

**PLAN 725**  
**DEVELOPMENT DISPUTE RESOLUTION: SPRING 2017**

Time: Tuesday/Thursday 3:30-4:45

Room: New East 102

Instructor: Danielle Spurlock

Office Hours: T&TH 1:00-3:00 by appointment

Contact: [dspurloc@live.unc.edu](mailto:dspurloc@live.unc.edu)  
<https://dsprlck.youcanbook.me>

New East 318

**Course Description**

Development disputes are public disputes that involve government and private sector actors locked into interdependent situations where each party must trade with the other in order to reach agreement over development issues. This course is a hands-on, skill-building class for those interested in building their skills in negotiation and bargaining for the resolution of development disputes. In addition to completing readings selected to build theoretical knowledge of negotiation, students engage in role playing exercises to discover, apply, reflect on, and critique the styles and techniques of conflict resolution that work in different types of disputes. The course also integrates on-going discussion of real-world development conflicts by examining the implementation of local planning processes and other development disputes.

**Course Goals**

As an engaged participant in this course, by the end of the semester, you will be able to:

- Articulate your conflict style, your negotiation strengths and weaknesses, and your understanding of ethical negotiation practices
- Compare and contrast distributive bargaining and integrative negotiation
- Describe and apply key negotiation skills including stakeholder and power analyses and the preparation of a BATNA
- Identify circumstances when you should negotiate alone with the other party or when to cultivate and collaborate with other stakeholders
- Critically analyze real-world development disputes and suggest improvements to the negotiation process within their unique context

**Course Readings**

Two texts are required. Both are available for purchase at Student Store.

Lewicki, Roy J., David M. Saunders, and Bruce Barry. (2011) *Essentials of Negotiation*. Irwin McGraw-Hill. Fifth Edition. Paperback.

Fisher, Roger, and William Ury. (1991) *Getting to Yes: Negotiating Agreement Without Giving In*. 2nd edition. Penguin Books. Paperback.

All readings, with the exceptions of the two texts, are on posted on SAKAI.

## Course Requirements

Each student will be required to:

1. Participate in six *negotiation exercises*, including writing a brief (2 page, single spaced) individual post-exercise evaluation. Grades will be assigned based on *both* exercise performance and demonstration in the written evaluation of combined learning from the negotiation and the readings. **Evaluations are due at the beginning of class on the Tuesday following the exercise.** You receive a letter grade reduction per day for late assignments. (66% of total grade).
2. Prepare a 12-20 page **case study** describing and analyzing a development dispute, and **present your findings** in class at the end of the semester. Include a chronology of actions, a stakeholder analysis, and your recommendations for an improved outcome. Team projects are encouraged. **Topic and outline due on February 28. Final paper due on last day of class.** (20% of total grade)
3. Participate actively in *class activities* including the student team-led discussion. Complete assigned readings, attend class sessions, and **actively discuss and critique** the readings in the context of class discussions. Since this course relies on in-class exercises to a great extent, regular attendance is critical, and any absences must be cleared with instructor in advance. At a minimum, students are expected to be able to discuss assigned readings; optimally, students should be able to relate ideas from readings to experience, practice, and broader theories. (10% of total grade).
4. Attend a **meeting** for a municipal development project (e.g., Amity Station in Chapel Hill), participate in a class discussion of the consensus building/dispute resolution techniques employed, and submit a 3 page **written critique**. Refer to regional media like the News and Observer or the Independent to identify local development disputes. Due April 13 (4% of total grade).

## Communication

The best way to reach me is by email or during my office hours. If my office hours do not fit your schedule, you can also make an appointment using <https://dsprlck.youcanbook.me/>.

