

Business law

Law



Business law Introduction One of the objectives of law is to ensure justice through protection of rights and enforcement of obligation. Civil law offers an avenue for resolving disputes between individuals. Alternative dispute resolution mechanisms however exists for solving disputes outside the court system and this paper identifies three forms of alternative dispute resolution and examples in which each form suits in a business situation.

Negotiation

Negotiation is a form of alternative dispute resolution in which parties to a conflict tries to resolve their dispute without involving a third party. It is suitable in a business environment in which the party are able come together and the party values a relationship that they have enjoyed. An example is the case in which one party to a contract has breached terms of a contract. The parties can come together with the aim of reconstructing the contract or finding a suitable remedy to the injured party. The negotiation process will involve the elements of the Bloom's Taxonomy as the parties consider available alternatives. The parties will remember terms of the contract and reasons for the breach in order to understand their positions. They can then use the information to generate possible solutions. An evaluation of the possible solutions can then inform the parties' decision into formulation of a remedy or a collection of remedies to the dispute. In implementing the Bloom's taxonomy in negotiation, the party can reach a solution that is acceptable to both of them and one that can sustain their existing relationship (Miller and Jentz 75; Overbaugh and Schultz 1).

Mediation

Mediation is another form of alternative dispute resolution system that parties in a business environment can use. The method involves the role of a <https://assignbuster.com/business-law-essay-samples-20/>

third party that tries to bring the parties together in order to reach a solution. The party is always neutral to the dispute and does not impose any solution to the parties. The third party may however propose solutions and try to enlighten the conflicting parties of the benefits of the solution. The parties to the conflict however reserve the power to make a decision on whether to resolve the conflict or not and the solution to accept. Unfair business practice, such as blackmailing advertisement, is an example of a situation in which mediation can be used. In case, the parties may have a tense inter-business relationship that makes it hard for them to come together and agree. A third party can however bring them together and help them to reflect on the problem and understand its root cause. With the help of the mediator, the parties can utilize the developed understanding to generate possible solutions that they can then analyze and evaluate into formulation of a solution (Kerley, Hames and Sukys 11; Overbaugh and Schultz 1).

Arbitration

Arbitration is however a formal approach to conflict resolution in which a third party who is neutral to the dispute determines a solution to the dispute. The party may be a person or a group of people and listens to both parties before making a decision on the solution that binds the parties. Arbitration would be the best alternative in the case of disintegration of a business entity such as a partnership or a company. In such as case, members of the organizations may have formed groups that with to separate into separate entities but established rules are not clear and lead to dispute. An independent party, such as a professional or an industrial body under which the conflicting parties operate, summons the parties to the dispute and

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listens to the factors around the conflict. Levels of the Bloom's Taxonomy then facilitates generation and evaluation of possible alternatives for creation of a solution that the parties to the dispute adheres to (Blake, Browne and Sime 59; Overbaugh and Schultz 1).

Works cited

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