

**UNIVERSITY OF UTAH  
COLLEGE OF LAW**

**MEDIATION CLINIC GUIDELINES AND REQUIREMENTS  
FOR STUDENTS AND COOPERATING SUPERVISORS**

**Introduction**

The College of Law conducts this clinical program to instruct law students in alternative dispute resolution theories and skills. Part of that program consists of classroom study and role playing the skills in mock cases. The (accompanying or following) live clinical portion of the program involves each student observing and engaging in ADR practice under appropriate supervision. These Guidelines are intended to sketch out the goals, the methods and the procedures to be followed by the College of Law faculty, the Cooperating Supervisors, and the enrolled students.

**Pre-Requisites**

All enrolled students have already completed a 3-credit course in Lawyering Skills. This course is regularly taught by Prof. Linda Smith, and covers the skills of client interviewing, counseling and negotiating as employed by a lawyer representing a client. Students observe model presentations of these skills and engage in mock role plays during most class sessions. Ultimately students are videotaped in each skill with actor-clients, and receive faculty critique of their videotaped performances. (Skills Syllabus available upon request.)

**Alternative Dispute Resolution -- Accompanying Course**

All students enroll in the 2-credit ADR Course taught each Spring Semester by Prof. James R. Holbrook. This course is limited to students who have completed the Skills pre-requisite. The course assumes a working knowledge of communication skills and negotiation theory. It covers the theories regarding and forms of alternative dispute resolution. Its primary focus is on the students acquiring the skills of a mediator. They observe videotaped mediations, and role play mock mediations with one another. After one month of classroom meetings, students should be ready to begin co-mediating appropriate cases with experienced Supervisors. During the semester the students (and invited Supervisors) may share mediation experiences and problems with one another. Students are instructed to protect confidentiality by masking identities of clients, by raising general or "mock" problems, and by obtaining supervisor assent to presentations when there are questions. (ADR Course Syllabus available upon request.)

## **Observations of Various Mediators**

Experienced mediators are asked to permit students to observe (with client consent) the mediators acting as neutrals in actual cases. Students may observe various mediators working in a range of areas (family, personal injury, employment, business, public facilitation) over the course of the semester.

The student should be permitted to make note of what occurs during the ADR meeting. During breaks in the mediation or following the ADR meeting, the mediator should explain the approaches taken, and address any questions the student may have had. Ultimately the mediator should discuss the propriety of sharing any observations or insights with the ADR class.

## **Mediation Clinic**

### **Observation, Support & Co-Mediation**

Students may enroll in the Mediation Clinic for 2 credits, requiring 100 hours of ADR observation, support work, or experience acting as a neutral. It is our Goal to afford each student an opportunity to spend at least 10 hours mediating or co-mediating dispute(s) in a supervised setting in order to meet proposed certification requirements for mediators. Each student is assigned to one or two Cooperating Supervisors for the purpose of sponsoring observation and training in one problem area, assigning ADR support work (when appropriate) and co-mediating with or supervising the mediation of the student.

Students will need to be available for observation of a Cooperating Supervisor when and where the Supervisor has scheduled a mediation, arbitration or other meeting. The student should also prepare for the ADR meeting as requested by the Supervisor and should assist the supervisor during the ADR meeting if the supervisor so desires. The student is encouraged to observe various mediators in order to develop the student's understanding of different approaches to mediation and of the problem area or areas. The student should observe various mediation sessions conducted by his/her Cooperating Supervisor to better understand at least one area of mediation and to enhance the working relationship of the student and Supervisor leading to co-mediations and the student's solo mediation.

In general the Cooperating Supervisor is asked to mentor only one student, to minimize any disruption to the office and to enhance the development of a mentor-mentee relationship. If, during the course of the semester, the Cooperating Supervisor wishes to make observation opportunities available for additional students, s/he should contact Prof. Smith.

If the Cooperating Supervisor has any questions or concerns; s/he is asked to contact Prof. Smith.

