



LAWS12062 *Alternative Dispute Resolution*

Term 2 - 2020

Profile information current as at 18/04/2024 03:09 pm

All details in this unit profile for LAWS12062 have been officially approved by CQUUniversity and represent a learning partnership between the University and you (our student). The information will not be changed unless absolutely necessary and any change will be clearly indicated by an approved correction included in the profile.

General Information

Overview

Alternative Dispute Resolution examines the theory and application of procedures for the resolution of disputes as an alternative to a judicial process. Alternative Dispute Resolution examines ADR methods such as negotiation, mediation, conciliation and arbitration and theoretical developments such as Collaborative law. The unit seeks to develop basic skills in listening, negotiation and mediation. Students will also explore how to design ADR approaches suitable to help resolve client disputes, quickly, at minimal cost and consistent with the principles of access to justice.

Details

Career Level: *Undergraduate*

Unit Level: *Level 2*

Credit Points: 6

Student Contribution Band: 10

Fraction of Full-Time Student Load: 0.125

Pre-requisites or Co-requisites

There are no requisites for this unit.

Important note: Students enrolled in a subsequent unit who failed their pre-requisite unit, should drop the subsequent unit before the census date or within 10 working days of Fail grade notification. Students who do not drop the unit in this timeframe cannot later drop the unit without academic and financial liability. See details in the [Assessment Policy and Procedure \(Higher Education Coursework\)](#).

Offerings For Term 2 - 2020

- Online

Attendance Requirements

All on-campus students are expected to attend scheduled classes - in some units, these classes are identified as a mandatory (pass/fail) component and attendance is compulsory. International students, on a student visa, must maintain a full time study load and meet both attendance and academic progress requirements in each study period (satisfactory attendance for International students is defined as maintaining at least an 80% attendance record).

Website

[This unit has a website, within the Moodle system, which is available two weeks before the start of term. It is important that you visit your Moodle site throughout the term. Please visit Moodle for more information.](#)

Class and Assessment Overview

Recommended Student Time Commitment

Each 6-credit Undergraduate unit at CQUniversity requires an overall time commitment of an average of 12.5 hours of study per week, making a total of 150 hours for the unit.

Class Timetable

[Regional Campuses](#)

Bundaberg, Cairns, Emerald, Gladstone, Mackay, Rockhampton, Townsville

[Metropolitan Campuses](#)

Adelaide, Brisbane, Melbourne, Perth, Sydney

Assessment Overview

1. **Written Assessment**

Weighting: 40%

2. **Written Assessment**

Weighting: 60%

Assessment Grading

This is a graded unit: your overall grade will be calculated from the marks or grades for each assessment task, based on the relative weightings shown in the table above. You must obtain an overall mark for the unit of at least 50%, or an overall grade of 'pass' in order to pass the unit. If any 'pass/fail' tasks are shown in the table above they must also be completed successfully ('pass' grade). You must also meet any minimum mark requirements specified for a particular assessment task, as detailed in the 'assessment task' section (note that in some instances, the minimum mark for a task may be greater than 50%). Consult the [University's Grades and Results Policy](#) for more details of interim results and final grades.

CQUniversity Policies

All University policies are available on the [CQUniversity Policy site](#).

You may wish to view these policies:

- Grades and Results Policy
- Assessment Policy and Procedure (Higher Education Coursework)
- Review of Grade Procedure
- Student Academic Integrity Policy and Procedure
- Monitoring Academic Progress (MAP) Policy and Procedure – Domestic Students
- Monitoring Academic Progress (MAP) Policy and Procedure – International Students
- Student Refund and Credit Balance Policy and Procedure
- Student Feedback – Compliments and Complaints Policy and Procedure
- Information and Communications Technology Acceptable Use Policy and Procedure

This list is not an exhaustive list of all University policies. The full list of University policies are available on the [CQUniversity Policy site](#).

Previous Student Feedback

Feedback, Recommendations and Responses

Every unit is reviewed for enhancement each year. At the most recent review, the following staff and student feedback items were identified and recommendations were made.

Feedback from John Milburn

Feedback

Continue with the assessment regime.

Recommendation

I recommend continuation of the assessment requirement for students to complete an audiovisual presentation of a mock mediation or conciliation session. I supplemented that with a take-home paper that required students to consider material from the entire unit.

Unit Learning Outcomes

On successful completion of this unit, you will be able to:

1. Discuss the range and operation of ADR methods and their relationship with litigation.
2. Develop and demonstrate skills in listening, negotiation, and mediation together with the ability to design ADR processes and drafting appropriate documents to support an ethical dispute resolution design.
3. Research, critique and evaluate the ADR literature to assist with determining appropriate ADR processes in a given fact situation.
4. Outline the basic theoretical principles of dispute resolution systems and how to apply them to manage conflicts.
5. Gain an appreciation of the ADR processes of International Commercial Arbitration or Australian Indigenous peoples.

