

## Course Outline

**COURSE:** LAWS 3006A - Mediation

**TERM:** Summer 2020

**PREREQUISITES:** LAWS 1000 and one of Laws 2003, LAWS 2004, LAWS 2005 or BUSI 2601

**CLASS:** Day & Time: Tuesday, May 5 to Tuesday, June 9, 2020 11:35 am to 2:25 pm

Room: Online Delivery

**INSTRUCTOR:** Peter Bishop  
**(CONTRACT)**

**CONTACT:** Office:  
Office Hrs: By appointment Only on Tuesday or Thursday at 11:00 am  
Telephone: (613) 836-1303  
Email: [peter.bishop@carleton.ca](mailto:peter.bishop@carleton.ca)

**ACADEMIC ACCOMMODATIONS**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: <https://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf>

**Pregnancy obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, visit the Equity and Inclusive Communities Services website (EIC): <https://carleton.ca/equity/>

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, visit the Equity Services website: <https://carleton.ca/equity/>

**Academic Accommodations for Students with Disabilities:** The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <https://carleton.ca/pmc/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <https://carleton.ca/equity/>

**Plagiarism**

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations,

diagrams, constructions, computer reports, computer code/software and material on the internet. Plagiarism is a serious offence. More information on the University's **Academic Integrity Policy** can be found at <https://carleton.ca/registrar/academic-integrity/>

### **Departmental Policy**

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations: <https://carleton.ca/law/current-students/>

### **COURSE DESCRIPTION**

Over the past three or more decades, the mediation process has been applied to resolve many types of conflicts and disputes. It has been developed and adapted in a variety of situations and contexts where it has proven to have a number of advantages over the more formal, traditional procedures in those areas. This course examines mediation from a multidisciplinary perspective, exploring how theories of communication, social psychology, political science, business management and legal studies can contribute to our understanding of mediation and its practice. Topics to be covered include mediation and alternative methods of dispute resolution, conflict and mediation theory and the application of mediation to a variety of contexts from interpersonal conflicts to organizational, criminal, community and public policy disputes. Current trends such as models of practice, the role of the mediator, narrative mediation, insight mediation, transformative mediation, restorative justice, intercultural mediation, gender issues and particular areas of practice will also be examined.

#### **COURSE OBJECTIVES:**

To understand the principles and theories of mediation and its practice.  
To evaluate and reflect critically upon those theories and their impact on practice.  
To gain an introductory understanding of the goals, strategies, skills and art of mediation practice..

### **REQUIRED TEXTS**

1) Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed.). Emond Montgomery, 2015. ISBN 978-1-55239-562-2 Online version available at <https://emond.ca/the-art-and-practice-of-mediation-2nd-edition.html>

2) Course-pack, Laws 3006 A Mediation, Summer 2020. All coursepack readings will be posted online on CuLearn.

### **SUPPLEMENTARY TEXTS**

No supplementary text

### **EVALUATION**

- **All four components must be completed in order to get a passing grade.**
- **All assignments under items 1, 2, and 3 below will be submitted through cuLearn or other electronic means**

#### **(i) Class Preparedness and Participation (15%)**

This course will involve lectures, class discussion, small group work and small group presentations. Students are expected to have completed the required readings in advance of class and come prepared to offer informed and analytical interventions. Students will be assessed on their willingness to participate in class activities, to ask questions that advance their own understanding and build knowledge for others, to participate in class discussions that deepen the conversation, to encourage the participation of others and to attend to group process. Students will also be evaluated on a group assignment to be done during and between classes. Students will also be assessed on the quality and the consistency of their participation in group activities.

**(ii) Reflective Journal (25%)**

Students will be asked to keep a regular journal of their, insights, reflections and experiences relating to the subject matter of the course. In particular, each student will be required to write four journal entries applying course concepts and methods to actual conflict situations. A journal entry may include reflections on one's own and other's communication styles and preferences, perspectives and perceptions, personality types, cultural factors and generally any aspect of how different people relate and respond to conflict.

