

RECOMMENDATIONS REGARDING ESTABLISHMENT OF A MEDIATION CLINIC*

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I. INTRODUCTION

There is widespread agreement that practical experience is an important component of advanced mediation training, whether within an academic program or in the private mediation training sector.¹ In spite of this agreement, out of twenty-three Masters of Arts (“M.A.”) Conflict Resolution Programs in the United States, only nine (39%) currently require students to complete a practicum course; seven (30%) offer a practicum as an option, and the remaining seven (30%) programs do not even offer a practicum.²

* These recommendations draw heavily on the author’s working paper, Cynthia A. Savage, *Recommendations Regarding Establishment of a Practicum Component for the Master’s Degree in Conflict Resolution at the University of Denver Conflict Resolution Institute* (University of Denver, Conflict Resolution Institute), which will soon be available through the University of Denver’s Conflict Resolution Institute (“CRI”) Working Paper series at <http://www.du.edu/conres/WorkingPapers.htm>, and on her experience as Director of the Mediation-Arbitration Center and Clinical Law Professor, teaching the Mediation Clinic and other courses at the University of Denver College of Law from 1988–1996, and as Research Associate Professor at the University of New Mexico School of Law, teaching the Mediation Clinic from 1987–1988. The author would like to thank CRI co-directors and Professors Tamra Pearson d’Estree and Karen Feste for the opportunity to draft the working paper and for their support, consultation, and feedback during the drafting of that paper. The author would also like to thank Fernando Ospina, a dual degree student in the CRI Graduate Program and Counseling Psychology at the University of Denver, for providing research assistance for this paper and for compiling Appendices B and C and the Cardozo Journal of Conflict Resolution for compiling the New York Metro Area Practice Settings Examples in Appendix A. The author is currently teaching in the Mediation Practicum course at the CRI Graduate Program.

¹ See, e.g., David G. Seibel & Julia Gegenheimer, *Tomorrow’s Peacemakers: How to Encourage the Next Generation of Conflict Management Professionals*, HARV. NEGOT. L. REV., available at <http://www.hnlr.org/?p=95> (“Conflict management education requires the development of blended classroom-clinical curricula.”); M.A. Nelson, *Advanced Mediation Training: Topics and Components of Advanced Mediation Training in Canada* 41-42 (2006) (unpublished thesis, Royal Roads University) (100% of participants surveyed recommended practicum opportunities); COLO. COUNCIL OF MEDIATORS, COLO. B. ASS’N, *RECOMMENDED EDUCATION/TRAINING AND EXPERIENCE FOR PROFESSIONAL MEDIATORS*, available at http://www.colorado-mediation.org/ccmo/docs/Recommended_Education_Training_and_Exp_for_PM_s_9_22_06.pdf (recommending supervised practice experience).

² Karen Feste, Summary, M.A. Conflict Resolution Programs (U.S.) (Mar. 15, 2009). Presented at the University of Denver Conflict Resolution Institute faculty meeting on April 9, 2009. The University of Denver graduate program in conflict resolution has since added a practicum requirement.

In Canada in 2006, only three out of fourteen academic institutions (21%) that taught advanced mediation training offered a practicum, and only three out of fifteen non-academic institutions (20%) offered practicum opportunities.³ Approximately thirty-five American law schools offer mediation clinical courses, which provide supervised experience in mediation.⁴ There may be many reasons for this discrepancy, including, in particular, difficulty in achieving sufficient caseloads and the cost of supervision. However, the need for competent, ethical mediators continues to increase.

This article proposes utilizing consistent terminology and goals and recommends methods and approaches for effective design and implementation of supervised, hands-on, mediation training programs within conflict resolution graduate programs. Although law school programs are not addressed directly in this article and might differ in some respects as to their goals, effective methods and approaches will be much the same regardless of the setting.

Part I of this article will discuss terminology and propose a consistent clinic definition and clinic goals, and Part II will explore and make recommendations concerning clinic design. Part III will outline additional recommendations. Part IV provides a summary of recommendations, and Part V concludes the article.

II. TERMINOLOGY AND GOALS

A review of graduate programs in conflict resolution in the United States reveals that those offering and/or requiring a “practicum” course provide very different types of experiences, ranging from simulation courses, to off-campus practice experiences similar to internships, to practice experiences fully integrated with univer-

³ Nelson, *supra* note 1, at 44–46.

⁴ Interview with Professor Jeffrey Hartje, University of Denver Sturm College of Law, CRI Graduate Program (May 13, 2009). There may be even more. See Michael L. Moffitt, *Vitamins, Salt, Germs: Four Visions of the Future of ADR in Law Schools (and a Data-Driven Snapshot of the Field Today)*, OHIO ST. J. ON DISP. RESOL. (forthcoming), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1446989 (“[T]he ABA/Oregon database lists at least 36 schools with active mediation clinics.”). Hartje also notes that the “ABA/Oregon database does not include responses from 100% of law schools, so this number probably still understates the level of activity.” *Id.* at fn. 29. The growing numbers of law school mediation clinical programs may contribute to and/or reflect the increasing involvement of lawyers as mediators. For example, the American Bar Association Section on Dispute Resolution is now the largest dispute resolution organization in the United States.

sity faculty and coursework.⁵ In comparison, law schools which offer “clinical” courses in mediation more consistently offer “live client”⁶ experiences supervised by faculty and integrated with a class component.⁷

In order to clarify what is being offered and to give students an opportunity for practice experience, which also emphasizes integration of theory and practice, graduate programs should develop courses which provide supervised conflict resolution experience in actual cases and should call this type of course a “clinic” rather than a “practicum.” The term “clinic” is used consistently as the title for law school courses in which students practice under supervision in actual cases. This term would provide more clarity as to the type of course offered and would also differentiate the course from the wide variety of “practicum” courses currently offered by graduate programs in conflict resolution.⁸ Therefore, the term “clinic” will be used throughout the remainder of this article to describe both practicum and clinical mediation programs, except where referring to specific graduate school courses currently labeled as “practicum” courses. The term “clinic” is defined as follows:

*“Clinic” means directly engaging as a full participant in conflict resolution work, as compared to an internship, which may mean observing and assisting to learn about conflict resolution environments. Clinic students will be involved in the design, execution, and evaluation of conflict resolution interventions. Student involvement in planning, implementation, reflection, and evaluation may look different in different contexts, but all elements will be present in some form. Faculty with relevant theoretical expertise and practice experience will supervise clinic students.*⁹

⁵ See *infra* Appendix C: Practicum Design Elements in Seven Conflict Resolution Graduate Programs.

⁶ “Live clients” refers to working with people with real disputes, as opposed to simulations.

⁷ Interview with Professor Hartje, *supra* note 4. There may be a few exceptions to faculty supervision; see, e.g., Stark, *infra* note 11, at 466-67. Professor Stark, at least as of 1996, relied in part on experienced mediators as supervisors for one of two practice settings. Faculty supervised students in the other setting.

⁸ Graduate programs in conflict resolution also occasionally use “clinical program” to describe their clinic course. See, e.g., Juliana E. Birkhoff & Wallace Warfield, *The Development of Pedagogy and Practicum*, 14 *MEDIATION Q.* 2, 94 (1996).

⁹ Supervision will be discussed in more detail *infra* Part II. If the graduate program determines that resources may not or will not support supervision by faculty in all cases, this sentence could be changed to: “Faculty and or practitioners with relevant theoretical expertise and practice experience will supervise clinic students.”

Masters degree conflict resolution programs prepare students for theory-based practice in conflict resolution and related fields. The following proposed goals for a mediation clinic would support this preparation:¹⁰

1. Students gain practice experience in designing conflict resolution processes and interventions, planning for implementation, execution of processes and interventions, and evaluation of results.
2. Students acquire and/or improve conflict resolution skills.
3. Students learn to integrate theory and practice, and to recognize and value the benefits of this integration.
4. Students learn and practice processes for reflecting on and evaluating conflict resolution interventions.
5. Students increase their marketability after graduation through acquiring practice experience and developing connections with practitioners and programs.
6. The graduate program will increase its attractiveness to prospective students, resulting in increased high quality applications and enrollments.

Programs may wish to add an additional goal or to clarify goals one and two above, as to whether students will learn one approach to conflict resolution or will learn about different approaches or orientations.¹¹ This addition or clarification will be discussed in more depth in Part II Clinic Design. A clinic may also offer opportunities for research beyond evaluation, which the program may want to consider adding to its goal statement.¹²

All conflict resolution master's degree students should be required to take at least one practicum course in order to meet the goals of the conflict resolution master's degree program. Students should also be required to take a clinical course focused on the neutral's role in conflict resolution/dispute resolution skills because

¹⁰ These goals were originally developed in consultation with CRI from information presented at CRI Advisory Board meetings, Clinic Committee meetings and conversations with CRI Director of Research and Practice and Professor Tamra Pearson d'Estree. Law school programs might want to consider additional goals, such as to increase students' problem-solving and client counseling skills, and to increase students' ability to represent clients effectively in mediation or in negotiating on their clients' behalf.

¹¹ See James H. Stark, *Preliminary Reflections on the Establishment of a Mediation Clinic*, 2 *CLINICAL L. REV.* 457 (1996). The mediation literature describes a number of different orientations to mediation, including transformative, facilitative, evaluative, and narrative mediation. See *infra* note 21.

¹² For example, research possibilities could include effectiveness of conflict resolution interventions and/or effectiveness of pedagogical approaches and techniques. Students could also conduct research as the basis for a graduate program thesis.

such a focus is basic to understanding how a conflict/dispute can be resolved and/or transformed through non-violent, collaborative means and because this focus would best fulfill the goals of a clinic. Additional optional clinical offerings could be created to focus on other roles of conflict resolution practitioners, as outlined in Part IV. Additional Recommendations.

III. CLINIC DESIGN

A. Preliminaries

A number of issues need to be addressed at the outset of designing a clinic. These are issues that will provide a frame for the clinic and guide all aspects of implementation.

1. Reflective Practice

Academic programs that have articulated clinic goals typically include skills development, integration of theory and practice, and development of reflective practice skills.¹³ Reflective practice skills are essential to the integration of theory and practice and the development of skilled, artful conflict resolution practitioners.¹⁴ Reflection can occur both during an intervention (“reflection-in-action”)¹⁵ and after the fact. Reflection-in-action is a process of explicitly thinking about an action in the midst of the action in order to experiment with a new action. Unexpected results typically trigger the examination of the action and the assumptions behind it.¹⁶ Reflection after the fact can provide for a more complete review and provide a model for reflecting-in-action.¹⁷ Reflective

¹³ See, e.g., Birkhoff & Warfield, *supra* note 8, at 93–94. See also *infra* Appendix C: Practicum Design Elements in Seven Conflict Resolution Graduate Programs.

