

Syllabus- Mediation of Environmental and Public Conflicts
Friday, 1-4 PM, 112 Katz Building

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Office Hours/Location:

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After class on Fridays or on request; 229 Katz

Prerequisite: None (Meets Experiential Learning requirement)

Texts/Course Materials:

There are three required books that we will use in this course (used copies should be available online):

1. Carpenter & Kennedy, *Managing Public Disputes: A Practical Guide for Government, Business, and Citizens' Groups* (2001)
2. Fisher, Ury, and Patton: *Getting to Yes: Negotiating Agreement without Giving In* (3rd Ed., 2011)
3. Stone et al, *Difficult Conversations: How to Discuss What Matters Most* (1999)

Other readings and course materials will be posted on Canvas throughout the semester.

Course Description:

Conflicts or disputes between people with different views of “the public good” are often difficult to resolve, especially in the environmental and natural resource arena. The judicial dispute resolution process is often not well-adapted to addressing conflicts between jurisdictions and meeting the interests of the public and private parties affected by the conflict. Mediation, facilitation, and other dispute resolution techniques can be very useful tools in such situations.

The course uses explores techniques and strategies for working with multiple stakeholders in a facilitative or mediation-related approach while addressing how these fit within the legal system. As the course includes both law and grad students, we will also take the time to explore related legal principles and ethical concerns through discussions.

The plan is for this class to partner with a local non-profit on conducting stakeholder outreach and engagement on local transportation issues. This project is part of Penn State’s [Sustainable Communities Collaborative](#), a process that matches community needs with Penn State classes. For this project, students will identify and interview stakeholders; participate in relevant events, public meetings, and discussions; and plan/host potential events. For each class session, we will work on 1) theory (from the readings), 2) how what we are discussing fits with the Sustainable Communities Collaborative issue, and 3) practice through role plays.

Course Objectives:

By the end of the course, students will:

1. Learn about different forms of alternative dispute resolution; be able to analyze what might make a situation appropriate for different types of dispute resolution.
2. Build skills related to negotiation, facilitation, and mediation by using interest-based negotiation techniques and working through simulations and a project in this region.
3. Learn to identify potential ethical issues, both from the perspective of an attorney representing a client in mediation and from a mediator’s perspective.

Course Approach:

Class sessions will include lectures, discussions, role plays, guest speakers, and engaging with real stakeholders on targeted issues. Many class assignments will use the issues facing local governments as a focal point. Role plays depend on everyone's willingness to try new roles and potentially stretch your comfort zone; role plays in class provide a good way to learn new skills and awareness of techniques that work (or don't) for you. In addition, students will be expected to research additional information to better prepare for their role plays. I also ask students to attend one public meeting and participate in the Sustainable Communities Collaborative process further outlined in the syllabus. Participation in the public expo (currently scheduled for April 27, 2023 during the evening) is mandatory. There is no final exam for this course.

Course Assessment & Grading. Assessment for this course depends on the following areas:

1. Attendance, general class preparation & overall participation (10%).
2. Preparation for and participation in role plays; contribution to evaluative discussion of role plays (20% total).
3. Several short assignments throughout the semester (25% total).
 - a. Attendance, reflection on public meeting (5 points)
 - b. Negotiation practicum (5 points)
 - c. Agreement to mediate (5 points)
 - d. Negotiation checklist or mediator's assessment (5 points)
 - e. Agreement in principle (5 points)
4. A short paper (6-7 pages single spaced) requiring research and analysis of a current conflict including a supported recommendation of the potential of dispute resolution techniques to resolve the conflict. This written project will also be presented and discussed in class (25%).
 - a. Ideas for paper (ungraded)
 - b. Paper topic and outline (5 points)
 - c. Paper (15 points)
 - d. Presentation (5 points)
5. Sustainable Communities Collaboration project (20% overall; subject to peer review)
 - a. Research on issues, interviews (10 points)
 - b. Participation in facilitated dialogues, reflection (5 points)
 - c. Work on final write up (5 points)

Student Expectations

Students are expected to:

- (1) Read or watch the assigned materials before each class and to be prepared to engage in class.
- (2) Complete all written assignments in a timely manner. If you turn in an assignment after the deadline without asking for an extension, it will be marked incomplete and will negatively impact your grade.
- (3) Attend class on time. Attendance is mandatory. Your participation is an important and valued component of the class. If you are unable to attend class, please communicate with me before class, if at all possible. You are allowed a maximum of one excused absence in this course. After that, I may reduce your final grade for the course.
- (4) Review the course syllabus and the Honor Code (<https://pennstatelaw.psu.edu/honor-code>).
- (5) Maintain focus on class discussion and activities. This class depends on your active engagement!

