

**School of Management and Labor Relations**

**DEPARTMENT OF LABOR STUDIES & EMPLOYMENT RELATIONS**

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**LABOR LAW**

**Professor Vik Advani**

**AMERICAN LABOR LAW**

**UNDERGRADUATE COURSE #: 37:575:340:01**

**&**

**LABOR LAW**

**GRADUATE COURSE #: 38:578:550:01**

**Fall 2020, Thursdays 10:55 Am- 1:55 PM**

**\*\*\* Synchronous Remote Class \*\*\***

**Email:** [**vkadvani@smlr.rutgers.edu**](mailto:vkadvani@smlr.rutgers.edu)

**Office Hours: By Appointment**

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**Course Description**

This mixed graduate and undergraduate “synchronous remote” course provides an overview of American labor relations law, including the law relating to union organizing, collective bargaining, contract enforcement, strikes, and relations between unions and their members, and management.

**Course Objectives**

**LABOR STUDIES & EMPLOYMENT RELATIONS OBJECTIVES:**

At the end of this class, the student will be able:

* To apply employment relations legal concepts, and substantive institutional knowledge, to understanding contemporary developments related to work.
* To understand basic legal doctrines, policies and historical development of American labor law.
* To read and analyze legal decisions and statutory materials related to American labor law.
* To understand context, evaluate the context of workplace issues, public policies, and management decisions.

**SCHOOL OF MANAGEMENT & LABOR RELATIONS OBJECTIVES**:

At the end of this class, the student will be able:

* To demonstrate an understanding of how to apply knowledge necessary for effective work performance; and
* To demonstrate an understanding of how law is applied in situations related to labor relations in this class, an essential skill for employment relations professionals.

**Course Requirements**

This is a mixed graduate and undergraduate course in labor law, and it heavily emphasizes student participation and group discussion. While undergraduate and graduate students will be graded separately using distinct criterion, all students will be held responsible for reading and understanding all assigned materials, as well as participating fully in all class discussions.

**SYNCHRONOUS COURSE DESCRIPTION**

The core portion of our class will be conducted during live “virtual” Webex sessions, starting at 10:55 AM (eastern time), and will last approximately 3 hours, depending on the topic discussed that week. We will aim to end class at 1:55 PM every class – However, I reserve the right to end class early or late depending on our workload.

* Note: I plan to transition to Zoom once a few technical difficulties surrounding my account are resolved. Until then we will be using Webex. Therefore, while I mention Webex below, kindly understand that if possible, I will be using Zoom once my issues with the Help Desk are resolved.

We will be using Webex for the live virtual portion of our weekly class. Rutgers has a university- wide account with Webex and Zoom. **Make sure you have signed up for both Webex and Zoom with your RU account before the first class.** Contact the RU Help Desk (833-648-4357) if you need assistance or have questions on Webex or Zoom. If you anticipate having any connectivity issues (i.e. access to internet, etc.) please contact me and I will work with you to make sure you can access the key course content.

Although the above live classes will be conducted via Webex or Zoom, “physical, mental, and spiritual” attendance during the live classes is extremely important, since we will be reviewing many of the key concepts, and your class participation during these sessions is an important part of your overall grade. Also, you will be required to activate both your audio and video during these sessions, so it’s important that you have these technical capabilities before the first class. Communication with students is key for success – Therefore, activating your video and your audio for purposes of communicating during class is not negotiable.

Please understand that conducting classes via Webex or Zoom makes us extremely dependent on superior and/or at least competent internet and technology. Please ensure that your devices are internet and Webex/Zoom-video/audio ready, and that you have a back-up device in the event of product failure. I will ATTEMPT to coordinate recording of each class with Rutgers University so that it is available for review for a reasonable time for students who run into technological problems or have to miss class due to a legitimate reason such as illness. As stated below, your attendance is mandatory, and recordings are only available for those students who miss class for a legitimate reason.

**Grade Criterion**

**Undergraduate course grading** is based on two in-class examinations and class participation. The breakdown is as follows:

1. Exam 1: 40% of your overall final grade
2. Exam 2: 45% of your overall final grade
3. Vigorous Class Participation: 15% of your overall final grade

**Graduate course grading** is based on one in-class examination, one paper, and class participation. The breakdown is as follows:

1. Exam 1: 40% of your overall final grade
2. Paper: 45% of your overall final grade
3. Vigorous Class Participation: 15% of your overall final grade

The specific format of the examinations will be discussed at the appropriate time but I generally give Short Answer, Fact Pattern and Definitions-styled exams.

