

**Rutgers University School of Management and Labor Relations**  
**Issues in Work: Fundamentals of Mediation**  
**Course No: 37:575:391**  
**Fall, 2015**  
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**Course Objectives:** As far back as the first recorded texts, humankind has always had a fascination with individuals whom gravitate toward conflict, and individuals whom strive for resolution. This course is going to explore the Conciliatory Tactics and Resolution based settlement skills of third-party neutrals, known as Mediators. We will examine the Mediation Process as a whole in various forums, but place a special emphasis on the Conciliation and Mediation need in the collective bargaining process. Through careful examination and analysis, each student should gain knowledge of the Process itself, from impasse filing, to Memorandum of Agreement and Resolution. The goal is to leave each class participant with an in-depth look at the components of Impasses and Mediation, while aiding in the development of each individuals Conciliatory skill set.

As there are many types of Collective Bargaining Impasses, this course will examine in further detail the role of Mediators in both public and private employment relations, with specific examples from the State of New Jersey Public Employment Relations Commission, and the National Labor Relations Board. Once acclimated with the steps of the Mediation Process, each student should be able to display their own Conciliatory tact during Mock-Bargaining Exercises/Small Group Role Playing, and help to track and process a real-world Mediation case.

**Format:** The class will be comprised of lecture, group work and textbook readings. In addition, a mid-term Mock Bargaining Exercise will allow students to see what it takes to try and settle a real Contract Impasse, with the goal being to ultimately draft terms for a Memorandum of Agreement.

**Readings:** The required textbook is, "The Mediator's Handbook," 4<sup>th</sup> Edition, by Jennifer E. Beer & Caroline C. Packard. There is also an optional text that I may post information from on Sakai: "The Mediation Process – 4<sup>th</sup> Edition, Practical Strategies for Resolving Conflict," by Christopher W. Moore. The **C.W.Moore** text is **OPTIONAL**. Any Additional Handouts/Readings will also be posted on sakai.

**Class Preparation:** Class will include lectures, small group discussions, Mock-Mediation, Listening Exercises and in-class assignments. Student participation is very important in this class and therefore you are expected to:

- read the assigned material before class and be prepared to discuss it.
- attend, participate and be on time for every class. Since much of the Mediation Process and Skills are "hands-on" and developed in class, attendance is IMPERATIVE to passing!

- be familiar with the University's Policy on Academic Integrity and follow it: <http://academicintegrity.rutgers.edu>

**Absences:** Attendance is required. Please report any absence in advance unless you have a sudden and unexpected illness or emergency. You are expected to email me at the address listed previously prior to any anticipated absences. Due to the shortened class schedule, I would urge each one of you to attend all of our scheduled classes. In the event that an emergency occurs, it is your responsibility to obtain the class notes, lectures, and assignments from a classmate. I would encourage each one of you to exchange contact information with a colleague in class, so if an emergency does arise, you already have someone that you can rely upon for the missed information.

**Class Participation:** In-class meetings will include class discussions and readings. You are encouraged to exert your own views, and participate in class discussions as much as possible. However, as with any successful Mediation, YOU MUST BE TOLERANT & RESPECTFUL OF YOUR CLASSMATES OPINIONS. If you cannot have a conversation without offending those around you, achieving mutual admiration and resolution is an impossibility.

**Communications:** I will communicate class announcements via Sakai or email. If you need to reach me email is the best method (abagliore.perc@gmail.com).

**Grades:** For purposes of grading there are four components of the course:

1. Attendance, and class participation. (25%)
2. In-Class Assignments and Demonstration of Required Text. (20%)
3. A Mock-Mediation Exercise – divided into 3 parts over the duration of the class. Grades shall be based upon technique; discussion; and was a Memorandum of Agreement (MOA) drafted; the components and terms of the MOA; what was given up, traded, or gained. (Each Mock-Mediation Exercise shall be worth 10%, for a total of 30%)
4. A final exam consisting of all the material covered during the course. (25%)  
\*\*\*There will be an extra-credit assignment offered additional credit. (10%) (Details to follow in class).\*\*\*

**Office Hours:** By Appointment Only. However, I strongly urge any student to speak to me during class breaks, after class, or to contact me to discuss any matter or interest relating to this course.

### **Schedule of Classes:**

Class 1: November 2  
Overview of the course

- Introduction to the course and course requirements
- Introductions, student backgrounds, expectations & objectives
- Mediation Information & Experience, if any.
- Taft-Hartley Act; Wagner Act –background and framework
- Mediation Definition-3 Main Types
- Skills Needed? What makes a Good Mediator? Different skills for Different Mediations.
- PERC and NLRB Examples
- PERC Process
- Optional Sakai Reading – PERC Process:  
[http://www.state.nj.us/perc/Chapter\\_12.pdf](http://www.state.nj.us/perc/Chapter_12.pdf)
- MIT Handbook- 5 Conflict Resolution Styles -.pdf will be loaded onto Sakai.
- In-Class Reading:
  - J.Beer & C. Packard, The Mediator’s Handbook, Ch.1 - Overview – “Exploring the Situation/Reaching the Resolution,” pg. 7.
- Readings for Next Class:
  - J.Beer & C. Packard, The Mediator’s Handbook, Ch.2 & Ch.3 pgs.15-54 – Starting the Process – “The Process.”

