Conflict and Conflict Resolution in the Workplace (7/29/11)

Rutgers University School of Management and Labor Relations
Course No: 37:575:312
Fall 2011

Instructor: Felice Busto (Phone: 732 776-6507; email: fbusto@rcn.com)

Time: Thursdays 6:00-8:40 p.m

Location: ACCC

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 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 run the gamut of where to go to dinner to serious interpersonal conflicts.

Format: The class will be comprised of lecture, group work, videos and online forum discussions. 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 emailing is permitted during class). Because the skills for mediation and arbitration are developed throughout the course, attendance is very important!
- Read the assigned material <u>before</u> 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 <u>in advance</u> 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.

♦ If you absent try 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 are dependent 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.

The online forums will allow you to participate in threaded discussions. Your comments should be based on your understanding of the readings, videos, and your own experience. Because our class is premised on conflict resolution at work, your work experience will prove valuable in understanding and applying communication and conflict resolution strategies and processes.

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 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 five components of the course:

- 1. Attendance, class participation, and in-class individual and group assignments (20%). Homework will be graded with check, check plus or check minus.
- 2. Online Threaded Discussions (Forums 1-6). (15%) (There will be a handout that explains the online forum portion of the class and how you will be graded).
- 3. One mid-term take home exam (25%)
- 4. A mock-arbitration exercise— a team grade based upon your group's preparation and presentation of a grievance involving a terminated employee. (15%)
- 5. A take home final 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: May be Scheduled by Appointment

Description of Classes:

Class 1: Sept. 1, 2011 (in class)

Overview of the Course

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

Readings:

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

******NO CLASS ON SEPTEMBER 8

Class 2: Sept 15, 2011 (online)

The Role of Power in Conflict: Is Conflict Inevitable or Avoidable? Sources of Conflict and its Effects of Conflict in the Workplace

Readings:

M. Deutsch, P. Coleman, <u>The Handbook for Confict Resolution</u>, Ch. 5 "Power and Conflict"

Wheeler, "The Second Pillar: Biological Roots of Conflict"

Class 3: Sept. 22, 2011 (in class)

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, <u>Getting Disputes Resolved, Ch. 1 "Three Approaches to Resolving Disputes:" Interests, Rights and Power</u>

D. Lipsky, R. Seeber, and R. Fincher: <u>Emerging Systems for Managing Workplace Conflict</u>, Ch. 3 "The Rise of Alternative Dispute Resolution"

Class 4: Sept. 29, 2011 (online)

Introduction to the Non-Union Workplace: Employment at Will, Exceptions and Laws Prohibiting Discrimination

Readings:

David Twomey, "Labor & Employment Law, Ch. 12 "Discrimination Laws: Protected Classes under Title VII" p. 387-443, Ch. 16 "Employment at Will, Exceptions and Discrimination Claims" p. 583-600

Class 5: Oct. 6, 2011 (in class)

ADR in Non-Union Workplace: Mediation

Negotiations: Adversarial or Interest Based? Introduction to Mediation

Readings:

M. Masters and R. Albright, <u>The Complete Guide to Conflict Resolution in the Workplace</u> Ch. 5, "Negotiation p. 99-115 and Interest Based Skill Development Ch. 6 "Mediation" p. 141-162

Film: Termination Tempest: Mediation at Work

Class 6: Oct. 13, 2011 (online)

ADR in the Non-Union Workplace: Other ADR Processes: Factfinding, Peer Review and Ombuds

Readings:

M. Masters and R. Albright, "The Complete Guide to Conflict Resolution in the Workplace," Ch. 8 "Potpouri"

<u>Class 7</u>: Oct 20, 2011 (in class)

Mock Mediation: No Sweat Spa

<u>Class 8</u>: October 27, 2011 (online)

ADR in the Non-Union Workplace:

Employment Arbitration: The Process

Mandatory Employment Arbitration and Due Process Issues

Readings:

R. Masters, M. Albright, Conflict Resolution in the Workplace, Ch. 7 "Arbitration"

D. Lipsky, R. Seeber and R. Fincher: <u>Emerging Systems for Managing Workplace Conflict,"</u> Ch. 6 pp. 198-224

<u>Class 9</u>: Nov. 3, 2011 (in class)

Dispute Resolution Processes in the Union Workplace:

The Union as Exclusive Representative & the Duty of Fair Representation The Grievance Process Discipline and Discharge and "Just Cause"

Readings:

M. Carrell, C. Heavrin, <u>Labor Relations & Collective Bargaining</u>, Ch. 11 "Grievance and Disciplinary Procedures" p. 478-497 and Ch. 12 "The Arbitration Process" p. 525-528

Class 10: November 10, 2011 (online)

Dispute Resolution in the Union Sector: Grievance/Labor Arbitration

History and Legal Landscape of Labor Arbitration

Video Clips: Labor Arbitration

Readings:

M. Carrell, C. Heavrin <u>Labor and Collective Bargaining</u>, Ch. 12 "The Arbitration Process" p. 504-528

A. Zack, Arbitration in Practice, Ch. 1 T. Antoine, "Arbitration and the Law"

Class 11: Nov. 17, 2011 (in class)

Labor Arbitration Process (Continued)

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

<u>Class 12</u>: Nov. 22, 2011 (online)

Mock Grievance Arbitration Case Preparation

Class 13: Dec. 1, 2011 (in class)

Mock Grievance Arbitrations

Class 14. Dec. 8, 2011 (online)

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

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

Readings:

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