

MEDIATION CLINIC  
Course No. 502  
SPRING 2021

ADJUNCT PROFESSOR

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RULE 31 LISTING

Over the course of the Clinic semester, Professor Shields will administer the 40-hour training as part of the requirement to become a Rule 31 Listed General Civil Mediator in Tennessee. (See Rule 31, Section 17(d) for list of other requirements to be listed.) The training will cover all Rule 31 required topics. Topics covered are set forth in the attachment titled "Rule 31 General Civil Mediation Training Topics." Your other readings and assignments dovetail with these topics. While the training will be administered over the course of the academic semester, approximately 30 hours will be included in a front-loaded series of Clinic orientation sessions spread over the first four weeks and weekends of the semester.

OVERVIEW

This course is designed for students who are interested in learning how to effectively incorporate mediation theory into practice. The course's foundation will be a thorough and detailed examination of the mediation process in preparation for experiential work outside the classroom. Through lecture, discussion, in-class demonstration, role plays and simulations, you will learn the theories and techniques underlying all phases of the facilitative model of mediation including: convening and preparing for mediation, opening the mediation session, defining the issues and creating the agenda, facilitating communication and negotiation, creative problem-solving, and reaching settlement or closure. Particular emphasis will be placed on developing the communication skills essential to effective mediation, such as attending, reflecting, active listening, creating rapport, fostering empathy, using language effectively. In addition, we will examine legal and ethical issues that most often occur during a mediation.

## LEARNING OUTCOMES

Through the activities described, students who successfully complete this course will gain an appreciation of the professional and societal value flowing from, and demonstrate their own knowledge and skills in the following subject matters:

1. Mediation Process: by exercises, roles plays, simulations and observing and conducting mediations for real disputants.
2. Ethical Standards: by learning the ethical standards established by Rule 31 and concurrent standards for lawyers as neutrals and by then observing professionals in the application of these standards.
3. Practice Management: by understanding the common practical and ethical issues a mediator faces ranging from deciding whether to accept a case, preparing for mediation, maintaining confidentiality, tracking time and billing, and responding promptly and professionally to mediation participants.
4. Communication Skills: by developing and applying key communication skills essential to effective mediation, including attentive, active and reflective listening.
5. Negotiating Skills: by interacting with real disputants in the exchange of information and facilitating their negotiations.
6. Legal Knowledge and Analysis: by assisting the disputants in realistically understanding their legal claims and damages.
7. Decision Making: by considering available legal and non-legal remedies and assisting the disputants in risk assessment and decision analysis.
8. Legal Writing: by reading and analyzing position statements prepared by disputants and assisting them in memorializing settlement agreements.
9. Lawyer/Client Conflict and Communication Skills: by understanding that the mediator's key communication skills are also key skills for a lawyer in communication with a client or resolving a conflict with a client.
10. Promoting Access To Justice: by understanding and assessing the various ways to resolve disputes, insight will be gained on how access to justice can be achieved by means other than litigation.
11. Life and Leadership Skills: by learning and understanding that a mediator's key communication skills are life and leadership skills that can be used effectively in many personal and professional settings.