

V435: Negotiation and Alternative Dispute Resolution for Public Affairs
Spring 2017 Section 7780
T-TR 11:15 am to 12:30 am (3 Credits)
Room PV 272

Contact Information:

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INTRODUCTION:

This is a survey of dispute resolution in the public, private, and nonprofit sectors. Also called alternative dispute resolution (ADR), this includes negotiation, mediation, and arbitration as processes for resolving disputes. We will study dispute system designs in courts, labor relations, employment, consumer transactions, community justice, family conflict, environmental and public policy contexts. We will also address these voice processes in collaborative governance, including public engagement and global conflict management.

The field is broad and interdisciplinary, with literature from social psychology, law, political science, sociology, philosophy, and economics. I will teach the course on two levels: 1) as an introduction to the practice skills of negotiation and mediation; and 2) as an introduction to the theory, design, and evaluation of dispute systems. In addition to class lectures and discussion, the course will introduce you to basic negotiation and mediation skills through in-class exercises, simulations, and video. For the first half of the course, we concentrate on building basic negotiation skills (principled/interest-based negotiation and competitive/hard bargaining). We will then apply these skills as the mediator in simulations; the mediator is a neutral third party who helps disputants negotiate. The second half of the course will examine theory, practice, and research on mediation and arbitration in different systems. This part of the class will address empirical evidence on how these systems perform.

COURSE OBJECTIVES:

Our goals are for you:

1. To become an ethical negotiator on behalf of yourself and others using integrative or interest-based bargaining;
2. To recognize distributive and bad faith bargaining tactics and respond effectively;
3. To be capable of intervening in conflict among others and as a mediator assist them in negotiating a resolution or reaching consensus on next steps;

4. To become a more informed participant in adjudicative processes such as fact-finding and arbitration;
5. To analyze a dispute system design, its steps, structures, processes, strategic advantages and disadvantages, costs and benefits, and be able to propose improvements that will enhance fairness and justice;
6. To evaluate how conflict management systems perform, and
7. To have a more comprehensive understanding of conflict resolution and management so that you can use it in your personal and professional lives.

REQUIRED READINGS:

There is one required paperback textbook and additional required readings, Powerpoint lecture files, and research resources on Canvas:

1. *Required Text*: Roger Fisher, William L. Ury, and Bruce Patton, *Getting to Yes: Negotiating Agreement Without Giving In* (3d Ed.) New York: Penguin Books (2011). This text is abbreviated in the syllabus as *GTY*.
2. *Canvas*: Required readings are in the Resources folder in Canvas and organized in subfolders by subject matter (Negotiation, Mediation, Arbitration, Dispute System Design, International, etc.). They include book chapters, scholarly journal articles, statutes, and other government publications.
3. *Powerpoint and Assignment Instructions*: I will post Powerpoint slides, detailed instructions for paper assignments, group assignments, general information for exercises, and review sheets for examinations on Canvas in folders entitled Powerpoints and Assignments respectively.

STUDENT RESPONSIBILITIES:

This is an interactive skills course as well as a substantive introduction to an interdisciplinary field. Your responsibilities are:

1. **ATTENDANCE**: You receive four points for each class attended, starting with the second week of classes. Everyone will get three free days to cover illness, job interviews, funerals, etc. There are a remaining 25 class meetings for a total of 100 points. Signing another student's name on the attendance sheet is forbidden and will result in a deduction of 20 attendance points for both students involved.
2. **PARTICIPATION**: In negotiation and dispute resolution, it is easy to read something; it is harder to learn how to do it.
 - a. **Preparedness**: Read the assignment to be prepared to participate in the simulation and discussion.
 - b. **Simulations And Role Plays**: Be prepared to role play in class through exercises on negotiation, mediation, arbitration, and dispute system design. You will receive both general information and confidential information about your roles. **Do not share your confidential information with anyone else in class until we complete the exercise and I direct you to debrief it.** Review these materials and consider your strategy in light of the course readings. Use empathy to authentically enact your assigned role.

