

**CARLETON UNIVERSITY  
DEPARTMENT OF LAW AND LEGAL STUDIES**

**COURSE OUTLINE**

**LAWS 3401A  
EMPLOYMENT LAW**

**Fall 2013**

**PREREQUISITES**

1.0 credit from LAWS 2003 [1.0] (no longer offered), LAWS 2005 [1.0] (no longer offered) LAWS 2201, LAWS 2202, LAWS 2501, LAWS 2502, BUSI 2601.

**TERM**

Fall 2013

**Day & Time:**

Tuesday 8:35 P.M. – 11:25 P.M.

**Room:**

Please check Carleton Central for up to date Room Allocation

**INSTRUCTOR:**

**Michael Mac Neil**

D598 Loeb

613-520-2600 x 3684

[michael\\_macneil@carleton.ca](mailto:michael_macneil@carleton.ca) (best way to contact me!)

**OFFICE HOURS:** Monday: 10:00 AM – 11:00 AM

Tuesday: 12:00 - 1:00 PM;

Or by appointment. Many issues can be dealt with before or after class, but if you want to set up a more formal appointment, contact me by email or by phone.

**EMAIL:**

Because of the spam filtering tools I use, I would greatly prefer if any email communication to me comes from your Carleton email address with "LAWS3401" in the Subject line of the email. If this condition is not met, there is a possibility that your email will end up in a junk folder, and may not be seen.

## STUDENTS REQUIRING ACADEMIC ACCOMMODATION

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Academic Accommodations for Students with Disabilities:** The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

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## COURSE DESCRIPTION (from University Undergraduate Calendar)

Legal regulation of the employment relationship; its contractual basis; defining employment; rights and duties of employees and employers; termination of employment; statutory regulation through employment standards legislation, human rights codes, workers' compensation acts, occupational health and safety and related statutes.

## COURSE OVERVIEW

This course explores how law regulates the employment relationship in Canadian society. It will identify some of the historical, economic and political influences on law. We will focus particularly on legal regulation in non-unionized workplaces. We will discuss values that inform the legislative, judicial, administrative, contractual and informal rules and norms through which law regulates. You will be expected to gain an understanding of the rights and responsibilities of various actors in the regulatory system, and of the legal and institutional relationships among the actors.

The course concentrates on the employment laws applicable to the private sector. Both common law and statutory rules will be analyzed, with a focus on Ontario rules. Hence, particular attention will be paid to Ontario statutes such as the Employment Standards Act, 2000, the Human Rights Code and the Occupational Health and Safety Act. You will be expected to acquire knowledge of legal rules and to apply that knowledge to concrete problems. You should be able to assess policy implications of various rules and proposals. It will be important to gain an understanding of the relationship between employment law and the economic, political, and social conditions within which this legal system operates. Some of the questions that may be considered include:

- What is the meaning of work?
- How is employment similar to and different from other work relationships?
- Does it make sense to use contract as the preeminent legal device for regulating employment relationships?
- What kinds of obligations should courts imply into the employment contract?
- How free should parties be in defining the terms of the employment contract?
- Why do we need employment standards legislation?
- Is there a danger of over-regulating employment relationships?
- How do we guarantee fairness in employment relationships?
- How do we balance efficiency and fairness claims?
- What is the significance of applying human rights legislation in the workplace?
- How much privacy are workers entitled to?
- How do we best promote family-friendly workplaces
- How does the Charter of Rights protect workers, if at all?
- Can we do more to protect Canadians from unsafe and unhealthy working conditions?

## COURSE OBJECTIVES

- Gain an understanding of the social, political, economic and historical context for the legal regulation of employer-employee relations in Canada
- Obtain a sound knowledge of the Ontario Employment Standards Act, 2000 and related statutes regulating employment in Ontario;

- Apply legal knowledge to solving workplace-related problems
- Learn about the role of legislatures, courts, administrative tribunals, and government officials in the employment law system;
- Become familiar with some of the scholarly literature about employment law in Canada;
- Develop the capacity to analyze legal policy choices in the employment relations context;
- Develop a capacity to engage in research of primary and secondary materials relating to Canadian employment law;
- Improve skills in applying legal rules to propose solutions to employment law conflicts;
- Enhance written communication skills;
- Develop collaborative approaches to learning in the classroom

## Assigned Readings

There is no required text for the course. Most readings are available online. A complete list, with links, will be made available through cuLearn.

