Course Objective:
Understanding alternatives to litigation dispute resolution including mediation and arbitration is critical to the day-to-day operations of any construction or engineering business. Failure to fully consider and implement such methods at all stages of a dispute (even before one arises on a project), from the bidding documentation and document retention to witness and expert preparation for such proceedings can hamper your business and even cause disastrous financial results when mired in a project claim. This course will include an overview of dispute resolution as well as expose students to basic skills involved in preparation for mediations, arbitrations and proceedings before dispute resolution boards and will explore the electronic documentary production and retention issues associated with such matters. The class discussions will be based on review of the taped lectures, assigned texts, role play exercises and presentations.

Week-by-week description of the course:

Week 1  Introduction to History and Origin of ADR
- The Federal Arbitration Act
- State arbitration laws
- Understanding construction industry arbitration agreements, including the A.I.A. forms
- Arbitration versus mediation: distinctions with a difference

Week 2  The Mediation Process
- Process and Role of the Mediator
- Mediator Selection Process
- Settlement in the corporate setting including employment and owner/architect or contractor (up and down the chain) disputes
- Court annexed mediation options (7th Circuit Settlement Conferences, for example)

Week 3  The Arbitration Process
- Process and Role of the Arbitrator
- Arbitrator Selection Process and forum selection (AAA, private companies, etc.)
- Students share their mediation plans demonstrating how the corporate risk and avoidance plans they devised have reduced risk and mitigated damage to their company’s bottom line, from the project delay and open change order disputes.
Week 4  Dispute Resolution Boards and Mega Project Claim Resolution
- Process and Role of DRBs
- Contractual requirements to submit to DRBs - capital construction projects
- Mega and international projects - use of DRBs and AAA International dispute resolution

Week 5  Role of Executives in Settling Disputes via Alternatives to Litigation
- Considerations of impacts of social media (ADR is private and confidential)
- Issues that arise in ADR related to notification and management of governmental authorities
- Handling electronically stored information ("ESI") in ADR including company document retention issues and exposure from litigation holds in ethics investigations
- Students share their arbitration or DRB plans demonstrating how the corporate risk and avoidance plans they devised have reduced risk and mitigated damage to their company’s bottom line, from the project delay and open change order disputes.
- Case studies

Grade Determination:
Final paper/project ..  50%
Mediation Presentation  25%
Arbitration Presentation  25%

Software:
No software required

NOTE: This course description explains the essence of the material covered. Canvas is the best source for the most up-to-date information about specific details for any given offering of the course.