
Graduate Certificate in Prenuptial Agreements and Alternative Dispute Resolution

Ethics and Professional Responsibility in ADR

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Accord and Satisfaction – Related terms: Settlement, release. A contractual agreement where parties settle a dispute by performing a new agreement that discharges the original claim. In ADR, mediators often help parties draft an accord and satisfaction to resolve marital property disputes without litigation.

Adverse Party – Related terms: Opposing counsel, respondent. The individual or entity whose interests are contrary to those of the requesting party in a mediation or arbitration. Ethical rules require the neutral to treat the adverse party with fairness and respect.

Acknowledgment of Conflict – Related terms: Conflict of interest, disclosure. A written statement by a neutral or attorney confirming that any potential conflict has been identified and addressed. Failure to provide an acknowledgment may violate professional conduct standards.

Alternative Dispute Resolution (ADR) – Related terms: Mediation, arbitration, collaborative law. A collective term for methods of resolving disputes without resort to formal courtroom litigation. Ethical responsibilities in ADR include maintaining confidentiality, avoiding bias, and ensuring informed consent.

Amicable Settlement – Related terms: Negotiated agreement, compromise. A voluntary resolution reached through dialogue, often facilitated by a neutral. Ethical practice requires that the settlement be entered into without coercion and with full disclosure of material facts.

Arbitration Award – Related terms: Decision, award, award enforcement. The final, binding decision issued by an arbitrator. Neutral arbitrators must base the award on the evidence presented and applicable law, avoiding any personal interest that could create a conflict.

Arbitrator's Impartiality – Related terms: Bias, neutrality. The duty of an arbitrator to remain free from any personal, financial, or relational influence that could affect judgment. Impartiality is a core ethical requirement; any perceived bias must be disclosed promptly.

Attorney-Client Privilege – Related terms: Confidentiality, work product doctrine. The legal protection that keeps communications between a lawyer and client confidential. In ADR, parties must be reminded that privilege may be waived if communications are shared with a neutral without proper safeguards.

Attorney-Client Confidentiality – Related terms: Privilege, duty of confidentiality. An ethical duty requiring lawyers to protect all information relating to the representation of a client. During mediation, lawyers must obtain client consent before disclosing confidential strategy or settlement offers.

Attorney-Client Conflict of Interest – Related terms: Dual representation, former client conflict. Occurs when a lawyer's responsibilities to one client are compromised by duties to another. In prenup negotiations, an attorney must avoid representing both spouses unless a fully informed, written waiver is obtained.

Binding Mediation – Related terms: Enforceable agreement, settlement. A mediation outcome that the parties have agreed to be legally enforceable. Ethical considerations include ensuring that parties understand the binding nature and have entered voluntarily.

Brokered Settlement – Related terms: Facilitator, negotiator. An arrangement where a third party (often a mediator) assists parties in reaching a settlement. The broker must remain neutral and disclose any relationships that could affect neutrality.

Case Management in ADR – Related terms: Docketing, scheduling. Administrative processes that organize the flow of an ADR proceeding. Ethical case management requires transparency about timelines and procedural rules.

Confidentiality Agreement – Related terms: Nondisclosure agreement, privacy clause. A contract that obligates parties to keep information shared during ADR confidential. Neutral parties must honor these agreements and advise participants of their scope.

Confidentiality Waiver – Related terms: Consent to disclose, release. A written document in which a party voluntarily relinquishes the right to keep certain information private. Waivers must be specific, informed, and signed.

Conflict of Interest – Related terms: Bias, impartiality, disclosure. A situation where a neutral's or attorney's personal interests could impair professional judgment. Ethical standards demand immediate disclosure and, if necessary, recusal.

Consent to Mediate – Related terms: Informed consent, participation agreement. A signed statement indicating that a party voluntarily agrees to engage in mediation, understanding the process, confidentiality, and potential outcomes.

Confidentiality Clause (Mediation) – Related terms: Privilege, nondisclosure. A provision in mediation agreements that protects all communications from being used in subsequent litigation. Violations can lead to sanctions and loss of professional credibility.

Constructive Trust – Related terms: Equitable remedy, fiduciary duty. An equitable remedy imposed by a court when one party has wrongfully obtained property. In ADR, parties may negotiate a constructive trust as part of a settlement of marital asset disputes.

