

Comprehensive Syllabus - LAW 310-W Alternative Dispute Resolution

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Virtual Office Hours: Please feel free to drop me a line if you want to talk by phone/Skype, and we can set a time.

Important!

This course takes place entirely online, on Creighton's Blueline system; there will be no face-to-face meetings during this course.

Even if you have used this platform here and there in other courses, you have probably not taken a fully online course on it. All students taking this course are responsible for orienting themselves for online study and for using Blueline, ahead of taking this course.

Please complete the entire online tutorial which you will find at <https://blueline.instructure.com/courses/312368> before beginning the course, which begins on July 6th. I urge you not to underestimate the importance of doing this

Course Description

This course presents a broad introduction to the field of negotiation and dispute resolution and provides the student with a strong foundation across a number of key areas.

As an academic discipline and a distinct professional field, conflict resolution reached and passed a tipping point sometime in the last decades of the 20th century: what was once a patchwork of techniques (such as interest-based negotiation), social movements (such as community justice), and efforts at streamlining court dockets (such as mandatory mediation referrals), has become an interdisciplinary field in its own right, transformed from an "alternative" form of dispute resolution to the mainstream. Negotiation has always been a fundamental tool in lawyers' toolbox; in contemporary practice, this must be augmented with an understanding of other ADR processes

The course is structured to provide practical skills that can be applied in real-world lawyering, as well as insights that can be transferred to, and enhanced through, other course offerings in the Negotiation and Dispute Resolution program. As an introduction to the ADR field, it will also equip students with a new set of conceptual frameworks and a disciplinary vocabulary that will prepare them to engage with the field's literature and participants.

Course Objectives

By the completion of this course, students will:

- Discover the range of processes that are used to engage with conflict in various contexts including the primary ADR processes of mediation, negotiation and arbitration as well as hybrid and innovative processes.
- Consider and critique the strengths and weaknesses of these processes across different contexts of application, including court-connected contexts.
- Distinguish between, and apply, various negotiation strategies, including interest-based negotiation as well as other approaches.
- Reflect on their own natural orientations and preferred approaches to negotiation and conflict, taking into account their own interaction preferences, their approach to assessing practical outcomes and their personal set of ethical considerations.
- Differentiate between two-party processes and processes in which a neutral third party is involved, and compare the various roles that third parties can play.
- Differentiate between multiparty conflicts and those involving two parties, and compare the dynamics at play.
- Achieve a concrete understanding of alternative dispute resolution through simulation and reflection.
- Demonstrate a working knowledge of the terminology of the field and its key processes.
- Develop a set of personal insights regarding conflict and its resolution and their own potential for engaging with these phenomena.
- Acquire an understanding of ADR and conflict engagement processes to serve as a foundation for the role of attorneys as advisors in the choice and design of processes in a variety of practice situations.

Required Text and Resources:

Title: Dispute Resolution

Author: Macfarlane, J., Manwaring, J., Zweibel, E. & Hamilton, W.H.

Publisher: Emond Montgomery Publications

Edition/Year: 3rd edition /2011

ISBN: 9781552393703

(Note: Earlier editions of this textbook are insufficient and unsuitable for this course! Please be alert to this, as you make your purchase. The book can be purchased through the Creighton bookstore or directly from the publisher. I recommend purchasing this book early, rather than waiting for the last minute).

Title: Getting to Yes
Author: Fisher, R., Ury, W. and Patton, B.
Publisher: Penguin Books
Edition/Year: 2nd edition/1991
ISBN: 0140157352

(Note: The book has been reprinted several times, and revised just a bit, since this 2nd edition came out. **Any version, from the 2nd ed. and onwards, is fine for this class**).

Clarifications Regarding Learning and Participation in this Course

If you've taken an online course before, at Creighton, or anywhere else, your experience should help you feel more comfortable in this course. However, courses vary greatly! The main two things I'd like you to know up front, coming into this course, is that it is concentrated, and that it is interaction-heavy.