**Attendance Criterion**

**Vigorous Attendance & Class Participation Policy:** As of Fall 2020, I am requiring each student to **vigorously** participate at least once in every class, Zoom or otherwise. This means that you must attend every class in a timely manner. Zoom allows me the capability to lock out classes after a grace period. Due to hacking and other privacy concerns, I plan to lock out our classes 10 minutes into class – Therefore, please make sure you are in the Zoom meeting no later than 11:05 AM for each class. I will start the Zoom session at 10:55 AM. If you are inexcusably late to a Zoom session, I reserve the right to refuse you entry and/or give you partial credit for attendance.

Unexcused absences are not encouraged. If you have two (2) unexcused absences, you will be docked a full grade (ex. B instead of an A). If you have three (3) unexcused absences, you will receive a failing grade for Class Participation. If you have four (4) or more unexcused absences, you will receive a failing grade for the class.

**Also, you will not only be required to timely attend every class but you will be required to participate at least once in every class by engaging in substantive discussion about the discussed topic.** It need not be scholarly and/or profound – However, it will require you to know your assigned materials.

Although I will be actively monitoring class attendance and participation, I will not be prompting you to participate – This is a graduate level class and your class participation grade, which accounts for 15% of your overall grade, should be motivation enough. Also, just to be clear, “I don’t understand Concept X” does not qualify as substantive discussion.

Finally, the COVID pandemic and resulting health concerns are causing havoc in our personal and professional lives. If you have any personal/health-related reasons for skipping class, kindly advise me immediately so I can excuse your absence and arrange for you to view recorded lectures and/or request a student to provide you with notes. If you fail to or refuse to communicate with me in a timely manner regarding your health/personal issues, I will not be as accommodating after the fact. The key is communication. Kindly communicate so I can be reasonable in accommodating you.

**Electronic Device Criterion**

There are no electronic devices allowed in class other than to facilitate your learning. This includes computers, cell phones, laptops, or tablets. You are not to check social media, email and/or text during our class. Although I prefer you take notes by pen/pencil, electronic note taking is allowed.

* I reserve the right to penalize any student (including removal, expulsion with a failing grade) who refuses to comply with this simple request for mutual respect.
* Textbooks will need to be purchased; If electronic copies of textbooks are purchased or rented, they can be viewed on your electronic device.
* You are NOT authorized to record the lectures on your own end – I ask that you respect my privacy as I respect yours – Willful Failure to comply with this policy will be heavily penalized. To restate – you do not have permission to record me and/or my images and/or my lectures, and I reserve **all** rights permitted under law to prosecute any such violations.

**Student Accommodation Policy**

Rutgers University welcomes students with disabilities into all of the University's educational programs. In order to receive consideration for reasonable accommodations, a student with a disability must contact the appropriate disability services office at the campus where you are officially enrolled, participate in an intake interview, and provide documentation: <https://ods.rutgers.edu/students/documentation-guidelines>

If the documentation supports your request for reasonable accommodations, your campus’s disability services office will provide you with a Letter of Accommodations. Please share this letter with your instructors and discuss the accommodations with them as early in your courses as possible. To begin this process, please complete the Registration form on the ODS web site at: <https://ods.rutgers.edu/students/registration-form>

**Student Conduct Policy**

The conduct of all students is governed by the Rutgers University Academic Integrity Policy: *http://academicintegrity.rutgers.edu/files/documents/AI\_Policy\_9\_01\_2011.pdf*

**Please be so advised.**

**Course Materials: Texts**

Course reading materials are found on the Canvas course website. There are two texts, and several videos and articles that we will be learning from in this class. I reserve the right to supplement, substitute, and/or modify the listed reading selections.

The two texts are as follows – Both texts are on the Canvas course website at no cost:

1. Peter DeChiara, Text for American Labor Law Course (available on Canvas) – I would like to thank Professor DeChiara, who also teaches at Rutgers University, for allowing us to use his textbook for our class. DeChiara is a well-renowned union-side labor law litigator and I am humbled by his willingness to allow us to use his materials, royalty-free.
2. Michael Gold, An Introduction to Labor Law, 3d Edition (2014) (Cornell University Press)

**GRADUATE WRITTEN ASSIGNMENT**

* 1. This only applies to graduate students. Please do not ask me about thee assignments if you are an undergraduate student.

Your written assignment should not exceed 10 pages. Your assignment will be to review the following case: *Apogee Retail LLC d/b/a Unique Thrift Store*, 368 NLRB No. 144 (2019) and analyze the significance of this decision to employers and labor unions. You must discuss prior cases and explain how the law in this area has developed. You can review primary and secondary sources of law. While I will not be penalizing minute citation errors, I will check for typographical errors and copying/plagiarism and I expect you know the Rutgers policy against copying and plagiarism.