- c. Reflection Papers and Pop Quizzes: Response or reflection papers, minute essays, and/or pop quizzes will be in class and limited to one-page. For example, I may ask you to debrief and reflect on a simulation or apply a reading to your own experience.
- 3. **TAKE HOME EXAM: NEGOTIATION ANALYSIS:** I will provide you with general information and both individual roles for a two-party simulation. From this written information, you will individually write a take-home exam that is a maximum of four (4) pages double-spaced in 12-point font. In your analysis, you must cite to the class readings with page references. You will receive instructions. Submit electronic copy to Canvas, hard copy in class. **DUE FEB. 7, 2017.**
- 4. **TWO MIDTERM EXAMINATIONS:** There are two traditional in-class examinations comprised of short answers, multiple choice, and an essay. These are scheduled for **TUESDAY MAR. 7 AND THURSDAY APR. 20.** Both exams are cumulative.
- 5. **FINAL PAPER:** Write a final paper on a topic related to your career goals or public service and approved by me in advance (maximum ten pages double-spaced in 12-point font). The paper must be related to dispute resolution or dispute system design and must use relevant readings we covered in class and include other relevant scholarly literature of the field. *See Canvas Research Resources Folder* for materials that may be useful for your paper.
 - a. Office Hours to Discuss Paper Topics: I strongly recommend you visit office hours or schedule an appointment to discuss your final paper topic.
 - b. Week of : Paper topic due in hard copy in class and electronic copy on Canvas.
 - c. Week of Mar. 7: An annotated outline in Chicago Manual of Style (parenthetical in text citations and not endnotes) **DUE MAR. 9** prior to submitting the final paper. An annotated outline is one that provides full sentences and full citations to scholarly literature you intend to use to support your analysis.
 - d. Final paper due by 5 pm Monday, **MAY 1, 2017.**
- 6. **NO FINAL EXAMINATION:** There is no final examination in this course.

COURSE GRADES:

Your grade will consist of the following:

1. Attendance and Participation (class discussion, authentic engagement in simulations)	10%
2. Take Home Exam: Negotiation Analysis (4 pages double-spaced 12 pt. font)	20%
3. Midterm in class exam 1	20%
4. Midterm in class exam 2	20%
5. Individual Final Paper (10 pages maximum, double-spaced in 12 pt. font):	
a. Topic (explanatory paragraph)	
b. Annotated Outline	5%
c. Final Paper	25%
d. TOTAL	<u>30%</u>
FINAL AVERAGE	<u>100%</u>

Exams are graded on a 100 point scale. For letter grades, the numerical value is lowest number in the grade range. Letter grades are used for the annotated outline and final paper.

Grade Scale

97–100	A+
93–96.9	A
90–92.9	A-
87–89.9	B+
83–86.9	B
80–82.9	B-
77–79.9	C+
73–76.9	C
70–72.9	C-
67–69.9	D+
63–66.9	D
60–62.9	D-
00–59.9	F

COURSE POLICIES:

1. ACADEMIC MISCONDUCT AND DISHONESTY: I expect all students' academic conduct to conform to SPEA's Academic Policies and the IUB Code of Student Rights, Responsibilities and Conduct, which is found <http://www.iu.edu/~code/index.shtml>.

Academic misconduct or dishonesty, including but not limited to cheating on an exam or quiz or plagiarism on papers, may result in a failing grade for the course (and an F for academic dishonesty cannot be removed from the transcript). IU does not permit students to take an incomplete in the course unless there are extraordinary documented health or other personal circumstances. Significant violations of the Code can result in expulsion from the University.

2. DISABILITY ACCOMMODATIONS: Indiana University has a process and policy for requests for accommodations for disability. To view policies, register, and arrange for services, see <https://studentaffairs.indiana.edu/disability-servicesstudents/accommodations/index.shtml>.

3. CLASS TIME AND ELECTRONIC DEVICES: Class lasts for 75 minutes. There will be opportunities to leave class during simulations. Therefore, do not leave the classroom at other times without permission in advance. Leaving class will affect your class participation grade. Students are expected to turn off electronic devices including laptops except as needed for approved disability accommodation, note-taking during lecture, or as related to a task assigned in class. Other use during class may affect your participation grade.

