

Course Outline

COURSE:	LAWS 3405A – Labour Law
TERM:	FALL 2018
PREREQUISITES:	0.5 credit from LAWS 2201, LAWS 2202, LAWS 2501, LAWS 2502, BUSI 2601 and 0.5 credit in LAWS at the 2000 level
CLASS:	Day & Time: Tuesday and Thursday: 4:00 – 5:30 PM Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Michael Mac Neil
CONTACT:	Office: D588 Loeb Office Hrs: No set office hours. Many issues can be dealt with before or after class, and I am often in my office and you are welcome to drop in. If you want to set up a more formal appointment, contact me by email and we can arrange a time. Telephone: 613-520-2600 x. 3684 Email: michael_macneil@carleton.ca

ACADEMIC ACCOMMODATIONS:

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

Pregnancy obligation: Please contact 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: carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf

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: carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf

Academic Accommodations for Students with Disabilities: If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (PMC) at 613-520-6608 or 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 as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable) www.carleton.ca/pmc

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's

Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: carleton.ca/sexual-violence-support

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor 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. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit: students.carleton.ca/course-outline

ACADEMIC INTEGRITY / PLAGIARISM:

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://carleton.ca/senate/wp-content/uploads/Academic-Integrity-Policy1.pdf) at <http://carleton.ca/senate/wp-content/uploads/Academic-Integrity-Policy1.pdf> . Extensive guides to academic integrity are available at <https://carleton.ca/registrar/academic-integrity/>

DEPARTMENT POLICY

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department’s expectations.

<http://carleton.ca/law/current-students/>

COURSE DESCRIPTION (From Undergraduate Calendar)

Role of law in industrial relations; effect of law on collective bargaining relationships; recognition of bargaining agent; regulation of bargaining; administration of the collective agreement; methods of conflict resolution.

COURSE OVERVIEW

This course explores how law regulates industrial relations in Canadian society. It will examine the legal regulation of employer-employee relations, attempting to identify some of the historical, economic and political influences. We will focus particularly on the legal regulation of collective worker activity. We will identify values that inform the legislative, judicial, administrative, arbitral, 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 industrial relations system, and of the legal and institutional relationships among the actors.

The course concentrates on the labour law applicable to the private sector. The Ontario Labour Relations Act will be the main statute analyzed. You will be expected to acquire knowledge of legal rules and to apply it 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 labour law and the economic, political, and social conditions within which this legal system operates. Some of the questions to be considered include:

- Why do workers join unions?
- Why do many employers resist unions?
- How does law encourage, facilitate or impede unionization?
- What are the goals of labour law?
- What limits are there on employer resistance to unions?
- What rules govern collective bargaining?
- How does law deal with industrial conflict?
- How are disputes under collective agreements settled?
- How are disputes between a union and its members regulated by law?
- How does the Charter of Rights protect workers, if at all?
- How is labour law adapting to changing global economic conditions?

COURSE OBJECTIVES

[Objectives added as a result of discussion in the first class are italicized.]

- Gain an understanding of the social, political, economic and historical context for the legal regulation of employer-employee relations in Canada;
- *Gain an understanding of the causes and consequences of precarious work and vulnerable employment;*
- Obtain a sound knowledge of the Ontario Labour Relations Act;
- *Gain a knowledge of who is included and who is excluded from labour relations protections, and with what consequences*
- Learn about the role of legislatures, labour relations boards, arbitrators and courts in the labour law system;
- *Develop knowledge of and skills in dispute resolution*

- *Develop an understanding of the effect of labour law regulation on all parties, whether it be employees, employers, unions or the general public*
- *Ability to analyze the effectiveness of labour law, especially in addressing the needs of economically challenged workers*
- Become familiar with some of the scholarly literature about labour law in Canada;
- Develop the capacity to analyze legal policy choices in the labour relations context;
- Develop a capacity to engage in research of primary and secondary materials relating to Canadian labour law;
- Improve skills in applying legal rules to propose solutions to labour law conflicts;
- Enhance written communication skills;
- Improve teamwork skills by working in groups.

REQUIRED TEXTS

David J. Doorey, *The Law of Work: Industrial Relations and Collective Bargaining* (Emond: Toronto, 2017). Available at the University Bookstore.

In addition, you will be expected to closely read many provisions of the [Ontario Labour Relations Act](#). The statute is available online, and a list of specific sections that you will need to read for each class will be set out in a separate Schedule, to be made available on cuLearn.

