Course description:
This course provides a comprehensive overview of the world of labor arbitration -- its history, procedures, law and practice. Emphasis will be placed on affording students with an understanding of the rich subject matter of arbitration including its use to address issues involving discipline and discharge, management rights, past practice, seniority, wages and hours, fringe benefits, and subcontracting. Additionally, critical procedure issues will be examined including arbitrability, judicial review, due process, and evidence. The readings and assignments should provide students with the skills to investigate grievances, critically evaluate their merit, participate in a hearing as an advocate, and prepare briefs for arbitration.

Grading:

Arbitration papers: 50%
Final examination: 50%

Office Hours:
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I. Arbitration and Its Setting
Elkouri, Chapter 1, pp. 1-22
Cooper, pp. 3-7

II. Utilization of the Grievance Procedure
Elkouri, Chapter 5, pp. 153-211
Cooper, pp. 337-42; MSEA Grievance Procedure
  Grievance defined
  Steps in grievance procedure
  Time limits
  Right of union representatives
  Observance of Grievance Procedure
  Notice of intent to advocate
III. Processing of Grievances and Arbitration Procedures
HREtc, Preventing and Resolving Employee Complaints
Elkouri, Chapter 7 - film
   Stating the issues
   Advisory opinions
   Deviation from pre-arbitral discussion
   Reporting the case for arbitration
   Attendance of witnesses: time, place, notice of hearing
   Default awards
   Scope of arbitrator's jurisdiction
   The award - arbitral remedies

IV. Courts and the Arbitration Process
Cooper, pp. 342-48; 317-36

V. Evidence and Proof in Arbitration
Elkouri, pp. 296-341, Chapter 8
   Admission of evidence
   Requiring the production of evidence
   Use of subpoenas
   Weight and credibility of evidence
   Evidence obtained by improper means
   Compromise offers
   Medical evidence (MSEA and State Police)

VI. Discipline and Discharge
Cooper, pp. 96-109
Elkouri, Chapter 15, pp. 650-708
   Principles of just cause
   Conduct away from plant
   Quantum of proof
   Grievant's past record
   Remedies

VII. Standards for Interpreting Contract Language
Elkouri, Chapter 9, pp. 342-65
   Legislative and interpretation
   Intent of the parties
   Language which is clear and unambiguous
   Normal and technical usage
   Agreement to be construed as a whole
   Avoidance of harsh results - reason and equity

VIII. Seniority
Elkouri, Chapter 14, pp. 586-649
Cooper, pp. 163-83
   Seniority units
   Merger of seniority lists
Seniority clauses
Determination of fitness an ability

IX. **Past Practice and Management Rights**
Cooper, pp. 138-62
Elkouri, Chapters 11 and 12, pp. 437-585
Custom and practice is part of the agreement
Practices as related to operational methods of benefits
Contract clauses regarding practices
Past practice in interpreting contract language
Management's rights and the NLRA
Assignment and duties, size of crews, overtime, subcontracting

X. **Use of Substantive Rules in Arbitration**
Elkouri, Chapter 10, pp. 366-413
The Trilogy
Post-Trilogy Supreme Court decisions (Misco)
Application of external law
Rules of law, agency principles, waiver and estoppel, parol evidence

XI. **Employee Rights and Benefits — Two Safety Issues**
Elkouri, Chapters 16 and 17, pp. 708-724; 725-802
Cooper, pp. 181-226
OSHA
Safety rules
Refusal to obey orders
Scheduling of vacations
Holiday pay, leaves

XII. **Standards in Arbitration of Interest Disputes**
Elkouri, Chapter 18, pp. 803-50

XIII. **Grievance Mediation**

XIV. **Drug Testing in Arbitration**
Slobodin, "What Corporate Managers Need to Know about Drug Testing," pp. 1-35