4. INTELLECTUAL PROPERTY: I post to Canvas Powerpoints that are my original material. I will also post chapters from a book under contract with Stanford University Press but not yet published. You may use these materials freely for the purposes of your study and research within this course and other academic courses. However, you may not copy or distribute them, electronically or otherwise, unless you obtain my prior permission. You may not photograph,

audiotape, videotape or otherwise record class without my prior permission, which will only be granted for purposes of accommodating a documented disability.

5. LATENESS OF ASSIGNMENTS: The written assignments are due in class or by 5pm on the due date. They may be turned in late to my administrative assistant Susie Van Doren (entry 340) or Genia Martin in Susie’s absence (entry 330). The assistant will sign and date it upon receipt and put it in my mailbox. A penalty of five points will be taken off for each day late, including weekends.

THIS SYLLABUS SHOULD ALWAYS BE CONSIDERED IN DRAFT FORM AND SUBJECT TO CHANGE.

CLASS SCHEDULE AND READINGS

DATE	TOPIC	READINGS TO COMPLETE FOR THAT DATE
PART I	NEGOTIATION	CANVAS: NEGOTIATION
Week 1 Jan. 10	Introductions Review of syllabus Overview of ADR process spectrum	Canvas: <ul style="list-style-type: none"> • Syllabus
Jan. 12	Conflict and Human Behavior Communication Skills	Canvas: <ul style="list-style-type: none"> • David W. Johnson and Frank P. Johnson, <i>Joining Together: Group Theory and Group Skills</i>, pp. 379-392. Boston, MA: Allyn and Bacon (2003)
Week 2 Jan. 17	Introduction to Negotiation Simulation: The Prisoner’s Dilemma	Canvas: <ul style="list-style-type: none"> • David W. Johnson and Frank P. Johnson, <i>Joining Together: Group Theory and Group Skills</i>, pp. 396-421. Boston, MA: Allyn and Bacon (2003)
Jan. 19	Debrief Prisoner’s Dilemma Introduce distributive and integrative bargaining	Canvas: <ul style="list-style-type: none"> • David A. Lax and James K. Sebenius, <i>The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain</i>, pp. 29-45. New York, NY: The Free Press (1986). • Bruce Patton, “Negotiation.” In Michael L. Moffitt and Robert C. Bordone, Eds., <i>The Handbook of Dispute Resolution</i>, pp. 2-14. San Francisco, CA: Jossey-Bass (2005).
Week 3 Jan. 24	Distributive Negotiation and Negotiation Analysis: BATNA, Reservation Prices or Points, and Bargaining Zone, Exchange Surplus Role Play: Real Estate Sale	<i>GTJ pp. 99-108</i> Canvas: <ul style="list-style-type: none"> • Roy Lewicki, Bruce Barry, David M. Saunders, and John W. Minton, <i>Distributive Bargaining, Negotiation (4th Ed.)</i>, pp. 74-96. Boston, MA: Irwin McGraw Hill (2003).

