

**MEDIATION PROCESSES & TECHNIQUES**  
**(Spring 2021)**

Instructor: James M. Cooney, Esq.  
Rutgers University, SMLR, Labor Studies & Employment Relations Department  
Course #38:578:569; Index #19968 (3 Credits)  
Mondays, 4:30 PM – 7:10 PM (U.S. Eastern Time)  
Tel: 848-932-8560; E-mail: jacooney@rutgers.edu *or* jacooney@smlr.rutgers.edu  
Virtual Office Hours: Before & after class or by appointment

**Remote Synchronous Classes:** All classes meet live during the time specified, via Zoom.

**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 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 (virtually) 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 do 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.

**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:

<https://ods.rutgers.edu/students/documentation-guidelines>

If the documentation supports your request for reasonable accommodations, your campus's disability services office will provide you with a Letter of Accommodations. Please share this letter with your instructors and discuss the accommodations with them as early in your courses as possible. To begin this process, please complete the Registration form on the ODS web site at: <https://ods.rutgers.edu/students/registration-form>

### **Class Schedule:**

JAN. 25: -Course Overview & Introductions

#### **NO READINGS**

FEB. 1: -Comparison of Various ADR Methods

#### **READINGS:**

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

FEB. 8: -Mediation of Labor Disputes  
-Invited Guest Speaker: Ernest D. Whelan, former Executive Secretary, N.J. State Board of Mediation (retired)

#### **READINGS:**

-*Federal Mediation & Conciliation Service, "Resolving Labor-Management Disputes"* (link onto "Grievance Mediation FAQs")  
-*N.J. State Board of Mediation, "Advancing Productive Labor-Management Relations"*

FEB. 15: -Labor Mediation (continued)  
-Pros/Cons of Mediation

#### **READINGS:**

-*NLRB v. Macaluso, Inc. (9<sup>th</sup> Cir. 1980)*  
-*Carver & Vondra, "Alternative Dispute Resolution: Why it Doesn't Work and Why it Does," Harvard Business Review (1994)*

FEB. 22: -U.S. Mediation History

**READING:**

-Saul, Judith, "The Legal and Cultural Roots of Mediation in the United States" (August 6, 2012). *Opinio Juris in Comparatione*, No. 1/2012, Paper No. 8. (link onto full paper)

MAR. 1: -Mediator Qualifications  
-Mediation Session Basics & Procedures

**READINGS:**

-U.S. District Court for the District of New Jersey, "Guidelines for Mediation"  
-N.J. Judiciary, "Civil Mediation Program Resource Materials"  
-State v. Williams, 184 N.J. 432 (2005)(confidentiality)

MAR. 8: -Civil Litigation/Dispute Mediation

**READING:**

-*"Uniform Mediation Act" (2003)*

MAR. 15: NO CLASS (Spring Break)

MAR. 22: -Arbitration  
-Invited Guest Speaker: Lisa Charles, Arbitrator

**READING:**

-TBD

MAR. 29: EXAM

**NO READINGS**

APR. 5: -Ethical Issues/Standards of Conduct

**READINGS:**

-*"Mediator Ethics Guidelines," JAMS*  
-N.J. Judiciary, "Standards of Conduct for Mediators In Court-Connected Programs" (Jan. 4, 2000)

APR. 12: -Invited Guest Speaker: Ralph Charles, Federal Mediator, EEOC

**READINGS:**

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

APR. 19: -Mediating Employment Discrimination Cases  
-Diversity/Cultural Issues

**READING:**

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

-LeBaron & Zumeta, "Windows on Diversity: Lawyers, Culture, and  
Mediation Practice," *Conflict Resolution Quarterly*, Vol. 20, No. 4  
(Summer 2003)

APR. 26: -Representing Parties In Mediation  
-Invited Guest Speaker: TBA

**READING:**

-TBD

MAY 3: PAPER DUE

(Date revised: 12/11/2020)