¹⁴ Birkhoff & Warfield, *supra* note 8, at 94 (“Because the practice of conflict resolution involves emotional intensity and relational complexity, it is critical that practitioners be skilled at combining practice and theory in the moment.”); see also Victoria J. Marsick & Alfonso Sauquet, *Learning Through Reflection*, in *THE HANDBOOK OF CONFLICT RESOLUTION THEORY AND PRACTICE*, (Morton Deutsch & Peter T. Coleman eds., Jossey-Bass 2000); MICHAEL D. LANG & ALISON TAYLOR, *THE MAKING OF A MEDIATOR: DEVELOPING ARTISTRY IN PRACTICE* 134-37 (2000).

¹⁵ DONALD A. SCHON, *EDUCATING THE REFLECTIVE PRACTITIONER: TOWARD A NEW DESIGN FOR TEACHING AND LEARNING IN THE PROFESSIONS* (1987).

¹⁶ *Id.*

¹⁷ Marsick & Sauquet, *supra* note 14, at 384.

practice is thus an essential tool for clinical teaching and provides both a critically important model and important skills for students to take with them into their eventual work in the conflict resolution field. All of the components of a clinic should draw on reflective practice theory and implement a reflective practice model for students.

2. Pedagogical Congruence

It is estimated that non-verbal communication comprises 60–90% of communication.¹⁸ When non-verbal communication is not congruent with the verbal message, the listener/recipient receives a mixed message, which may result in confusion, lack of clarity, and loss of credibility of, and/or confidence in, the speaker. At best, mixed messages undermine the power of the communication. Similarly, teaching methods impart important lessons, which can support or undermine what is being expressly taught. For example, while the Socratic Method is used in law schools to teach the content of case law, it is also used as a method for analyzing legal issues (“thinking like a lawyer”), including how to distinguish cases from one another. The Socratic Method may also be responsible, at least in part, for developing lawyers’ “philosophical map.”¹⁹

It is important to consider teaching methods in a conflict resolution clinic, and the extent to which such methods support or undermine the conflict resolution values, skills and interventions intended to be taught. For example, some of the values frequently attributed to mediation include: voluntariness, transparency, collaboration, self-determination, fairness, and neutrality. Overuse of prescriptive teaching methods may undermine the value of self-determination. If the faculty member teaching the course presents him or herself as the expert who knows the solutions, the student learns that solutions come from others. Conversely, if the faculty member presents him or herself as a facilitator who elicits student perceptions, knowledge, and skills, the student learns self-determination.²⁰

¹⁸ See, e.g., Daniel Goleman, *EMOTIONAL INTELLIGENCE: WHY IT CAN MATTER MORE THAN IQ* (1995).

¹⁹ See Leonard L. Riskin, *Mediation and Lawyers*, 43 OHIO STATE L.J. 29, 43 (1982) (exploring the lawyer’s “standard philosophical map”).

²⁰ See LANG & TAYLOR, *supra* note 14. See also Stark, *supra* note 11. Additionally, in my work at the Mediation Clinic at the University of Denver College of Law, I increasingly incorporated elicitive approaches over time.

3. Mediation Orientations

There are a wide variety of views and visions about what mediation is or should be, and a variety of labels have been used to describe the different conceptions: facilitative, evaluative, transformative, and narrative being the four most prevalent in current usage.²¹ A graduate program should consider adding to its list of goals whether the intent of the program is to expose students to a particular model of mediation or other conflict resolution process or to instead expose students to a variety of models. There are advantages and disadvantages to each approach. Focusing on one model of mediation would provide students with the opportunity to learn a model in depth and would prevent them from being confused by different approaches, but runs the risk of leaving students with the belief that there is one correct way to practice mediation.²² Mediators tend to practice mediation the way they were first taught, and they tend to have great loyalty to the model to which they were first exposed. Exposing students to a variety of models would alleviate the latter concern and would expand students' skills and ability to practice different models, but may in the process leave students more confused about how to best practice mediation.²³ The choice of orientation(s) taught may depend, at least in part, on the practice opportunities available to students and whether the placement organization requires a particular orientation.²⁴

²¹ Much has been written and argued about these different visions and labels. See, e.g., Leonard L. Riskin, *Understanding Mediators' Orientations, Strategies and Techniques: A Grid for the Perplexed*, 1 HARV. NEGOT. L. REV. 7 (1996); ROBERT A. BARUCH BUSH & JOSEPH P. FOLGER, *THE PROMISE OF MEDIATION* (1994); Robert A. Baruch Bush & Sally Ganong Pope, *Changing the Quality of Conflict Interaction: The Principles and Practice of Transformative Mediation*, 3 PEPP. DISP. RESOL. L. J. 67 (2002); but see Leonard L. Riskin, *Who Decides What? Rethinking the Grid of Mediator Orientations*, DISP. RESOL. MAG., Winter 2003, at 22 (recanting the appropriateness of evaluation in any mediation process when it hinders self-determination).

²² See, e.g., Robert A. Baruch Bush, et al., *Practice Innovation: Supporting Family Strength: The Use of Transformative Mediation in a PINS Mediation Clinic*, 47 FAM. CT. REV. 148, 159–60 (2009) (“[T]ransformative mediation, because of its theoretical clarity and coherence, tends to make it possible for beginning mediators to learn the process more readily and become effective at practice more quickly.”).

²³ Stark, *supra* note 11, at 485 (“I do not know whether introducing students to . . . contrasting visions of mediation will empower students to make their own choices or simply confuse them.”).

²⁴ For example, the U.S. Postal Service Redress Program espouses a transformative mediation model, whereas court programs are more likely to prefer a facilitative or evaluative approach. See U.S. Postal Service, <http://www.usps.com/redress/about.htm> (last visited Mar. 24, 2010); see Tina Nabatchi & Lisa B. Bingham, *Transformative Mediation in the USPS REDRESS™ Program: Observations of ADR Specialists*, 18 HOFSTRA LAB. & EMP. L.J. 399, 399-

If the practice opportunities permit, exposing students to a variety of models is in most cases a better pedagogical choice. Opportunities for this broader exposure may be more limited after graduation, and exposure during the clinic provides opportunities for analysis and discussion of the advantages and disadvantages of the different orientations and how well the orientations reflect conflict resolution theories.²⁵

4. Maximizing Learning Opportunities

A clinic of necessity provides limited opportunities for learning; the limits are imposed by the number of practice experiences available, class credits and hours, and student, faculty, and supervisor (if different than faculty) time constraints. The clinic design should therefore take advantage of every opportunity for efficiency and effectiveness while maximizing learning from each practice experience wherever possible. For example, students should practice in teams wherever possible, including as many as two to three student teams in public policy or international types of practice placements, and using two-student co-mediation teams for interpersonal or workplace disputes. This approach will afford more students the opportunity to practice per case. In addition, it expands students' exposure to different styles and skills and provides them the opportunity to learn how to work effectively with a co-mediator, which is the operant model for some types of disputes.²⁶

Debriefings between students, supervisors, and faculty after every intervention, and student summary and analysis of each intervention through reflective practice memoranda maximize learning of the students practicing in that intervention. Review of every case in the group class setting maximizes learning of all students in the class, as it provides the opportunity for students to learn from all students' practice experience. Similarly, including students from all practice placements in some number of class meetings maximizes learning of all students taking the clinic course. Con-

427 (2001) (noting that court programs are more likely to prefer a facilitative or evaluative approach); see also Leonard L. Riskin & Nancy A. Welsh, *Is That All There Is?: 'The Problem' in Court-Oriented Mediation*, 15 *GEO. MASON L. REV.* 863, 864, 891 (2008); see also Louise Phipps Senft & Cynthia A. Savage, *ADR in the Courts: Progress, Problems, and Possibilities*, 108 *PENN ST. L. REV.* 327, 335 (2003).

²⁵ See Stark, *supra* note 11, at 472 (“[A]n exposure to two different visions of mediation . . . might complicate the task of skills training but would significantly deepen students' perspective concerning conflict and conflict resolution.”).

²⁶ For example, mixed-gender and/or mixed lawyer/therapist teams for divorce-related disputes, or mixed lawyer/engineer teams for environmental disputes.

straints of student and faculty time will, of necessity, need to be balanced against the ideal maximum learning time (e.g., reflective practice memoranda can be time-consuming for students to prepare and for faculty to review). This balancing act will be addressed more specifically in the subsection on Clinic Components.²⁷

B. Basic Structural Decisions: Credits, Prerequisites, Course Length and Hours

Basic structural decisions include: how many credits are allocated to the course and whether students have a choice in the number of credits; whether to incorporate basic mediation training (including simulations) as a part of the clinic course or as a prerequisite; whether to require other prerequisites; and how many quarters or semesters and hours per week should be allocated to the clinic. These considerations are somewhat dependent on each other. For example, whether or not basic training is included as part of the clinic course will significantly change the number of hours and credits required. In addition, these considerations will be affected by political and logistical concerns as well as pedagogical requirements.

Graduate programs that offer a clinic award between two and twelve semester credits for the clinic. Most provide a specific number of credit hours, but at least two provide for a range.²⁸

1. Basic Mediation Training

There are some advantages to requiring students to attend a separate basic mediation training class as a pre-requisite. These include the possibility of offering basic training to a larger number of students if all of them will not be enrolling in the clinic; partnering with other university departments or outside organizations for political or practical reasons to consolidate limited resources, or for other reasons, such as a multidisciplinary approach; allowing for more flexibility in assigning faculty; and allowing students more flexibility in choosing how many credits to take for the clinic.

²⁷ See Clinic Components, *infra* Part III.C.

²⁸ See *infra* Appendix B: Practicum Structure in Nine Conflict Resolution Graduate Programs. The Associated Mennonite Biblical Seminary provides for three to six semester hours and Eastern Mennonite University provides for six to nine semester hours.

On the other hand, including basic training as part of the course promotes consistency in clinic students' training and consistency between training and clinic practice expectations. For example, if a transformative model of mediation is going to be used in practice, it would be essential to train students in the transformative approach.²⁹ Including basic training as part of the course also offers an opportunity for faculty to assess a student's areas of strengths and weaknesses, which will help in determining student teams or co-mediation pairings, as well as guiding student's practice experience. A hybrid model would be for this separate course to be taught by the same faculty that will teach the clinic, thus offering the advantages of including basic training as part of the clinic while providing more flexibility as to scheduling, allocation of credits, and use of resources.