## **Mediation Clinic** **Supportive Work**

A Cooperating Supervisor may assign the student work which the student might usefully perform. This could be screening potential cases, preparing for an arbitration or mediation, or researching arbitration or mediation issues for the Supervisor. The intent of assigning the student such work is to involve the student in the world of practice and to assist the student in learning about ADR.

## **Co-Mediating and Student Mediating**

Each student is paired with a Cooperating Supervisor who is willing to co-mediate or to supervise the student mediating a not-for-profit case. The student and Supervisor will generally mediate in only one setting or problem area. In some instances the student and Supervisor may acquire cases through an existing *pro-bono* mediation program. (For example, the Landlord-Tenant Mediation program or the UADD Employment Mediation program may pair a student with a panel member who is willing to be a Cooperating Supervisor.)

In other instances, at the request of the Cooperating Supervisor, the College of Law administrators (Prof. Smith and the Clinical Program Assistant) may accept referrals of and make appropriate arrangements for such *pro bono* mediations. These mediations will be held at the office of the Cooperating Supervisor. When the College of Law arranges the mediation for the student and paired Cooperating Supervisor, the Cooperating Supervisor will remain responsible to see the mediation is conducted in a professional manner. Should the cooperating Supervisor, client and student wish to audiotape a mediation for educational purposes, the student or Supervisor should inform Prof. Smith or her assistant.

Because the College of Law seeks to make available at least ten (10) hours of mediation experience for each student, a Cooperating Supervisor should be available for at least ten hours of co-mediating or overseeing mediation. Alternatively the Cooperating Supervisor should advise Prof. Smith of such lesser availability so that the student might be paired with more than one supervisor.

The Cooperating Supervisor should arrange to de-brief with the student at some appropriate time following the mediation(s).

## **Problems, Concerns, Requests**

Any problem or concern that arises should be brought to the attention of Prof. Smith. As the only full-time faculty member directly involved in the Clinic, it is her responsibility to oversee its operation. Should the involvement of other faculty or of Prof. Holbrook seem helpful, please let Prof. Smith know and arrangements will be made to address that concern.

## **Mediation Clinic**

## **Preparation and Orientation**

In order for the student to effectively mediate in any setting, it is useful for the student to have a sense of the problem area, the interpersonal dynamics in that area, and the procedures surrounding mediation. Accordingly, Cooperating Supervisors should prepare orientation materials for the students as needed. In some instances this may involve the student participating in a group training session. We invite Cooperating Supervisors to supplement trainings with any relevant materials the Supervisor would like the student to have. Supervisors are asked to consult with Prof. Smith regarding suggested regular orientation materials.

## **Feedback and Record Keeping**

The student is responsible for "logging" all time spent on Clinic activities. The student should indicate whether the time was spent "observing" , assisting through "support work" or "co-mediating" or "mediating." The student should also log time spent in discussion with the supervisor as "supervisory sessions." The student should indicate whether time was spent regarding "mediation" or "arbitration" and the nature of the problem (e.g. "employment discrimination") being handled. The student should not record case names or numbers. The student should not record identifying information.

The student is asked to submit monthly report forms to Prof. Smith summarizing the activities of the month and highlighting any problems or concerns, and well as a brief assessment of particularly valuable learning experiences.

The student is asked to make a class presentation and/or write a "thought" paper based upon the observations and/or mediation experiences. The paper should be masked so as to eliminate any possibility that clients might be identified; the Cooperating Supervisors are invited to consult with the student to insure that no breach of confidentiality occurs.

The Cooperating Supervisor should arrange to de-brief with the student at some appropriate time following the mediation(s). At the conclusion of the semester, the Cooperating Supervisor should provide the student with a critique, including a brief assessment of the student's skills and progress over the term. A written critique should be provided to the student and to Prof. Smith.

## **Thank You!**

Prof. Linda F. Smith 581-4077 (work) or 583-9344 (home)  
Prof. James R. Holbrook 530-7300

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