- All emails should include PLAN 725 in the subject line. I will make every effort to respond to your emails on the same day I receive them unless I receive them after 7:00 pm. Please do not wait until the last minute to contact me about assignments, especially if you are having problems.
- Students are permitted to miss class for EXCUSABLE absences only. For details about what an excused absence is, see UNC-Chapel Hill's attendance policy:

[http://www.unc.edu/ugradbulletin/procedures1.html#class\\_attendance](http://www.unc.edu/ugradbulletin/procedures1.html#class_attendance)

Please contact me as soon as possible should an excusable absence arise so that I can work with you to make accommodations. Each student starts with a 100% for participation. Students are allowed one UNexcused absence without any questions from the instructor. If a student has two UNexcused absences, their participation grade will be affected.

## **Honor Code**

The University Honor Code is in effect, and all assignments must be completed through your individual effort unless otherwise instructed. In order to uphold the Honor Code in your written assignments, you must properly cite all data, ideas, and information that are not your own. Please visit the UNC Writing Center website for information about citations and how to avoid plagiarizing: <http://writingcenter.unc.edu/handouts/plagiarism/>.

### **UNC HONOR CODE**

“It shall be the responsibility of every student at the University of North Carolina at Chapel Hill to obey and to support the enforcement of the honor code, which prohibits lying, cheating, or stealing when these actions involve academic processes or University, student or academic personnel acting in an official capacity.”

Each assignment should include the following Honor Pledge on all graded work:

“On my honor, I have neither given nor received unauthorized aid on this examination (assignment).”

## **Laptops and cell phones**

Please turn off your cellphones before the beginning of class. If you must have your phone on during class because of an extraordinary circumstance (you are expecting a baby, etc.), please let me know beforehand. Laptops are permissible **only** for classroom activities. Use of other programs including web browsers, emails, instant messaging, etc. will result in the polite request that you stop using your laptop during class time.

## Semester at a Glance

<b>MODULE I: THEORY &amp; PRACTICE</b>			
1/12	Sess. 1	Course Overview & Evolution of Conflict Management	
1/17	Sess. 2	Negotiated Development in Practice	
1/19	Sess. 3	<b>Exercise 1: Bluebell</b>	
1/24	Sess. 4	Distributive Bargaining	Exercise 1 Evaluation due
1/26	Sess. 5	Framing and Reframing	
1/31	Sess. 6	Ethics in Negotiation	
2/2	Sess. 7	<b>Exercise 2: Map Exercise</b>	
2/7	Sess. 8	Getting to Yes	Exercise 2 Evaluation due
<b>MODULE 2: STRATEGY &amp; TACTICS</b>			
2/9	Sess. 9	Integrative Negotiation	
2/14	Sess. 10	Multi-Party Negotiation and Stakeholder Analysis	
2/16	Sess. 11	<b>Exercise 3: Farmland Conversion</b>	
2/21	Sess. 12	Farmland Debrief and Introduction to Negotiation Power	Exercise 3 Evaluation due
2/23	Sess. 13	Negotiation Power, Strategy and Planning	
2/28	Sess. 14	Maintaining Relationships Amidst Conflict	GUEST SPEAKER; Case Study Topic and Outline due
3/2	Sess. 15	<b>Exercise 4: EPA vs. Riverside</b>	
3/7	Sess. 16	Pursuing the Efficient Frontier	
3/9	Sess. 17	Facilitation in Practice	GUEST SPEAKER; Exercise 4 Evaluation due
		<i>Spring Break</i>	
3/21	Sess. 18	Consensus-Building	
3/23	Sess. 19	<b>Exercise 5: Climate Change Adaptation</b>	
3/28	Sess. 20	Planning Roles in Conflict Management	Exercise 5 Evaluation due
3/30	Sess. 21	Development Agreements	GUEST SPEAKER
4/4	Sess. 22	Mediation	
4/6	Sess. 23	<b>Exercise 6: Menehune Bay</b>	
4/11	Sess. 24	Community Perspectives in Practice	Exercise 6 Evaluation due
4/13	Sess. 25	Designing Public Consensus	Meeting critique due
4/18	Sess. 26	Future of Public Dispute Resolution	
4/20	Sess. 27	Presentations	
4/25	Sess. 28	Presentations	
4/27	Sess. 29	Presentations; Last Day of Classes	Case Studies due

## **MODULE 1: THEORY & PRACTICE**

The context and rationale for resolving conflicts between the public and private sectors have changed dramatically during the past three decades. To compare traditional adversarial or distributive (win/lose) bargaining with the new alternative dispute resolution (win/win) theory and practice, we review cases of successful and unsuccessful development and environmental negotiation. Students take part in, and analyze, 2 two-party exercises.

