

2014 BRINGING ADMINISTRATORS TOGETHER CONFERENCE

Leading Effectively in a Unionized Environment

April 1, 2014

1:45 p.m.

UIC UNIVERSITY OF ILLINOIS
AT CHICAGO

UIC

Lincoln Hall

707 South Morgan Street

Workshop Presenter(s)

- Tom Riley
Director of Labor & Employee Relations
(312) 355-5510
thriley@uillinois.edu
- Lisa Caridine
Labor/Employee Relations Officer
(312) 996-8262
lcaridin@uic.edu

Please ...

- Turn off cell phones.
- Avoid side conversations.
- We will finish our presentation to allow 15 minutes for questions.
- Sign the attendance roster.
- Complete the evaluation at the end of the workshop.

UIC LABOR AND EMPLOYEE RELATIONS DEPARTMENT

Labor and Employee Relations

- The Labor and Employee Relations Department engages in several activities and services in the areas of labor/management relations, counseling, and support services to managers and employees.

Labor Relations services include:

- development of campus bargaining strategies and proposals
- labor contract negotiations and contract interpretation
- contract administration, including grievance hearings at the “Chancellor’s level”
- advice and consultations with managers and administrators

Employee Relations services include:

- counseling civil service employees on employment policies and rules as established by the University and Civil Service System
- advising managers on job behavior or performance of both civil service and academic professional (“AP”) employees, and implementation of a system of corrective/progressive discipline
- scheduling and conducting pre-disciplinary hearings and reconciliation meetings for civil service employees
- provision of “client relationship manager “ service to operating units, including AP employee relations issues

Workshop Objectives

- This workshop will explore the complexities and challenges of managing a unionized environment. Participants will learn techniques for effectively carrying out operational objectives and building effective relationships within a unionized work environment.
- Principles
 1. Respect the Process
 2. Have Clear Expectations and Objectives
 3. Maintain Fair and Consistent Practices
 4. The Importance of Accurate Documentation
 5. Responsible and Engaged MANAGEMENT for Employees to Contribute to Successful Operations
 6. Appreciate Your Support
- Campus Processes on Labor and Employee Relations

LABOR LAW APPLICABLE TO PUBLIC-SECTOR HIGHER EDUCATION

- National Labor Relations Act (“NLRA”)--applies to most private sector employers
- Illinois Educational Labor Relations Act (“IELRA”) and the Illinois Public Labor Relations Act (“IPLRA”), effective January 1, 1984, and July 1, 1984, respectively.
 - The Illinois General Assembly declared the purpose of the IELRA was to promote orderly, constructive and harmonious relationships between educational employees and their employers.
 - The General Assembly stated that this policy is best accomplished by (a) granting educational employees the right to organize and freely choose their representative; (b) requiring educational employers to negotiate and bargain with employees’ representatives and to enter into a written agreement with these representatives; and (c) establishing procedures which protect the rights of educational employees, their employers and the public.
 - Examples of different outcomes--graduate assistants, card check, interest arbitration, etc.

HOW UNIONS ORGANIZE

- Union organizing--gather signatures as “showing of interest,” may include mass mailings, phone calls, work and home visits to potential member employees
- Traditional rule, 30% of employees in an “appropriate bargaining unit” having a “community of interest” must sign union authorization cards/petition to trigger a secret ballot election
- “Appropriate bargaining unit”--presumptive units established by law for UIC
- If election, 50% + 1 of those voting determine the outcome
- In Illinois, public employees also have “majority interest” card check certification process – no secret ballot election – if 50% + 1 of bargaining unit sign cards, union is certified...certification =obligation to bargain

COLLECTIVE BARGAINING

- Exclusive Representation--Once a union is certified, even workers who do not belong to the union but are within the bargaining unit are bound by the collective bargaining agreement and cannot negotiate individual contracts with the employer. As a corollary, the employer may not extend different terms to any workers in the bargaining unit, even if those terms are more favorable, unless the collective bargaining agreement contemplates flexible terms.
- Mandatory Subjects of Bargaining--The parties must bargain over mandatory subjects of bargaining, which include wages, hours, and other "terms and conditions of employment."