Alignment of Learning Outcomes, Assessment and Graduate Attributes



Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes				
	1	2	3	4	5
1 - Written Assessment - 40%	•	•	•	•	•
2 - Written Assessment - 60%	•	•	•	•	•

Alignment of Graduate Attributes to Learning Outcomes

Graduate Attributes	Learning Outcomes				
	1	2	3	4	5
1 - Communication	•	•	•	•	
2 - Problem Solving	•	•	•	•	

Graduate Attributes	Learning Outcomes				
	1	2	3	4	5
3 - Critical Thinking	•	•	•	•	
4 - Information Literacy		•	•	•	
5 - Team Work		•			
6 - Information Technology Competence	•				
7 - Cross Cultural Competence					•
8 - Ethical practice	•	•	•	•	
9 - Social Innovation					
10 - Aboriginal and Torres Strait Islander Cultures					

Alignment of Assessment Tasks to Graduate Attributes

Assessment Tasks	Graduate Attributes									
	1	2	3	4	5	6	7	8	9	10
1 - Written Assessment - 40%	•	•	•	•	•	•	•	•		
2 - Written Assessment - 60%	•	•	•	•			•	•		

Textbooks and Resources

Textbooks

LAWS12062

Prescribed

Principles of Dispute Resolution 2nd

Edition: 2nd (2016)

Authors: Spencer, David

Thomson Reuters (Professional) Australia Limited

Sydney , NSW , Australia

ISBN: 9780455237985

Binding: Paperback

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Supplementary

Alternative Dispute Resolution

Edition: 6th (2020)

Authors: Sourdin, Tania

Thomson Reuters (Professional) Australia Limited

Sydney , NSW , Australia

ISBN: 9780455243009

Binding: Paperback

[View textbooks at the CQUniversity Bookshop](#)

IT Resources

You will need access to the following IT resources:

- CQUniversity Student Email
- Internet
- Unit Website (Moodle)
- ZOOM

Referencing Style

All submissions for this unit must use the referencing style: [Australian Guide to Legal Citation, 4th ed](#)

For further information, see the Assessment Tasks.

Teaching Contacts

Manjo Oyson Unit Coordinator

m.oyson@cqu.edu.au

Schedule

- 14 Oct 2019

Module/Topic	Chapter	Events and Submissions/Topic
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Week 1 Introduction to Alternative Dispute Resolution - 13 Jul 2020

Module/Topic	Chapter	Events and Submissions/Topic
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Introduction to Alternative Dispute Resolution	Chapter 1	
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Week 2 Understanding and Dealing with Conflict - 20 Jul 2020

Module/Topic	Chapter	Events and Submissions/Topic
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Understanding and Dealing with Conflict Chapter 2 pp 30 to 35

Week 3 Negotiation - 27 Jul 2020

Module/Topic	Chapter	Events and Submissions/Topic
Negotiation	Chapter 2 (balance)	

Week 4 Mediation - 03 Aug 2020

Module/Topic	Chapter	Events and Submissions/Topic
Mediation	Chapter 3	

Week 5 Conciliation - 10 Aug 2020

Module/Topic	Chapter	Events and Submissions/Topic
Conciliation	Chapter 5 (5.20 and 5.30)	

Vacation Week - 17 Aug 2020

Module/Topic	Chapter	Events and Submissions/Topic
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Week 6 Arbitration - 24 Aug 2020

Module/Topic	Chapter	Events and Submissions/Topic
Arbitration	Chapter 4	

Week 7 Other Dispute Resolution Processes - 31 Aug 2020

Module/Topic	Chapter	Events and Submissions/Topic
Other Dispute Resolution Processes	Chapters 5 and 6	

Week 8 Statutory Dispute Resolution Schemes - 07 Sep 2020

Module/Topic	Chapter	Events and Submissions/Topic
Statutory Dispute Resolution Schemes	Chapter 7	Assessment 1 - Essay Due: Week 8 Friday (11 Sep 2020) 11:45 pm AEST

Week 9 Legal Issues - 14 Sep 2020

Module/Topic	Chapter	Events and Submissions/Topic
Legal Issues	Chapter 8	

Week 10 Ethics and Standards - 21 Sep 2020

Module/Topic	Chapter	Events and Submissions/Topic
Ethics and Standards	Chapter 9	

Week 11 Special Issues in Practice - 28 Sep 2020

Module/Topic	Chapter	Events and Submissions/Topic
Special Issues in Practice	Chapter 10	

