

Course Outline

COURSE:	LAWS 2502E – Law, State and Citizen
TERM:	Fall 2014
PREREQUISITES:	1.0 credit from LAWS 1000 [1.0], PAPM 1000 [1.0], PSCI 1001 [1.0], PSCI 1002.
CLASS:	Day & Time: Tuesday – 6:05 pm to 8:55 pm Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Anna Keller
CONTACT:	Office: B442 LA Office Hrs: By Appointment Only Email: Anna_Keller@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: 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/>

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/>

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*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

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:
<http://www.carleton.ca/studentaffairs/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://www.carleton.ca/law/student-resources/department-policies/>

COURSE DESCRIPTION

The Constitution may be the "supreme law of the land" but this does not mean it is without controversy. The courts are continually interpreting and applying new meanings to the constitution as society evolves. The *Charter of Rights and Freedoms* is part of the Constitution and while being a relatively new addition, has changed the legal landscape in Canada.

This course will introduce students to the Constitution, specifically the *Charter*, and examine the relationship between the Citizen and the State, including how this relationship has changed since the introduction of the *Charter*. Case studies will provide recent examples of citizens challenging the state to enforce their rights.

Challenging government power and decisions is an important part of any democracy and this course will also introduce the concept of Judicial Review and outline how a person can challenge a decision made by a government official.

CLASS FORMAT

Classes will consist mainly of lectures, although given the contentious nature of the material, questions and class discussion are welcome and encouraged. Students are expected to attend class regularly and to answer questions. Students must read the materials assigned before the relevant class. Certain classes may include guest lecturers or discussions led by the teaching assistant.

REQUIRED TEXTS

D.W. Elliott - Introduction to Public Law: Readings on the State, the Administrative Process and Basic Values, 6th ed. Captus Press, 2007 – ISBN-13: 978-1-55322-152-4

Additional readings as assigned by the Instructor or posted on cuLearn

SUPPLEMENTARY TEXTS

D.W. Elliott - Judicial Control of Administrative Action, 5th ed. Captus Press, 2011 - ISBN 978-1-55322-231-6

Colleen M. Flood and Lorne Sossin, eds, *Administrative Law in Context*, (Toronto: Emond Montgomery Publications Limited, 2008) at Chapter Three - Dogs and Tails: Remedies in Administrative Law

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

40% – Written Assignment – due at beginning of class on October 21, 2014.

The *Charter of Rights and Freedoms* grants many rights to Canadians. However, state actors have and do infringe on these rights, forcing individuals to assert and fight for their *Charter* rights in court.

Find one news article published in either 2013 or 2014 (ie. An article that has been published in a newspaper, news magazine, or a reputable online news website) where a Canadian individual or group believes their/his/her *Charter* rights have been infringed. Identify the *Charter* right being asserted and discuss what legal challenges the person faces in having their right recognized by a Canadian court (ie. winning the case).

Note: the person or group who is the subject of the article must NOT have already received a final decision on the issue by a court.

The assignment should reflect original analysis and thought. Important qualities that should be considered include: good organization and use of sources, comprehensive, up-to-date treatment of the subject matter, originality (i.e., no quoting or paraphrasing of secondary sources without explicit acknowledgment), accuracy (in grammar, spelling, and law), conciseness, reasoned analysis (discussion of pros and cons, comparisons, assessments, concrete examples, logical arguments, etc., rather than pure description or pure subjective opinion), and clarity, gender-appropriate language (e.g., avoiding use of male gender where both genders are relevant).

At least two (2) and no more than three (3) secondary sources must be consulted. None of these secondary sources may be the course materials or lectures, including the required and recommended texts. Secondary sources are not other newspaper articles. Secondary sources are academic sources. Secondary sources should be cited according to the Department of Law's Legal Style Sheet - http://www1.carleton.ca/law/ccms/wp-content/ccms-files/legal_style_sheet.pdf

Each assignment must be no longer than five (5) pages in length, double-spaced, typed in 12-point Times New Roman font, with one (1) inch margins, including all footnotes. Assignments that do not meet these guidelines will not be marked. Marks will be deducted for spelling and grammar errors. A copy of the news article must be included with the submitted assignment (the news article does not count as part of the (5) pages.

