



THE UNIVERSITY OF
SYDNEY

Centre for Peace and Conflict Studies

PACS6928

Community Mediation: Theory and Practice



COURSE MANUAL

**Course Co-ordinators
Mr Abe Quadan & Dr Spase Karoski**

Sydney Summer School 2011

© This Manual was developed and written by Abe Quadan and Kathleen Dan.

COURSE OUTLINE

Staff:

Mr Abe Quadan (Coordinator)
Dr Spase Karoski

abe.quadan@sydney.edu.au
spase.karoski@det.nsw.edu.au

Course Dates:

STREAM A

Day 1 – 21 January
Day 2 – 31 January
Day 3 – 1 February
Day 4 – 2 February
Day 5 – 3 February
Day 6 – 4 February

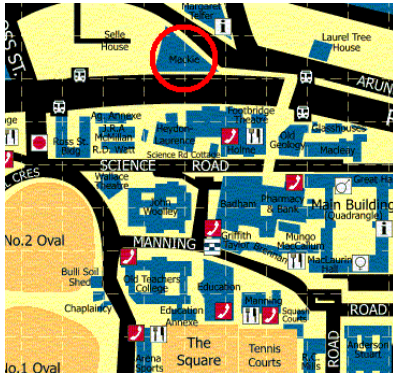
STREAM B

Day 1 – 21 January
Day 2 – 7 February
Day 3 – 8 February
Day 4 – 9 February
Day 5 – 10 February
Day 6 – 11 February

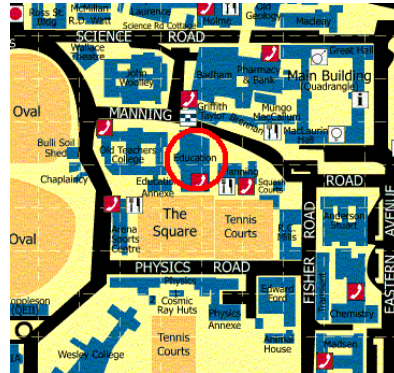
Time: 9:00am – 4:30pm

Course Venue:

STREAM A and STREAM B
21 January
Room 114, Mackie Building,
Arundel St.



STREAM A: 31 January – 4 February
STREAM B: 7 – 11 February
Room 458, Education Building,
Manning Rd.



Course Materials:

This unit of study requires the purchase of this Course Manual. Other handouts and recommended readings may be provided in class and via the WebCT set up for this unit. A reading list is also provided in this Course Manual (see pages 25-26).

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Introduction

WELCOME

Welcome to *Community Mediation*. This unit of study will focus on the theory and practical application of facilitation, communication and conflict resolution skills in a community mediation context. You will learn about various models of community mediation and will become skilled in the stages of community mediation through role plays and simulation exercises. Successful completion of this unit of study will equip you for possible accreditation as a community mediator in Australia, as well as providing you with transferable skills and knowledge about mediation.

This 6-day course in Community Mediation will provide you with:

- a structure for conducting mediations
- the ability to adopt an impartial role as mediator
- a framework on which to build further skills.

At the end of this course you should be able to plan and set up a mediation session and manage the various stages of the process competently. You will also be aware of the skills and strategies required for all stages of the process.

The course also provides an excellent conceptual framework and general skills for people engaged in work related to mediation without necessarily playing the formal role of mediator.

The learning approach

This course is designed to be experiential and interactive. It includes:

- formal presentations and demonstrations
- group discussion and debriefing
- structured exercises
- simulated role plays
- coaching and feedback

As part of this unit you will have the opportunity to be individually coached by experienced mediators who are trained to supervise role plays and provide constructive feedback. Their role is to support and coach you as you develop new skills.

To learn effectively however, you need to be able to take risks. In order to do this it will be important to demonstrate:

- respect for each other's views and opinions
- willingness to participate along with a 'right to pass'
- openness to feedback.

Overall, relax and enjoy the learning experience.

THE COURSE CO-ORDINATORS

ABE QUADAN



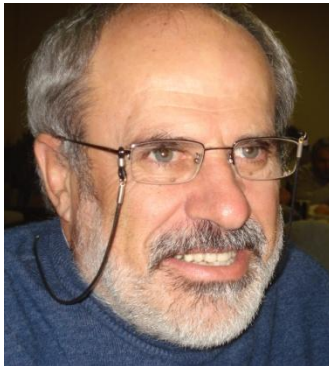
Abe has been an ADR practitioner for over 25 years. He has a Master of Dispute Resolution and an Associate Diploma in Welfare Work. Abe is an accredited mediator, mentor and trainer as well as an accredited Transformative Justice practitioner.