Jan. 26	Overview of Integrative, Principled, or Interest-based Negotiation	Roger Fisher, William Ury, and Bruce Patton, <i>Getting to Yes (3d Ed.)</i> , pp. xxvii-xxix, pp. 3-41 (2011) (hereafter <i>GTY</i>).
Week 4 Jan. 31	Integrative Bargaining: Identifying Interests Labor Relations: The Beech Hill Case Interests of Labor and Management	<i>GTY</i> , pp. 42-67 Canvas: <ul style="list-style-type: none"> • Bingham, <i>Beech Hill Case</i>
Feb. 2	Creating Value Resistance Points Beech Hill Case: Brainstorming	<i>GTY</i> , pp. 67-81 Canvas: <ul style="list-style-type: none"> • Sally Blount White and Margaret A. Neale, Reservation Prices, Resistance Points, and BATNAs: Determining the Parameters of Acceptable Negotiated Outcomes, <i>Negotiation Journal</i>, Oct. 1991: 379-388 (1991) • TAKE HOME EXAM: NEGOTIATION ANALYSIS ON A HYPOTHETICAL CASE DUE TUES. 2/7
Week 5 Feb. 7	Cross Cultural Negotiation and Dispute Resolution: Exercise	Canvas: <ul style="list-style-type: none"> • Jeanne Brett, <i>Negotiating Globally: How to Negotiate Deals, Resolve Disputes, and Make Decisions Across Cultural Boundaries 2d Ed.</i>, Chapters 2, pp. 25-52. San Francisco, CA: Jossey-Bass (2010). • HAND IN TAKE-HOME EXAM IN CLASS AND IN CANVAS.
Feb. 9	Claiming Value: Hard Bargaining, Dirty Tricks, and Fraud Exercise	<i>GTY</i> , pp. 82-95, 109-143 Canvas: <ul style="list-style-type: none"> • G. Richard Shell, When Is It Legal to Lie in Negotiations? <i>Sloan Management Review</i>, 32(3): 93-101 (1991).
PART II	MEDIATION	CANVAS: MEDIATION
Week 6 Feb. 14	Introduction to Mediation Video	Canvas: <ul style="list-style-type: none"> • Christopher Moore, <i>The Mediation Process (2d Ed.)</i>, Chapter 2, pp. 41-77. San Francisco, CA: Jossey-Bass (1996).
Feb. 16	Skills - Mediation practice Video Community mediation simulations	Canvas: <ul style="list-style-type: none"> • Christopher Moore, <i>The Mediation Process (2d Ed.)</i>, Chapter 8, pp. 193-212. San Francisco, CA: Jossey-Bass (1996).

Week 7 Feb. 21	Models of Mediation: Evaluative or Directive, Facilitative, and Transformative Video	Canvas: <ul style="list-style-type: none"> Robert A. B. Bush and Joseph P. Folger, “Transformative Mediation: Theoretical Foundations” and “Transformative Mediation: Core Practices.” In Joseph P. Folger, Robert A. Baruch Bush, and Dorothy J. Della Noc, Eds., <i>Transformative Mediation: A Sourcebook</i>, pp. 15-50. Washington, DC: Association for Conflict Resolution. <i>Model Standards of Conduct for Mediators</i>
Feb. 23	Employment Mediation	Canvas: <ul style="list-style-type: none"> Amsler, L. Blomgren (2014). Using Mediation to Manage Conflict at the United States Postal Service. In William K. Roche, Paul Teague, Alex Colvin (eds.), <i>The Oxford Handbook of Conflict Management in Organizations</i>, 279-296. Oxford, UK: Oxford University Press.
Week 8 Feb. 28	Public Policy and Environmental Mediation	Canvas: Susan Podziba, “Conducting the Mediator’s Assessment,” in <i>Civic Fusion: Mediating Polarized Civic Disputes</i> , pp. 99-121. Washington, DC: American Bar Association.
Mar. 2	Ombuds Programs Catch up and review for exam	Canvas: Mary Rowe and Howard Gadlin, “Ombuds Programs.” In William K. Roche, Paul Teague, Alex Colvin (eds.), <i>The Oxford Handbook of Conflict Management in Organizations</i> , 279-296. Oxford, UK: Oxford University Press.
Week 9 Mar. 7	MIDTERM EXAM	
Mar. 9	Community Mediation, and Restorative Justice	Canvas: <ul style="list-style-type: none"> Marc S. Umbreit, <i>The Handbook of Victim Offender Mediation: An Essential Guide to Practice and Research</i>, pp. xxv-xlvi. San Francisco, CA: Jossey-Bass (2001). FINAL PAPER OUTLINE DUE
Week 10 Mar. 14 Mar. 16	SPRING BREAK	NO CLASS ON MAR. 14 OR 16
PART III	ARBITRATION	CANVAS: ARBITRATION
Week 12 Mar. 21	Introduction to Arbitration: Labor and Commercial	Canvas: David Lewin, “Collective Bargaining and Grievance Procedures.” In In William K. Roche, Paul Teague, and Alexander J.S. Colvin, <i>The Oxford Handbook of Conflict Management in Organizations</i> , pp. 150-167. Oxford, UK: Oxford University Press.