Contingent Fee – Related terms: Success fee, fee arrangement. A payment structure where attorney fees depend on the outcome of the case. Many jurisdictions prohibit contingent fees in family law matters, including prenup negotiations, to avoid undue influence.

Co-Counsel – Related terms: Joint representation, team approach. Two or more attorneys working together on the same case. Ethical coordination requires clear communication, division of responsibilities, and avoidance of fee sharing violations.

Coercion – Related terms: Duress, undue influence. Any improper pressure that deprives a party of free choice. Ethical mediators must identify signs of coercion and, if present, may need to pause or terminate the session.

Collaborative Law – Related terms: Team approach, settlement conference. A dispute-resolution process where each party hires a collaborative attorney and agrees to resolve issues without litigation. Attorneys must disclose any potential conflicts before signing a collaborative agreement.

Conflicts Check – Related terms: Screening, due diligence. A systematic review performed by law firms or ADR organizations to identify existing or potential conflicts before accepting new clients or cases.

Confidentiality Breach – Related terms: Violation, sanction. An unauthorized disclosure of protected information. Ethical rules impose disciplinary action, and the offending party may be liable for damages.

Consent Order – Related terms: Court order, settlement agreement. A judicial order that reflects the parties' agreement, often used to formalize an ADR settlement. Attorneys must ensure the order accurately reflects the negotiated terms.

Constructive Disclosure – Related terms: Implied consent, inferred waiver. When a party's actions suggest an intention to share information, even without a formal waiver. Mediators must clarify the scope before proceeding.

Corroborating Evidence – Related terms: Supporting documentation, proof. Evidence that strengthens a party's claim. In ADR, parties may be encouraged to provide corroborating evidence to facilitate settlement.

Corporate Counsel – Related terms: In-house lawyer, legal department. Attorneys employed by a corporation. When representing a corporate client in ADR, they must balance fiduciary duties to the corporation with the ethical duty of candor to the neutral.

Cost-Benefit Analysis (ADR) – Related terms: Economic efficiency, risk assessment. An evaluation of the financial and non-financial advantages of using ADR versus litigation. Ethical advisors should present unbiased analyses to clients.

Credibility Assessment – Related terms: Trustworthiness, reliability. The process of evaluating the believability of a party's statements. Mediators must remain neutral while helping parties assess credibility.

Cross-Examination (Arbitration) – Related terms: Questioning, discovery. A limited form of questioning permitted in some arbitrations. Arbitrators must ensure that cross-examination does not become harassing or overly invasive.

Culture-Sensitive Mediation – Related terms: Diversity, inclusion. An approach that respects cultural differences among parties. Ethical mediators must be aware of cultural biases and adapt communication styles accordingly.

Current Ethical Rules (ADR) – Related terms: Model Rules, State Bar Guidelines. The body of regulations governing conduct of attorneys and neutrals. Professionals must stay updated to avoid violations.

Duty of Loyalty – Related terms: Fiduciary duty, client interest. The obligation of an attorney to act solely in the client's best interest. In prenup negotiations, this duty precludes any hidden agenda that benefits the attorney.

Duty of Candor to the Tribunal – Related terms: Honesty, truthfulness. While ADR is not a formal tribunal, parties must still be truthful to the neutral. Misrepresentations can result in sanctions and damage to professional reputation.

Duty to Avoid Undue Influence – Related terms: Coercion, duress. Professionals must ensure that one party is not improperly pressured into an agreement, particularly in marital contexts where power imbalances are common.

Duty to Report Misconduct – Related terms: Professional responsibility, disciplinary reporting. Attorneys and neutrals must report known violations of ethical rules by other practitioners, unless privileged information is involved.

Duty of Confidentiality (Mediator) – Related terms: Confidentiality clause, privilege. Mediators are bound to keep all communications confidential, except when disclosure is required by law (e.G., Threats of violence).

Duty of Disclosure (Attorney) – Related terms: Transparency, informed consent. Attorneys must fully disclose any potential conflict, fee structure, and the limits of confidentiality before representation begins.

Duty of Fairness (Arbitrator) – Related terms: Procedural fairness, due process. Arbitrators must treat all parties equally, provide a fair opportunity to present evidence, and avoid favoritism.

Duty of Impartiality (Mediator) – Related terms: Neutrality, bias. Mediators must not favor either side and must disclose any relationships that could affect neutrality.

