

LW6406: MEDIATION PRACTICE

Effective Term

Semester B 2024/25

Part I Course Overview

Course Title

Mediation Practice

Subject Code

LW - Law

Course Number

6406

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

P5, P6 - Postgraduate Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

Nil

Exclusive Courses

LW6135E Mediation Practice

Part II Course Details

Abstract

Since Hong Kong implemented its Civil Justice Reform in April 2009, a great deal of effort has been made to encourage a wider application of mediation in the dispute resolution arena.

This course combines both theory and practice skills. A variety of readings, exercises, videos, and role-plays will be used to encourage in-depth analysis of mediation concepts and the application of these concepts in practice through conducting a variety of case scenarios under the supervision of experienced coaches.

The course is designed to enable students to learn independently, with ongoing facilitation and support from experienced teaching staff and coaches. Students are encouraged to interact with the coaches to develop knowledge and understanding of the theoretical aspects which are critical for the effective practice of mediation.

The course will further innovate a student's ability to grasp the fundamental concepts with the ultimate goal of discovering how mediation functions from a practical standpoint.

In addition, students will study negotiation and communication skills, as well as the essential skills needed to facilitate an effective mediation process from start to finish.

Students will be encouraged to critically reflect on their learning and interpersonal skills, a pre-requisite for effective mediation practice. A successful student will achieve a good understanding of the basic principles of mediation with some practical experience of mediating a variety of disputes of different form and nature.

The Course is accredited by the Hong Kong Mediation Accreditation Association Limited (HKMAAL) as meeting its stage one training requirements.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	demonstrate knowledge and understanding of a methodical approach to mediation by applying theory into actual practice. Acquire familiarity through discovery/innovation/creativity about the theory of mediation and apply such features into practice.		x		
2	apply in a real-life situation the mediation skills and ethics related to resolving disputes across cultural barriers. Differentiate between ethical and unethical practices in mediation and identify potential ethical dilemmas and possible solutions.		x	x	x
3	articulate and apply working knowledge of several models/processes of mediation.		x	x	x
4	appreciate the implications of selected emerging issues in contemporary dispute resolution research and apply relevant practical skills in dispute resolution		x	x	x
5	apply the mediation micro skills in the context of complex disputes encountered in realistic situations		x	x	x

A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

Learning and Teaching Activities (LTAs)

LTAs	Brief Description	CILO No.	Hours/week (if applicable)
1	See remarks	See remarks	1, 2, 3, 4, 5

Additional Information for LTAs

Remarks:

Active learning techniques, primarily in the form of simulations, will be used to deliver the practical training segment of the course. This methodology embraces a three-stage process as follows:

- (i) the presentation of information and/or a demonstration;
- (ii) practice by the students; and
- (iii) the "debriefing" feedback stage by coaches.

In order to accommodate this strategy, this segment of the course will be taught in intensive mode in weekday evenings and/or weekends. The methodology will usually involve the entire class in the 1st and 3rd stages, with smaller groups working on simulations and observed by coaches during the 2nd stage. Several 2nd stage simulations may be performed in one evening' s and/or weekend instruction. As the training progresses, the simulation exercises will become more complex in nature, which helps to test a student' s actual understanding of the subject while at the same time equipping the student with the necessary micro skills needed to satisfy the external accreditation requirements to become an effective and competent mediator.

There are 40 contact hours for the course in order to satisfy external accreditation requirements.

Assessment Tasks / Activities (ATs)

ATs	CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1 Class Assessment in the form of the following: - simulated case scenarios, whereby students will be assessed on their ability to apply theory learned into actual practice; - in class exercises to test students abilities to understand the various stages and skills required at each segment of the mediation process; and - a written enforceable settlement agreement to test students ability to draft a concise and precise agreement that captures the essence of the parties' settlement.	1, 2, 3, 4, 5	100	The use of Generative AI tools is not allowed.

Continuous Assessment (%)

100

Additional Information for ATs

* Note: 100% attendance is required for students to pass this course.

Assessment Rubrics (AR)

Assessment Task

Class Assessment (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

- Demonstration of understanding of concepts, principles, and theories.
- Demonstration of ability to identify legal issues and issues in dispute.
- Application of knowledge to specific legal problems.
- Application of legal writing and research skills.
- Demonstration of ability to engage in argument-based analysis based on critical and logical thinking.
- Demonstration of aptitude for formulating innovative solutions to designated fact-based questions.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Class Assessment (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

- Demonstration of understanding of concepts, principles, and theories.
- Demonstration of ability to identify legal issues and issues in dispute.
- Application of knowledge to specific legal problems.
- Application of legal writing and research skills.
- Demonstration of ability to engage in argument-based analysis based on critical and logical thinking.
- Demonstration of aptitude for formulating innovative solutions to designated fact-based questions.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Part III Other Information

Keyword Syllabus

Mediation - Advanced skills; Alternative Dispute Resolution (ADR); Accreditation; Principles and values of mediation; Emerging issues; Negotiation; Civil procedure practice of Hong Kong; Practice Direction 31; Process Model; Facilitative versus Evaluative modes of mediation practice; Communication skills; Settlement Agreements; Mediation Ordinance (Cap 620) and United Nations Convention on International Settlement Agreements Resulting from Mediation (New York, 2018) (the "Singapore Convention on Mediation")

1.1. Outline of the Syllabus

1. Practical training - advanced training in the knowledge, ethics and skills of mediation in a variety of contexts. Topics addressed include conflict, communication, process facilitation and management, negotiation, cross cultural issues, the law of mediation, mediator interventions.
2. Mediation training - a review of the basic principles and practices of mediation; advanced training in the skills necessary to become accredited as a mediator in Hong Kong.
3. Mediation essentials, core skills, the mediation process, pre-mediation stages, role of the mediator; parties; legal representatives, stages of mediation, drafting skills - agreement to mediate and settlement agreements, establishing your practice, enforcement of settlement agreements under the Singapore Convention on Mediation.

Reading List

Compulsory Readings

Title	
1	Mediation in Hong Kong - Law and Practice, Wolters Kluwer Law and Business.
2	Hong Kong Mediation Handbook, Sweet & Maxwell.
3	The Hong Kong Mediation Manual (Practitioner), Lexis Nexis.
4	Mediation and ADR Confidentiality in Hong Kong, Wildy, Simmonds and Hill Publishing.
5	Butterworths Hong Kong Alternative Dispute Resolution Handbook, Lexis Nexis.
6	Mediation Ordinance, Sweet & Maxwell.
7	Getting to YES- Negotiating Agreement Without Giving In, Penguin Books.
8	The Handbook of Conflict Resolution: Theory and Practice, Jossey-Bass.

Additional Readings

Title	
1	Asian Dispute Review
2	Australasian Dispute Resolution Journal
3	Negotiation Journal
4	Mediation Quarterly
5	Ohio State Journal on Dispute Resolution
6	Missouri Journal of Dispute Resolution
7	The Arbitration and Dispute Resolution Law Journal