

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

**5TH EDITION**

**VOLUME I**

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## INTRODUCTION

The 5th edition of Lefkowitz on Public Sector Labor and Employment is dedicated to the many editors-in-chief and contributors of prior editions and updates that have been published over the past four decades by the New York State Bar Association. Chief among the editors-in-chief were Jerome Lefkowitz and Melvin H. Osterman, who were there at the beginning in the drafting and later implementation of the Taylor Law. The treatise is named after Mr. Lefkowitz, who was the editor-in-chief of the first volume that was published in 1987.

Since then, the treatise has remained an important project of the New York State Bar Association's Labor and Employment Section. Today, Lefkowitz on Public Sector Labor and Employment Law remains the only comprehensive book on the subject and is a vital resource for judges, arbitrators, public employers, unions and their advocates. The treatise's success has been due in large part to the leadership of prior Section Chairs, the comradery and fraternity of Section members, and the cooperation from Public Employment Relations Board officers and staff.

At a time of deep societal division and acrimony, Lefkowitz on Public Sector Labor and Employment is an important example of professionals with differing perspectives on law and justice coming together to research, write and edit a dispassionate publication on issues of substantial public importance. The publication would not have been possible without the generosity of law firms, unions and public employers that granted their attorneys time to contribute to the volume, and the contributors themselves, who volunteered their own time to do so.

In that context, it is important that we publicly express our appreciation to co-editor-in-chief Adam Ross for investing hundreds of hours in substantially reorganizing the treatise, attempting to eliminate redundancies and standardize citations and syntax, and otherwise making this edition much more user friendly.

The completion of the 5th edition of Lefkowitz on Public Sector Labor and Employment Law, covering the period through December 31, 2022, is admittedly long overdue. It is, however, also a new beginning as we commence plans for an update that will cover developments through December 31, 2024. We strongly encourage those using this treatise to both become a contributor to the next edition and an active member of the New York State Bar Association and its Labor and Employment Law Section.

## 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 15 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  
December 9, 1987

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Mr. Herbert is a former Chair of the New York State Bar Association's Labor and Employment Law Section. He has authored book chapters and law review articles on public sector labor law and history, higher education unionization and collective bargaining, workplace technologies, and the application of the First and Fourth Amendments to public employment

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Richard K. Zuckerman is a management-side labor and employment lawyer and a Member of Keane & Beane, P.C. in Melville, New York. Before that, he was a Partner in Lamb & Barnosky, LLP in Melville and Rains & Pogrebin, P.C. in Mineola, New York.

Mr. Zuckerman has been repeatedly named as a *Best Lawyer in America*® in the categories of Education Law, Employment Law – Management, Labor Law – Management, and Litigation – Labor and Employment. He was also designated as the *Best Lawyers in America's*® 2019 and 2017 *Labor Law – Management Lawyer of the Year – Long Island, NY*. Additionally, he has been repeatedly named a New York Super Lawyer in Labor and Employment Law and a Who's Who in American Law and has been selected as a Who's Who in Labor Law by the Long Island Business News.

Mr. Zuckerman has served as the Chair of the New York State Bar Association's (NYSBA's) Labor and Employment Law Section as well as its Local and State Government Law Section. He is a former President of the New York State Association of School Attorneys and a member of the NYSBA's House of Delegates. He is a Fellow of the Governors of The College of Labor and Employment Lawyers and the American and New York Bar Foundations. He was also an Inaugural Member of the Board of Advisors for the St. John's University School of Law's Center for Labor and Employment Law.

Mr. Zuckerman was an early contributing author to Lefkowitz on Public Sector Labor before becoming a co-editor. He was also an editor for the American Bar Association's treatise Discipline and Discharge in Arbitration and a contributing author to the ABA's contract arbitration treatise, How Arbitration Works (Elkouri & Elkouri). He has authored numerous articles and lectured on many labor and employment law topics including, among others, collective bargaining; labor and employment law in tough economic times; public employee privacy and First Amendment issues; privatizing and outsourcing public services; getting sick, injured and disabled employees back to work; ethics for attorneys practicing labor and employment law; communicating with the press and the public in times of crisis; New York's lawful off-duty conduct law (Labor Law § 201-d); General Municipal Law §§ 207-a and 207-c; romance in the workplace; and employment issues arising out of the September 11, 2001 tragedy.

Mr. Zuckerman is admitted to the United States Supreme Court, the Second Circuit Court of Appeals, the U.S. District Courts for the Eastern and Southern Districts of New York and New York State courts. He is a *summa cum laude* graduate of Stony Brook University and a graduate of Columbia Law School.