Duty of Integrity (All ADR Professionals) – Related terms: Honesty, ethical conduct. All participants must act with honesty, avoid deception, and uphold the reputation of the ADR process.

Duty to Maintain Records – Related terms: Documentation, case file. ADR professionals must retain appropriate records of proceedings, disclosures, and agreements, consistent with jurisdictional requirements.

Ethical Dilemma – Related terms: Conflict, professional judgment. A situation where a practitioner must

choose between two or more conflicting ethical obligations. For example, balancing confidentiality with a duty to report imminent harm.

Ethical Guideline (Model Code of Conduct) – Related terms: Standards, best practices. The set of principles established by professional bodies (e.G., ABA, IADR) that outline appropriate behavior for ADR practitioners.

Ethical Obligation to Inform – Related terms: Duty to advise, client education. Attorneys must inform clients of the benefits, risks, and alternatives of ADR, ensuring an informed decision.

Ethical Pitfalls in Prenuptial ADR – Related terms: Undue influence, conflict of interest. Common issues include lack of independent counsel, pressure to sign quickly, and undisclosed financial interests.

Ethical Review Board – Related terms: Oversight committee, disciplinary panel. A body that evaluates alleged breaches of ethical standards and imposes sanctions where appropriate.

Ethical Self-Assessment – Related terms: Reflection, professional development. Practitioners should periodically evaluate their own conduct against ethical standards, documenting findings.

Ex Parte Communication (Arbitration) – Related terms: Unilateral contact, procedural fairness. Direct communication with one party without the other's knowledge. Generally prohibited unless expressly allowed by the arbitration agreement.

Expert Witness (ADR) – Related terms: Specialist, testimony. Professionals who provide opinion evidence. Attorneys must ensure experts are qualified and disclose any compensation that could affect impartiality.

Fee Splitting (Attorney) – Related terms: Fee sharing, prohibited arrangement. The practice of dividing fees with non-lawyers or unqualified persons, often prohibited by professional conduct rules.

Fee Transparency – Related terms: Billing disclosure, cost estimate. Attorneys must provide clear, written information about fees, hourly rates, and any additional costs before representation.

Financial Disclosure (Prenup) – Related terms: Asset statement, transparency. Full revelation of each party's assets and liabilities. Ethical practice requires that both parties receive accurate, complete disclosures.

Force Majeure (Contract) – Related terms: Unforeseeable event, impossibility. A clause that frees parties from performance obligations due to extraordinary circumstances. In ADR settlements, parties may include force majeure provisions to address future uncertainties.

General Counsel (Corporate ADR) – Related terms: In-house lawyer, legal advisor. The chief legal officer who often oversees ADR initiatives within a corporation, ensuring compliance with ethical standards.

Good Faith Negotiation – Related terms: Honest dealing, fair dealing. A principle requiring parties to engage sincerely, without deception or hidden agendas. Violations can lead to sanctions in arbitration.

Harassment (ADR Context) – Related terms: Abusive behavior, ethical violation. Any unwelcome conduct that creates a hostile environment. Mediators must intervene and may terminate the process if harassment occurs.

Impartiality Disclosure – Related terms: Conflict statement, bias acknowledgment. A written statement by a neutral outlining any relationships or interests that could affect impartiality.

Implied Consent (Mediation) – Related terms: Inferred agreement, tacit approval. When a party's actions suggest consent to mediation procedures. Mediators should seek explicit confirmation to avoid disputes.

Independent Counsel (Prenup) – Related terms: Separate attorney, conflict avoidance. Counsel appointed for each spouse to ensure that both parties receive unbiased advice. Ethical standards often require independence to prevent duress.

Inducement (Settlement) – Related terms: Incentive, offer. An offer designed to persuade a party to settle. Ethical rules prohibit offers that are unconscionably low or that exploit a party's vulnerability.

Informed Consent (ADR) – Related terms: Disclosure, agreement. The process of providing sufficient information about the ADR process, risks, and alternatives so that parties can voluntarily decide to participate.

Institutional Ethics Committee – Related terms: Oversight board, compliance office. A group within an ADR organization that monitors ethical compliance and reviews complaints.

Integrity Clause (Agreement) – Related terms: Honesty provision, ethical warranty. A clause in contracts stating that parties will act honestly and in good faith. Helps reinforce ethical behavior in settlement agreements.

