

University of Washington School of Law
Mediation Clinic – B526
Autumn & Winter 2018-19 Syllabus

- Faculty:** Assoc. Prof. Alan Kirtley (Retired)
Room 226, Wm. H. Gates Hall
kirtley@uw.edu or kirtleyalan65@gmail.com
Office: (206) 685-6802
Cell: (206) 579-3893
- Class:** Tuesdays, 9:00 a.m. to 10:20 a.m.
Room 260, Wm. H. Gates Hall (Clinic Offices)
- Workshops:** Group A
Tuesday, 3:30 p.m. to 5:20 p.m.
Room 240, Wm. H. Gates Hall
- Group B
Wednesday, 3:30 p.m. to 5:20 p.m.
Room 240, Wm. H. Gates Hall
- Mediation Training:** Friday morning, Oct 5 (1:00 p.m. – 5:00 p.m.)
All day Saturday, Oct 6, and Sunday, Oct. 7 (8:30 a.m. – 5:30 p.m.)
All day Saturday, Oct. 13, and Sunday, Oct. 14 (8:30 a.m. – 5:30 p.m.)
- Credits & Grading:** Autumn Quarter: Four (Credit/No Credit Basis)
Winter Quarter: Four (Credit/No Credit Basis)
- Office Hours:** Drop in anytime or make an appointment
- Staff Support:** Robin Gianattasio
Room 223, Wm. H. Gates Hall
robing@uw.edu
Office: (206) 543-3434
Fax (206) 685-2388
- Mediation Clinic:** mediates@uw.edu
(206) 685-4140
- Course Website:** <https://canvas.uw.edu/courses/1222362>

Course Description:

Autumn quarter, students will receive instruction in mediation law, policy and ethics, and mediation skills training. Winter quarter, you will mediate actual cases of various types.

Course Objectives:

The Mediation Clinic is designed to:

- Develop your understanding of the mediation process.
- Train you to be a competent mediator.
- Enhance your communication and negotiation skills.
- Enable you to deal effectively with persons in conflict.
- Encourage you to be a reflective professional.

Course Overview:

Autumn Quarter:

In our weekly class you will be reading about and discussing mediation practice, policy and ethical issues during.

You will also receive skills training to become a mediator that will consist of:

- 36-hour mediation skills training over two weekends in October (dates above); and
- A weekly two-hour workshop to practice being a mediator.

In addition you will be:

- Journaling about your experiences;
- Observing two Small Claims Court trial calendars; and
- Possibly beginning to mediate actual cases.

Winter Quarter:

In our weekly two-hour class, we will continue our study of the mediation process and conduct “grand rounds” of the cases you are mediating.

You will be convening and mediating real cases on a regular basis and continue journaling.

Required Texts:

UW CLE Professional Mediation Skills Training Manual (provided before training).

MEDIATION PRACTICE, POLICY & ETHICS, Menkel-Meadow, Love & Schneider (Aspen Publishing 2nd. Ed. 2013) (available at U-Bookstore)

GETTING TO YES, Fisher, Ury & Patton, Penguin (2011 Ed.) (available at U-Bookstore)

GETTING PAST NO, Ury, Bantam Books (1993) (available at U-Bookstore)

Course Requirements:

THE FOLLOWING ARE THE MINIMUM REQUIREMENTS YOU MUST MEET TO PASS AND RECEIVE CREDIT FOR THIS COURSE:

1. Complete Mediation Training: You must attend the 36-hour Mediation Skills Training in its entirety, unless excused in advance by faculty member. The dates are provided above.
2. Complete two quarters: The Mediation Clinic course is offered over two quarters (4-4). **You will receive credit for the course only upon completion of both quarters.**
3. Attend All Classes and Workshop Sessions: Attendance at all classes and workshop sessions is mandatory. Each class and workshop is designed to prepare you to mediate for real people in conflict. Your absence from class jeopardizes your ability to mediate competently. Moreover, if you are not in class you also diminish the learning of your classmates, who need your participation for mediation roleplays and group exercises.

If you absolutely must miss a class for a reason beyond your control, e.g., a sudden emergency or illness, you must notify a faculty member at least 24 hours in advance, recruit a substitute to fill your part in a roleplay, and arrange for and complete a make-up assignment.

Please stay in this course only if you are willing to commit to this class attendance policy.

4. Comply with Laptop Policy: Students may not use laptop computers during class except to take notes and access materials related to the course.
5. Submit Journal Entries: You will be required to submit weekly journal entries. By writing and reflecting about your mediation experiences, you will become (what the best professionals are) a self-reflective practitioner. Self-reflective mediators analyze each new mediation experience in order to continually improve their understanding of mediation theory, process, skills and, perhaps most importantly, themselves in the mediator role. The journal assignments are intended to help you improve your self-reflection skills.

Guidelines for the journal writing are below.

