

MEDIATION PROCESSES & TECHNIQUES
(Spring 2024)

Instructor: James M. Cooney, Esq.
Rutgers University, SMLR, Labor Studies & Employment Relations Department
Course #38:578:569 (3 Credits)
Thursdays, 7:20 PM – 10:00 PM (U.S. Eastern Time)
Location: Room 115, Labor Education Center
Tel: 848-932-8560; E-mail: jacooney@rutgers.edu
Office Hours: Before & after class or by appointment

Course Description: Overview and comparison of various alternative dispute resolution (“ADR”) methods, with a focus on mediation. The course will present both a theoretical and practical approach to mediation. Guest speakers will provide students with the perspectives of professional mediators, advocates, and governmental agency representatives. Students will participate in simulated mediation.

Course Materials: No textbook. Readings will be posted on the Canvas online course website. I reserve the right to supplement, substitute, and/or modify the listed readings.

Grading Criteria:

- (1) Midterm Exam (40%)
 - (2) Final Exam (40%)
 - (3) Reflective/Research Paper (20%)
- (*Subject to change based on results of student mediation on second day of class. Credit is also earned for in-class contributions)

Paper Requirements: Papers should be 10-12 pages, double-spaced, not including any cited references. Details about paper content requirements will be provided. Papers are due on the final day of class.

Attendance: Students are expected to attend class on a timely and regular basis. Excessive unexcused absences may lower your grade. Unexcused absences in excess of three (3) classes may result in a failing grade. **Please note that I take into account any extenuating circumstances or hardships that any student may be experiencing.**

Academic Integrity: The conduct of all students is governed by the Rutgers University Academic Integrity Policy. *(See Canvas course site for details).*

Recording Policy: Students are not permitted to record, videotape, or photograph any class lecture or activity, absent prior express consent and authorization by the Instructor.

Academic Records Retention: Exams, papers, and any other items submitted by students for grading are retained for two (2) years before shredding and disposal. Any student wishing to review any such item must make a request prior to that time.

Laptops/Cell Phones: Students are permitted to bring and use laptop computers in class, for taking notes and viewing class readings. However, please do not engage in laptop-related activities that may distract other students. Students should refrain from texting while in class. Points may be deducted from the grades of students who consistently violate the foregoing policy.

Students With Disabilities: Rutgers University welcomes students with disabilities into all of the University's educational programs. In order to receive consideration for reasonable accommodations, a student with a disability must contact the appropriate disability services office at the campus where you are officially enrolled, participate in an intake interview, and provide documentation. (*See Canvas course site for more details*).

Class Schedule:

JAN. 18: -Course Overview & Introductions

NO READINGS

JAN. 25: -Comparison of Various ADR Methods
-Student Mediation Over Selected Syllabus Items

READINGS:

-*Interagency ADR Working Group, "Comparing ADR Processes"*
-*EEOC, "Types of ADR Techniques"*

FEB. 1: -Labor Arbitration –v- Forced Employment Arbitration

READINGS:

-*Colvin, Alexander, "The Growing Use of Mandatory Arbitration"*
-*Harris & Roose, "Surviving Your First Labor Arbitration"*

FEB. 8: Guest Speaker

FEB. 15: -Mediation History
-Diversity/Cultural Issues

READINGS:

-*Saul, Judith, "The Legal and Cultural Roots of Mediation in the United States"*
-*LeBaron & Zumeta, "Windows on Diversity: Lawyers, Culture, and Mediation Practice"*

FEB. 22: -Mediation of Civil Cases/Court Disputes
-Mediator Qualifications
-Mediation Session Basics & Procedures

-Simulated Mediation: Work Schedule Conflict

READINGS:

-*N.J. Assoc. of Prof. Mediators, "How to Become a Mediator"*

-*U.S. District Court for District of New Jersey, "Guidelines for Mediation"*

-*N.J. Judiciary, "Civil Mediation Program Resource Materials"*

FEB. 29: **ASYNCHRONOUS (NO IN-PERSON CLASS THIS WEEK)**

-Mediation Scenarios (videos)

-Work on paper

MAR. 7: **MIDTERM EXAM**

MAR. 14: **NO CLASS – SPRING BREAK**

MAR. 21: -Ethical Issues/Standards of Conduct

-Confidentiality

READINGS:

-*JAMS, "Mediator Ethics Guidelines"*

-*N.J. Judiciary, "Standards of Conduct for Mediators In Court-Connected Programs"*

-*State v. Williams*

MAR. 28: -Guest Speaker

APRIL 4: -Labor Mediation

-Mediating Employment Discrimination Cases

READINGS:

-*NLRB v. Macaluso, Inc.*

-*Weatherspoon & Issac, "Resolving Race Discrimination in Employment Disputes through Mediation"*

APRIL 11: -Mediator Misconduct

READINGS:

Allen v. Leal

Everett v. Morgan

Vitakis-Valchine v. Valchine

Jacobs v. NY Fin. Ctr. Hotel

APRIL 18: -Review Session

APRIL 25: **FINAL EXAM (not cumulative)**

PAPER DUE

(Dated: 01/05/2024)