Judicial Review (Arbitration) – Related terms: Court oversight, appellate review. Limited review of arbitration awards by courts. Attorneys must advise clients on the narrow grounds for judicial intervention.

Jurisdictional Authority (ADR) – Related terms: Governing law, venue. The legal authority that determines which ADR rules apply. Ethical practice requires clear communication of the applicable jurisdiction to parties.

Legal Ethics (ADR Professionals) – Related terms: Professional responsibility, code of conduct. The body of rules governing the behavior of attorneys and neutrals, including confidentiality, conflict management, and competence.

Legal Malpractice (ADR Context) – Related terms: Negligence, professional liability. Failure to provide competent representation, which can arise from inadequate disclosure of ADR options or mishandling of settlement documents.

Legal Representation (Prenup Negotiation) – Related terms: Attorney, counsel. Parties are entitled to independent legal advice to ensure that the agreement is fair and enforceable.

Liability Waiver (ADR) – Related terms: Release, indemnity. A clause where a party relinquishes the right to sue for certain claims. Must be clear, voluntary, and not contrary to public policy.

Limited Scope Representation – Related terms: Unbundled services, task-specific counsel. An arrangement where an attorney handles only part of a case, such as drafting a prenup while the client handles negotiations. Ethical rules require clear scope definition.

Mediator's Conflict Checklist – Related terms: Screening tool, self-assessment. A standardized list used by mediators to identify potential conflicts before accepting a case.

Mediator's Impartiality Statement – Related terms: Declaration, neutrality affirmation. A written declaration signed by the mediator confirming no bias exists.

Mediator Confidentiality Log – Related terms: Record-keeping, breach tracking. A log of any disclosures made by the mediator, used to monitor compliance with confidentiality rules.

Mediator's Role Clarification – Related terms: Facilitator, neutral. A document that outlines the mediator's responsibilities, limits of authority, and the voluntary nature of the process.

Misrepresentation (ADR) – Related terms: False statement, deception. Providing inaccurate information to the neutral or opposing party. Ethical violations can result in sanctions or nullification of the settlement.

Mistake of Fact (Contract) – Related terms: Mutual error, rescission. An incorrect belief shared by both parties that may affect the validity of a prenup. ADR can be used to correct or renegotiate after discovery.

Mode of Settlement – Related terms: Mediated settlement, arbitrated award. The method by which parties resolve their dispute. Ethical considerations vary by mode, especially regarding confidentiality and enforceability.

Monetary Award (Arbitration) – Related terms: Damages, compensation. The sum awarded by an arbitrator. Must be calculated based on evidence and law, free from any bias.

Negotiation Ethics – Related terms: Good faith, transparency. Principles guiding fair negotiation, including honesty, no deception, and respect for the other party's legitimate interests.

Non-Disclosure Agreement (NDA) – Related terms: Confidentiality clause, secrecy pact. A contract that restricts the sharing of information. In ADR, NDAs protect settlement terms and negotiation strategies.

Non-Compete Clause (Prenup) – Related terms: Restrictive covenant, post-marital restriction. A provision limiting a spouse's ability to work in a competing business after divorce. Must be reasonable in scope and duration to be enforceable.

Non-partisan Neutral – Related terms: Impartial mediator, unbiased arbitrator. A neutral who does not have any stake in the outcome. Ethical standards require verification of non-partisanship.

Notice of Arbitration – Related terms: Demand for arbitration, filing. The formal document that initiates arbitration. Must contain sufficient detail to inform the other party of the claims and relief sought.

Obligation of Good Faith (Contract) – Related terms: Fair dealing, honest performance. Parties must act honestly and not undermine the contract's purpose. ADR agreements often embed this obligation.

Obligation to Disclose (Attorney) – Related terms: Transparency, conflict disclosure. Attorneys must reveal any personal interest that could affect representation, such as a financial relationship with a mediator.

Obligation to Report (Mediator) – Related terms: Mandatory reporting, ethical duty. Mediators must report illegal conduct or threats of violence that arise during sessions, consistent with applicable law.

Obligation to Uphold Public Policy – Related terms: Legality, enforceability. ADR outcomes must not contravene statutory law or public policy; otherwise, they may be voided.

Obligation to Withdraw (Conflict) – Related terms: Recusal, disengagement. When a conflict cannot be resolved through disclosure, the neutral must withdraw from the case.

