%) and activity in peer simulations (5%).

REQUIRED SELF-ASSESSMENTS (up to 5 points each)

TKI Conflict Mode Instrument Self-Assessment (5 points) – 9/13/16

Complete and self-score the Thomas-Kilmann Conflict Mode Instrument (TKI) prior to the third class on 9/13/16. Answer three questions:

* What was your self-evaluation of how you tend to handle conflict?

* Is the result consistent with your perception of yourself?

* Given what you now know about yourself, are you likely to modify your behavior when facing conflict?

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MULTI-PARTY MEDIATION SELF-ASSESSMENT (up to 5 points) - 11/29/16

You will be participating in a multi-party mediation on November 29, 2016 relating to the provision of HIV-AIDS services in Austin. Please respond to the questions listed below. Grades will be awarded for honesty and clarity of responses; reports of weaknesses or areas for improvement will be appreciated.

What was your role in the multi-party mediation? What was the interest of your role in the mediation? What was the initial position of your stakeholder in the mediation? What mediation or negotiation techniques did you employ as part of the mediation? Did your use of the techniques result in any useful outcomes? How would your assess your own performance? In what elements did you do well? In what elements of the simulation could you have been better?

REQUIRED MEMORANDA (up to 6 points each)

Students will be expected to submit a memo on a topic prior to each of the ten class days. The set of memos will contribute up to 60 percent of the final grade. Each memo may be of a length of less than 2 double-spaced pages (500 words maximum). The memo topics are described below. Memoranda ought to use bullets, tables or other means to limit the wordcount. Due-dates are listed below. The details listed in the guidance below may be more verbose than the length of individual memos.

In many courses students write papers on topics unrelated to their own lives. This course is different because it focuses on your life, and your use of negotiation and mediation techniques in your professional and personal future. As a result, some of the memos and the major paper ask you to explain the use of techniques covered in the course in relation to your life. Some persons many find it challenging or awkward to write about their own lives in a paper, as some persons do not wish to discuss confidential or personal facts or circumstances that an instructor will view and comment upon. For such persons the instructor wishes to express his appreciation of the circumstances and the conflict. The instructor is committed to complete confidentiality as to any content in any memo or paper. However, the tactic of seeking to ask each of you to interpret the concepts of the course in terms of your life is intentional. If a person has a problem in principle with the topics of the memos and the paper that address issues in your life, there is no real option, as the principle of considering how to use the course's techniques in relation to your own life is fundamental to the design and the intent of the class.

Memo #1 (6 points): Negotiation/Mediation in the Arts

Identify a case of negotiation and/or mediation in literature, cinema, music, dance, painting, sculpture, architecture or other arts. Obtain and provide a copy of the verbatim content of the negotiation/mediation for any verbal example or the visual representation of any graphic art example. Evaluate the tactics of each of the participants. This assignment asks a

student to find and analyze a conflict, negotiation and/or mediation case in the arts and explicate what is going on. This course makes the argument that conflict, negotiation and mediation are inherent in human life and the subject of human culture. The instructor expects that each student can identify a case in the arts prior to the start of the course. *This memo is due on 9/7/16.* Some key elements of a student's response could include:

* Who are the parties or stakeholders involved in the dispute?

- * What is the nature of the dispute?
- * What are the positions of the parties?
- * Are there advocates representing stakeholders?
- * Is there a third party seeking to facilitate the resolution of the dispute?
- * What is the process of the parties to resolve or address the negotiation/mediation?
- * Is there an outcome for the stakeholders from the process?
- * Does the outcome reflect the negotiatyion or mediation process?
- * What is the meaning or intent that you would infer from the work of art: is there a
- message that the creator of the art seeks to impart?

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Memo #2 (6 points): Bilateral Negotiation

Identify a situation in your personal or professional life is appropriate for a negotiation. Who are the parties? What is the issue problem/cause? Why is this case appropriate for negotiation as a process, as opposed to other dispute resolution options? What is the initial position of each party? What are the interests of each party? Are there common interests? What is the BATNA and WATNA for each party? (Be careful to seek to understand the meaning of BATNA/WATNA, as effectively close to every student student makes errors in interpreting these concepts.) What is the process of negotiation to resolve these matters? Are there barriers to a resolution? Are there elements within the dispute that encourage a negotiated outcome? What do you believe ought to be the outcomes of the negotiation and why? *Memo due: 9/20/16.* An appropriate answer to this question begins with a clear delineation of a conflict – the two parties (don't undermine your answer with a multi-party dispute), the nature of the disagreement, as well as the positions and interests of the parties. Without a clear frame of the issues, any negotiation proceed as well as the potential and limitations for a negotiated outcome.

Memo #3 (6 points): Observing Negotiation

You have an opportunity to review two videos on "The Executive Seminar," #4 entitled "Executive Seminar Distributive" and #5 "Executive Seminar Explorations" as well as four pages that contain confidential information for Williams' Agent (2 pages) and the Associate Dean (2 pages). Your task is to observe the negotiations and write an assessment of the content and tactics. *Memo due: 9/27/16.*

* What is the issue problem/cause?

* Why is this case appropriate for negotiation as a process, as opposed to other dispute resolution options?

- * What is the initial position of each party?
- * What are the interests of each party?
- * Are there common interests?
- * What is the BATNA and WATNA for each party?
- * What is the process of negotiation to resolve these matters?
- * Are there barriers to a resolution?

* Are there elements within the dispute that encourage a negotiated outcome?

- * What are the outcomes of the negotiation and why?
- * What metrics/principles are used in the negotiations?
- * What 'standards' do the negotiators cite?

* Are there any creative ideas (concepts not related to positions) used to motivate settlement?

* What leverage is available to each party within the negotiations?

* What kind of relationship exists now between the parties and what relationship can be an outcome?

* What empirical data exists to facilitate a settlement?

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Memo #4 (6 points): Bilateral Mediation

Identify a situation in your life (professional or personal) where bilateral mediation – a two party dispute that ought to be facilitated by a neutral - is an appropriate method to seek to resolve the matter. [Please do not recycle a negotiation topic.] *Memo Due: 10/4/16*. Some of the topics that ought to be addressed are listed below. This assignment seeks for the student to identify elements appropriate for a mediation as distinct to a negotiation, an arbitration, or another alternative dispute resolution method. It is useful to describe the dispute in enough detail that the remaining questions can be posed and answered appropriately.

- * Who are the parties?
- * What are the issues or the problem and cause of the disagreement?
- * Why is this case appropriate for bilateral mediation?
- * What would be the initial position of each party?
- * What would be the BATNA/WATNA for each party?
- * What are the interests of each party?
- * Can you define performance metric(s) for parties to 'keep score' of the value of outcomes?
- * What barriers hinder a successful mediation?
- * What elements of reality encourage a mediated outcome?
- * Who ought to be a mediatior and why?

* What ought to be the process of the mediation as it unfolds – how much of the mediation ought to be in separate caucus meetings and how much through mediator-assisted negotiation, and why?

* What ought to be the outcome of this case and why?

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Memo #5 (6 points): Observing a Mediation (1)

You have had a chance to review the video "The Skils of a Legal Mediator" which concerns a mediation of the case of Mubai Partners versus MedPro, Inc. and the associated 11 pages of confidential information. *Memo due: 10/11/16*.Please answer a number of questions about the case, as listed below.

- * Who are the parties?
- * What are the issues or the problem and cause of the disagreement?
- * Why is this case appropriate for bilateral mediation?
- * What is the initial position of each party?
- * What is the BATNA/WATNA for each party?
- * What are the interests of each party?
- * Are there interests in common?
- * What leverage does Mumbai have in the mediation?

- * Whgat leverage does MedPro have in the mediation?
- * Can you define performance metric(s) for parties to 'keep score' of the value of outcomes?
- * What barriers hinder a successful mediation?
- * What elements of reality encourage a mediated outcome?
- * Describe the processes used by the mediators to enable the parties to address issues.
- * What was the role of caucuses in the mediation?
- * What was the role of joint discussion in the mediation?
- * How the mediators use qualitative or quantitative analysis in framing options?

* How would define the tactics that the mediators adopted to bring the parties closer towards an outcome?

* What was the final resolution: put the final principles to which the parties agreed on paper.

Memo #6 (6 points) Observing a Mediation (2)

You have an opportunity to review the video "Mediating a Sexual Harassment Case: What Would you Do?" and an associated 7 pages of confidential information about the case. *Memo due: 10/18/16*. Please answer a number of questions about the case, as listed below.

