

SECTION A: CATALOGUE**CODE:** HEQC/H06/LAW/SPADR (Non credit-bearing SLP)**TITLE:** Alternative Dispute Resolution**NQF LEVEL:** 5**CREDITS:** Non credit bearing**NOTIONAL LEARNING HOURS:** -**FORMAL CONTACT TIME:** 24 hours lectures
32 hours assignments / practical work
2 hour examination paper**LEARNING ASSUMED TO BE IN PLACE:**

Senior certificate / National Senior Certificate; or
Certificate in Labour Law (CLL), or any other learning in dispute resolution, or any other relevant NQF level 4 qualification approved in terms of the RPL process.

LEARNING OUTCOMES:

Upon completion of this programme, candidates will demonstrate with confidence and enthusiasm and in the context of an active student-centred learning environment in higher/further education, they are competent to:

- Discuss the advantages of ADR over litigation.
- Explain the negotiation process, objectives and prerequisites for successful negotiations.
- Explain the mediation process; objectives; rules of mediation; when to mediate; qualities of the mediator and duties of the mediator.
- Draft a mediation agreement.
- Explain the arbitration process and objectives.
- Distinguish arbitration from litigation.
- Interpret/ Employ the Arbitration Act
- Discuss arbitration agreements; the role of the parties; appointment of arbitrator and duties of arbitrator
- Draft an arbitration clause in contracts.
- Explain the content of an arbitration hearing; the process; rules of arbitration and costs.
- Discuss the enforcement of arbitration awards; rescissions and reviews.
- Discuss the important logistical issues in ADR practice.
- Explain the role of ADR in community dispute resolution
- Describe the application of ADR in labour disputes.
- Explain the operation of ADR in commercial and international commercial disputes

BRIEF DESCRIPTION OF CONTENT:**Theme 1: Know yourself**

Personality types and communication skills.

Theme 2: ADR v litigation

Introduction and objectives. Advantages of ADR over litigation

Theme 3: Negotiations

Negotiations Objectives; Prerequisites for successful negotiations

Theme 4: Mediation

Mediation. Objectives; Rules of mediation; The mediation process; When to mediate; Drafting of a mediation agreement. Qualities of the mediator; the duties of the mediator.

Theme 5: Arbitration

Arbitration. Objectives; Arbitration v litigation; The Arbitration Act; Arbitration agreements.

Theme 6: ADR in community disputes**Theme 7: Commerce and International Arbitrations****Theme 8: ADR in Labour Law and ADR logistical issues****CRITICAL OUTCOMES SUPPORTED BY SHORT LEARNING PROGRAMME:**

Upon completion of this programme, candidates will be empowered to demonstrate the ability to:

- identify and solve problems and make decisions using critical and creative thinking with regards to ADR (i.e. problem solving skills).
- effective information gathering, analysing and presentation skills.
- demonstrate an understanding of the world as a set of related systems by recognising that problem solving contexts do not exist in isolation through utilising the various tools and methods of ADR. (i.e develop strategic vision).

METHODS OF ASSESSMENT:

There will be two types of assessment applicable to this course, namely:

1. Formative assessment:

These assessments will include the assessment of some aspects / components of a learning process, and are linked to specific Learning Outcomes. It will also include feedback to candidates in preparation for a Summative Assessment. Formative assessment takes place during the learning process through:

- Exercises / activities.
- Continuous assessment by way of case studies and assessments during the course of the programme, which will culminate in a learner portfolio.

2. Summative Assessment:

Learners will have to demonstrate that they have mastered the Learning Outcomes of the course. To demonstrate the achievement of the Learning Objectives, learners are required to complete a final simulated practical assignment.

ASSESSMENT CRITERIA:

After the completion of this short learning programme we will be able to determine whether participants possess the necessary skills and fundamental theoretical knowledge of the ADR principles and process if they are able to correctly and accurately

- Provide a comparison of the advantages of ADR over litigation.
- Offer an explanation of
 - the negotiation process, objectives and prerequisites for successful negotiations.
 - the mediation process; objectives; rules of mediation; when to mediate; qualities of the mediator and duties of the mediator.
 - the arbitration process and objectives.
- Supply drafts of the following:
 - a mediation agreement;
 - an arbitration clause in a contract.
- Submit a distinction between arbitration and litigation.
- Furnish an overview of the Arbitration Act.
- Provide discussions of:
 - arbitration agreements;
 - the role of the parties;
 - appointment of arbitrator and
 - duties of arbitrator.
- Submit an explanation of:
 - the content of an arbitration hearing;
 - the process;
 - rules of arbitration and
 - costs.
- Supply a discussion of:
 - the enforcement of arbitration awards;
 - rescissions and
 - reviews.
- Give an explanation of
 - the important logistical issues in ADR practice.
 - the role of ADR in community dispute resolution
 - the operation of ADR in commercial and international commercial disputes
- Give an exposition of the application of ADR in labour disputes.

ORGANISING FIELD: 8

(1 = Agriculture and Nature Conservation)
 (2 = Culture and Arts)
 (3 = Business, Commerce and Management Studies)
 (4 = Communication Studies and Language)
 (5 = Education, Training and Development)
 (6 = Manufacturing, Engineering and Technology)

(7 = Human and Social Studies)
(8 = Law, Military Science and Security)
 (9 = Health Sciences and Social Services)
 (10 = Physical, Mathematical, Computer and Life Sciences)
 (11 = Services)
 (12 = Physical Planning and Construction)

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DEPARTMENTAL OR PROGRAMME “HOME”:

Department of Mercantile Law, Faculty of Law, UFS sustained

DEVELOPER/COORDINATOR:

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