COLLECTIVE BARGAINING

- Duty to Bargain in Good Faith--During the bargaining process, the parties are not required by law to reach agreement. They must, however, bargain in good faith.
- Unilateral Changes--During the time a collective bargaining agreement is in effect, the employer may not change a working condition that is a mandatory subject of bargaining, without first bargaining with the union. Even after the collective bargaining agreement expires, the employer must maintain the *status quo* and may not unilaterally change mandatory subjects of bargaining, until the parties have bargained to agreement or reached an impasse.

BARGAINING UNITS AT UIC

- Graduate Assistants-GEO, Local 6297 (IFT-AFT)
- Nurses-Illinois Nurses Association
- Clerical Employees - Service Employees International Union, Local 73
- Service Employees - Service Employees International Union, Local 73
- Technical Employees - Service Employees International Union, Local 73
- Professional Employees – Service Employees International Union, Local 73
- Police Officers - Metropolitan Alliance of Police - University of Illinois Police Chapter 381
- Police Sergeants and Lieutenants-Fraternal Order of Police IL Peace Officers No. 10

BARGAINING UNITS AT UIC

- Licensed Practical Nurses-Administrative Council for LPN's Assoc. of IL
- Boiler Operators - Firemen & Oilers-SEIU, Local 7
- Electricians - Local 134 International Brotherhood of Electrical Workers
- Electrical Technicians - Local 134 International Brotherhood of Electrical Workers
- Drivers - Teamsters Local 700 State & Municipal Teamsters, Chauffeurs & Helpers Union
- Security Guards - IL Federation of Public Employees, Local 4408 (IFT-AFT)
- Carpenters – Chicago and Northern Illinois District Council of Carpenters
- Painters - Painters District Council 14

BARGAINING UNITS AT UIC

- Operating Engineers Chicago - Local 399 International Union of Operating Engineers
- Operating Engineers Peoria - Local 399 International Union of Operating Engineers
- Operating Engineers Rockford - Local 399 International Union of Operating Engineers
- Pipefitters Association, Local 597, U.A.
- Chicago Journeymen Plumbers', Local Union 130, U.A..
- Tenure System Faculty – UIC United Faculty, Local 6456, IFT-AFT, AAUP
- Non-Tenure System Faculty – UIC United Faculty, Local 6456, IFT-AFT, AAUP

LABOR PHILOSOPHY/EFFECTIVE MANAGEMENT

- **UIC pursues objectives and strategies to support its established labor relations philosophy:**

Recognizing how critical the UIC staff is to the mission of teaching, research and service, we approach negotiations with our union-represented employees to be consistent with other HR programs striving to remain a destination employer with a distinctively competitive employment culture. We negotiate with the goal of reaching agreements with unions that are supportive of our employees and the goals of UIC.

- Treat all employees fairly, provide equitable wages and benefits
- Public praise, private discipline, motivate and coach
- Investigate--don't assume--and document in a timely manner
- Utilize objective records when preparing performance evaluations or discipline
- Learn and follow processes for mediation or hearing for issues raised by employees
- When collective bargaining agreement is in place, specific language trumps policy – if the contract is silent or non-specific, policy governs

ULPS AND GRIEVANCES

- An Unfair Labor Practice Charge (“ULP”) is brought by either employee or union (or, in some cases, the employer) at the Illinois Educational Labor Relations Board alleging a violation of statutory rights, e.g., failure to bargain in good faith, unilateral change in working conditions, interference or discrimination because of employees’ protected concerted or union activities, etc.
- Labor Board proceedings initiated by filing ULP charge and includes investigation, hearings, briefs and possible agency and court appeals.
- Grievance must be based upon violation of term(s) of the collective bargaining agreement (e.g., work schedule, overtime, meal breaks, vacation, seniority). Disciplinary actions are grieved as a violation of the contractual duty to discipline employees only for “just cause.”

ULPS AND GRIEVANCES

- Grievance hearings, investigations and meetings are during scheduled work hours within reason and subject to operations. Employee may have representative of their choice accompany them, including representatives who are not employees, subject to prior approval and operational requirements. Union has right to be present at grievance meetings.
- Issues of past practice, bargaining history and timeliness.
- Employee discharged from a status civil service position after completion of probationary period is entitled to a Merit Board hearing before the State University Civil Service System. If dismissed civil service employee is in a collective bargaining unit, employee may choose either Merit Board or union contract Grievance Procedure/Arbitration to appeal the dismissal.