Concentrated, meaning that we have 7 weeks together for a 3 credit course (and not 14 weeks, as I think the runtime still is for many online courses at Creighton and elsewhere (particularly undergraduate courses). This means you need to be ready to work hard. 10-15 hours a week is an estimate I usually use, but of course these things are incredibly subjective. Better to clear more time rather than less, and worst case, you'll have extra time each week, in which you can either do your best to absolutely excel in the course, or you can go out and play; for my own part, I will be just as happy as you are, with either of these. See the course's weekly schedule below in the syllabus.

Interaction-heavy, meaning that while some of the course, like any other, involves student>material work (reading, watching videos, doing your own research, studying for quizzes etc.), much of it is student>student and student>teacher work. You are expected to be active and involved, posting in discussion forums several (or many) times a week. The best way to succeed in the course is by keeping your finger on its pulse, through regular engagement in the discussion forums, rather than by treating forum-activity as mini-paper assignments which you need to get in by just under the deadline. The more often you participate, the more aware of all the requirements of the course you will be, the better you learn, the higher grades you will receive (subject to quality, of course!). See the discussion forum requirements below in the forum; I advise you to set your own bar above the minimal requirements laid out there.

Technical Support

For all technical support you might require throughout the course, contact DoIT

- Call (402)280-1111, or 800-329-1011, option 2
- Email the Student Service Desk as doit4students@creighton.edu

Library Resources

As a student at Creighton University, you have access to the library's resources. The Creighton University library network will provide the same services to you as an online student as we do for our residential students. From the library's website you may access the catalogues and databases available to our residential students from any computer connected to the internet by logging in with your NET ID and password. You may find further information at the following websites:

- **CLIC** (Creighton Libraries Information Catalog) (<http://clic.creighton.edu>)
- **Reinert / Alumni Library** (<http://reinert.creighton.edu>)
- **Health Sciences Library** (<http://www2.creighton.edu/health/library/>)
- **Klutznick Law Library** (<http://law.creighton.edu/?library>)

Course Requirements

This course contains three major elements: Discussion Forums, Written Assignments, and Quizzes.

Discussions: This course is designed to be a collaborative learning experience using discussion forums. Each week, you will receive access one or two discussion forums (see details below) in which questions on topics that are important to the understanding of negotiation and dispute resolution will be assigned. To receive a **passing** grade, you must make a posting by midweek and respond to at least one additional posting by the end of the week which must be on two separate days. However, I expect you all to make **more** than two postings and really get into the heart of the discussion. Quantity will be a factor in your grade. I have tried to make the discussions interesting by choosing topics that invoke your own life experiences, provoke passionate responses *and* generate a real learning experience.

NOTE: Only discussions threads posted by **Wednesday, 11:00 pm Central Time** and **Sunday, 11:00 pm Central Time** of the week they are due will count for grading purposes. I will post very detailed explanations regarding discussion forum expectations, how to do best in them, and what the grades you receive indicate, as the course progresses.

Written Assignments: You will have two individual written assignments in this course that will require you to engage in critical analysis of the materials assigned and reflect on issues central to negotiation and dispute resolution. **Page limits will be announced in the instructions for each paper. Please do your writing in font 12 and 1.5 line spacing, leaving 1 inch margins.**

Your papers are expected to reference the assigned materials provided in the course using proper citation methods. It is expected that all submitted work to be grammatically correct, logically

organized, and edited for typos. Your assignments must be submitted on the due date appearing in the course calendar by **11:00pm Central Time**.

Quizzes: This course will provide you with comprehensive understanding of a wide range of terms and concepts at the heart of the field of negotiation and dispute resolution. After completing this course, you are expected to be able to discuss or explain these elements. Towards the end of the course, you will be provided with a list of terms and concepts for review. In order to prepare your learning patterns for succeeding on that quiz, and to verify comprehension along the way, 2 smaller-scale quizzes will be taken during the course. Your quiz must be *submitted* by the due date appearing in the course calendar by **11:00pm Central Time**.

Teacher-Student Interaction

I will try to respond to all direct communication from you in a timely manner, and to the best of my capability, I will respond within 72 hours. I am often able to respond much faster than that and will be happy when I can do so. Note, that all this relates only to communication which you initiate with me through the specific email provided at the top of this syllabus.