- * Who are the parties?
- * What are the issues or the problem and cause of the disagreement?
- * Why is this case appropriate for bilateral mediation?
- * What is the initial position of each party?
- * What is the BATNA/WATNA for each party?
- * What are the interests of each party?
- * Are there interests in common?
- * What leverage does Claudia have in the mediation?
- * Whgat leverage does PMG,m Inc. have in the mediation?
- * Can you define performance metric(s) for parties to 'keep score' of the value of outcomes?
- * What barriers hinder a successful mediation?
- * What elements of reality encourage a mediated outcome?
- * Describe the processes used by the mediators to enable the parties to address issues.
- * What was the role of caucuses in the mediation?
- * What was the role of joint discussion in the mediation?
- * How the mediators use quantitative analysis in framing options?

* How would define the tactics that the mediators adopted to bring the parties closer towards an outcome?

Memo #7: Drafting a Agreement

The case "Mediating a Sexual Harassment Case: What Would you Do?" is not resolved within the mediation video. The question in this assignment is the same one identified in the video: What would you do as a mediator? You do not need to write up the final agreement in legal language, but simply state each element that ought to be included in a final agreement. *Memo due: 10/25/16.*

* What actions would you undertake as a mediator to enable the parties to resolve the dispute?

* Why would you take such actions?

- * What do you believe would be the outcome of this dispute?
- * Put in writing all of the elements of an agreement between PMG, Inc., Paul and Claudia.

Memo #8 (6 points): Evaluation of Your Own Mediation Skills

At this point you will have mediated at least one dispute, recorded that mediation, and uploaded the mediation onto the cloud. The purpose of this exercise is to assess your own skills as a mediator. *Memo due: 11/1/16*. Some questions you ought to answer are liasted below.

- * Identify each action you took as a mediator
- * Assess the outcome of the action in terms of an eventual outcome of the mediation
- * Identify if you could have modified your action to be more effective
- * What strengths as a mediator do you bring to the table?
- * What areas are there for improvement in your mediation style?
- * How can you improve your mediation skills?

Memo #9 (6 points): Evaluation of a Colleague's Mediation Role

You will be assigned a class member in order to evaluate her/his mediation skills. Please evaluate her/his mediation performance in a recorded mediation, also to be assigned. The purpose ofyour memo is to assess your capacity to evaluate another mediator's skills. *Memo due:* **11/8/16**. Some questions you ought to answer are listed below.

- * Identify each action your colleague took as a mediator
- * Assess the outcome of the action in terms of an eventual outcome of the mediation
- * Identify if your coleague could have modified her/his action to be more effective
- * What strengths as a mediator does your colleague bring to the table?
- * What areas are there for improvement in your colleague's mediation style?
- * How oiught your colleague you improve her/his mediation skills?

Memo #10 (6 points): Multi-Party Mediation. Memo due: 11/15/16.

The class will use a case study of a three-party mediation regarduing the development of a sectoral proposal for treatment of human immunodeficiency virus (HIV/AIDS) services in Austin, Texas. In June 2015 the U.S. Centers for Disease Control (CDC) announced a legislative requirement that new grant recipients for the Ryan White HIV/AIDS Program must submit an integrated plan to provide preventative, medical and mental health services to HIV/AIDS patients. Throughout the U.S. the usual practice has been that health service provider agencies specialized, some providing preventive health services, other agencies delivering medical care, and still other oragnizations focusing in mental health services. Three agencies are seeking to work together to qualify together to become a legitimate receiving agency for a HIV/AIDS grant. This multi-party mediation is an effort to see whether they can cooperate to develop a joint proposal, allocating money and responsibilities among the institutions for purposes of both the proposal and service delivery implementation. One institution is focused on HIV and STD testing and illness prevention (a PSO). A second agency is a primary health cafre and clinical pharmacv provider (a CSO). A third organization provides HIV individual and group support counseling (a MHO). Member of the class will be divided into six groups representing the PSO, the CSO, the MHO, a local group of HIV/AIDS patients who have a distinct perspective (patients), a local Community Foundation that provides matching funds that will be vital for Austin to become a recipient of the federal grant (ACF), and a neutral mediating party, seeking to enable the other five parties to come to some closure in time to apply for the federal funds. You will have an opportunity to review DVD narratives regarding the perspectives of the six parties and written materials describing the participants' capabilities and preferences. Some questions to answer are listed below.

- * Is multi-lateral mediation is an appropriate method to seek to resolve the matter? Why?
- * Who are the parties?
- * What are the issues in this case?
- * What would be the initial position of the each party?
- * What would be the BATNA/WATNA for each party?
- * Can you define metric(s) for parties to 'keep score' of the value of the outcomes?
- * What barriers hinder a successful mediation?
- * What elements of reality could encourage a mediated outcome?

* What would be a reasonable outcome of this mediation? Put in writing a draft final agreement as a means to preparing for the mediation.

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Paper Assignment (20 points):

How can you use the topics covered in this course (negotiation, negotiated rule-making, mediation, etc.) as part of your future professional life? Be specific. [Do not expect the instructor to give you credit for pure rote repetition of ideas or concepts discussed in class.] The intent of the paper is for you to visualize how to apply the course's skills and principles in your future professional role. One way to write a paper would be to address an important dispute in your field and describe how you would develop appropriate negotiation or mediation elements. Negotiation elements include: identifying alternatives; setting goals; initial interactions; information exchange; bargaining; value creation; concession management; preparing for closure; overcoming impasse; finalizing an agreement. Mediation components can include identification of mediating parties, preparation for mediation; goal identification; opening meeting; joint discussion (if possible); cancuses (as appropriate); overcoming barriers to closure; finalizing an agreement. It is not necessary to go through these stages in your essay. Your response ought to be specific as to **how** you will *deploy* these skills, *not list* them. *Paper Due: 11/22/16*.

STUDENT EVALUATION

The instructor will comment **briefly** on each assignment from each student within two weeks after that submission is due. If the work is excellent, comments will be quite short. If the student had difficulties, the comments will be address the unresolved issues.

Grades will reflect four components: ten memoranda, a short paper, an interim report for the EMPL program, and in-class participation.

There are ten brief memos required of each student. Each memo ought to be less than 1000 words (up to 6 points each).

There is one short paper required (less than 10 pages). The paper will contribute up to 20 points to the grade.

There are two self-asesssments that will contribute up to 5 points each to the grade.

Class participation will contribute 10 percent of the grade. Up to five points will reflect the instructor's assessment of your contributions to the class. Up to five points will be awarded if your participate effectively in all of the role-plays.

Grade Contributions

10 memos at 6 points each = 60 points

1 essay at 20 points 2 self-assessments at 5 points each = 10 points In-class participation assessment at 10 points

Total: 100 points

DESIGN OF THE REMAINDER OF THE SYLLABUS

The course schedule section below describes in narrative form the intent of each of the fourteen class sessions, including readings, videos and written assignments. Apendix 1 lists course rules. Appendix 2 is a statement of the rules for mediator certification in Texas which provide one basis for this course's design. Appendix 3 provides details of the contents of each class. Appendix 4 includes drafts of the weekly memoranda which the instructor will send to remind class members of the weekly reading and homework assignments.

NEGOTIATION, MEDIATION AND DISPUTE RESOLUTION Course Schedule for Fall 2016

Week 1: Course Introduction and Negotiation Concepts Tuesday, August 30, 2016, 6 to 9 pm

The first class introduces the course, its schedule, the course assignments, grading, attendance policy, and other formal course requirements. The remainder of the class introduces negotiation in theory and practice, including the first role-play exercise. The intent of this class is to convey the centrality of conflict, neogitation and mediation in everyday life and introduce two common negotiation strategies: hard and soft. The readings, which are to be completed prior to class, cover the same subjects. There is one inclass simulation for hard negotiation.

Readings assigned prior to class for completion prior to class: **Getting to Yes**, chapters 1 through 3, pages 1 to 145

Videos assigned for completion prior to class: None

Homework: None prior to this class or for completion prior to 8/30/16

Week 2: Negotiation Concepts II

Tuesday, September 6, 2016, 6 to 9 pm

The second class continues the discussion of soft negotiation and adds interest-based negotiation, illustrating each with a peer exercise. The concepts of value created through negotiation is introduced with a peer exercise. A portion of the class addresses how to identify 'interest' and how they can be used in negotiation. The readings and homework, which are to be completed prior to class, cover the same subjects.

Readings assigned prior to class for completion prior to class:

Getting to Yes, pages 145-193. **Mediation3**, chapter 1, pages 3-13.

Videos assigned prior to class for completion prior to class:

View negotiation excerpts 1 through 11 on the course video website, from the excerpt "Settle for More or Less" through the excerpt "Cubit-Nyquist."

