

FLORIDA INTERNATIONAL UNIVERSITY  
Labor Center, Room 309  
**2012 SPRING TERM January 9<sup>th</sup>-- April 28<sup>th</sup>, 2012**

## **LBS 5465 INTRODUCTION TO MEDIATION**

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**Office Hours:**  
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### **SCHEDULE:**

Weekends:

Saturday, January 14th- 8:30am-5:00pm-  
Saturday, February 11th- 8:30am-5:00pm,  
Saturday February 25th- 8:30am-5:00pm-  
Saturday, March 24th- 8:30am-5:00pm-  
Saturday, April 7th- 8:30am-5:00pm

### **Course Description:**

This course examines the role of mediation in resolving civil, commercial, family, public and workplace disputes. The course will incorporate mediation principles and skills, different approaches to mediation, and current research in mediation.

### **Learning Objectives:**

The student will analyze, compare and apply premises, theories and models of mediation.

The student will present and critique opposing positions on current issues in mediation, including issues such as: the role of the mediator, ethics, domestic violence, gender and power imbalances, and facilitative vs. evaluative mediation.

The student will analyze and critique mediation exercises incorporating the theories, models, approaches, skills, issues, and research presented in the course.

### **Required Reading Materials:**

Moore, Christopher W., The Mediation Process: Practical Strategies for Resolving Conflicts (3rd Ed.) San Francisco: Jossey-Bass, 2003

[http://www.amazon.com/Mediation-Process-Practical-Strategies-Resolving/dp/0787964468/ref=sr\\_1\\_1?s=books&ie=UTF8&qid=1323715384&sr=1-1](http://www.amazon.com/Mediation-Process-Practical-Strategies-Resolving/dp/0787964468/ref=sr_1_1?s=books&ie=UTF8&qid=1323715384&sr=1-1)

Bush, Robert A. Baruch & Folger, J.P., The Promise of Mediation, San Francisco: Jossey-Bass, 2005

[http://www.amazon.com/Promise-Mediation-Transformative-Approach-Conflict/dp/0787974838/ref=ntt\\_at\\_ep\\_dpt\\_1](http://www.amazon.com/Promise-Mediation-Transformative-Approach-Conflict/dp/0787974838/ref=ntt_at_ep_dpt_1)

Bingham, Lisa (2004) "*Employment Dispute Resolution: The Case for Mediation*," in Conflict Resolution Quarterly, vol 22, no 1-2, Fall-Winter 2004, Wiley Periodicals, Inc. (pps 145-174)

Lipsky, David & Avgar, Ariel (2004) "*Commentary: Research on Employment Dispute Resolution: Toward a New paradigm*," in Conflict Resolution Quarterly, vol 22, no 1-2, Fall-Winter 2004, Wiley Periodicals, Inc. (pps 175-189)

**OPTIONAL:** Kolb, Deborah M., When Talk Works: Profiles of Mediators, San Francisco: Jossey Bass, 1997 (Revised Edition)

### **Handouts.**

### **Teaching Methods:**

Lecture, group discussions, role-play exercises, simulation, writing/research.

The student will mediate in role-play situations, using appropriate skills, methods and approaches.

### **Requirements:**

Students will have different assignments prepared for each weekend meeting based on a distribution of the readings and lecture materials for each weekend.

Assignments can include role-plays, mediation analyses, and reflections on readings, papers, and searched materials. Student will receive the complete percentage of the class participation grade when fulfilling his/her assigned reading for that class, beyond attending the class meeting. If absent from a

class, his/her presentation of the materials for the class needs to be delivered, or the total 40% of the grade will be reduced.

### **Grade Distribution:**

40% Class Participation  
25% Issues in Mediation Paper  
25% Mediation Analysis Paper  
10% Mediation Paper Presentation

### **Issues in Mediation Paper**

Students will prepare a paper on theoretical issues in mediation. The paper can be on any of the topics in the readings, (conflict of interests; confidentiality; ethical issues, etc.) or on another topical mediation issue approved by the professor. The paper should be written according to APA format with correct citations.

The student should take a position on the topic, however, with both sides of the topic presented clearly and articulately. The student should select an appropriate journal to which the paper could be hypothetically submitted, and try to use the style of that journal for the paper. MENTION this paper in your last page references.