When basic training is a separate course, an intensive workshop during the first week of the clinic in lieu of (or in addition to) the weekly class should be offered to bridge the gap, include any additional training needed by students before they begin their actual casework, and help the students bond in their teams and as a group. This bonding will help create an atmosphere of non-judgmental exploration, which is important to case review.³⁰ If possible, the workshop should include students engaging in video-recorded simulations. Students can then review the video, select portions to review with the supervising faculty, and draft a reflective practice memorandum based on the simulation. A second round of video-recorded simulations near the end of the clinic, combined with later reflective practice memoranda based on the live client practice cases, can help both students and faculty to evaluate student progress over the course of the clinic.³¹

Graduate programs address the issues of basic training and prerequisites in a variety of ways. Some require additional prerequisites in addition to basic training; these may include theory classes and in some cases completion of all class work prior to participating in the clinic. It makes sense that graduate students complete at least their core classes prior to enrolling in the clinic,

²⁹ Bush, et al., *supra* note 22.

³⁰ Students will be more reluctant to share, reflect on, and address weaknesses as well as strengths in their practice efforts if they are judged harshly for their mistakes.

³¹ I instituted this requirement when I taught the Mediation Clinic at the University of Denver law school. Seeing themselves in action allowed students to become, often dramatically, aware of their strengths and weaknesses. For example, one student, who had a propensity to talk a lot, upon watching her videotape exclaimed, "When I'm talking, the parties aren't [talking]!"

so that they have a solid theoretical foundation before beginning to apply their knowledge.³²

2. Clinic Length

Clinic length should be related to the program's goal for the level of practice experience and/or competence of clinic students. The goals proposed above in Part I include that students gain experience and acquire and/or improve conflict resolution skills; these goals do not necessarily indicate a particular level of competence. However, another goal requires that students increase their marketability after graduation through acquiring practice experience. This goal would be best met if students acquire a sufficient level of competency so that they can serve as mediators after graduation.³³

There are no universally agreed upon guidelines as to how much experience makes for a competent practitioner, and the amounts may vary with the subject and/or setting of the conflict (e.g., international versus business versus interpersonal).³⁴ Different states have different requirements, for example, in order for mediators to be appointed by the court to resolve cases that the court has referred to or required to be mediated. Clinic experience should, at a minimum, be tied to requirements of the state in which the graduate program is located. However, because students may

³² Similarly, law school mediation clinics should be offered to second or third year students who have completed at least an ADR survey course plus any relevant substantive courses. For example, if the clinic will focus on family mediation, law students should have completed a family law course.

³³ Practicum programs currently do not guarantee or represent that students will achieve competency, though they may receive a certificate that certifies they have completed court mandated mediation training requirements. See, e.g., Syllabus, Wayne State University Practicum in Dispute Resolution 2 (Spring–Summer 2009) (on file with author) (“This course curriculum has been approved by SCAO [Michigan State Court Administrative Office], in compliance with MCR 2.411 and Michigan Mediation training Standards. Students who successfully complete this practicum will receive a certificate that certifies they completed the training requirements set forth under the Michigan Court Rule.”). Students at Wayne State University may also, but are not assured of, completing “roster qualifying” observations. *Id.* at 3.

³⁴ For example, Colorado's voluntary Recommended Education/Training and Experience for Professional Mediators includes in its fundamentals that a mediator participate (including intake interviews, review of pre-mediation documents, consultation, and other activities directly related to the mediation in addition to the mediation session(s)) in sixty hours of mediation in ten or more different mediation cases (under direct supervision and/or in consultation with an experienced mediator) before offering their services to the public for compensation. See COLO. COUNCIL OF MEDIATORS, *supra* note 1, at 3. No one has specifically addressed how many cases provide sufficient opportunity for reflective practice and integration of theory and practice, but it can be presumed that the caseload required to become competent would provide sufficient opportunities for these aspects as well. For interpersonal applications in Colorado, therefore, it is recommended that students participate in at least ten different mediation cases. *Id.*

seek work nationally or internationally, it would be preferable to have students' clinic experience meet the most stringent requirements required in any location.

For international and public policy applications, the nature of these cases is such that students are more likely to only have the opportunity to participate in one or two cases. These interventions are much more likely to involve extensive preparation and planning, as well as at least two or three and often many more sessions. It is highly unlikely that students who participate in these applications can acquire enough experience during the clinic to achieve a level of competency sufficient to serve as mediators after completion of the M.A. program without additional supervised experience.

Therefore, if the goal of the clinic is to achieve student competency, all students should be required to have clinic experience in interpersonal applications that address conflicts between individuals and/or small groups of individuals. This approach would also be ideal because it would provide all students with a basic level of skills experience and a better understanding of the behavior of individuals in conflict, which would be helpful to them when working with people in conflict regardless of subject or setting. International and public policy applications could then be offered as additional advanced clinic placements. However, because graduate program students—law students included—have limited time and credits to complete the program, it might not be feasible for students to take more than one clinic. Alternatively, the goal for international/public policy clinic students should be to gain practice experience and acquire and/or improve skills, but not to achieve competency.

Regardless of practice application, in order to have sufficient time to achieve the desired caseload and have sufficient opportunity for reflective practice and integration of theory and practice, it is recommended that the interpersonal clinic course take place over at least one semester or two successive quarters. This length would provide fifteen to twenty weeks of time, which is enough to incorporate basic training—if desired—or at least an intensive “bridge” workshop during the first week of the clinic, offer class hours every week or every other week, and allow sufficient time to reach the goal of participating in at least five to ten mediations. In order for international and public policy clinic students to participate in planning, design, and preparation as well as in execution of interventions, the clinic might need to take place over two semes-

ters or three quarters. Depending on the number of students and available faculty supervisors, plus the unpredictability of case referrals, interpersonal track students may actually mediate on average every other week.

C. Clinic Components

A clinic course, as defined above, may consist of a number of components, which can be broken down into four categories: supervised practice, classroom time, preparation for practice and classroom, and supporting activities. There is a variety of models for delivering these components, and the specifics of each category may look different, depending on the subject of the practice: for example, international, business, or interpersonal. A survey of nine graduate programs in conflict resolution indicates that all but one provide a class component as part of the clinic.³⁵ A class component is the best way to maximize opportunities for reflective practice and to integrate theory and practice for the maximum number of students.

1. Supervised Practice

Practice may take place in an in-house program administered by the academic institution or in existing programs or services outside of the graduate program. An in-house program allows for greater control of all aspects of the practice and may be more convenient for faculty and students who may not need to leave the campus. However, an in-house program entails the costs of program administration and potential liability associated with offering such services.³⁶ Practice in existing programs avoids many of these costs, although there will be time requirements for making arrangements and coordinating with the outside program. Practice in existing programs may also allow for more variety in the types of organizations and/or disputes available. Where resources permit, a combination of in-house and outside settings would allow for the advantages of both.

³⁵ See *infra* Appendix B: Practicum Structure in Nine Conflict Resolution Graduate Programs.

³⁶ For a more in-depth comparison of these two options, see Cynthia Savage, *Future Lawyers: Adversaries or Problem Solvers? Two Law School Programs in Alternative Dispute Resolution*, 7 *MEDIATION Q.* 1, 89-101 (1989).

a. Effective and Appropriate Settings and Subjects

Environments in which conflict arises can be broken down into three major categories: *Political*, *Business*, and *Interpersonal*. Within each of these environments, sub-areas exist. For example, *Political* might include environmental, public policy, land use, collaborative governance, and international disputes; *Business* might include disputes between businesses over contracts or services, partnership dissolutions, or workplace disputes; and *Interpersonal* might include neighbor disputes, disputes between individuals or between individuals and businesses over contracts or services, or tenant-landlord, collections, and family disputes. Within each of these areas, a clinic caseload would need to be identified that would generate sufficient opportunities for skill development, reflective practice, and integration of theory and practice. A clinic should begin by offering an interpersonal track for the reasons outlined below. Based on the range of environments and the feasibility of appropriate practice settings in the communities surrounding the graduate program, a clinic might also consider offering additional tracks as advanced clinics.

The interpersonal track is typically the most fertile in terms of the number of caseload opportunities,³⁷ and, as discussed previously, should be a required track for all students.³⁸ The caseload possibilities range from court cases involving disputes between strangers (e.g., traffic cases), to family cases within or outside of the court system, to simple business or employment cases, to neighbor or neighborhood disputes also within or outside the court system. Small claims and/or cases in courts of limited jurisdiction are ideal vehicles for supervised students to practice mediation skills. Legal issues are present, but relatively uncomplicated; the facts and relationship issues of these disputes are also usually relatively uncomplicated, even where there is a continuing relationship between the parties such as in a landlord-tenant or individual to business dispute. Additionally, the stakes are relatively low, so that if a case does not settle, impacts on parties are relatively minimal. Students would likely encounter a mix of stranger and relationship cases, which would provide wonderful opportunities for comparing the benefits and effectiveness of mediation in these applications.

Neighbor cases, which frequently involve issues such as barking dogs or parking disputes, may be in court due to quasi-criminal

³⁷ A large number of cases are generated when courts refer these disputes for mediation.

³⁸ See Clinic Length, *supra* Part III.B.2.

actions such as animal control citations or assault charges, but can be essentially two-party disputes rather than true victim-offender interactions. Like small claims cases or cases in courts of limited jurisdiction, the facts and legal issues are typically relatively uncomplicated, but these cases often involve continuing relationships, which provide both parties motivation to reach agreements, and multi-dimensional rather than simply monetary issues. Thus, these are also ideal practice cases for new mediators.

Cases involving family relationships are more complex legally, factually, and psychologically than neighbor cases.³⁹ Family cases may also involve domestic violence issues that can affect the appropriateness of mediation and the conduct of the process if it is deemed appropriate.⁴⁰ Cases can include: parenting and financial

³⁹ A similar type of case that sometimes arises in courts of limited jurisdiction is a case in which a couple (whether gay, lesbian, or heterosexual) who had been co-habiting, seek to divide real and/or personal property. The relationship dynamics and complications are often similar to a divorce.