I aim to provide you with feedback on your work as quickly as possible; in general, my hope is to give you feedback on your work such that you can incorporate it in your next efforts on a similar assignment. At any rate, I will provide feedback on discussion forums within one week, and on written assignments – within two weeks. Should I anticipate any deviation from this schedule (e.g., due to large class size or an unanticipated reason) I will announce this in class. Whenever I am able to, of course, I will provide my feedback earlier.

Course Polices:

You are encouraged to access this course 4-5 times per week. By doing so you will be able to actively participate in the Discussion Forums, complete your assignments and access announcements in a timely manner. Assignments are to be submitted by the due date listed on the course schedule. Late assignments and posts, if accepted, will not receive full points.

Grading

Grades will be based on a total of 410 points.

Course Requirement	Points
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Discussion Forums (9X20)	180
Written Assignments (2x30)	60
In-course Quizzes (2X30)	60
Simulation Participation	10
Final Quiz	100
Total	410

--- Note: All coursework must be submitted in order to pass the course. ---

Final letter grades will be given, through translating your point average in the course into the letter grades provided for in the Law School academic rules, found at [http://www.creighton.edu/fileadmin/user/law-school/academics/docs/Academic Rule 5.1 5.5 Grades.pdf](http://www.creighton.edu/fileadmin/user/law-school/academics/docs/Academic_Rule_5.1_5.5_Grades.pdf)

Weekly Assignments include (for due dates, see course calendar):

Assignment	Points	Due
WEEK 1:		
Discussion – Attribution Reading - Macfarlane text, Chapter 1 Multimedia	20	July 8 th , July 12 th
WEEK 2:		
Discussion – Integrative & Distributive Negotiation Experiences	20	July 15 th , July 19 th
Written Assignment – My Negotiation Orientation	30	July 19 th

Multimedia

Reading

- ▶ Fisher/Ury Chapters 1-6

WEEK 3:

Discussion – Getting to Yes in the Real World

20 July 22nd, July 26th

Quiz – on all material from **Weeks 1-3**

30

Negotiation Assignment – Simulation

10 Sim cutoff: July 24th, 10 pm

Multimedia

Reading

- ▶ Finish Fisher & Ury, Getting to Yes
- ▶ Macfarlane text, Chapter 2

WEEK 4:

Discussion – My Mediated Dispute

20 July 29th, Aug 2nd

Discussion – Negotiation Simulation: Outcomes and Insights

20 July 29th, Aug 2nd

Multimedia

Reading

- ▶ Macfarlane text, Chapter 3

WEEK 5:

Discussion – Arbitration Compared

20 Aug 6th, Aug 9th

Quiz - Arbitration (this quiz is on the Week #5 material only)

30

Aug 9th

Multimedia

Reading

- ▶ Macfarlane text, Chapter 6

WEEK 6:

Discussion – Pros/Cons of Court-connected ADR

20 Aug 12th, Aug 16th

Discussion - My Taste in Hybrids

20 Aug 12th, Aug 16th

Multimedia

Reading -

- ▶ Macfarlane text, Chapter 5

WEEK 7:

Discussion – ODR Pros and Cons

20 Aug 19th, Aug 23rd

Written Assignment – ODR Processes, Platforms & Providers

30

Aug 19th, Aug 23rd

Multimedia

Reading -

- ▶ Macfarlane text, Chapter 4
- ▶ Conley Tyler M. “115 and Counting: The State of Online Dispute Resolution 2004” M. Conley Tyler, E. Katsh & D. Choi (Eds.), *Proceedings of the Third Annual Forum on Online Dispute Resolution*. University of Massachusetts, March 2005.