Homework assigned prior to class for completion prior to class:

Memo #1 (6 points): Negotiation/Mediation in the Arts

Find a case of negotiation and/or mediation in literature, cinema, music or other arts. Obtain and provide a copy of the verbatim content of the negotiation/mediation. Evaluate the tactics of each of the participants. Memo assigned prior to the start of the course. *Memo due:* 9/6/16

Week 3: Negotiation

Tuesday, September 13, 2016, 6 pm to 9 pm

The third class considers conflict and how people deal with conflicts. A portion of the class discusses how to identify interests which can be used in so-called 'win-win' negotiation. The class includes a three-part simulation, negotiating Al and Sandy's break up, first as a two-party negotiation, then as an arbitration, and then as a mediation. The readings, which are to be completed prior to class, cover the same subjects, as do the assignment due to be submitted prior to the start of class, as well as the in-class simulations.

Readings assigned prior to class for completion prior to class:

CPP, Inc., "Introduction to Conflict Management," item #4816, CPP, Inc., <u>www.cpp.com</u>, updated.

Thomas-Kilmann Conflict Mode Instrument (TKI), Item #4813 CPP, Inc., <u>www.cpp.com</u>, 2007.

Videos assigned prior to class for completion prior to class:

View the arbitration excerpt 47 "Court–Ordered Arbitration, Pittsburgh" on the course website.

Homework assigned prior to class for completion prior to class:

Self-AssessmentMemo: TKI Self-Assessment

Complete and self-score the Thomas-Kilmann Conflict Mode Instrument (TKI) prior to **9/12/16** and answer three questions: (a) What was your self-evaluation of how you tend to handle conflict? (b) Is the result consistent with your perception of yourself? (c) Given what you now know about yourself, are you likely to modify your behavior when facing conflict? If so, how. *Submit memo by 9/12/16.*

Week 4: Negotiation

Tuesday, September 20, 2016, 6 pm to 9 pm

The fourth class discusses the role of negotiation among alternative dispute resolution methods. The readings, which are to be completed prior to class, cover the same subjects, as do the assignment due to be submitted prior to the start of class.

Readings assigned prior to class for completion prior to class:

Getting to Yes, pages 194 to the remainder of the book. **Mediation3**, chapter 2, pages 13-26

Memo #2 (6 points): Bilateral Negotiation

Identify a situation in your personal or professional life is appropriate for a negotiation. Who are the parties? What is the issue problem/cause? Why is this case appropriate for negotiation? What is the initial position of each party? What are the interests of each party? What is the BATNA and WATNA for each party? What do you believe ought to be the outcome of the negotiation and why? *Memo due: 9/20/16.*

Week 5: Negotiation Steps and Barriers to Settlement Tuesday, September 27, 2016, 6 pm to 9 pm

The fifth class seeks to enable students to develop stronger negotiation skills. Some of the topics include: negotiation processes; goal setting, bargaining, creating value, managing concessions, and agreement drafting. There will be peer exercises throughout the class to strengthen those skills. The class will also address administrative, psychological and other barriers to settlement, as well as how negotiation can be affected by cultural and gender context.

Readings

Mediation3, chapter 3 and 4, pages 27-70

Videos

Two video clips on 'The Executive Seminar' from the Canvas video materials

Homework

Memo #3 (6 points): Observing Negotiation

You have an opportunity to review two videos on "The Executive Seminar," #4 entitled "Executive Seminar Distributive" and #5 "Executive Seminar Explorations" as well as four pages that contain confidential information for Williams' Agent (2 pages) and the Associate Dean (2 pages). Your task is to observe the negotiations and write an assessment of the content and tactics. *Memo due: 9/27/16.*

Week 6: Mediation Overview

Tuesday, October 4, 2016, 6 pm to 9 pm

The sixth class introduces mediation, its processes, its value and limitations, and the stages of a mediation session. The readings, peer exercises and homework reinforce this introduction to mediation.

Readings:

Mediation3, chapters 5 and 6, pages 73-122

Videos

Dwight Golann, The Skills of a Legal Mediator, JAMS Foundation, undated.

Homework #4: Mediation

Identify a situation in your life (professional or personal) where bilateral mediation – a two party dispute that ought to be facilitated by a neutral - is an appropriate method to seek to resolve the matter. This assignment asks you to think through the roles of the stakeholders and mediator. [Please do not recycle a negotiation topic.] *Memo Due:* 10/4/16

Homework: Out of Class Mediation: The Black Lab and the Blue Ribbon Roses

Mediate the case 'The Black Lab and the Blue Ribbon Roses' outside of class and upload the video to the cloud. Due 10/4/16

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Week 7: Mediation Process and Skills

Tuesday, October 11, 2016

The seventh class discusses mediation processes and skills, including: steps in mediation; communication skills; listening skills; questioning skills; re-statement skills; agreement drafting skills; and a mediator's outcome and future-oriented focus. The readings, in-class

peer exercises, video materials and homework reinforce those skills. The peer exercises build upon the case of the Lynn and Mike Divorce, so there are additional materials provided to the class as a 'Texas divorce law primer.'

Readings

Mediation3, chapter 7, pages 123-144

Videos

Golann, Dwight, The Skills of a Legal Mediator, JAMS, undated

Homework

Memo #5 (6 points): Observing a Mediation (1)

You have had a chance to review the video "The Skills of a Legal Mediator" which concerns a mediation of the case of Mubai Partners versus MedPro, Inc. and the associated 11 pages of confidential information. This assignment asks you to dissect the activities of the mediators. *Memo due:* 10/11/16.

Mediation Outside of Class: The Scout Auction

Mediate the case 'The Scout Auction' outside of class and upload it to the cloud. **Due 10/11/16.** (Location for upload to be determined)

Week 8: Mediation Skills (continued) and Practice Tuesday, October 18, 2016

The eighth class discusses additional mediation processes and skills. These begin by a recapitulation of drafting agreements, mediator negotiation strategies, advanced techniques in outcome evaluation and challenging stakeholders to examine assumptions, the use of caucus and joint meeting formats, advanced approaches for re-statement and drafting, and recognition of what constitutes an effective mediation outcome. These issues will build upon the case of the Lynn and Mike Divorce. This session will also seek to enhance student mediation skills including pre-mediation strategies, listening, re-framing, interest identification, meeting and caucus skills, and coaching. The readings, in-class peer exercises, video materials and homework reinforce those skills.

Readings

Mediation3, chapters 8 and 9, pages 145-192

Videos

JAMS Foundation, **Mediating a Sexual Harassment Case: What Would You Do?** undated.

Homework

Memo #6 (6 points) Observing a Mediation (2)

You have an opportunity to review the video "Mediating a Sexual Harassment Case: What Would you Do?" and an associated 7 pages of confidential information about the case. Your task is to identify the mediator's strengths and weaknesses. *Memo due: 10/18/16.*

Week 9: Mediation Barriers to Mediation Success

Tuesday, October 25, 2016

The ninth class focuses on how to overcome bariers to success in mediation, including emotions, diverse cognitive biases, insufficient information, stakeholder or advocate misperceptions. The class also addresses methods of qualitative and quantitative evaluation to assess legal options and forms of mediator intervention. The readings, in-class peer exercises, video materials and homework reinforce those skills. The readings also cover topics that due to time limits are treated more lightly in class discussions: the challenges of representing clients in a mediation.

Readings

Mediation3, chapters 10 and 11, pages 195-248

Video

"Termination Tempest' video, as the case will be used in this class Review "Mediating a Sexual Harassment Case: What Would You Do?" which is the topic of the homework again.

Memo #7: Drafting a Agreement

The case "Mediating a Sexual Harassment Case: What Would you Do?" is not resolved within the mediation video. The question in this assignment is the final question posed in the video: *What would you do as a mediator*? State each element that ought to be included in a final agreement (although you do not need to write up the final agreement in any legal language). *Memo due: 10/25/16.*

Homework

If 'Termination Tempest' is not completed in class, mediate the Case 'Termination Tempest' outside of class. Upload the results to a Box (location on the web to be determined)

Week 10: Applications of Mediation

Tuesday, November 1, 2016

The tenth class covers a diverse set of topics. One part of the class considers contemporary applications of mediation, including employment, commercial law, domestic relations, criminal law/restorative justice, and multi-party mediation. Another class component focuses on dispute prevention and multi-party mediation, such as the global mediations on climate change. The readings, in-class peer exercises, video materials and homework reinforce those skills.

Readings

Mediation3, chapters 12 and 13, pages 251-323.

Dulay, Marcel, three chapters of his doctoral dissertation on dispute prevention in government, on Canvas (see chapters x, x, and x)

* Foundation for International Environmental Law as Development (FIELD), **Help for Multilateral Environmental Agreement Negotiators Who Encounter Problems**, FIELD, London, Great Britain, 2011.

