

Dispute Resolution and Its Purpose in the Curriculum of DePaul University College of Law

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DISPUTE RESOLUTION AND ITS PURPOSE
IN THE CURRICULUM OF DEPAUL
UNIVERSITY COLLEGE OF LAW

*Katheryn M. Dutenhaver**

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I. INTRODUCTION

This Article describes and analyzes the development of the dispute resolution curriculum at DePaul University College of Law from 1985 to the present, emphasizing DePaul's involvement in the Fund for the Improvement of Post-Secondary Education (FIPSE) project to develop adaptations of the Missouri Plan to integrate dispute resolution into standard law school courses.¹ The sections of this article are divided

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1. DePaul's application for participation in the U.S. Department of Education's Fund for the Improvement of Post-Secondary Education (FIPSE) Project was accepted by Leonard L. Riskin,

chronologically into our pre-FIPSE dispute resolution program which began in 1985, our FIPSE activities and their immediate aftermath from 1995 through 1998, and a discussion of future policy considerations.

Prior to our involvement in the FIPSE Project, DePaul had four specialized dispute resolution courses in the curriculum. However, due to the small number of sections, and the limited enrollment, less than half of our students had access to these courses.² The courses were taught by only one full-time professor and four part-time faculty members.³ When the FIPSE Project began, our goals were to make dispute resolution instruction available to all students and begin the process of involving the other members of the full-time faculty in dispute resolution. We assumed that integrating dispute resolution into the first-year curriculum was the most effective and efficient way to do this, and we explored the adoption of this plan.⁴ We learned, however, that this approach was not feasible because the faculty members who wished to participate in the project primarily taught advanced courses which were not designed for first-year students. For this reason we revised our plan for implementing our goals.⁵ We decided to make dispute resolution instruction available to every student by increasing

the overall FIPSE Project Director. The original adapting committee for DePaul University College of Law was comprised of Professors Terrence F. Kiely, Bruce L. Ottley, Mark C. Weber and Kathryn M. Dutenhaver, the Adapting Project Director.

2. These four specialized dispute resolution courses were introduced into the curriculum over a span of eight years: Mediation, 1985-86; Advanced Mediation, 1986-87; Dispute Resolution, 1990-91; and Dispute Resolution and the Health Care Industry, 1992-93. Each carried three hours of credit and could be elected after completion of the first-year required curriculum. Originally, the enrollment in each was limited to twenty. Occasional guest presentations by Professor Dutenhaver in relatively few courses were the only additional student exposure to dispute resolution prior to the FIPSE Project. The courses included: Civil Procedure, Contracts, Torts, Family Law, Clinic, and placement in mediation through the Extern Program, directed by Professor John F. Decker.

Prior faculty seminars in dispute resolution were conducted by Professor Leonard L. Riskin, University of Missouri-Columbia School of Law, in 1989, and Professor Carrie J. Menkel-Meadow, U.C.L.A. School of Law, in 1994. Professor Terrence F. Kiely, the first holder of the Clifford Chair, a DePaul chair in tort law and social policy, held a symposium entitled "ADR and Torts: Implications for Practice and Reform," in May of 1995.

3. The author designed and taught the specialized dispute resolution courses, and coordinated the dispute resolution activities for the college of law. The part-time faculty who were recruited and supervised prior to the FIPSE Project were: H. Roderic Heard, Corinne M. Levitz, Nancy C. Pascucci, and Ann C. Petersen.

4. This goal was stated in the application to participate in the FIPSE Project as an adapting school, which was prepared by Associate Dean Mark C. Weber. We also decided to evaluate our existing specialized dispute resolution courses to see if we would recommend their continuation in light of the fact that we expected to reach every student through the first-year courses.

5. Although our focus changed to the upper-level curriculum, we hoped there would be only a temporary delay until a sufficient number of full-time faculty developed an interest in integrating dispute resolution into all first-year courses.

our first-tier specialized dispute resolution course offerings.⁶ We concluded the best way to involve full-time faculty in dispute resolution was to offer them educational opportunities and assist those who wished either to teach a specialized dispute resolution course or integrate dispute resolution into one of their existing courses. Faculty members were invited to attend seminars and to enroll with students in our mediation course.

During the FIPSE Project, we increased our capacity to offer specialized dispute resolution courses to a level which now can accommodate all students. We added the course, Negotiation, to our basic dispute resolution courses: Mediation, Dispute Resolution and Dispute Resolution and the Health Care Industry.⁷ We raised the enrollment limits in each and increased the number of sections offered each year by recruiting two additional part-time faculty members.⁸ We expanded the field-work experience for students by adding the Mediation Clinic.⁹ The number of full-time faculty involved in dispute resolution activities increased from three to thirteen,¹⁰ six of whom have taken the mediation course.¹¹ We assisted those who wished to integrate dispute resolution materials into their courses and continue to work with others still in the preparation stage. These materials are for first-year—Torts and Property—and advanced courses—Corporate Law, Consumer Law, Family Law, Legal Profession, Real Estate Transactions, Remedies, and Wills and Trusts. Four professors have published mediation simulations.¹²

6. We have a two-tiered structure of dispute resolution courses. *See infra* note 16. The dispute resolution instruction available to all students is through the four courses of the first tier. The second tier courses are field work and only available to students who have completed a first-tier course.