#### Class 2: November 9

- Reading Review:
  - J.Beer & C. Packard, The Mediator’s Handbook, Ch.2 & Ch.3 pgs.15-54 – Starting the Process – “The Process.”
- The Process Itself
  - a.) Assessing the Situation; Comparing the Text to The Real-World
  - b.) Introduction – Together, Separate, Why? Personalities.
  - c.) Setting the Scene
- Goals of the Introduction
- What you don’t say, almost as important as what you do.
- The Active-Listener Drill – 20 characteristics game. “Show me your Poker Face.” Small Group Exercise.
- First Hour-First Session: Talking Gets Things in the Out in the Open.
- Now Begin to Facilitate. Setting the Pieces Up: Mediation=Chess Manuevers.
- Reading for Next Class:
  - J.Beer & C. Packard, The Mediator’s Handbook, Ch.5 & Ch.6 – The Process – “The Toolbox.”

#### Class 3: November 16

- Reading Review:
  - J.Beer & C. Packard, The Mediator’s Handbook, Ch.5 & Ch. 6 – The Process – “The Toolbox.”
- Setting up the Chess Board
  - a.) TOK’s? What are they?
  - b.) Intrinsic Value of Parties having Agreed.
- Beginning the Deeper Dialogue:

- a.) Are we to an acceptable # of Wants/Needs?
- b.) Starting to Talk Reality
- c.) Watching Faces and Body Language-
- d.) What People Say vs. What People Mean (Review Chart in the Text on pg. 11 – Elaborate Further)
- Continuing Across the Board-Bishop and Rook’s-Questions that Narrow the Field.
- Mediation/Collective Bargaining Exercise 1 of 3 – Assess the Situation. How TO APPLY THE Process techniques into a real-world scenario.
- Dive In-Depth into the opening and basic Mediation Moves. Text vs. Real-World.
- QUESTIONS; QUESTIONS; QUESTIONS-REVIEW; REVIEW; REVIEW: Mediation/Collective Bargaining Exercise Next Class.

#### Class 4: November 23

- REVIEW of classes and skills developed so far.
- Application of the Active Listener drills, and Alternative Dispute Resolution. Practice makes...more practice. This is not ever perfect for all involved—You cannot please them all!
- In-Class Reading (provided by Professor): Christopher W. Moore “The Mediation Process, Practical Strategies for Resolving Conflict.”
- Mediation/Collective Bargaining Exercise 2 of 3 – Have we settled? How can we settle, if not? Is everyone comfortable with the terms of the Agreement? Drafting Terms??– Not always possible to settle the dispute.
- \*\*\*Discuss Extra-Credit Paper. Details. Topics\*\*\*
- Reading for Next Class:
  - J.Beer & C. Packard, The Mediator’s Handbook, Ch.7 – The Process – “The Toolbox.”

#### Class 5: November 30

- Reading Review:
  - J.Beer & C. Packard, The Mediator’s Handbook, Ch.7 – The Process – “The Toolbox.”
- Through the Process: In the Thick of It
- Bigger Moves=Knights & Queen are on the Board. The Time to Strike is Now.
- Caring for and Reaching Resolutions. Is everyone comfortable? Not necessarily Happy, but comfortable?
- Writing Up Agreements; Writing Up an MOA-Total Success vs. Partial Success-The King is Captured.
- Other Steps to the Process. What happens Now?
- A brief Review of State, County, Municipal vs. Education vs. Police-Fire; Alternative Dispute Resolution in general, what about other Conciliatory processes?
- Mediation/Collective Bargaining Exercise 3 of 3 – “Are we there yet?” Repetitive proposals-Time to withdraw those feelings or positions; Clearing the Board, Narrowing the Scope, Practical Reality; Did you ever want to settle?

Empowerment of a negotiating team or individual to settle; What is the Best deal? When will it happen if not now? Tell me how it will occur, the Framework; What does it entail if it not THIS Agreement? Facing Reality for the parties...but the Mediator as well. All participants in the process are intertwined in some way

- Time to Draft the Agreement. Case is Done
- Brief Overview of what occurs in Each of the 3 types of EE groups – (eg: Imposition, Salary Guides, Interest Arbitration, and what comes next if settled or unsettled).
- Drafting the Total Contract. Salary et Al.
- In-Class Reading:
  - J.Beer & C. Packard, The Mediator's Handbook, Ch.8 – The Process – “The Toolbox.”
- Other Types of Mediation. Virtually the same Process.
- \*\*\*Discuss Extra-Credit Paper. Details. Topics\*\*\*

Class 6: December 7

- 10-20 minute In-Class Review (If needed).
- **Final Exam**