Week 12 Review - 05 Oct 2020

Module/Topic	Chapter	Events and Submissions/Topic
Review	No prescribed reading	

Review/Exam Week - 12 Oct 2020

Module/Topic	Chapter	Events and Submissions/Topic
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Exam Week - 19 Oct 2020

Module/Topic	Chapter	Events and Submissions/Topic
		Assessment 2 - Final Take Home Paper Due: Exam Week Wednesday (21 Oct 2020) 9:00 pm AEST

1 Assessment 1 – Essay

Assessment Type

Written Assessment

Task Description

This assessment involves writing an essay about a topic that is covered in weeks 1 to 7. Suggested topics can be found below, although a student may choose a different topic that is covered in weeks 1 to 7.

The total word count for the essay, including footnotes, should not exceed 2,000 words. There is no allowance for any word-count beyond 2,000 words. That part of the essay that exceeds the 2,000-word count limit will not be marked. A bibliography is not required.

These are some suggestions of essay topics:

1. ADR

- a. ADR and the legal profession
- b. ADR and the courts
- c. ADR and legal disputes

2. Understanding and dealing with conflict

- a. Conflict and the legal profession
- b. Conflict and the courts
- c. Conflict and legal disputes
- d. Conflict and negotiation

3. Negotiation

- a. Principled negotiation
- b. Conducting successful negotiations
- c. Effectiveness of negotiations
- d. Being a successful negotiator

4. Mediation

- a. Mediation and the courts
- b. The mediation process
- c. The role of lawyers in mediation
- d. The role of the mediator
- e. Hallmarks of mediation
- f. Towards effective mediation

5. Conciliation

- a. Conciliation and mediation: A comparison
- b. The role of the conciliator
- c. Resolving disputes: Conciliation or mediation?
- d. Conciliation in the resolution of disputes

6. Arbitration

- a. Critical history of arbitration
- b. Arbitration and conciliation
- c. Arbitration and dispute resolution

7. Other Dispute Resolution Processes

- a. Family law dispute resolution
- b. Workplace dispute resolution
- c. Criminal law dispute resolution
- d. Online dispute resolution

Assessment Due Date

Week 8 Friday (11 Sept 2020) 11:45 pm AEST

Return Date to Students

Week 11 Wednesday (30 Sept 2020)

Weighting

40%

Assessment Criteria

An essay will be assessed according to the following criteria:

- Knowledge of subject matter: (40%)

Demonstrates exceptional knowledge of the subject matter by the discussion of highly relevant and exceptionally comprehensive information.

- Understanding and appreciation of issues (20%)

Exhibits an exceptional understanding and appreciation of relevant issue(s).

- Insight and analysis (20%)

Reflects critical insight and incisive analysis that are supported by evidence and sound reasoning.

- Research (10%)

Shows evidence of outstanding research to support the discussion and analysis.

- Language (10%)

Demonstrates exceptional quality of language usage and observance of proper structure, format, referencing, and instructions.

Referencing Style

- [Australian Guide to Legal Citation, 4th ed](#)

Submission

Online

Submission Instructions

An essay must be saved and submitted in MS Word (not as a PDF) in the following format: LastName_FirstName.docx.

Learning Outcomes Assessed

- Discuss the range and operation of ADR methods and their relationship with litigation.
- Develop and demonstrate skills in listening, negotiation, and mediation together with the ability to design ADR processes and drafting appropriate documents to support an ethical dispute resolution design.
- Research, critique and evaluate the ADR literature to assist with determining appropriate ADR processes in a given fact situation.
- Outline the basic theoretical principles of dispute resolution systems and how to apply them to manage conflicts.
- Gain an appreciation of the ADR processes of International Commercial Arbitration or Australian Indigenous peoples.

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Information Literacy
- Team Work
- Information Technology Competence
- Cross Cultural Competence
- Ethical practice

2 Assessment 2 – Final Take Home Paper

Assessment Type

Written Assessment

Task Description

The final written assessment is in the form of a take home paper. The assessment will be released on 20 October (Tuesday) at 9 AM (Qld time). Students have 36 hours or up to 21 October (Wednesday) at 9 PM (Qld time) to submit their answers on Moodle.

Assessment Due Date

Exam Week Wednesday (21 Oct 2020) 9:00 pm AEST

This task must be completed by the due date and time. Otherwise, following university policy, a mark of zero will be given for the assessment task.

Return Date to Students

The final take home paper will not be returned to students. Marks will be released once final grades are certified.