(6) Respect each other and do not talk over one another. In addition, please avoid off topic conversations. Please ask questions!

VIII. Other Important Information

(1) Canvas

I have created a course website on Canvas with the syllabus, any assignments and any reserve reading. It is your responsibility to check your email every day.

All assignments are to be submitted in Canvas for time and date stamping.

(2) Course Recordings

A student enrolled in this course may view a recording of class. Recordings are posted on Canvas and do not require permission to watch.

A student may not record any part of a class by any means without my prior written authorization. If a student receives authorization to record a class, the student may not copy or download such recording to a computer or other device, distribute it to any other person, or use the recording for any purpose other than personal education and study except with the prior express authorization of the faculty member. Unauthorized recording, distribution, or use of a class recording is an Honor Code violation.

A student may not use course materials such as slides or other documents posted on Canvas for any purpose other than personal education and study and may not disseminate, publish, or alter course materials without prior express authorization of the faculty member. Unauthorized use of course materials is a violation of the Honor Code.

(3) Academic Integrity and the Honor Code

Academic integrity is the pursuit of scholarly activity in an open, honest and responsible manner. Academic integrity is a basic guiding principle for all academic activity at The Pennsylvania State University, and all members of the University community are expected to act in accordance with this principle. Consistent with this expectation, the University's Code of Conduct states that all students should act with personal integrity, respect other students' dignity, rights and property, and help create and maintain an environment in which all can succeed through the fruits of their efforts.

Academic integrity includes a commitment by all members of the University community not to engage in or tolerate acts of falsification, misrepresentation or deception. Such acts of dishonesty violate the fundamental ethical principles of the University community and compromise the worth of work completed by others.

The Penn State Law Honor Code is in effect for all assignments related to this course. Do not allow anyone to do your work for you, nor should you do anyone else's work for them. In addition, work submitted in this course must not be submitted in any other course (e.g., you may not write a paper for another course and submit it in this class for credit or vice versa).

Students must avoid plagiarism in their written submissions, whether graded or ungraded. If you have any questions about plagiarism, please see me and/or consult the Penn State Law Honor Code Appendix, which gives a detailed definition of plagiarism: <https://pennstatelaw.psu.edu/honor-code>.

For the final term papers, see also the guidance in the Penn State Law Student Handbook, Regulations Governing Papers Submitted for Course Credit, posted at <https://pennstatelaw.psu.edu/current-students/student-academic-handbook/regulations-governing-papers-submitted-course-credit>.

(4) Accommodations for Disability

Penn State welcomes students with disabilities into the University's educational programs. Every Penn State campus has an office for students with disabilities. The Student Disability Resources website provides contact information; see <http://equity.psu.edu/student-disability-resources/disability-coordinator>. For further information, please visit the Student Disability Resources website: <http://equity.psu.edu/student-disability-resources/>.

To receive consideration for reasonable accommodations, you must contact the appropriate disability services office at the campus where you are officially enrolled, participate in an intake interview, and provide documentation: see documentation guidelines online at <http://equity.psu.edu/student-disability-resources/guidelines>. If the documentation supports your request for reasonable accommodations, your campus disability services office will provide you with an accommodation letter. Please share this letter with your instructors and discuss the accommodations with them as early as possible. You must follow this process for every semester that you request accommodations.

(5) Counseling and Psychological Services

Many students at Penn State face personal challenges or have psychological needs that may interfere with their academic progress, social development, or emotional wellbeing. The university offers a variety of confidential services to help you through difficult times, including individual and group counseling, crisis intervention, consultations, online chats, and mental health screenings. These services are provided by staff who welcome all students and embrace a philosophy respectful of clients' cultural and religious backgrounds, and sensitive to differences in race, ability, gender identity and sexual orientation.

- Counseling and Psychological Services at University Park (CAPS): 814-863-0395, <http://studentaffairs.psu.edu/counseling/>
- Penn State Crisis Line (24 hours/7 days/week): 877-229-6400
- Crisis Text Line (24 hours/7 days/week): Text LIONS to 741741

(6) Educational Equity/Reporting Bias

Penn State takes great pride to foster a diverse and inclusive environment for students, faculty, and staff. Acts of intolerance, discrimination, or harassment due to age, ancestry, color, disability, gender, gender identity, national origin, race, religious belief, sexual orientation, or veteran status are not tolerated and can be reported through Educational Equity via the Report Bias webpage: <http://equity.psu.edu/reportbias/>.

