

ACR-GNY & John Jay Roundtable Breakfast | June 1, 2023

ZOOM MEETING PUBLIC CHAT TRANSCRIPT

- 01:14:00 Niki Borofsky | Paris: Welcome to everyone to the CUNY-DRC and ACR-GNY Roundtable Breakfast!
- 01:15:19 Claudia Frankel Grosman: Good morning from São Paulo - Brazil. Sorry that I will be without video today and also leave earlier. In transit. Good to be here.
- 01:15:30 Niki Borofsky | Paris: Recordings of today's program, and past sessions are available online at <https://acrgny.org/RTB-Videos> and <https://www.jjay.cuny.edu/DRC/EVENTS>
- 01:16:20 Niki Borofsky | Paris: Welcome to Joshua Flax | Deputy Director of Policy & Strategy, Federal Mediation & Conciliation Service | <https://www.fmcs.gov/>
- 01:16:33 Joshua Flax | MA: Good morning, all! Thanks so much for having me!
- 01:18:49 Maria R. Volpe | NYC: If anyone would like to be added to the NYC-DR listserv, send Maria Volpe your name and email at mvolpe@jjay.cuny.edu
- 01:19:40 Niki Borofsky | Paris: Josh's slides will be shared. There are a few pauses for Q&A and an opportunity to ask additional questions at the end of the presentation.
- 01:20:45 Niki Borofsky | Paris: Please click here to respond to the POLL QUESTION: <https://www.menti.com/alun33tbqgeh>
- 01:21:08 Niki Borofsky | Paris: Do you know what "negotiated rulemaking" is?
- 01:21:57 Kira Nurieli: I'd already like to hear more about Josh's background, in terms of how it frames the lens through which he led these mediations... (e.g. prior experience with native tribes? Speak multiple languages? Prior research in non-Western ADR?)
- 01:22:26 Don Greenstein (he/him) Boston, MA: yes, I've participated as a facilitator a number of years ago.
- 01:23:32 Harvey Newman West Palm Beach: Does Congress review these rules?
- 01:27:00 Niki Borofsky | Paris: Pre-presentation poll results | 30% of you knew what "negotiated rulemaking" is - %70 did not | <https://www.mentimeter.com/app/presentation/alrfztk6s197qozgvo2fnzaor3wz zroc/2mvojnpi7za> | ...and now you all know 😊

- 01:27:17 Lisa PytlikZillig: Reacted to "Pre-presentation pol..." with 🙌
- 01:28:10 Niki Borofsky | Paris: Please raise your virtual hand if you have a question on this topic.
- 01:29:25 Niki Borofsky | Paris: What Is Negotiated Rulemaking? | <https://www.fmcs.gov/wp-content/uploads/2016/10/RegNeg.pdf>
- 01:31:43 Niki Borofsky | Paris: ISDEAA | https://www.bia.gov/sites/default/files/dup/assets/bia/ots/ots/pdf/Public_Law93-638.pdf
- 01:33:42 Dr. Barbara Sunderland Manouso RI, TX: Why do tribes not have water, etc...?
- 01:33:42 Dr. Larry Schooler (he/him): any difference between federally recognized tribes and those who aren't in terms of self governance?
- 01:36:34 Niki Borofsky | Paris: (Book Rec) The State of the Native Nations: Conditions Under U.S. Policies of Self-determination | <https://www.amazon.com/State-Native-Nations-Conditions-Self-Determination/dp/0195301269>
- 01:36:51 Dr. Barbara Sunderland Manouso RI, TX: Water would appear a basic federal right. It was a surprise to learn of the health deficiency of such an environmental issue, like the lack of water for tribal grounds.
- 01:38:48 Robin Beckhard (she/her) NYC - Cohabitalk.com: What does "FAST" stand for again, please?
- 01:40:42 Don Greenstein (he/him) Boston, MA: Replying to "What does "FAST" sta..." FAST= Fixing American Surface Transportation Act
- 01:40:57 Niki Borofsky | Paris: Replying to "What does "FAST" sta..." Fixing America's Surface Transportation (FAST) Act.
- 01:41:42 Robin Beckhard (she/her) NYC - Cohabitalk.com: Thanks, Niki.
- 01:43:50 Harvey Newman West Palm Beach: Are you permitted to describe the differences between the original rules and the Elaine Chu rules?
- 01:44:31 Kira Nurieli: Perhaps the "head table" problem could have been averted by sitting in Circle?
- 01:46:15 Maria R. Volpe | NYC: What was the size of the mediation team?
- 01:48:44 Don Greenstein (he/him) Boston, MA: Did you establish guiding principles (ground rules) at the outset?
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- 01:50:53 Dr. Barbara Sunderland Manouso RI, TX: What information was provided to the participants before the day of the mediation and in writing or how? What did the opening look like?
- 01:53:53 Kira Nurieli: Reacted to "What information was..." with 👍
- 01:54:34 Claudia Frankel Grosman: Reacted to "What information was..." with 👍
- 01:54:57 Niki Borofsky | Paris: (Helpful HBR article on adaptive mediation by Flax & Coleman) Why Employee Mediations Fail — and How to Get Them Back on Track by Peter T. Coleman and Joshua Flax | <https://hbr.org/2022/07/why-employee-mediations-fail-and-how-to-get-them-back-on-track>
- 01:55:25 Claudia Frankel Grosman: Reacted to "(Helpful HBR article..." with 👍
- 01:56:14 Diane: Reacted to "What was the size of..." with 👍
- 01:56:40 Kira Nurieli: Were there any differences of opinion between/among the mediators on the team? If so, how were those differences negotiated or handled?
- 01:59:31 Sara Barnes MV Mediation: Did you use MIRO as your online flip chart creator? Or which other app was used?
- 02:02:36 Sara Barnes MV Mediation: FMCS is woefully underfunded and is limited by its small size to assist labor standoffs, municipalities etc. Is there any move in the Biden admin to expand FMCS?
- 02:04:09 Niki Borofsky | Paris: Final Rule | <https://www.federalregister.gov/documents/2020/06/01/2020-11618/tribal-transportation-self-governance-program>
- 02:04:27 Claudia Frankel Grosman: Which books / articles you recommend - about Consensus building? Breaking Robert's rules - Susskind and Cruikshank helped me a lot in multiparties mediation.
- 02:04:32 margo cates, nyc: Consensus Jun1 2020, 3 years ago today!!
- 02:05:21 Harvey Newman West Palm Beach: Love the synchronicity.
- 02:07:30 Sara Barnes MV Mediation: Moira Caruso! My hero, brilliant mediator.
- 02:10:10 Niki Borofsky | Paris: Please raise your hands if you have any questions to ask live...
- 02:13:04 Mildred (DOJ/CRS) - PR: Also curious - what are 'Elise Chu rules'? 🤔
- 02:14:06 Robin Beckhard (she/her) NYC - Cohabitalk.com: Wow, you called their bluff!