### **TH 1/12 INTRODUCTION: EVOLUTION OF CONFLICT MANAGEMENT**

*Activity:* Course Introduction

Susskind and McKearnan. (1999). "The Evolution of Public Policy Dispute Resolution. *Journal of Architectural and Planning Research* 16:2 (summer), 96-115.

Saint, Flavel, and Fox. (2009). *NIMBY Wars: The Politics of Land Use*, Ch. 3, "What is Land Use Politics?" pp. 48-73.

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### **T 1/17 NEGOTIATED DEVELOPMENT IN PRACTICE**

*Activity:* In-class discussion of McDonald's, Cane Creek, White Flint Mall, and other cases

Paterson. (1999). "Negotiated Development: Best Practice Lessons from Two Model Processes." *Journal of Architectural and Planning Research* 16:2 (summer), 133-148.

Lewicki, Saunders, and Barry. (2011). *Essentials of Negotiation*, Ch. 1, "The Nature of Negotiation," pp. 1-26.

Optional: Deyle and Slotterback (2009) "Group Learning in Participatory Planning Processes," *Journal of Planning Education and Research* 29:23-38, January.

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### **TH 1/19 EXERCISE 1**

*Activity:* BLUEBELL REDEVELOPMENT (2 PARTIES, 1 ISSUE)

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### **T 1/24 DISTRIBUTIVE BARGAINING**

*Activity:* Debrief Bluebell & In-class discussion on distributive bargaining

Lewicki, Saunders, and Barry (2011) *Essentials of Negotiation*, Ch. 2, "Strategy and Tactics of Distributive Bargaining," pp. 27-61.

Raiffa (1982) *The Art and Science of Negotiation*, pp. 35-43.

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**\*\*Exercise 1 Evaluation Due\*\***

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TH 1/26      **FRAMING AND REFRAMING**

*Activity:* Conflict style survey & Myers Briggs Assessment & In-class discussion on framing

Kaufman and Smith (1999) "Framing and Reframing in Land Use Conflicts," *Journal of Architectural and Planning Research* 16:2 (summer), 164-180.

Faga (2006) "Youngstown's New Vision," *Designing Public Consensus: The Civic Theater of Community Participation for Architects, Landscape Architects, Planners, and Urban Designers*, pp. 53-82.

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T 1/31      **ETHICS IN NEGOTIATION**

*Activity:* In class discussion on ethics, negotiation, and planning roles

Lewicki, Saunders, and Barry (2011). *Essentials of Negotiation*, Ch 8, " Ethics in Negotiation," pp. 170-191.

American Institute of Certified Planners. (2005). AICP Code of Ethics and Professional Conduct. Retrieved from <https://www.planning.org/ethics/ethicscode.htm> December 29, 2013.

American Planning Association. (1992). Ethical Principles in Planning. Retrieved from <http://www.planning.org/ethics/ethicalprinciples.htm> December 29, 2013.

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TH 2/2      **EXERCISE 2**

*Activity:* MAP EXERCISE (2 PARTIES, 1 ISSUE)

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T 2/7      **GETTING TO YES**

*Activity:* Debrief MAP exercise & In-class discussion on integrative negotiation

Fisher, Ury & Patton (1991) *Getting to Yes: Negotiating Agreement without Giving In*, Ch.1-5, pp. 1-94. (Skim rest)

**\*\*Exercise 2 Evaluation Due\*\***

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## **MODULE 2: STRATEGY & TACTICS**

Negotiation process dynamics make the difference between win/lose and win/win outcomes. After analyzing their present ways of dealing with conflict, students are introduced to different types of negotiation strategies and tactics. They learn the principles of integrative (principled) negotiation, techniques of stakeholder analysis, use of efficiency frontiers for assessing outcomes, and methods of information exchange. They test these approaches in 2 exercises of increasing complexity.

