# PUBLIC SECTOR COLLECTIVE BARGAINING

Spring 2014 Course No. 37-575-350 Course No. 38-578-565 Thursdays 7:15-10:05 p.m. Professor Joyce M. Klein Phone: (732) 775-5677

Office Hours Available Upon Request E-mail: JoyceMKlein@gmail.com

**Objectives:** Analysis of major issues in public sector collective bargaining, including: its history, the legal, economic, and social underpinnings, appropriate bargaining units; the duty to bargain, the scope of bargaining, administration of the collective negotiations agreement. impasse mechanisms, and the relationship(s) between the public employer, the union, the individual employee and the public.

> This course will address federal, state and local bargaining. Although a multi-jurisdictional format will be used, emphasis will be placed upon statutes, institutions and practices in New Jersey.

> Throughout this course, you will be practicing skills in identifying critical assumptions, methods, and types of evidence in relationship to theoretical and practical arguments made by employers, unions, employees and the public regarding public sector collective bargaining. This course will identify and discuss the economic and political and legal theories and systems relevant to the public sector collective bargaining relationship. You will demonstrate this understanding through your written work and through a mock collective bargaining exercise.

Readings: Readings are available on Sakai

**Attendance and Grading Policies:** Students are expected to attend all classes and to actively participate in all exercises and discussions.

Each student will participate in a mock collective bargaining exercise. Although bargaining sessions will take place during class, students will be required to prepare for bargaining outside of class. Students shall keep a journal of their collective bargaining experiences to be turned in at the close of the bargaining Journal entries should be 1-2 pages double-spaced for each bargaining session. The journal should address both the substance and process of the bargaining with a focus on how the public nature of the employer has influenced the bargaining positions and strategies. The mock bargaining exercise, together with the completed journals will account for **20%** of the final grade. Journals are due on or before **April 17, 2014**.

Undergraduate students will complete midterm examination on **March 6, 2014** which will account for **30%** of the final grade.

Graduate students will prepare a 10-15 page research paper on an approved topic in public sector collective bargaining and will lead a class discussion regarding the topic. The paper and class discussion, shall account for **30%** of the final grade. Sample topics include but are not limited to:

Civil Service Reform Proposals

The scope of bargaining in the Federal sector

Freedom of speech in the public sector workplace

Union Security in the Public Sector

The limits of grievance arbitration in the public sector workplace Scope of bargaining over specific issues—i.e. police weapons, teacher class size, etc.

Subcontracting in the public sector.

Effect of social media on public sector collective bargaining

Dynamics of collective bargaining in a recessionary environment

Tenure system reforms and their impact on public sector employees

Shared services proposals, impact on public sector collective bargaining

All students will complete a comprehensive final exam. The final exam will account for 30% of the final grade. Undergraduate students will complete a final examination which will emphasize materials covered after the mid-term examination, but which will also require knowledge of materials covered in the first portion of the class. Graduate students will complete a comprehensive takehome final examination, which will be distributed on May 1, 2014 and will be due on May 8, 2014.

The remaining **20%** of the final grade will be based upon attendance and participation. Participation includes contribution to class discussions, participation in other group activities in class.

January 23 Overview of Collective Bargaining in the Public Sector

January 30 Civil Service

Labor Relations and Collective Bargaining, Michael R. Carrell and Christine Heavrin (9<sup>th</sup> Ed.), pp. 34-42

Battle Lines Drawn In Fight of State Civil Service Job Protections, NJ Spotlight, January 7, 2014.

Summary of NJ Civil Service Job Banding Program Proposed Rules

## February 6

Political and Economic Perspectives

A Political System for a Political World – in Public Sector Labor Relations (Robert Helsby)

Public Employee Bargaining: A Political Perspective, Clyde W. Summers

The Limits of Collective Bargaining in Public Employment, Henry H. Wellington & Ralph K. Winters, Jr.

Does Public Employee Unionism Diminish Democracy?, Sanford Cohen

A Reconsideration and Empirical Evaluation of Wellington's and Winters', The Unions and the Cities, Jeffrey H. Keefe, Comparative Labor Law & Policy Journal, Winter 2013.

### February 13

Public Sector Organizing and Bargaining Units

Determining Appropriate Bargaining Units, John B. Cochran, Labor-Management Relations in the Public Sector, published in Labor-Management Relations in the Public Sector (LRP 1999)

Collective Bargaining in Public Employment, Grodin, Weisberger & Malin (West 2004) pp. 127-136

NJ Employer-Employee Relations Act, Section 5.3

#### February 20

Bargaining Rights of Employees

Bargaining Rights of Supervisory, Managerial and Confidential Employees, Joan G. Dolan, published in Labor-Management Relations in the Public Sector (LRP 1999)

Selection of A Bargaining Representative, Donald G. Russell, published in Labor-Management Relations in the Public Sector (LRP 1999)

Grodin,

February 27 The Duty to Bargain / Unfair Labor Practices

> The Constitutional Dimension of Unilateral Change in Public Sector Bargaining, Stephen F. Befort, ABA Journal of Labor & Employment Law

NJ Employer-Employee Relations Act, Section 5.4

Atlantic County & PBA, Local 243, FOP Lodge 34, PBA Local 77, PERC 2014-40 (December 19, 2013)

March 6 Midterm Examination for Undergraduates.

Graduates to meet to discuss paper topics and

progress.

March 13 The Scope of Bargaining

> Scope of Bargaining in the Public Sector by Joan Parker, published in Labor-Management Relations in the Public Sector (LRP 1999)

Collective Bargaining in Public Employment,

Weisberger & Malin (West 2004) pp. 205 - 219

(mock bargaining assignment distributed)

March 27 Impasse Resolution

Public Sector Mediation, Chapter 1, Arnold Zack

Impasse Procedures, Mediation, Fact-finding; Excerpts from

NJ School Boards Association publication

Labor Mediation: An Exploratory Survey, Kenneth Kressel

Fact-Finding: Its Values and Its Limitations, William E.

Simkin

(mock bargaining session)

April 3 Impasse Resolution continued

> The Legislative Upheaval in Public Sector Labor Law: A Search for Common Elements, Martin H. Malin, ABA Journal

of Labor & Employment Law

Considering Final Offer Arbitration to Resolve Public Sector Impasses in Times of Concession Bargaining, by Michael Carrel & Richard Bales, Ohio State Journal on Dispute Resolution, Volume 28, Issue 1 (2013).

NJ Employer-Employee Relations Act, Section 16

### (mock bargaining session)

April 10 Duty of Fair Representation and Agency Fee

Public Sector Union-Employee Relationship

Constitutionalizing Paycheck Protection; What <u>Knox versus</u> <u>Service Employees International Union</u> means for American Labor, by Raymond L. Hogler, Labor Law Journal, Fall 2012 NJ Employer-Employee Relations Act, Section 5.5-5.7

Agency Fee Rules, N.J.A.C. 19:19-1:1

(mock bargaining session)

April 17 Federal Sector

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April 24 TBD/Grad Discussions

May 1 Grad discussions

(Take Home Final distributed for graduate students)

May 8 Take Home Final Exam due for graduate students

(Final for undergraduates pursuant to University

Schedule)