⁴⁰ Jessica Pearson, *Mediating when domestic violence is a factor: Policies and practices in court-based divorce mediation programs*, 14 CONFLICT RESOL. Q. 319 (2007) (noting that domestic violence is estimated to be a factor in at least 50% of the cases served at court-based divorce mediation programs). Domestic violence generally indicates serious power imbalances in the parties' relationship, with resulting high possibilities in mediation for coercion and for a failure to follow through on agreements. See, e.g., Lisa G. Lerman, *Mediation of Wife Abuse Cases: The Adverse Impact of Informal Dispute Resolution on Women*, 7 HARV. WOMEN'S L.J. 57, 72 (1984); Laurie Woods, *Mediation: A Backlash to Women's Progress on Family Law Issues*, 19 CLEARINGHOUSE REV. 431 (1985). There is also a potential for continuing or increasing levels of violence in the absence of an authoritative procedure. See, e.g., Andree G. Gagnon, *Ending Mandatory Divorce Mediation for Battered Women*, 15 HARV. WOMEN'S L.J. 272, 278 (1992); Nancy H. Rogers & Craig A. McEwen, *MEDIATION: LAW, POLICY, PRACTICE* 216 (1989). For these reasons, all domestic cases should be screened by the attorneys and the mediator for the possibility of violence. See, e.g., Jane C. Murphy & Robert Rubinson, *Domestic Violence and Mediation: Responding to the Challenges of Crafting Effective Screens*, 39 FAM. L.Q. 53 (2005); Rene L. Rimelspach, *Mediating Family Disputes in a World with Domestic Violence: How to Devise a Safe and Effective Court-Connected Mediation Program*, 17 OHIO ST. J. ON DISP. RESOL. 95 (2001); Linda Girdner, *Mediation Triage: Screening for Spouse Abuse in Divorce Mediation*, 7 MEDIATION Q. 365 (1990); Desmond Ellis, *Marital Conflict Mediation and Post-Separation Wife Abuse*, 8 LAW & INEQUALITY 317, 328 (1992). Experts disagree as to whether mediation is ever appropriate when violence is or has been present. It is also important to distinguish between cases where the domestic violence charge itself is being mediated versus where violence is or has been present but is not the subject of the mediation. LAURIE WOODS ET AL., *DISPUTE RESOLUTION* 328-29 (1992); see also Nancy H. Rogers & Craig A. McEwen, *supra* note 40, at 216-17 (1989); Lerman, *supra* note 40, at 84-85; but see Ellis, *supra* note 40, at 333-35. Those who believe mediation may be appropriate use additional screening, such as how recently the violence occurred, how frequently it occurred, how dangerous it was, and whether the parties are or have been in therapy. See, e.g., Lerman, *supra* note 40, at 100-02; Girdner, *supra* note 40, at 366-71. If domestic violence is present and a client wishes nonetheless to mediate, it is particularly important to find a mediator who is knowledgeable about and experienced with domestic violence issues; because screening may not always bring to light the presence of domestic vio-

issues related to paternity; divorce and or post-divorce actions; truancy; parent-adolescent conflicts; child welfare cases (e.g. “Dependency and Neglect” or “D & N” in Colorado); or children or persons in need of supervision (e.g. “CHINS” in New Mexico or “PINS” in Connecticut). These cases can be more difficult for students who do not have a background in psychology or other experience addressing similar issues, but can also allow them to experience the full impact of continuing relationships on mediation and different mediation orientations that are more relational in focus.⁴¹

Advanced clinics in the political and business arenas are often also feasible for graduate programs. These are more complicated cases that require more advanced knowledge and skills. Land use cases might present the most available opportunities and could be accessed through local governments surrounding the graduate school. Local governments might also refer a multitude of other environmental, public policy, or collaborative governance disputes. The Governor’s Office could also be approached to see if an arrangement could be arrived at in which the supervised graduate students would provide mediation services to state agencies. Alternatively, state agencies could be approached individually. Some graduate programs might be located in areas which have international avenues for cases. Possibilities might be identified through discussion with the faculty of graduate programs of international studies.⁴²

lence in a case, all mediators (including all clinic students mediating these types of cases) should be educated about domestic violence and its potential impacts on mediation. It is also important to structure the mediation carefully. For example, it may be preferable to conduct all or much of the mediation in caucus; and it may be desirable to require mutual temporary restraining orders as a precondition for beginning the process. A substantial body of specialized literature has developed regarding the mediation of cases in which domestic violence exists. *See, e.g.,* Linda Perry, *Mediation and Wife Abuse: A Review of the Literature*, 11 *MEDIATION Q.* 313 (1994).

⁴¹ *See, e.g.,* Savage, *supra* note 36, at 97 (students thought the process seemed more like therapy than mediation); Stark, *supra* note 11, at n.20, 471 (student quoted as saying, “I am very uncomfortable with the Family Court forum. I really don’t feel qualified or able to do the things that are most important in the family setting.” Another student commented that housing sessions were a “welcome change from the oppressive, high tension atmosphere of family mediation.”). All of the students involved in these programs were or currently are law students, and therefore their knowledge of and comfort with emotions and relationship issues may be quite different from graduate program students. *But see* Bush et al., *supra* 22, at 162 (The use of transformative mediation in a PINS (“persons in need of supervision”) law school mediation clinic provides effective mediator training).

⁴² *See infra* Appendix A for examples of practice setting that might exist in the communities surrounding a graduate program.

A business track could also be explored as an advanced clinic in order to fulfill a range of conflict environments.⁴³ Although small claims cases and cases in courts of limited jurisdiction identified in the interpersonal track may include some business and/or employment disputes, a separate workplace track could explore this large, common, and unique environment much more in depth.⁴⁴

b. Supervision

There are two basic supervision models: (1) direct supervision, where the supervisor observes the student as the practice is occurring; and (2) consultation between the student and supervisor which takes place before and/or after the practice experience.⁴⁵ Supervision is a complicated process in either model, and it is particularly complicated when it is real-time.⁴⁶ Real-time supervision also tends to be more costly because of the amount of time involved. Disregarding cost, the best supervision model for conflict resolution processes is a combination of consultation prior to the practice to the extent planning and designing is possible (this will vary according to the setting and subject matter), and real-time direct supervision, followed by consultation/debriefing regarding the practice experience as soon as possible (while memories are fresh).⁴⁷

If possible all students should receive direct, real-time supervision in designing and intervening from faculty who possess theoretical expertise and practice experience in the relevant track focus. Faculty must be able to evaluate students and help students connect theory and practice. Faculty should also ideally be experienced in both direct and consultation supervision. Qualified full-time faculty may not be available, due to lack of training and experience and/or lack of time due to their already existing workload, though it may be possible to recruit one or two from the graduate

⁴³ In my experience in the Mediation Clinic, the workplace disputes referred by the Denver Career Service Authority frequently involved work groups and/or disputes which had festered for many years. These cases proved to be too difficult for most of the beginner mediators.

⁴⁴ See *infra* Appendix A for examples in New York City and the Denver Metro Area for pursuing workplace track placements.

⁴⁵ This is the model commonly used in the field of psychology.

⁴⁶ See, e.g., Stark, *supra* note 11, at 497 (“The unpredictable nature of mediation, the difficulty of planning for it and the precarious authority of student mediators, are all factors that affect mediation supervision and give rise to some unique supervision problems.”).

⁴⁷ *Id.* at 499 (“The difficulty of collaborating with students to plan for mediation puts a premium on high quality post-performance critique.”).

program or other academic units to volunteer their time.⁴⁸ Hiring additional full-time faculty could provide the most qualified supervisors, but resources might not be available for this purpose. Adjunct faculty might be able to help fill the gaps in order to serve as supervisors.⁴⁹ Programs may wish to consider appointing qualified staff at clinic placement organizations as adjunct faculty, particularly if they also have teaching and/or mediator supervision experience.

If the ideal combination of elements is not possible, for example due to limited resources and/or limited qualified supervisors, a less desirable but workable approach would be to have students directly supervised by experienced, practicing professionals (with pre-and post-consultations by these professionals a plus) and to have faculty help students integrate practice and theory through the classroom component of the clinic.⁵⁰ Ideally, on-site supervisors would also attend case review. Clinics should provide for training of supervisors, particularly real-time supervisors, without supervision experience.⁵¹ If direct, real-time supervision ultimately proves not possible, a faculty-student consultation model would be consistent with, or even a step above, what some graduate programs currently offer.⁵²

c. Graduated Practice

A graduated four-step approach to practice is ideal. First, students begin by observing a mediation/conflict resolution intervention and debrief, reflect and discuss just as they will when they

⁴⁸ At least one law school mediation clinical program was surprised to have had success with recruiting faculty and others to help in the clinic. These volunteers did not necessarily have mediation training and experience and/or mediation supervision experience. *See id.* at 466–67.

⁴⁹ Between 1994 and 1996, we used adjunct faculty in the Mediation Clinic, in addition to clinical faculty, to allow us to expand the number of students in the clinic. A full-time load for regular faculty was supervising eight students, plus teaching the mediation clinic basic training and weekly classes; adjuncts each supervised one pair of students, were also expected to help with basic training and to attend case review every week. Some of the adjuncts would also attend the second weekly class devoted to issues and additional skills training.

⁵⁰ *See Stark, supra* note 11, at 469–70; *see also Savage, supra* note 36.

⁵¹ *See Stark, supra* note 11, at 497 (“[M]ediation clinicians are deeply concerned about when, why, and how a supervisor should intervene in a student’s mediation performance.”); *Id.* at n.128 (“Cynthia Savage’s presentation, a simulation in which the audience was invited to ‘intervene’ in a student mediation filled with gaffes and omissions, was a high point of the [Clinical Legal Education Association Workshop on ADR] conference, producing animated discussion and debate.”) (*citing* Cynthia Savage, Supervisory Skills and Techniques in Mediation, CLEA Workshop on ADR Clinics (May 7, 1995)).

⁵² *See infra* Appendix C: Practicum Design Elements in Seven Conflict Resolution Graduate Programs.

actively participate in later cases. Second, the student co-mediate with their supervisor.⁵³ Third, students co-mediate with each other while the supervisor observes and intervenes if necessary.⁵⁴ Finally, if and when the supervisor feels the student is ready, the student mediates solo while the supervisor observes and intervenes if necessary.⁵⁵

This model commonly works well in an interpersonal track. In the international and public policy tracks, students most likely will not advance past stage two due to the much more limited number of cases in their practice experience.

2. Classroom

The classroom component is an essential element of a clinic, as it provides the opportunity to pull together all of the strands of learning, incorporating and integrating reflective practice, theory, research, and skills. Case review (presentation and discussion of students' mediation case practice experience in a group setting; in practice outside of a class setting, this might be called a "reflective practice group"⁵⁶) is critical to include as part of the classroom component, for incorporating reflective practice.⁵⁷ Case review also affords students an opportunity to address and release at least some of the emotional impacts of practice and gain support as well as feedback from peers and faculty. Case review maximizes student learning by exposing every clinic student to each of the prac-

⁵³ At the Mediation Clinic at the University of Denver College of Law, because of the limited number of cases available for practice, I combined steps one and two by co-mediating with one student while the other observed, then in the next case co-mediating with the student who observed the first time while the student who mediated the first time observed.