Abe has extensive management experience with the Department of Community Services with whom he still works. In addition to this he delivers mediation skills workshops to organisations such as the

Centre for Peace and Conflict Studies (CPACS), University of Sydney.

Abe is a member of the CPACS Council and is an Executive Member of the Sydney Peace Foundation.

Dr SPASE KAROSKI



Dr Spase Karoski has a breadth of background as a sociologist, social worker and educator. He has completed a PhD in Sociology, Masters of Arts in Sociology and Anthropology, Bachelor of Social Work, Bachelor of Arts, Graduate Diploma in Education, Diploma in Welfare Work, Graduate Certificate in Frontline Management, and Certificate IV in Workplace Training and Assessment.

Spase has been an accredited mediator since 1985. He has continued to engage with matters related to mediation, particularly in the area of training.

Spase has over 20 years experience in the VET educational sector, with 15 years experience as a head of school in the Community Services Section Sutherland TAFE. He has also taught at the University of Wollongong in the sociology program.

Day 1
21 January 2011

Session

INTRODUCTION

- Group introductions
- Course outline
- Course requirements re: assessments
- Accreditation standards

MORNING TEA

What is Conflict?

- Dispute vs Conflict
- Defining Conflict
- Causes/Underlying issues
- Types of Conflict
- Consequences of Conflict
- Responses to Conflict

LUNCH

**THE FOUNDATION
BLOCKS OF MEDIATION**

- What is mediation
- Other forms of ADR
- The mediation process
- The role of the mediator

Day 2	
Session	
Introduction	Personal introductions Introduction to the day's program
THE FOUNDATION BLOCKS OF MEDIATION	<ul style="list-style-type: none"> ▪ Interest based negotiations ▪ Negotiations styles ▪ Narrative Mediation ▪ Transformative Mediation
CULTURAL Issues in Medication	<ul style="list-style-type: none"> ▪ Working with interpreters ▪ Cultural Competency Model ▪ Mediating cultural issues
MORNING TEA	
THE PROCESS IN PRACTICE	<ul style="list-style-type: none"> ▪ Fishbowl mediation demonstration
LUNCH	
	<ul style="list-style-type: none"> ▪ Debrief and discussion
STAGE 1 Theory	Pre-mediation – the preliminary conference
STAGE 1 Practice	<ul style="list-style-type: none"> ▪ Fishbowl pre-mediation demonstration ▪ Debrief
AFTERNOON TEA	
STAGE 2 Theory Practice	<ul style="list-style-type: none"> ▪ The opening statement ▪ Role plays

Day 3	
Session	
REVIEW OF DAY 2 9.00 am	
STAGES 3, 4 & 5 Theory and Practice	Parties opening statements Summarising List of issues <ul style="list-style-type: none"> ▪ Role Plays – small groups ▪ Debrief – small groups and then large group
MORNING TEA	
Stage 6 Theory and Practice	Exploration <ul style="list-style-type: none"> ▪ Role Plays – Small Groups ▪ Debrief – small groups and then large group
LUNCH	
Stage 7 Theory and Practice	Private Sessions <ul style="list-style-type: none"> ▪ Role Plays – small groups ▪ Small group debrief ▪ Large group debrief
AFTERNOON TEA	
STAGES 8 & 9 Theory and Practice	Post Private Session Negotiation Agreement <ul style="list-style-type: none"> ▪ Role Plays – small groups ▪ Small group debrief ▪ Large group debrief

Day 4	
Session	
REVIEW OF DAY 3 9.00 am	
ETHICAL CONSIDERATIONS	<ul style="list-style-type: none"> ▪ Professional practice for mediators
MEDIATOR SKILLS	<ul style="list-style-type: none"> ▪ Reframing ▪ Questioning ▪ Reality testing ▪ Option generating ▪ Dealing with impasses
MORNING TEA	
CO-MEDIATION	<ul style="list-style-type: none"> ▪ The roles of co mediators ▪ Role Play – small groups ▪ Small group debrief ▪ Large group debrief
LUNCH	
REVIEWING THE MEDIATION PROCESS	<ul style="list-style-type: none"> ▪ The mediators' role at each stage of the process. ▪ The impact on the parties' thinking, feeling, action & behaviour.
AFTERNOON TEA	
Coaching (practice)	<ul style="list-style-type: none"> ▪ Coaching/assessment explanation and discussion ▪ Questions ▪ Going through Manual