Final Quiz

100

Available August 19th, 12:01am – August 25th, 11:59 pm, Central

Grading Criteria – Written Assignments	
% Of Total Points	Description
90-100	Superior performance and exceeds course objectives. Grades in this range will be given only in cases where students went above and beyond an assignment’s requirement, justifying responses with text and other independent research resources, and demonstrating excellent analysis and/or a high degree of creativity.
80-89	This range indicates that students have done satisfactory work (at the lower end) to a good solid job (at the higher end). Students receiving grades in this range should interpret it as it is meant: The student is doing good work with regard to the standards of the standards of the Law School. At this level, the student should present clear writing, conduct solid analysis and/or demonstrate a good degree of creativity.
70-79	Grades in this range indicate that a student has engaged in an assignment/exercise but has not produce satisfactory work. It usually reflects numerous errors in the student’s work, or a single fundamental error in approaching an assignment. Students receiving a grade in this range should view it as a wake-up call. They should contact their instructor if the feedback s/he provided for doing better work is not clear – and take heed of their need to dedicate extra time and effort to their next assignments.
Below 70%	Failure to meet course objectives

Discussion Forum Grading:

The rubric below serves as the basis for assessing your participation in the Discussion forums.

Grading Criteria – Discussion Forums (Primary posts)	
10 points	For 10 points, a posting will thoughtfully consider and respond to the question, using sound argumentation and clear prose. Stellar posting that it is, it will contain virtually no grammatical errors or typos. Not only will such a post engage with the ongoing conversation in a rhetorically suitable fashion, it will foster further discussion on the topic, perhaps exploring new lines of argument or different perspectives. While it does not need to formally cite sources, it will incorporate references to our reading material, and will make use of the language, terms and concepts we have been exposed to so far over the course. It might reference external sources that you have found on your own and brought in to class enrich the discussion. The 10-point post isn't just a response too a question; it is proof that you are facilitating learning both for yourself and your fellow students. While I do not intend to count words, this post is often longer than 200 words. As you might imagine, this post corresponds to an A.
8 pts	The 8 point posting is a competent response to the subject: it is usually 150-200 words long, more or less, it addresses the question, in a sufficient degree of detail, and it contributes to the overall conversation as another voice on the subject. An 8-point posting amounts to a B.
6 pts	This posting reflects a less-than-adequate engagement with the subject, or is brief to an unsuitable degree. It does little to advance the discussion underway, and may even detract from it. This grade reflects the C-range.
0-5 pts	No posting, late posting, or a post that is but the briefest nod toward a response. Any of these will warrant an F-range grade.

The above policy refers to your ‘primary’ post/s, the post in which you directly address the question/s I’ve asked you to relate to. Based on the quality of your work, you might be assigned a grade somewhere in between the different points on the grading scale presented above. In addition, you are required to post responses, in which you engage with your classmates’ posts. These will be assessed both for quality and quantity, as I will explain during the course. **You are required to post *at least one such response post, and are encouraged to post several each week to allow for a meaningful discussion.*** Response posts will earn you up to another additional 10 points. All in all, up to 20 points will be awarded for participation in each of this course’s discussion forums.

Online Conduct

Everyone understands the "code of conduct" implicit in a traditional classroom setting. Online classes also have their own "code of conduct" which consists of the traditional classroom code PLUS what is called "netiquette" - a practical code of behavior for working virtually on the Internet. You should follow these in addition to normal rules of behavior for a classroom setting.

Etiquette

- Be yourself. Do not attempt to be overly formal, or overly persuasive.
- Be willing to accept the views of others, even if they have quite different backgrounds or positions, are not as knowledgeable or capable of expressing themselves in writing, or seem to break some of the rules of netiquette.
- All voices are equal. Bullying any classmate is unacceptable behavior and can result in your dismissal from this course.

Participation

- Behave as you would in a face-to-face classroom.
- Challenge ideas, not people.
- Be forgiving of other people's mistakes.
- Use proper and respectful language and refrain from any off-color jokes, insults, or threats.
- In a web-only course, the instructor is dependent upon your communication. Other students only know of your presence by your communication within the class.
- Respect other people's time and bandwidth.

Tone

- Never resort to "flaming" (insults or personal attacks).
- WRITING IN ALL CAPS is the equivalent of yelling.
- Any derogatory or inappropriate comments are unacceptable and subject to the same disciplinary action that they would receive if they occurred in the physical classroom.