⁵⁴ When, why, and how a supervisor should intervene is a complicated decision. See Stark, *supra* note 11, at 497. When possible, in order not to detract from the student's authority and credibility in the eyes of the mediation participants, the supervisor should call for a break and consult with the students out of earshot of the participants. There may be times, however, when students' mistakes are so egregious that the supervisor must intervene immediately and with the participants present.

⁵⁵ When I taught in the Mediation Clinic, typically students were not ready to solo mediate until they had co-mediated at least nine or ten cases; some were not ready even after twelve cases.

⁵⁶ Howard Herman et al., *Mediating with Heart, Soul, and Humanity—Court-connected Mediation as a Source of Values for Elevating Mediation Practice*, Presentation at the A.B.A. Sec. Disp. Resol. Spring Conference (Apr. 3, 2008).

⁵⁷ Another model for case review, where all students are mediating simultaneously while supervised by practicing mediators, is to meet as a group onsite with all supervisors and faculty at the end of the mediations. See MARQUETTE UNIV. LAW SCHOOL DISPUTE RESOL., ADVISE, RESOLVE, FACILITATE 7, available at <http://law.marquette.edu/s3/site/images/adr/DisputeResolution.pdf>.

tice cases. Student preparation for case review should include drafting reflective practice memoranda following a specific guide for summary and analysis of their practice experiences.⁵⁸

A typical case review session begins with a student (or team of students) presenting a summary of the case. The student then shares constructive interactions and interventions. Next, the student shares one or more events that did not go so well and/or where impasse occurred. Students are encouraged to find interventions they might have changed in hindsight even if the parties reached agreement in the case. The student shares any learning from these less positive events, and other students in the class are then invited to ask questions, make observations, and brainstorm other possible interventions. Faculty guide the discussion by asking questions designed to elicit information, analysis, feelings, and conclusions, perhaps using the reflective practice memoranda guide as a structure, but at the same time being responsive to students' comments and questions rather than strictly following the guide.

Because students are asked to both expose their errors in judgment and/or action, and to think creatively of other possible interventions, it is important to establish a supportive, non-judgmental atmosphere in case review; otherwise, students can feel victimized and will resist exposing their mistakes for all to see. The supervisor plays a critical role in creating this sense of safety, just as a mediator does for parties in a mediation session. Case review should mirror the mediation process by establishing ground rules for discussion, eliciting information, framing issues and brainstorming options.⁵⁹

A supportive, non-judgmental atmosphere requires that everyone participate so that everyone in the group at some point reveals their weaknesses as well as their strengths. This in turn requires

⁵⁸ See *infra* Appendix D: Sample Reflective Practice Guide for an example of a reflective practice guide that was originally developed for a presentation by Cynthia Savage, Christine Coates, Steve Mains, and Robin Amadei at Colorado's Third Annual Statewide ADR Conference, entitled "Reflective Practice: Developing Awareness and Artistry in Mediation" (October 2009). See also LANG & TAYLOR, *supra* note 14, at 137–40 (containing suggestions for content). Ideally students should draft a reflective practice memorandum for each case they mediate, and the supervisor should review each memorandum. However, depending on the caseload volume, this may prove to be too time-consuming for the students, supervisor, or both. In the Mediation Clinic, I began with this ideal, but cut back to every other case in subsequent classes (I would have one co-mediator draft a memo for one case, then have the other co-mediator draft a memo for the following case). Even this proved to be quite a burden. Some programs have students draft shorter memoranda for every case, and a longer analysis for a more limited number of cases.

⁵⁹ See Pedagogical Congruence, *supra* Part III.A.2.

that the group be small enough that everyone has several chances to present their cases over the duration of the course. Depending on the number of practice opportunities, the group might include six to twelve students.

Limiting case review to students within a particular track makes sense for a number of reasons: (1) to keep the group small; (2) students better understand the cases within their track; and (3) public policy and international students may not have cases to review until later in the course. However, students would then miss the opportunity to learn about practice in other settings. A compromise might be to have initial case reviews be separate for separate tracks, and then designate two to three cases reviews toward the end of the course for joint case reviews across tracks.

The classroom should also provide for additional skills training (whether specifically planned for in the syllabus or identified to address student deficits that become apparent during practice) and examination of theoretical issues in the context of practice. As with additional skills, theoretical issues can be identified ahead of time, or can be identified for each class session based on theoretical issues arising out students' past practice experience, or a combination of both.⁶⁰ Theory can be best introduced primarily through a seminar approach, with students assigned to take responsibility (with faculty assistance) for researching and assigning class readings, and with faculty and/or guest speakers presenting in relevant areas of their expertise.⁶¹ As with case review, additional skills training and examination of theoretical issues could be different for different tracks, but there could be some crossover with other tracks. For example, confidentiality statutes and/or court rules would be interesting to examine in the context of both private and public disputes. Again, it might make sense to have separate classes part of the time and to have joint classes for part of the time.

3. Additional Assignments

Additional assignments that can be incorporated with classroom experiences or used to supplement classroom activities can include: students drafting roleplays and using selected roleplays for

⁶⁰ Faculty can anticipate that certain issues will arise during students' practice experience, such as maintaining neutrality and explaining confidentiality and its limits to parties.

⁶¹ In the Mediation Clinic, we invited county court judges to present on landlord-tenant law, collections, and other topics. Law faculty or practicing attorneys could also present on the legal issues (e.g., parenting and child support, truancy, etc.) while faculty from other departments could present on other issues (e.g., on psychological issues accompanying divorce or on child development) depending on the types of cases included in the clinic caseload.

students to use in simulations (drafting roleplays assists students in understanding, e.g., the relevance of underlying interests in determining how a conflict evolves and may be resolved); video-recording of student simulations and requiring students to review them with faculty review and feedback (use of actors can provide for more realistic simulations); journals, either free-form or guided; and/or online forums.

D. Evaluation of Students

Clinic performance can be difficult to evaluate. Some clinic programs have chosen to use a pass/fail method for evaluating students, but the majority of programs evaluate students through grades.⁶² A pass/fail system has the advantage of helping to create a less stressful, less judgmental atmosphere for students and adjunct faculty and/or supervisors, who may not have experience in assigning grades. It also removes the difficulties in assigning grades to practice experience which may vary tremendously as to challenges presented in particular cases and student responses to those challenges. However if students' other classes are graded, a pass/fail course may take on lesser importance in the students' eyes. Also a pass/fail approach fails to differentiate between students who put in a lot of effort and achieve greater mastery of all of the course components and those who do not. For these reasons, unless the program as a whole is pass/fail, clinic students should be evaluated based on grades. The elements which comprise the grade should be proportional in time and importance to the course components.

An example of how practice, classroom, and preparation might be allocated and grades might be determined, based on a five-credit, two quarter course, is as follows:

Course Requirements and Evaluation (five credit course, approximately 100 total hours)

- a. Course Requirements
 - i. Supervised practice (design, planning, intervention, evaluation) in student's practice track (estimated twenty hours).

⁶² See *infra* Appendix B: Practicum Structure in Nine Conflict Resolution Graduate Programs. Students in the CRI's new practicum course are also being evaluated through grades.

- ii. Class component (eight hours intensive the first week, then two hours every other week, for a total of twenty hours over two consecutive quarters):
 - 1. Intensive: review of clinic policies and procedures (these should be compiled in a manual, and include any forms students will be expected to use), lectures on relevant law and court procedures, review of students' video-recorded simulations (the video-recorded simulations themselves could be completed outside of class), Myers-Briggs (or other appropriate instrument) testing and discussion to enhance communication and partnering abilities of student teams.
 - 2. Weekly class: students reflect on their clinic activities, explore relevant theory, and integrate theory and practice, in a group setting with other clinic students.
- iii. Preparation for practice and class (estimated sixty hours):
 - 1. Reading
 - 2. Preparing written materials (including reflective practice memoranda), class presentations, and video-recorded simulations
 - 3. Planning
 - 4. Meeting with group members and/or faculty supervisor.
- b. Evaluation of Students: Graded
 - i. Supervised practice: 30%
 - ii. Class component: 20%
 - iii. Planning/meetings with group members and/or faculty supervisor: 20%
 - iv. Written materials and class presentations: 20%

IV. ADDITIONAL RECOMMENDATIONS

A. Advanced Clinic in Conflict Specialties

An additional optional Advanced Clinic Course could be offered in the future to students interested in exploring applications of conflict/dispute resolution knowledge and skills to a variety of other uses, with tracks such as:⁶³

Training/Teaching Conflict Resolution Theory and Skills

⁶³ See generally BERNARD MAYER, *BEYOND NEUTRALITY* (2004) (discussing other roles for conflict engagement specialists).

ADR Systems Design
ADR Program Administration
Conflict Coaching
Restorative Justice

Conflict resolution program graduates have found employment in a wide variety of settings which would make use of graduates' knowledge and skills in these other areas as well as their knowledge and skills relating to resolving conflict as a neutral.⁶⁴

B. Partnering

Partnering is essential to establishing a viable clinic program. Partnering with the community will yield a variety of placements and potential supervisors. Partnering with other departments in the university can result in synergy and efficiency in the use of resources.⁶⁵

1. With the Community

Potential community partners include community mediation organizations, state agencies, city and county governments, the courts, local bar associations, the state bar association continuing legal education entity,⁶⁶ and others.⁶⁷ Community partners can provide caseload, visibility, networking, and possibly supervision for students; students and faculty provide services and sometimes education, research or evaluation for the community.

⁶⁴ For example, graduates from the CRI graduate program have found work in various settings including human resource departments and victim-offender reconciliation programs, the U.S. Foreign Service, 9News Denver, and have embarked on careers as family mediators, conflict management trainers, paralegal specialists, and school counselors. *See* Denver University, Conflict Resolution Institute, Internship and Job Placement History, <http://www.du.edu/con-res/resources/careers.html> (last visited Apr. 18, 2010).

⁶⁵ Faculty will need to address whether or not qualified students from other academic units will be permitted to enroll in the Clinic Course.

⁶⁶ An alternative approach to providing a forty-hour training program might be to partner with CLE. When I taught at the University of New Mexico Law School in 1987-1988 and helped them create a clinical mediation program, the law school partnered with New Mexico's continuing legal education entity to provide a forty-hour mediation training to a mixed group of lawyers and law students. Participants reacted positively to this mix, and it made it less expensive for the law students.

⁶⁷ *See infra* Appendix A for examples in a particular setting.