### **TH 2/9 INTEGRATIVE NEGOTIATION**

*Activity:* Rural Buffer case

Godschalk (1992) "Negotiating Intergovernmental Development Policy Conflicts: Practice-Based Guidelines," *APA Journal*, Summer, pp. 368-378.

Lewicki, Saunders, and Barry (2011). *Essentials of Negotiation*, Ch 3, "Strategy and Tactics of Integrative Negotiation," pp. 62-88.

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### **T 2/14 MULTIPLE PARTY NEGOTIATION/STAKEHOLDER ANALYSIS**

*Activity:* In class discussion of multiple party negotiation

Lewicki, Saunders, and Barry. (2011). *Essentials of Negotiation*, Ch. 10, "Multiple Parties and Teams," pp. 210-229.

Levitt & Kirlin, eds. (1985) *Managing Development Through Public/Private Negotiations*, Ch. 6, pp.49-62. (Stakeholder analysis)

Bryson and Crosby (1992). *Leadership for the Common Good*, pp. 141-145, 363-367.

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### **TH 2/16 EXERCISE 3**

*Activity:* FARMLAND CONVERSION (3 PARTIES, 1 ISSUE)

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### **T 2/21 NEGOTIATION POWER**

*Activity:* Debrief Farmland Conversion

Lewicki, Saunders, and Barry. (2011). *Essentials of Negotiation*, Ch. 7, "Finding and Using Negotiation Power," pp. 151-169; Ch 12, "Best Practices in Negotiation," pp. 251-259.

**\*\*Exercise 3 Evaluation Due\*\***

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TH 2/23      **NEGOTIATION STRATEGY AND PLANNING**

*Activity:* In class discussion of negotiation strategy and the Coker Dispute facilitation

Howe (2002) "Smart, or Not So Smart: Large-scale, Mixed-use Infill Fails the IQ Test in Raleigh," *Planners Casebook*, No. 40, Spring, pp. 1-8.

Lewicki, Saunders, and Barry (2011). *Essentials of Negotiation*, Ch 4, "Negotiation: Strategy and Planning," pp. 89-111.

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T 2/28      **MAINTAINING RELATIONSHIPS AMIDST CONFLICT**

*Activity:* Guest Speaker (tentative)

Lewicki, Saunders, and Barry (2011). *Essentials of Negotiation* HIPS, Ch 9, "Relationships in Negotiation," pp. 193-209.

Susskind, Levy, and Thomas-Larmer (2000) Part 1, "The Mutual Gains Approach," in *Negotiating Environmental Agreements*, pp. 17-40.

*\*Turn in term paper topic and outline.*

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TH 3/2      **EXERCISE 4**

*Activity:* EPA V RIVERSIDE (2 PARTIES, MULTIPLE ISSUES)

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T 3/7      **PURSUING THE EFFICIENT FRONTIER**

*Activity:* Debrief EPA/Riverside and In-Class discussion of the efficient frontier

Raiffa. (1982). *The Art and Science of Negotiation*. Ch. 10, pp. 131-147

**\*\*Exercise 4 Evaluation Due\*\***

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### **MODULE 3: ASSISTED NEGOTIATION**

The role of the neutral third party is introduced in this part of the course. Single text creation, computer-assisted negotiation, and dispute resolution system design are explored. Students take part in 2 assisted negotiation exercises involving difficult issues of community value conflicts.

#### **TH 3/9 FACILITATION IN PRACTICE**

*Activity:* Guest Speaker, Andy Sachs

Kaner (2007) *Facilitator's Guide to Participatory Decision-Making*. 2nd ed. Ch. 3, "Introduction to the Role of Facilitator," & Ch. 4, "Facilitative Listening Skills," pp. 31-60.

