

# SYLLABUS

## PA 532 – LABOR MANAGEMENT RELATIONS IN THE PUBLIC SECTOR SPRING 2010

### INSTRUCTOR

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### OFFICE HOURS

I do not keep regular office hours. You are welcome to set up an appointment in person, by phone or email. You may also meet with me before or after class.

### STATEMENT OF PURPOSE

This course will: (1) survey the evolving political history of, and developments in the statutes, regulations and case law concerning, labor/management relations in the public sector; (2) compare relevant legal doctrine in the public sector with those in the private sector under the National Labor Relations Act; and (3) provide you with the opportunity to focus on specific topics in a research paper and presentation.

### READINGS

JOSEPH GRODIN, JUNE WEISBERGER & MARTIN MALIN, PUBLIC SECTOR EMPLOYMENT: CASES & MATERIALS (WEST 2004), and supplemental materials stated below. The supplemental materials are available as course documents on the course site. I recommend checking the course site at least once per week for announcements and updated material.

### REQUIREMENTS

This class meets only weekly and covers a significant amount of material. I require that you: (1) attend each class and come well prepared; (2) bring to each class a written question or reflection that you developed from the readings. You will turn in the weekly written assignment via the course site before the class; (3) fully participate in class discussion; (4) write a research paper on a topic upon my approval; and (5) make a brief presentation on your paper to the class.

**Preparation, Attendance and Participation:** This requires you to read, study and think/write about the assigned materials. It further requires you to: (1) know the cases and materials well enough that you can give a summary if called upon to do so; (2) decide what issue or issues a case raises and what rules of law/principles/definitions apply to the

issue or issues; and (3) be familiar with, and reflect on, the argument a case gives to justify its application of the rules of law to the particular facts. It also includes participation in the discussion your classmates' lead when they give their presentations.

**Weekly written question or reflection:** Your submission shall convey your original thoughts: (1) identifying the issues you developed from the readings, and the rules and public policy applying to those issues; (2) applying the applicable facts to the rules and public policy; and (3) rendering a conclusion. It must be typed or word processed, and be no more than 2 pages in length, double-spaced, with no less than one-inch margins, using 12 point times new Roman Font.

**Research Paper:** The paper shall be on a topic that I approved addressing the law governing the public sector workplace. You must obtain my approval of your topic by February 22, 2010. You must submit your paper to me via the course site's discussion board by April 12, 2010.

The paper must be typed or word processed, and be no more than 15 pages in length, double-spaced, with no less than one-inch margins, using 12 point times new Roman Font, exclusive of footnotes.

**Brief Presentation:** You will make a brief in-class presentation, leading the class in a discussion concerning the topic of your research paper. The class will have access to your paper before your presentation via the course site's discussion board to facilitate the in-class discussion.

## **GRADES**

The grade for that research paper and presentation will comprise **one-third (1/3)** of the final grade for the course. Another **one-third (1/3)** of the final grade will address your classroom attendance, participation and weekly writings. Participation includes your thoughtful discussion of the assigned material and the topics your classmates' introduce in their research papers and during their presentations.

There will also be a scheduled, closed-book final examination consisting of two hypothetical problems. The hypotheticals will require you to: (1) identify the issues they raise and the rules and public policy applying to those issues; (2) apply the facts from the hypotheticals to the rules and public policy; and (3) render a conclusion per hypothetical. The grade on the final examination will comprise **one-thirds (1/3)** of the final grade for the course.

## **SCHEDULE/READINGS**

I may make adjustments to the following syllabus from time to time as the course evolves.

### **January 14 Introduction: Evolving Political History**

Text at Ch. 1

MILTON DERBER, LABOR IN ILLINOIS: THE AFFLUENT YEARS, 1945-80 159-71 (1989).

### **January 21 Constitutional Rights**

Text at Ch. 2

Garcetti v. Ceballos, 547 U.S. 410 (2007).

State of Ill., Dep't of Cent. Mgmt. Serv. & Human Serv. and AFSCME Council 31 (Politically Partisan Clothing Grievance), Arb. No. 4710 (Yaeger 2005).

### **January 28 Civil Service Rights**

Text at Ch. 3

Allen v. Maurer, 286 N.E.2d 135 (Ill. App. Ct., 4<sup>th</sup> Dist. 1972).

Kelley v. Sheriff's Merit Comm'n of Kane County, 866 N.E.2d 702 (Ill. App., 2d Dist. 2007).

### **February 4 Statutory Protection of Employees's Collective Activities**

Text at Ch. 4

Guard Publishing Co. v. NLRB, 571 F.3d 53 (D.C. Cir. 2009).

