

Course Outline

COURSE:	LAWS 3401A – Employment Law
TERM:	Fall 2022
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 & Time: Thursdays, 11:35-14:25
	Room: ME 3269
INSTRUCTOR:	Dr Ania Zbyszewska
CONTACT:	Office: Room C475 Loeb Building
	Office Hrs: Tuesdays 1-2:30pm; or by appointment (in person or zoom)
	Telephone: N/A
	Email: ania.zbyszewska@carleton.ca

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.

Assessment in the course ranges from critical reflections on law and policy to practical problems involving application of law to factual situations. The capstone assessment – the Work History Interview: Narrative and Analysis – will also give students the unique opportunity to develop skills and engage in qualitative empirical research.

REQUIRED TEXTS

David J. Doorey, *The Law of Work*. Complete (2nd) Edition (Toronto: Emond, 2020) (print or digital; available for purchase at the bookstore or from publisher's website; a couple of copies on reserve at the library)

PLEASE NOTE: Detailed schedule of readings from the text, as well as other required readings and materials (e.g., video, audio, etc.) will be placed on Brightspace. Engaging with these materials will be essential for effective participation in discussion and activities during weekly. Lecture/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>
- Canadian Legal Information Institute (CanLII): <https://www.canlii.org/en/>
- Access WestlawNext on the Carleton University Library website.

DELIVERY

The course is delivered in an interactive in-person lecture format that incorporates elements of a seminar. Readings and pre-recorded materials will be provided via Brightspace, and you should engage with them before our weekly sessions dealing with the same subject matter. Participation is mandatory and will be assessed.

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.

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

- 30% CHOICE of:**
Critical Commentary (due 13 October, 11:59pm)
-OR-
Legal Problem Set (due 17 November, 11:59pm)
- 60% Work History Interview: Narrative and Analysis (various due dates)**
- a. **Preparatory Exercises – 10% (2x5%)**
 - i. **Interview memo (due 22 September, 11:59pm)**
 - ii. **Draft questionnaire (due 3 November, 11:59pm)**
 - b. **Final Narrative and Analysis Submission – 50% (due 9 December, 11:59pm)**
- 10% Class Participation (assessed throughout term)**

All components must be successfully completed in order to get a passing grade

Detailed Description

(Additional instructions and guidelines for each assignment will be posted on Brightspace).

1. **You have some choice in how 30% of your grade is assessed. Namely, you can choose between two different assignments, which have different due dates (one early in the term, the other later in the term).**

These are:

A. Critical Commentary (30%)

This assignment requires you to 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 (press, audio/podcast, TV program), 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). Approximately 5 double-spaced pages (12pt, Times New Roman, normal margins). **Due on 13 October, 11:59pm.**

See Brightspace for detailed instructions and guidance.

-OR-

B. Legal Problem Set (30%)

This assignment will require you to apply legal principles and policy considerations we examine in the course to analyze a set of three employment-related problem questions. There is no precise page requirement, but typically a good answer requires at least 2-3 pages per problem question. The assignment will be posted on Brightspace by 27 October and will be **due on 17 November, 11:59pm**.

2. Work History Interview: Narrative and Analysis (60%; 10% + 50%)

This capstone 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 employment 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. 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 preparatory activities to be allowed to submit the final assignment. Outputs associated with these preliminary activities are going to have separate deadlines, earlier in the term (22 September and 3 November, respectively).*

The final written assignment is due on the last day of classes (10 December) and will be worth 50% of your final grade.

a) Preparatory Exercises and Outputs (Mandatory)

- i EXERCISE in **Week 2 (15 September, in class)**. 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 time for the interviews will be allocated during class time.

OUTPUT: You will write a **brief narrative memo summarizing your interview (2-3pp, double spaced)**, which will be **due on 22 September, 11:59pm**.

- ii EXERCISE in **Week 7 (20 October, in class)** 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 social research technique.

OUTPUT: You will be asked to **submit a sample interview questionnaire for comments by 3 November, 11:59pm**.

NOTE: *If you are unable to make one of these dates 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. Failure to participate in and complete these preparatory exercises means that you will not be allowed to submit the final assignment.*

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 Brightspace 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 term.

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. Further details are set out in the guidance document which will be made available Brightspace. **The assignment is due on the last day of classes, 10 December, 11:59pm.**

3. Participation (10%)

Participation in the course is worth 10% of your final grade. It is assessed based on your weekly attendance (5%) and submission of at least four separate posts to the class forum on Brightspace (5%). The posts or comments should pertain to weekly readings or other class materials (e.g., podcasts, news articles, etc.) posted to Brightspace and must be submitted ahead of our weekly meeting, by 5pm on Wednesdays. Please note that the posts should pertain to the readings or materials assigned for that week.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

*Unless you obtain an extension, all late assignments will be subject to a late penalty of **5% per each day after the deadline.***

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

DATE	TOPIC	SPECIAL SESSIONS & DUE DATES
Sept 8	Introduction to Employment Law Reading: D. Doorey, <i>Law of Work</i> (2 nd ed): 1, 2, 3 J. Fudge, "Beyond Vulnerable Workers: Towards a New Standard Employment Relationship", <i>Can Labour and Employment Law Journal</i> 12 (2005): 151-176. Please see other audio materials posted on Brightspace.	
Sept 15	Workers, Work, Labour Markets Reading: D. Doorey, <i>Law of Work</i> (2 nd ed): 4, 5, 17 Changing Workplaces Review, s. 5.2.1. Definition of Employee Changing Workplaces Review, s. 5.2.2. Definition of Employer	<i>Preparatory Exercise 1: Peer Interview (in class)</i>