7. Negotiation was added in the 1997-98 academic year.

8. The two additional part-time faculty members were Thomas F. Gibbons and Susan L. Walker.

9. The Mediation Clinic, added in the 1996-97 academic year, is taught by Professor Barbara B. Bressler who is a full-time member of DePaul's law school faculty.

10. Philip S. Ashley, Barbara B. Bressler, James W. Colliton, John F. Decker, Katheryn M. Dutenhaver, Jerold A. Friedland, Terrence F. Kiely, Margit Livingston, Judith Reed, Steven H. Resnicoff, Bruce L. Ottley, Vincent F. Vitullo, and Mark C. Weber were the full-time faculty involved in dispute resolution activities. This represents approximately one-third of the full-time faculty teaching upper-level courses at DePaul's law school.

11. Philip S. Ashley, Barbara B. Bressler, James W. Colliton, Jerold A. Friedland, Margit Livingston and Steve H. Resnicoff were the six professors who took the mediation course.

12. All four professors are published in LEONARD L. RISKIN ET AL., *INSTRUCTOR'S MANUAL WITH SIMULATION AND PROBLEM MATERIALS TO ACCOMPANY RISKIN & WESTBROOK DISPUTE RESOLUTION AND LAWYERS* (2d ed. 1997) [hereinafter *INSTRUCTOR'S MANUAL*]. *See* Philip S. Ashley, *Deadlock at the Bowl-A-Rama: A Mediation Exercise for Corporate Law*, in *INSTRUCTOR'S MANUAL*, *supra*, at 486; Barbara B. Bressler, *Breaking Up Is Hard to Do: A Mediation Exercise for Family Law*, in *INSTRUCTOR'S MANUAL*, *supra*, at 581; Margit Livingston, *The Disappointed Condo Buyer: A Mediation Exercise for Remedies or Consumer Law*, in *INSTRUCTOR'S MANUAL*, *supra*, at 494; and Katheryn M. Dutenhaver, *Freddie First and Sandy*

Thus, although we did not get what we thought we wanted—integration into all first-year courses—we were able to accomplish our goals. In addition, numerous benefits resulted directly or indirectly from our participation in the FIPSE Project.¹³

II. PRE-FIPSE DISPUTE RESOLUTION PROGRAM

A. *Two-tiered System*

In 1985, the DePaul faculty voted to add Mediation to the curriculum.¹⁴ One year later, Advanced Mediation was approved to give the students who had completed Mediation an opportunity to mediate cases with live clients.¹⁵ We have maintained this two-tier structure as we added the other dispute resolution courses. Each of the first-tier courses qualify as the prerequisite for a field-work course in the second-tier.¹⁶ This sequencing of courses provides students with extensive knowledge of dispute resolution before they take a field-work course. Then, as they concentrate on the specific categories of cases mediated in their field-work experience, they can understand how these cases fit into the entire field of dispute resolution.¹⁷

Second: A Mediation Exercise for Property or Real Estate Transactions, in INSTRUCTOR'S MANUAL, supra, at 381.

13. See *infra* Part III.C.

14. Based on my first exposure to mediation through attending a mediation training program, I felt certain that mediation was going to have an impact on the practice of law and that our students would need to understand it. Citing this rationale, I proposed the mediation course to the faculty. Mediation has been offered every semester since then, and our dispute resolution program has developed.

15. We have been fortunate to have the field-work portion of this course administered by the Center for Conflict Resolution (“CCR”), formerly Neighborhood Justice, Chicago. This partnership has continued through the leadership of three CCR Executive Directors: Susan Yates, Jon Weiss and Bradley Ginn.

16. Our first-tier courses include Mediation, Dispute Resolution, Dispute Resolution and the Health Care Industry, and Negotiation. The first three were offered before the start of the FIPSE Project. Negotiation was added during the project. Advanced Mediation, offered prior to the project, and Mediation Clinic introduced during the project, are both second-tier courses.

17. One of the basic distinctions between the simulations of the first-tier courses and the students' mediations in the second-tier field-work course, is the experience of the advocacy role in the former and the lack of the lawyer's role in the latter. By including the lawyer's role in the simulations, the students gain experience in the broad spectrum of factual settings in which dispute resolution is applied today, and they examine the attorney-client relationship in each. Also, with attorneys' roles included, complex issues are available to which the students apply rights-based and interest-based analyses. See generally WILLIAM L. URY ET AL., *GETTING DISPUTES RESOLVED: DESIGNING SYSTEMS TO CUT THE COSTS OF CONFLICT* 18-19 (1988).

