

SYLLABUS

LABOR LAW
Fall Semester 2010

Professor Martin

Class Time: Tuesday, Thursday 2:30-3:45

Room: Moot Court

Required Texts: Cox, Bok, Gorman and Finkin, LABOR LAW, Cases and Materials 14th
(Foundation Press, 2006)

2009 Cases and Statutory Supplement to above casebook.

Recommended Treatises: While there are many study aids for Labor Law, I recommend the following two books:

Gorman and Finkin, Labor Law- Basic Text 2nd (Thomson/West, 2004)

Higgins, The Developing Labor Law 5th with 2007 and 2008 Supplements
(BNA Books, 2006)

Attendance: You should consult Law School Academic Rule 1-110 and the Law School Attendance Policy. These may be viewed on the Law School website. In Labor Law, I will circulate an attendance sheet as required by the policy. More than 6 absences may result in withdrawal from the class with a "W." IF you become aware of a problem that will affect your attendance, you should inform me as quickly as possible.

Goals and Objectives: Labor Law is in several ways a somewhat unusual area of law. It is a modern statutory course, based primarily upon federal law. However, the statute is short, not very detailed, and the law is dominated by opinions issued by both the agency charged with enforcing the law and by federal courts. Also, the administrative process under the National Labor Relations Act is unusual. Cases begin with regional hearings, and advance to hearings before the National Labor Relations Board ("NLRB"). If the losing party resists the NLRB's order, the case then goes directly to a federal court of appeals. Where the circuits are in conflict, the case may then go to go to the U.S. Supreme Court. One major goal is to understand the way this process works, not only to learn the procedure, but also to see how this process affects the development of the substantive law.

A second unusual feature of Labor Law is that the NLRB, the Agency charged with enforcement, has broad authority to “develop” law through case by case adjudication, and it has resisted using its rule making powers. A second goal of the course is thus not only to learn the basic rules, but to understand how this doctrine has developed over time using a few basic statutory policies.

A third unique feature of labor law is its orientation, not to labor standards, but to the process of labor relations. The law does not determine wages, but rather sets up a structure by which workers may, if they desire, participate as a group in the setting of wages or other terms of employment. This law facilitates an unusual combination of industrial democracy and collective action. Hence it is a goal of the course to understand this system of industrial relations in addition to the law itself.

Finally, a mature labor system usually features negotiation of collective bargaining agreements and arbitration of grievances to settle contract disputes. It is therefore a major goal of the course to understand the basic ways negotiation and arbitration are utilized to achieve the policy goals underlying our system of industrial relations.

Using the supplement: Syllabus assignments are from your casebook, and major cases from the supplement. You should regularly follow the supplement for shorter notes which supplement the law as we go. Although the cases “make” labor law, it is the statute that provides the starting place. You should use the supplement as you prepare for class, referring to statutory language frequently. You should also have the supplement available for reference during class.

Grading: Your grade will be based upon a three hour final examination, and upon class participation. The examinations will be graded anonymously, using the regular Hamline grading system, Academic Rule 1-107. The final grade may then be increased by one-half a grade based upon class participation that demonstrates a better grasp of the subject than that demonstrated on the examination.

Class preparation: You should, of course, be prepared in each class to discuss the cases. Also, you should work through the problems for discussion following the cases, as they are a major part of this casebook.

Laptops: Laptops are permitted in class for appropriate uses. I assume that you know what uses are appropriate (and inappropriate).

Assignments:

1. Tuesday, August 24:

History and Evolution of Labor Laws

Text pages 1-37

2. Thursday, August 26:

Modern Statutes

Text pages 72-111

3. Tuesday, August 31:

The Right of Self Organization

Text pages: 112-132

4. Thursday, September 2:

Self Organization cont.

Text pages: 132-153

Supplement: Register Guard Case

5. Tuesday, September 7:

Election Propaganda

Text pages: 153-180

6. Thursday, September 9:

Domination

Text pages: 180-206