

## Course Outline

<b>COURSE:</b>	<b>LAWS 3506A - Administrative Law</b>
<b>TERM:</b>	<b>Winter 2009</b>
<b>PREREQUISITES:</b>	<b>One of LAWS 2005, LAWS 3005, or LAWS 3502 (JOUR 3502, MCOM 3502), or PSCI 2000</b>
<b>CLASS:</b>	<b>Day &amp; Time: Wednesdays, 6:05pm-8:55pm Room: 238 TB (Tory Bldg)</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Louisa Garib, M.A., LLB, LLM</b>
<b>CONTACT:</b>	<b>Office: C476 LA (Loeb) - Contract Instructors' Office Office Hrs: 5:00-6:00 – *by Appointment Telephone: 613-995-2066 during normal work hours (9am-5pm) Email: <a href="mailto:lgarib@connect.carleton.ca">lgarib@connect.carleton.ca</a></b>

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"Students with documented 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 include physical, mental, and learning disabilities, mental disorders, hearing or vision disabilities, epilepsy, drug and alcohol dependencies, environmental sensitivities, as well as other conditions. Registered PMC students are required to contact the PMC at 613-520-6608, early each term to ensure that your Instructor receives 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 require accommodations for your formally scheduled exam(s) in this course, please submit your request for accommodations to PMC by March 6, 2009 for April exams." Also available at [http://www.carleton.ca/pmc/faculty/acom\\_statement.html](http://www.carleton.ca/pmc/faculty/acom_statement.html) . For Religious and Pregnancy accommodations, please contact Equity Services, 613-520-2600 x. 5622 or their website: [www.carleton.ca/equity](http://www.carleton.ca/equity)

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**COURSE DESCRIPTION****Administrative Law**

This course will serve as an introduction to the theory and practice of Administrative Tribunals in Canada.

Administrative law is the body of law that ensures that governments, their officials and representatives deal with individuals in a fair and lawful manner. Administrative law governs a range of relationships between individuals and their government: from the termination of employment with a school board; to a request to review a deportation order; the application for a municipal building permit, or the denial of an access to information request.

This course will examine the structure and procedure of various Canadian administrative authorities and the policy, statutory, and judicial environments in which they operate. Topics will include techniques for implementing public policy and structuring public authorities; statutory interpretation; procedural safeguards; exercise of statutory discretion; and remedies. Finally, the course will explore balancing effective and efficient government with the protection of individual rights and interests. The main objective of the course is for students to acquire an understanding of the sources of administrative law and fundamental administrative law principles.

The course syllabus may change to accommodate student/instructor requirements. Changes will be made with as much advance notice as possible.

**REQUIRED TEXT**

*Administrative Law* by David Mullan (Irwin Law, 2001) (ISBN: 1-55221-009-X; ISBN-13: 978-155221-009-3) - \$49.95

\*Note that an electronic version is also available for download at: <http://www.irwinlaw.com/books.aspx?bookid=14>

**SUPPLEMENTARY TEXTS**

Relevant links, articles, news clippings and administrative decisions will be distributed in class or posted to Carleton WebCT in advance.

**EVALUATION**

**(All components must be completed in order to receive a passing grade)**

<b>Class Participation</b>	10% - <i>Attendance and participation in class discussions</i>
<b>Mid-Term Exam</b>	25%
<b>Final Paper</b>	35%
<b>Final Exam</b>	30%

**Final Research Paper:**

Students will be required to write a paper about an administrative tribunal, other administrative decision-maker or topic in administrative law approved by the instructor. **The paper will be due at the beginning of class on March 25<sup>th</sup>, 2009; late penalties will apply.** The paper should be between 5000-6250 words (from 20-25 pages double spaced, Times New Roman, 12 font, one inch margins), excluding title page, table of contents, footnotes and appendices. Specific instructions will be provided in class in advance.

**Final Exam:**

The final exam will be a take home exam distributed during the last class. Students will be required to answer, in essay format, three of four questions drawn from required readings and class discussions throughout the entire term. **The take home exam will be due Monday April 27<sup>th</sup>, the last day of exams. No exam will be accepted after that date.** Specific instructions will be provided in class in advance.