1. First-tier Courses

A segment of each first-tier course is designed for students to accomplish six general goals:¹⁸ 1) “buil[d] . . . a conceptual framework of dispute resolution;”¹⁹ 2) acquire knowledge of negotiation and the various neutralized binding and non-binding dispute resolution processes;²⁰ 3) achieve a knowledge of how to design a resolution process which combines a non-binding dispute resolution process with litigation or arbitration;²¹ 4) develop an understanding of how to satisfy the lawyer’s duties in the various dispute resolution processes;²² 5) develop a method to critically examine their legal education;²³ and, 6) develop a method by

18. The 1984 symposium on teaching dispute resolution in the *Journal of Legal Education* was particularly helpful in the early development of these courses. See Symposium, *Alternative Dispute Resolution in the Law Curriculum*, 34 J. LEGAL EDUC. 229 (1984).

19. See Eric D. Green, *A Comprehensive Approach to the Theory and Practice of Dispute Resolution*, 34 J. LEGAL EDUC. 245, 245 (1984).

20. See Albert M. Sacks, *Legal Education and the Changing Role of Lawyers in Dispute Resolution*, 34 J. LEGAL EDUC. 237, 243 (1984). Sacks writes:

Law students should be made familiar with the various modes of dispute resolution functioning in our system . . . [and] understand the pro and con claims concerning these modes. . . [T]heir training should include a beginning ability to represent clients in all or most of these modes of resolution as well as the advantages to a client of using one mode rather than another.

Id.

21. Because it can be inferred from the terms, “Alternative Dispute Resolution” and “Appropriate Dispute Resolution” that only one dispute resolution process need be selected to resolve any given case, we define ADR as “Adaptive Dispute Resolution.” This concept emphasizes the adaptation of one or more dispute resolution processes as needed to achieve resolution. For example, preparing to use *only* mediation because it is the best process for settling a dispute, based on the stated business or family interests of the client, does not get the case resolved in a situation where the other party will participate in the mediation only after a lawsuit is filed or arbitration is demanded.

22. “Thus, if the people who are now demanding mediation are to be well served by it, lawyers must be available to advise them, and in ways that permit a proper balance between protecting their clients and freeing them to make their own agreements.” Leonard L. Riskin, *Mediation in the Law Schools*, 34 J. LEGAL EDUC. 259, 261 (1984).

23. See, e.g., Sacks, *supra* note 20, at 244.

Do we, without meaning to do so, convey to students a misleading sense of the place that litigation in fact occupies in our system, and perhaps even a distorted perspective of the place it ought to occupy? I do not pretend to know. What troubles me is the feeling that our present emphasis on litigation in law school study is not a function of a rounded analysis of the place of litigation in the life of most practicing lawyers or in the provision of legal services generally, or in the development of new law. It may flow, rather, from the interplay of a past pedagogy that focused almost exclusively on appellate litigation and present

which to assess the lawyer's responsibility within the legal profession.²⁴

Since the requirements of each of the first-tier courses serve all six of these goals, there is no need for a student to take more than one. Those interested in additional work are encouraged to take a field-work course in the second-tier. To select a course in the first-tier, students consider the following distinguishing criteria: the emphasis of the course coverage, course requirements, and the expertise of the assigned faculty member and the other professionals involved in the course.

a. Course Coverage

In Mediation, students have extensive simulated experience in advocate, mediator and client roles. To be an effective advocate in mediation, one needs to understand mediation from the mediator's and the client's point of view. To successfully mediate, one must be able to identify the approaches to negotiations employed by the parties, and, if necessary, be able to move them into different negotiating patterns. The course presents mediation as assisted negotiation. Students learn how to select a mediator, design the mediation conference with the mediator and opposing counsel, represent clients in the mediation process, and involve clients in the preparation for and participation in the mediation conference.²⁵

Dispute Resolution and Dispute Resolution and the Health Care Industry emphasize the comparison of binding and non-binding processes. In Dispute Resolution, students are divided into teams of two. Alternating the roles of the attorney and the client, they take the same complex case through three discrete dispute resolution processes: pre-trial settlement

pressures from the bench and bar that stress visible competence in the courtroom.

Id.