On-Going Disclosure (ADR) – Related terms: Continuous update, evolving conflict. Professionals must keep parties informed of any new conflicts that arise during the process.

Opposing Counsel (ADR) – Related terms: Adversary, counterpart. The attorney representing the other side. Ethical interaction includes respect, no improper communication, and adherence to confidentiality.

Out-of-Court Settlement – Related terms: Negotiated agreement, alternative resolution. A resolution reached without filing a lawsuit. Ethical practice ensures that the settlement is entered voluntarily and with full knowledge of rights.

Parol Evidence Rule (Contracts) – Related terms: Extrinsic evidence, written agreement. Limits the use of oral statements to interpret a written contract. In ADR, parties may discuss parol evidence to clarify intent, but final agreements must respect the rule.

Parties' Autonomy (ADR) – Related terms: Self-determination, freedom of choice. The principle that parties control the outcome of the process. Ethics require that the neutral never impose a solution.

Parties' Confidentiality Waiver (Mediation) – Related terms: Release, consent to disclose. A document allowing parties to share mediated information with third parties, such as courts, under specific conditions.

Party-Specific Disclosure – Related terms: Individualized notice, tailored information. Information that must be provided to each party based on their unique circumstances, such as financial disclosures in prenup negotiations.

Peer Review (Ethics) – Related terms: Professional audit, quality control. Evaluation of an attorney's or neutral's work by colleagues to ensure compliance with ethical standards.

Performance Bond (ADR) – Related terms: Security, guarantee. A bond that ensures a neutral will fulfill contractual obligations, such as completing a mediation within a set timeframe. Ethical contracts must disclose bond terms.

Placebo Effect (Negotiation Psychology) – Related terms: Perception, confidence boost. The phenomenon where parties feel more satisfied because they believe a neutral's involvement adds value, even if the outcome is unchanged. Ethical practice requires honest representation of the neutral's role.

Power Imbalance (Family ADR) – Related terms: Unequal bargaining power, vulnerability. Situations where one spouse may have greater financial or emotional leverage. Mediators must take steps to level the playing field, such as ensuring independent counsel.

Pre-Arbitration Conference – Related terms: Scheduling conference, case management. A meeting before arbitration to clarify issues and timelines. Ethical conduct includes full disclosure of any procedural advantages.

Pre-Mediation Statement – Related terms: Opening brief, position paper. A document submitted by each party outlining interests and concerns. Helps the mediator understand the case while maintaining confidentiality.

Pre-Negotiation Disclosure – Related terms: Upfront transparency, initial exchange. Early sharing of relevant facts and financial information. Ethical requirement to avoid surprise later in the process.

Precedent (ADR Decisions) – Related terms: Case law, persuasive authority. Prior arbitration awards that may influence future decisions. While not binding, ethical arbitrators should consider relevant precedent.

Preparedness (Mediator) – Related terms: Readiness, case study. Mediators must be fully prepared with relevant law, procedural rules, and cultural awareness. Lack of preparedness can be an ethical breach.

Privacy Protection (ADR) – Related terms: Data security, confidentiality. Safeguarding electronic records and personal data. Ethical standards require secure storage and limited access.

Professional Liability Insurance – Related terms: Malpractice coverage, indemnity. Insurance that protects attorneys and neutrals from claims arising from alleged ethical violations.

Professional Responsibility (Attorney) – Related terms: Duty of care, ethical duty. The overarching set of obligations governing conduct, including competence, confidentiality, and conflict avoidance.

Professionalism (Mediator) – Related terms: Decorum, ethical conduct. Maintaining respectful behavior, punctuality, and appropriate attire, reinforcing trust in the process.

Prohibited Conduct (ADR) – Related terms: Unethical behavior, sanctionable acts. Includes accepting bribes, colluding with parties, or revealing confidential information without consent.

Pro bono Mediation – Related terms: Free services, charitable assistance. Providing mediation services without fee. Ethical considerations include ensuring competence and avoiding conflicts of interest.

Procedural Fairness (Arbitration) – Related terms: Due process, equitable treatment. Ensuring each party has a reasonable opportunity to present its case. Violations may lead to setting aside an award.

Public Policy Exception (Contracts) – Related terms: Unenforceable provision, statutory violation. A clause that violates fundamental societal values may be invalidated, even if agreed upon in ADR.