Students are expected to read assigned material before coming to class, and to submit weekly a response to a question relating to the readings. Analysis of the assigned material will take the form of classroom discussion in which everyone is expected to participate, supplemented by lecturing. Problems will be regularly used in class to help focus the learning experience. Only by participation in class discussions combined with advanced preparation can you expect to obtain maximum benefits from the course.

### Strongly Recommended Texts:

Geoffrey England, *Individual Employment Law* (2nd ed., 2008). Available at the University Bookstore. This provides a very good, critical overview of employment law in Canada. It not only describes the key rules, it asks probing questions about the fairness of the rules.

Bob Barnettson, *The Political Economy of Workplace Injury in Canada* (Athabasca University Press, 2010) (This text contains required readings; it is available online through a Creative Commons licence at [http://www.aupress.ca/books/120178/ebook/99Z\\_Barnetson\\_2010-The\\_Political\\_Economy\\_of\\_Workplace\\_Injury\\_in\\_Canada.pdf](http://www.aupress.ca/books/120178/ebook/99Z_Barnetson_2010-The_Political_Economy_of_Workplace_Injury_in_Canada.pdf)).

Peter Neumann and Jeffrey Sack, *eText on Wrongful Dismissal and Employment Law*, 1st ed, Lancaster House, <http://canlii.org/en/commentary/wrongfuldismissal/> - This text provides a short description of key employment law rules relating to wrongful dismissal, with links to key cases. It is a very handy starting place for understanding the legal framework.

In addition, you will be expected to closely read many provisions of various statutes regulating the employment relationship. These include:

Ontario [Employment Standards Act, 2000](#)  
 Ontario [Human Rights Code](#)  
 Ontario [Occupational Health and Safety Act](#)  
 Ontario [Workplace Safety and Insurance Act, 1997](#)

These statutes are available online, (most conveniently at the CanLII website: <http://www.canlii.org/en/index.php>.) You will be provided, on cuLearn, from time to time with suggestions of specific sections of these statutes that you should read.

## cuLearn

This course will make extensive use of the online cuLearn course management system. It provides a facility whereby a course website is maintained, allowing me to provide you with links to relevant readings, to post course notes, commentary, and assignments, to facilitate the electronic submission of assignments, and to provide you with access to your grades. It is absolutely essential that you regularly check the cuLearn site for the course. cuLearn is accessible through the Internet from off-campus or through the University's computer labs, using compatible web browsers. The URL for cuLearn is <http://culearn.carleton.ca>.

cuLearn can be accessed using your MyCarletonOne account, with the same ID and password.

In addition, because of the spam filtering tools I use, I would greatly prefer if any email communication with me comes from cuLearn or from your official Carleton account and with LAWS 3401 in the title line of the Email. If it does not come from that address and with this header, there is considerable risk that it may not get through to me.

## EVALUATION

		Due Date
Participation	10%	Weekly
Group Project: Case Analysis	25%	October 15
Policy Position Paper	30%	November 15
Final Exam	35%	To be Scheduled

In order to obtain a passing grade in this course, the Final Exam must be written.