24. "Finally, it is especially important that, while in law school, [students] come to understand that duty to clients is not the limit of lawyers' concerns in this area of the law. The bar and bench have an independent responsibility for designing and maintaining a system of justice. . . ." Sacks, *supra* note 20, at 243-44. See also Frank E. A. Sander, *Alternative Dispute Resolution in the Law School Curriculum: Opportunities and Obstacles*, 34 J. LEGAL EDUC. 229, 236 (1984) "The entire legal system, as well as the law schools, have tended to place a predominant emphasis on adversary court adjudication. The result has been to undervalue the role of accommodative problem solving. The challenge of redressing this imbalance and helping to chart out the new territory remains." *Id.*

25. Classroom activities include discussions of assigned readings, interactive lectures, live and video-taped demonstrations of dispute resolution processes, and debriefing of classroom and out-of-class simulations. The simulations are introduced with a discussion of the theories found in required readings. The students then role play the simulated exercise. A discussion critiquing the applicability of the theories follows. "The pedagogy is to read, reflect, do, and discuss." Green, *supra* note 19, at 251.

conference, mediation conference and arbitration hearing. The students use outside professionals as the neutrals and work with practicing accountants and financial advisors as their expert witnesses. These three processes, which take place outside of the classroom, are observed by the professor and the students are immediately debriefed by the professor and the neutral. Dispute Resolution and the Health Care Industry includes classroom and out-of-class simulations of the broad spectrum of dispute resolution processes, with particular attention to their current and potential use in the health care industry.²⁶

b. Course Requirements

In each of the first-tier courses, the evaluation of student work is varied, relying primarily on written work products. In Mediation, students submit two written simulations, videotapes of the student mediating the simulations, Agreements to Mediate signed by the parties role-playing the simulations, Mediation Agreements signed by the parties if settlements are reached, written critiques of the video-taped simulations, and a class presentation of independent research.²⁷ Students in Dispute Resolution, in addition to the final examination, submit documents for participation in three dispute resolution processes: a Pre-Trial Memorandum, a Summary for Mediation and an Arbitration Brief. A research paper, designing or critiquing a dispute resolution system for some aspect of the health care industry, is the basis for evaluating student work in Dispute Resolution and the Health Care Industry.

c. Expertise of Part-time Faculty

The expertise of the part-time faculty²⁸ and the other professionals involved in the courses provide students additional bases for selecting first-tier courses. In Dispute Resolution, students have the opportunity to work closely with accountants and financial consultants in preparing for and participating in the mediation and arbitration processes.²⁹ The processes are

26. Dispute Resolution and the Health Care Industry was added for students in the Health Law Program. This course is open to J.D. students and LL.M. candidates.

27. In Mediation, the students also submit written critiques of the weekly class simulations. This is a means of preparing them for writing and critiquing the written simulations which they video-tape. The critiques must reflect an understanding of the processes, the relevancy of the required readings, and the simulation method of pedagogy. Instead of tying grades to the outcomes of the simulated exercises, grades are based on the student's comprehension demonstrated in the written critiques of the exercises and the student's independent research. In Negotiation, a course instituted during the FIPSE Project, substantially the same methodology is used.

28. Resumes of the part-time faculty are available for review by students.

29. Financial experts, recruited by part-time faculty member H. Roderic Heard to participate in this course, have come from firms such as Arthur Anderson & Co., A.T. Kearney, The Barrington

then conducted by professional mediators and arbitrators. Mediation classes currently include local judges,³⁰ a staff mediator from the Seventh Circuit Court of Appeals,³¹ and commercial and labor mediators.³²

2. Second-tier Courses

Advanced Mediation is a second-tier course in the curriculum which is designed for students to mediate cases and address legal, professional and ethical issues covered in required readings, and as they arise in the field work.³³ During the first portion of the semester, the students take the training that the Center for Conflict Resolution requires of all of its mediators. Once certified to mediate, each is assigned to observe and then to mediate cases weekly for the balance of the semester. The class meets weekly to discuss assigned readings, debrief the cases they mediated, and present papers.

B. *Selection and Education of Part-time Faculty*

In 1987, when adjunct faculty were first hired to teach sections of specialized dispute resolution courses, their basic qualifications had to be determined. In the hiring process, I recommended to the deans only those individuals who had successful experience in: 1) binding and non-binding processes, as an advocate and as a neutral; 2) law practice, representing clients in litigation, transactional work and business planning; and 3) law teaching or dispute resolution training. An additional requirement for selection was the demonstrated ability to make some unique contribution from their own particular work that illustrates how litigation and other dispute resolution processes can be integrated to accomplish a client's goals.³⁴ Fortunately, we were able to find many skilled mediators who not

Consulting Group, Petersen Consulting, and PricewaterhouseCoopers. These experts meet with the students and plan the strategy of the case, prepare demonstrative evidence, make presentations in the mediation conferences, and testify in the arbitration hearings.

30. After a case has been mediated in a prior class session in Nancy C. Pascucci's mediation class, two students are selected to make final arguments in the same case before a judge of the Domestic Relations Division of the Circuit Court of Cook County. After the judge gives the ruling, the students stay in the courtroom for a discussion with the instructor and the judge, comparing the processes and outcomes achieved through mediation and litigation.

31. In Ann C. Petersen's mediation class, a staff mediator takes the students through the mediation program of the Seventh Circuit Court of Appeals, examining the selection of a case for mediation, the mediator's preparation, the mediation process, and the final disposition in court.