**LENGTH OF PAPER: NO LESS THAN 10 PAGES, PLUS REFERENCES PAGE.**

**DEADLINE FOR DELIVERY OF THIS PAPER: February 24<sup>th</sup>**

**Send the paper by email, at [nfemenia@fiu.edu](mailto:nfemenia@fiu.edu), no later than 9:00 PM.**

### **Mediation Process Analysis Paper**

Each student will write an analysis of ANY role-play mediation exercises done in class, in the style of *When Talk Works*. This is to be a well-documented analysis. Be sure to cite your sources.

For this analysis, you will use a mediation log. You will consider what was good, how things could have been improved, and why the mediator did what they did.

In your analysis, refer specifically to what the mediator said or did. Every suggestion, compliment and criticism should be backed up by what you have learned in class, from the teacher's commentaries, from Moore, from Bush, from Kolb, from class discussions and from videotapes (available at the Labor Center).

When you do your mediation analysis, refer to the readings to explain why you agree or disagree with the mediators' actions, and explain what you would add or do differently.

**LENGTH OF PAPER: NO LESS THAN 10 PAGES, PLUS REFERENCES PAGE.**

**DEADLINE FOR DELIVERY OF THIS PAPER: March 23<sup>th</sup>**

**Send the paper by email, at [nfemenia@fiu.edu](mailto:nfemenia@fiu.edu), no later than 9:00 PM.**

### **Rules for Mediation Role Playing Exercises**

Throughout this course, students will participate in role-plays exercises and other students will analyze those role-plays. It is important to debrief the exercises for the sake of the mediators and the students writing analyses. Role-playing is a risk. It is important to create as safe an environment as possible. Therefore I request that everyone follow these rules:

#### Disputants and mediators:

Stay in role. No time outs, no questions, and no complaints.

Use caucuses and separate sessions as you would in a real mediation.

#### Observers:

After the close of the mediation, ask the mediators:

1. How did you feel about this mediation?
2. Is there anything you did that you particularly liked, and why?
3. Is there anything you would do differently if you were doing it over, and why?
4. Ask the disputants: How did you feel about this mediation? Explain.

#### Observers:

After the interviewer asks the questions listed above, you may ask open-ended question to solicit the thinking behind the mediator's moves. This is very important information if you are writing a mediation analysis. When you ask open-ended questions, none should imply any criticism or offer any suggestions.

#### **A final note:**

Regardless of everybody having a computer and a cell phone, please, abstain from checking your email, doing Skype calls or using your computer for other purposes than taking notes in class. Keep your cell phone silent. Thanks.

## **Schedule of Weekend Meetings:**

### **Saturday, January 14th- 8:30am-5:00pm**

Introductions: Overview of Course; Conflict Theories review.  
Conflict Management Continuum; The Mediation Process, Moore:  
1:4-33

Types of Mediators and Philosophies of Mediation; Entry; Mediator's  
Opening Statements; Ground Rules. Role Playing Exercise  
Moore: 43-81, 85-101; B&F: Intro, and C 1, 7-40; 41-84

### **Saturday, February 11th- 8:30am-5:00pm-**

Preparing for Mediation;  
Conflict Analysis; Positions; Interests  
Moore: 211-232; 232-268;  
Strategies, Moore: 102-117  
Plan for Mediation: Moore: 145-165  
B&F, Ch 3. 85-130

#### **Role Playing Exercise**

Storytelling; Identifying Interests;  
Moore: 114-132, all Chap. 8:203-219, all Chap.9, all Chap. 10;  
Empowerment and Recognition: B&F: 4,131-184

#### **Role Playing Exercise**

### **Saturday February 25th- 8:30am-5:00pm-**

The language of the mediator; Basic Communication Skills  
Reflective Listening; Reframing: Brainstorming  
M: 1 (TO BE CONFIRMED); B&F: Chapter 5 and 6. Handouts;

#### **Role Playing Exercise**

Exploration and Identification of parties' motivations.  
**Role Playing Exercise** (Chunking up-down)

Assessing Options and Reaching Agreement:

Gender and Power M: all Chapter 12, all Chapter 13, all Chapter 14;  
B&F: 185-214

Caucuses; Power Issues; Multi-Party mediation  
M: 1:20-40, 8:228-230, all 15; B&F: 8

### **March 12 - 17 Monday - Saturday Spring Break**

Saturday, March 24th- 8:30am-5:00pm-

Emotions and Trust in Family Divorce Mediation: Moore 166-207.

