

Course Outline

COURSE: LAWS 3401B – Employment Law

TERM: FALL 2020

PREREQUISITES: LAWS 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 & Thursdays, 11:35-2:25pm; synchronous/live session:
Time: 12:45-2:25pm

The course is delivered through a blend of asynchronous and synchronous/live sessions. You can engage with the pre-recorded materials (via CULearn) at a time of your choice, although preferably before the synchronous/live sessions dealing with the same subject matter. Weekly synchronous/live sessions (via BBB) are going to take place during the scheduled class time, starting at 12:45pm each Thursday. Participation in these sessions is mandatory.

Room: All Courses in the Fall 2020 term are offered online.

PROFESSOR: Dr Ania Zbyszewska

CONTACT: Office: Room C475 Loeb Building
Office Hrs: Online, by appointment; please email me to make arrangements.
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CALENDAR COURSE DESCRIPTION

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 DESCRIPTION

The primary purpose of this course is to explore the legal regulation of the employment relationship in Canada at common law and through statutes. Topics will include 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. This course does not focus on collective bargaining regimes (see LAWS3405).

The approach in this course is socio-legal and contextual. In addition to looking at the law itself, that is, the common law and statutory norms that regulate employment and other personal work relations, we will also look at their historical development and a range of contemporary critical policy issues related to ever-changing world of work to assess the fit between legal norms and the lived realities of work for a diverse Canadian population.

REQUIRED TEXTS

David J. Doorey, *The Law of Work*. Complete (2nd) Edition (Toronto: Emond, 2020).

PLEASE NOTE: Other required readings and materials (e.g. video, audio, etc.) will be placed on CULearn. Engaging with these materials will be essential for effective participation in discussion and activities during weekly synchronous/live seminar sessions, and for completion of your assessments.

SUPPLEMENTARY TEXTS

Students may find it helpful to locate statutes and cases discussed in this course. Some key websites are:

- Department of Justice- Canada (Consolidated Statutes) <https://laws.justice.gc.ca/eng/>
- Ontario Laws – E-Laws: <https://www.ontario.ca/laws>
- Access WestlawNext or Quicklaw on the Carleton University Library website.

EVALUATION

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean. ***All components must be completed in order to get a passing grade.***

The assessment and evaluation in this course are structured as follows (see details below):

1. **Critical Commentary – 20% (due 6 October)**
2. **Legal Problem Set – 20% (due 10 November)**
3. **Work History Interview: Narrative and Analysis 55% (various due dates)**
 - a. **Preparatory Exercises – 10% (2x5%)**
 - i. **Interview memo (due 29 September)**
 - ii. **Draft questionnaire (due 3 November)**
 - b. **Final Narrative and Analysis Submission – 45% (due 11 December)**
4. **Participation – 5%**

Detailed Description

(Additional instructions and guidelines for each of the assignments will be posted on CULearn).

1. Critical Commentary (20%)

Approximately 5 double-spaced pages (12pt, Times New Roman, normal margins)

Write a critical commentary on (a choice of):

- An employment-related legal case, OR
- An academic journal article dealing with an employment law issue, OR
- An employment law issue in the media, OR
- An employment/employment law issue on film.

In each case, you are required to draw on additional course materials (at least 1 article **and/or** your course textbook) in your interpretation and commentary on the chosen piece(s). This assignment will be **due on Tuesday, 6 October** (via CULearn).

See CULearn for detailed instructions and guidance.

2. Legal Problem Set (20%)

This assignment will require you to apply legal principles and policy considerations we examine in the course to analyze a set of employment-related problem questions. The assignment will be posted on CULearn by 21 October and will be **due on Tuesday, 10 November** (via CULearn).

3. Work History Interview: Narrative and Analysis (55%)

This assignment will be an opportunity to develop skills in empirical research and interviewing, and to apply your knowledge of employment law and policy. The task will entail interviewing someone you know about their work history, including the types of jobs (i.e. contracts) they held, relations with employers, and their experiences of transitions in and out of work during different life stages. Drawing on what you learn from the interview and on the course materials, you will then write a narrative (max 4 pages) and analysis (min 7 pages) of your interviewee's work history. In your analysis, you will be asked to focus on the role that legal regulation has played in shaping this person's work experiences. Among others, you will be tasked to think about and consider the different types of legal norms and regimes (common law, statutory, etc.) that regulate work relations in Canada, and in Ontario specifically. Also, you will be asked to reflect on particular circumstances, regulatory gaps and other problems that might affect how someone navigates and experiences the world of work at different life stages or because of their social location.

PLEASE NOTE:

To successfully complete this final assignment, you will be required to complete two preliminary exercises (each involving an activity and a written submission); worth 5% each, for a total of 10% of your final grade in the course. These preliminary activities are going to have separate deadlines, earlier in the term (29 September and 3 November, respectively). Participation in both these activities is mandatory as the skills you will practice by engaging in them, and feedback you are going to receive on your outputs, are designed to prepare you for the final

assignment. While they are worth only 5% each, you must participate in both of these preparatory activities in order to be allowed to submit the final assignment.