Mar. 23	Business in the US and Private Justice: Employment Arbitration	Canvas: <ul style="list-style-type: none"> David B. Lipsky, Ronald L. Seeber, and Richard D. Fincher. <i>Emerging Systems for Managing Workplace Conflict</i>, Chapter 6, pp. 183-224. San Francisco, CA: Jossey-Bass Publishers (2003).
Week 11 Mar. 28	Federal Administrative Dispute Resolution Negotiated rulemaking exercise	Canvas: <ul style="list-style-type: none"> Amsler, L. Blomgren (2016 Early View). Collaborative Governance: Integrating Management, Politics, and Law. <i>Public Administration Review</i> Web Resources: <ul style="list-style-type: none"> Federal Interagency ADR Working Group, www.adr.gov
Mar. 30	Courts System and Evaluation Indiana: Mediation, Arbitration, Mini-trials, Summary Jury Trials, and Private Judges	Canvas: <ul style="list-style-type: none"> Maryland Court Studies.pdf (2-page executive summaries of program evaluations combined into a single 6-page pdf). Indiana Court Rules, adr.pdf or available at http://www.in.gov/judiciary/rules/adr/ Optional: <ul style="list-style-type: none"> Maryland State Court ADR Program Evaluations http://mdcourts.gov/courtoperations/adrprojects.html
Week 13 Apr. 4	Arbitration continued Consumer Arbitration and Online Dispute Resolution	Canvas: <p>Louis Del Duca, Colin Rule, Zbynek Loebel, Facilitating Expansion of Cross-Border E-Commerce-Developing a Global Online Dispute Resolution System, <i>Penn State Law Legal Studies Research Paper No. 25-2011</i>, copy available at: http://ssrn.com/abstract=1970613 (last revised 2014)</p>
Apr. 6	Forced Arbitration: <i>Lost in the Fine Print video in class</i> Peacekeeping: <i>Carne Ross Ted Talk video in class</i>	Canvas: <ul style="list-style-type: none"> William Ury, <i>The Third Side: Why We Fight and How We Can Stop</i>, Chapters 5 Prevent & 7 Contain, pp. 114-139, 169-196 (2000). The Independent Diplomat Carne Ross, Ted Talk, https://www.ted.com/talks/carne_ross_an_independent_diplomat
PART IV	INTERNATIONAL	CANVAS: INTERNATIONAL
Week 14 Apr. 11	International Private Disputes: Commercial arbitration and global governance	Canvas: <p>Goldberg, S., Sander, F., and Rogers, N. <i>Dispute Resolution: Negotiation, Mediation, and Other Processes</i>, Chapt. 10</p>

Apr. 13	International Private Disputes: Investment Treaty Dispute Systems	Canvas: <ul style="list-style-type: none"> Jeanne Brett, <i>Negotiating Globally: How to Negotiate Deals, Resolve Disputes, and Make Decisions Across Cultural Boundaries 3d Ed.</i>, Chapters 7, pp. 187-214. San Francisco, CA: Jossey-Bass (2014).
Week 15 Apr. 18	Catch-up and Review	
Apr. 20	Second Midterm Examination	
Week 16 Apr. 25	Introduction to Dispute System Design	Canvas: <ul style="list-style-type: none"> Amsler, Lisa Blomgren, Janet K. Martinez, and Stephanie E. Smith (2015). Christina Merchant and the State of Dispute System Design, <i>Conflict Resolution Quarterly</i> 33 (S1): S7-S26. Online: 12 NOV 2015 DOI: 10.1002/crq.21152.
Apr. 27	<i>Final Lecture:</i> Dispute System Design and Justice	
Week 17 May 1	There is no final examination in this course.	Final Paper Due Monday 5/1/17 by 5 pm. Place one hard copy in my mailbox in entry 330 and submit electronic copy in Canvas under Assignments. I will use Turnitin.com to check assignments for plagiarism, and it is also a good learning tool to make sure you are citing to your sources appropriately.