

The Mediation Centre of Southeastern Ontario (MCSO)
ALTERNATIVE DISPUTE AND CONFLICT RESOLUTION PROGRAM
ABORIGINAL INITIATIVES PROJECT
NEGOTIATING IMPLEMENTATION OF TREATY AND ABORIGINAL
RIGHTS: A SKILLS ENHANCEMENT PROGRAM FOR NEGOTIATORS

Donald Gordon Conference Centre, Queen's University
October 26 to October 28, 2012

[The Mediation Centre is offering two Pre-Course One-Day Special Sessions on Thursday, October 25th that are available separately for those who may wish to make the additional commitment of time:

Best Practices in Relation to the Duty to Consult as it Concerns the Obligations Recognized by the Courts as Owing to First Nations Peoples

(Full Day – Kevan Flood; Ingrid Bron; Others TBA)

An Introduction to Group Facilitation

(Full Day – Maria Stebelsky; Kimberly Bain, CPF)]

Day One – Friday, October 26, 2012

8:30 a.m. – 9:00 a.m.

Welcome and Introduction

Ronald Price and Kevan Flood

Introduction of Instructors

Overview of Program Objectives and Arrangements

Learning community

Introduction Protocol

Treaty Making and Aboriginal Rights

9:00 am -- 10:00 am

Matthew Lacompte

The Relationship between the Crown and Aboriginal Peoples as Essential to the Implementation of Treaty and

Aboriginal Rights: Understanding the Perspectives to be drawn from the development, negotiation and ratification of the historic Treaty as the basis for contemporary Negotiations

10:00 a.m – 10:15am

BREAK

10:15 a.m. – 11:15 am

Brian Crane

Evolution of the Interpretation of Treaty and Aboriginal Rights in the Courts: The Significance for the Negotiator

11:15 am – 12:00 pm

Robert Watts

First Nations Perspectives on the Interpretation of Treaty and Aboriginal Rights

12:00 p.m. – 1:00 p.m.

LUNCH BREAK

Negotiation

Maria Stebelsky
Jeffery M. Wilson

1:00 p.m.

Present the dual purpose of the day:

Present negotiation theory, strategy & tactics in hand-out materials
Highlight focus on learning through the Aboriginal Context
Participant introductions by sharing experience and learning goals

1:45 a.m.

Develop a definition of negotiation that suits this context

Present the Stages of a Negotiation and planning guide
Review definitions of terms used

2:30

BREAK

2:45 p.m.

General Tactical Orientation presentation and discussion

Understanding 2 row wampum belt and 5 nation belt
How these fit into understanding negotiating in an aboriginal context

3:30 p.m.

Explore historical context which impacts process
Share stories which guide the process

3:30 p.m. Introduce Case Study and Distribute roles

Day Two – Saturday, October 27

Negotiation (continued)

9:00 a.m. Part 1 of the planning guide – (Preliminary Stage and Needs/ Currency)

9:30 a.m. Players initiate first contact as per role instructions.

10:00 a.m. Part 2 of the planning guide - Plan for full negotiation,

10:30 p.m. Conduct negotiation

11:30 p.m. Feedback and debrief
Insights and learning

12:00 p.m. – 1:00 p.m. ***LUNCH BREAK***

Multi-Party Negotiation

Dr. John Andrew

This half-day session utilizes a six-party simulation Exercise developed as an instructional vehicle by the Harvard University Negotiation Project. It is designed to assist Participants' understanding of the dynamics of a multi-party negotiation context, and to allow differing approaches to negotiation, including in particular 'principled negotiation', to be explored and evaluated. This particular Exercise has the advantage of focusing on issues that can be expected to be of interest to those participating in this "Aboriginal Initiatives Project" Program.

The Exercise, and individual Roles, will be distributed on the previous day (Friday), to facilitate advance planning and to allow for the most effective use of class time.