Qualified Immunity (Mediator) – Related terms: Protection from liability, limited exposure. Mediators generally enjoy immunity from suits arising from their conduct, provided they act within the scope of their duties and adhere to ethical standards.

Qualified Legal Counsel – Related terms: Competent attorney, appropriate expertise. A lawyer who possesses the necessary knowledge to advise on prenup and ADR matters.

Reasonable Fee (Attorney) – Related terms: Fair compensation, fee schedule. Fees must be proportionate to the services rendered and not excessive. Transparency is required.

Recusal (Arbitrator) – Related terms: Withdrawal, conflict avoidance. The act of stepping aside from a proceeding due to a conflict or appearance of bias.

Referral Fee (Neutral) – Related terms: Commission, prohibited payment. Paying a neutral for client referrals is often prohibited; it may create an appearance of bias.

Regulatory Compliance (ADR) – Related terms: Statutory adherence, legal requirements. Ensuring that the ADR process follows applicable laws, such as licensing requirements for mediators.

Remedial Measures (Settlement) – Related terms: Corrective action, enforcement. Steps included in a settlement to address harms, such as restitution or specific performance.

Renegotiation Clause (Prenup) – Related terms: Amendment provision, future adjustment. Allows parties to revisit terms after a set period or upon certain events. Ethical drafting ensures clarity and fairness.

Rescission (Contract) – Related terms: Cancellation, undoing. The mutual agreement to void a contract. In ADR, parties may rescind a settlement if fraud or duress is proven.

Respectful Communication (Mediator) – Related terms: Active listening, civility. The mediator's duty to foster a respectful dialogue, which promotes ethical and effective resolution.

Retainer Agreement (Attorney) – Related terms: Engagement letter, fee agreement. The contract outlining

the scope of representation, fees, and confidentiality. Must include disclosure of ADR options.

Risk Assessment (ADR) – Related terms: Hazard analysis, strategic planning. Evaluating potential legal and financial risks of proceeding with ADR versus litigation.

Rule of Law (ADR Context) – Related terms: Legal framework, fairness. ADR must operate within the bounds of law, respecting legal rights and public policy.

Safeguard Clause (Settlement) – Related terms: Protective provision, security measure. A provision that protects a party from future claims, often used in prenup settlements.

Scope of Representation (Attorney) – Related terms: Representation limits, client instructions. Clearly defining what services will be provided, especially when limited to ADR matters.

Self-Determination (ADR Principle) – Related terms: Autonomy, party control. The right of parties to decide the outcome of their dispute without external imposition.

Settlement Conference – Related terms: Negotiation meeting, mediation session. A gathering where parties attempt to resolve issues with or without a neutral. Ethical conduct requires full disclosure of any offers.

Settlement Offer (Negotiation) – Related terms: Proposal, bid. Must be made in good faith and not be unconscionable. Misleading offers may constitute unethical conduct.

Settlement Agreement – Related terms: Contract, final accord. The written document that memorializes the terms of the settlement. Must be clear, precise, and reflect the parties' true intent.

Settlement Confidentiality – Related terms: Non-disclosure, privacy. Parties may agree that the terms and existence of the settlement remain confidential. Ethical enforcement requires clear language.

Signature Authority (ADR Documents) – Related terms: Execution power, authorized signatory. The person who has the legal right to bind the party to an agreement. Misrepresentation of authority is unethical.

Skill Competence (Mediator) – Related terms: Training, proficiency. Mediators must possess the necessary skills and knowledge to handle the specific type of dispute, such as marital financial matters.

Specialized Knowledge (Attorney) – Related terms: Expertise, niche practice. Attorneys handling prenups must be versed in family law, contract law, and ADR rules.

Standard of Care (Attorney) – Related terms: Professional competence, diligence. The level of skill and attention that a reasonably prudent attorney would provide in similar circumstances.

Statutory Disclosure (Prenup) – Related terms: Legal requirement, mandated information. Certain jurisdictions require specific disclosures about assets, debts, and legal rights before a prenup is enforceable.

Substantive Fairness (Arbitration) – Related terms: Equitable outcome, justice. The fairness of the result itself, not just the process. Arbitrators must consider both procedural and substantive fairness.

Surrogate Decision-Maker (ADR) – Related terms: Authorized representative, proxy. A person authorized to act on behalf of a party who is unable to participate. Must be disclosed and consent obtained.