32. In Thomas F. Gibbon's mediation class, a comparison of the commercial and labor mediation processes is the focus of presentations by professionals from both fields.

33. The Mediation Clinic, added during the FIPSE Project, is also a second-tier field-work course.

34. *See supra* note 21 and accompanying text.

only met these criteria and were interested in teaching, but who also understood that the constantly changing needs of students and the curriculum in this rapidly developing field would require supervision. However, they tended to lack knowledge of how teaching dispute resolution courses differs from teaching other law courses; how teaching dispute resolution in a law school differs from conducting dispute resolution training programs; how the specialized dispute resolution courses fit into the broader, more general goals of the law school curriculum; or the unique elements of our law school's administrative structure and the impact on the classroom.³⁵

To assist the part-time faculty, the deans³⁶ gave budgetary approval for each to team teach their assigned course with me prior to teaching a class alone. I assisted the part-time faculty by reviewing their syllabi, classroom experiences, teaching methodology and student evaluations and by team teaching again if the need arose.

III. FIPSE PROJECT ACTIVITIES

As a result of our FIPSE activities, we increased our course offerings to a level which could provide dispute resolution instruction to all students. We integrated dispute resolution materials into some standard courses, and we substantially increased the number of faculty involved in dispute resolution.

A. *Increase in Dispute Resolution Courses*

In light of our first goal, to provide dispute resolution instruction to every student in one of our first-tier specialized courses, we added Negotiation, increasing to four the number of first-tier courses.³⁷ We

35. For example, one of the bases for challenging a grade under the university's Grade Challenge Procedures is that the instructor did not comply with the requirement that the basis for evaluating student work in the course be presented to students in the written syllabus on the first day of the class.

36. During this period, there have been three deans—Dean John C. Roberts from 1986-1996, Acting Dean Mark C. Weber, 1996-1997 and Dean Teree E. Foster, 1997 to present—and two Associate Deans, Bruce Ottley and Mark Weber. Their support of the dispute resolution program and the author while developing and overseeing the activities of the program has been essential. Of particular significance was their willingness to invest resources in the training of the part-time faculty.

37. Negotiation was added in the 1997-98 academic year. There had been a negotiation course prior to this time, entitled Interviewing, Counseling, and Negotiation, which was designed and taught by the late Professor Norbert Jacker. The faculty approved the new negotiation course, which replaced the interviewing and counseling portions of the prior course with a dispute resolution component to cover the six goals of the first-tier courses. This new course provided in-depth experience with the multiple theories of negotiation used in dispute settlement, dispute prevention, business planning, and consensus building.

recruited two additional part-time faculty, increasing the number from four to six.³⁸ We raised the enrollment limit in three of our first-tier course from twenty to twenty-four, removed the enrollment limit in the fourth, and increased the number of sections offered. We now have the capacity to offer enough sections so that every student has the opportunity to enroll in one first-tier specialized dispute resolution course prior to graduation.³⁹

During the FIPSE Project, we also added a Mediation Clinic in the second-tier, increasing the number of full-time faculty teaching the specialized courses from one to two.⁴⁰ As the Mediation Clinic and Advanced Mediation have evolved, there is some overlap. The format of the courses, the teaching methodology, and the training and field work administered by the Center for Conflict Resolution are the same.⁴¹ Both require class presentations and research papers. The basic difference is that in Advanced Mediation, the students also observe the interplay of mediation and litigation in domestic relations cases.⁴² The Mediation Clinic has been developed to give students experience designing processes for cases referred by the Student Affairs Division of DePaul University⁴³ and studying the design of dispute resolution systems through their exposure to the Interfaith Mediation Project of the College of Law's Center for Church/State Studies.⁴⁴ Whether to continue both courses in the

38. The six faculty members were: Thomas F. Gibbons, H. Roderic Heard, Corinne M. Levitz, Nancy C. Pascucci, Ann C. Petersen, and Susan L. Walker.

39. Since the enrollment in three of these courses is limited, multiple sections must be offered each semester to accomplish such availability. However, the necessary budget allocation to sustain this level of course offerings must be reviewed each semester, and thus, we can hope to achieve our goal each year, but we cannot guarantee it.

40. Professor Bressler teaches Mediation Clinic in the second tier and Mediation in the first tier. Professor Dutenhaver teaches each of the six specialized courses on a rotating basis, revising each course as needed and coordinating the activities of the part-time faculty.

41. Cases are referred to CCR from misdemeanor courtrooms of the Circuit Court of Cook County, government agencies, and private non-profit organizations.

42. Corinne M. Levitz, a board member, mediator, and trainer for CCR coordinates all of the activities of the students with that center. She is also a Mediator for the Marriage & Family Counseling Service of the Domestic Relations Division of the Circuit Court of Cook County. She has arranged for the students to follow cases from the first court appearance, in which the judge assigns it to mediation, through each of the mediation sessions conducted by a mediator from the court panel, and in the courtroom for the disposition of the case.