1:00 p.m. – 2:30 p.m. ***Role Play***
- "River Bend"

2:30 pm – 2:45 p.m. ***BREAK***

2:45 p.m. – 4:30 p.m. ***"River Bend" (continued)***
– Convening of Full Group
- Full Group De-Briefing

Day Three – Sunday, October 28, 2012

Developing Negotiators' Knowledge Base and Skill Sets

9:00 a.m. – 10:30 a.m.

Implementation of Negotiated Agreements

Speaker TBA

Implementation Plans as essential and as a core Element of the On-Going Relationship; Necessary Elements of a Successful Implementation Plan; Status in Law – they do not create Treaty or Aboriginal Rights; Dispute Resolution Mechanisms.

10:30 a.m. - 10:45 a.m.

BREAK

10:45 a.m. – Noon

The Distinctive Demands of Negotiation(s) in the Context of Treaty and Aboriginal Rights

Brian Crane, Robert Watts Kevan Flood

A Brief History of Treaty Making; Assuming Control of an Existing Process; Framework Agreements and Mandates; Agreements in Principle; Dealing with Power Imbalances; When to Suspend or Terminate Unproductive Processes; Record Keeping; Best Practices in Drafting; Creating a Productive Working Relationship; Other Issues raised by Participants

Noon

LUNCH BREAK

1:00 p.m. – 3:00 p.m.

Elective Sessions

(a) Needs Assessment Programming

A two-hour time period has been allocated to programming based on communications sent out to Registrants in advance of the Course, to invite them to indicate what they see as their instructional needs and what they hope to have provided in the Course to address their needs. To the extent that these preferences

are not adequately being met in other parts of the Course, and to the extent practicable, one or more one-hour sessions will be organized to accommodate this 'needs assessment' process. The Mediation Centre will be communicating with those who respond to the invitation.

(b) A Participant-Focused Clinic on Multiparty Facilitation (Two Hours)

Maria Stebelsky

This session will give participants an opportunity to share their frustrations, and explore useful solutions to facilitating resolution of issues where multiple stakeholders are in conflict. Using scenarios generated by participants the group will brainstorm creative strategies to deal with such issues as: resolve stalemate, overcome deadlock, clarify divisive points of view, or assist in revealing common ground etc. References and resources will be offered to a broad range of approaches available in the literature.

(c) Enhancing Negotiations: Enriching Perspectives and Embracing Cultural Differences – An Aboriginal Perspective, with Historical Context, Present in Aboriginal Negotiations (Two Hours)

Jeffery Wilson

This Workshop is still at the development stage. A full Outline will be available shortly.

It will begin with a brief history and study of aboriginal negotiation, inter-tribal agreements (the aboriginal government being one of the oldest living democracies) and its influence on the United States Constitution. This would lead to the Haudenosaunee (People of the longhouse) of today, and provide cultural insight into how six differing self-governing nations bring cultural traditions into the negotiating forum to resolve issues, both internally and externally.

The object, with only such historical content as is necessary, is to enhance cultural understanding and sensitivity as integral to the negotiation process, to entice participants' 'taste buds' toward their own research as they make a foray into negotiations with an increased awareness of the importance of cultural differences affecting this process. The presentation will include Power Point slides and other materials to be provided, and will incorporate a demonstration, open discussion and an exercise (time permitting). Other Contributors may be brought in.

(d) Conflict Coaching as an Aid to Negotiation (One Hour)

John S. Curtis

[A description of Conflict Coaching appears on the MCSO web site, www.mediatecentre.com, and also on Mr Curtis' web site, <http://johncurtis.ca>.]

(e) There will be one or more additional one-hour Electives, either drawn from the "Needs Assessment" responses [see (a) above], or to be added later.

3:00 p.m. – 3:15 p.m.

BREAK

3:15 p.m. – 4:45 p.m.

Brian Crane, Matthew Lacompte, Robert Watts

Visioning Exercise

Where will Government, First Nations and the Law be in relation to Aboriginal claims and entitlements 20 years hence?

4:45 p.m.

Course Wrap-Up

Presentation of Certificates