Day 5

Session

Review of Day 4

**COACHES
INTRODUCTION**

MORNING TEA

**CO-MEDIATION ROLE
PLAYS
COACHING &
ASSESSMENT**

- Role Plays– small groups
- Small group debrief with coach

LUNCH

**CO-MEDIATION ROLE
PLAYS
COACHING &
ASSESSMENT**

- Role Plays – small groups
- Small group debrief with coach

AFTERNOON TEA

DEBRIEF

5.00 pm

- Debrief
- Feedback from coaches
- Wrap up
- Evaluations

Day 6

Session

COACHES INTRODUCTION

SOLO MEDIATION

- Role Plays – small groups
- Small group debrief with coach

MORNING TEA

SOLO MEDIATION

- Role Plays – small groups
- Small group debrief with coach

LUNCH

SOLO MEDIATION

- Role Plays – small groups
- Small group debrief with coach

AFTERNOON TEA

DEBRIEF

5.00 pm

- Debrief
- Feedback from coaches
- Wrap up
- Evaluations

ROLE PLAY GUIDELINES

As part of your assessment requirements you need to participate in at least 9 role plays and in at least 3 of these you are required to take the role of mediator. In the others you will take on the role of a 'party'.

On both Day 5 and Day 6 you will have the opportunity to conduct a 1.5 hour mediation – one where you will be a co-mediator and the other a solo mediator. During these mediations you will receive detailed written feedback from a coach who is an accredited mediator. Again, you will also play the role of a 'party' in the other mediations during these 2 days. This role is also an important learning experience and needs committed participation.

Most people find the role play component one of the most useful aspects of the course even though for many people it can be unnerving. To help make the role play aspect of the course as beneficial as possible please consider the following pointers:

- **Prepare for the role** be it the mediator or the party, as much as you can. You will be given information about each mediation including *Common Facts*, known to all parties, and *Individual Facts* for the 'party' you are playing.
- **Allow the thespian in you to emerge.** The more 'real' you are in the 'party' role, the easier the role play becomes. Feel free to improvise to an extent that is consistent with the character.
- **Pace the information you reveal.** As a 'party' avoid giving out all your information at once. Allow the mediator to ask questions and create opportunities for you to explore what's important for you.
- **Manage your expectations.** You do not need to reach a signed agreement nor is that expected. Mediation in real life generally take several hours so be realistic about what you might achieve in an hour and a half.
- **Relax and enjoy.** Remember that this is a learning experience. If you feel a little apprehension be assured you are in good company – it's very normal. As Susan Jeffers says, *feel the fear and do it anyway*.

GIVING FEEDBACK

Throughout the course you will have the opportunity to provide feedback at the end of each role play. Your feedback is a gift and therefore needs to be delivered in the best possible way. Constructive feedback will help others develop in their role as mediator. Positive feedback without detailed examples can be easily interpreted as platitudes.

- Refer to the behaviour specifically not the person [focus on behaviour not the person]
- Base feedback on direct observations rather than inferences
- Use concrete behavioural descriptions not judgements to describe both positives and negatives.
- Use graduations, not 'all', 'none', 'never'
- Speak in here and now
- Share ideas rather than giving advice
- Give feedback that is useful to the receiver and about things they can change, rather than getting everything off your own chest
- Give the amount of information that can be used not the amount that can be given [overload]

Accreditation

MEDIATOR APPROVAL STANDARDS

FOR MEDIATORS SEEKING APPROVAL UNDER THE NATIONAL MEDIATOR ACCREDITATION SYSTEM

http://www.ama.asn.au/Final_Approval_Standards_200907.pdf

Approval Standards

1 Application

1) These Approval Standards apply to any person who voluntarily seeks to be accredited under the National Mediator Accreditation System ('the system') to act as a mediator and assist two or more participants to manage, settle or resolve disputes or to form a future plan of action through a process of mediation. Practitioners who act in these roles are referred to in these Approval Standards as mediators.

2) The Approval Standards:

- a) specify requirements for mediators seeking to obtain approval under the voluntary national accreditation system; and
- b) define minimum qualifications and training; and
- c) assist in informing participants, prospective participants and others what qualifications and competencies can be expected of mediators.

3) As a condition of ongoing approval, mediators must comply with the Practice Standards and seek re-approval in accordance with these Approval Standards every two years. These Approval Standards should be read in conjunction with the Practice Standards that apply to mediators.

4) Mediation can take place in all areas where decisions are made. For example, mediation is used in relation to commercial, community, workplace, environmental, construction, family, building, health and educational decision making. Mediation may be used where there is conflict or may be used to support future decision making. Mediators are drawn from diverse backgrounds and disciplines. Mediation may take place as a result of Court or Tribunal referral, pre-litigation schemes, through industry schemes, community-based schemes as well as through private referral, agency, self or other referral. These Approval Standards set out minimum voluntary accreditation requirements and recognise that some mediators who practice in particular areas, and/or with particular models, may choose to develop or comply with additional standards or requirements. Mediators may practice as 'solo' mediators or may co-mediate with another mediator.