	<u>Date</u>	<u>Topics/Exercises</u>	<u>Readings/Assignments</u>
Part I: Introduction, Background, and Interest Based Negotiation			
Week 1	Fri., Jan. 13	<p>Introductions</p> <p>Overview of the course, review of syllabus</p> <p>Basics of dispute resolution generally</p> <p>Introduction to the Sustainable Communities Collaborative project</p> <p>Exercises:</p> <ul style="list-style-type: none"> • Introductory exercises • Brainstorm about transportation issues 	<p><u>Reading:</u></p> <ol style="list-style-type: none"> 1) The Handbook of Dispute Resolution, Moffitt & Bordone (Eds). Chapter 1: Perspectives on Dispute Resolution: An Introduction (on Canvas) 2) Handbook, Chapter 2: Roots and Inspirations: A Brief History of the Foundations of Dispute Resolution (on Canvas) 3) Reading about the Sustainable Communities Collaborative (Canvas) <p><u>Assignment. #1: news item (due by Jan. 13, 11:59 AM):</u> Find an environmental or public dispute in the news; post it to the discussion board and respond to the discussion prompts (and to each other if you choose).</p>
Week 2	Fri., Jan. 20	<p>Use of mediation/alternative dispute resolution in the public & environmental arenas</p> <ul style="list-style-type: none"> - Type, nature of issues involved - Parties involved - Applicable dispute resolution tools <p>Introduction to interest based negotiation</p> <p>Exercise: Dogs in the park (Role Play A)</p>	<p><u>Reading:</u></p> <ol style="list-style-type: none"> 1) Carpenter & Kennedy, Ch. 1: Spiral of Unmanaged Conflict 2) Fisher & Ury, Getting to Yes (the whole book)
	Sat., Jan. 21	<p>Interest-based negotiation & mutual gains (deep dive into negotiation theory)</p> <p>Negotiation checklists</p> <p>Mandatory extra class from 10 AM- 3 PM; lunch provided. If you cannot make it, please let me know as soon as possible</p> <p>Exercise: Role Play B- Colortek salary negotiation</p>	<p>Finish reading Fisher & Ury, Getting to Yes if needed</p> <p><u>Assignment #2: reflection on Role Plays A/B (due by Jan. 25, 11:59 PM)</u> Instructions, submittal on Canvas</p>

<p>Week 3</p>	<p>Fri., Jan. 27</p>	<p>Continued discussion of environmental mediation</p> <p>Focus on regional transportation dynamics- guest speakers</p>	<p><u>Reading:</u></p> <ol style="list-style-type: none"> 1) Carpenter & Kennedy, Ch. 2: Dealing with Conflict Productively: Alternatives and Case Examples 2) Susskind et al, Negotiating Environmental Agreements: Introduction & The Mutual Gains Approach (on Canvas) 3) Materials related to regional transportation issues (on Canvas) <p><u>Assignment #3: paper topics (due Feb. 1, 11:59 PM):</u> Submit 2-3 potential disputes that you might be interested in writing about for the paper for this class</p>
<p>Part II: Anatomy of Facilitation/Mediation</p>			
<p>Week 4</p>	<p>Fri., Feb. 3</p>	<p>Getting Started</p> <ul style="list-style-type: none"> - Ethical issues - Who is your client? - Setting the stage & preparation - Agreement to mediate <p>Potential discussion w/ stakeholders?</p> <p>Role Play C: City of Chance transportation role play</p>	<p><u>Reading:</u></p> <ol style="list-style-type: none"> 1) Carpenter & Kennedy, Ch. 3: Developing an Effective Program of Conflict Management: Ten Principles. 2) Carpenter & Kennedy, Ch. 8: Guidelines for Making the Program Work: Using a Mediator (pgs. 186-196). 3) Mediation statutes (on Canvas) 4) Selected Rules of Professional Conduct (RPCS) (on Canvas) 5) General role play instructions + confidential instructions <p><u>Assignment #4: Reflection on role play C</u> (due by Feb. 8, 11:59 PM)</p>
<p>Week 5</p>	<p>Fri., Feb. 10</p>	<p>Assessment of a situation</p> <ul style="list-style-type: none"> - Identification of players, history, issues - Readiness - Interviewing stakeholders - Potential process <p>Field trip: meet inside the Katz Building at 1 PM with emergency contact form already filled out.</p>	<p><u>Reading:</u></p> <ol style="list-style-type: none"> 1) Carpenter & Kennedy, Ch. 4: Analyzing the Conflict 2) Carpenter & Kennedy, Ch. 5: Designing a Strategy and Setting up the Conflict Management Program 3) Transportation related articles about State College Connector (on Canvas) <p><u>Assignment #5 (reflection due by Feb. 15, 11:59 PM):</u> Observe a public meeting or watch a recorded one on public broadcasting (C-NET, other).</p>