Videos

The Dulay videos on Leon River stakeholder narratives related to dispute prevention Review a copy of your own video as a mediator to enable preparation of memo #8.

Memo #8 (6 points): Evaluation of Your Own Mediation Skills

At this point you will have mediated at least one dispute, recorded that mediation, and uploaded the mediation onto the cloud. The purpose of this exercise is to assess your own skills as a mediator and identify your strengths and weaknesses. *Memo due:* 11/1/16.

Week 11: Applications of Mediation Tuesday, November 8, 2016

The eleventh class addresses the role of dispute resolution in federal and Texas government. Topics include: relevant federal and state laws, federal and state dispute prevention and resolution practices, as well as alternative government consensus processes. The readings, in-class peer exercises, video materials and homework reinforce those skills.

Readings

* Advisory Committee on Negotiated Rulemaking in Texas, **Texas Negotiated Rulemaking Deskbook**, The University of Texas School of Law, Austin, TX, October 1996 (75 pages).

* Administrative Procedures and Practice, Tex Goverment Code Chapter 2001, 50 pp.

* Administrative Procedure Act (5 U.S.C. Subchapter II), 35 pp.

* Negotiated Rulemaking Act of 1996, Public Law 104-320, 5 U.S.C., 7 pp.

* Texas Alternative Dispute Resolution Act, Civ. Prac. & Rem. Code Ann., Ch 154, 6 pp.

* The Governmental Dispute Resolution Act, Tex Government Code, Chapter 2009; 7 pp.

* The Negotiated Rulemaking Act, Tex Goverment Code, Chapter 2008, 8 pp.

Video

* "Tillem v. U.S." video, an employment claim against the government Review a copy of your colleagues video as a mediator, in order to prepare memo #9.

Memo #9 (6 points): Evaluation of a Colleague's Mediation Role

You will be assigned a class member in order to evaluate her/his mediation skills. Please evaluate her/his mediation performance in a recorded mediation, also to be assigned. The purpose ofyour memo is to assess your capacity to evaluate another mediator's skills. *Memo due:* 11/8/16.

Week 12: Mediation as a Profession Tuesday, November 15, 2016

The twelfth class covers a diverse set of topics, such as the laws and legal practice affecting mediation, ethnic and gender bias in mediation, mediation as a profession, mediator certification and professional practice. The readings, in-class peer exercises, video materials and homework reinforce those skills.

Readings

Mediation3, chapter 14, pages 325-362

Video: Video naratives associated with the multi-party mediation on HIV/AIDS services

Memo #10 (6 points): Multi-Party Mediation. Memo due: 11/15/16.

The class will use a case study of a multi-party mediation regarduing the development of a sectoral proposal for treatment of human immunodeficiency virus (HIV/AIDS) services in Austin, Texas. In June 2015 the U.S. Centers for Disease Control (CDC) announced a legislative requirement that new grant recipients for the Ryan White HIV/AIDS Program must submit an integrated plan to provide preventative, medical and mental health services to HIV/AIDS patients. You will have an opportunithy to review both DVD narratives regarding the perspectives of the six parties, as well as written materials describing the participants' capabilities and preferences. The assignment asks you characterize the issues, challenges and opportunities for such a multi-party mediation.

Week 13: Mediation Ethics

Tuesday, November 22, 2016

The thirteenth class provides information on ethical theories, practical ethics, and the ethics of mediation. The readings, in-class peer exercises, video materials and homework reinforce those skills.

Readings

Mediation3, chapters 15 and 16, pages 363-388

Plante, Thomas G., **Do the Right Thing: Living Ethically in an Unethical World**, New Harbinger Publications, Inc., 2004

Video: none

Paper Assignment (20 points):

How can you use the topics covered in this course (negotiation, negotiated rule-making, mediation, etc.) as part of your future professional life? Be specific. [Do not expect the instructor to give you credit for pure rote repetition of ideas or concepts discussed in class.] The intent of the paper is for you to visualize how to apply the course's skills and principles in your future professional role. One way to write a paper would be to address an important dispute in your field and describe how you would develop appropriate negotiation or mediation elements. Negotiation elements include: identifying alternatives; setting goals; initial interactions; information exchange; bargaining; value creation; concession management; preparing for closure; overcoming impasse; finalizing an agreement. Mediation components can include identification of mediating parties, preparation for mediation; goal identification; opening meeting; joint discussion (if possible); cancuses (as appropriate); overcoming barriers to closure; finalizing an agreement. It is not necessary to go through these stages in your essay. Your response ought to be specific as to **how** you will *deploy* these skills, *not list* them. *Paper Due: 11/22/16*.

Week 14: Multi-Party Dispute Mediation Tuesday, November 29, 2016

The final class will be a real-time, 2.5-hour multi-party mediation related to the provision of HIV/AIDS services in a public health setting. Each student will have a role assigned no later than 11/15/16 and those roles will be reinforced by a discussion in class on November 15,

2016, in preparation for the November 29, 2016 multi-party mediation. There will be time available to evaluate the course.

Readings

Materials prepared by Melissa Wilson, EMPL graduate (2016) and developer of the multiparty HIV/AIDS service delivery mediation exercise.

Video

Video materials for the multi-party mediation, including narrative statements of the stakeholders.

Multi-party mediation self-assessment (up to 5 points) - 11/29/16

You will be participating in a multi-party mediation on November 10, 2016 relating to the provision of HIV-AIDS services in Austin. This assignment asks you to evaluate your own performance during the mediation, including areas of strength and weakness. It is due by midnight on **11/29/16**.

APPENDIX 1: CLASS RULES

Student Handbook

This class will operate in a manner consistent with the Executive Master in Public Leadership's "Student Handbook: 2015 Entering Class."

Email Policy

The instructor will respond to email to the address: <u>eaton@austin.utexas.edu</u> within 48 hours. The instructor expects to receive an email address for each student in order to provide information via email. The instructor will not respond via any social media, as he does not follow social media.

Use of Telephones, Iphones, and Communication Devices

Computers or other electronic devices may be used for note taking. The use of computers, Ipads, Iphones and any other communication devices for communication purposes (texting, checking emails, making phone calls) is prohibited in the classroom. Students should silence their communication devices prior to the start of class. The instructor will ask any student who uses a device for communication to put it away. Students who repeatedly use these devices in class for communication will be asked to leave the classroom.

Informal Discussions

It is likely on any given class day that some students want to approach me to request, to inform, to petition, to explain or otherwise let me know about something important. It is my policy not to respond to any verbal requests. If you wish some action from me, please be so kind as to send an email with the written request. Any email will receive a response within 72 hours.

Attendance Policy

Attendance in all classes and participation in classroom discussions is expected. If you are unable to attend a lecture, the instructor should be notified in advance. You are encouraged **to contact one of your classmates** who may be able to assist you with class notes, assignments, and other class details. You also can see the lecture on the web. Please do not email me to ask the instructor what you missed or what was important, any such request will be answered with a statement encouraging the person to contact a classmate or see the material on the web.

A discussion of academic integrity, including definitions of plagiarism and unauthorized collaboration, as well as helpful information on citations, note taking and paraphrasing, can be found t the web page of the Office of the Dean Students

(<u>http://deanofstudents.utexas.edu/sjs/acint_student.php</u>) and the Office of Graduate Studies (<u>http://www.utexas.edu/ogs/ethics/transcripts/academic/html</u>). The University has also established procedures and penalty guidelines for academic dishonesty, especially Sec. 11.304 in Appendix C of the Institutional Rules on Student Services and Activities in UT's General Information Catalog.

Student Responsibilities

Students have the responsibility to respect the rights and property of others (students, faculty, staff) and the institution. Students have the responsibility to be knowledgeable of the published rules and policies of the institution. Students have the responsibility to understand that their actions reflect upon the institution and student body as a whole.

Students have the responsibility to recognize the institution's obligation to provide a safe, respectful, professional learning environment.

University of Texas Honor Code

The core values of The University of Texas at Austin are learning, discovery, freedom, leadership, individual opportunity, and responsibility. Each member of the university is expected to uphold these values through integrity, honesty, trust, fairness, and respect toward peers and community. The University of Texas policy on scholastic dishonesty is: "Students who violate University rules on scholastic dishonesty are subject to disciplinary penalties, including the possibility of failure in the course and/or dismissal from the University. Since such dishonesty harms the individual, all students, and the integrity of the University, policies on scholastic dishonesty will be strictly enforced. For further information, please visit the Student Judicial Services web site at: www.utexas.edu/depts/dos/sjs/."