2. With Law Schools

Law schools in the same university or near the conflict resolution graduate program may offer a mediation clinical program to second or third year law students. Law schools also sometimes offer classes in negotiation and/or mediation, which typically include roleplays coached by the professor. It may be useful to consult with the law school as well as to explore options for combining resources to the advantage of the clinic and the law students. At a minimum, the graduate program may need to coordinate the clinic practice settings with the law school. The graduate program could also explore additional caseload options, shared supervisor options, and possible combined class options. For example, it might be possible for graduate program students to enroll in the law school's mediation clinic course in order to complete their clinic requirement. Another possibility might be a combined mediation clinic in which law student are paired with graduate program students for co-mediation teams.

3. With Continuing Education Programs

Continuing education programs may offer a forty-hour mediation training once a year and could possibly provide this training for graduate program students.⁶⁸ An alternative long-term possibility would be for a graduate program, law school or continuing education program to offer a combined clinic for students in all three programs, although historically, this type of collaboration has not yet happened.

C. Staff

The clinic needs to have a Clinic Director to coordinate the parts of the course, identify specific practice placements, and make arrangements and maintain good relations with the placement organizations. It would be best if the Clinic Director was a full-time faculty member, but it might be possible to assign this position to adjunct faculty. Administrative support will need to be provided by staff, perhaps with the help of graduate student assistants. As

⁶⁸ The CRI has chosen this route, with the University of Denver's University College providing the forty-hour training for conflict resolution graduate students through a pre-existing training.

discussed above, supervisors could be program faculty, adjuncts, and/or experienced practitioners.

D. Marketing

Given the widespread agreement on the importance of a clinic experience in both academic and non-academic mediator training programs, and particularly in light of the lack of uniform offering of clinic mediation programs, a clinical offering should figure prominently in the marketing to both prospective students and prospective employers. Because the type of clinic/practicum experiences offered among graduate programs varies considerably, a program should emphasize the extent of actual practice (as opposed to simulations) students experience, as well as the emphasis on reflective practice, integration of theory and practice, and real-time supervision.

E. Clinic Evaluation

An evaluation process should be designed and implemented in order to determine whether or not the clinic is meeting the goals of the program and to assess satisfaction rates of clients and partnering organizations. Methods for evaluation should be identified prior to the first offering of the clinic course, and should be implemented immediately so that any necessary data can be collected from the outset.

Possible data collection might include quantitative data such as caseload per student or per student team, case length, agreement rates or other markers of progress as a result of the intervention, and time spent by students and faculty; for example, students and faculty could be asked to keep an ongoing total of hours spent on the various components of the course. Pre-clinic surveys could be given to students to assess their expectations, experience levels, and theoretical knowledge; post-clinic course evaluations by students could compare whether students' expectations were met and whether experience and theoretical knowledge improved, and could assess students' perspectives as to the strongest and most valuable aspects of the course as well as the weakest aspects and areas needing improvement. Or, students could be surveyed as a focus group to discuss their experiences with the course. Similarly,

faculty should be surveyed either through written instruments or as a focus group, to assess what they thought worked well and what needed improvement.

The most practical method for assessing client satisfaction is through surveys distributed immediately upon completion of the intervention; if the partnering organization already implements such surveys, a method should be discussed whereby the graduate program can get copies of client feedback on cases in which students participated. Partnering organizations should also be surveyed, through interviews and/or survey instruments, to assess their experience and ask for suggestions for improvement.

F. Clinic Committee

It is recommended that a Clinic Committee be established, consisting of representatives of the Program faculty and any advisory boards, in order to advise on clinic design, agree on the evaluation process, review evaluation results, and generally be available as a sounding board for any issues or concerns arising in connection with the clinic.

G. Resources

Because of the time-intensive nature of a clinic, particularly in view of the number of hours required to supervise student practice experiences, it is an expensive course. There also may be other aspects of the course that require funding, for example, liability insurance. At least one program provides liability insurance through student fees.⁶⁹ It might be possible to also fund some of the supervision costs out of student fees, particularly, for example, in the event students would like to take the course for less than the full allotment of credits. A clinic might also attract funding through service contracts that provide supervised practice experience for students.

⁶⁹ See Center for Psychological Studies, Nova Southeastern University, Tuition and Fees, <http://cps.nova.edu/admissions/tuition.html> (last visited Apr. 14, 2010).

V. SUMMARY OF RECOMMENDATIONS

A. General

1. All conflict resolution master's degree students should be required to take at least one clinic course, focused on basic conflict resolution/dispute resolution skills, in order to meet the goals/learning objectives of the conflict resolution master's degree program.
2. Graduate programs should change the name from "practicum" to "clinic."
3. Clinic Definition:

Clinic means directly engaging as a full participant in conflict resolution work, as compared to an internship, which may mean observing and assisting to learn about conflict resolution environments. Clinic students will be involved in the design, execution, and evaluation of conflict resolution interventions. Student involvement in planning, implementation, reflection, and evaluation may look different in different contexts, but all elements will be present in some form. Faculty with relevant theoretical expertise and practice experience will supervise clinic students.

B. Clinic Design

4. All of the components of a clinic should draw on reflective practice theory and implement a reflective practice model for students.
5. It is important that teaching methods in a conflict resolution clinic be congruent with the conflict resolution values, skills and interventions intended to be taught.
6. A Program should consider adding to its list of goals whether the intent of the program is to expose students to a particular model of mediation or other conflict resolution process or to instead expose students to a variety of models. If the practice opportunities permit, exposing students to a variety of models is ultimately a better pedagogical choice.
7. The clinic design should take advantage of every opportunity for efficiency and effectiveness and maximize learning from each practice experience whenever possible. For example, students should practice in teams whenever possible. Debriefing between students,

supervisors, and faculty after every intervention, and student summary and analysis of each intervention through reflective practice memoranda, maximizes learning of the students practicing in that intervention.

C. Basic Structure

8. When basic training is a separate course, an intensive workshop during the first week of the clinic, in lieu of (or addition to) the weekly class, should be offered to bridge the gap to the clinic.

9. For interpersonal applications, it is recommended that students participate in at least five to ten different mediation cases. If the goal is to achieve competency, all students should be required to have their clinic experience in interpersonal applications that address conflicts between individuals and/or small groups of individuals.

10. Regardless of practical application, in order to have sufficient time to achieve the desired caseload and have sufficient opportunity for reflective practice and integration of theory and practice, it is recommended that the clinic course take place over at least one semester or two successive quarters.

11. The clinic course, as defined above, should consist of a number of components, which can be broken down into four categories: supervised practice, classroom, preparation for practice and classroom, and supporting activities.

D. Supervised Practice

12. Where resources permit, a combination of in-house and outside practice settings would allow for the advantages of both.

13. A clinic should begin by offering an interpersonal track. Additional political and/or business tracks could provide a broader array of practice opportunities through advanced clinic options.

14. The best supervision model for the clinic is a combination of consultation prior to the practice to the extent planning and designing is possible (this will vary according to the setting and subject matter), real-time direct supervision, followed by consultation/debriefing of the practice experience as soon as possible (while memories are fresh). All students should, if possible, receive direct, real-time supervision in designing and intervening from

faculty with theoretical expertise and practice experience in the relevant track focus.

15. A graduated four-step approach to practice is ideal. Students begin by observing a mediation/conflict resolution intervention, and debrief, reflect and discuss just as they will when they actively participate in later cases. Next, the student co-mediate with their supervisor. Third, students co-mediate with each other while the supervisor observes and intervenes if necessary. Finally, if and when the supervisor feels the student is ready, the student mediates solo while the supervisors observes and intervenes if necessary.

E. Classroom

16. The classroom component is an essential element of a clinic, as it provides the opportunity to pull together all of the strands of learning, incorporating and integrating reflective practice, theory, research, and skills. Case review is critical to include as part of the classroom component.

17. Student preparation for case review should include drafting reflective practice memoranda following a specific guide for summary and analysis of their practice experiences.

18. Case review should mirror the mediation process by establishing ground rules for discussion, eliciting information, framing issues and brainstorming options.

19. The classroom should also provide for additional skills training and examination of theoretical issues in the context of practice.

20. Theory can be best introduced primarily through a seminar approach, with students assigned to take responsibility (with faculty assistance) for researching and assigning class readings, with faculty and/or guest speakers presenting in relevant areas of their expertise.

21. Clinic students should be evaluated based on grades.

F. Additional Recommendations

22. An additional optional Advanced Clinic in Conflict Specialties could be offered to students interested in exploring applications of conflict/dispute resolution knowledge and skills to a variety of uses other than the neutral role.

23. Partnering is essential to establishing a viable clinic program. Partnering with the community will yield a variety of placements and potential supervisors; partnering with law schools, other academic units, and continuing education programs can result in synergy and efficiency in the use of resources.

24. The clinic needs to have a Clinic Director to coordinate the parts of the course, identify specific practice placements, and make arrangements and maintain good relations with the placement organizations. It would be best if the director were core faculty.

25. The clinic experience should figure prominently in marketing to both prospective students and to prospective employers of program graduates.

26. An evaluation process should be designed and implemented in order to determine whether or not the clinic is meeting the goals of the program and to assess satisfaction rates of clients and partnering organizations.

27. It is recommended that a Clinic Committee be established.

VI. CONCLUSION

Adding a clinic to a conflict resolution graduate program (or law school curriculum) provides a great leap forward for students, schools, and future mediation clients. The clinic has the potential for attracting more and even better qualified students to the program, improving student education, achieving higher visibility in the local as well as national and international conflict resolution communities, and enhancing employment opportunities for graduates. Many programs are fortunate to be located in communities where potential partnering organizations, practicing conflict resolution professionals, faculty, and caseload possibilities are plentiful.⁷⁰ The design of a clinic is critical to making the clinic experience a positive element, and perhaps the capstone experience, of graduate students, and achieving the goals of the graduate program.

⁷⁰ See *infra* Appendix A for examples in New York City and the Denver Metro Area.