2 Description of a Mediation Process

1) A mediation process is a process in which the participants, with the support of a mediator, identifies issues, develop options, consider alternatives and make decisions about future actions and outcomes. The mediator acts as a third party to support

participants to reach their own decision.

2) The mediator[s] may assist the participants to:

- a) communicate with each other; and
- b) identify, clarify and explore disputed issues; and
- c) generate and evaluate options; and
- d) consider alternative processes for bringing any dispute or conflict to a conclusion; and
- e) reach an agreement or make a decision about how to move forward and/or enhance their communication in a way that addresses participants' mutual needs with respect to their individual interests based upon the principle of self determination.

3) Mediation processes are primarily facilitative processes. The mediator provides assistance in managing a process which supports the participants to make decisions about future actions and outcomes.

4) Some mediators may also use a 'blended' process that involves mediation and incorporates an 'advisory' component, or a process that involves the provision of expert information and advice, where it enhances the decision-making of the participants provided that the participants agree that such advice can be provided. Such processes may be defined as 'conciliation' or 'evaluative mediation.' Practitioners who manage such processes and provide expert advice are required to have appropriate expertise (see Section 5 (4) below) and obtain clear consent from the participants in respect of undertaking any 'blended' advisory process.

5) Mediation processes are a complement to, not a substitute for, the need for participants to obtain individual legal or other expert advice and support. Mediation processes may not be appropriate for all individuals or all circumstances.

3 Approval Requirements for Mediators

1) A mediator manages processes aimed at maximising the participants' own decision making. The mediator must have personal qualities and appropriate life, social and work experience to conduct the process independently and professionally.

To be accredited, the Recognised Mediation Accreditation Body (RMAB) requires a mediator to provide the following:

- a) evidence of good character (see Section 3(2) below); and
- b) an undertaking to comply with ongoing practice standards and compliance with any legislative and approval requirements (see Section 3(3) below); and
- c) evidence of relevant insurance, statutory indemnity or employee status (see Section 3(4) below); and
- d) evidence of membership or a relationship with an appropriate association or organisation that has appropriate and relevant ethical requirements, complaints and disciplinary processes as well as ongoing professional support (see Section

3(5) below); this may be the RMAB itself but may also include other relevant memberships or relationships; and
e) evidence of mediator competence by reference to education, training and experience (see Section 4 below).

2) RMABs require mediators who apply to be accredited to provide evidence of 'good character.' With respect to the requirement to be of 'good character', RMABs may, for example, request mediators to:

- a) provide evidence that they are regarded as honest and fair, and that they are regarded as suited to practice mediation by reference to their life, social and work experience, for example, by seeking references from two members of their community who have known them for more than three years; and
- b) show that they can meet the requirements of a police check in the State or States or Territory or Territories in which they practise; and
- c) show that they are without any serious conviction or impairment that could influence their capacity to discharge their obligations in a competent, honest and appropriate manner; and
- d) show that they are accredited with an existing scheme that has existing 'good character' requirements that they comply with (for example, by referring to existing Law Institute, Law Society, Bar or Family Dispute Resolution Practitioner accreditation where relevant); and
- e) satisfy the RMAB that they do not come into the category of a 'prohibited person' (or its equivalent) as defined in a particular jurisdiction and also not be disqualified to practice by another professional association relating to any other profession (for example, a Law Society or a Medical Association) or must explain to the RMAB the circumstances under which they have previously been removed or suspended from acting as a mediator under these standards.

3) The mediator must undertake to the RMAB to comply with any relevant legislation, these Practice and Approval Standards and any other approval requirements that may relate to particular schemes.

4) In respect of the insurance, indemnity or employed status requirements, the mediator must provide the RMAB with evidence of their current status. This may be provided in a range of ways, for example, by a letter setting out any relevant employee status, or by showing how indemnity applies, or by showing proof of membership that incorporates insurance status, or by the mediator naming their insurer, providing an insurance policy number and its expiry date or, through some other relevant document. If a mediator wishes to practice using a 'blended' model and in an advisory manner, the mediator must hold additional insurance relating to the provision of expert advice or must indicate how existing insurance, statutory or other immunities apply.

