Public Sector Employment Seminar
Spring 2007
Professor Malin

SYLLABUS

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Office Hours: No appointment is necessary. Simply come by anytime. I am usually there.


Grades: Research Paper - 60 percent
Your paper must be on a topic approved by me dealing with the law governing the public sector workplace. A list of suggested topics is attached. These are only suggestions and I encourage you to come up with your own topic, regardless of whether it looks anything like the suggestions. Your topic paper must receive my approval. In addition, each student is required to meet with me at least once prior to the due date for first drafts to discuss your approach to the paper.

The paper must be at least 25 pages long, double-spaced, one-inch margins, 12 point times new Roman font, exclusive of footnotes. It must be typed or word processed. You will be required to produce a first draft and a final draft. Your first draft is not a rough draft. It is expected to be a polished paper -- your best effort. I will read it, comment extensively on it and meet individually with you to suggest ways to improve it. The individual meeting is required. After the meeting you will prepare a final draft. Your grade will reflect your effort on the first draft, your improvement in light of the comments that I make, and the overall quality of the final product.

Please note - writing a research paper is not like writing a brief or a memo. For many of you, this will be your first exposure to this type of legal writing. “Writing a Student Article” by Eugene Volokh is a useful introduction to the subject. I also recommend Scholarly Writing for Law Students by Fajans and Falk (West 1995) as a useful supplemental guide. Of course, if you have questions about the scholarly research and writing
process, you should contact me.

Also please note that a first draft and a final draft are the required minimum. I am willing to work individually with you on interim drafts to help you improve the final product. I encourage you to do this and to strive to make your paper publishable and then submit it to appropriate journals for possible publication.

**In Class Presentation - 20 percent**
A key characteristic of a seminar is that the students truly learn from each other. To this end, you are required to make an in-class presentation concerning the topic on which you are writing. In advance of the presentation, you are to develop a reading assignment for the class. You are to then lead a class discussion on the topic in light of the reading assignment. The expectation is that your classmates will learn from you concerning your topic and you will learn from their discussion of your topic and the reading you assigned them.

You must meet with me to discuss your presentation and to obtain my approval of the reading assignment. I will have it photocopied and distributed to the class. Therefore, you must submit your proposed reading assignment to me sufficiently in advance of the class before the class in which you present so that I can approve it and discuss any modifications which may be necessary.

**Class Participation - 20 percent**
Class participation is defined broadly. It includes your participation in discussion of the material that I assign. It also includes participation in the discussion led by your classmates when they give their presentations. Furthermore, we will have an E-mail mailing list for all students in the class. Because we meet only once each week, we will use E-mail to continue our discussions of the material from the previous class and of the material for the class coming up. Class participation includes participation in the e-mail discussions.

Finally, class participation includes attendance. Your attendance is crucial to the success of the class. Your classmates cannot learn from you or you from them if you are absent. You are expected to attend every class. We will use a no fault attendance system. I will take attendance each class. Anyone absent more than three times will lose one grade increment (e.g., from an A to an A-, from an A- to a B+, etc.) for each additional absence. Relief from this rule will be available only if every absence is due to exceptional circumstances. If, however, you blow off
two classes and then miss two classes because of serious illness, relief will not be available.

**Schedule and Deadlines:**

Topics must be approved by Tuesday, February 6, 2007. You should have submitted to me a written topic proposal.

First drafts are due by 4:00 p.m. Tuesday, March 20, 2007.

A schedule for Presentations and a sign-up sheet will be posted in the near future. Sign-up for presentation slots will be on a first come, first served basis.

Final Papers are due by 4 p.m., Friday, May 18, 2007. Please note that I will be out of town May 15-18, so you must contact me with questions or concerns prior to May 15. You may turn your paper in to me or to my assistant, Sharon Wyatt-Jordan. If you are turning in your paper after May 14, you must turn it in to Ms. Wyatt-Jordan. If you submit your paper to Ms. Wyatt-Jordan, be sure to obtain a receipt documenting the date and time you submitted it.

**Note:** The above schedule provides for first drafts to be turned in immediately after spring break and for final papers to be due at the end of the exam period. Alternatively, we can devise a schedule with first drafts due before spring break and final papers due on the first day of exams. Such a schedule will enable you to complete the requirements for this course before you take your exams. I am indifferent as to how we schedule this. We will discuss this during the first class meeting.