<p>Week 6</p>	<p>Fri., Feb. 17</p>	<p>Preparation for negotiation (negotiation checklist)</p> <ul style="list-style-type: none"> - As a party to a negotiation - As an attorney representing a party in the negotiation - As a mediator <p>How do you set the stage?</p> <ul style="list-style-type: none"> - Revisit the negotiation checklist - Ground Rules <p>Interviewing stakeholders- how to approach, potential questions to ask</p> <p>Role Play #4 (Part A): Initial preparation for State College Area Connector Transportation issues</p> <ul style="list-style-type: none"> - Set up for role play 	<p><u>Reading:</u></p> <ol style="list-style-type: none"> 1) Carpenter & Kennedy, Ch. 6: Adopting Procedures, Educating Parties, Developing Options (pgs. 116-124) 2) Carpenter & Kennedy, Ch. 8: Guidelines for Making the Program Work (pgs. 157-170) 3) Rumore et al on role plays (article on Canvas) 4) Reading on local transportation dynamics <p><u>Assignment #6: Discussion thread on field trip + list of potential interview questions (ungraded, due by Feb. 17, 11 AM)</u></p>
<p>Week 7</p>	<p>Fri., Feb. 24</p>	<p>Role Play #4 (Part B)- Issue identification/ idea generation, next steps</p> <p>Debrief: what worked? What could be improved?</p> <p>Reaching and carrying out agreements; drafting Agreements in Principle</p> <ul style="list-style-type: none"> - Implementation Considerations - Risk Management <p>What's coming up before/after spring break</p>	<p><u>Reading:</u></p> <ol style="list-style-type: none"> 1) Carpenter & Kennedy, Ch. 6: Adopting Procedures, Educating Parties, and Developing Options (pgs. 125-136) 2) Carpenter & Kennedy, Ch. 9: Paying Attention to Underlying Dynamics: Values, Trust, Power 3) Susskind et al: Ch. 7: Toward a Theory of Collective Risk Management <p><u>Assign. #7: Agreement to Mediate (due by Feb. 22, 11:59 PM)</u></p> <p><u>Assign. #8: Reflection on role play + negotiation checklist or mediation preparation sheet (due by Mar. 3, 11:59 PM)</u></p> <p><u>Assign. #9: Agreement in principle (due by Mar. 3, 11:59 PM)</u></p> <p><u>Assign. #10: Paper topic/outline (due by Mar. 15, 11:59 PM)</u></p>
<p>Week 8 Week 9</p>	<p>Fri., March 3rd Fri., March 10th</p>	<p>No class- Friday before spring break No class- spring break</p>	<p>Negotiation practicum runs from March 1st to March 31st; negotiation must be completed by March 31st. <u>Important:</u> if you are not at all available during spring break, please communicate that information to your negotiating counterpart!</p>

Week 10	Fri., March 17	Welcome back from spring break Catch up on assignments Transportation role play, part 2	<u>Reading:</u> 1) Carpenter & Kennedy, Ch. 7 2) Carpenter & Kennedy, Ch. 8, pgs. 175-186
Week 11	Fri., March 24	Online negotiations, ODR (online dispute resolution), AI (artificial intelligence) SCC project discussion- interviews	<u>Reading/materials:</u> 1) Readings TBD re: online dispute resolution/AI
Week 12	Fri., March 31	Managing the public and the press SCC project discussion	<u>Reading:</u> 1) A Citizen’s Guide to the Pennsylvania Sunshine Act (Canvas) 2) A Citizen’s Guide to the PA Right to Know Law (Canvas) 3) Article/Op Ed related to the Chehalis River Basin (Canvas) <u>Assign. #11: Agreement in principle for negotiation practicum + refecton on real live role play (due by April 2, 11:59 PM)</u>
Week 13	Fri., April 7	More on human dynamics and what to do when things go wrong Mini role play on apologies (non-graded) SCC project discussion Intro to student presentations	<u>Reading</u> 1) “Difficult Conversations” (the whole book) 2) Carpenter & Kennedy, Ch. 10: Handling Human Side/Process 3) The Art of Apology (article on Canvas) <u>Assign. #12: summarize interview notes (by April 9, 11:59 PM)</u> <u>Assignment #13: finalize short brief on transportation issue (due by April 16, 11:59 PM)</u>
Part IV: Practical Application- Sustainable Communities Collaborative			
Week 14	Fri., April 14	SCC process Discuss papers, presentations, interviews	Reading, materials to be determined
Week 15	Fri., April 21 [Last class]	Student presentations	No reading; work on your own assignment. <u>Assignment #13: student presentation (due by the class you are presenting) Sign up for one presentation slot before class.</u> <u>Assign. #14: paper due to Canvas April 23, 11:59 PM</u> See instructions on Canvas for expectations
Week 16	Th., April 27	SCC Expo- please attend	5-7 PM, Borough of State College Building