5) An RMAB must have the following characteristics:

- a) more than ten mediator members accredited under the National Mediator Accreditation System; and

- b) provision of a range of member services such as, an ability to provide access to or refer mediators to ongoing professional development workshops, seminars and other programs and debriefing, or mentoring programs; and
- c) a complaints system that either meets Benchmarks for Industry-based Customer Dispute Resolution or be able to refer a complaint to a Scheme that has been established by Statute; and,
- d) sound governance structures, financial viability and appropriate administrative resources; and,
- e) sound record-keeping in respect of the approval of practitioners and the approval of any in-house, outsourced or relevant educational courses; and,
- f) the capacity and expertise to assess training and education that may be offered by a range of training providers in respect of the training and education requirements set out in these Standards.

An RMAB can be a professional body, a mediation agency or Centre, a Court or Tribunal, or some other entity.

4 Training and Education

1) Mediators must demonstrate to an RMAB that they have appropriate competence by reference to applicable practice standards, their qualifications, training and experience. It is not necessary for the RMAB to provide education and training to individual mediators (see Section 5 below). Training and education may be provided by organisations other than RMABs, such as, industry training providers, universities and other training providers.

2) A mediator is required to meet the threshold approval requirements detailed below (see Section 5 below), as well as ongoing professional education requirements. A mediator who uses a 'blended' process and provides information or advice in the context of a 'blended' process must be competent to do so and possess the appropriate skills, knowledge and expertise.

5 Threshold Training and Education Requirements

1) Unless 'experience qualified' (see Section 5 (3) below), from 1 January 2008, a mediator must have completed a mediation education and training course that:

- a) is conducted by a training team comprised of a at least two instructors where the principal instructor[s] has more than three years' experience as a mediator and has complied with the continuing accreditation requirements set out in Section 6 below for that period and has at least three years' experience as an instructor; and
- b) has assistant instructors or coaches with a ratio of one instructor or coach for every three course participants in the final coached simulation part of the training and where all coaches and instructors are accredited; and
- c) is a program of a minimum of 38 hours in duration (which may be constituted by more than one mediation workshop provided not more than nine months has

passed between workshops), excluding the assessment process referred to in Section 5(2) below; and

d) involves each course participant in at least nine simulated mediation sessions and in at least three simulations each course participant performs the role of mediator; and

e) provides written, debriefing coaching feedback in respect of two simulated mediations to each course participant by different members of the training team.

2) Unless 'experience qualified' (see Section 5(3) below), from 1 January 2008, a mediator must also have completed to a competent standard. a written skills assessment of mediator competence that has been undertaken in addition to the 38-hour training workshop referred to above, where mediator competence in at least one 1.5 hour simulation has been undertaken by either a different member of the training team or a person who is independent of the training team. The written assessment must reflect the core competency areas referred to in the Practice Standards. The final skills assessment mediation simulation may be undertaken in the form of a video or DVD assessment with role players, or as an assessed exercise with role players. The written report must detail:

a) the outcome of the skills assessment (in terms of competent or not yet competent); and

b) relevant strengths and how they were evidenced; and

c) relevant weaknesses and how they were evidenced; and

d) relevant recommendations for further training and skills development.

3) 'Experience qualified' practitioners are those who have been assessed by an RMAB as demonstrating a level of competence by reference to the competencies expressed in the Practice Standards. An experience qualified mediator must either:

a) be resident in a linguistically and culturally diverse community for which specialised skills and knowledge are needed and/or from a rural/or remote community where there is difficulty in attending a mediation course or attaining tertiary or similar qualifications; or

b) have worked as a mediator prior to 1 January 2008 and have experience, training, and education that satisfies an RMAB that the mediator is equipped with the skills, knowledge and understandings set out in the core competencies referred to in the Practice Standards, and who has met the continuing accreditation requirements set out in Section 6 below in the 24 months prior to making an application.

4) Practitioners who seek to offer advice through the use of a 'blended' process such as conciliation or advisory or evaluative mediation must also provide evidence to the RMAB of:

a) their continuing registration, membership or equivalent within the professional area in which advice is to be given, and

b) completion of an appropriate degree, or equivalent qualification in the area of their expertise from a university or former college of advanced education, or at

least four years equivalent full-time duration, or a VET-approved organisation to a National Framework Level 6 standards; and
c) a minimum of five years' experience in the professional field in which they seek to provide advice.