1. **Participation** (Contribution to Final Grade: 10%) (Weekly submission)
  - a) In advance of each class, you are required to read assigned readings and submit a short (maximum 300 words) response to a question. The response must be submitted by

noon on the day of the class. No exceptions permitted. For each response submitted, you will get one point, to a maximum of ten for the term, if and only if:

- i) the response is original (not copied from anywhere else, and especially not copied from another student), and
  - ii) the response demonstrates that you have read assigned material. Your answer does not have to be right, it just must demonstrate that you have grappled with the question asked and that you have read assigned material.
2. **Case analysis –** (Contribution to Final Grade: 25%). Distributed in class on September 24<sup>th</sup> and is due on October 15<sup>th</sup>. You will be given a factual scenario, and asked to write a memorandum in which you analyze the applicable law. This will require that you do some research that goes beyond the assigned readings. Expected length: 2000-2500 words. This will be a **group assignment**.
3. **Policy Position Paper** (Contribution to Final Grade: 30%) (Distributed to class in early October, and due on November 15<sup>th</sup>.)
- a) You are asked to take the role of a policy advisor, writing on behalf of either a workers association or an employer organization. The policy position paper will be directed to a legislative committee examining the need to reform employment-related legislation. In the position paper, you will clearly identify the reform that you believe to be necessary and the reasons why it is necessary. Expected length: 2000-2500 words This is an individual assignment.

All assignments must be submitted on the dates stipulated, or by the date to which you have been assigned. Failure to do so will result in the imposition of a penalty of one letter grade for each day the assignment is late. Further details about the form of submission will be provided when the assignment is made available.

### **Final Exam** (Contribution to Final Grade: 35%)

The final exam will be a three hour exam during the formally scheduled final examination period. Precise details as to the format will be discussed in class later in the term. Note that final exams are not returned to students. They are retained by the instructor. Contact me if you want to review it.

### **SCHEDULE** (Subject to Change – Required Readings will be posted on cuLearn)

Class 1	Sept. 10	Introduction; Social and Normative Dimensions of Work
Class 2	Sept. 17	Perspectives on Work and Employment
Class 3	Sept. 24	Workplace Values I
Class 4	Oct. 1	Workplace Values 2
Class 5	Oct. 8	Wrongful Dismissal and Contract
Class 6	Oct. 15	Employment Standards I

Class 7	Oct. 22	Employment Standards II
	Oct. 29	No class – Fall Break
Class 8	Nov. 5	Human Rights I
Class 9	Nov. 12	Human Rights II
Class 10	Nov. 19	Human Rights III
Class 11	Nov. 26	Occupational Health and Safety; Workers Compensation
Class 12	Dec. 3	Review

## GENERAL GUIDELINES ON ASSIGNMENTS FOR THIS COURSE

### Late Policy

Weekly participation assignments will not be accepted after the deadline. The Policy Position Paper must be submitted electronically through cuLearn. Late assignments will be penalized **one grade point per day (or part day)** that they are late (i.e. B to B-, B- to C+, etc ). See the departmental policy regarding assignment referred to in the next section.

## LAW DEPARTMENT POLICY AND PROCEDURES

The Law Department outlines its general policies in its [Policy and Procedure Statement](#) which is hereby incorporated as part of this syllabus. You should be familiar with these regulations. If you require any clarification please ask me.

## ACADEMIC INTEGRITY

*The University Senate defines plagiarism as “presenting, whether intentional or not, the ideas, expression of ideas or work of others as one’s own.”* This can include:

- reproducing or paraphrasing portions of someone else’s published or unpublished material, regardless of the source, and presenting these as one’s own without proper citation or reference to the original source;
- submitting a take-home examination, essay, laboratory report or other assignment written, in whole or in part, by someone else;
- using ideas or direct, verbatim quotations, or paraphrased material, concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another’s data or research findings;
- failing to acknowledge sources through the use of proper citations when using another’s works and/or failing to use quotation marks;
- handing in "substantially the same piece of work for academic credit more than once without prior written permission of the course instructor in which the submission occurs."

Plagiarism is a serious offence which cannot be resolved directly with the course instructor. The Associate Dean of the Faculty conducts a rigorous investigation, including an interview with the

student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They can include a final grade of "F" for the course.

Please consult the complete [Academic Integrity Policy](#)

at <http://www1.carleton.ca/senate/ccms/wp-content/ccms-files/Academic-Integrity-Policy.pdf>