***Important Note: Plagiarism***

Each student's paper and take home exam answers must be exclusively his or her own work product. All work must be done independently; no group work or consultation other than the review class will be permitted. Students are not permitted to discuss the exam questions and possible answers with each other, with the exception of discussion supervised by the Instructor.

**Carleton's Academic Integrity Policy:** [http://www.carleton.ca/studentaffairs/academic\\_integrity/index.html](http://www.carleton.ca/studentaffairs/academic_integrity/index.html)

For both the paper and take home exam, students should note the Law Department's Style Sheet at <http://www.carleton.ca/law/style.htm>

**STUDENT SERVICES:**

All students should take note of the Writing Tutorial Service at 229 PA and the Student Academic Success Centre (SASC) at 302 Tory.

**DEPARTMENTAL POLICY AND PROCEDURE:**

For further instructions and warnings on issues such as prerequisites, assignments and grading (including the Department's policy on plagiarism), students should consult the Law Department's *Policy and Procedure Statement* and the relevant pages in the University's *Undergraduate Calendar*.

**ANTICIPATED COURSE SCHEDULE (Wednesdays)****Week 1: January 7, 2009 – Course Introduction****\*Class exercise:**

- 1.) Find an Administrative Tribunal online;
- 2.) Identify the governing statute;
- 3.) What is its jurisdiction? (subject matter; subjects; federal, provincial; municipal)
- 4.) Describe the Tribunal's general structure and process; a hearing before a board or adjudicator? Written submissions only?
- 5.) Remedies? What can an individual 'get' at the end of the process?
- 6.) Can you appeal? To whom or where?

Prepare a 1-2 minute presentation for **next class**.

**Week 2: January 14, 2009 - What is Administrative Law?****I. Theory, Definitions, Policy Choices****II. Decision-Makers****III. Jurisdiction, Discretion, Delegation****Readings:**

- David J. Mullan, *Administrative Law*, Chapter 1, pp. 3-26.

**Week 3: January 21, 2009 - Foundations of Administrative Law - Fairness****Readings:**

- David J. Mullan, *Administrative Law*, Chapter 8, pp. 147-175

- *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 - **\*\*READ PARAS 1-48 and 76\*** available online. <http://scc.lexum.umontreal.ca/en/1999/1999rcs2-817/1999rcs2-817.html>

**Week 4: January 28, 2009 Choice of Procedures****I. Audi Alteram Partem: Overview & Pre-Hearing Issues I****Readings:**

- David J. Mullan, *Administrative Law*, Chapter 13, pp. 232-244 and pp. 244-318

- *Khan v. University of Ottawa*, (1997), 34 OR (3d) 535 (CA), **READ PARAS 1-59** online: <http://www.canlii.org/eliisa/highlight.do?language=en&searchTitle=Advanced+Search&path=/en/on/onca/doc/1997/1997canlii941/1997canlii941.html>

**Week 5: February 4, 2009 Choice of Procedures Cont'd.****I. Audi Alteram Partem: Overview & Pre-Hearing Issues (cont'd)****II. Nemo Judex In Causa Propria Sua Debet Esse****Readings:**

- David J. Mullan, *Administrative Law*, Chapter 14, pp. 321-349

**Reasons for decision, Bias, Impartiality and Independence**

- *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 - **\*\*REVIEW PARAS 1-48 and 76\*** available online. <http://scc.lexum.umontreal.ca/en/1999/1999rcs2-817/1999rcs2-817.html>

- *Chrétien v. Canada (Commission of Inquiry into the Sponsorship Program and Advertising Activities)*, 2008 FC 802 (CanLII) - READ PARAS Facts: 1-15; Bias: 67-108, available online.  
<http://www.canlii.org/en/ca/fct/doc/2008/2008fc802/2008fc802.html>

**Week 6: February 11, 2009 – In Class Mid-Term**

**Week 7: February 18, 2009 – Winter Break**

**Week 8: February 25, 2009 – Competing Authorities/Concurrent Jurisdiction  
I. Jurisdictional Wrangling**

**\*\*\*\*(Joint Session with Employment Dispute Resolution Class (LAW 4402 B) –\*Room TBA.  
Instructions provided in class in advance)**