43. These cases have involved roommate disputes, disputes between students and the organizations of which they are members and officers, and disputes between students and a variety of other persons within the university.

44. The Interfaith Mediation Project was established in 1990 as a service project of the Center for Church/State Studies to mediate cases in which divorcing parents were at an impasse as to the religious membership and experiences of their minor children. The requirement of the program is that each parent brings a clergy member to the mediation to act as an advisor. They can bring their own clergy or select one from a panel of clergy who have been recruited by Craig Mousin, Director of the Center for Church/State Studies and Co-Founder of the Interfaith Mediation Project. The

second-tier, or to consolidate them, is an open question.⁴⁵

B. *Education of Full-time Faculty*

Although we decided to provide dispute resolution instruction to every student through our first-tier specialized courses, relying primarily on part-time faculty to do so, we also decided that students would benefit from integration of dispute resolution into the standard courses of full-time faculty members. Finding the greatest barrier to integrating dispute resolution into existing courses was the faculty's lack of knowledge about dispute resolution and its pedagogy, it quickly became clear that we should offer educational opportunities to our full-time professors. We did so, and also offered to assist those who wished to integrate dispute resolution into their advanced or required courses.

Developing a plan for the education of the full-time faculty began with an evaluation of the assistance that had been given to the part-time faculty. This provided insights and encouragement. Comparing the needs of the full-time and part-time faculty, one sees opposite sides of the coin. Many of the full-time faculty lacked the knowledge and experience possessed by the adjuncts, such as substantive knowledge of dispute resolution, experience as neutrals and advocates in binding and non-binding dispute resolution processes, and extensive experience in the practice of law.⁴⁶ However, the full-time faculty possessed knowledge that the part-time faculty lacked: an understanding of the total legal educational needs of the students, an understanding of the curriculum design of the law school, and an awareness of the particular rules and regulations of the college and how they impact the classroom.

What part-time and full-time faculty have in common is the need to experience education through simulation methodology and guidance and experience in how to employ it in their own teaching. The part-time faculty come with experience teaching through simulations; however, it is from training programs and not legal education, so it must be substantially revised for a law school classroom. Through their team-teaching experience, the part-time faculty were able to observe the simulation

clergy on the panel have been trained in mediation theory and process by the author, who is co-founder and one of the mediators for the project. Cases are referred by clergy, judges, attorneys and former clients of the Interfaith Family Mediation Project.

45. Our need to evaluate whether to continue to offer both courses or to combine the case load into one course illustrates the importance of seeing the dispute resolution program as fluid, constantly in need of oversight and review. This is also an example of the advantage of having an increased number of faculty truly knowledgeable about dispute resolution to deliberate any changes that are made.

46. *See supra* text accompanying note 34 (describing the requirements for selection as part-time faculty).

methodology as applied in legal education and conduct the same with supervision.

The most effective educational activities offered to the full-time faculty were participation with the students in the mediation class and preparation of simulations for publication. In Mediation, they participated in all of the classroom activities. They acquired knowledge of the field of dispute resolution, experienced the simulation teaching methodology, and created, mediated and critiqued their own simulations.⁴⁷ Upon successful completion of the course, in lieu of a grade, they were offered a certificate from The DePaul Dispute Resolution Center. The full-time faculty who participated in the mediation class either completed or are still working on dispute resolution materials for integration into their courses.

The simulations that have been published⁴⁸ built on those prepared for the Mediation class. The Adapting Project Director reviewed the written simulations, viewed the videotape of each author mediating the dispute, and reviewed their written critiques of their performance as mediators. Then, as each faculty member prepared the simulation for publication, the Adapting Project Director reviewed multiple drafts with them.

C. *Benefits of the FIPSE Project*

In addition to the availability of first-tier specialized dispute resolution courses for all students and the integration of dispute resolution into some first year and advanced courses, many non-classroom benefits have resulted. All of these non-classroom benefits are directly or indirectly traceable to the FIPSE Project or to the awareness of dispute resolution that the project helped generate within the faculty. For example, a sizeable number of full-time faculty now can debate the appropriate place of dispute resolution within the curriculum instead of relying on the recommendation of just one professor.⁴⁹ This increased number of full-time faculty, knowledgeable in dispute resolution, has improved the counseling of students in the selection of these courses and has substantially reduced the risk that dispute resolution would disappear from the curriculum if the Adapting Project Director were no longer involved in it.

47. See *supra* notes 25, 27 (describing the requirements of the Mediation course).

48. See *supra* note 12.

49. One of the most important benefits from the FIPSE Project is the increased number of faculty who understand dispute resolution. Although the curriculum committee and the faculty have always approved each newly-proposed dispute resolution course, curriculum decisions are best made and implemented when numerous faculty members understand the subject matter of the courses and their place in the overall learning experience of the students. Although the author still takes the lead in introducing new curricular developments, recruits, prepares, and reviews part-time faculty, and makes recommendations for the overall program to the dean and the faculty, the quality of this work is greatly enhanced through discussions with other informed and interested colleagues.

