

Conflict and Conflict Resolution in the Workplace

Course No: 37:575:312:01

Rutgers University School of Management and Labor Relations

Fall 2012

Instructor: Bill Dwyer (Phone: 908-252-0006; email: wmdwyer@optonline.net)

Time: Mondays 6:40 p – 9:30 p .

Location: Science and Engineering Resource Center, Room 202
118 Frelinghuysen Rd., Piscataway (Busch Campus)

Objectives: Over the last decade, the field of alternative dispute resolution (“ADR”) has grown dramatically for resolving a wide range of conflicts, including those that arise in the workplace. As the role of unions in the workplace has declined, non-union employers have opted to provide their employees with a forum to resolve disputes that otherwise would go unresolved or would require lengthy and expensive litigation. As a result, grievance and other ADR procedures, long used in the unionized sector, have increased exponentially in the non-union sector. This course will explore the reasons for workplace conflict and compare the types of dispute resolution procedures that are used in both the union and non-union workplaces.

The first half of the course examines dispute resolution in the non-union sector and the second half explores the processes used to resolve disputes in the union sector. Although the class is focused on processes that are used to resolve labor and employment disputes there will also be an emphasis on substantive laws and collective bargaining agreements that are the source of many conflicts. Some background and knowledge of employment or labor law is useful but not required.

The class will also include communication and negotiating skills that are beneficial regardless of your major or career path. We all spend a third of our lives at work and experience a variety of workplaces, supervisors and co-workers who have different methods of addressing or avoiding conflict. Dispute resolution skills are also beneficial in our everyday lives where disagreements may range from selecting a place to go to dinner to serious interpersonal conflicts.

Format: The class will be comprised of lecture, group work and videos. In addition, there will be a “hands on” employment mediation exercise and a mock grievance arbitration that students will present in teams before an experienced labor arbitrator.

Readings: There is no textbook required. Readings will be posted online at <https://sakai.rutgers.edu/portal>

Class Preparation: Class will include lectures, small group discussions, simulations and in-class assignments. Student participation is very important in this class and therefore you are expected to:

- Attend, participate and be on time for every class. Cell phones are to be turned OFF. Texting and emailing is not permitted during class. Because the skills for mediation and arbitration are developed throughout the course, attendance is very important!
- Read the assigned material before class and be prepared to discuss it.
- Students are expected to be familiar with the University's Policy on Academic Integrity and follow it: <http://academicintegrity.rutgers.edu>

Absences: Please report any absence *in advance* unless you have a sudden and unexpected illness or emergency. Absences should be reported by using the university absence reporting website <https://sims.rutgers.edu/ssra> to indicate the date and reason for your absence. An email will be automatically sent to me.

If you must be absent it is your responsibility to obtain notes from a classmate. Get the email address of a classmate in case you need to find out about a homework assignment. If you will be absent, email the assignment so that it is timely. Late homework will NOT be accepted.

NOTE: Attendance is mandatory for the mock mediation and arbitration exercises as they depend on the collaboration of all team members.

Class Participation: In-class meetings will include class discussions and group activities. You are encouraged to explain your views but listen and consider the views of others. Diversity of views and opinions are strongly encouraged. If it is difficult for you to speak up in class, try doing so in the smaller groups.

Communications: I will communicate class announcements via email. If you need to reach me email is the best method. I am an adjunct faculty member by night and by day manage labor relations but I will do my best to get back to you as soon as possible.

Course Evaluation: For purposes of grading there are five components of the course:

1. Attendance, class participation, and in-class individual and group assignments **(25%)**. Homework will be graded with a check, check plus or check minus.
2. One in class mid-term **(30%)**
3. A mock-arbitration exercise with the grade based upon your team's preparation and presentation of a grievance involving a terminated employee. **(20%)**
4. A final exam concentrating on material covered during the second half of the semester but also including processes/principles from the first half of the semester. **(25%)**.