6 Continuing Accreditation Requirements

1) Mediators who seek to be reaccredited must satisfy their RMAB that they continue to meet the approval requirements set out in Section 3 of this document. In addition mediators seeking re accreditation must, within each two-year cycle, provide evidence to the RMAB that they have:

a) sufficient practice experience by showing that they have either:

- i) conducted at least 25 hours of mediation, co-mediation or conciliation (in total duration) within the two-year cycle; or,
- ii) where a mediator is unable to provide such evidence for reasons such as, a lack of work opportunities (in respect of newly qualified mediators); a focus on work undertaken as a dispute manager, facilitator, conflict coach or related area; a family, career or study break; illness or injury, an RMAB may require the mediator to have completed no less than 10 hours of mediation, co mediation or conciliation work per two-year cycle and may require that the mediator attends 'top up' training or reassessment;

and,

b) have completed at least 20 hours of continuing professional development in every two-year cycle that can be made up as follows:

- i) attendance at continuing professional development courses, educational programs, seminars or workshops on mediation or related skill areas as referred to in the competencies (see the Practice Standards) (up to 20 hours);
- ii) external supervision or auditing of their clinical practice (up to 15 hours);
- iii) presentations at mediation or ADR seminars or workshops including two hours of preparation time for each hour delivered (up to 16 hours);
- iv) representing clients in four mediations (up to a maximum of 8 hours);
- v) coaching, instructing or mentoring of trainee and/or less experienced mediators (up to 10 hours);
- vi) role playing for trainee mediators and candidates for mediation assessment or observing mediations (up to 8 hours);
- vii) mentoring of less experienced mediators and enabling observational opportunities (up to 10 hours).

2) Ongoing accreditation as a mediator requires the mediator to meet the practice standards and competencies described in the Practice Standards. An RMAB has

discretion to remove or suspend a mediator in circumstances where it believes, on the balance of probabilities, that there has been non compliance with the Practice Standards, other relevant ethical guidelines or professional requirements, or these Approval Standards. In relation to any removal or suspension, a mediator must be informed within 14 days of the concerns of the RMAB and provided with an opportunity to respond to the RMAB. The RMAB must have a process in place to deal with removal and suspension or must be able to provide access to a process where such decisions can be made in a procedurally fair manner.

Assessment

ASSESSMENT REQUIREMENTS

1. 50% - Course participation, role plays and the Reflective Journal
2. 50% - One 3000 word essay due on 11 March 2011

Course participation, Reflective Journal and role-plays – 50%

For course participation marks we will look for regular attendance; an honest effort in the role-plays; evidence of reflection about the exercises and improvement in skill levels; evidence that you have read the relevant materials; application of your reading to class discussion. Quantity of participation is not a criterion.

You should keep a Reflective Journal during the course which should include your reflections on what you have learned from the various skills exercises and what you would do differently if you could try that exercise again. The journal does not need to be extensive, nor should it take a great deal of your time to complete. It helps your learning if you think consciously about the skills you are acquiring and how you might improve them (both during and after the course.) You may be able to integrate some of these reflections with your essay. The Journal is a formative assessment and is part of the summative assessment for the course.

The Essay – 50%:

You may choose your own essay topic, after consultation with the course co-ordinators, or choose from the essay list. Your essay should demonstrate that you have reflected upon what you have learned about mediation skills in the course, integrating that understanding with the literature on mediation practice. Note that you are expected to read and research for this essay as you would for any scholarly essay, including proper academic referencing and a bibliography of works cited.

Please refer to the **CPACS Assignment Presentation and Assessment Guidelines** for further information about presentation and submission of written assignments, referencing styles, extensions, late penalties and marking procedures.

ESSAY QUESTIONS

1. Topic of your choice
2. Court ordered mediation. Mediation is a voluntary process. Reconcile these two statements.
3. An impartial mediator: fact or fiction?
4. Discuss the role of confidentiality and apply the discussion to three types of mediation e.g. workplace, court ordered etc
5. Compare and contrast interest based, transformative and narrative mediation.
6. Discuss the skills common to both mediation and counselling and where mediation and counselling diverge.
7. Discuss the ethical considerations in the mediation process and strategies the mediator can utilise to ensure ethical practice.
8. Explore the role of the mediator in managing the power dynamics in mediation.

READING LIST

1. Hilary Astor and Christine Chinkin, *Dispute Resolution in Australia* 2nd edition, Butterworths, Sydney, 2002.

This recommended text is not a skills book but a scholarly treatment of dispute resolution in general. In particular see Chapter One on theory issues and Chapter Five on mediation. The extensive bibliography is a good research resource.

2. Laurence Boulle, *Mediation: Principles, Process, Practice* 2nd edition, Butterworths, Sydney, 2005.

This is a scholarly treatment of dispute resolution – mostly about mediation.

3. David Spencer and Tom Altobelli, *Dispute Resolution in Australia: Cases, Commentary and Materials*, Lawbook Co., 2005.

This is a collection of materials on a range of dispute resolution methods with case studies and commentaries.

Mediation books with skills content

[\(search for these titles via Library catalogue search, unless stated otherwise\)](#)

1. Mennonite Conciliation Service, *Mediation and Facilitation Training Manual* 4th edition, ed. Carolyn Schrock-Shenk, MCS, Akron, Pennsylvania, 2000. (see www.mcc.org)

A skills manual. The Mennonites, like the Quakers, have an extensive reputation in dispute resolution. A copy is in the library.

