

SYLLABUS FOR THE 2022 BAR EXAMINATIONS

LABOR LAW AND SOCIAL LEGISLATION

NOTE: This syllabus is an outline of the key topics that fall under the core subject “Labor Law and Social Legislation” Accordingly, all Bar candidates should be guided that only laws, rules, issuances, and jurisprudence pertinent to these topics as of June 30, 2021 are examinable materials within the coverage of the 2022 Bar Examinations.

I. GENERAL PRINCIPLES

- A. Basic policy on labor
- B. Construction in favor of labor
- C. Burden of proof and quantum of evidence in labor cases
- D. Legal basis under the 1987 Constitution, Civil Code, and Labor Code

II. RECRUITMENT AND PLACEMENT OF WORKERS

- A. Recruitment and placement (Labor Code and R. A. No. 8042, as amended by R.A. No. 10022)
 - 1. Illegal recruitment and other prohibited activities
 - a. Elements
 - b. Types of illegal recruitment
 - c. Illegal recruitment vs. *estafa*
 - 2. Liability of local recruitment agency and foreign employer
 - a. Solidary liability
 - b. Theory of imputed knowledge
 - 3. Entities prohibited from recruiting
 - 4. Cancellation of license or authority
 - 5. Termination of contract of migrant worker without just or valid cause
 - 6. Ban on direct hiring, exceptions
- B. Employment of non-resident aliens

III. LABOR STANDARDS

- 1. Employer-employee relationship
- 2. Test to determine existence
- 3. Employee vs. independent contractor
- A. Conditions of employment
 - 1. Covered employees/workers
 - 2. Hours of work
 - a. Normal hours of work; hours worked
 - b. Meal periods
 - c. Night-shift differential

- d. Overtime work
 - e. Compressed work week, flexible work arrangement alternative work arrangements, telecommuting program
 - 3. Rest periods
 - 4. Holidays
 - 5. Service charges
 - 6. 13th month pay
- B. Wages
 - 1. Payment of wages
 - 2. Prohibitions regarding wages
 - 3. Facilities vs. supplements
 - 4. Minimum wage
 - 5. Wage distortion
 - 6. Non-diminution of benefits
- C. Leaves
 - 1. Service incentive leave
 - 2. Expanded Maternity leave
 - 3. Paternity leave
 - 4. Parental leave for solo parents
 - 5. Leave benefits for women workers under R.A. No. 9710 and R.A. No. 9262
- D. Special groups of employees
 - 1. Women
 - a. Discrimination
 - b. Stipulation against marriage
 - c. Prohibited acts
 - 2. Minors (R.A. No. 7610, as amended by R.A. No. 9231)
 - a. Child labor vs. working child
 - b. Allowed working hours and industries of a working child
 - c. Prohibited acts
 - 3. *Kasambahay* (R.A. No. 10361)
 - 4. Homeworkers
 - 5. Night workers
 - 6. Persons with Disabilities
 - a. Discrimination
 - b. Incentives for employers
- E. Sexual Harassment in the work environment
 - 1. Anti-Sexual Harassment Act (R.A. No. 7877)
 - 2. Safe Spaces Act (R.A. No. 11313)

IV. SOCIAL WELFARE LEGISLATION

- A. SSS Law (R.A. No. 8282)

1. Coverage and exclusions
2. Dependents and beneficiaries
3. Benefits
- B. GSIS Law (R.A. No. 8291)
 1. Coverage and exclusions
 2. Dependents and beneficiaries
 3. Benefits
- C. Limited Portability Law (R.A. No. 7699)
- D. Disability and death benefits
 1. Labor Code
 2. POEA-Standard Employment Contract for Seafarers

V. LABOR RELATIONS

- A. Right to self-organization
 1. Who may join, form, or assist labor organizations or workers' associations
 2. Restrictions as to managerial employees, supervisory employees, confidential employees, employee-members of cooperatives, alien employees, and government employees
 3. Determination of appropriate bargaining unit (ABU), effect of inclusion of employees outside of the ABU
 4. Non-interference with workers' rights to self-organization
- B. Legitimate labor organizations
 1. Registration with the DOLE
 2. Cancellation of registration
 3. Affiliation/disaffiliation from national union or federation
 4. Rights of legitimate labor organizations
 5. Rights and conditions of membership in legitimate labor organizations
 6. Check off, assessments, union dues, and agency fees
 7. Union security clause
- C. Bargaining representative
 1. Modes to acquire status as Sole and Exclusive Bargaining Agent (SEBA)
 - a. SEBA Certification
 - b. Certification/Consent Election
 - c. Bars to the holding of Certification/Consent Election
 - d. Failure of election, Run-Off Election, Re-run election
 - e. Employer as a mere bystander rule
- D. Collective bargaining
 1. Duty to bargain collectively, bargaining in bad faith
 2. Collective bargaining agreement (CBA), mandatory provisions

3. Signing, posting, registration
4. Term of CBA, freedom period
- E. Unfair Labor Practices
 1. Nature, aspects
 2. By employers
 3. By labor organizations
- F. Peaceful concerted activities
 1. Strikes
 - a. Grounds for strike
 - b. Mandatory procedural requirements
 - c. Legal strike vs. illegal strike
 - d. Prohibited acts during strike
 - e. Liability of union officers and members for illegal strike and illegal acts during strike
 2. Picketing
 3. Lockouts
 - a. Grounds for lockout
 - b. Mandatory procedural requirements
 4. Assumption of jurisdiction by the DOLE Secretary
 5. Injunctions

VI. TERMINATION OF EMPLOYMENT

- A. Security of tenure
 1. Categories of employment as to tenure
 - a. Regular
 - b. Casual
 - c. Probationary
 - d. Project
 - e. Seasonal
 - f. Fixed-term
 - g. Work-pool employees
 2. Legitimate subcontracting vs. labor-only contracting
 - a. Elements
 - b. Trilateral relationship
 - c. Solidary liability
- B. Termination by employer
 1. Substantive due process
 - a. Just causes
 - b. Authorized causes
 2. Procedural due process
 - a. Two-notice rule
 3. Illegal dismissal, reliefs therefrom
 - a. Reinstatement
 - b. Backwages
 - c. Separation pay, doctrine of strained relations

- d. Damages
- e. Attorneys' fees
- f. Liabilities of corporate officers
- g. Burden of proof
- C. Termination by employee
 - 1. Resignation versus constructive dismissal
 - 2. Abandonment
- D. Preventive Suspension
- E. Floating status
- F. Retirement

VII. MANAGEMENT PREROGATIVE

- A. Discipline
- B. Transfer of employees
- C. Productivity standards
- D. Bonus
- E. Change of working hours
- F. *Bona Fide* Occupational Qualifications
- G. Post-employment restrictions
- H. Clearance procedures
- I. Limitations on management prerogative; police power of the State

VIII. JURISDICTION AND RELIEFS

- A. Mandatory conciliation-mediation, SENA
- B. Labor Arbiter
- C. National Labor Relations Commission
- D. Judicial review of labor rulings
- E. Bureau of Labor Relations
- F. National Conciliation and Mediation Board
- G. POEA
- H. DOLE Regional Directors
- I. DOLE Secretary
- J. Grievance machinery
- K. Voluntary arbitrator
- L. Prescription of actions
 - 1. Money claims
 - 2. Illegal dismissal
 - 3. Unfair labor practice
 - 4. Offenses under the Labor Code
 - 5. Illegal recruitment

- NOTHING FOLLOWS -