

Hofstra Law School  
Spring Semester 2018

Syllabus for Collective Bargaining Course \*

Professor: Karen P. Fernbach

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Room 103B

Class meets Tuesdays and Thursdays from 2:10-3:30PM in  
Room 227

Materials: Text- Getting to Yes, by Fisher and Ury

Objectives:

This course is designed to teach the fundamentals to successfully bargain a collective bargaining agreement.

The course will teach you how to negotiate in a principled way based on the Harvard Negotiation Project, Getting to Yes. This technique has successfully been used for all types of negotiations and will enhance your negotiation and settlement skills. The students will also participate in several mock negotiation scenarios employing these techniques.

We will then review the legal principles and strategies to successfully bargain an agreement in good faith pursuant to the rules set forth by the National Labor Relations Act, the federal agency that regulates the bargaining relationship between

employers and labor unions in all private sector bargaining in the U.S.

We will review sample collective bargaining agreements and key provisions typical in most agreements.

We will then obtain best practices for bargaining by visiting guest lecturers. They are experienced prominent attorney negotiators, one representing management and the other the union side.

The remaining classes will be devoted to mock bargaining sessions by each student who will be assigned a team and will represent either management or labor in bargaining for an initial collective bargaining agreement.

#### Class Requirements:

1. Each student must prepare a legal research paper of 7 to 10 pages on a topic related to a collective-bargaining issue to be handed in at the class session on April 10. It must contain case citations from the National Labor Relations Board and federal appellate decisions that define the rules for good faith bargaining. You should discuss your topic with me prior to preparing your paper.
2. Each student will participate on a bargaining team and will represent either management or a labor organization in bargaining. Each team is responsible for submitting all contract proposals, the correspondence, including e-mails

between the parties, any charges they filed with the NLRB, and the final collective bargaining agreement to me (if reached) as well as the other side. I will be monitoring the bargaining for each team and will role play as the client for each team.

3. 50% of the grade is based on the paper, 40% on the various documents prepared during the bargaining process and 10% on the participation in class and the bargaining sessions.

#### Learning Objectives:

1. To understand and apply the Bargaining to Yes technique that is useful for all types of bargaining/settlement negotiations you will encounter as an advocate.
2. To understand the legal principles for bargaining in good faith as both an employer and a labor organization under the rules set forth by the National Labor Relations Board.
3. To enhance problem solving skills in terms of meeting a client's objectives (both management and union side), anticipating consequences, and assessing risks.
4. To enhance communication skills by making oral presentations about issues relative to collective bargaining.
5. To enhance research skills in researching and applying legal authority to labor issues.
6. To better evaluate various methods of dispute resolution to meet a client's objectives.

## Attendance and Class Participations:

You must comply with the rules of the NYS Court of Appeals, the American Bar Association, and the Law School that require all law students to be in good and regular attendance in the courses for which they are registered. To comply with these rules, you must attend at least 75% of your regularly scheduled classes for Collective Bargaining, a three-credit course. That means you may miss no more than six class hours in a semester, the equivalent of four classes. If you exceed the permitted absences, you will be administratively withdrawn from the course. This may have serious ramifications for your financial aid, academic standing, and date of graduation.

I will provide sign-in sheets for each class and you are responsible for signing in. If you believe you must be absent from class for more than the permitted number of hours, you should speak with me and the Senior Assistant Dean for Student Affairs or the Director of Student Affairs as soon as possible. Accommodations will be made for students who must be absent for health or religious reasons and in cases of truly compelling hardship.

You are responsible for all assignments due and all material covered during your absence. You are expected to be fully prepared for class.

TWEN: This course will use TWEN for communicating course information and any announcements.

### Computer Use During Class:

The use of your lap top will be permitted provided that it is used during class time for note taking and other work related to the class.

### Communications:

My office is located in Room 103B. The best way to reach me is by e-mail or phone at 516-463-5241. I will be in my office on Tuesdays and Thursdays and by appointments. I encourage you to stop by if you need my assistance or have any questions.

### Assignments (Subject to Modification)

Sessions 1-4 (Jan 11, 16, 18, 23) Getting to Yes (Read the book prior to classes (Chapters 1-4 for first 2 classes and Chapters 5-8 for classes 3-4

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Session 5- Jan 25 – Optional but highly recommend you attend the NYS Bar Meeting which the three Regional Directors from NYS and the General Counsel from the NLRB will be speaking. This is a great networking event as well and I will be able to introduce you to the labor and employment lawyers who will be attending. I will give the contact information to you in class and it is a free event for students but I need to know who plans on attending.

Session 6- (Jan 30)

Class will participate in several mock negotiations using the Getting to Yes techniques.

Sessions 7-10 (Feb 1, 6, 8, 13) – Professor will give a primer on NLRB law in particular the laws of engagement in conducting fair and lawful collective bargaining.

Session 11-12 (Feb 15, 20)) Class will review sample collective bargaining agreements and contract language on key provisions typically included in a labor contract.

Session13- (Feb 22) Guest Speaker

Session 14(Feb 27) Guest Speaker

Sessions 15-24 (March 1, 6, 8,13,15,20,22, April 3, 5,10)  
Mock Collective Bargaining Sessions by Students. Prior to the sessions, each team will meet independently to prepare their initial bargaining proposals for submission to the other party.

Session 25-(April 12) Team Reviews by Professor  
I will meet separately with each team for a critique and review of their papers and bargaining techniques.

Session 26 (April 17)– Guest lecturer on public sector bargaining

Sessions 27,28 (April 19, 24)

Each team will discuss their bargaining sessions with class, share their bargaining agreements and how they may have overcome issues that threatened to short circuit any agreement.

\*Syllabus is subject to revision dependent on class progress. Any modifications will be announced in class or posted in TWEN.