Office Hours: Scheduled by Appointment

Description of Classes:

Class 1: (Date)

Overview of the Course

Introduction to the Course and Course Requirements
Student Backgrounds, Expectations & Objectives
Sources of Conflict

Readings:

M. Masters and R. Albright, Conflict Resolution in the Workplace, Ch.1 "Understanding Workplace Conflict" p. 11-26

Class 2: (Date)

Employment at Will in the Non-Union Workplace:

Guest Professor: TBD

Readings:

D. Twomey, Labor & Employment Law. Ch. 16 "Employment Relationships", pp. 583-588

(2 cases are also assigned: the links are provided below):

Woolley:

http://scholar.google.com/scholar_case?case=13252924286881016662&q=woolley+v.+hoffman&hl=en&as_sdt=2,31&as_vis=1

Pierce:

http://scholar.google.com/scholar_case?case=9748700253424262526&q=pierce+v.+ortho+pharmaceutical+corp&hl=en&as_sdt=2,31&as_vis=1

Class 3: (Date)

Alternative Dispute Resolution Procedures in the Non-Union Sector:

Why Have Employers Established ADR Policies and Procedures?
Overview of Processes Used for Dispute Resolution

Readings:

W. Ury, J. Brett and S. Goldberg, Getting Disputes Resolved, Ch. 1 "Three Approaches to Resolving Disputes:" Interests, Rights and Power

D. Lipsky, R. Seeber, and R. Fincher: Emerging Systems for Managing Workplace Conflict, Ch. 2 "Forces of Change" pp. and Ch. 3 "The Rise of Alternative Dispute Resolution" pp. 75-105.

Class 4: (Date)

ADR in the Non-Union Workplace:

Negotiation, Peer Review, Factfinding, Ombuds

Readings:

R. Masters, M. Albright, The Complete Guide to Conflict Resolution in the Workplace, Ch. 5 "Negotiation" pp. 99-115 and Ch. 8 "Potpourri"

Class 5: (Date)

ADR in Non-Union Workplace: Mediation

Readings:

M. Masters and R. Albright, *The Complete Guide to Conflict Resolution in the Workplace* Ch. 6 "Mediation" pp. 141-162

Film: *Termination Tempest: Mediation at Work 5*

Class 6: (Date)

Mock Mediation

No Reading Assignment

Class 7: (Date)

ADR in the Non-Union Workplace:

Employment Arbitration: The Process

Mandatory Employment Arbitration and Due Process

Readings:

R. Masters, M. Albright, *Conflict Resolution in the Workplace*, Ch. 7 "Arbitration" pp. 163-179

D. Lipsky, R. Seeber and R. Fincher: *Emerging Systems for Managing Workplace Conflict*, Ch. 6 pp. 198-224

Class 8: (Date) Midterm Exam

Class 9: (Date)

Dispute Resolution Processes in the Union Workplace:

The Union as Exclusive Representative & the Duty of Fair Representation

History and Legal Landscape of Labor Arbitration

The Grievance Process

Readings:

M. Carrell & C. Heavrin, *Labor Relations and Collective Bargaining*, Ch. 5 "Enforcement of the Collective Bargaining Agreement" pp. 215-232 and Ch. 11 "Grievance and Disciplinary Procedures" pp. 477-487

Class 10: (Date)

Dispute Resolution in the Union Sector: Grievance/Labor Arbitration Process

Discipline and Discharge: Understanding Principles of Just Cause

Readings:

M. Carrell & C. Heavrin, "Grievance and Disciplinary Procedures" p. 487-497 and Ch. 12 "The Arbitration Process" pp. 503-510, 525-528

Class 11: (Date)

Labor Arbitration Process (Continued)

How to Prepare Your Case for Arbitration: Direct and Cross Examination, Opening and Closing Statements

Readings:

M. Carrell & C. Heavrin, "Ch. 12 "The Arbitration Process" p. 515-525

Class 12: (Date)

Mock Grievance Arbitration Preparation

Class 13: (Date) (Note: Possible location and time change)

Mock Grievance Arbitrations

Location: (Consider Labor and Education Center, 50 Labor Center Way, ROOM 115?)

Time: TBD

Class 14: (Date)

Mediation, Fact-finding and Interest Arbitration in the Private and Public Sectors

Readings:

H. Katz and T. Kochan, An Introduction to Collective Bargaining and Industrial Relations, Ch. 9 "Dispute Resolution Procedures"

Final Exam (Date)