Academic Integrity

Academic integrity is the pursuit of scholarly activity free from fraud and deception and is an educational objective of this institution. Academic dishonesty includes, but is not limited to, cheating, plagiarizing, fabricating information or citations, facilitating acts of academic dishonesty by others, having unauthorized possession of examinations, submitting work of another person or work previously used without informing the instructor, or tampering with the academic work of other students. Individuals found guilty of academic dishonesty may be dismissed from the degree program. It is a student's responsibility to have a clear understanding of how to reference other individuals' work, as well as having a clear understanding in general as to the various aspects of academic dishonesty. Any student accused of a specific act is subject to University of Texas academic policies and procedures pertaining to violations of the student code of conduct for academic integrity. Each student in this course is expected to abide by the University of Texas Honor Code. Any work submitted by a student in this course for academic credit will be the student's own work.

You are encouraged to study together and to discuss information and concepts covered in lecture and the sections with other students. You can give "consulting" help to or receive "consulting" help from such students. However, this permissible cooperation should never involve one student having possession of a copy of all or part of work done by someone else, in the form of an e-mail, an e-mail attachment file, a diskette, or a hard copy.

Should a violation of academic integrity occur, any student who copied work from another student or any student who gave material to be copied will both automatically receive a zero for the assignment. Penalty for violation of this Code can also be extended to include failure of the course and University disciplinary action at the discretion of the instructor.

Use of E-Mail for Official Correspondence to Students

E-mail is recognized as an official mode of university correspondence. Therefore, you are responsible for reading your e-mail for university and course-related information and announcements. You are responsible to keep the university informed about changes to your e-mail address. You should check your e-mail regularly and frequently at minimum twice a week—to stay current with university-related communications, some of which may be time-critical. You can find UT Austin's policies and instructions for updating your e-mail address at http://www.utexas.edu/its/policies/emailnotify.php

Religious Holy Days

By UT Austin policy, you must notify a faculty member of your pending absence as expected absences for a religious holiday by the 14th class day of the semester. If you must miss a class, an examination, a work assignment, or a project in order to observe a religious holy day, I will give you an opportunity to complete the missed work within a reasonable time after the absence. Note: Any quizzes or exams taken after the regularly scheduled date will be different from the in-class exam. Students should expect multiple choice, fill-in the blank, short answers, essays, and possibly an oral component to an exam. Students may not consult with other students about the regularly scheduled quiz or exam until after they have taken the exam.

Behavior Concerns Advice Line (BCAL)

If you are worried about someone who is acting differently, you may use the Behavior Concerns Advice Line to discuss by phone your concerns about another individual's behavior. This service is provided through a partnership among the Office of the Dean of Students, the Counseling and Mental Health Center (CMHC), the Employee Assistance Program (EAP), and The University of Texas Police Department (UTPD). Call 512-232-5050 or visit http://www.utexas.edu/safety/bcal

Important Dates

This course is considered as a Fall Semester 2016 course.
Final registration will occur prior to August 22, 2016.
The last day of the official add/drop period is prior to September 2, 2016.
The last day a student may with the dean's approval withdraw from the university or drop a class except for urgent and substantiated non-academic reasons is prior to November 4, 2016.
The last class day is November 29, 2016.

Resources for Learning and Life at UT Austin

The University of Texas has numerous resources for students to provide assistance and support for your learning. These resources include: The UT Learning Center: <u>http://www.utexas.edu/student/utlc/</u> Undergraduate Writing Center: <u>http://uwc.utexas.edu/</u> Counseling & Mental Health Center: <u>http://cmhc.utexas.edu/</u> Career Exploration Center: <u>http://www.utexas.edu/student/careercenter/</u> Student Emergency Services: <u>http://deanofstudents.utexas.edu/emergency/</u>

Feedback Statement

During this course the instructor will ask for feedback on your learning in informal as well as formal ways, including through anonymous surveys about how my teaching strategies are helping or hindering your learning. It's very important for the insructor to know your reaction to what we're doing in class, so the instructor encourages you to respond to these surveys, ensuring that together it will be possible to create an environment effective for teaching and learning.

Q drop Policy

The State of Texas has enacted a law that limits the number of course drops for academic reasons to six (6). As stated in Senate Bill 1231: "Beginning with the fall 2007 academic term, an institution of higher education may not permit an undergraduate student a total of more than six dropped courses, including any course a transfer student has dropped at

another institution of higher education, unless the student shows good cause for dropping more than that number."

Emergency Evacuation Policy

Occupants of buildings on the UT Austin campus or on the Hebrew University campus are required to evacuate and assemble outside when a fire alarm is activated or an announcement is made. Please be aware of the following policies regarding evacuation:

- Familiarize yourself with all exit doors of the classroom and the building. Remember that the nearest exit door may not be the one you used when you entered the building.
- If you require assistance to evacuate, inform me in writing during the first week of class.
- In the event of an evacuation, follow my instructions or those of class instructors.

Do not re-enter a building unless the Austin Fire Department, the UT Austin Police Department, or the Fire Prevention Services office gives you instructions.

Students with Disabilities

Any student with a documented disability who requires academic accommodations should contact Services for Students with Disabilities (SSD) at (512) 471-6259 (voice) or 1-866-329-3986 (videophone). Faculty are not required to provide accommodations without an official accommodation letter from SSD. Please notify me as quickly as possible if the material being presented in class is not accessible (e.g., instructional videos need captioning, course packets are not readable for proper alternative text conversion, etc.). For any questions regarding UT's disabilities policy, contact Services for Students with Disabilities at 471-6259 (voice) or 1-866-329-3986 (video phone) or reference SSD's website for disability-related information: http://www.utexas.edu/diversity/ddce/ssd/for_cstudents.php

APPENDIX 2: RULES FOR MEDIATOR CERTIFICATION

The course is designed to exceed the requirements for a "Certificate of Completion" of the Texas Mediator Trainer Roundtable standard for a forty-hour 'Basic Mediation" course. After the course each student will receive a certificate attesting the completion of 40 classroom hours of mediation training pursuant to chapter 152.052/a Texas Civil Practice and Remedies Code and the Standards of the Texas Mediator Trainer's Roundtable (TMTR). The TMTR certificate can be submitted to the Texas Mediator Credentialing Association (TXMCA) so a student will be eligible for the designation of 'Candidate for a Credentialed Mediator,' the first step in Texas' credentialing to serve as a mediator (see <u>www.TXMCA.com</u> for more details on the process of mediator credentialing). To assure certification, each participant must be present for a minimum of 40 hours of in-class instruction, participatory activities, and role-plays to gain an understanding of the course materials and competence in mediation practice.

In 1992 and 1993 a group of Texas mediation trainers conducted a series of discussions to examine standards for 40-hours of basic mediation training. This group formed the Texas Mediation Trainers Roundtable (TMTR) and prepared the standards for the 40-hour Basic Mediation course. TMTR revised the standards in 2003. These standards are intended to insure the quality of mediation training programs throughout Texas and foster productive dialogue among mediation trainers. The standards have been developed in a way that recognizes diversity in the mediation field, including diversity of training and mediation approach. The Texas Mediator Credentialing Association (TMCA), an organization promoting quality mediation throughout Texas, also has adopted the same 40-hour Basic Mediation standards for Mediator credentialing in Texas. These standards, as revised and adopted on November 3, 2003 are listed below.

The nine minimum areas of information that need to be covered in a basic mediation 40-hour training program include:

I. History of Mediation

Trainees need an understanding of the historical perspective of mediation because it has evolved over time and continues to evolve today.

II. Overview of ADR Legislation in Texas

Trainees should be introduced to legislation that regulates the practice of mediation, so they may comply with relevant legal requirements.

III. Conflict Resolution Theory

The theory of conflict resolution helps trainees differentiate between mediation and other forms of dispute resolution. Topics include:

A. Definitions, types of, sources of, and responses to conflict

B. Conflict resolution continuum

C. Interest-based, collaborative problem solving

IV. Mediation Theory and Practice

Trainees need a theoretical grounding to understand the process fully. Trainees should understand a full range of mediation models in order to serve the parties most effectively. Topics include:

A. Definition of mediation

- B. Role and characteristics of mediators
- C. Theory of mediation
- D. Benefits of the mediation process
- E. Differences in third-party roles: mediators, arbitrators, and judges
- F. Approaches to negotiation
- G. Range of styles, types of mediators and mediations
- H. Impact of diversity issues
- I. Court systems and procedures

V. Mediation Process and Techniques

Trainees must develop a conceptual framework for conducting the session. This requires learning key techniques to assist in managing the session's process while encouraging a collaborative problem-solving environment.