Issues in Family Mediation: Divorce issues; Children's Issues;  
Family Violence

#### **Role Playing Exercise**

Issues in Mediation in Organizational settings: Labor Mediation  
Managerial mediation (Bingham, Lisa, & Lipsky & Avgar pages:  
145-189)

#### **Role Playing Exercise**

Sunday, April 7th- 8:30am-5:00pm

Mediating Public Issue Disputes;  
Consensus generation: *When Talk Works*: Elders, Suskind, Colbum,  
etc.

Mediation Ethics.  
M: 16; B&F: all Chapter 9, all Chapter 10; Handouts: Ethics articles

**PRESENTATION OF FINAL PAPER’S ABSTRACT TO THE CLASS:**

Prepare a 10’ presentation in any format: a Power Point document, graphics, class exercise, etc. After presentation, you will host a 15’ discussion about your work. Include as part of your presentation your answers to the questions:

- Why did you pick this topic?
- What you have learned along the process.

Include a self-evaluation of the process of your learning in this course using the mediation rubric included in the last two pages.

**Mediation Skills Rubric**

**Relevant Competencies:**

**Identify and demonstrate the essential elements for effective listening and responding;  
Identify the phases and components of the mediation conference;**

**Understand and demonstrate the role of the mediator in structuring the mediation conference, such as conducting an opening statement, preparing a party to mediate, controlling the session, building rapport, establishing trust, empowering parties, remaining neutral, structuring and managing the discussion, using caucus, building on partial agreements, keeping ethical boundaries and closing.**

<b>Advanced</b>	<b>Efficient</b>	<b>Intermediate</b>	<b>Beginner</b>
Mediator has a calm, neutral demeanor while doing the opening statement, and keeps parties interested.	More focused delivery of statement, keeps connection with parties. Only using notes to verify completeness of the list of issues shared.	Somewhat insecure; makes frequent use of notes and interrupts the flow with the reading. Focus is only partial on parties.	Mediator is insecure, forgets vital details (like explaining caucus) and wanders from an issue to another, making parties lose focus
Mediator is able to frame issues and keep parties focused on and expressing their needs while working through the issues at hand.	Mediator is patient and focused with parties’ needs and issues, with small relapses due to some issues’ emotional intensity.	Mediator can identify issues but let parties slip in their consideration and talk either about peripheral issues or	Mediator is distracted and can not focus on serious issues one at the time up until any decision has been made.

		fight	
Gestures and body posture as the center of attention complement and extend a strong message which maintains both parties' attention and interest.	Gesture and posture complement message. Some lack of focus due to tiredness, or strong emotions. Voice loses the tune and becomes wavering.	Gestures developing but could be more open and flowing. Some distracting hand gestures, and shifting papers and looking for pens, etc. which make parties lose focus.	Mediator needs to work on incorporating gestures, like using his hands to demonstrate a point; keep his hands out of pockets; eliminating nervous foot movement.  Better facial frontal presentation, not looking at the sides of the room, but at parties.
Mediator is able to be patient, understanding and balanced in the conduction of the session, regardless emotional expressions of parties	Mediator follows the process with some difficulties due to parties' indecision or hostility	Mediator tries to push the process ahead regardless of parties willingness or readiness to do so.	Mediator sides with one side because "it's the victim" losing neutrality. Gets emotional, angry, etc towards the other side.
When parties are stuck in their fight, mediator uses caucus to explore hidden issues and generate more options	Mediator recognizes impasse as a normal part of the process and helps parties work through, if there is time left.	Mediator lets parties offer their solutions to the issues if no stalemate; if one develops, mediator can threaten with canceling session	Mediator offers his own solutions to one of both parties, To break impasse and move process forward.
Mediator guides parties to explore options by teaching them how to use brainstorming successfully	Mediator refuses to offer his solutions to the parties, and invites them to provide ideas.	Mediator teaches parties about the need to generate their own solutions, but if the parties don't offer any, then he steps in with his own.	Mediator suggests solutions and pushes for parties' acquiescence to his solutions