

**UNIVERSITY OF BALTIMORE SCHOOL OF LAW
FALL 2017**

Course: Mediating Family Disputes: Theory and Practice

For Seminar:

LAW 809-550
Section 4081

For Lecture:

LAW 809A-550
Section 4082

Instructors:

Professor Jane Murphy

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Tuesday 3:00-4:30 any by appointment (preferred)

Professor Robert Rubinson

AL 420

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Office Hours: Tuesday, 3:00-4:15 and by appointment (preferred)

Days/Time: Tuesday, 4:45-7:30 pm

Location: TBA

Course Description:

Using a combination of lecture, discussion, demonstration, and simulation, this course offers students an opportunity to gain knowledge of the theory and practice of mediation. While the course primarily uses mediation of family disputes as a vehicle for teaching mediation, it also provides skills and theoretical grounding for mediating and representing clients in many areas of law. More specifically, the course enables students to explore how mediation is actually conducted in family law and other contexts, critical judgment as to when mediation may or may not be appropriate in individual cases, familiarity with legislation involving mediation, special issues facing mediators in mediation involving family dynamics, the role lawyers can or should play when representing clients before, during, and after mediation, and ethical considerations in the practice of family and other types of mediation.

Course Materials:

Murphy and Rubinson, *Family Mediation: Theory and Practice*
(2nd Edition Lexis/Nexis 2015)
TWEN website: <http://lawschool.westlaw.com>

Student Learning Outcomes:

- Label, compare, and critique different theories of mediation.
- Demonstrate an understanding of the many variations of how mediation is actually conducted in family cases.
Demonstrate skills that promote the practice of effective mediation
- Plan for and evaluate best practices for mediators in family mediation.
- Distinguish when family mediation might or might not be appropriate.
- Show familiarity with legislation involving family mediation and critique the efficacy of such legislation.
- Identify and analyze ethical issues that arise when mediating and when representing clients in mediation.
- Compare, plan for, and compare the role lawyers can or should assume when representing clients before, during, and after family mediation.

Grades:

You have two options regarding grading:

Option 1 (Mediating Family Disputes Seminar)

- 1) In class exercises including quality of preparation and participation in assigned simulations, participation in class discussions and feedback on classmates' simulations, and written assignments for class: 40%
- 2) Mediation observation assignment: 10%
- 3) Scholarly Paper (25 pages) (40%) and class presentation (10%): 50%

Option 2 (Mediating Family Disputes Lecture)

- 1) In class exercises including quality of preparation and participation in assigned simulations, participation in class discussion and feedback on classmates' simulations, and written assignments for class: (40%)
- 2) Mediation observation assignment (10%)
- 3) "Short paper" (8 pages): (30%)
- 4) Take-home examination: (20%)

Course Expectations:

American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work each week for each credit earned in a class, or an equivalent amount of work for other academic activities, such as

simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours.

Students are expected to complete the reading assignments from the text and supplemental materials, to attend each class on time, and to participate in class discussions of readings and problems. **You are expected to consistently participate in class discussion in order to demonstrate that you have read and reflected on issues raised in the assignments. Consistent with the School of Law's Academic Regulations, students are permitted up to two (excused or unexcused) class absences. If you know you will be absent from class, please provide faculty as much notice as possible.**

In addition, each student will play roles in simulations over the course of the semester. Simulations include: a) family law mediations with two parties, two attorneys, and a mediator; b) counseling sessions during which students will describe and advise clients about mediation; c) mediations without attorneys and d) mediations with multiple parties. Students are expected to prepare for their simulation assignments in order to realistically perform their assigned role.

Attendance:

Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowed absences (generally 20% of class sessions) as illustrated below may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools.

Regular Semester Hours		
Credit Hours	Meetings Per Week	
	1	2
2	2 absences	5 absences
3	2 absences	5 absences
4	--	5 absences

Course Website:

This course has a TWEN page that links to this syllabus, announcements, the class assignments, and other class materials. You are responsible for self-enrolling in the TWEN page and for checking it for course information.

Computers:

Students may not use laptop computers in this class.

Class Cancellation:

If the instructor must cancel a class, notices will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule.

Academic Integrity:

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/.

Title IX Sexual Misconduct and Nondiscrimination Policy:

The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

Disability Policy:

If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director of Student Services, at 410-837-5623 or lmetzger@ubalt.edu.

ASSIGNMENTS

A. FAMILY MEDIATION: HISTORY AND THEORETICAL FOUNDATIONS

Week I

August 22

**Introduction/Historical
Overview**

**The Mediation Process: Stages and
Contexts**

**B. THE SKILLS OF THE FAMILY
MEDIATOR**

Week II

August 29

Essential Mediation Skills

Styles of Mediation

1. Facilitative
2. Evaluative
3. Transformative

Simulation: Setting the Stage/Orientation

Week III

September 5

Child Access Mediation

Writing and Researching a Scholarly Paper

Simulation: Gathering Information/Framing Issues

Paper Topic Due

Week IV

September 12

Mediating Financial Issues

1. Divorce and dividing marital property
2. Child support
3. Public assistance benefits

Simulation: Developing Options/Negotiation

Developing a Thesis for a Scholarly Paper

Week V

NO CLASS - Individual Meetings on Paper with Faculty

September 19

Week VI

September 26

Ethical Issues for Family Mediators

1. Sources of Ethics Rules
2. Confidentiality (Uniform Confidentiality Act and Maryland)
3. Conflicts of Interest
4. Mediator "Neutrality"

5. Mediator Qualifications

Simulation: Developing Options/Negotiation Continued

C. CRITIQUES AND CHOICES ABOUT WHEN TO MEDIATE

Week VII

October 3

Deciding Whether to Mediate: When is Family Mediation Appropriate?

1. The “Power Critique”
2. Family Violence/Unrepresented Parties
3. Other Dispute Resolution Options

D. REPRESENTING CLIENTS IN FAMILY MEDIATION

Week VIII

October 10

NO CLASS - Mediation Observation

Week IX

October 17

Preparing Clients for Mediation

Simulation: Counseling Clients about Dispute Resolution Options

Week X

Attorney’s Role in Mediation & Beyond

October 24

1. Representing Clients
2. Ethical Considerations for Attorneys in Family Mediation
3. Judicial Enforcement of Mediated Agreements

Simulation: Representing Clients in a Child Access Mediation

First Draft of Papers Due

E. OTHER DISPUTE RESOLUTION CHOICES IN FAMILYAW

Week XI

October 31

Collaborative Practice

1. Structure and Goals

2. Accommodating Ethical Rules within Collaborative Framework
3. Developing a Collaborative Practice
4. Demonstration: Collaborative Team Meeting

Mediation Observation Paper Due

F. REFINING SKILLS, EXPLORING ISSUES

WEEK XII

November 7

Simulation Bonanza and Establishing a Mediation Practice

Week XIII

November 14

Paper Presentations

Week XIV

November 21

Paper Presentations

Final Draft of Papers Due: December 2

Take Home Exam: Any 48 hours during exam period.