A. Elements of the Mediation Process

- 1. Preliminary arrangements
- 2. Opening and structuring the mediation session
- 3. Introduction/orientation of disputants/attorneys
- 4. Gathering and exchanging information (venting/opening statements)
- 5. Issue and problem clarification
- 6. Generating options
- 7. Bargaining and negotiation
- 8. Agreement writing/enforceability
- 9. Closure

B. Techniques

- 1. Trust building
- 2. Reframing
- 3. Keeping on track, following agenda, managing process
- 4. Focusing on interests vs. positions
- 5. Building on partial agreements
- 6. Caucusing
- 7. Reality testing
- 8. Working with third parties
- 9. Managing difficult people or strong emotions

VI. Self-Awareness of Trainee

Trainees should understand how their personal characteristics, values or biases might influence their ability to perform effectively as a mediator. Topics include:

- A. Diversity/cultural awareness (personal biases)
- B. Language differences
- C. Conflict style
- D. How the trainee responds to conflict
- E. Personality style

VII. Ethics

Trainees must be able to support the effectiveness and credibility of the mediation process through making informed choices based on ethical principles. Topics include:

- A. Conflict of interest/appearance of impropriety
- B. Neutrality/impartiality
- C. Confidentiality
- D. Sample of standards recommended by dispute resolution professional organizations
- E. Staying in the role of mediator
- F. Violence, substance abuse, child abuse & neglect, screening, reporting and legal issues
- G. Power imbalances
- H. Liability
- I. Misuse of process
- J. Protecting the process
- K. Awareness of various organizations' ethical guidelines and grievance processes

VIII. Communication Skill

Trainees should have an opportunity to learn selected written and oral communication skills in order to foster understanding and trust, elicit relevant information, and accurately track and record key areas of agreement. Skills include.

- A. Listening
- B. Note taking
- C. Questioning
- D. Nonverbal communication (i.e., eye contact, body language)
- E. Restating and clarifying
- F. Use of neutral language
- G. Drafting the agreement
- H. Recognizing feelings and emotions of parties

IX. Professional Considerations

The trainers should promote the belief that continuing education and development is critical to achieving excellence in mediation. Trainees should be made aware of opportunities to continue to learn, to network, to find support within the field, and to establish a professional identity. Topics include:

- A. Professional organizations
- B. Networking
- C. Practicum
- D. Continuing education
- E. Aspects of establishing a practice
- F. Community service

TRAINING METHODOLOGY

Training methods should be designed to help trainees learn, integrate, and apply the knowledge and skills covered in course materials. A variety of training methods are essential in order to maintain attention levels and to address differences in learning styles.

1. Training Methods

The following are essential to all training programs:

- 1. Lecture
- 2. Group discussion
- 3. Mediation simulations
- 4. Role plays

- 5. Other structured participatory activities. Trainers are also encouraged to include:
- 6. Reading
- 7. Written exercises
- 8. Video
- 2. Role-plays

Trainees must participate in at least three role-plays as a mediator and two role- lays as a disputant under the supervision of a trainer or training assistant.

- 3. Mediation Observation Trainees must observe at a minimum one simulated, videotaped, or actual mediation.
- 4. Participatory Activities A minimum of 50 percent of training hours shall be spent in participatory activites. Participatory activities are supervised and structured activities that require interaction among two or more people.

TRAINING ADMINISTRATION

Mediation training should be organized in a way that guarantees that trainees receive individualized attention and feedback on their skills. This is important if trainees are to leave with a realistic understanding of their abilities. The training should be administered in a way that encourages completion of the entire course and documents only the actual hours attended. Finally, trainers should be responsive to the needs of trainees.

1. Individual Feedback

It is important that trainees receive individual feedback from experienced mediators/trainers on their performance in training practice sessions. This may be accomplished through direct trainer feedback and trainer facilitated coaching, trainee observation, or videotaping.

- Mandatory Full Participation Trainees need not only be present for the 40-hour course, but also need to participate in all participatory activities and role-plays to gain a comprehensive understanding of course materials.
- 3. Evaluation

Trainers will solicit course evaluation comments from trainees to help the trainer determine the effectiveness of the training and to help shape future mediation courses.

- 4. Documentation of Attendance Trainers will provide written documentation to trainees verifying trainees' 40-hour attendance or partial attendance in hours completed.
- 5. TMTR Standards

Trainers will indicate in training materials and certificate of completion that their program satisfies the Texas Mediation Trainers Roundtable's standards for the 40-hour Basic Mediation course.

LEGISLATION

- . Texas Alternative Dispute Resolution Act, Civ. Prac. & Rem. Code Ann., Chapter 154.
- . The Negotiated Rulemaking Act, Tex Gov't Code, Chapter 2008.
- . The Governmental Dispute Resolution Act, Tex Gov't Code, Chapter 2009.

APPENDIX 3: DETAILED CLASS PLANS

The syllabus above describes in narrative form the content of each week. This appendix provides more details regarding the issues to be discussed each week.

WEEK 1, TUESDAY, AUGUST 30, 2016

Times listed below are approximate.

18:00	Introduction to the course Course goals Readings Video viewing Short memos/assignments Paper Role-plays Recording and uploading digital copies of role-plays Peer-review of role-plays Course evaluation
18:45	Orientation to recording and uploading of digital copies of negotiations for after-class review; testing of the uploading system
19:10	Break
19:20	 Negotiation: hard, soft, interest based Negotiation Dispute resolution options Example negotiation: Genesis, ch. 18, verses 16-33 Elements of negotiation BATNA/WATNA When is negotiation a wise option? Stages of negotiation Bargaining Negotiation tactics Strategies Elements of settlement Barriers to negotiation source
19:50	 Hard negotiation Positional negotiation, distributional or win-lose negotiation Sample positional negotiation Preparation for a distributive negotiation
20:05	Role-play: t-shirt sale

20:30	Role-play assessment		
20:40	 Soft negotiation Comparison of hard and soft negotiation Sample soft negotiation Preparation for a soft negotiation 		
20:55	End of class		
	SDAY, SEPTEMBER 6, 2016 Slow are approximate.		
18:00	Review of hard and soft negotiation		
18:10	Role-play: Texas runaway		
18:30	Role-play assessment		
18:40	 Principles of interest-based negotiation Integrative, interest-based or 'win-win' negotiation Win-win negotiation Example of an interest-based negotiation Preparation for an interest based negotiation 		
19:00	Role-play: Landlord-tenant rent negotiation		
19:20	Landlord-tenant role-play assessment		
19:30	Break and preparation for role-play: Value Creation		
19:40	Role-play: value creation		
20:10	Role-play assessment		
20:20	Interests		
20:35	How to evaluate outcomes		
20:45	Negotiation styles		
20:55	End of class		
WEEK3, TUES	SDAY, SEPTEMBER 13, 2016		

Times listed below are approximate.

18:00	Introduction to the Thomas-Kilmann Conflict Mode Instrument (TKI)
18:40	Discussion of TKI results (homework)TKI negotiation perspectives

	Negotiation styles
18:50	Preparation for Al and Sandy's Breakup
19:00	Break
19:10:	Peer-exercise: Al/Sandy Breakup as a negotiation, arbitration, mediation
20:10	Discussion of Al and Sandy's Breakup as a peer exercise
20:20	Negotiation formats: Christian, Jewish, Islam, Buddhist, Hindu
16:55	End of class

WEEK4: TUESDAY, SEPTEMBER 20, 2016 Times below are approximate

18:00	Alternate dispute resolution options Private decision making by parties Private decision making with a third prty Private decisions made by a third party Public decisions Extra-legal decisions
18:50	Break
19:00	Negotiation stages – conventional US process Preliminary arrangements Identifying alternatives Setting goals Initial interaction Opening statements Exchanging information Clarifying issues Generating options Bargaining Managing concessions Value creation Agreement drafting Closure
20:00	Goal setting
20:10	Peer exercise: goal setting
20:30	Discussion of peer exercise
20:40	Preparation for concession management
20:55	End of class

WEEK 4: TUESDAY, SEPTEMBER 27, 2016 Times below are approximate

18:00	Peer exercise: concession management
18:30	Discussion of concession management peer exercise
18:40	Explanation of stages Initial interaction Opening statements Information exchange Issue clarification
19:00	Break
19:10	Bargaining tactics Adversarial bargaining Responses to adversarial bargaining
19:20	Explanation of stages Generating options Value creation
19:30	Managing concessions Principles for concessions
19:40	Agreement or impasse Drafting an agreement Closure
19:50	Peer exercise: Prado Scoot
20:20	Discussion of Prado Scoot exercise
20:30	Barriers to settlement Strategic Principal-agent barriers Perceptual barriers Psychological barriers Emtional barriers
20:45	Peer exercise: cognitive barriers
20:55	End of class
	SDAY, OCTOBER 4, 2016 are approximate

