

WESTERN STATE COLLEGE OF LAW

AT WESTCLIFF UNIVERSITY

MEDIATION

Syllabus and Course Policies-Fall 2025

MONDAYS (2-3:50 PM)

Professor: Jeanne Behling, Esq.

Phone: 714.488.8282

Email: behlinglaw@gmail.com

Room: TBD

Required Text: Douglas Frenkel & James Stark, The Practice of Mediation A Video Integrated Text, Fourth Edition (Aspen 2025)

Course Level Learning Outcomes:

During this semester, students will:

- A. Master the Mediation Process: Learn to use mediation as a method for dispute resolution and in the process of preparation for mediation they will learn to identify factual and legal issues in a fact pattern, and they will become familiar with the necessary preparation required to understand a case well enough to advise a client at mediation.
- B. Identify Barriers to Resolution: Learn to identify and understand common issues which can prevent resolution and how mediation can address and overcome the issues.
- C. Communication: Learn written and verbal communication and negotiation skills.
- D. Communication: Learn to verbally communicate with clients
- E. Communication: Learn to recognize and be aware of body language and be sensitive to cultural differences in verbal communication and body language.
- F. Communication: Learn to anticipate emotional issues and handle emotional situations to best represent and assist clients.
- G. Communication: Learn how to be aware of body language, bias, cultural differences, handling emotion and negotiating with opposing counsel and mediators.
- H. Counsel Clients: Learn to keep clients informed about mediation strategies, procedures and tactics prior to and during mediation.
- I. Ethics: Learn to ethically present and negotiate as well as ethically handle requests by clients.

- J. Prepare and Reflect: Learn to plan for their mediation role play and reflect on how decisions made during the mediation were effective and what changes a student would choose in the future.

Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Library Building, Room 275-B. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific

requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Marisa Cianciarulo at mcianciarulo@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

Schedule: Fall 2025

All students should anticipate that preparation for the class will require approximately four hours per week, or two hours for every hour of class. Reading the textbook and watching the videos that accompany the textbook are essential.

<u>Date</u>	<u>Topic</u>	<u>Reading/Assignment</u>
August 11		<u>NO CLASS-will discuss need for makeup</u>
August 18	Intro	Reading Chapter 1 and 3
August 25	Mediator Skills and Preparation	Reading Chapter 4-5 Student video presentations
September 1	No Class	Labor Day
September 8	Opening the Process	Reading Chapter 6 Homework Due: Opening Statement Student video presentations
September 15	Expanding Information	Reading Chapter 7 Student video presentations
September 22	Framing and Agenda	Reading, Chapter 8 Student video presentations
September 29	Negotiating	Reading Chapter 2 Student video presentations
October 6	Finding Resolution	Reading, Chapters 9-10
October 13	Remote Mediations, Closure	Reading, Chapter 12 Mediation Groups Assigned
October 20	No Class	Fall Break
October 27	Planning and Pre-Mediation Conferences, Ethics	Reading, Chapters 13 and 14
November 3	Open	Mediation Groups will conduct their mediations

November 10	Open	Mediation Groups will conduct their mediations
November 17	Open	Mediation Groups will conduct their mediations
November 24	Representation	Reading, Chapter 15
December 1	No class	Final Papers Due

GRADING

Class Participation	25%
Analysis of Assigned Video from Textbook	15%
Paper-Mediation Evaluation	40%
Paper-Mediation Opening Statement (original and final version)	20%

Analysis of Video

Students will be assigned to review and discuss one or two of the various videos that are part of the text. Discussions can include tone, body language, mediation style, and general comments about the effectiveness of the mediator as shown in the video clip. Written notes for the presentation must be provided to the instructor in advance of the presentation.

Paper-It is a combination of self reflection and comparison of mediators when the student participated as either a plaintiff or a defendant.

The paper is intended to be a reflection upon the mediation process. The student will have at least two opportunities to act as a mediator in a role play and several opportunities to observe their peers as mediators. The instructor will watch portions of all of the role plays to give feedback. Students will also evaluate their own participation and mediation groups will be able to discuss the mediation and some of the difficulties and pivotal moments.

The paper should include information about the mediator's opening, whether the mediator used joint or separate sessions and why, the mediator's anticipated agenda and an analysis of the actual mediation and whether it followed the mediator's plan, and if not, how did the mediator adjust. The paper should address whether a resolution was reached and should identify what went well in the mediation and what did not go well. The paper should have a section identifying lessons learned that will be helpful to the mediator in the future.

This section of the paper will compare the two mediators in the mediations in which the student served as a party. The paper should describe why the mediations proceeded as they did: address topics such as preparation, communication skills, the final result, and the tone and style of the mediations. The paper should emphasize lessons learned that will be helpful for the future.

The Mediation Paper should be 8 to 10 pages in length, double spaced and type written. It is recommended that the paper include references to the text, and/or in class mediations, and/or lectures and/or the videos. Papers may be submitted in hard copy or electronically.

Class Participation

Students are expected to attend class and to engage in the discussions, simulations and role playing. Students are expected to arrive on time, turn off their cell phones and use laptops for notes only. Students will be encouraged to close their laptops and be present in class discussions.

Opening Statement

Students will write a draft opening statement. Students will have an opportunity to practice the statement in class and modify as needed. Students will turn in the original and the final version of their opening statement that they perfected after doing the role play mediations and their out of class mediation. The final opening statement will be graded.