	Please see other materials on Brightspace	
Sept 22	Recruitment, Hiring, Employment Contracts	<i>DUE: Interview Memo (5%)</i>
	Reading: D. Doorey, <i>Law of Work</i> (2 nd ed): 6, 7, 8, 9	
	Please see other materials on Brightspace	
Sept 29	Key Terms and Conditions: Money	
	Reading: D. Doorey, <i>Law of Work</i> (2 nd ed.): 18 M. Cornish, <i>A Growing Concern: Ontario's Gender Pay Gap</i> . CCPA, 2014 (pp. 1-36). See other materials posted on Brightspace.	
Oct 6	No class	
Oct 13	Key Terms and Conditions: Time	<i>DUE: Critical Commentary (30%)</i>
	Reading: D. Doorey, <i>Law of Work</i> (2 nd ed.): 19 J. Cantor, "Working Anything but 9 to 5: Scheduling Technology Leaves Low-Income Parents with Hours of Chaos, The New York Times, August 2014. See other materials posted on Brightspace.	
Oct 20	Human Rights at Work (Discrimination at Work)	<i>Preparatory Exercise 2: Research Ethics and Interview Methods</i>
	Reading: D. Doorey, <i>Law of Work</i> (2 nd ed.): 21, 22. OHRC, Who is Protected at Work? OHRC, Grounds of Discrimination S. MacKinnon, Decolonizing Employment: Aboriginal Inclusion in Canada's Labour Market, ch 2 (U of Manitoba Press, e book). See other materials posted on Brightspace.	
Oct 27	NO CLASS/Fall Break	

Nov 3	Human Rights at Work (Duty to Accommodate)	<i>DUE: Draft Questionnaire (5%)</i>
	<p>Reading: D. Doorey, <i>Law of Work</i> (2nd ed.): 23. <i>BC (Public Service Employee Relations Commission) v. BCGSEU (Meiorin)</i> [1993 3 SCR 3. See other materials posted on Brightspace.</p>	
Nov 10	Occupational Health and Safety (Regulation Built on Disasters)	
	<p>Reading: D. Doorey, <i>Law of Work</i> (2nd ed.): 24 See other materials posted on Brightspace</p>	
Nov 17	Occupational Health and Safety (Safety at Work under OHSA)	<i>DUE: Legal Problem Set (30%)</i>
	<p>Reading: D. Doorey, <i>Law of Work</i> (2nd ed.): 24 See other materials posted on Brightspace</p>	
Nov 24	Termination of Employment (When Things don't Work Out)	
	<p>Reading: Doorey, <i>Law of Work</i> (2nd ed): 10,11,12, 15 Ontario Employment Standards Act, Termination of Employment See other materials posted on Brightspace</p>	
Dec 1	Termination of Employment (When Things go Wrong)	
	<p>Reading: Doorey, <i>Law of Work</i> (2nd ed): 13, 14, 20</p>	

	See other materials posted on Brightspace	
Dec 8	Key Policy Problems: Enforcement	
	<i>Readings: TBA</i>	
	See other materials posted on Brightspace	
Dec 9	Last day of classes	<i>DUE: Work History Interview Narrative and Analysis (50%)</i>

HOW WILL THIS WORK?

The course will be delivered through a blend of asynchronous and synchronous (in person) teaching and learning. Our common objective will be to create an engaging and participatory learning environment. Ahead of each week's session, 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; **ideally 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, we will engage in an in-person lecture, which will incorporate elements of a seminar, i.e., group discussion, a variety of exercises, and time for questions relating to the specific subject matter covered that week, as well as more general questions or concerns that might arise. These in-person, synchronous sessions will last for between 2 and 2.5hrs (with a break), beginning at 11:35am. Attendance is mandatory and engagement with course materials (as listed in Brightspace) 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.

University and Departmental Policies

DEPARTMENT POLICIES AND REGULATIONS

Please review the following webpage to ensure that your practices meet our Department's expectations, particularly regarding standard departmental protocols and academic integrity requirements: <https://carleton.ca/law/student-experience-resources/>.

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/>.

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

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 accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

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 [click here](#).

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 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).

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 where 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://carleton.ca/equity/sexual-assault-support-services>

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. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit:
<https://students.carleton.ca/services/accommodation/>

COVID Update

It is important to remember that COVID is still present in Ottawa. The situation can change at any time and the risks of new variants and outbreaks are very real. There are [a number of actions you can take](#) to lower your risk and the risk you pose to those around you including being vaccinated, wearing a mask, staying home when you're sick, washing your hands and maintaining proper respiratory and cough etiquette.

Feeling sick? Remaining vigilant and not attending work or school when sick or with symptoms is critically important. If you feel ill or exhibit COVID-19 symptoms do not come to class or campus. If you feel ill or exhibit symptoms while on campus or in class, please leave campus immediately. In all situations, you must follow Carleton's [symptom reporting protocols](#).

Masks: Carleton has paused the [COVID-19 Mask Policy](#), but continues to strongly recommend masking when indoors, particularly if physical distancing cannot be maintained. It may become necessary to quickly reinstate the mask requirement if pandemic circumstances were to change.

Vaccines: Further, while proof of vaccination is no longer required as of May 1 to attend campus or in-person activity, it may become necessary for the University to bring back proof of vaccination requirements on short notice if the situation and public health advice changes. Students are strongly encouraged to get a full course of vaccination, including booster doses as soon as they are eligible, and submit their booster dose information in [cuScreen](#) as soon as possible. Please note that Carleton cannot guarantee that it will be able to offer virtual or hybrid learning options for those who are unable to attend the campus.

All members of the Carleton community are required to follow requirements and guidelines regarding health and safety which may change from time to time. For the most recent information about Carleton's COVID-19 response and health and safety requirements please see the [University's COVID-19 website](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact covidinfo@carleton.ca.