



# KISII UNIVERSITY

## UNIVERSITY EXAMINATIONS SECOND YEAR EXAMINATION FOR THE AWARD OF THE DEGREE OF BACHELOR OF LAW SECOND SEMESTER, 2021/2022 (JUNE - SEPTEMBER, 2022)

### LLBK 221: ALTERNATIVE DISPUTE RESOLUTIONS

**STREAM: LLBK 2 S2**

**TIME: 2 HOURS**

**DAY: THURSDAY, 3:00 – 5:00 P.M.**

**DATE: 15/09/2022**

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### INSTRUCTIONS

- 1. Do not write anything on this question paper.*
- 2. Answer Question ONE [Compulsory] and any other TWO Questions.*
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.*

### **QUESTION ONE**

Kama is a third year law student who is on a long semester break. She intends on using her holiday time well and has approached you, a leading ADR specialist for advice on whether or not she should pursue a short course on ADR at the Chartered Institute of Arbitrators. Advice her on the following:

- a) The differences between arbitration and mediation. (10marks)
- b) Highlight the advantages and disadvantages of the aforementioned types of ADR (10 marks)
- c) Discuss factors to consider when negotiating a dispute. (10 marks)

### **QUESTION TWO**

For a long time, alternative dispute resolution (ADR), was strictly relegated to civil matters only. However, recent developments have shown the importance of

resolving criminal matters outside of court. Mr. Haji, the director of public prosecutions (DPP) in Kenya, recently released the 'Diversion Policy' which allows for resolution of criminal matters without resorting to full judicial proceedings.

Amango has been charged with murder and wants to resolve her matter outside of court. She has heard of the new diversion policy and has contacted you, an ADR specialist to advise her on the following matters:

- a) The objectives, advantages, and disadvantages of diversion. (15 marks)
- b) Who is eligible to apply for it and how can she go about it (if eligible)

(5 marks)

### **QUESTION THREE**

Discuss the difference between formal and informal dispute resolution methods. Give examples of each method, discussing their strengths and weaknesses. Make brief recommendations on how each of the two systems can be improved in Kenya. (20 marks)

### **QUESTION FOUR**

You are a facilitator at Wasiliana Hub – an organization established to promote and train lawyers on ADR. You have been asked to hold a meeting in two days' time to discuss the process of private mediation. (20 marks)

### **QUESTION FIVE**

Make short notes on the following types of ADR:

- a) Early neutral evaluation
- b) Expert determination
- c) Executive tribunals
- d) Dispute review board.

(20 marks)