**Required Reading:**

- David J. Mullan, *Administrative Law*, Chapters 4 & 15, pp. 84-90, 352-367
- *Weber v. Ontario Hydro*, [1995] 2 SCR 929, online: <http://scc.lexum.umontreal.ca/en/1995/1995rcs2-929/1995rcs2-929.html>
- *Tranchemontagne v. Ontario (Director, Disability Support Program)*, [2006] 1 S.C.R. 513, 2006 SCC 14, online: <http://scc.lexum.umontreal.ca/en/2006/2006scc14/2006scc14.html>

**Week 9: March 4, 2009 Competing Authorities/Concurrent Jurisdiction cont'd.  
II. Legitimate Expectations**

**Required Readings:**

- David J. Mullan, *Administrative Law*, Chapter 9, pp.177-186
- *Mount Sinai Hospital Center v. Quebec (Minister of Health and Social Services)*, 2001 SCC 41, READ PARAS 1-38; 52-74; 90-118 available online:  
<http://scc.lexum.umontreal.ca/en/2001/2001scc41/2001scc41.html>

**Week 10: March 11, 2009 - General Procedures Statutes**

**Required Readings:**

- David J. Mullan, *Administrative Law*, Chapter 11, pp. 214-225
- *Statutory Powers Procedure Act*, R.S.O 1990, C.S-22, online: [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90s22\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90s22_e.htm)
- *Administrative Tribunals Act*, [SBC 2004], C.-45, online:  
[http://www.qp.gov.bc.ca/statreg/stat/A/04045\\_01.htm](http://www.qp.gov.bc.ca/statreg/stat/A/04045_01.htm)
- *Administrative Justice Act*, R.S.Q., c. J-3, online: <http://www.canlii.org/qc/laws/sta/j-3/20070910/whole.html>
- *Federal Courts Act* (R.S., 1985, c. F-7) <http://laws.justice.gc.ca/en/F-7/index.html>

**Week 11: March 18, 2009 - Discretionary Authority**

- I. ***Abuse of Discretion***
- II. ***Fettering Discretion / Rule-Making***

**Required Readings:**

- David J. Mullan, *Administrative Law*, Chapter 6, pp. 100-132.
- *Roncarelli v. Duplessis*, [1959] S.C.R. 121, online:  
<http://www.canlii.org/en/ca/scc/doc/1959/1959canlii1/1959canlii1.html>
- *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 - **\*\*REVIEW PARAS 1-48 and 76\*** available online. <http://scc.lexum.umontreal.ca/en/1999/1999rcs2-817/1999rcs2-817.html>

**Week 12: March 25, 2009 Remedies – \*\*\*FINAL PAPERS DUE\*\*\******I. Judicial Review******II. Financial Compensation and & Other Remedies***

- David J. Mullan, *Administrative Law*, Chapters 17, 19 & 21, pp. 425-443, 461-464, 504-522.
- *Mugesera v. Canada (Minister of Citizenship and Immigration)* 2005, SCC 40 READ PARAS 1-38, online:  
<http://scc.lexum.umontreal.ca/en/2005/2005scc39/2005scc39.html>
- *Dunsmuir v. New Brunswick* (2008 SCC 9)  
<http://scc.lexum.umontreal.ca/en/2008/2008scc9/2008scc9.html>
- \*Excerpts of Dunsmuir case posted on Web CT
- *Dunsmuir – Plus ca change*, by Lorne Sossin, March 17th, 2008 online.  
<http://www.thecourt.ca/2008/03/17/dunsmuir-%E2%80%93-plus-ca-change/>

**\*\*\*\*\*Final Papers Due at Beginning of Class.** Late Papers will be penalized at the rate of one letter grade per day (A to A-, A- to B+ and so on.)

**Week 13: April 1, 2009 FINAL CLASS: REVIEW AND TAKE HOME EXAM HANDED OUT**

- Loose Ends
- Course Review – Bring your Questions
- TAKE HOME EXAM HANDED OUT – **COMPETED EXAMS DUE ON OR BEFORE FRIDAY APRIL 24<sup>th</sup>** – HAND INTO DEPARTMENT OF LAW OFFICE

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