Overview of mediation 18:00

20:55	End of class		
20:40	Preparation for out-of-class peer exercise: Black Lab and Blue Ribbon Roses		
20:30	Discussion of peer exercise		
19:50	Peer exercise: Computec v. Golden State Savings and Loan		
19:30	 Mediator stakeholders Participants/stakeholders Advocates Mediators Judges and courts 		
19:20	Mediator styles		
19:10	Mediator goals		
19:00	Benefits and risks of mediation		
18:50	Break		
18:20	 Stages of mediation Preparations for mediation Preliminary arrangements Opening arrangements Opening session Structuring the mediation Opening statements Issue problem clarification Generation options Caucusing Joint discussions Bargaining and negotiation Agreement drafting with enforceability Closure 		
10.20	Mediation What mediators do		

WEEK 7: TUESDAY, OCTOBER 11, 2016

Times below are approximate

- 18:00 Preparation for mediation
- 18:10 Initial mediation steps

18:20	Opening mediation session	
18:30	First meeting skills	
18:40	Communication skills	
18:50	Listening skills	
19:05	Break and preparation for Lynn and Mike Divorce	
19:15	Primer for Texas divorce	
19:30	Exercise: listening and non-verbal communication	
19:45	Questioning skills	
20:15	Exercise: questions	
20:30	Re-statement skills	
20:40	Exercise: re-statement skills	
20:55	End of class	
WEEK 8: TUESDAY. OCTOBER 18.2016		

WEEK8: TUESDAY, OCTOBER 18, 2016

Times below are approximate

- 18:00 Review of exercises 18:10 Agreement drafting skills 18:20 Exercise: agreement drafting Mediator negotiation methods 18:40 Peer exercise: facilitation of negotiations 19:00 19:10 Mediator techniques Questioning assumptions Reality therapy in caucus Process advice Reconsideration Testing flexibility 19:30 Break 19:40 Peer exercise: caucus
- Peer exercise: bargaining 20:00

20:20	Peer exercise: re-statement and agreement drafting			
20:30	Discussion of peer exercises			
20:40	Mediation outcomes			
20:50	Preparation for Scout Auction			
20:55	End of class			
WEEK 9: TUESDAY, OCTOBER 25, 2016 Times below are approximate				

Recapitulation and discussion
Skills
Listening skills
Interest identification and re-framing skills
Opening session skills
Joint session skills
Caucus and coaching skills

- 18:45 Barriers to mediation: emotions and cognitive effects
- 19:00 How to handle strong feelings
- 19:10 Equity or fairness expectations
- 19:20 Selective perception
- 19:30 Optimistic over-confidence
- 19:40 Endowment effect
- 19:50 Reactive devaluation
- 20:00 Loss aversion
- 20:10 Certainty
- 20:20 Break
- 20:30 How to deal with participant failure: inability to respond; illusion of victory of loss; loss reaction
- 20:40 How to deal with barriers to mediation success: information
- 20:50 Preparation for peer exercise: Termination Tempest: to be conducted

outside of class

20:55 End of class

WEEF	K 1	0: 1	UESDAY, NOVEMBER 1, 2016	
			-	

Times below are approximate

18:00	Outcome evaluation	
18:10	Legal analysis of options	
18:20	Formal analysis of options	
18:30	Decision analysis of options	
18:50	Other forms of mediator evaluation	
19:00	Break	
19:10	Hierarchy of mediator intervention	
19:20	Challenges of mediator evaluation	
19:30	How do mediators intervene?	
19:40	Mediator styles and mediation outcomes	
20:00	Mediation applications: introduction	
20:10	Family mediation and transformational mediation	
20:20	Employmdent mediation	
20:30	Commercial mediation	
20:40	Criminal law mediation and restorative justice	
20:50	Multi-party mediation	
20:55	End of class	
WEEV 11. THESDAY NOVEMBED 0 2014		

WEEK 11: TUESDAY, NOVEMBER 8, 2016 Times below are approximate

18:00	Range of choice in public policy consensus building
18:10	Example: Leon River dispute prevention

20:55	End of class	
20:30	Alternative dispute resolution acts	
20:10	Negotiated rule making acts	
19:50	Administrative procedure acts	
19:20	Negotiation and mediation in US and Texas governments	
19:10	Break	
18:50	Example: multilateral environmental agreements	
18:30	Example: Climate change multi-party mediation	

WEEK 12: TUESDAY, NOVEMBER 15, 2016 Times below are approximate

18:00	Mediation Law Confidentiality Sources of confidentiality Use of mediation information in litigation Confidentiality in caucusing Enforcement of participation in mediation Enforcement of mediated settlements
19:00	Expectation of Mediators Model standards for mediators Fairness/neutrality/impartiality Confidentiality Competence Repeat-player concerns Attorney-client differences Improper conduct by litigants Reporting Conflict of interest Liability
19:40	Break
19:50	 Mediation as a Profession Professional organizations for negotiators and mediators Networking Options for practical experience Continuing education Aspects of establishing a practice Community service

20:55 End of class

WEEK 13: TUESDAY, NOVEMBER 22, 2016

Times below are approximate

18:00	Ethical issues in mediation Advocacy Duty to adviuse clients about mediation	
18:20	Mediator ethics and models standards of conduct	
18:40	Other ethical issues Self-determination Impartiality Conflicts of interest Competence Confidentiality Process quality Advertising Litigants' conduct	
19:10	Break	
19:20	Mediator certification	
19:40	Continuing education and community service for mediators	
19:50	Practical ethics	
20:55	End of class	
WEEK 14: TUESDAY, NOVEMBER 29, 2016		

Times below are approximate

18:00 Role Play: HIV/AIDS Service Delivery Multi-Pary Mediation

- Convening the mediation
- Introducing students
- Caucus period #1
- Negotiation/Brainstorming
- Caucus period #2
- Final negotiation
- Draft mediated agreement

20:30 Course evaluation

20:55 Class ends

APPENDIX 4: WEEKLY REMINDERS

Evaluations from last year's EMPL class indicated that members of the class were not always certain what were the expectations for any week, given the complexity of the syllabus. After each class this year a memo will be sent out via Canvas to members of the class to indicate what is expected by the following class. The draft memoranda are listed below.

August 24 Reminder Memo Draft

The items listed below are expected prior to the first class of the semester on August 30, 2016.

Readings to be completed prior to 8/30/16: Getting to Yes, chapters 1 through 3, pages 1 to 145

Videos to be completed prior to 8/30/16: None Homework to be completed prior to 8/30/16: None

August 31 Reminder Memo Draft

The items listed below are expected prior to September 6, 2016.

Readings to be completed prior to 9/6/16:

Getting to Yes, pages 145-193. **Mediation3**, chapter 1, pages 3-13.

Videos to be completed prior to 9/6/16:

View negotiation excerpts 1 through 11 on the course website, from "Settle for More or Less" through "Cubit-Nyquist."

Homework assigned prior to class for completion prior to class: Memo #1 (6 points): Negotiation/Mediation in the Arts

Find a case of negotiation and/or mediation in literature, cinema, music or other arts. Obtain and provide a copy of the verbatim content of the negotiation/mediation. Evaluate the tactics of each of the participants.

September 7 Reminder Memo Draft

The items listed below are expected prior to September 13, 2016.

Readings to be completed prior to 9/13/16:

CPP, Inc., "Introduction to Conflict Management," item #4816, CPP, Inc., <u>www.cpp.com</u>, updated.

Thomas-Kilmann Conflict Mode Instrument (TKI), Item #4813 CPP, Inc., <u>www.cpp.com</u>, 2007.

Videos to be completed prior to 9/13/16:

View the arbitration excerpt 47 "Court–Ordered Arbitration, Pittsburgh" on the course website.

Homework to be completed prior to 9/13/16:

Self-Assessment Memo: TKI Self-Assessment

Complete and self-score the Thomas-Kilmann Conflict Mode Instrument (TKI) and answer three questions: (a) What was your self-evaluation of how you tend to handle conflict? (b) Is the result consistent with your perception of yourself? (c) Given what you now know about yourself, are you likely to modify your behavior when facing conflict?

September 14 Reminder Memo Draft

The items listed below are expected prior to September 20, 2016.

Readings to be completed prior to 9/20/16:

Getting to Yes, pages 194 to the remainder of the book. **Mediation3**, chapter 2, pages 13-26

Homework to be completed prior to 9/20/16: Memo #2 (6 points): Bilateral Negotiation

Identify a situation in your personal or professional life is appropriate for a negotiation. Who are the parties? What is the issue problem/cause? Why is this case appropriate for negotiation? What is the initial position of each party? What are the interests of each party? What is the BATNA and WATNA for each party? What do you believe ought to be the outcome of the negotiation and why?

September 21 Reminder Memo Draft

The items listed below are expected prior to September 27, 2016.