Content

- Think about what you have written before you submit it.
- Respect other people's privacy by not sharing or spreading inappropriate information. If someone posts information that you think may have been posted accidentally, let them know about it privately.
- Share expert knowledge rather than "keeping it to yourself." And share this knowledge with respect rather than using it to put others down.
- But be sure to spend time reviewing your messages before posting to be sure that they are clearly written.
- Remember that the recipient is a human being whose culture, language, and humor have different points of reference from your own. **Be especially careful with sarcasm.**

University Academic Honesty Policy

In keeping with its mission, the University seeks to prepare its students to be knowledgeable, forthright, and honest. It expects and requires academic honesty from all members of the University community. Academic honesty includes adherence to guidelines established by the University, its Colleges and Schools and their faculties, its libraries, and the computer center.

“Academic or academic-related misconduct” includes, but is not limited to, unauthorized collaboration or use of external information during examinations; plagiarizing or representing another’s ideas as one’s own; furnishing false academic information to the university; falsely obtaining, distributing, using or receiving test materials; falsifying academic records; falsifying clinical reports or otherwise endangering the well-being of patients involved in the teaching process; misusing academic resources; defacing or tampering with library materials; obtaining or gaining unauthorized access to examinations or academic research material; soliciting or offering unauthorized academic information or materials; improperly altering or inducing another to improperly alter any academic record; or engaging in any conduct which is intended or reasonably likely to confer upon one’s self or another an unfair advantage or unfair benefit respecting an academic matter.

Further information regarding academic or academic-related misconduct, and disciplinary procedures and sanctions regarding such misconduct, may be obtained by consulting the current edition of the *Creighton University Handbook for Students*. However, students are advised that expulsion from the University is one of the sanctions which may be imposed for academic or academic-related misconduct.

The University reserves the right to modify, deviate from, or make exceptions to the foregoing or to the *Handbook for Students* at any time, and to apply any such modification, or make any such deviation or exception applicable to any student without regard to date of admission application or enrollment.

A good website to reference what constitutes and defines plagiarism is <http://plagiarism.org/>. If you have any questions, please contact me.

Services for Students with Disabilities

Services for students with disabilities are provided to qualified students to ensure equal access to educational opportunities, programs, and activities in the most integrated setting possible. Students must make timely and appropriate disclosures and requests (at least five weeks in advance of a course, workshop, program, or activity for which accommodation is requested or such other reasonable time as the particular circumstance of a request for accommodation warrants). Requests for reasonable accommodations are encouraged to be made as soon as possible after acceptance. Each student may be required to submit medical or other diagnostic

documentation of disability and limitations, and may be required to participate in such additional evaluation of limitations as may appropriately be required by Creighton University or other agencies prior to receiving requested accommodations. The University reserves the right to provide services only to students who complete and provide written results of evaluations and service recommendations to appropriate University personnel. For more information, contact the Dean's Office or the Office of Disability Accommodations at (402) 280-2749

Non-Discrimination Policy

Creighton admits qualified students and hires qualified employees without regard to race, color, age, national or ethnic origin, disability, sex, marital status, or religion.

Its education and employment policies, scholarship and loan programs, and other programs and activities, are administered without unlawful discrimination. The University is taking affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam-era. The University Affirmative Action Director has been delegated the responsibility for coordination of the University's equal rights efforts.

It is also the policy of the University to make all programs and services available to individuals with disabilities. To obtain information on accessibility of buildings and programs or to report problems of accessibility, please contact the Office of the Director of Affirmative Action, Room 232, Administration Building or by telephone (402) 280-3084.

Required Computer Skills, Hardware and Software

Many basic technological skills are necessary when taking an online course. A few of the most relevant skills are listed below:

1. Ability to use Creighton email account, including sending and opening attachments
2. Ability to navigate through the component parts of the BlueLine2 course delivery site
3. Ability to use latest editions of Microsoft Word and Power Point software for completing assignments
4. Ability to access audio/video items from the internet and Creighton's streaming site
5. Ability to use Windows Media Player to view/hear mp3, wma, and digital movies needed for the course

For assistance, you can always turn to DOiT.