EVALUATION:

Participation	15%	Regularly submitted mini to-do assignments
Certification Assignment	15%	Group Work; Individual Submission
Negotiation Assignment	20%	Group Work; Individual Submission
Arbitration Assignment	15%	Group Work; Group Submission
Final Exam	35%	Formal Exam Period – Covers the whole term

Participation: (Value: 15%) Students will submit by noon before class (starting on September 13th) mini “To Do” assignments through CUlearn. Each assignment will normally be about 150 words long. If submitted and complying with minimum conditions specified, each will count for 1 point. There will be 18 assignments, but you need only complete 15 for the maximum grade for this assessment element. No deferrals will be granted for a missed assignment. cuLearn is set up so that you will not be able to submit an assignment after the deadline.

Certification Assignment – (Value: 15%; Draft of Memorandum of Argument due either on October 2 or 4; Final Memorandum of Argument Due one week after Draft is due.) You will work as a group (2 members) to write a memorandum of argument in relation to a hypothetical certification application. Each member of the group will individually submit a memorandum of argument in relation to a different issue raised in the hypothetical factual situation. Groups will argue their cases during class time on either October 2 or 4th, against another group, before a ‘panel’ of the Labour Relations Board. Other members of the class will act as the members of the panel. A draft of the memorandum is due

before class on the day that you are assigned to argue the case. Following the argument, you should revise your memorandum of argument to take into account the arguments **made by the other group** and the questions asked by the members of the panel. The final memorandum is due one week after the case has been argued in class. The grade assigned will be an individual grade based on the final memorandum of argument.

Negotiation/Bargaining Assignment – (Value: 20%; Preparation for Bargaining on October 30; Bargaining Book due at the beginning of class on November 1; In class simulation on November 1; Reflection on the Simulation due on November 8). You will work as a group (3 members) on a negotiation simulation, bargaining over terms to be included in a collective agreement. Grading for this assignment will be based on several elements: A bargaining book submitted by the group; the outcome of the negotiation, compared to other groups; and an individual reflection on the bargaining process.

Arbitration Assignment – (Value 15%). Draft of Memorandum of Argument due at beginning of class when case is argued. You will work as a group (3 to 4 students) to present a mock arbitration hearing during class time on either November 22 or November 27. This will involve examining witnesses and making a legal argument. Each group will prepare a final written memorandum of argument that will be submitted one week after the oral argument has taken place. Students will be asked to evaluate the contribution of other members of the group to the group project, and students who have contributed significantly more or less to the assignment may receive a grade higher or lower than that given to the group submission.

Final Exam: (Value 35%) This will be a two hour exam in the formal examination period in December. Students will be permitted to bring one sheet of paper (no larger than 8 ½ “ x 11”) with notes (may be written on both sides of the paper). Exam may be a combination of hypothetical and essay style questions.

SCHEDULE (Subject to Change; Detailed Reading Assignments Posted in cuLearn)

Class 1	Sept 6	Introduction
Class 2	Sept 11	3 Regimes
Class 3	Sept 13	Who are Employees
Class 4	Sept 18	Analytical Frameworks
Class 5	Sept 20	Theoretical Perspectives and Mapping the Collective Bargaining Regime
Class 6	Sept 25	Unionization Process
Class 7	Sept 27	Unfair Labour Practices
Class 8	Oct 2	Certification Assignment
Class 9	Oct 4	Certification Assignment
Class 10	Oct 9	Labour Law History; Why Unions
Class 11	Oct 11	The Charter of Rights and Freedoms I
Class 12	Oct 16	The Charter of Rights and Freedoms II
Class 13	Oct 18	Bargaining a Collective Agreement
	Oct 23, 25	Fall Break – No Classes Scheduled
Class 14	Oct 30	Bargaining Assignment
Class 15	Nov 1	Bargaining Assignment
Class 16	Nov 6	Industrial Conflict I
Class 17	Nov 8	Industrial Conflict II
Class 18	Nov 13	The Collective Agreement
Class 19	Nov 15	Grievance Arbitration

Class 20	Nov 20	Dismissal and Just Cause
Class 21	Nov 22	Arbitration Assignment
Class 22	Nov 27	Arbitration Assignment
Class 23	Nov 29	Regulating Unions
Class 24	Dec 4	Public Sector Collective Bargaining
Class 25	Dec 6	Review

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. Assignments should include a title page that has, as a minimum, your name and student number, the course code, the assignment title, and the instructor's 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. All assignments are normally submitted through cuLearn, but it absolutely crucial that you ensure that you keep a copy of the assignment should any complications arise.

Late Policy

Assignments that are due in class or through cuLearn are deemed late if not submitted by the times indicated. Late assignments will be penalized **one grade point per day or part of day** that they are late (i.e. B to B-, B- to C+, etc) unless an extension has been granted. Late assignments are to be submitted through cuLearn, just like those submitted on time, otherwise noted. Please note that late submission of the Participation "To Do" Assignments is not permitted