

## Syllabus Term 1-- 2007

Advanced Mediation (Mediation Clinic)  
Law-495  
2 credits

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Available and encourage student contacts

Pre-requisite—40 hour mediation training and prior observation of two mediation sessions and having conducted one observed mediation at a community dispute resolution center

Room 241

Mondays 4:00pm-5:50pm

Twelve class sessions and participate (observe, co-mediate, be observed) in a minimum of **six** mediation sessions through a community dispute resolution center or with approval of the professor. A mediation session typically involves spending a half day in a mediation setting (ex. District Court) and may involve multiple cases.

Two writing assignments: 1) keep an up to date journal evaluating your mediations based on the checklist handed out at our first class session, reading assignments and class discussions; you are responsible for completing a reflective journal entry after each mediation session, 2) Describe the qualities of a person or people you personally know who are peacemakers and relate these qualities to mediation. Paper due by 8<sup>th</sup> session.

To make mediation arrangements contact:

Matt Vititoe Wayne Mediation Center  
313 561 3500  
[mvititoe@mediation-wayne.org](mailto:mvititoe@mediation-wayne.org)

David Karl Oakland Mediation Center  
248 796 5846  
[dkarl@mediation-omc.org](mailto:dkarl@mediation-omc.org)

Jenifer Clein The Resolution Center (Macomb)  
586 469 4714  
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Classes August 27, September 10, 17, 24, October 1, 8, 15, 22, 29, November 5, 12, 19,  
No class on September 3, (November 26 reserved if a makeup date is necessary)

#### Required Textbooks

Difficult Conversations, Stone, Patton, Heen, 1999, Penquin Books  
Bringing Peace Into the Room, Bowling, Hoffman, 2003, Jossey-Bass  
Numerous articles to be distributed at second class

Mediation skills include letting people know you are listening—please skip the laptops and cell phones.

This is a pass/fail class. There is a two absence maximum in order to pass.

#### Course Description

Beyond process--as the practice of mediation dramatically expands this is a chance to consider what you potentially bring to the resolution process and how you want to mediate and assist clients during mediations. We will use the lessons from Difficult Conversations (ex: differences v truths, positions v problem solving, curiosity v certainty) to explore and compare incites from numerous mediation styles. The goal is to share perspectives and to encourage a deepened capacity when serving as a mediator and when representing a client before and during mediation. Most sessions will leave time to discuss issues and observations from the student mediations.

I will be inviting experienced mediators to join several of our sessions. Anticipate that some of the sessions may be re-ordered to fit the expertise of our guests.

#### Session 1

Mediation refresher. Writing Assignments.

#### Session 2

We begin applying lessons from Difficult Conversations to aspects of mediation. Each student assigned to read Difficult Conversations from a different perspective (i.e. mediator, lawyer, lawyer to client, client etc.). Sample of questions to be discussed: Who are you as a mediator, mediator client relationship, mediator to lawyer, lawyer's role, and lawyer to client. Underlying themes will be considered i.e. optimism, balance, learning v judging, curiosity v certainty, "and stance" v positions, listening, empathy and managing situations instead of proving rightness. Tools include role reversal and acting as the observer

### Session 3

Continuation of Difficult Conversations to further consider the lawyers role as counselor and teacher. Topics of identity, feelings, controlling v learning, blaming v contribution and time perspectives discussed. Again individual students to think about Difficult Conversations from different perspectives i.e. lawyer to lawyer, lawyer to other client, lawyer to mediator, client identity, emotions and feelings, client to lawyer, client to client, to other lawyer and to the mediator. Goal is to reflect on the mediation dynamics long before and during mediation. Leading learning conversations is not natural to many of us; my hope is that these sessions place a high value on listening, sharing, curiosity and problem solving. **Turn in first three Journal entries.**

### Session 4

Mediation view from an experienced litigator turned mediator. Discussion will focus on a former litigator's perspective and comparisons will be made to Difficult Conversations. Topics will include: the role of the lawyers and mediator, interest based negotiation and practical business considerations. Discussion continues based on a traditional litigators' viewpoint. An important part of the discussion will be ETHICAL considerations for neutrals and advocates in mediation. Concepts to be considered will include: opening statements, listening not just to rebut, a different perspective on caucuses and avoiding impasse. Discuss Journal entries.

### Session 5

Perspectives on the mediation process including: interest based mediation and all parties new roles in problem solving. Discussion based on readings from Doug Noll author of Peacemaking: practicing at the Intersection of Law and Human Conflict. Comparing facilitative to evaluative mediation, based on article by Professor Emeritus Harvey Burdick and Jean Goddard, M.A. Psychology. Practical considerations based on article by mediator Paul Monicatte.

### Session 6

Mediator Bias. This class will be joined by Psychology Professor Emeritus Harvey Burdick and Jean Goddard, M.A. Psychology. We will first explore our own "bias" and then observe and respond to a demonstration on mediator bias. ETHICAL issues of mediator honesty, goals and agendas (some unrecognized) will be explored. The key question is what does "neutrality" mean? Next we will test our facilitative principles against difficult real world mediation situations.

#### Session 7

Mediator strategies and mediator to lawyer relationship. Neutral-Participant-Intuitive? Many “hows” to mediation. Based on articles by Robert Benjamin, Allyn Kantor, Peter Contuzzi, Geoff Sharp, Ken Cloke and Tracy Allen. How do these approaches compare to ideas in Difficult Conversations and thoughts from Professor Burdick’s presentation?  
**Turn in Journal entries.**

#### Session 8

Divorce Mediation. This class will be joined by mediator Sheldon Larky. The debate over caucusing and advocacy in mediation. Pros and cons—use and misuse of the caucus. Based on short articles by Jon Muth and Tracy Allen. Perspectives on the lawyer’s role based on short articles by Sheldon Larky, Phil Cutler and Laurence Watson. Discuss Journal entries. **Turn in paper on peacemakers you know and lessons you learn from them which are applicable to mediation.**

#### Session 9

First hour-the mediation business. Based on short articles by Christopher Nolland, James Vlastic and Randolph Lowry. Second hour-EHICAL considerations in mediation: competence, confidentiality, process, advertising and fees. Discuss Peacemaker papers.

#### Session 10

This class will be joined by mediator Tracy Allen. Reflecting on mediation practice. Based on articles by Steven Schwartz, Martin Reisig and David Hoffman.

#### Session 11

Discussion based on Bringing Peace into the Room. Beyond skills and reason, focus on “being” more than on doing.

#### Session 12

Continue discussion based on Bringing Peace into the Room. What qualities of heart and spirit open doors to peaceful resolutions? We have explored many perspectives of mediation-which concepts do you hope to emulate as a mediator and when representing clients during mediations?