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Instruction in mediation prepares students to mediate interpersonal disputes in a variety of settings. New and pending legislation in most states regarding qualifications to mediate suggests that universities will be altering their curricula. While the mandate of a legislative act is important, the quality of mediation education must not suffer. Mediator education must include a strong conceptual understanding of methodology, knowledge of social theories of interpersonal conflict, skills to function as an effective third party intervenor, and a working knowledge of relevant law and fields of conflict.

Designing a Successful Mediation Curriculum

As the popularity of mediation grows in the United States, so will the number of universities that offer a mediation curriculum. Those that have undertaken that task, or are about to, should offer mediation course work that covers the changes in the alternative dispute resolution (ADR) industry. These changes include a call for credentialing of mediators and higher standards for practitioners overall. Tighter controls have taken effect in some jurisdictions, such as Florida, and change in the form of legislation is on the horizon in others.

Presently, many non-profits train individuals to practice mediation. This article posits that, while some nonprofits can offer exemplary mediation education, many cannot. Universities are often the best suited to prepare individuals to practice mediation, since the practice has become more complex as it has become more mainstream. Law schools should be distinguished from universities because many offer mediation training that shortchanges students and denigrates the quality of the services offered by the ADR industry. Most law school programs, and there are many, focus their instruction on the legal side of mediation. Law school professors champion a provincial perception, implying that their profession has a monopoly on mediation knowledge, and an arrogance toward the rich history of mediation practiced for centuries by lay people.

More and more, universities are offering degrees or certificates in conflict resolution. When taught in academia, mediation instruction is often part of a conflict/dispute-resolution curriculum. For example, John Jay College of Criminal Justice (City University of New York) offers general instruction in conflict resolution,

but emphasizes the methodology of mediation. Instruction and training that students receive prepares them to mediate interpersonal disputes ranging from marriage dissolution to landlord-tenant disagreement. Some programs, such as victim offender mediation or restorative justice, instruct students in the art of facilitating and mediating communication between crime victims (or, in the case of murder, with surviving family members) and their offenders. Other programs, for example, Saint Xavier University in Chicago, prepare students not only to practice mediation, but to teach it to others, such as to police, school teachers, or K-12 students.

While some graduates of these programs become full-time mediators, many do not. There is a shortage of paid mediator positions in the U.S., so many mediators are volunteers. The U.S. Department of Justice Community Relations Service is one example of an agency that can offer individuals the opportunity to practice mediation for substantial periods of time. Some graduates of mediation programs go on to build careers as trainers and consultants, while others become conflict resolution program coordinators or take on employment that is not primarily conflict-resolution specific, such as director of human resources or police officer, roles that call for frequent expert use of mediation skills (See John Jay College Criminal Justice Dispute Resolution Career Information leaflet).

In the United States, dispute resolution certification criteria are not uniform. The mere mention of certification prompts the question, "Certification by whom?" because certification is usually specific to the body from which the training was received. This poses a challenge to any university mediation or conflict resolution program. It is not uncommon for a person to complete a dispute-resolution program only to learn that the agency offering a job requires participation in its training program first, in spite of previous certification. In other situations, legislation determines who may mediate in the jurisdiction and from which accredited instructional body an individual must have received training. Perhaps it would not be such a bad idea for university conflict/dispute-resolution program administrators to accredit their programs where necessary and to collaborate with dispute resolution center administrators in their jurisdiction so that trained individuals will not have to undergo a complete retraining. New or impending legislation in most states on qualifications to mediate suggests that universities should work with legislators to deliver a mediation curriculum designed to enable students to practice without having to repeat course work.

Focusing on Curriculum

While the mandate of legislation is important, the quality of mediation education must not suffer. It is clear that mediators are expected to possess, at a minimum, a strong conceptual understanding of methodology, knowledge of social theories that enable understanding interpersonal conflict, skills for effective third party intervention in an interpersonal dispute, and legal and subject area expertise.

Key issues these criteria represent are defining the elements of a mediation curriculum, creating a curriculum that is given deference by government mediation legislation, and creating a program that produces academic excellence.

First and foremost, as stated earlier, universities must follow legislation closely or monitor pending legislation, so that curriculum design will produce graduates currently qualified to practice or ones that can be grandfathered in once legislation is enacted.

Mediation curriculum designers should take guidance from existing programs. At a minimum, a mediation curriculum or conflict/dispute-curriculum that emphasizes mediation, whether undergraduate or graduate, including law school, should be at least a two-semester continuous course sequence (or equivalent). In the first semester, students should be taught the theory and philosophy underlying mediation methodology through lectures and readings on, for example, exchange theory, dramaturgy, cultural conflict theory, and anomie. These would be followed by extensive social psychological and anthropological readings about the role of third party intervenors in an interpersonal conflict.

Students must learn the mediation method. Aspects of mediation practice relevant to the field in which students are being trained, such as labor disputes or alternatives to criminal justice processes, should be included. Within their chosen field, students must be given some knowledge of the law, both civil and criminal. Mediators must have a working legal knowledge of discovery, ex parte proceedings, voluntary waste, accession, contracts, specific performance, and other equitable doctrines. Additionally, class instruction must include the jurisdiction's policies on the practice of mediation.

In the second semester, a laboratory and practicum, students apply what they learned in the first semester. Class meetings should include role plays and an internship assignment in which students mediate disputes or conduct facilitation. At this point, the student must demonstrate whether he or she is worthy of mediator certification or the mediator label. At the conclusion of this semester, the student should be required to pass a competency test.

In this model, course content is in line with what a mediator should know. Inclusion of theoretical instruction in the course design ensures conceptual competence, and overall course design includes practical application.

Qualifications of Instructors

Mediation and/or conflict/dispute-resolution courses (distinguishable from workshops) should be taught at the university level by individuals with advanced degrees (preferably a Ph.D.) and at the community college level by persons who have a master's degree. An institution should show that it has experts preparing tomorrow's conflict resolution professionals.

Conclusion

Changes will occur in the alternative dispute resolution field. Because a university wants its conflict resolution graduates to be respected for their mediation course work and/or university granted mediator credential, involvement in the emerging battles over accreditation, certification and/or licensing of mediators may be desirable. Benefits would include gainful employment for program graduates and representation, through those graduates, of the university in the field of mediation.

Suggested Readings

Morris, C., and A. Pirie, *Qualifications for Dispute Resolution: Perspectives on the Debate* (Victoria, BC: University of Victoria, 1994).

Slaikue, K., *When Push Comes to Shove: A Practical Guide to Mediating Disputes* (San Francisco: Jossey-Bass, 1996).

Note: The following are campus brochures for student information and are undated. Contact the author for additional information.

Antioch University, The McGregor School (Yellow Springs, OH): Master of Arts Conflict Resolution

Columbia College, (Columbia, SC): Master of Arts in Conflict Resolution program

City University of New York, John Jay College of Criminal Justice (New York, NY): Criminal Justice Dispute Resolution Certificate <dispute@jjay.cuny.edu>

Saint Xavier University, Center for Conflict Resolution (Chicago, IL): Center for Conflict Resolution program

University of Minnesota, Center for Restorative Justice & Mediation (St. Paul, MN): Center for Restorative Justice & Mediation program