Susskind (2010) "Overcoming the Not-In-My-Backyard (NIMBY) Syndrome"  
<http://theconsensusbuildingapproach.blogspot.com/2010/08>. pp. 1-7.

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#### **SPRING BREAK**

**Friday March 10 at 5:00pm – Monday, March 20 at 8:00am**

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#### **T 3/21 CONSENSUS BUILDING**

*Activity:* Rebuilding the World Trade Center Site. Video. <http://projectrebirth.org/film/>.

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#### **TH 3/23 EXERCISE 5**

*Activity:* CLIMATE CHANGE ADAPTATION: FLOODING

*Global Climate Change Impacts in the U.S.* (2009) pp. 27-40.

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#### **T 3/28 PLANNING ROLES IN CONFLICT MANAGEMENT**

*Activity:* Debrief Climate Change Adaptation and In-class discussion of planning roles

Forester (1987) "Planning in the Face of Conflict: Negotiation and Mediation Strategies in Local Land Use Regulation," *APA Journal* 53:3, pp. 303-314.

Sirianni (2007) "Neighborhood Planning as Collaborative Democratic Design: The Case of Seattle," *APA Journal* 73 (4), Autumn, pp. 373-387.

**\*\*Exercise 5 Evaluation Due\*\***

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TH 3/30      **DEVELOPMENT AGREEMENT**

*Activity:* Carolina North Development Agreement--Guest Speaker, David Owens

Lewicki, Saunders, and Barry (2011) *Essentials of Negotiation*, Ch 5, Perception, Cognition, and Emotion," pp. 112-135; and Ch 6 "Communication," pp. 136-150.

Owens (2012) Case Study: Chapel Hill and the University of North Carolina Develop a Collaborative Approach to Planning and Development.

Stancil and Nirdlinger. (2010). A Sustainable Interest in the New Global Economy. *Public Management* 92:5, pp. 18-21.

Carolina North Development Agreement. <http://www.ci.chapel-hill.nc.us/index.aspx?page=1232>

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T 4/4      **MEDIATION**

*Activity:* In-class discussion of mediation and Camp David case using single text

Moore (1996) *The Mediation Process: Practical Strategies for Resolving Conflict*. Ch. 2, pp.41-77, and caucuses, pp. 319-326.

Oregon Dept. of Land Conservation and Development (1996) Ch. 6, pp. 45-67.

Raiffa. (1982). *The Art and Science of Negotiation*. Ch. 14, 205-217.

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TH 4/6      **EXERCISE 6**

*Activity:* Menhune Bay (MULTI-PARTIES & ISSUES, MEDIATED)

Susskind, van der Wansem, and Ciccarelli (2000) *Meditating Land Use Disputes: Pros and Cons*. Lincoln Institute of Land Policy, pp. 1-40.

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T 4/11      **COMMUNITY PERSPECTIVES IN PRACTICE**

*Activity:* Debrief Menhune Bay

Lewicki, Saunders, and Barry (2011). *Essentials of Negotiation*, Ch 11, "International and Cross- Cultural Negotiation," pp. 230-251.

Lung-Amam, Willow. (2013). That "Monster House" is My Home: The Social and Cultural Politics of Design Reviews and Regulations. *Journal of Urban Design* 18, 2: 220-241.

**\*\*Exercise 6 Evaluation Due\*\***

TH 4/13            **DESIGNING PUBLIC CONSENSUS**

*Activity:* Student-Led Discussion of Public Meetings of Local Development Processes

Wolf-Powers (2010) “Community Benefits Agreements and Local Government,” *Journal of the American Planning Association* 70:2, Spring, pp. 141-159.

Faga (2006) Ch 2, “Ground Zero,” and ‘Afterword,” *Designing Public Consensus: The Civic Theater of Community Participation for Architects, Landscape Architects, Planners, and Urban Designers*, pp. 23-39, and 201-208.