The final written assignment is due on the last day of classes (11 December), and will be worth 45% of your final grade. The length of your final written submission will be approximately 11-14 double-spaced pp (12pt Times New Roman). As an appendix to this assignment you will be asked to submit a 'Research Log' composed of your final interview questionnaire, notes from the interview, and a signed consent form.

a) Preparatory Exercises and Outputs

- i EXERCISE in **Week 3 (24 September)**. During this exercise, you will informally interview one of your peers about their work experience and encounters with, or knowledge of employment law. You will be assigned your interview partner and the interviews will be conducted online (via video conference/breakout group).

OUTPUT: You will write a **brief memo summarizing your interview (2-3pp, double spaced)**, which will be **due on Tuesday, 20 September**(via CULearn).

- ii EXERCISE in **Week 8 (22 October)**. There will be an in-class (online) tutorial on ethical considerations related to interviewing and on the theory and practice of interview as a legal and research technique.

OUTPUT: You will be asked to **submit a sample interview questionnaire for comments by Tuesday, 3 November** (via CULearn).

PLEASE NOTE:

If you are unable to make one of the dates on which preparatory exercises will take place (during synchronous/live sessions) for an important reason or due to mitigating circumstances, please let me know as soon as you can so that we can come up with alternative arrangements.

b) Final Narrative and Analysis Submission + Research Log

- To complete your final assignment, you will have to carry out **a formal interview with a chosen participant** (see detailed instructions posted on CULearn on how to go about this choice, when the interview should be scheduled and how it should be carried out, and other details). Based on this interview, you will then prepare **a written submission composed of a brief narrative or employment history portion, and a socio-legal analysis of that narrative**. Your analysis will draw on knowledge of employment law and critical issues related to work regulation that you acquire during the course of the term. In addition, your final submission should also include a 'Research Log' composed of your interview questionnaire, interview notes, and a signed consent form. **The assignment is due on the last day of class, Friday 11 December** (via CULearn)

4. Participation (5%)

You are expected to attend and actively engage in the synchronous discussion sessions. Participation will be tracked and evaluated.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

The granting of extensions is determined by the instructor who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

Extensions for longer than 7 days will normally not be granted. In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

SCHEDULE

September 10 – Introduction to Employment Law in Canada

September 17 – Workers, Work, Labour Markets

September 24 – Recruitment, Hiring, Employment Contracts

Preparatory Exercise 1 – Peer Interview (during synchronous/live class)

October 1 – Key Terms and Conditions: Money and Time

October 8 – Human Rights at Work

October 15 – Human Rights at Work

October 22 – Occupational Health and Safety

Preparatory Exercise 2 – Research Ethics and Interview Method (during synchronous/live class)

October 29 –NO CLASS/Fall Break

November 5 – Occupational Health and Safety

November 12 – Termination of Employment – When things don't work out

November 19 – Termination of Employment – When things go wrong

November 26 – Claims and Enforcement

December 3– Unemployment, Underemployment, etc.

December 10 – TBD

HOW WILL THIS WORK?

Under 'normal' circumstances, this class is delivered as a 3hr weekly lecture. However, the pandemic has forced us online so as to minimize the public health risks involved in having many people in the same room, in physical proximity. As such, this year, the course will be delivered through a blend of asynchronous and synchronous teaching and learning. Ahead of each week, I will post a pre-recorded 'lecture' of about 1hr addressing the key themes for the week and explaining core concepts, doctrines, and principles in employment law. You will be expected to engage with this material and with the textbook and other readings on your own time; preferably before our scheduled synchronous session, though I understand that individual circumstances might necessitate your engagement with this prerecorded material at a different time. In addition, each week, **beginning at 12:45 on Thursday**, we will engage in a synchronous (video/ via BBB) discussion, and a variety of exercises, with time for questions relating to the specific subject matter covered that week, as well as more general questions or concerns that

might arise. These synchronous sessions will last for about 2hrs (with a break). Attendance is mandatory and engagement with course materials (as listed in CULearn) ahead of each week's session will be essential for these sessions to work successfully. I trust that together we can make this a rewarding and an enriching learning experience.

ACADEMIC ACCOMMODATIONS

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: <https://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf>

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 Department of Equity and Inclusive Communities (EIC): <https://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 Department of Equity and Inclusive Communities (EIC): <https://carleton.ca/equity/>

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) <https://carleton.ca/pmc>

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes 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. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. *More information on the University's Academic Integrity Policy can be found at:* <https://carleton.ca/registrar/academic-integrity/>

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: <https://studentsupport/svpolicy>

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: <https://students.carleton.ca/services/accommodation/>

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.

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