Since the project began, the deans have turned to mediation or to mediative approaches to address certain problems in the life of the law school. Also, when the Adapting Project Director was asked by the Director of the Office of Continuing and Professional Education of DePaul University to create a center to offer dispute resolution courses to alumni, The Dispute Resolution Center of DePaul University was established.⁵⁰ Recently, the President of DePaul University, John P. Minogue, C.M., has requested the creation of a joint program by The Dispute Resolution Center and the University Center for Values, to offer mediation education to all managers, directors and supervisors in the university.⁵¹ Other administrators in the university also have asked if this education can be made available to students and faculty. As described by Leonard Riskin, dispute resolution is “in the air.”⁵²

D. *How Participation in the FIPSE Project Helped*

The exposure to dispute resolution of our deans and faculty through the FIPSE Project has enabled DePaul to make these improvements in its dispute resolution program. Each of Leonard Riskin’s visits to DePaul included meetings with the deans and with interested faculty. He described the experience of the Missouri Plan and the experiences of the other schools in the FIPSE Project. He explored possibilities, answered questions and raised issues to stimulate thought. He cautioned about potential problems and directed attention to realistic limitations. He stressed the importance of this project, the attention it would likely get, and the importance of the dean’s support.⁵³ All of this gave substantial

50. The DePaul Dispute Resolution Center offers open enrollment dispute resolution courses for university alumni and non-alumni, managers and lawyers, and customized on-site training programs for corporations, governmental agencies, and non-profit organizations.

51. The purpose is to identify and resolve conflicts in a manner consistent with the university’s Vincentian concern for the dignity of the individual person, to develop a cadre of trained personnel to mediate disputes arising from today’s large, complex, and diverse work environment, to provide mediation as a preferred alternative to arbitration or traditional litigation, and to equip individual managers with mediative skills they can apply on the job to prevent the escalation of employment situations into formalized disputes.

52. See Leonard L. Riskin, *Disseminating the Missouri Plan to Integrate Dispute Resolution into Standard Law School Courses*, 50 FLA. L. REV. 589, 606 (1998).

53. See *id.* at 609; see also Ronald M. Pipkin, *Teaching Dispute Resolution in the First Year of Law School: An Evaluation of the Program at the University of Missouri-Columbia*, 50 FLA. L. REV. 609 (1998).

[S]uccess in this particular dissemination experiment [is attributable] to . . . good mentoring—important were both Professor Riskin’s visits at the adapting schools, which bolstered the authority of local directors and provided external expertise on how to recruit faculty to the effort, and the two meetings of adapting school project directors where ideas and experiences were shared . . .

encouragement to deans and faculty to move forward with dispute resolution.

Riskin's invitation to faculty to prepare simulations for publication in the new teachers' manual of his book provided a concrete vehicle for participation in dispute resolution. Through this process, these faculty had in-depth exposure to dispute resolution, its purpose in the curriculum, its pedagogy, and the potential effect on students. This also gave the Adapting Project Director a meaningful project through which to assist these faculty in their education.

The two meetings of the FIPSE Project held in Columbia, with the representatives from the other law schools, were also very helpful. One of the associate deans from DePaul attended each of these meetings with the Adapting Project Director.⁵⁴ The deans had been supportive of the efforts of the Adapting Project Director in developing the dispute resolution program, particularly the selection and education of part-time faculty. Once they attended the meetings in Columbia, the deans took a more active role in the planning of our dispute resolution program. Dean Bruce Ottley's suggestion to revive the course in negotiations was approved by the faculty. The addition of this course to our first tier was one of the reasons we were able to accomplish the goal of offering dispute resolution instruction to every student. With the increased exposure to the teaching needs of the Dispute Resolution course, the deans have continued to staff this course with two instructors.⁵⁵ Based on their new understanding of the need to offer educational opportunities to full-time faculty, they approved extending faculty an invitation to participate in the mediation class. Also, it has been this increased understanding of mediation by the deans that has led them to try mediation approaches to problems that have arisen within the law school. When the university requested that our dispute resolution courses be made available to alumni, the deans assisted in working out the necessary details and The DePaul Dispute Resolution Center was established.

Although Riskin generously says that several of the adapting schools were ready to move ahead without the support of the grant,⁵⁶ it is clear that

Ronald M. Pipkin, *The Missouri Dispute Resolution Teaching Project and its Dissemination: Evaluation and Comments* 9 (Mar. 27, 1998) (on file with the Center for the Study Resolution, University of Missouri-Columbia School of Law).

54. The Associate Dean during the first year of the FIPSE Project was Mark Weber. During the second year of the project, Mark Weber was Acting Dean and Bruce Ottley was Associate Dean.

