MEDIATION
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General Information:

The text in this course is Mediation: Principles and Practice, 3rd Edition. Kovach, K. 2004. From time to time additional materials will be distributed in class or through TWEN. Class will meet from 4:15 to 5:55 p.m. on Tuesdays.

Office Hours:

I share an office with other adjunct professors and generally will not be in that office. However, I usually will be available at least 15 minutes before and/or after class and also by appointment. You can reach me at my personal office phone, 303-443-8524; if I am not available leave me a detailed message on my voice mail. You can also reach me at my e-mail address, coatesc@aol.com. Please state in the subject line that your e-mail refers to the law school mediation class.

TWEN:

I have created a TWEN site for the course. I plan to distribute materials and leave class messages on the site. I will ask you to send your written assignments to me through the drop box on TWEN. Please check the TWEN site periodically as I will post assignments, articles, cases and additional materials there.

Course Goals and Objectives:

This course focuses on the process in which mediators help others to resolve disputes or plan transactions. Students consider the mediation process from the perspective of mediators, lawyers representing clients in mediation, and the parties themselves. This course analyzes the nature of mediation and its relationship to other forms of dispute resolution as well as mediation’s possibilities and limitations. The course discusses the mediation movement as well as public policy, professional responsibility, and malpractice issues. Students develop mediation and negotiation skills through readings, demonstrations, and experiential exercises. The course covers mediation theory and techniques that can be used in any kind of legal matter. Simulated mediations deal with a range of subjects of disputes.

The objectives of the course are to: (1) improve students’ skills in listening, questioning, problem-solving, persuasion, negotiation, and professional judgment that are important for both mediation and legal representation, (2) encourage students to
become more deliberate about their professional work and their own approaches to dispute resolution, (3) increase understanding of dispute resolution theory and practice including the distinctive practical and ethical issues in mediation, and (4) increase appreciation of the advantages and disadvantages of various dispute resolution procedures, including mediation and litigation.

**Course Requirements**

1. Timely completion of required readings as evidenced by class participation and written exercises and journal entries.

2. Regular attendance and constructive participation in class discussions, exercises and mediation simulations.

3. **Journal and Written Exercises**

   a. **Journal:** The journal is an opportunity to integrate your thoughts about the class discussions, readings and role-played simulations. You will receive weekly journal assignments in class every week. The assignment will also be posted on TWEN. You will be asked to share your thoughts about a variety of topics as well as to provide written analysis of the mediation simulations in which you participate. The form and content will vary and will be provided with the simulation assignment and on TWEN. Your submission should be no longer than **two** typewritten pages in length, double-spaced, in 12-point font and with one-inch margins in Word. Please keep a copy of your journal for your records. **Quality over quantity is valued.** You will submit your journal assignment to me through TWEN by the start of class on the day that the assignment is due. Points will be deducted for late submissions. The journal will be graded as an entire body of work at the end of the semester. I will provide occasional feedback individually through TWEN.

   b. **Written Exercises:** You will be asked to complete at least one Memorandum of Understanding regarding a mediation simulation in which you participated. The requirements for the Journal also apply to these written assignments.

4. Timely submission of paper. **Students will find it in their interest to read this paragraph very carefully and follow these directions.** The final paper may: (1) use an actual or simulated case to analyze a problem in mediation practice, or (2) be on a topic related to mediation of the student’s choice. In either case, the problem or topic selected should be one for which there is not an easy solution. Papers will be graded much more favorably for making a serious effort to grapple with a difficult problem than for providing the “correct” answer to an easy problem or a simplistic overview of a
mediation issue. The discussion must go into depth on one or two issues, be as concrete as possible and not spend much time on material irrelevant to the main issue(s). The paper must be researched and include appropriate discussion of the problem in the dispute resolution literature. Citations will follow approved Bluebook format within the body of the paper. The paper is to be 15 - 20 double-spaced pages, using 12-point font and one-inch margins with each page numbered. Students may talk with me about ideas for papers, but I do not require such advance discussion. No outline needs to be provided in advance of the paper. The completed paper will be due at the final class in hard copy format and electronically through TWEN. I will return my comments and grade for the paper to students through TWEN. Your cover sheet is to be the last page of the paper.

Papers will be graded based upon 1) appropriateness and difficulty of topic, 2) organization, 3) writing clarity, 4) research, and 5) quality of analysis as reflected in the insights, persuasiveness, and thoroughness of the treatment of the topic. Serious problems of grammar, spelling, etc. will affect the grade. Late submission of the paper will result in a lower grade on the paper.

**Grading:**

Your grade will be based upon the following:

1. Paper: 50%
2. Written exercises and journal: 25%
3. Participation in class exercises and in role-plays: 25%
4. Class participation: Up to three points may be added to your final grade for class participation.

**I am required to use the CU Law School curve in grading.**

**Course Outline:**

*The class is not meeting on September 23 and 30, 2008. The dates and times of the make-up classes will be determined during class on August 26th.*

The reading following the class date should be done in preparation for the class topic.


3. Communication Skills. Getting to the Mediation Table. Text, pp. 49-74 (review); pp. 75 - 84; 86 - 135. Read article by John Lande on *Using Dispute System Design Methods to Promote Good-Faith Participation in Court-Connected Mediation Programs* (citation on p. 141).

4. Getting to the Mediation Table (continued). Preparing for and Beginning the Mediation. Text, pp. 142 - 178.


8. Simulation


10. Simulation.


12. Simulation

13. Simulation.

14. Ethics. Text, pp. 395 – 428. **Paper Due at beginning of class.**