

MEDIATION PROCESSES & TECHNIQUES
(Spring 2022)

Instructor: James M. Cooney, Esq.
Rutgers University, SMLR, Labor Studies & Employment Relations Department
Course #38:578:569 (3 Credits)
Mondays, 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.

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) Exam (40%)
 - (2) Reflective/Research Paper (40%)
 - (3) Guest Speaker Questions (20%)
- (*Credit is also earned for virtual attendance and in-class contributions)

Guest Speaker Questions: Five (5) thoughtful written questions are due the week prior to each scheduled guest speaker’s appearance.

Paper Requirements: Papers should be 10-12 pages, double-spaced, not including any cited references. Details about the paper content 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.

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. 24: -Course Overview & Introductions

NO READINGS

JAN. 31: -Comparison of Various ADR Methods
-Labor Arbitration –v- Forced Employment Arbitration

READINGS:

-*Interagency ADR Working Group, "Comparing ADR Processes"*
-*EEOC, "Types of ADR Techniques"*
-*Colvin, Alexander, "The Growing Use of Mandatory Arbitration"*

FEB. 7: -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"*
-*Volpe, Maria R., "Measuring Diversity In the ADR Field: Some Observations & Challenges Regarding Transparency, Metrics & Empirical Research"*

FEB. 14: -Mediation of Civil Cases/Court Disputes
-Mediator Qualifications
-Mediation Session Basics & Procedures
-Mediation Scenarios (in-class videos)

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. 21:
- Questions Due for Guest Speaker #1
 - Pros/Cons of Mediation
 - Uniform Mediation Act
 - Mediation Scenarios (in-class videos)

READINGS:

- Carver & Vondra, "Alternative Dispute Resolution: Why it Doesn't Work and Why it Does," Harvard Business Review (1994)*
- N.J. Uniform Mediation Act"*

- FEB. 28:
- Guest Speaker: Lisa Charles, Labor Arbitrator
 - Arbitrator Qualifications

READINGS:

- NJ State Board of Mediation (Arbitrator Qualifications)*
- NJ Public Employment Relations Commission ("*
- American Arbitration Association (Labor Arbitrator Panel)*
- American Arbitration Association (Employment Arbitrator Panel)*

- MAR. 7:
- Questions Due for Guest Speaker #2 (by March 11th)
 - Ethical Issues/Standards of Conduct
 - Confidentiality
 - Mediation Scenarios (in-class videos)

READINGS:

- JAMS, "Mediator Ethics Guidelines"*
- N.J. Judiciary, "Standards of Conduct for Mediators In Court-Connected Programs"*
- State v. Williams, 184 N.J. 432 (2005)(confidentiality)*

- MAR. 14:
- NO CLASS (Spring Break)

- MAR. 21:
- Guest Speaker: Marvin Schuldiner, Mediator

READINGS:

- TBD*

- MAR. 28:
- Labor Mediation
 - Labor Arbitration (intro)

READINGS:

-*NLRB v. Macaluso, Inc. (9th Cir. 1980)*

-AAA, "Labor Arbitration Rules"

- APR. 4: -Questions Due for Guest Speaker #3
-Mediating Employment Discrimination Cases

READINGS:

-Mayer, "The Use of Mediation in Employment Discrimination Cases,"
Journal of Dispute Resolution (1999)

- APR. 11: -Guest Speaker: Ralph Charles, EEOC Mediator

READINGS:

-U.S. Equal Employment Opportunity Commission, "History of the EEOC
Mediation Program"

- APR. 18: Labor Arbitration (continued)

READINGS:

-Harris & Roose, "Surviving Your First Labor Arbitration Hearing"

- APR. 25: -Work on Paper
-Study for Exam

NO READINGS

- MAY 3: EXAM
PAPER DUE

(Date revised: 02/11/2022)