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:**  
- *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)