APPENDIX A:

I. DENVER METRO AREA PRACTICE SETTING EXAMPLES

A. *Political/Public Policy and International*

1. Colorado's Department of Local Affairs

<http://www.dola.state.co.us/>

2. Community Mediation Concepts

<http://www.findsolutions.org/>

3. Building Bridges for Peace

<http://www.buildingbridgesforpeace.org/>

B. *Interpersonal*

1. Jefferson County Mediation Services (JMCS)

http://www.co.jefferson.co.us/js/js_T117_R7.htm

JMCS provides services for a variety of disputes. Some graduate students currently observe JCMS cases. It is possible to pair student observers with particular mediators.⁷¹

JCMS caseload currently includes the following:

- a. **Division T, Magistrate Curtis:** County Court, Monday – Thursday mornings, simple, straightforward cases, including evictions, traffic, past due rent, and other cases, about one-hundred per year. Sometimes there is time pressure to resolve the case from the magistrate. This would be a good caseload for practicum students.
- b. **County Court, Judge Green:** Homeowners association and other issues, about one-hundred cases per year, can be half-hour to two hours or more, a lot of these cases have attorneys. JCMS schedules these cases at their offices; majority is daytime, but there can be some evening or weekend cases. This would be a good caseload for practicum students.
- c. **Child Support Enforcement:** Mostly parenting, some support/modification issues; male/female teams of mediators; about four-hundred cases per year. Scheduled by the

⁷¹ Apparently students have had better experiences observing some mediators than others. Some mediators, for example, spend considerable time debriefing with students after the mediations. Some mediators have been mediating for many years, and have a much higher settlement rate than the average for program volunteers.

mediators, when parties and mediators are available, day, evening, and weekend times. Possible placement for graduate students, but would require education regarding parenting issues and the law applicable to parenting and child support. This caseload would have the advantage of exposing practicum students to more of the relational issues in disputes.⁷²

- d. Small Claims Settlement Program:** Facilitated settlement conferences, on site, at the Jefferson County Courthouse in small rooms, Monday through Thursday evenings, about four hundred to five hundred cases per year. Typically not legally or factually complicated; lawyers sometimes appear in small claims court. This might be a possibility for practicum students, but the time pressures and expectations of a settlement conference rather than a mediation approach make this caseload less desirable.

2. Denver County and Small Claims Courts

<http://www.denvergov.org/CountyCourt/HomePage/tabid/383384/Default.aspx>

Two separate programs offer mediation for cases in these courts. Most of the mediations occur on-site with parties referred from that day's docket, though some mediations are scheduled separately from court appearances.

- a. Colorado Bar Association/Denver Bar Association Court Mediation Services (CMS) (formerly known as Denver Bar Association Court Annexed Mediation Program)**

<http://www.cobar.org/index.cfm/ID/1090/CAAD/CAMP/>

- b. Denver University Law School Mediation Clinic**

<http://www.law.du.edu/index.php/law-school-clinical-program/mediation-and-arbitration-clinic>

This is a separate program, but coordinates with CMS. Law students mediate cases on Tuesday and Thursday mornings when the course is offered (not summers or during semester breaks, initial training, and exam periods; CMS generally schedules mediators during these breaks).

3. Community Mediation Concepts ("CMC") (operates the Denver Mediation Center)

⁷² See See James H. Stark, *Preliminary Reflections on the Establishment of a Mediation Clinic*, 2 CLINICAL L. REV. 457 (1996); Robert A. Baruch Bush, et al., *Practice Innovation: Supporting Family Strength: The Use of Transformative Mediation in a PINS Mediation Clinic*, 47 FAM. CT. REV. 148, 159-60 (2009).

<http://www.findsolutions.org/>

CMC provides mediation services through staff and/or volunteers in areas such as land use issues, citizen-police complaints, community conflict, and workgroup disputes. The program also facilitates complex taskforce groups, neighborhood association conflicts, planning sessions, and other multi-party situations. Services are provided through staff and through volunteer mediators who co-mediate with senior mediators.

4. Resolution Works

This organization provides victim-offender mediation, community mediation (neighbor disputes), community group conferencing, parent/teen mediation, high risk victim offender dialogue, and peace circles, through volunteers trained in restorative justice, mediation, facilitation, cultural competency and communication.⁷³

5. Denver City Attorney's Office

http://www.denvergov.org/City_Attorney/HomePage/tabid/380868/Default.aspx

This office refers cases to mediation by the University of Denver Law School Mediation Clinic; at times they have supplemented these referrals with an internally run volunteer mediator program. These are the quasi-criminal cases involving neighbors, barking dogs, and similar matters, which have proved to be good vehicles for mediation by supervised students, as described above.

6. Denver Public Schools (DPS)

<http://www.dpsk12.org/>

DPS is in the process of exploring re-activation of its truancy mediation program. Truancy mediation might provide good practice opportunities for practicum students.

7. Conflict Center

<http://www.conflictcenter.org/>

The Conflict Center focuses more on conflict prevention through work in the schools and parent and student anger management and other classes. This could be a possible placement for an advanced practicum (see below), but it is

⁷³ Based on information from the website of Resolution Works, which provides services in the 18th Judicial District of Colorado. See Resolution Works, About Resolution Works, <http://yourresolutions.org/default.asp> (last visited Mar. 14, 2010).

less likely that this program would provide opportunities for dispute resolution.

C. *Business*

- 1. City** (e.g. Denver Career Service Authority);
- 2. County;**
- 3. State** (e.g. State Employee Mediation Program or “SEMP”);
- 4. Federal personnel disputes** (e.g., Department of the Interior);
- 5. The U.S. Postal Service Redress Program,**
<http://www.usps.com/redress/welcome.htm>; and
- 6. Corporate employee mediation programs** (e.g., Molson Coors Brewing Company Golden, CO, Golden Brewery,
<http://www.molsoncoors.com/about-us/company/our-breweries/golden-brewery>).

II. NEW YORK METRO AREA PRACTICE SETTING EXAMPLES

A. *Political/Public Policy and International*

1. Equal Employment Opportunity Commission

<http://www.eeoc.gov>

The mediators at EEOC are responsible for mediating cases for civil rights agencies, focusing on race, sex, religion, national origin, age and disability discrimination.

2. New York City Civilian Complaint Review Board

<http://www.nyc.gov/html/ccrb/html/mission.html>

This independent agency receives, investigates, and recommends a course of action regarding complaints against New York City police officers. These complaints are generally about excessive/unnecessary force, abuse of authority, discourtesy, or the use of foul or offensive language.

3. Judicial Arbitration and Mediation Services (JAMS)

www.jamsadr.com

JAMS is one of the leading providers of conflict management and dispute resolution services in America.

4. American Arbitration Association

www.adr.org

Founded in 1926, the AAA offers arbitration and mediation services, including education, training and publications.

5. CPR International Institute for Dispute Resolution

www.cpradr.org

The institute is a non-profit organization that promotes private and public dispute resolution.

6. International Chamber of Commerce

www.uscib.org

The International Chamber of Commerce is a leading provider in international ADR services.

B. Interpersonal

1. The Office of Alternative Dispute Resolution and Court Improvement Programs

This department oversees Court-Connected ADR Programs, the Community Dispute Resolution Centers Program, the Attorney-Client Fee-Dispute Program, the Collaborative Family Law Center, the Child Welfare Court Improvement Project, the Court Appointed Special Advocates Assistance Program, and the Children's Centers Program. The office is in the Division of Court Operations in the NY State Unified Court System Office of Court Administration.

2. New York City Family Court

New York City Family Courts have adopted a number of mediation programs, some of which already work with local law schools in providing law students a chance to practice mediation skills in real cases and disputes.

a. Custody/Visitation Mediation

The New York City Family Court Custody/Visitation Mediation Program accepts custody and visitation cases pending in the family courts of all five counties. Cases are referred by the judge or referee but either party may request that the judge or referee refer the case to mediation. All referrals are screened by a Mediation Manager to determine whether the matter is appropriate for mediation.

b. Child Permanency Mediation

The New York City Family Court Child Permanency Mediation Program handles child protective (abuse and neglect) cases that are pending before the court. Cases are referred by the judge or referee, but any party may request that the judge or referee make a referral to mediation. There are Child Permanency Mediation offices in the Kings, Bronx, Queens and New York County family courts. The program is administered by the court in collaboration with the New York Society for the Prevention of Cruelty to Children.

3. New York City Civil Court Small Claims Part

Small claims mediations are sponsored by the Civil Court and provided by approved Community Dispute Resolution Centers and local law school mediation programs. Each borough has its own mediation program

4. U.S. District Court for the Eastern District ADR program

<http://www.nyed.uscourts.gov/adr/Mediation/mediation.html>

Judges and Magistrate Judges may designate civil cases for mediation. Alternatively, the parties may consent to participation in the mediation program by preparing and executing a stipulation signed by all parties involved.

5. Center for Court Innovation

<http://www.courtinnovation.org>

CCI is a think tank arising from a public/private partnership between the New York State Unified Court System and the Fund for the City of New York, aiming to help courts and criminal justice agencies aid victims, reduce crime, and improve public trust in justice. CCI works closely with the Crown Heights Community Mediation Center, which assisted over 1,900 individuals in 2009 with issues related to housing, family disputes, community concerns, unemployment, and immigration—the latter through a monthly on-site immigration clinic run in partnership with the Legal Aid Society.

a. Crown Heights Community Mediation Center (CHCMC)

CHCMC pursues a number of school intervention and mediation programs and Community Impact Panels, which are mediated sessions in which community members meet with offenders to discuss the impact of their offenses on the community.

6. Safe Horizon

Safe Horizon is a nonprofit victim-assistance, advocacy, and violence-prevention organization that serves over 13,000 New Yorkers every year. Safe Horizon handles a wide variety of conflicts, including court cases, family, housing, workplace issues, and restorative justice. It is also a nationally recognized training organization in the field of dispute resolution.

a. Cardozo Law School Mediation Clinic

This clinic is a separate program. Students at Cardozo Law School may work with Safe Horizons, mediating disputes between neighbors, roommates, and co-workers, as well as business and organizational conflicts.

b. Columbia Law School Mediation Clinic

This clinic is also a separate program, but students at Columbia Law School may work with Safe Horizon, mediating disputes.

7. Institute for Mediation and Conflict Resolution (IMCR)

This Bronx-based organization provides mediation services focused primarily on aiding individuals with disabilities and students requiring special education. IMCR programs include Early Intervention Mediation, for families with infants or toddlers (0-3 years old) in which there is either a developmental delay or a disability, and Vocational Rehabilitation Mediation, for individuals who are undergoing rehabilitation after suffering some sort of disability.

8. Center for Mediation and Training

This divorce mediation center has offices in Manhattan and New City, NY. After a 42 hour training, mediators assist in helping couples work through the short term and long term issues in their divorce, exploring all possible options until an agreement is reached by both parties.

9. Washington Heights-Inwood Coalition

The Coalition offers residents of Washington Heights and Inwood the opportunity to settle disputes. Services are confidential and free.

10. Queens Community Mediation Services

www.mediatenyc.org

QCMS works with Queens Courts to provide mediation services.

11. Co-Op & Condo Mediation Programs (generally)

The Programs are designed to help shareholders, unit owners, managing agents and co-op and condo boards settle disputes without resorting to litigation.