2. Christopher Moore, *The Mediation Process: Practical Strategies for Resolving Conflict* 3rd edition, Jossey-Bass, San Francisco, 2003.

One of the most respected US texts on mediation, now in its third edition.

Note the Jossey-Bass website for many more US texts on mediation and ADR.

3. Bernard Mayer, *The Dynamics of Conflict Resolution: A Practitioner's Guide* Jossey-Bass, San Francisco, 2000.

Another good US skills book – thoughtful and well written.

4. Peter Condliffe, *Conflict Management: A Practical Guide* 2nd edition, Lexis Nexis Butterworths, Sydney, 2002.

A quirky combination of skills and theory from an Australian mediator.

5. Ruth Charlton, *Dispute Resolution Guidebook*, Law Book Co, Sydney, 2000.

An Australian book that goes beyond basic skills and considers ADR in specific areas of application. Includes a significant section on facilitation.

6. Gregory Tillett and Brendan French, *Resolving Conflict: A Practical Approach* 3rd edition, Oxford UP, Melbourne, 2006.

This is a good Australian text with strong analysis of the nature of conflict with material relevant to conflict in organisations and workplace conflict.

7. Roger Fisher, William Ury and Bruce Patton, *Getting to Yes*, 2nd edition, Random House, Sydney, 2003.

A classic book on negotiation advocating the win/win approach.

8. Allan Parker, *The Negotiator's Toolkit*, Peak Performance, Sydney. (see http://www.peakpd.com/pub_negtoolkit.html)

A hands-on practical approach to negotiation filled with ideas to develop your toolkit.

9. David B. Moore and John M. McDonald, *Transforming Conflict in Workplaces and Other Communities*, Transformative Justice Australia, Sydney, 2000.

This book examines a process for dealing with conflict in a constructive manner. It looks at Community Conferencing as a means of a healing process for victims of crime as much as for perpetrators of crimes. The book introduces the core principles of conflict transformation.

10. Bernard S. Mayer, *The Dynamics of Conflict Resolution: A Practitioner's Guide*, Jossey-Bass, San Francisco, 2000.

The author presents a particularly unique perspective on the resolution of disputes and the prevention of conflict. The book helps the reader develop more skilful ways to resolve conflicts.

11. Forrest S. Mosten, *Mediation Career Guide: A Strategic Approach to Building a Successful Practice*, Jossey-Bass, San Francisco, 2001.

A helpful book if you are thinking about starting your own consultancy in mediation.

12. William Ury, *Getting Past No*, Random House, Sydney, 1999.

Riding on the coat tails of *Getting to Yes* this book provides techniques for dealing with difficult parties.

Particular approaches to mediation

1. Linda Fisher and Mieke Brandon, *Mediating with Families: Making the Difference*, Prentice Hall, Sydney, 2002.

An Australian practitioner's book on family mediation.

2. John Haynes and Stephanie Charlesworth, *The Fundamentals of Family Mediation*, Federation Press, Sydney, 1996.

A family mediation skills book co-written by a US and an Australian author.

3. John Winslade and Gerald Monk, *Narrative Mediation : A New Approach to Conflict Resolution*, Jossey-Bass, San Francisco, 2001.

A skills book that describes a particular approach to mediation

4. Robert A. Baruch Bush, Joseph P. Folger, *The Promise of Mediation: The Transformative Approach to Conflict*, Revised Edition, Jossey-Bass , San Francisco, 2004.

The textbook on transformative mediation.

Useful web resource

A useful website may be accessed through the law school library website – click Law Web Resources, Web Resources by Topic, Dispute Resolution. Or go to http://www.weblaw.edu.au/weblaw/display_page.phtml?WebLaw_Page=Dispute+Resolution

This site will provide you with links to a wide range of useful DR web sites.

Journals include *Mediation Quarterly*, *Mediation in Practice* and *ADR Bulletin*.

ASSESSMENT CRITERIA

Fail (Below 50%): Doesn't answer the question. Work may fail for any or all of the following reasons:

- Few or no identifiable arguments.
- No original research.
- Content that is inappropriate or irrelevant because the student has not attempted to answer the question.
- Plagiarism, inappropriate use of other student work, including 'recycling' all or a significant part of a paper which has already been given credit in another course.
- Difficult or impossible to understand through poor grammar, expression or structure.
- Significant or numerous errors.

Pass (50-64%): Attempts to answer the question.