ULPS AND GRIEVANCES

What is “Just Cause”? The *Seven Tests of Arbitrator Carroll Daugherty, Enterprise Wire Company, 46 LA 359 (1966):*

- Notice and warning of disciplinary consequences.
- The rule was reasonable and related to a legitimate business interest.
- Before discipline was administered, an investigation was made to determine the facts.
- The investigation was fair and objective, done promptly and thoroughly, with eyewitness and evidence documentation preserved.
- Substantial evidence or proof indicates the rule or policy was broken.
- The rule and subsequent penalty or discipline has been applied evenhandedly and without bias or discrimination--not disparate.
- The degree of discipline was reasonably related to the seriousness of the offense and the employee’s prior record--concepts of progressive discipline.

UNION REPRESENTATIVES/*WEINGARTEN* RIGHTS

- General contract language re: rights/obligations of union representatives
- *Weingarten* - The right of a unionized employees to have a union representative present during an investigatory interview was announced by the U.S. Supreme Court in a landmark 1975 decision, *National Labor Relations Board vs. Weingarten, Inc.* This right is known as the “Weingarten” right and is applicable to us under the IELRA.
 - Employees have *Weingarten* rights only during investigatory interviews. An investigatory interview occurs when a supervisor questions an employee to obtain information that could be used as a basis for discipline or asks an employee to defend his/her conduct. As a clarifying example, note that meetings held by management to explain or reinforce department rules and regulations are not investigatory in nature and therefore are not subject to Weingarten.
 - If an employee has a reasonable belief that discipline or other adverse consequences may result from what he or she says, the employee has the right to request union representation. Management is not required to inform the employee of his/her Weingarten right; it is the employee’s responsibility to make that request.

UNION REPRESENTATIVES/*WEINGARTEN* RIGHTS

- When the employee makes the request for a union representative to be present, you, as management, have three options:
 1. *You can stop questioning until the representative arrives; or*
 2. *You can call off the interview ; or,*
 3. *You can advise the employee that you are calling-off the interview unless the employee voluntarily gives up his/her rights to a union representative.*
- The Supreme Court has also ruled that during an investigatory interview, management must inform the union representative of the subject of the interrogation. The representative must be permitted to speak privately with the employee before the interview. During the questioning, the representative may interrupt to clarify a question or object to confusing or intimidating tactics. He/she may not act in a manner that is inappropriate or interferes with the interview.

LABOR GOVERNANCE AT UIC

- The Board of Trustees (“BOT”) of the University of Illinois, as the employing entity for UIC employees, is the management-side party to collective bargaining agreements. Individual campuses or units do not have standing to enter into a union contract. (The University of Illinois Act, 110 ILCS § 305).
- Labor relations and negotiations for the University are governed by applicable provisions of the Illinois Educational Labor Relations Act and the Illinois Public Labor Relations Act and related Regulations. (115 ILCS § 5/1, *et seq.*, and 5 ILCS § 315/1, *et seq.*).
- Campus has the obligation for negotiations and recommendation for approval to BOT-- “The Board of Trustees must ratify collective bargaining agreements...Prior to submission to the Board of Trustees for ratification, the Director of Labor will recommend tentative agreements for approval and signature...” “...the head of the campus human resources office shall invite interested parties to recommend changes in existing collective bargaining agreements and to participate in the formulation of a position for all affected units”... “The chief negotiator, in conjunction with the negotiations committee, is authorized to develop a tentative agreement to be submitted for ratification by the University after campus approval.” (University of Illinois Policy and Rules, excerpts from Policy 15).

