

**LEFKOWITZ ON
PUBLIC SECTOR
LABOR AND
EMPLOYMENT LAW**

FOURTH EDITION

VOLUME I

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ISBN: 978-1-57969-501-9
Product Number: 42058
SKU: 4104205001601

DEDICATION TO THE FOURTH EDITION

The Fourth Edition of Public Sector Labor and Employment Law is dedicated to Jerome (“Jerry”) Lefkowitz. For over three decades, Jerry was the principal guiding hand and editorial overseer in the development and publication of this Treatise. While many others made important and noteworthy contributions as editors, researchers, and writers, Jerry’s leadership role as its Editor-in-Chief was central in the research, development, and the editing of prior editions and supplements.

In honor of Jerry’s inspiring and devoted service, the New York State Bar Association Labor and Employment Law Section decided in 2015 to rename the Treatise as *Lefkowitz on Public Sector Labor and Employment Law*.

For most of his 57-year legal career, Jerry worked in the area of labor and employment Law. As an Assistant Attorney General, he represented the State of New York in appeals related to New York’s private sector labor law. Between 1961 and 1965, Jerry was Counsel to the New York State Department of Labor, and then its Deputy Industrial Commissioner from 1965 to 1967. In those positions, he helped draft amendments to New York’s private sector collective bargaining law and handled other private sector issues under New York law.

As part of his responsibilities with the New York State Department of Labor, Jerry had a hand in drafting the Taylor Law following the historic 1966 transit strike. From 1967 to 1987, Jerry served as Deputy Chairman of the Public Employment Relations Board (PERB) under Chairmen Bob Helsby and Harold Newman. As part of his duties at PERB, Jerry drafted agency decisions, its first Rules of Procedure, and proposed legislation, and also helped to develop agency policies concerning conciliation matters.

In 1987, Jerry left state service and for 20 years, served as a public sector labor law practitioner before PERB, the courts, and in arbitration. In 2007, Jerry was nominated to be, and confirmed as, the fifth PERB Chairperson, and served as a PERB Board member until 2015.

During his illustrious career, Jerry mentored and taught by example many practitioners working in the field of New York public sector labor relations. As a role model, he taught the importance of humility, intellectual vigor, and integrity. He authored numerous scholarly articles and book chapters, taught at Columbia Law School, and lectured widely on public labor and employment law. He is a former Chair of the New York

State Bar Association Labor and Employment Law Section. He was also active in the American Bar Association Labor and Employment Law Section's State and Local Government Bargaining and Employment Law Committee, and the New York City Bar Association. In 2011, Jerry was awarded NYSBA's Award for Excellence in Public Service, and the ABA's Arvid Anderson Public Sector Labor and Employment Attorney of the Year Award.

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INTRODUCTION TO THE FIRST EDITION

The need for a treatise on the Taylor Law was first noted in 1978 by Ida Klaus, then a member of the Public Employment Relations Board. Having had an extensive background in the practice of labor law under the National Labor Relations Association, she knew the value of several fine works dealing with that statute, especially *The Developing Labor Law*, a product of the Labor Section of the American Bar Association. She indicated that such a research tool would be very helpful to lawyers in New York State. Those with active public sector labor practices could be expected to have comprehensive files of their own and would have access to the PERB reports. Even so, they would benefit from a systematic and thorough presentation of the interpretations of the Taylor Law. Furthermore, the general practitioner who has an occasional public sector case would find such a presentation invaluable.

PERB's Chairman, Harold R. Newman, was persuaded by this suggestion and sought to have such a treatise prepared. He found, however, that its preparation would exceed PERB's resources. It was, therefore, a matter of satisfaction to PERB and to practitioners generally when the Labor Section of the New York State Bar Association decided, independently, to undertake this project. This decision was made at the initiation of Section President John D. Canoni, who appointed a balanced and knowledgeable editorial committee.

One of the first decisions of the Editorial Committee was to make an ambitious project even more ambitious. Not only would the treatise deal with the Taylor Law, but it would also cover all other aspects of the law of public employment in New York State. These included matters related to Taylor Law negotiations such as contract enforcement and the arbitration process. They also included unrelated but important issues such as Civil Service Law, Retirement Law and federal and state statutory protections.

The task of preparing this treatise has been huge. Dozens of members of the Labor Section have submitted valuable contributions. The Editorial Committee has forged these separate contributions into fifteen integrated chapters. The accuracy of these chapters, especially those dealing with the Taylor Law, has been checked by attorneys employed by New York State agencies who administer the respective programs. In this connection, particular thanks is owed to PERB's Chairman Harold R. Newman and the entire PERB legal staff for their cooperation and effective efforts in insuring the comprehensiveness and accuracy of the core of this book, its coverage of the Taylor Law.

Much credit is also due to the Section presidents during the preparation of this book, John D. Canoni, Jules Smith, Carl R. Krause, John E. Sands and Joel C. Glanstein. They have all made the preparation of this book a high priority of the Section and, where necessary, have prodded Section members for contributions. Their encouragement and assistance in finding Section members to help when help was needed was invaluable.

Finally, I want to thank the staff of the New York State Bar Association. Catherine Schunk, who was a staff attorney when the project started, was helpful. Dan McMahon, the Publication Supervisor, has provided outstanding service to the Editorial Committee. His staff worked hard on our project, with special thanks going to Melody VanAlstyne. Other Association staff members whose work is appreciated are Leslie Scully, Theresa Gregg and Brendan J. Keane.

My work on this book has been very satisfying to me. I appreciate the confidence reflected in my appointment as editor-in-chief. We, the members of the Editorial Committee, hope that our work will be useful and used by our fellow attorneys.

Jerome Lefkowitz
Albany, New York
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Additionally, this Third Edition is dedicated to Melvin H. Osterman, Esq. (1934–2005), who was an Editor-in-Chief of this book and was instrumental in its creation and development. Among his many accomplishments, Mr. Osterman was counsel to the Taylor Committee and was called upon to be a draftsman of the Taylor Law.

His talents and professionalism are greatly missed.

In recognition and gratitude for their ongoing work, below are listed the Editors-in-Chief and Contributing Editors from the Second and First Editions:

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