

LW4668: MEDIATION

Effective Term

Semester B 2023/24

Part I Course Overview

Course Title

Mediation

Subject Code

LW - Law

Course Number

4668

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

B1, B2, B3, B4 - Bachelor's Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

LW5666 Mediation

Exclusive Courses

Nil

Part II Course Details

Abstract

This course aims to provide students with an understanding of how and why disputes arise. It will then examine the main dispute resolution methods found in the Alternate Dispute Resolution (ADR) continuum followed by specific examination

of the negotiation process and the mediation process. The aim of this course is NOT to train students to be accredited mediators but to equip students with the necessary skills and knowledge about the concepts of negotiation and mediation as adopted in the business and legal communities at large.

Course Intended Learning Outcomes (CILOs)

CILOs	Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1 Analytically and critically discuss how and why disputes arise;		x		
2 Describe the main dispute resolution methods that are currently adopted within the Hong Kong legal system;		x	x	
3 Describe the essential stages of the negotiation process and how negotiation can be used to effectively resolve commercial disputes; Critically evaluate negotiation in action;		x	x	x
4 Describe the essential stages of the mediation process and how mediation can be used to effectively resolve commercial disputes; Critically evaluate mediation in action;		x	x	x
5 Use a range of mediation skills such as communication, summarising, handling emotions, active listening, manage conflicts, use of whiteboard techniques, reality testing, doubt creation, option generating, reframing, rephrasing, diffused tensions, manage impasses, empathy, handling confidentiality matters, developing rapport, interests versus positions, BATNA, WATNA, and the drafting of the settlement agreement to a mediation problem		x	x	x
6 Explain the ethical and professional responsibilities related to mediation in Hong Kong and act with a strong sense of ethics and with due regard to social and professional responsibilities within the context of a dispute's resolver		x	x	
7 Demonstrate a sense of curiosity and attitude to learning and knowledge of the mediation process		x	x	
8 Explain the role of mediation in Hong Kong in comparison to Europe, the USA, and the Asia-Pacific Region		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.

Teaching and Learning Activities (TLAs)

TLAs		Brief Description	CILO No.	Hours/week (if applicable)
1	CILO 1-6	Teaching and learning will be primarily based on discussion in large and small groups, problem solving exercises, participation in mock mediations case scenarios, drafting of settlement agreements and lectures on various topical issues associated with negotiation and mediation. Develop self-confidence in application of legal principles, advocacy skills and public speaking. Foster students' growth through development of greater intellectual and interpersonal maturity.	1, 2, 3, 4, 5, 6	3 hours per week for thirteen weeks (a total of 39 hours of block teaching).

Assessment Tasks / Activities (ATs)

ATs		CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	AT1: Class Assignment – In-Class Test at the end of the course to test a student' s knowledge of the topics discussed during the various classes	1, 2, 3, 4, 5, 6	30	
2	AT2: In allocated groups, students are to produce a soft copy of a mock mediation on their iPads. 50% mark will be awarded for group presentation and 20% will be awarded for individual performance. Total of 70%. Confidence building and students' maturity.	1, 2, 3, 4	70	

Continuous Assessment (%)

100

Examination (%)

0

Additional Information for ATs

The use of Generative AI tools is not allowed.

Grading of Student Achievement: Standard (A+, A, A-...F). Grading is based on student performance in assessment tasks / activities.

To pass this course, students must obtain an aggregate mark of 40% and a minimum of 30% in each of the coursework and the examination elements of the assessment. Coursework for this purpose means those ways in which students are assessed otherwise than by the end of session examination.

Assessment Rubrics (AR)

Assessment Task

1. Class Assignment – In-Class Test

Criterion

Be familiar with the concepts and the theories behind negotiation and mediation. Be able to apply the various theories into actual practice under scenario problems. Have a solid understanding of the mediation landscape within the jurisdiction of Hong Kong. Have the fundamental knowledge to advise clients about the concept of mediation, what to expect, what to observe and the risk factors associated with adopting such alternative dispute resolution method.

Excellent (A+, A, A-)

Strong evidence of original thinking; good organisation, 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 analytical 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 analytical skills; limited or irrelevant use of literature.

Assessment Task

2. Mock mediation

Criterion

Develop the skills needed to work in a group setting environment– team work. Effectively and efficiently manage a mock mediation from start to finish including the opening session to the drafting of the settlement agreement. Apply the skills learnt into actual practice i.e. doubt creation, reality testing, option generating and managing client’ s expectations, reframing, summarising and identifying clients’ needs versus wants. Develop one’ s soft skills to cope with various unexpected situations as they develop such as dealing with emotions and attempting to extract one's bottom line from the case scenario. Be familiar with the legal concepts and rules associated with the case scenario and apply such concepts and rules accordingly throughout the mock mediation. Confidence building and students’ maturity

Excellent (A+, A, A-)

Strong evidence of original thinking; good organisation, 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 analytical 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 analytical skills; limited or irrelevant use of literature.

Part III Other Information

Keyword Syllabus

- Alternate Dispute Resolution (ADR) continuum.
- Negotiation process.
- Mediation process.
- Mediation in Hong Kong.
- Civil Justice Reform and Practice Direction 31.
- Comparative jurisdictions using mediation.

Detailed Syllabus

Students will be provided with an overview of the course as well as resources in support of the study of the subject and also a comparative aspect between the laws and practice of Hong Kong and other jurisdictions.

Therefore, the course will deal with the following:

- A summary of disputes and why they happen.
- The theory and practice associated with the principal methods of resolving disputes.
- A summary of the historical origins of mediation.
- Identifying the essential stages of an effective facilitative mediation process as compared with an evaluative process.
- The ethical and professional responsibilities related to mediation in Hong Kong and various other jurisdictions.
- On-line dispute resolution.
- The suitability of disputes for mediation.

Reading List

Compulsory Readings

Title	
1	Mediation in Hong Kong – Law and Practice, Sala Sihombing, Christopher To and James Chiu, Wolters Kluwer, 2014.

Additional Readings

Title	
1	Hong Kong Mediation Handbook, second edition, Raymond Leung, Sweet and Maxwell, 2014.
2	Mediation for Lawyers, Samantha Hardy and Olivia Rundle, Wolters Kluwer, 2010.

3	Mediation Theory and Practice in Hong Kong, Sarah Hilmer, Lexis Nexis, 2010.
4	ADR in Hong Kong, Christopher To and Simon So, Sweet and Maxwell, 2018.
5	The Essentials of Negotiation, Harvard Business School Press, 2005.