

**COURSE OUTLINE**

**LAWS 3401A - EMPLOYMENT LAW**

**Fall 2011**

**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 2011

**Day & Time:**

Tuesday 8:35 A.M. – 11:25 A.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:**

Mondays: 12:00 - 1:00 PM;

Tuesday: 12:00 PM – 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 with me either comes from your Carleton email address or has "3401" in the Subject line of the email. Unless one of these two conditions is met, there is a very high likelihood that your email will end up in a junk folder, and may not be seen.

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## 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/accommodation/>

**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/accommodation/>

**Students with disabilities** requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities (PMC) for a formal evaluation of disability-related needs. Documented disabilities could include but are not limited to mobility/physical impairments, specific Learning Disabilities (LD), psychiatric/psychological disabilities, sensory disabilities, Attention Deficit Hyperactivity Disorder (ADHD), and chronic medical conditions. Registered PMC students are required to contact the PMC, 613-520-6608, every term to ensure that I receive your Letter of Accommodation, no later than two weeks before the first assignment is due or the first in-class test/midterm requiring accommodations. If you only require accommodations for your formally scheduled exam(s) in this course, please submit your request for accommodations to PMC by the deadlines published on the PMC website: <http://www2.carleton.ca/pmc/newand-current-students/dates-and-deadlines/>

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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;
- 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;
- Improve teamwork skills by working in groups.

## 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 WebCT.

### Supplementary Texts (Optional):

Geoffrey England, *Individual Employment Law* (2nd ed., 2008). Available at the University Bookstore.

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, but it might be relatively useful to have a hard copy, available through the University Bookstore.)

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 WebCT, from time to time with suggestions of specific sections of these statutes that you should read.

Students are expected to read assigned material before coming to class, including posted question responses. Analysis of the assigned material will take the form of classroom discussion in which everyone is expected to participate, supplemented by lecturing. Problems may be assigned from time to time for review in class, and all students are expected to prepare answers in advance. Only by participation in class discussions combined with advanced preparation can you expect to obtain maximum benefits from the course.

## WEBCT, CARLETON CONNECT

This course will make extensive use of an Internet-based course management tool known as WebCT. WebCT 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 also contains a discussion group facility, the ability for students to create their own webpages and webpages for group presentations. Not all of the WebCT facilities will be used, but it is absolutely essential that you regularly check the WebCT site for the course. WebCT is accessible through the Internet from off-campus or through the University's computer labs, using compatible web browsers. The URL for WebCT is <http://webct.carleton.ca>.

In order to access WebCT, you require an ID and password, which is the same as your Carleton Connect ID and password. Carleton Connect is an Internet based facility that provides you with email and links to relevant material. It is available at <http://connect.carleton.ca>. If you have not already done so, it is absolutely essential that you obtain a Carleton Connect account. Information about doing so is available at: <http://connect.carleton.ca/cp/home/loginf>.

In addition, because of the spam filtering tools I use, I would greatly prefer if any email communication with me comes from your Carleton Connect email address. If it does not come from that address, there is considerable risk that it may not get through to me.

## EVALUATION

		Due Date
Case Analysis (Group Project)	30%	October 18
Position Paper	30%	November 15
Final Exam	40%	To be Scheduled

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

## Assignments

You will be required to submit two written assignments during the term:

- 1.) A **case analysis** will be distributed in class on September 27th, and is due on October 18th. 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**. (Contribution to Final Grade: 30%)
- 2.) You will be required to submit a **position paper**, in which you take the role of an advocate for either workers or an employer organization. The 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

**Due Date: November 15<sup>th</sup>** (Contribution to Final Grade: 30%)

Both assignments must be submitted on the date 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.

## Final Exam

The final exam will be a three hour exam during the formally scheduled final examination period. It will contain a variety of short answer and essay questions. More 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 WebCT)

Class 1	Sept 10	Introduction; Social and Normative Dimensions of Work
Class 2	Sept. 17	Regulatory Models
Class 3	Sept. 24	Workplace Values I
Class 4	Oct. 1	Workplace Values 2
Class 5	Oct. 15	Wrongful Dismissal and Contract I
Class 6	Oct. 22	Wrongful Dismissal and Contract II
Class 7	Oct. 29	Employment Standards I
Class 8	Nov. 5	Employment Standards II
Class 9	Nov. 12	Human Rights I
Class 10	Nov. 19	Human Rights II
Class 11	Nov. 26	Human Rights III
Class 12	Dec. 3	Occupational Health and Safety; Workers Compensation

## GENERAL GUIDELINES ON ASSIGNMENTS FOR THIS COURSE

### Assignment Format

Any written work submitted in this course **must** be word processed. The case analysis and position paper must be double-spaced, 12pt standard font (eg. Times New Roman, Arial or Calibri) with standard 1" margins. These two assignments must include a title page that has, as a minimum, your name and student number, the course code, the assignment title, and my name on it. Assignments should also include a bibliography unless otherwise instructed. Title pages, bibliographies and extensive footnotes are not counted in determining an assignment's page length. You may be asked to submit the assignment electronically in addition to or in place of submitting a paper copy. You will be provided with instructions on how to do so through WebCT.

**Late Policy**

Assignments that are due in-class are deemed late if not submitted at the start of the class. Late assignments will be penalized **one grade point per day** that they are late (i.e. B to B-, B- to C+, etc ). See the departmental policy regarding assignment submission on the last page.

**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](http://www2.carleton.ca/studentaffairs/ccms/wp-content/ccms-files/academic_integrity_policy.pdf) at [http://www2.carleton.ca/studentaffairs/ccms/wp-content/ccms-files/academic\\_integrity\\_policy.pdf](http://www2.carleton.ca/studentaffairs/ccms/wp-content/ccms-files/academic_integrity_policy.pdf).