6. Prepare for All Classes and Roleplay Exercises: We will read materials from various sources concerning mediation skills, and current issues and controversies in mediation. From time to time students, in a team of two or three, will lead a class in a discussion or activity concerning a mediation topic. Feel free to be creative in how you present your topic. (For example, you could design a short mediation roleplay or play a video clip to illustrate issues.) If there are outside materials or articles you wish to use in a class, provide them to us and we'll see that they are distributed.
7. Maintain Confidentiality: In handling your mediations you will have access to confidential communications. Working within the Law Clinics offices, you also will have access to confidential information, materials and files for all of the in-house clinics cases. It is imperative that you maintain the confidentiality of all this private information.

It is unethical and unprofessional to discuss mediation cases with persons who are not associated with the Mediation Clinic. You may discuss your cases with Mediation Clinic faculty, clinic staff, and Dispute Resolution Center personnel when mediating in Small Claims Court. When discussing a mediation during a break in the session, do so where you cannot be overheard and do not refer to the parties by their last names or by information that could identify them.

Sometimes we are asked specifics about a mediation by persons who are not part of the Mediation Clinic; e.g., staff of the Attorney General, the EEOC and Small Claims Court personnel (including judges). To such persons you may only inform them who was present at the mediation and whether the case settled or not.

8. Maintain Neutrality and Impartiality: Before a mediation begins, mediators must report any known potential conflicts of interest to the parties. Examples of conflicts of interest include the following: if you know any of the parties or the circumstances of the dispute; if you have an affiliation with a party or a law firm that represented one of the parties; or if you have a financial or other interest in one of the parties, the dispute or the issue. You also must inform a faculty member immediately if you believe you might have a conflict of interest in a case assigned to you. Always err on the side of over-disclosure!

During a mediation parties expect their mediator to be impartial and evenhanded. Inform us immediately if you are having difficulty in maintaining your impartiality.

Friendliness to one party can easily be misinterpreted as mediator partiality by the other party. Conversing with one party before the mediation begins or during breaks may compromise the appearance of impartiality. If a party engages you in conversation, keep the conversation to a minimum, impersonal and non-substantive, and report the conversation when the mediation begins or resumes.

9. Complete Course Evaluation Forms: Students must complete both the clinic and UW Law's course evaluation forms.

Guidelines for Journal Writing:

Your journal entries will be a means for personal, in-depth exploration of the course readings, class discussions, and your mediations experiences. Write in the first person and make sure to include your thoughts and feelings about the mediation process, any ethical dilemmas, and interpersonal dynamics in your mediations. Most importantly comment on your development as a mediator. Please stay away from fact-based "case summaries." Having observed your mediations, faculty will know the facts.

Journal Length and Content: You will submit a journal entry of:

- 1 page (+) for each day of the 36-hour skills training;
- 2 pages (+) weekly thereafter due in class; and
- 8 pages (+/-) at the end of Autumn and Winter quarters (Journal Summary).

For the 2 (+) page journals please comment:

- On how the class readings and discussion added to your understanding of mediation and how you intend to incorporate what you learned into your role as a mediator; and
- On your mediation experiences during roleplays or actual mediations.

For your mediation experiences, here are some suggested topics if you were a mediator:

- What were your learning goals for the mediation? Did you achieve them? If not, what barriers got in the way?
- What was particularly challenging? What was easy?
- How well did co-mediation work?
- What did you learn new about mediation?
- What did you learn new about yourself in the role of mediator?
- What skills do you want to focus on in your next mediation?
- Any additional observations, impressions, learning and/or remarks?

Here are some suggested topics if you were a roleplay party:

- Describe the quality of the mediators' communication skills. What worked or what didn't?
- Were the mediators able to help the parties understand their own and the other party's interests?
- What, if any, assumptions were the parties making about each other? Were the mediators able to surface those assumptions? Clear up any misunderstandings?
- Was the mediators' level of directiveness appropriate? Was impartiality ever compromised?
- Describe the successful and unsuccessful mediator interventions.
- What were the barriers to settlement? What did the mediators do to promote settlement?
- Describe how the co-mediators performed as a team? Were they respectful of each other? Did they share the role appropriately? Were there instances where there were problems?
- Any additional observations, impressions, learning and/or remarks?

For the quarter-ending Journal Summaries, please reflect on your understanding of the mediation process and your development of mediator skills. Also, you should identify specific mediator skills you plan to work on in future mediations.

Journal Format: Journal entries must be a Word document with double-line spacing, 12-point font, one-inch margins, except for a 1.5 inch right margin. Entries should be submitted on Canvas in class.

To orient the faculty to your mediation experiences, please begin the journal entry with a caption that lists, for example:

- Your Name: Sam
- Roleplay or case: Bowen/Carpenter
- Co-Mediators Sam and Bianca
- Mediation Party 1 Bill/Bowen party
- Mediation Party 2 Jane/Carpenter party

When journaling on mediations involving actual clients use only their first names or designate them e.g., "seller/buyer" or "landlord/tenant."