**(iii) Research Term Paper (30%)**

Students will be required to submit a research term paper that relates to some course themes and principles. Students may select any area of practice to research. Guidelines for this paper will be provided on the course cuLearn site. Students will be asked to submit a two-page proposal (plus preliminary bibliography) of what they will undertake for their research paper. The term paper proposal should be submitted by May 8, 2020 and the term paper is due on May 16, 2020. The term paper is worth 30% of the final mark.

**(iv) Final Examination (30%)**

Students will be required to write a final examination at a time to be scheduled during the summer term examination period of June 19 to 25. It may be necessary for this examination to be scheduled during the day. This final examination will be a three hour, closed book examination with essay questions. The final examination will be worth 30% of the student's final mark. It will be delivered by online methods.

**COURSE AND READING OUTLINE**

**Note:** PowerPoint slides for each class will be posted on the CuLearn site the day before the class.

**SCHEDULE****Class 1 Tuesday, May 5, 2020: 11:35 am – 2:45 pm****Course Pack Readings:**

Picard, Cheryl. "Conflict Theory" in *Mediating Interpersonal and Small Group Conflict*. Revised Edition. Ottawa: Golden Dog Press, 2002, pp. 2 – 17.

Picard, Cheryl. "Conflict" in *Mediating Interpersonal and Small Group Conflict*. Revised Edition. Ottawa: Golden Dog Press, 2002, pp. 48 - 67.

Rubin, Jeffrey and George Levinger. "Levels of Analysis: In Search of Generalizable Knowledge," in Barbara Bunker and Jeffrey Rubin and Associates. *Conflict, Cooperation and Justice*. San Francisco: Jossey Bass. 1995, pp. 13 – 39. (ISBN: 0-7879-0069-9)

Lax, David and James Sebenius. "The Negotiator's Dilemma: Creating and Claiming Value," in *The Manager as Negotiator*. New York: Macmillan Inc. 1986, pp. 29 - 45. (ISBN: 0-02-918770-2)

**Text Readings:**

Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed.). Emond Montgomery, 2015, Chapter 1.

**DAY ONE (11:35 – 2:45)**

11:35 – 12:30 **AN INTRODUCTION TO THE COURSE**

- Course Objectives/Expectations
- Assignments

12:30 **BREAK**

12:40 **UNDERSTANDING CONFLICT AND CONFLICT RESOLUTION PROCESSES**

**Class 2 Thursday, May 7, 2020: 11:35 am – 2:45 pm  
Mediation as Dispute Resolution****Text Readings:**

Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed.). Emond Montgomery, 2015, Chapter 1 & 2.

**Course Pack Readings:**

Folberg, Jay and Alison Taylor. "Nature of Conflict and Dispute Resolution Processes", chapter 2 in *Mediation: A Comprehensive Guide to Resolving Conflict Without Litigation*. San Francisco: Jossey-Bass, 1984, pp. 18-37. (ISBN 0-87589-594-8)

Schwerin, Edward. "The Community Mediation Movement: Models, Ideology, and Mediators," in *Mediation, Citizen Empowerment and Transformational Politics*. Westport: Praegar, 1995, pp. 13-33 (ISBN 0275945529)

Sander, Frank and Stephen Goldberg: "Fitting the Forum to the Fuss: A User-friendly Guide to Selecting an ADR Procedure" in *Negotiation Journal*, 10(1) 1994: 49-68

**Class 3 Tuesday, May 12, 2020: 11:35 am – 2:45 pm**  
**Mediation as Assisted Negotiation**

**Course Pack Readings:**

Fisher, Roger and William Ury. "Don't Bargain Over Positions" in *Getting to Yes*. Boston: Houghton Mifflin Co., 1981 pp. 3-15 (ISBN 0-1400-6534-2)

Stone, Douglas, Bruce Patten & Sheila Heen, *Chapter 1 – Sort Out the Three Conversations*, in *Difficult Conversations: How to Discuss What Matters Most*, New York: Penguin, 2000, pp.3-20 (ISBN 0-14028852X)

