

MEDIATION
Dispute Resolution Institute
Mitchell Hamline School of Law
June 4-11, 2023

Professor Lela P. Love

TEXTS:

Mediation, Practice, Policy, and Ethics 3d Edition, Menkel-Meadow, Love, Schneider (**A**)
The Middle Voice (3d ed), Stulberg & Love (**B**)

CLASSES MEET:

1. Sunday, June 4, 9-5
2. Monday, June 5, 5-9:30
3. Tuesday, June 6, 5-9:30
4. Wednesday, June 7, 5-9:30
5. Thursday, June 8, 5-9:30
6. Saturday, June 10, 9-5
7. Sunday, June 11, 9-5

OFFICE HOURS: By appointment, email lelaplove@gmail.com

COURSE DESCRIPTION:

Everyone is impacted by conflict. Mediation is becoming an increasingly common way to address disputes. Lawyers and other professionals dealing with conflict need to understand both the causes of conflict and the array of methods to address and resolve it: negotiation, mediation, neutral evaluation, arbitration, and litigation. By understanding processes to resolve conflict, and principles of process choice, and by studying and practicing mediation, students can proceed to become thoughtful conflict intervenors, mediators, and advocates for clients in the mediation process.

Through lecture, discussion, interactive exercises, and role-play, students will focus on the goals and elements of the mediation process and on the skills and techniques mediators use to aid parties in overcoming barriers to dispute resolution. The course also examines: how justice is served by various methods of conflict resolution, and particularly the mediation process; underlying negotiation orientations and strategies that mediators may confront and employ; the roles of attorneys and clients in mediation; challenges for mediators (intercultural conflict, power imbalances and difficult parties or attorneys); diversity considerations; and ethical issues that arise in the mediation process.

READING ASSIGNMENT TO BE COMPLETED BEFORE CLASS 1:

Reading **A**: Chapter 1 (Conflict and Dispute Resolution); Chapter 2 (Negotiation); and Chapter 3A (Introduction to Mediation, pgs. 61-88)

Class 1. Sunday, June 4, 2023, 9-5

9:00 - 10:30	Introductions, Overview of Conflict and Dispute Settlement Processes
10:30 – 10:45	Break
10:45 – 12:30	Introduction to Negotiation
12:30 – 1:30	Lunch
1:30 - 3:15	Introduction to Mediation and the Role of the Mediator; Stages of Mediation: BADGER
3:15 - 3:30	Break
3:30-4:30	Elements in the “B” of BADGER: who attends, siting and seating.
4:30 – 5:00	Justice and Ethics in the Mediation Process

READING ASSIGNMENT TO BE COMPLETED BEFORE CLASS 2:

Reading **B**: Chapters 6 (Begin the Discussions) and 7 (Accumulate Information).

Class 2. Monday, June 5, 2023, 5-9:30 pm

5:00 – 6:30	Beginning the Session: the mediator’s opening statement
6:30 – 6:45	Break
6:45 - 8:15	Elements in the “A” of BADGER: barriers to and skills for accumulating information
8:15-8:30	Break
8:30-9:30	What Mediators Listen For

READING ASSIGNMENT TO BE COMPLETED BEFORE CLASS 3:

Reading **A**: Chapter 7 (Culture, Diversity and Mediation)

Reading **B**: Chapter 8 (Develop the Discussion Strategy)

Class 3. Tuesday, June 6, 2023, 5-9:30 pm

5:00 – 6:30	The “D” of BADGER: creating a discussion agenda
6:30 – 6:45	Break
6:45 – 8:15	Putting BAD together: roleplay
8:15– 8:30	Break
8:30 – 9:30	Diversity Dynamics: cultural and gender issues, and dealing with bias

READING ASSIGNMENT TO BE COMPLETED BEFORE CLASS 4:

Reading **A**: Chapter 8 (Legal and Policy Issues)

Reading **B**: Chapter 9 (Generate Movement)

Class 4. Wednesday, June 7, 2023, 5-9:30 pm

5:00 – 6:30	Generating movement
6:30 – 6:45	Break
6:45 – 8:15	Putting BADG together: roleplay
8:15 – 8:30	Break

8:30 – 9:30 Policy topics for Saturday presentations and group assignments (1. the relation between law and mediation 2. the trend towards a disappearing joint session 3. making mediation mandatory 4. requiring good faith in mediation 5. mediator evaluation or assessment 6. mediator responsibility for the quality or fairness of agreements)

ASSIGNMENT TO BE COMPLETED BEFORE CLASS 5:

Reading **A**: Chapter 1 (Approaches to Mediation), pgs. 82-92

Reading **B**: Chapter 10 (Elect Separate Sessions)

Class 5. Thursday, June 8, 2023, 5-9

5:00 – 6:30 Conducting the Caucus

6:30 – 7:00 **Break**

7:00 - 8:00 Roleplay

8:00 – 8:15 **Break**

8:15 – 9:00 Models of mediation

9:00 – 9:30 Policy topics for Saturday presentations group planning

ASSIGNMENT TO BE COMPLETED BEFORE CLASS 6:

Reading **A**: Chapter 4 (Descriptions of Mediations)

Reading **B**: Chapter 11 (Reach Closure); Appendix (Model Standards of Conduct for Mediators)

Class 6. Saturday, June 10, 2023, 9-5

9:00 – 10:30 Closing the Mediation Session

10:30-10:45 **Break**

10:45 – 11:45 Drafting Agreements

11:45-12:30 Stories About Mediation

12:30 – 1:30 **Lunch**

1:30 – 2:45 Ethical Issues for the Mediator (the principle of self-determination, neutrality, confidentiality and conflicts of interest, and other central tenets of the ethical code for mediators)

2:45 – 3:00 **Break**

3:00 – 5:00 Policy Topic Presentations

(1. the relation between law and mediation 2. the trend towards a disappearing joint session 3. making mediation mandatory 4. requiring good faith in mediation 5. mediator evaluation or assessment 6. mediator responsibility for the quality or fairness of agreements)

ASSIGNMENT TO BE COMPLETED BEFORE CLASS 7:

Minnesota Rule 114 (handout)

Study role play assignment

Class 7. Sunday, 9-5

9:00-9:15	Giving good feedback
9:15-10:30	Mediation Simulation I and analysis
10:30-10:40	Break
10:40-11:55	Mediation Simulation 2 and analysis
11:55-12:05	Break
12:05-1:20	Mediation Simulation 3 and analysis
1:20-2:20	Lunch
2:20-3:15	Representing Clients in Mediation
3:15-3:30	Break
3:30 - 5	Minnesota rules, statutes and practices governing mediation with Professor James Coben

GRADING

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

1. Class participation – 10%
2. Group presentation – 10%
3. Take-home Paper: 80%.

Failure to meet any course requirement can be the basis for a final grade of "F" in the class, unless properly excused.

The final paper will be based on the syllabus readings and various simulations conducted in class. Grading is anonymous and consequently students should only include their exam number on their paper. The final paper will designate maximum word numbers/length for each answer. The due date for the submission of the take-home paper will be Friday, June 23, by 4:00 p.m. Instructions regarding exam submission will be provided in class. Failure to meet the deadline may result in an "F" for the paper, unless properly excused.

Written assignment:

Only degree-seeking students, including Certificate students, must complete the final take-home paper.

Attendance:

Attendance in person in all classes is required.

All requests for exceptions and/or variances should be addressed directly to DRI Associate Director Kitty Atkins at kitty.atkins@mitchellhamline.edu. Please do not contact the professor for requests for exceptions and/or variances.