- Offers descriptive summary of material relevant to the question.
- Attempts to answer the question, but does not follow through with a reasoned argument.
- Displays no real engagement with the issues.
- Superficial use of material, tendency to paraphrase.
- Shows no evidence of in-depth research.
- Some important errors.
- Adequate expression.

Credit (65-74%): Mostly answers the question.

- Contains no significant errors and covers main issues fairly well.
- Attempts a critical approach to the issues.
- Demonstrates independent research appropriate to addressing the main issues.
- Only minor errors if any.
- Has a clear structure and reasonably clear expression.

Distinction (75-84%): Completely answers the question.

- Has a clear structure and is well articulated.
- Achieves a critical and evaluative approach to the issues.
- Content and structure is well organised in support of the argument.
- Demonstrates extensive research supporting a well documented argument.
- Generally well expressed and free from errors.

High Distinction (85% +): Completely answers the question in an original or unanticipated way.

- Contains striking originality of approach or analysis.
- Demonstrates exhaustive or innovative research.
- Exceptionally well written.
- Is otherwise exceptional in some way.

CODES OF PRACTICE & POLICY

A1. University of Sydney Handbook 2010

The handbook is an essential guide for every student who studies at the University of Sydney. It is an important source of enrolment information, examination procedures, assessment policies and useful contacts. An online copy is available at: <http://www.usyd.edu.au/handbooks/>

A2. Student Behaviour

Students will be expected to adhere to the University's Student Code of Conduct in and outside of classrooms. Basic courtesy will be expected, including having mobile phones turned off, arriving punctually and treating the teacher and other students with respect. A copy of the University's Student Code of Conduct is available at http://www.usyd.edu.au/ab/policies/Student_code_conduct.pdf

With regards to correspondence with academic staff, students should remember to sign their name and provide their student identification number, especially when sending emails.

A3. (Grievances) Appeals

You may consider that a decision affecting your candidature for a degree or other activities at the University has not taken into account all relevant matters.

In some cases the by-laws or resolutions of the Senate (see the University Calendar: <http://www.usyd.edu.au/calendar/>) provide for a right of appeal against particular decisions; for example, there is provision for appeal against academic decisions, disciplinary decisions and exclusion after failure.

A document outlining the current procedures for appeals against academic decisions is available at the Student Centre, at the SRC, and on the University's policy online website:

<http://www.usyd.edu.au/policy> (click on 'Study at the University', then click on 'Appeals' - see the Academic Board and Senate resolutions).

A4. Use of Lecture Material

Lectures are literary works subject to copyright. Students have a limited licence to make use of these lectures by taking notes and making a limited number of copies for their research and study. That licence does not extend to making multiple copies of these notes, publishing them, electronically transmitting them or making them available online in any form. Lectures may not be taped without express personal permission from the lecturer.

A5. Policy on Harassment and Discrimination

The University has a policy prohibiting harassment and discrimination, and a procedure for handling inquiries and complaints about these. These policies and procedures can

be found at the Staff and Student Equal Opportunity Unit's page on the university's website:

<http://www.usyd.edu.au/su/eeo/> or for further details, please refer to the Faculty's Teaching Handbook.

A6. Plagiarism and Academic Dishonesty

University practice on plagiarism and academic dishonesty is governed by the Academic Board Resolutions, *Academic Honesty in Coursework*, 14 November 2002, last amended 5 April 2006. This document is available online. **Students are encouraged to read this policy which can be accessed at:**

http://fmweb01.ucc.usyd.edu.au/pol/FMPro?-db=pol_main.fp5&-lay=www&-format=pol_summary.html&-error=pol_error.html&DocID=9&-find

For further explanation of this policy, see:

<http://www.chs.usyd.edu.au/PG/honesty.html>

University practice on Plagiarism is also governed by the Vice Chancellor's *Policy Student Plagiarism Course Work: Policy and Procedure*, of 15 February 2005. A copy of which is available from:

<http://www.usyd.edu.au/senate/policies/Plagiarism.pdf>

Please note that the **Policy requires students to submit a signed statement of compliance with all work submitted for assessment.** Therefore, all students must submit their essay with the Essay Coversheet

(see <http://www.law.usyd.edu.au/cstudent/coursework/forms.shtml> for the form) and must give the Declaration on Plagiarism set out on the Essay Coversheet.

Students who are found to have engaged in academic dishonesty will be reported to the Pro-dean (Teaching Programs) and will be required to attend a formal meeting to discuss the possible outcomes, and a record is kept in relation to each instance. Serious cases and repeat cases will be referred to the University Registrar and could result in exclusion from the University.

A guide on how to avoid plagiarism, cheating and copying is available at: http://www.usyd.edu.au/secretariat/students/plagiarism_index.shtml