Survivorship Clause (Prenup) – Related terms: Inheritance provision, beneficiary clause. Determines how assets are handled upon death. Must comply with estate law and public policy.

Symmetric Disclosure (ADR) – Related terms: Balanced information, equal sharing. Ensuring both parties provide comparable information, reducing power imbalances.

Tax Implications (Prenup) – Related terms: Fiscal consequences, IRS considerations. Parties must be informed of how the agreement affects tax liability. Ethical duty to advise or refer to tax specialists.

Third-Party Funding (Arbitration) – Related terms: Litigation finance, funding agreement. Providing financial support for arbitration costs. Must be disclosed to avoid conflict of interest.

Third-Party Neutral (Mediator/Arbitrator) – Related terms: Independent facilitator, unbiased decision-maker. Must be free from any relationship that could affect impartiality.

Threat Assessment (Mediator) – Related terms: Safety evaluation, risk analysis. Determining whether a party poses a threat of violence. Mandatory reporting may be required.

Timing Disclosure (ADR) – Related terms: Schedule transparency, procedural timetable. Parties must be informed of key dates and deadlines.

Token Settlement (ADR) – Related terms: Symbolic agreement, minimal concession. A settlement that resolves only part of the dispute, often used to preserve relationships.

Trade-Secret Protection (ADR) – Related terms: Confidentiality, privileged information. In business disputes, parties may need to protect proprietary information during mediation.

Transparency (Ethical Principle) – Related terms: Openness, clarity. All parties should have clear understanding of the process, costs, and potential outcomes.

Trust Account (Attorney) – Related terms: Escrow, fiduciary account. Funds held for clients must be kept separate and used only for authorized purposes. Misuse is a serious ethical breach.

Undue Influence (Prenup) – Related terms: Coercion, duress. When one spouse pressures the other into signing. Ethical mediators must watch for signs and may advise independent counsel.

Unfair Advantage (Negotiation) – Related terms: Exploitation, imbalance. Gaining benefit through deception or exploitation of vulnerability. Prohibited by ethical standards.

Unilateral Amendment (Contract) – Related terms: One-sided change, invalid modification. Changes made by one party without consent are generally unenforceable; ADR can be used to resolve disputes arising from such attempts.

Unconscionable Contract (Prenup) – Related terms: Oppressive term, voidable provision. Terms that are so one-sided that they shock the conscience. Courts may refuse to enforce, and mediators should flag such provisions.

Unqualified Expert (ADR) – Related terms: Lay witness, non-specialist. An individual lacking proper credentials who offers opinion evidence. Attorneys must vet experts to avoid ethical pitfalls.

Upholding Confidentiality (Mediator) – Related terms: Duty of secrecy, privacy. The mediator must not disclose any statements made during the process unless an exception applies.

Use of Force (ADR Context) – Related terms: Intimidation, coercion. Any physical or psychological pressure used to obtain an agreement. Ethical standards forbid any use of force.

Vendor Neutral (Technology in ADR) – Related terms: Impartial platform, unbiased tool. Software used for virtual mediation must not favor any party. Ethical procurement includes transparency about vendor relationships.

Venue Selection (Arbitration) – Related terms: Forum clause, location choice. The place where arbitration occurs. Parties must be informed of any implications for cost and convenience.

Verbal Agreement (Contract) – Related terms: Oral contract, spoken promise. Generally enforceable if certain criteria are met, but many prenup provisions require written form. Mediators should advise parties on evidentiary issues.

Verifiable Evidence (ADR) – Related terms: Admissible proof, documentation. Evidence that can be independently confirmed. Ethical practice encourages parties to present verifiable evidence to support claims.

Virtual Mediation – Related terms: Online dispute resolution, e-mediation. Conducted via video conferencing. Ethical considerations include data security, confidentiality, and ensuring all parties have equal access to technology.

Waiver of Rights (Prenup) – Related terms: Relinquishment, surrender. A clause where a party gives up certain legal rights. Must be clear, voluntary, and not against public policy.

Witness Credibility (Arbitration) – Related terms: Reliability, believability. The arbitrator assesses how trustworthy a witness is. Ethical neutrals must remain impartial in such assessments.

Written Confirmation (ADR) – Related terms: Documented consent, formal acknowledgment. Any

agreement reached must be put in writing to avoid misunderstandings and provide enforceable evidence.