02:14:59 Paula Pace nyc: What was the DOT's response at the end?

02:15:10 Kira Nurieli: Brilliant demonstration of mediation skills when our own reputations are at stake, thank you for sharing.

02:18:24 Dr. Barbara Sunderland Manouso RI, TX: Wonderful presentation, insightful, and a great glimpse into a complex situation of our government at work! Thank you for your professionalism.

02:19:12 Kira Nurieli: Reacted to "Wonderful presentati..." with 🙌

02:21:23 Paula Pace nyc: To what extent did the DOT and others come to understand the the history of treatment of Native Americans and the meaning of sovereignty.

02:30:11 Robin Beckhard (she/her) NYC - Cohabitalk.com: So very impressive -- thank you so much, Joshua. (And Niki, for your as-always masterful synthesis.)

02:30:52 Harvey Newman West Palm Beach: I was involved in the Free Leonard Peltier Movement a number of years ago. Has FMRC considered negotiating this controversial topic?

02:31:38 Claudia Frankel Grosman: Thank you so much. Amazing breakfast

02:32:31 Cheryl Prewitt: Very interesting. Thank you.

02:32:53 margo cates, nyc: Excellent presentation. thanks so much.

02:32:55 Mary Hennessy - OR: Thank you so much. Excellent.

02:32:59 Katy LeDuc: Amazing work. I always learn something new from you, Joshua!

02:33:09 Mildred (DOJ/CRS) - PR: Thank you for your service

02:33:12 Paula Pace nyc: Inspirational!

02:33:18 Jackie Reese: This was very informative - thank you!

02:33:21 Alexia Heinisch: Very informative! Thank you so much!!!

02:33:29 Robin Beckhard (she/her) NYC - Cohabitalk.com: Yes, Maria. How about a New York Times opinion piece, Joshua?

02:33:41 Paulette Haynes, Toronto, Canada: Thank you very much Joshua for an excellent presentation and the wonderful work you are doing.

02:33:42 Karen Davis: In deep Gratitude Joshua- a powerful session!

02:33:43 Julie Denny, New Jersey: BRAVO, JOSH!!!!!!

- 02:33:48 Lloyd Klein: Thanks for an interesting presentation.
- 02:34:40 Gill Mansfield (Mediator) London: Really fascinating presentation Josh. Thank you.
- 02:36:26 Kira Nurieli: Sounds like humility is both a wonderful trait and also a problematic, if we're trying to tout our worth!
- 02:37:26 Louis Cohen (Peace Advocate): Thank you for for enhancing the belief that mediation can bring positive change and calm. Peace and good health for all.
- 02:37:58 Mildred (DOJ/CRS) - PR: what are the dates for the conference?
- 02:39:47 Niki Borofsky | Paris: Conference (I think...Joshua, please correct me if I am wrong) | LERA 76th Annual Meeting, ILERA 20th World Congress, FMCS National Labor-Management Conference, June 26 – 30, 2024 in Manhattan, New York City, NY (Wednesday, Thursday, Friday, Saturday, Sunday) | <https://www.leraweb.org/call-for-proposals-web>
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Videos of ACR-GNY & John Jay Roundtable Breakfasts are available here:

ACR-GNY website | <https://www.acrgny.org/RTB-Videos>

John Jay College of Criminal Justice Dispute Resolution website | <https://www.jjay.cuny.edu/DRC/EVENTS>

Started in the aftermath of 9/11 by Professor Maria R. Volpe, the NYC-DR Monthly Roundtable Breakfasts are co-sponsored by the Association for Conflict Resolution of Greater New York and the CUNY Dispute Resolution Center at John Jay College. The Breakfasts are organized and facilitated by Julie Denny, Matthew Lattimer, Niki Borofsky, Emily Skinner, Chloe Choi and Maria Volpe and occur the first Thursday of each month from 8:30 – 10:00 am (New York Time).

Please note, the views and opinions expressed at Breakfast Roundtables and in the Chat Transcript are those of the speakers and participants and do not necessarily reflect the beliefs or position of ACR-GNY or John Jay College.