Weighting

60%

Assessment Criteria

Students are assessed on their ability to demonstrate high-level thinking and writing skills, comprehend the relevant material, and provide a critical analysis and logical discussion of the relevant law. Marks will be given according to the following standards:

Fail

You will have shown evidence of the following:

- the written expression is poor and difficult to understand
- the answer is poorly organised
- referencing is generally inadequate
- lack of familiarity with the legislation and its application
- failure to identify and address the issues in the question
- reasoning and application demonstrated is poor

Pass

A student will have:

- made a conscientious attempt to address the topic and/or answer the question
- shown evidence of having done the required reading and of having understood the reading
- presented a reasonable argument to back up your conclusions
- demonstrated a reasonable level of spelling and grammatical usage
- used referencing but this may need improvement
- issues that may need to be identified and addressed in more depth

Credit

A student will have:

- addressed the topic and/or answered the question directly
- presented soundly based arguments and backed these up with reasons
- gone beyond description to analysis of key issues
- used the English language well
- shown evidence of reading widely
- demonstrated understanding of the reading
- used referencing that is satisfactory

Distinction

A student will have:

- met the above criteria for a credit
- demonstrated the attainment of a high degree of understanding of the concepts of the course
- demonstrated deep insight into the application of knowledge and skills acquired to complex theoretical and practical situations
- used referencing correctly
- referred to all appropriate legislation

High Distinction

A student will have:

- met the above criteria for a distinction
- demonstrated the attainment of an outstanding level of achievement regarding the objectives of this course
- demonstrated an interesting and/or original approach/idea/argument
- demonstrated mastery of the relevant referencing system
- ensured your conclusions are backed by well-reasoned arguments demonstrating a detailed insight and analysis of issues
- ensured your references are made to the appropriate legislation for particular issues

Referencing Style

- [Australian Guide to Legal Citation, 4th ed](#)

Submission

Online

Submission Instructions

The final take home paper must be saved and submitted in MS Word (not as a PDF) in the following format: LastName_FirstName.docx.

Learning Outcomes Assessed

- Discuss the range and operation of ADR methods and their relationship with litigation.
- Develop and demonstrate skills in listening, negotiation, and mediation together with the ability to design ADR processes and drafting appropriate documents to support an ethical dispute resolution design.
- Research, critique and evaluate the ADR literature to assist with determining appropriate ADR processes in a given fact situation.
- Outline the basic theoretical principles of dispute resolution systems and how to apply them to manage conflicts.
- Gain an appreciation of the ADR processes of International Commercial Arbitration or Australian Indigenous peoples.

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Information Literacy
- Cross Cultural Competence
- Ethical practice

Academic Integrity Statement

As a CQUniversity student you are expected to act honestly in all aspects of your academic work.

Any assessable work undertaken or submitted for review or assessment must be your own work. Assessable work is any type of work you do to meet the assessment requirements in the unit, including draft work submitted for review and feedback and final work to be assessed.

When you use the ideas, words or data of others in your assessment, you must thoroughly and clearly acknowledge the source of this information by using the correct referencing style for your unit. Using others' work without proper acknowledgement may be considered a form of intellectual dishonesty.

Participating honestly, respectfully, responsibly, and fairly in your university study ensures the CQUniversity qualification you earn will be valued as a true indication of your individual academic achievement and will continue to receive the respect and recognition it deserves.

As a student, you are responsible for reading and following CQUniversity's policies, including the [Student Academic Integrity Policy and Procedure](#). This policy sets out CQUniversity's expectations of you to act with integrity, examples of academic integrity breaches to avoid, the processes used to address alleged breaches of academic integrity, and potential penalties.

What is a breach of academic integrity?

A breach of academic integrity includes but is not limited to plagiarism, self-plagiarism, collusion, cheating, contract cheating, and academic misconduct. The Student Academic Integrity Policy and Procedure defines what these terms mean and gives examples.

Why is academic integrity important?

A breach of academic integrity may result in one or more penalties, including suspension or even expulsion from the University. It can also have negative implications for student visas and future enrolment at CQUniversity or elsewhere. Students who engage in contract cheating also risk being blackmailed by contract cheating services.

Where can I get assistance?

For academic advice and guidance, the [Academic Learning Centre \(ALC\)](#) can support you in becoming confident in completing assessments with integrity and of high standard.

What can you do to act with integrity?



Be Honest

If your assessment task is done by someone else, it would be dishonest of you to claim it as your own



Seek Help

If you are not sure about how to cite or reference in essays, reports etc, then seek help from your lecturer, the library or the Academic Learning Centre (ALC)



Produce Original Work

Originality comes from your ability to read widely, think critically, and apply your gained knowledge to address a question or problem