55. This course is team-taught because of the out-of-class time commitments required to observe and debrief each of the three processes for six groups of students. Approximately two hours is set aside for each pre-trial settlement conferences, and four to five hours is needed for each of the mediation conferences and arbitration hearings.

56. See Riskin, *supra* note 52, at 598.

the mentoring he gave to the Adapting Project Directors, certainly at DePaul, was crucial. Providing for the exchange of ideas during the meetings in Columbia, the telephone conferences between those meetings, the structure of writing strategic plans for his review and comment, and the campus visits with the agenda designed by the Adapting Project Director, were all instrumental in the overall successes the adapting schools enjoyed.⁵⁷

IV. THE FUTURE

Two basic policies should be addressed in order to decide the future direction of dispute resolution course offerings at DePaul. The first is whether to continue the current policy of offering dispute resolution instruction to all students, design a sequence of course offerings for those with particular interest, or do both. The second is whether to increase the number of full-time faculty members teaching specialized dispute resolution courses and reduce the number of part-time faculty.

If the first policy were continued, it could be enhanced by several means. First, dispute resolution could be integrated into all first-year courses, by adapting the Missouri Plan, or the law school could offer a separate dispute resolution course as part of the first-year curriculum.⁵⁸ The law school can encourage more faculty to integrate a dispute resolution segment into their upper-level and their individual first-year courses. Faculty can offer upper-level courses in which dispute resolution is more fully integrated.⁵⁹ Finally, the law school could establish more extern placements in dispute resolution.

If the decision were made to change the priorities to a sequence of dispute resolution courses for a smaller group of students, the issue of whether to award a certificate for this work would also need to be addressed.⁶⁰ To do this we should debate the value to the students of

57. *See id.* at 598-600.

58. A decision to add a separate dispute resolution course to the first year, as well as the integration of dispute resolution into all first-year courses, should not be made without a comprehensive evaluation of the entire first-year curriculum.

59. This could be done in a course such as Remedies with an approach to cases and their resolution that includes both an analysis of the legal rights and the business or family interests involved. In a course such as Legal Profession, alternative dispute resolution might be integrated by focusing on the fiduciary relationship with the client in all of the dispute resolution processes.

60. It also would suggest the redesign of the four existing first-tier courses. The law schools at the Ohio State University and the University of Washington have created certificate programs. *See Sarah Rudolph Cole et al., Sustaining Incremental Expansion: Ohio State's Experience in Developing the Dispute Resolution Curriculum*, 50 FLA. L. REV. 667, 669 (1998); Lea B. Vaughn, *Integrating Alternative Dispute Resolution into the Curriculum at the University of Washington School of Law: A Report and Reflections*, 50 FLA. L. REV. 679, 685 (1998).

receiving increased academic credits in this area.⁶¹ An alternative would be to encourage students to take additional courses in The DePaul Dispute Resolution Center during the summers or after graduation.⁶²

Any change in the second policy of relying so heavily on part-time faculty should be addressed by the faculty recruitment committee and the entire faculty. However, whether or not there is a shift to more full-time faculty teaching dispute resolution courses, it would be wise to continue to invite the faculty to enroll in the Mediation course. This exposure for faculty truly increases the quality of the discussions regarding the appropriate place of dispute resolution in the curriculum, the future commitment of resources, an assessment of faculty interest in teaching dispute resolution courses, and possible additional hirings. If we decide to increase the number of full-time faculty involved in teaching dispute resolution courses, we could then debate whether to offer a graduate program in dispute resolution.

V. CONCLUSION

One might assume that the most important change resulting from the FIPSE Project is the current capability of offering dispute resolution instruction to all students. However, I believe that the increased involvement of the deans and so many full-time faculty in dispute resolution, rather than just their support of my involvement is, at least, of equal significance. Because of this, the benefits that have resulted from DePaul's participation in the FIPSE Project went far beyond our original classroom goals. The benefits are demonstrated in the mediative approaches that have been applied to conflicts that have arisen in the law school, the suggestions that interest-based approaches be applied to certain administrative procedures, and the requests that mediation education be made available throughout the university community. The cumulative effect of the efforts at DePaul to integrate dispute resolution into the classroom has yielded valuable results. Direct attempts to accomplish certain goals often result in benefits other than those planned. In this case, I believe they were more effective and long-lasting.

61. At present, all students are counseled to take only one specialized course in the first-tier, and those with particular interest are advised to follow it with a second-tier course, not an additional first-tier course. Thus, each student usually has a maximum of six credit hours in specialized dispute resolution courses. Only occasionally does a student register for more than one course in the first-tier.

62. The DePaul Dispute Resolution Center could consider offering a sequence of courses for a Certificate in Dispute Resolution. *See supra* note 60. The Center could also consider whether to offer mediation services and make externships and case experience available to the law students as part of the Advanced Mediation course and the Mediation Clinic.