Video Review:

Each student will have one or more mediations digitally recorded. Students will be required to review and comment on the recording.

The recordings will be accessed from the UW Law course website. You will not be identified in the file names. However, it is theoretically possible for a recording to be viewed by a UW Law student or faculty member not associated with our class. If this causes you a concern, let your instructor know.

Clinic Operation:

1. **Cases:** Our cases come from many sources: Small Claims Court Division, the EEOC, practicing lawyers, and members of the community through our outreach efforts.
2. **Supervision:** Autumn quarter, a faculty member will observe all your mock mediations. Initially we will intervene after each step of the mediation process to capture learning opportunities. As the quarter proceeds, students will have a choice in the level of supervision: no interventions, intervention if things seem to be bogged down or intervention only when requested by the student.

With real mediation cases, we will intervene only when the process is being threatened, the parties harmed or to avoid impasse. During breaks in the mediation, we will respond to student questions and confer over strategic choices. After each mediation a faculty member will provide specific, in-depth feedback. Plan to stay **at least a half-hour** after a mediation for that debriefing.

Another experienced mediator may supervise some of your real mediations when we have a scheduling conflict.

3. **Co-Mediation:** During your clinic experience, you will be co-mediating with another student or an experienced mediator. Plan to meet with your co-mediator at least 20 minutes before the mediation is scheduled to begin to:

- Set up the mediation rooms (water, cups, tissue, paper and pens, and mediation case documents (Agreement to Mediate and Settlement Agreement forms).
- Divide the opening statement and other mediation tasks.
- Discuss your mediation styles and preferences.
- Identify any skill areas you particularly want to work on.
- Decide how you will communicate with your co-mediator.

4. **Dress:** Serving as a mediator is a professional role. You will need to dress appropriately for the mediation participants to regard you as a professional and to gain their confidence. Business casual is required at a minimum. You may not mediate in jeans, sweatshirts or a hat.

Academic Accommodations for Disabled Students

Access and Accommodations: Your experience in this class is important to me. If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include but not limited to; mental health, attention-related, learning, vision, hearing, physical or health impacts), you are welcome to contact DRS at 011 Mary Gates Hall or 206-543-8924 or uwdrs@uw.edu or disability.uw.edu. DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions. Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

I look forward to working with each of you. Alan

Mediation Clinic Class Schedule and Assignments Autumn Quarter 2018

Class Reading Materials:

T: MEDIATION: PRACTICE, POLICY & ETHICS

M: Mediation Training Manual

F: GETTING TO YES

U: GETTING PAST NO

Class & 36-Hour Training Schedule			
Classes: Tuesday's 9:00 a.m. – 10:20 a.m.			
William H. Gates Hall, Room 260			
Class #	Date (Day)	Subject	Assignments
Class 1	Sept. 25 (T)	Conflict and Dispute Resolution	Read Syllabus T: Chap. 1, pp. 3-24
Class 2	Oct. 2 (T)	Mediation Concepts	T: Chap. 3, pp. 85-107 Submit Journals
<i>1st Training Weekend</i>	Oct. 5 (F a.m.) Oct. 6 (Sa) Oct. 7 (Sn)	<i>Professional Mediation Skills Training</i>	<i>F: Read entire book M: Steps 1- 3</i>
Class 3	Oct. 9 (T)	Negotiation	T: Chap. 2, pp. 35-59 F: Entire book Submit Journals
<i>2nd Training Weekend</i>	Oct. 13 (Sa) Oct. 14 (Sn)	<i>Professional Mediation Skills Training</i>	<i>M: Steps 4 & 5</i>
Class 4	Oct. 16 (T)	Negotiation	T: Chap 2, pp. 60-81 Mnookin article on Canvas Submit Journals
Class 5	Oct. 23 (T)	Small Claims Court Training Settlement Agreement Writing	Small Claims Mediation article on Canvas Small Claims Court Manual Submit Journals

Class 6	Oct. 30 (T)	Getting Past No	U: Entire book Submit Journals
Class 7	Nov. 6 (T)	Culture, Diversity, and Mediation	T: Chap. 7 Submit Journals
Class 8	Nov. 13 (T)	Confidentiality and Privilege	T: Chap. 9, pp. 319-43 Kirtley article and Problem set on Canvas Submit Journals
Class 9	Nov. 20 (T)	Mediator Ethics	T: Chap. 9, pp. 343-54 Problem set on Canvas Submit Journals
Class 10	Nov. 27 (T)	Application of Mediation Techniques	Chapter 10 Submit Journals
Class 11	Dec. 4 (T)	Thinking Critically About Mediation	T: Chap 14 Submit Journals
	Dec. 5(T) through Dec. 9 (F)	Student-Faculty Meetings	Skills Self-Evaluation Form
	Dec. 16 (F)	Journal Summary Due	Submit Journal Summary