AFSCME Council 31 and Ill. State Toll Hwy. Ath., 25 PERI ¶ 4 (IL LRB, State Panel 2009).

### **February 11 Recognition of Exclusive Bargaining Representatives**

Text, Ch. 5

H.R. 1409, Employee Free Choice Act of 2009.

County of DuPage v. Ill. Lab. Rel. Bd., State Panel, 900 N.E.2d 1095 (Ill. 2008).

State of Ill., Dep't of Cent. Mgmt. Serv. (Dep't of Healthcare & Family Services) v. Ill. Lab. Rel. Bd., State Panel, 902 N.E.2d 1122 (Ill. App. Ct., 4<sup>th</sup> Dist. 2009).

**February 18 Duty to Bargain**

Text, Ch. 6

Village of Bellwood and AFSCME Council 31, 25 PERI ¶ 95 (IL LRB, State Panel 2009).

**February 25 Subjects of Bargaining**

Text, Ch. 7

City of Belvidere v. State Lab. Rel. Bd., 692 N.E.2d 295 (Ill. 1998).

**March 4 Labor Standards**

Scott D. Miller, *Minimum Guaranteed Rights Under the Illinois Wage Payment & Collection Act*, 81 ILL. B.J. 194 (1993).

Scott D. Miller, *Revitalizing the FLSA*, 19 HOFSTRA LAB. & EMPL. L. J. 1, 7-25 (Fall 2001).

Scott D. Miller, *Atrophied Rights: Maximum Hours Labor Standards under the FLSA & Illinois Law*, 28 N. ILL. U. L. REV. 261 (2008).

Illinois State Plan Information.

**March 11 Grievance Procedure Preemption of Labor Standards**

14 Penn Plaza LLC v. Pyett, 186 L.R.R.M. Cas. (BNA) 2065 (U.S. 2009).

Wright v. Universal Maritime Serv. Corp., 525 U.S. 70 (1998).

Alexander v. Gardner-Denver Co., 415 U.S. 36 (1974).

Kravar v. Triangle Serv., Inc., 186 L.R.R.M. Cas. (BNA) 1565 (S.D.N.Y. 2009).

Livadas v. Bradshaw, 512 U.S. 107 (1994).

Ryherd v. General Cable Co., 530 N.E.2d 431 (Ill. 1988).

**March 18      Strikes**

Text, Ch. 8

1968 AFSCME Memphis Sanitation Workers' Strike Chronology and Video.

Ann C. Foster & Michael H. Cimini, *2001 Major Work Stoppages in COMPENSATION & WORKING CONDITIONS* (2003).

AFSCME Council 31 and Ill. Dep'ts of Cent. Mgmt. Serv. & Corrections, 25 PERI ¶ 12 (IL LRB, State Panel 2009).

**March 25      No Class. Spring Vacation.**

**April 1        Resolution of Bargaining Impasses**

Text, Ch. 9

Edwin H. Benn, *A Practical Approach to Selecting Comparable Communities in Interest Arbitrations under the Illinois Public Labor Relations Act*, REPORT (Autumn 1998).

County of Cook & Sheriff of Cook County and AFSCME Council 31 (Proposed Change: 4-Day Work Week), Gr. No. 2007-10-30687 (Fleischli 2007).

State of Ill., Dep'ts of Cent. Mgmt. Serv. & Corrections v. Ill. Lab. Rel. Bd., State Panel, 869 N.E.2d 274 (Ill. App. Ct., 4<sup>th</sup> Dist. 2007).

**April 8        Administration of the Agreement**

Text, Ch. 10

Martin Malin, *Revisiting the Meltzer-Howlett Debate on External Law in Labor Arbitration: Is It Time for Courts to Declare Howlett the Winner?*, 24 LAB. LAW 1 (2008).

City of Decatur v. AFSCME, 522 N.E.2d 1219 (Ill. 1988).

Ill. Dep'ts of Cent. Mgmt. Serv. & Children & Family Serv. v. Jones, Case No. 08 CH 30377 (slip op.) (Cook County Cir. Ct. 2009).

**April 15      Individuals and the Union**

Text, Ch. 11

Foley v. AFSCME Council 31, Local 2258, 556 N.E.2d 581 (Ill. App. Ct., 1<sup>st</sup> Dist. 1990).

Bryant and AFSCME Council 31, 21 PERI ¶ 97 (IL LRB, G.C. 2005).

**April 22      Student Presentations**

**April 29      Student Presentations**

**TBA          Final Exam**