Readings to be completed prior to 9/27/16:

Mediation3, chapter 3 and 4, pages 27-70

Videos to be completed prior to 9/27/16:

Two video clips on 'The Executive Seminar' in the Canvas video materials

Homework to be completed prior to 9/27/16: Memo #3 (6 points): Observing Negotiation

You have an opportunity to review two videos on "The Executive Seminar," #4 entitled "Executive Seminar Distributive" and #5 "Executive Seminar Explorations" as well as four pages that contain confidential information for Williams' Agent (2 pages) and the Associate Dean (2 pages). Your task is to observe the negotiations and write an assessment of the content and tactics.

September 28 Reminder Memo Draft

The items listed below are expected prior to October 4, 2016.

Readings to be completed prior to 10/4/16: o**Mediation3**, chapters 5 and 6, pages 73-122

Videos to be completed prior to 10/4/16: Dwight Golann, **The Skills of a Legal Mediator,** JAMS Foundation, undated.

Homework to be completed prior to 10/4/16: Homework #4: Mediation

Identify a situation in your life (professional or personal) where bilateral mediation – a two party dispute that ought to be facilitated by a neutral - is an appropriate method to seek to resolve the matter. This assignment asks you to think through the roles of the stakeholders and mediator. [Please do not recycle a negotiation topic.]

Homework: Out of Class Mediation: The Black Lab and the Blue Ribbon Roses

Mediate the case 'The Black Lab and the Blue Robbin Roses' outside of class and upload the video to the cloud.

October 5 Reminder Memo Draft

The items listed below are expected prior to October 11, 2016.

Readings to be completed prior to 10/11/16:

Mediation3, chapter 7, pages 123-144

Videos to be completed prior to 10/11/16: Golann, Dwight, **The Skills of a Legal Mediator**, JAMS, undated

Homework to be completed prior to 10/11/16: Memo #5 (6 points): Observing a Mediation (1)

You have had a chance to review the video "The Skills of a Legal Mediator" which concerns a mediation of the case of Mubai Partners versus MedPro, Inc. and the associated 11 pages of confidential information. This assignment asks you to dissect the activities of the mediators.

Mediation Outside of Class: The Scout Auction

Mediate the case 'The Scout Auction' outside of class and upload it to the cloud.

October 12 Reminder Memo Draft

The items listed below are expected prior to October 18, 2016.

Readings to be completed prior to 10/18/16:

Mediation3, chapters 8 and 9, pages 145-192

Videos to be completed prior to 10/18/16:

JAMS Foundation, Mediating a Sexual Harassment Case: What Would You Do? undated.

Homework to be completed prior to 10/18/16: Memo #6 (6 points) Observing a Mediation (2)

You have an opportunity to review the video "Mediating a Sexual Harassment Case: What Would you Do?" and an associated 7 pages of confidential information about the case. Your task is to identify the mediator's strengths and weaknesses.

October 19 Reminder Memo Draft

The items listed below are expected prior to October 25, 2016.

Readings to be completed prior to 10/25/16:

Mediation3, chapters 10 and 11, pages 195-248

Videos to be completed prior to 10/25/16:

Review 'Termination Tempest' which will be used in the class Review "Mediating a Sexual Harassment Case: What Would you Do?" which is the topic of the homework

Homework to be completed prior to 10/25/16: Memo #7: Drafting a Agreement

The case "Mediating a Sexual Harassment Case: What Would you Do?" is not resolved within the mediation video. The question in this assignment is the final question posed in the video: *What would you do as a mediator?* State each element that ought to be included in a final agreement (although you do not need to write up the final agreement in any legal language)

Homework

If 'Termination Tempest' is not completed in class, mediate the Case 'Termination Tempest' outside of class. Upload the results to a Box (to be determined.

October 26 Reminder Memo Draft

The items listed below are expected prior to November 1, 2016.

Readings to be completed prior to 11/1/16:

Mediation3, chapters 12 and 13, pages 251-323.

Dulay, Marcel, three chapters of his doctoral dissertation on dispute prevention in government, on Canvas (see chapters x, x, and x)

Foundation for International Environmental Law as Development (FIELD), **Help for Multilateral Environmental Agreement Negotiators Who Encounter Problems**, FIELD, London, Great Britain, 2011.

Videos to be completed prior to 11/11/16:

The Dulay Leon River videos related to dispute prevention Review a copy of your own video as a mediator to enable preparation of memo #8.

Homework to be completed prior to 11/1/16:

Memo #8 (6 points): Evaluation of Your Own Mediation Skills

At this point you will have mediated at least one dispute, recorded that mediation, and uploaded the mediation onto the cloud. The purpose of this exercise is to assess your own skills as a mediator and identify your strengths and weaknesses.

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November 2 Reminder Memo Draft

The items listed below are expected prior to November 8, 2016.

Readings to be completed prior to 11/8/16:

Advisory Committee on Negotiated Rulemaking in Texas, **Texas Negotiated Rulemaking Deskbook**, The University of Texas School of Law, Austin, TX, October 1996 (75 pages).

Administrative Procedures and Practice, Tex Goverment Code Chapter 2001, 50 pp.

Administrative Procedure Act (5 U.S.C. Subchapter II), 35 pp.

Negotiated Rulemaking Act of 1996, Public Law 104-320, 5 U.S.C., 7 pp.

Texas Alternative Dispute Resolution Act, Civ. Prac. & Rem. Code Ann., Ch 154, 6 pp.

The Governmental Dispute Resolution Act, Tex Government Code, Chapter 2009; 7 pp.

The Negotiated Rulemaking Act, Tex Goverment Code, Chapter 2008, 8 pp.

Videos to be completed prior to 11/8/16:

"Tillem v.U.S." an employment claim against the government Review a copy of your colleague's video as a mediator to enable preparation of memo #9.

Homework to be completed prior to 11/8/16:

Memo #9 (6 points): Evaluation of a Colleague's Mediation Role

You will be assigned a class member in order to evaluate her/his mediation skills. Please evaluate her/his mediation performance in a recorded mediation, also to be assigned. The purpose of your memo is to assess your capacity to evaluate another mediator's skills.

November 9 Reminder Memo Draft

The items listed below are expected prior to November 15, 2016.

Readings to be completed prior to 11/15/16:

Mediation3, chapter 14, pages 325-362.

Videos to be completed prior to 11/15/16:

Video narrativers associated with the multi-party mediation on HIV/AIDS services

Homework to be completed prior to 11/15/16: Memo #10 (6 points): Multi-Party Mediation

The class will use a case study of a multi-party mediation regarding the development of a sectoral proposal for treatment of human immunodeficiency virus (HIV/AIDS) services in Austin, Texas. Your paper will be an assessment of the case and your suggestions for its outcome.

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November 16 Reminder Memo Draft

The items listed below are expected prior to November 22, 2016.

Readings to be completed prior to 11/22/16: Mediation3, chapters 15 and 16, pages 363-388.

Plante, Thiomas G., **Do The Right Thing: Living Ethically in an Unethical World**, New Harbinger Publications, Inc. 2004

Videos to be completed prior to 11/22/16: None

Paper to be completed prior to 11/22/16:

How can you use the topics covered in this course (negotiation, negotiated rule-making, mediation, etc.) as part of your future professional life? Be specific. [Do not expect the instructor to give you credit for pure rote repetition of ideas or concepts discussed in class.] The intent of the paper is for you to visualize how to apply the course's skills and principles in your future professional role. One way to write a paper would be to address an important dispute in your field and describe how you would develop appropriate negotiation or mediation elements. Negotiation elements include: identifying alternatives; setting goals; initial interactions; information exchange; bargaining; value creation; concession management; preparing for closure; overcoming impasse; finalizing an agreement. Mediation components can include identification of mediating parties, preparation for mediation; goal identification; opening meeting; joint discussion (if possible); cancuses (as appropriate); overcoming barriers to closure; finalizing an agreement. It is not necessary to go through these stages in your essay. Your response ought to be specific as to **how** you will *deploy* these skills, *not list* them.

November 23 Reminder Memo Draft

The items listed below are expected prior to November 29, 2016.

Readings to be completed prior to 11/29/16:

Materials prepared by Melissa Wilson, EMPL graduate (2016) and developer of the multiparty HIV/AIDS service delivery mediation exercise.

Videos to be completed prior to 11/29/16:

Video materials for the multi-party mediation, including narrative statements of the stakeholders.

Homework to be completed prior to 11/29/16: Multi-party mediation self-assessment

You will be participating in a multi-party mediation on December 10, 2016 relating to the provision of HIV-AIDS services in Austin. YThis assignment asks you to evaluate your own performance during the mediation, including areas of strength and weakness.