* 1. The written assignment due date is in your syllabus and is due at 10:00 AM on the last day of class, on December 3. Please treat this written assignment seriously as this constitutes 45% of your overall grade.
  2. There are no exceptions or alternatives to completing this written assignment. on timely basis. If you fail to submit this assignment in a timely manner, you will be subject to grade reduction and/or a failing grade.

**SCHEDULE**

Class #1 (Sept. 3, 2020) -- Introduction to the course and to the American legal system, courts & the NLRB

Watch before Class 1: Youtube Presentation by Professor Greggory Groves, J.D., Missouri State University, [**https://youtu.be/fdnYtfVJd9Y**](https://youtu.be/fdnYtfVJd9Y)

Brief Introductions

Course Expectations

Powerpoint Presentation

Class #2 (Sept. 10) -- Historical Background of American Labor Law  
DeChiara text: Introduction Pages 3-7

Chapter 1, Pages 8-19

Chapter 2, Pages 20-36

Class #3 (Sept. 17) -- Historical Background of American Labor Law; NLRA, Public

Sector Labor Law

DeChiara text: Introduction Pages 3-7

Chapter 1, Pages 8-19

Chapter 2, Pages 20-36

Chapter 9, Pages 179-197

Class #4 (Sept. 24) -- Defining Employee Rights under the NLRA  
DeChiara text: Chapter 3, Pages 37-68

Class #5 (Oct. 1) -- Creation of the Bargaining Relationship

DeChiara text: Chapter 4, Pages 70-94

Class #6 (Oct. 8) -- Watch before Class 6: Youtube Presentation by Professor Greggory Groves, J.D., Missouri State University, The Collective Bargaining Process, [*https://youtu.be/SI7Ws7dgByM*](https://youtu.be/SI7Ws7dgByM)

DeChiara text: Chapter 5, Pages 97-115

Midterm Review

Class #7 (Oct. 15) -- In-class Midterm Exam. Multiple Choice/Short Answer

Exam Held During Class Hours, Closed Book, Taken and Submitted

on Canvas

Class #8 (Oct. 15) -- Use of Economic Weapons

Watch before Class 8: Youtube Presentation by Professor Greggory

Groves, J.D., Missouri State University, The Collective Bargaining Process, *https://youtu.be/uqzZXgdHA20*

DeChiara text: Chapter 6, Pages 116-134

Class #9 (Oct. 22) -- Enforcing Collective Bargaining Agreements

DeChiara text: Chapter 7, Pages 134-155

Class #10 (Oct. 29) -- Duties/Relationships of Unions and its Employees

DeChiara text: Chapter 8, Pages 156-178.

Class #11 (Nov. 5) -- 2020 Labor Law Developments, Youtube presentation by Scott Horton, Esq., [*https://youtu.be/8J-HVIL9ZSU*](https://youtu.be/8J-HVIL9ZSU)

Class #12 (Nov. 12) -- Collective Bargaining and the Federal Service Labor-

Management Relations Statute [*https://www.everycrsreport.com/reports/R44794.html#\_Toc477962807*](https://www.everycrsreport.com/reports/R44794.html#_Toc477962807)

Federal Labor Relations Statutes: An Overview of the Railway Labor Act (RLA), NLRA, and the FSLMRS (Federal Service Labor-Management Relations Act) Statutes

[*https://fas.org/sgp/crs/misc/R42526.pdf*](https://fas.org/sgp/crs/misc/R42526.pdf)

Class #13 (Nov. 19) -- The New Jersey Employer-Employee Relations Act

[*http://www.ocvtea.org/pdf/NJEmployerRelationsAct.pdf*](http://www.ocvtea.org/pdf/NJEmployerRelationsAct.pdf)

*ˆ*NJ PERC Agency Brochure

[*https://www.state.nj.us/perc/documents/NJ\_PERC\_Agency\_Brochure.pdf*](https://www.state.nj.us/perc/documents/NJ_PERC_Agency_Brochure.pdf)

NJ PERC Grievance Procedure

[*https://www.njsba.org/wp-content/uploads/2016/04/negotiations\_advisor\_grievanceprocedure.pdf*](https://www.njsba.org/wp-content/uploads/2016/04/negotiations_advisor_grievanceprocedure.pdf)

Factfinding and Beyond: Impasses

[*https://www.njsba.org/wp-content/uploads/2016/04/negotiations\_advisor\_factfind.pdf*](https://www.njsba.org/wp-content/uploads/2016/04/negotiations_advisor_factfind.pdf)

Class #14 (Dec. 3) – Final Exam Review (For undergraduates, the final exam will be administered during the final exam period. Graduate Students will hand in their written assignment today no later than 10 AM.