Kolb, Deborah. "Another Way to Settle Disputes". In *When Talk Works: Profiles of Mediators*. San Francisco. Jossey Bass. 1994 pp. 1-11 ISBN (1-55542-640-9)

**Text Readings:**

Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed.). Emond Montgomery, 2015, Chapter 2

**Class 4 Thursday, May 14, 2020: 11:35 am – 2:45 pm**  
**What is Mediation?**

**Text Readings:**

Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed.). Emond Montgomery, 2015., Chapter 3

**Course Pack Readings:**

Picard, Cheryl. "Mediation Theory" in *Mediating Interpersonal and Small Group Conflict*. Revised edition. Ottawa: Golden Dog Press, 2002, pp. 18-42.

Picard, Cheryl. "The Ways of Mediators", in *Pastoral Sciences*, 20(1) 2001 pp. 73-92 (ISSN n/a)

Bush, B and J. Folger. "The Mediation Field: An Overview and Four Stories," in *The Promise of Mediation*. Rev. Ed. San Francisco. Jossey Bass, 2005, pp. 7-39 (ISBN 0-7879-7483-8)

Mayer, Bernard. "Chapter Four: Ten Beliefs That Get in Our Way" in *Beyond Neutrality: Confronting the Crisis in Conflict Resolution*. San Francisco: Jossey Bass 2004, pp. 115-148 (ISBN 0-7879-6806-4)

**Class 5 Tuesday, May 19, 2020: 11:35 am – 2:45 pm**  
**Mediation Models: Roles and Stages**

**Text Readings:**

Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed.). Emond Montgomery, 2015., Chapters 6 & 9.

**Course Pack Readings:**

Picard, Cheryl. "Mediation" in *Mediating Interpersonal and Small Group Conflict*. Revised edition. Ottawa: Golden Dog Press, 2002, pp. 97-143.

Moore, Christopher W. "How Mediation Works" in *The Mediation Process: Practical Strategies for Resolving Conflict*. 3d. ed. San Francisco. Jossey Bass, 2003, pp. 43-81 (ISBN 0-7879-6446-8)

Guerra, Norma and Gregory Elliott. "Cognitive Roles in the Mediation Process: Development of the Mediation Inventory for Cognitive Roles Assessment", *Mediation Quarterly* 14(2) Winter 1996 pp. 135-146 (ISSN 0739-4098)

**Class 6 Thursday, May 21, 2020: 11:35 am – 2:45 pm**  
**Mediation Skills and Methods**

**Text Readings:**

Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed). Emond Montgomery, 2015., Chapter 5.

**Course Pack Readings:**

Picard, Cheryl. "Communication" in *Mediating Interpersonal and Small Group Conflict*. Revised edition. Ottawa: Golden Dog Press, 2002, pp. 68-96.

LeBaron, Michelle. "Intercultural Disputes: Mediation, Conflict Resolution, and Multicultural Reality: Culturally Competent Practice," in Edward Kruk, (ed.) *Mediation and Conflict Resolution in Social Work and the Human Services*. Chicago: Nelson Hall, 1997, pp. 315-335 (ISBN 0-8304-1468-1)

Winslade, John and Gerald Monk. "Narrative Mediation: What Is It?" in *Narrative Mediation*. San Francisco: Jossey Bass, 2000, pp. 1-30 (ISBN 0-787-94192-1)

**Class 7 Tuesday, May 26, 2020: 11:35 am – 2:45 pm**  
**Barriers to Collaboration**

**Text Readings:**

Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed). Emond Montgomery, 2015., Chapter 7.

**Course Pack Readings:**

Retzinger, Suzanne and Thomas Sheff. "Emotion, Alienation and Narratives: Resolving Intractable Conflict" *Mediation Quarterly*. 18(1) Fall 2000. pp. 71-85 (ISSN 0739-4098)

Benjamin, Robert. "The Mediator as Trickster: The Folkloric Figure as Professional Role Model," *Mediation Quarterly*. 13(2) Winter 1995, pp. 131-149 (ISSN 0739-4098)

**Class 8 Thursday, May 28, 2020: 11:35 am – 2:45 pm**  
**The Art and Science of Mediation**

**Text Readings:**

Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed). Emond Montgomery, 2015., Chapter 8.