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T 4/18            **FUTURE PUBLIC DISPUTE RESOLUTION**

*Activity:* Evolution and Revolution within the Planning Field

Shmueli, Kaufman, and Ozawa (2008) “Mining Negotiation Theory for Planning Insights,” *Journal of Planning Education and Research* 27, pp. 359-364.

Saint, Flavel, and Fox (2009) *NIMBY Wars: The Politics of Land Use*, Ch 10, “The Future of Land Use Politics,” pp. 262-284.

Innes and Booher (1999) “Consensus Building and Complex Adaptive Systems,” *APA Journal*, 65:4, pp. 412-423. Autumn.

**DEVELOPMENT DISPUTE CASES**

Students present their analyses of development disputes, including descriptions of the issues, stakeholders, and outcomes, as well as recommendations for more effective dispute resolution. These analyses are based on primary data drawn from interviews, observations, and other sources.

- TH 4/20            STUDENT CASE PRESENTATIONS
- T 4/25            STUDENT CASE PRESENTATIONS
- TH 4/27            STUDENT CASE PRESENTATIONS *Case Studies due.*

**SUPPLEMENTAL RESOURCES**

**Web sites on conflict resolution:** Association for Conflict Resolution (ACR) [www.acrnet.org](http://www.acrnet.org); Community Building Institute <http://communitybuildinginstitute.org/>; Consensus Building Institute <http://www.cbuilding.org/>; International Association of Facilitators [www.iaf-world.org](http://www.iaf-world.org); International Association for Public Practitioners [www.iap2.org](http://www.iap2.org); National Association for Community Mediation (NAFCM) [www.nafcm.org](http://www.nafcm.org); National Civic League <http://www.ncl.org/>; Policy Consensus Initiative [www.policyconsensus.org](http://www.policyconsensus.org).

**State Offices and Programs:** The School for the Conflict Analysis and Resolution (formerly the California Center for Public Dispute Resolution) <http://scar.gmu.edu/>; FCRC Consensus Center (formerly the Florida Conflict Resolution Consortium) <http://consensus.fsu.edu/>; Consortium on Negotiation and Conflict Resolution <http://law.gsu.edu/CNCR/>; Matsunaga Institute for Peace & Conflict Resolution <http://www.peaceinstitute.hawaii.edu/>; Maryland Mediation and Conflict Resolution Office <http://www.marylandmacro.org/>; Massachusetts Office of Public Collaboration <https://www.umb.edu/mopc> ; Michigan Community Dispute Resolution Program <http://courts.mi.gov/Administration/SCAO/OfficesPrograms/ODR/Pages/Community-Dispute-Resolution-Program.aspx>; Nebraska Mediation Center <http://www.nebraskamediationcenter.com/>; North Carolina Mediation Network [www.mnnc.org](http://www.mnnc.org); North Dakota Consensus Council [www.agree.org](http://www.agree.org); Ohio Commission on Dispute Resolution and Conflict Management <http://www.supremecourt.ohio.gov/Boards/disputeResolution/default.asp>; Oregon Office of Community Dispute Resolution <http://oocdr.uoregon.edu/> ; Texas Center for Public Policy Dispute Resolution <https://law.utexas.edu/cppdr/> ; Virginia Institute for Environmental Negotiation <http://ien.arch.virginia.edu/>.

**Federal Offices and Programs:** Interagency ADR Working Group <http://www.adr.gov/>; US Institute for Environmental Conflict Resolution <http://www.ecr.gov/>; US EPA Public Involvement [www.epa.gov/publicinvolvement](http://www.epa.gov/publicinvolvement).

**Newsletters and journals** dealing with dispute resolution:

*Consensus; Dispute Resolution Forum; International Journal of Conflict Management; Journal of Conflict Resolution; Journal of Dispute Resolution; Mediation Quarterly; Negotiation Journal; Resolve; The Justice System Journal*