

ADR Final Paper Options

Professor Ilana Hurwitz

Please use your exam number and submit to the Registrar's Office by noon on December 2nd. The document counts 55% of your grade.

Please choose **one** of the following:

EITHER:

A Draft a two-party role-play, keep in mind the following guidelines:

- (1) The role-plays should contain four parts: (a) general information for both parties; (b) confidential facts for one party; and (c) confidential facts for the other party; (d) discussion notes: an explanation of the shared/dovetailing interests, zone of possible agreement, possibility for integrative solutions (what those might be), and the teaching goals of the negotiation. It is advisable to do a trial run of the negotiation with classmates or friends and to comment on what you observed during the trial run.
- (2) Draft so that either a man or a woman could play the role of the lawyer or party, using gender neutral names like Marty, Chris, etc.
- (3) Make sure the negotiating positions of each side are reasonably balanced. In other words, don't make one side the clear winner.
- (4) Attempt to make the situation involve possibilities for integrative, "expanding the pie," interest-based negotiations. View this as an exercise to teach students a problem-solving approach to negotiation, although you can put an item or two in the problem that requires more distributive negotiation.
- (5) Make sure both sides have the information they need to negotiate appropriately. In other words, don't disclose information about Party B to Party A, but then fail to give that same information to Party B. It can be confusing. At the same time, Party A may have information about itself that it does not want to disclose or will disclose only under certain situations to Party B and *vice versa*.
- (6) The entire problem (all four parts) should be a maximum of 10 pages (excluding any exhibits like an excerpt from a contract, letter from a party etc—these should be kept to a minimum). Please use double spacing and Times Roman 12 pt font. The role-play is due the last day of class.
- (7) **This must be an original problem.** It may not be based on facts from a negotiation competition, an exercise in a hornbook, an existing lawsuit, or any plagiarized source. If you do so, you risk getting a zero for this part of the final grade.

OR

B Personal Experience Negotiation Paper. The purpose of the final paper is to help you translate what you have learned in class to your past experiences and what you expect in the future. This translation is a critical part of the course. The paper should be 10 pages (maximum), double spaced, Times Roman, 12 pt font and is due on the last day of class.

This paper is an evaluation and assessment of a past negotiating experience not from our class (personal, work-related, or community-related). Indeed, one of the benefits of the course is that one can appreciate that one has been involved in many negotiations daily in one's personal life, at work, or in the community. The purpose of this paper is to capitalize on this, to help you recognize the opportunities for negotiation, review the strategies and choices you have in carrying out a negotiation, and evaluate your skills. In writing the paper, you should consider the following questions (answer in essay format please):

(1) Describe an occasion in your previous or current job or outside of work, where negotiations occurred. Provide some background --Who were the parties? What were their relationships? What were their interests? What issues were on the table?

(2) Analyze the relative bargaining positions of the parties. Who was more dependent on the deal? Who had a better BATNA? Who was more in control? Who was in a more reactive or defensive position?

(3) Describe what happened in some detail. What was your strategy? What did you do? What did others do? What were the outcomes?

(4) Consider your behavior during negotiations. What did you do to advocate for yourself? Did you have trouble getting the person to negotiate with you? What did you do about it? What practices did you use to connect to the other person? How difficult or easy was it to do?

(5) Analyze your strengths in this negotiation. Your weaknesses? Are there insights you have gained from this course that might have made a difference? In the process? In the outcome?

(6) Identify the one major lesson you will take away from this course that will help you negotiate more effectively in the future.

OR

C Personal Experience Mediation Paper. The purpose of the final paper is to help you translate what you have learned in class to your past experiences and what you expect in the future. This translation is a critical part of the course. The paper should be

10 pages (maximum), double spaced, Times Roman, 12 pt font and is due on the last day of class.

This paper is an evaluation and assessment of a past conflict you have experienced not from our class (personal, work-related, or community-related) and to discuss how mediation of the problem would have resulted in a preferable resolution. Indeed, one of the benefits of the course is that one can appreciate the value of mediation in resolving disputes. In writing the paper, you should consider the following questions (answer in essay format please):

(1) Describe an occasion in your previous or current job or outside of work where conflict occurred. Provide some background --Who were the parties? What were their relationships? What were their interests? What issues were on the table?

(2) Analyze the relative bargaining positions of the parties. Who was more dependent on the deal? Who had a better BATNA? Who was more in control? Who was in a more reactive or defensive position?

(3) Describe what happened in some detail. What was your strategy? What did you do? What did others do? What were the outcomes?

(4) Analyze your strengths in handling the situation. Your weaknesses? Are there insights you have gained from this course that might have made a difference? In the process? In the outcome?

(5) Could the parties have negotiated a resolution without the assistance of a mediator? How might a mediator have affected the process and the outcome? What might a mediator have done (be specific about relationship oriented, process oriented, and substance oriented things the mediator could have done) to change the process and the outcome. Would facilitation by a mediator have affected the outcome? In what way?

(6) Identify the one major lesson you will take away from this course that will help you resolve conflicts more effectively in the future.