**Course Pack Readings:**

Saposnek, Donald. "The Art of Family Mediation", *Mediation Quarterly*. 18(1) Fall 1993, pp 5-12 (ISSN 0739-4098)

Fisher, Jennifer. "Symbol in Mediation", *Mediation Quarterly*. 18(1) Fall 2000, pp. 87-107 (ISSN 0739-4098)

Benjamin, Robert. "The Constructive Uses of Deception: Skills, Strategies, and Techniques of the Folkloric Trickster Figure and their Application by Mediators", *Mediation Quarterly*. 13(1) Fall 1995, pp. 3-18 (ISSN 0739-4098)

**Class 9 Tuesday, June 2, 2020: 11:35 am – 2:45 pm**  
**Mediation and Justice**

**Text Readings:**

Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed). Emond Montgomery, 2015., Chapter 10.

**Course Pack Readings:**

Deutsch, Morton. "Justice and Conflict", Chapter 2 in Deutsch, Morton and Peter Coleman (eds.) *The Handbook of Conflict Resolution: Theory and Practice*. San Francisco: Jossey Bass, 2000, pp. 41-63 (ISBN: 0-7879-4822-5)

Bush, Robert Baruch. "Mediation and Adjudication, Dispute Resolution and Ideology: An Imaginary Conversation", *Journal of Contemporary Legal Issues*, 3(1) 1989/90 (ISSN n/a)

Price, Marty. "Personalizing Crime: Mediation Produces Restorative Justice for Victims and Offenders", in *Dispute Resolution Magazine*, published by the American Bar Association, Fall 2001 (ISSN n/a)

**Class 10 Thursday, June 4, 2020: 11:35 am – 2:45 pm**  
**Mediation: What are its Limits?**

**Text Readings:**

Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed). Emond Montgomery, 2015., Chapters 8 & 9

**Course Pack Readings:**

Taylor, Alison. Concepts of Neutrality in Family Mediation: Contexts, Ethics, Influence, and Transformative Process", *Mediation Quarterly*. 14(3) Spring 1997, pp. 215-237 (ISSN 0739-4098)

Kolb, Deborah. "The Realities of Making Talk Work" in *When Talk Works: Profiles of Mediators*. San Francisco: Jossey Bass, 1994, pp. 459-494 (ISBN 1-55542-640-9)

Zumeta, Zena. "Spirituality and Mediation", *Mediation Quarterly*. 11 (1) Fall 1993, pp. 25-38 (ISSN 0739-4098)

**Class 11 Tuesday, June 9, 2020: 11:35 am – 2:45 pm**  
**The Field and Future of Mediation**

**Text Readings:**

Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed). Emond Montgomery, 2015., Chapters 1 & 11.

**Course Pack Readings:**

Morris, Catherine. "The Trusted Mediator: Ethics and Interaction in Mediation" in J. Macfarlane (ed.), *Rethinking Disputes: The Mediation Alternative*. Toronto: Edmond Montgomery, 1997, pp. 301-347 (ISBN 0-920722-88-1)

Lang, Michael & Alison Taylor. "Chapter One: Developing Artistry" in *The Making of a Mediator*. San Francisco: Jossey Bass, 2000, pp. 3-22 (ISBN 0-7879-4992-2)

**Class 12 Thursday, June 11, 2020: 11:35 am – 2:45 pm**  
**The Field and Future of Mediation**

Bishop, P., C. Picard, R. Ramkay, N. Sargent, *The Art and Practice of Mediation* (2<sup>nd</sup> ed). Emond Montgomery, 2015., Chapter 11.

Bagshaw, Dale. "The Three M's – Mediation, Postmodernism, and the New Millenium", *Mediation Quarterly*. 18(3) Spring 2001, pp. 205-220 (ISSN 0739-4098)