**Late Paper Penalty:** A penalty of one grade increment (e.g., from an A to an A-, from an A- to a B+, etc.) will be assessed for every eight hours or fraction thereof that a first draft or final paper is late. The penalty will apply to the grade for the paper. Papers are not considered turned in until they actually are received by my assistant or me. For example, placing the paper in my mailbox at 10 p.m. does not stop the penalty clock until I actually receive your paper (presumably the following morning).

**Upcoming Events:** Tuesday, March 27 11:30 am – The 29th annual Piper Lecture: "Religion and the Workplace," featuring Boston College Law School Professor Thomas Kohler, with commentary by Interfaith Worker Justice Executive Director Kim Bobo and NiSource, Inc., Senior Vice President Robert Campbell.
Initial Assignment Schedule

January 23  **Introduction**  
Read Chapter 1; text pp. 1 - 22

January 30  **Constitutional Rights of Public Employees**  
Read Chapter 2: text pp. 23 - 68, and Garcetti v. Ceballos (posted on class website)

February 6  **Civil Service, Teacher Tenure and Collective Bargaining**  
Read Chapter 3, text pp. 69-91

February 13  **Statutory Protection of Union Activity**  
Read Chapter 4; text pp 92 - 120

February 20  **Representation Proceedings**  
Read Chapter 5; text pp 121 - 123; 127 - 170

February 27  **Subjects of Bargaining**  
Read Chapter 7; text pp 213 - 276

March 6:  **The Duty to Bargain**  
Read Chapter 6; text pp 171 - 204

March 20:  **Strikes**  
Read Chapter 8; text pp 277 - 325

March 27  **Alternative Impasse Procedures**  
Read Chapter 9; text pp 326 - 346; 360 - 370; Illinois FOP Labor Council and Village of Fox Lake (posted on class web site)

April 3:  **Enforcing Collective Bargaining Agreements**  
Read Chapter 10; text pp 371 - 410

April 10:  **The Individual Employee and the Union**  
Read Chapter 11; text pp 419 - 451, and State v. Washington Education Ass’n, (posted on the class web site). Note that this case is pending before the Supreme Court. If the Court rules, we will substitute the Supreme Court’s decision for the decision of the Washington Supreme Court currently posted.
PUBLIC EMPLOYMENT SEMINAR
POSSIBLE PAPER TOPICS

This is a list, in no particular order, of possible topics for seminar papers. It is far from exhaustive and is not intended to restrict your selection of a topic. If you have particular ideas you would like to explore, please contact me and we will work them into a topic that is appropriate and manageable. If you choose a topic dealing with traditional union-management law in the public sector, a useful web site is www.alra.org. This is the web site of the Association of Labor Relations Agencies, an organization of all labor relations boards in the United States and Canada. It has links to the web sites of its member agencies which can provide valuable information on statutes, regulations and recent decisions.

Collective bargaining rights of attorneys and/or judicial personnel

Scope of bargaining in the public sector

Scope of bargaining in the federal sector

Constitutional due process rights of public employees in disciplinary matters

Drug testing in the public sector: labor law and/or constitutional law concerns

Union Security Fees: What may a union charge an objecting fee payer?

Union Security Fees: Constitutionally required due process procedures

Enforcement of collective bargaining agreements in the public sector

Public sector strike prohibitions

Interest arbitration in the public sector

First Amendment rights of public employees

"Bargaining in the Sunshine"

Supervisors and managers - a comparison of different approaches in the public sector

Off-duty conduct as a basis for discipline of public employees

Relationship between collective bargaining and civil service and tenure systems

Public sector strike injunctions
Privacy rights of public employees

Restrictions on public employee political activities

The duty to disclose information in the public sector

The duty of fair representation in the public sector

Bargaining unit determinations in the public sector

Teacher tenure systems in K-12 education

Privatization

Charter schools and collective bargaining

Fair Labor Standards Act issues in the public sector

Deferral to arbitration by public sector labor boards

The scope of Eleventh Amendment sovereign immunity

Civil Service Systems - procedures and/or substantive standards

Teacher tenure systems - procedures and/or substantive standards

Public Sector Collective Bargaining in the Absence of a Statute

Federal Sector Labor Law and National Security

Retiree benefits in the public sector

Collective Bargaining for Non-standard Employment Relationships, such as Home Health Care Workers and Day Care Providers

Topics related to specific types of public employees: e.g. teachers, police, firefighters, etc.