12. Alliance for Mediation and Conflict Resolution

The Alliance provides mediation services in ADA, Adult Family, Business, Construction, Cross Cultural, Divorce, EEOC, Elder, Employment, Family, Land Use, Lesbian Gay, Organizational, Partnership, Postal Service, Public Policy, Real Estate and Workplace Disputes

13. Mediation Works, Inc.

<http://www.mediationworksny.com>

This organization offers families mediation as an alternative to litigation when going through a divorce or separation.

C. Business

1. City

a. New York City's Office of Administrative Trials and Hearings ("OATH")

<http://www.nyc.gov/html/oath/html/home/home.shtml>

Oath established the NYC Center for Mediation Services in 2003 to mediate workplace disputes for employees of the various city agencies.

2. Federal

a. Federal Mediation & Conciliation Service

<http://www.fmcs.gov/internet/>

For a detailed list of mediation providers in NYC alone, see http://johnjay.jjay.cuny.edu/dispute/links_nyc.asp

For other conflict resolution programs, see [Kukin Program for Conflict Resolution-http://www.cardozo.yu.edu/uploadedFiles/Cardozo/Profiles/Kukin_adr-146/Internship_Master_List.doc](http://www.cardozo.yu.edu/uploadedFiles/Cardozo/Profiles/Kukin_adr-146/Internship_Master_List.doc)

APPENDIX B: PRACTICUM STRUCTURE IN NINE CONFLICT RESOLUTION GRADUATE PROGRAMS

School	Type of program	Class Component?	Administration	Credit Hrs/ Semester or Quarter	Prerequisites	Graded or Pass/Fail
Creighton University	MS Negotiation and Conflict Resolution	Yes (Seminar)	Outside	3 Semester Hours	Yes (complete foundational skills)	Pass/Fail
Eastern Mennonite University	MA	No	Outside	6-9 Semester Hours	No	Pass/Fail
George Mason University	MA, PhD, Certificate	Yes	Outside	6 Semester Hrs	Yes	Graded
Nova Southeastern University	MS, PhD, Certificate	Yes (Online)	Outside	3 Semester Hours	Yes	Graded
Pepperdine University	Masters in Dispute Resolution	Yes	In-house	2 Semester Hours	Yes	Pass/Fail
Portland State University	MS, MA	Yes	In or outside	2 Semester Hours	Yes (complete core)	Graded
School for International Training	MA	Yes	Outside	12 Semester Hours Integrated with Capstone Project	Yes	Graded
Wayne State University	MA in Dispute Resolution	Yes	Outside	3 Semester Hours	Yes	Graded
UNC Greensboro	MA in Conflict Resolution	Yes	Outside	3 Semester Hours	Yes (complete core courses)	Graded

APPENDIX C: PRACTICUM DESIGN ELEMENTS IN SEVEN CONFLICT RESOLUTION GRADUATE PROGRAMS

School	Type	Titles/Definition	Articulated Goals	Subject Area	Caseload	Types of Disputes	Supervision	Time Frame/when taken
Brandeis University	MA	Masters Field Project	Students will (1) identify an intervention, or their particular part of an intervention; (2) set objectives and time lines for the intervention; (3) secure partners where necessary for its implementation; (4) ensure that appropriate monitoring and evaluating techniques are built into the program design; and (5) write a final report on the intervention	Policy	At least three months	Community or International	Program director or faculty	Three months/ take after first year
Eastern Mennonite University	MA	A time of learning through personal involvement in and reflection on initiatives in actual situations	To ensure that students gain the benefit of faculty input during the course of intensive work, which often takes place far from campus	Varies	60 hours in their Practicum for each hour of academic credit (including proposal writing and preparation time, work time, reflection time, and time spent on capstone presentation)	Community or International	Practicum Advisor from CJP, Experienced on-site practitioner, and advisory group	Nearing degree completion
George Mason University	MA, PhD, Certificate	In-depth field study of ongoing conflict situations and in the design and delivery of intervention processes to manage or resolve the conflicts	The purpose of the course is to give students experience in understanding dynamics of conflict that include issues of violence, injustice, and discrimination as well as in building research and practice projects on conflict resolution	Community or International	Spend the month of March in field setting in country of conflict to conduct interviews and analyze data.	Community or International	Reflective paper and in-class discussion	Two Semesters

School	Type	Titles/Definition	Articulated Goals	Subject Area	Caseload	Types of Disputes	Supervision	Time Frame/when taken
Nova Southeastern University	MS, PhD, Certificate	A community placement for the student to develop and refine practitioner skills.	Designed to provide you with an experiential opportunity to utilize conflict resolution methodology and theory within a diversity of professional settings. You will have the opportunity to apply theoretical concepts within a practical framework	Varies	130 field hours	Schools, prisons, court systems, parks, human services agencies, community organizations and corporations	On-site supervisor and practicum faculty	Two Semesters taken 2nd year
Pepperdine University	Masters in Dispute Resolution	Mediation Clinic	Use and develop their skills as mediators through frequent and regular practice with real disputants	Law	Six hours per week of fieldwork. Mediate 24 cases	Small-claims mediation and other referred disputes	Faculty	
Portland State University	MS, MA in Conflict Resolution	Practicum in Dispute Resolution	Provide supervision, skill development, peer review and support for work on actual mediation and facilitation cases	Mediation	Student Center for Dispute Resolution or practicum site	Mediation or International conflicts (Cyprus)	Discuss experiences in class, peer review	
Wayne State University	MA in Dispute Resolution	Practicum in Dispute Resolution	To teach students the skills required for serving as third party neutrals (mediators) in the facilitative mediation process	Mediation and Facilitation	20 hours at your internship placement site	Small-claims mediation	Placement supervisor	

Appendix D: Sample Reflective Practice Guide

Reflective Practice Guide⁷⁴

Draft the memorandum or present the answers to the questions so that someone not acquainted with the dispute could understand the points of view of all disputants, what happened during the session, and your analysis and evaluation. Do not use mediation participants' names or other identifying information. "Mediation participants" includes disputants and may also include attorneys and/or anyone else present at the mediation whether in person or by telephonic or other electronic means.

1. Preparation

- a. How did you prepare for this mediation (e.g., did you review documents, talk to the disputants and/or attorneys, develop a specific plan, do centering exercises, etc)? How did your preparation impact the mediation and your interventions (or decisions not to intervene)? Would you do anything differently in the future?

2. Summary/Circumstances of the Mediation

- a. Brief factual summary, including who was present at the mediation (one or two paragraphs), and how the dispute came to be mediated. Who decided who was to be present? In retrospect, should anyone else have been included?
- b. Were there any language and/or cultural differences among the mediation participants? If so, how did these differences impact the mediation? Describe anything you did to prepare for and/or increase the effectiveness of the mediation in light of these differences.
- c. Were there any other special considerations among the mediation participants such as substance abuse, mental or physical disabilities, or others? If so, describe anything you did to prepare for and/or increase the effectiveness of the mediation in light of these differences.
- d. List each disputant's interests and label each interest as: substantive, procedural, or psychological.
- e. List the issues in the dispute (i.e. the agenda). After each issue, identify it as one of the following: data conflict, interest conflict, structural conflict, relationship conflict, value conflict. How were the issues prioritized and by whom?

⁷⁴ Can be used to create a memorandum, as an outline for an oral presentation, or for personal review.

- f. Discuss the dynamics of the disputants' relationship and the impact of these dynamics and the disputants' resulting behavior on the mediation process. Include answers to the following questions: Describe each disputant's sources of power; were they equal in power, or was one more powerful than another? Was one more passive than the other? More articulate? More invested in the relationship? Compare their levels of emotional involvement in the dispute. Did the disputants appear to feel safe to fully participate in the mediation (include whether there was any prior or ongoing physical or psychological violence between the disputants)?
- g. List options generated for resolution.
 - i. If multiple options were generated, list all options generated. How were the options generated and by whom? How were options improved and/or selected for further discussion?
 - ii. If positions were generated, list each disputant's position(s). Start by identifying disputant's opening position, and then list any subsequent positions (e.g., plaintiff's opening position: defendant owes one million dollars. Defendant's opening position: defendant owes plaintiff nothing. Defendant's second position: defendant will pay plaintiff \$200,000. Plaintiff's second position: will accept \$800,000; etc.).
- h. Was full or partial agreement reached? If so, what was the agreement and how do you feel about it? Is it fair? By what standards? Is it enforceable? If no agreement, or only partial agreement, was reached, why do you think this happened? Do you think the disputants are better or worse off as a result of having reached or not having reached agreement, and why? Whether or not agreement was reached, were there other benefits generated as a result of the mediation?
- i. Was the timing of the mediation effective, or would it have been better if the mediation had taken place sooner or later?

3. Interventions

- a. How did you make sure the mediation participants understood the mediation process and their roles in the process, and committed to participate? Was this approach effective? Would you change anything in the future?
- b. What did you do that you believe assisted the disputants in moving towards or achieving resolution or other mediation

- goals? (if co-mediating, what did you and your co-mediator(s) do.) Be specific; include at least three actions (or decisions not to intervene).
- c. What would you have done differently (or, what would you do differently next time?) Be specific; include at least three actions (or decisions not to intervene).
 - d. For co-mediation: What did you and your co-mediator do that helped you function well as a team? What would you have done differently (or, what would you do differently next time) to increase the effectiveness of your work as a team?

4. Ethical Issues

- a. Did you ever feel bias toward or against any disputant, attorney, or other mediation participant? If so, what was the trigger? Did your bias influence your interventions (or lack of intervention) during the mediation? If so, how did your bias ultimately impact the process and/or the participants?
- b. Describe any ethical concerns that arose during the process. How did you respond? Would you respond differently, with hindsight? Be specific.
- c. Do you think this case was appropriate for mediation? Why or why not?

5. Artistry and Awareness

- a. Were you able to reflect-in-action during the mediation? If so, how did it impact your interventions (or decisions not to intervene)?
- b. Did you make any assumptions, either during preparation or during the mediation, that you became aware of then or now looking back? If so, what were the assumptions, and were they accurate or not? How did you know? How did your assumptions impact the mediation? How could you notice your assumptions earlier next time, and how could you check to see whether or not your assumptions are accurate?
- c. Did anything surprising or unexpected happen during the mediation? How did you respond? Would you respond differently if it happened again?
- d. Did you do anything new during the mediation that you had never done before? What was the result? Would you do this again, given appropriate circumstances?
- e. Did you take any risks during the mediation? If so, describe the risk(s) and the result. Was it helpful to the mediation or not? Are you more or less likely to take a risk in a future mediation?

- f. What was the most challenging part of the mediation? Did you feel adequately prepared to meet this challenge? If not, how could you be more prepared next time?
- g. What are the three biggest lessons you learned from this mediation?