

Conflict and Conflict Resolution in the Workplace

Course No: 37:575:312

Rutgers University School of Management and Labor Relations

Fall 2012

Instructor: Felice Busto (Phone: 732 776-6507; felicebusto@gmail.com)

Time: Mondays 6:00-8:40 pm

Location: Western Monmouth Freehold

Objectives: Over the last decade, the field of alternative dispute resolution (“ADR”) has grown dramatically in resolving all types of conflicts. As the role of unions in the workplace has declined, non-union employers have moved to provide their employees with a forum to resolve disputes. 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 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.

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 run the gamut of where 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 a 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 and be on time for class (cell phones turned OFF—no texting or internet is permitted during class). This is very distracting to your instructor and other students and participation grades will be impacted by failing to adhere to this policy. 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;
- ◆ 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 an 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 and you do not need to email me.

- ◆ If you absent obtain notes from a classmate; At our first class, exchange email addresses with a classmate in case you need to find out about a homework assignment; if you will be absent email the assignment to me before class 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—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 your hand in the smaller groups.

Communications

I will communicate class announcements on sakai. If you need to reach me email is the best method. I am an adjunct (part-time) faculty member and arbitrate and mediate during the day but I will do my best to get back to you as soon as possible.

Course Evaluation

For purposes of grading there are four components of the course:

1. Attendance, class participation and assignments. **(30%)** Assignments will be graded with check, check plus or check minus.
2. Mid-term Exam **(30%)**
3. A mock-arbitration exercise— a team grade based upon your group's preparation and presentation of a grievance involving a terminated employee. **(10%)**
4. A final exam concentrating on material covered during the second half of the semester but also including some material from the first half of the semester. **(30%)**.

Office Hours: Scheduled by Appointment

Description of Classes:

Class 1: Sept. 10, 2012

Overview of the Course

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

Readings:

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

Class 2: Sept. 17, 2012

The Non-Union Workplace: Employment at Will and Exceptions

Readings:

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

D. Twomey, Labor & Employment Law. Ch. 16 "Employment Relationships"

Class 3: Sept. 24, 2012

Alternative Dispute Resolution Procedures in the Non-Union Workplace:

Why Have Employers Established ADR Policies and Procedures?

Overview of Processes Used for Dispute Resolution

Readings:

D. Lipsky, R. Seeber, and R. Fincher: Emerging Systems for Managing Workplace Conflict, Ch. 2 “Forces of Change” pp. 35-73, Ch. 3 “The Rise of Alternative Dispute Resolution” pp. 75-87

Class 4: Oct. 1, 2012

ADR in the Non-Union Workplace:

Adversarial vs. Interest Based Negotiations
Peer Review, Factfinding and 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: Oct. 8, 2012

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

Class 6: Oct. 15, 2012

Mock Mediation: Sexual Harassment at the No Sweat Spa

Class 7: Oct. 22, 2012

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: Oct. 29, 2012 (MIDTERM EXAM)

Class 9: Nov. 5, 2012

Dispute Resolution Processes in the Union Workplace:

Collective Bargaining: Processes to Resolve Impasse:
Mediation, Factfinding and Interest Arbitration
Strikes and Lockouts

Readings:

H. Katz and T. Kochan, An Introduction to Collective Bargaining and Industrial Relations, Ch. 9 “Dispute Resolution Procedures” and M. Carrell & C. Heavrin, Labor Relations and Collective Bargaining, Ch. 5 “Enforcement of the Collective Bargaining Agreement” pp 215-232

Class 10: Nov. 12, 2012

Dispute Resolution in the Union Sector: The Grievance Process

Introduction to the Grievance Process
Discipline and Discharge: Just Cause Principles

Readings:

M Carrell and C. Heavrin, Labor Relations and Collective Bargaining, Ch 11 “Grievance and Disciplinary Procedures,” Ch. 12 “The Arbitration Process” pp. 525-528

Speaker: Joe Shevlin

Class 11: Nov. 19, 2012

Labor Arbitration

Role of Arbitration in Contract Enforcement: History and Legal Landscape
Arbitration Process and Protocols
Grievance Mediation

Readings:

M. Carrell & C. Heavrin, Ch. 12 “The Arbitration Process” pp. 503-510, 515-524

Class 12: Nov. 26, 2012

How Arbitration Works

Preparing your Case for Arbitration: Witness Examination, Opening and Closing Statements

Readings: Sakai

Movie: Labor Arbitration Video: Suspension of Nurse Kevin

Class 13: Dec. 3, 2012

The Arbitration Process: (continued)

Preparing your Case for Arbitration: Witness Examination, Opening and Closing Statements

Readings: Sakai

Class 14: Dec. 10, 2012

Mock Grievance Arbitrations

Dec. 17, 2012 Final Exam