LABOR GOVERNANCE AT UIC

- IELRA Regulations govern composition of bargaining unit parameters and establish presumptive campus-wide bargaining units (80 Ill. Adm. Code: Subtitle C, Ch. III, Part 1135).
- The State University Civil Service Act and related Regulations govern many areas of civil service employment, such as classification, examinations, appointments, transfers, layoffs, seniority, etc. (110 ILCS § 70).
- Federal and state laws, along with University Civil Service System Statute and Rules and University of Illinois Policy and Rules are incorporated into all University collective bargaining agreements. (Policy 15).
- The designation by the Civil Service System of the medical center as a “separate place of employment” is only for purpose of certain functions under the Civil Service System and does not impact the collective bargaining process or governance (110 ILCS § 70).

MYTHS RELATED TO DISCIPLINARY PROCESS

**What have you heard about
disciplining Civil Service employees?**

MYTHS - DISCIPLINARY PROCESS

Myth Busters **T** True or **F** False:

- F** - You can never discipline or fire a CS employee
- F** - Once an employee becomes status they have a job for life
- F** - The Unions help make decision regarding disciplining CS employees
- F** - It a CS employee's right to use their sick-time whenever they want until it's exhausted (earn and burn). Then you have to let them use their vacation time.

MYTHS - DISCIPLINARY PROCESS

Myth Busters **T** True or **F** False:

- T** - You can't discipline a CS employee w/o Union representation
- F** - A supervisor is 'stuck' with a 'bad' employee; there's nothing he/she can do
- F** - During the Performance Review process is when an employee should be disciplined

SUPERVISOR EMPOWERMENT TOOLS

- **Provide employee with:**
 - Established written work guidelines and expectations
 - Written requirement to provide substantiation of absence due to illness/personal business
 - Infractions should be documented:
 - time card or report sheets copied
 - examples of poor work performance

FOSA

- **F** - Facts
- **O** - Objectives
- **S** - Solutions
- **A** - Actions

FACTS

- When documenting for discipline always include:
 - What
 - When
 - Where
 - Who was involved

Remember to document observable and specific incidents.

OBJECTIVES

- Performance objectives should be specific and positive
- Use objectives to communicate specific expectations

SOLUTIONS

- To help the employee reach his/her objectives:
 - Suggest training
 - Offer help
 - Schedule frequent meetings
 - Coaching

ACTIONS

Explain the action you will take if the employee fails to meet expectations.

DISCIPLINARY PROCESS AT UIC

- Verbal Counseling
 - Letter of Warning
 - Disciplinary Suspension(s)
 - Recommendation for Discharge
- *The disciplinary process may start or move to any step within the established process depending on the severity of the infraction(s).

MEETING NOTIFICATION

- Three (3) workdays notification required, include:
 - Specified infractions (charges)
 - Meeting guidelines
 - Supporting documentation

VERBAL COUNSELING

- Initial informal step of progressive discipline:
 - Schedule meeting in a private setting
 - Follow-up Memo outlining what was discussed

A copy of the memo is **NOT** placed in HR file.
Counseling is informal.

LETTER OF WARNING

- Initial formal step of progressive discipline:
 - Pre-disciplinary action meeting held at department level
 - If warranted, department will issue follow-up Letter of Warning
 - Forward two (2) copies to Labor & Employee Relations

DISCIPLINARY SUSPENSION

- Three (3) step unpaid suspension in progressive discipline process:
 - Discuss situation, develop charges, schedule pre-disciplinary action meeting with ER Officer
 - Caucus with ER Officer
 - If warranted, ER Officer prepares Notice of Disciplinary Suspension
 - Department serves Notice of Disciplinary Suspension to employee

DISCHARGE

- Final step of progressive discipline:
 - Provide documentation to ER Officer formally requesting discharge
 - ER Officer drafts Intent to Discharge Letter
 - ER Officer conducts Reconciliation Meeting
 - If warranted, Written Charges for Discharge are served to employee

CONTACTS

- Tom Riley, Director of Labor and Employee Relations (312) 355-5510
- Stephen Katz, Associate Director of Labor and Employee Relations (312) 355-5901
- Dan Harper, Associate Director of Labor and Employee Relations (312) 413-4788
- Marilyn LaBlaiks, Assistant Director of Labor and Employee Relations (312) 996-1232
- Elise Williams, Labor/Employee Relations Officer (312) 996-9036
- Lisa Caridine, Labor/Employee Relations Officer (312) 996-8262
- Milan J. Valuch, Human Resource Representative (312) 355-3055

Questions?