Late assignments: Assignments not submitted on the assigned due date will not be marked.

Extensions will be only given out in extreme circumstances, such as severe illness of the student or death of a family member, and only with proper documentation. You must apply for an extension prior to the due date for the assignment. Appropriate documentation will be required to accompany requests for extensions. Computer failure, conflicts with work schedule, travel or similar problems are not a valid excuse for failure to submit an assignment on time. Students submitting late assignments must submit a hard copy of the assignment to the Department of Law drop box and must email the instructor notifying her that the assignment has been left in the drop box.

Please Note: For the purposes of this assignment, the news article chosen can not be about: Stacy Bonds, Emil Cohen, G20 protests or arrests, Occupy "Wall Street" or another city, Polygamy in British Columbia, Student housing or Airport Security, as these will be discussed in Class as Case Studies.

All assignments may be compared with other submissions in this course. Those suspected of plagiarism, without exception, will be referred to the Office of the Dean. Further if 'off topic' work is submitted, other instructors may be consulted to confirm that the assignment is not being 're-used' which is strictly prohibited.

Note: There will be no make-up assignments or "grade-booster" assignments under any circumstances

60% - Final Examination

During formal exam period: December 10 – 21, 2014

3 hours

Multiple-choice and short answer question(s)

To be eligible for a passing grade, students must complete all components of the evaluation scheme.

Final examination deferrals are possible only as indicated in the Calendar.

SCHEDULE

Please note: Guest speakers may attend certain lectures and as such the schedule may change to accommodate these speakers.

- 1. September 9 – Introduction to the Course and Logistics**
- 2. September 16 – The State and the Citizen**
 - a. Chapter 1 – Law, State, and Social Goals and Techniques
 - b. *Roncarelli v. Duplessis*, [1959] S.C.R. 121
- 3. September 23 – What is public law and why do we need it?**
 - a. Chapter 2 – Administrative Law Structure and Action
- 4. September 30 – *Charter of Rights and Freedoms***
 - a. Chapter 7 – Basic Values and Their Protection
 - b. Chapter 8 – Scope and Interpretation of the *Charter*
 - c. Stacy Bonds Case Study – Introduction
 - d. The *Charter of Rights and Freedoms* - <http://laws.justice.gc.ca/en/charter/1.html>
- 5. October 7 – What can the *Charter* do for me?**
 - a. Chapter 7 – Basic Values and Their Protection
 - b. Chapter 8 – Scope and Interpretation of the *Charter*
 - c. Stacy Bonds Case Study
- 6. October 14 – The *Charter* and Fundamental Freedoms**
 - a. Chapter 9 – Fundamental Freedoms and Fundamental Justice
 - b. Freedom of Religion: Polygamy Case Study
 - c. Freedom of Speech: Emil Cohen Case Study
 - d. *R. v. S. (N.)* 2010 ONCA 670

****October 21 – Assignments due in class**

- 7. October 21 – The *Charter* and Equality**
 - a. Chapter 10 – Equality
 - b. Age Discrimination: Student Housing Case Study
 - c. *Bedford v. Attorney General* 2010 ONCA 814 (currently before Supreme Court of Canada)

****October 28 – Reading Week**

- 8. November 4 – Keeping Government and the Judiciary Accountable**
 - a. The Future of the *Charter*
 - b. Chapter 3 – Non-Judicial and Judicial Control
- 9. November 11 – Judicial Review: Procedural Review**
 - a. Chapter 4 – Judicial Review and Procedural Control
 - b. “Judicial Control of Administrative Action” – Chapters 3 & 4

10. November 18 – Judicial Review: Substantive Review

- a. Chapter 5 – Substantive Review
- b. Chapter 6 – Theory, Problems and Reform
- c. *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190

11. November 25 – The Bitterness of Victory: Damages and their Limitations

- a. Colleen M. Flood and Lorne Sossin, eds, *Administrative Law in Context*, (Toronto: Emond Montgomery Publications Limited, 2008) at Chapter Three - Dogs and Tails: Remedies in Administrative Law. – ***On Reserve in Library***

12. December 2 – Exam Review