

THE LEGAL PROFESSION AND PROFESSIONAL RESPONSIBILITY SYLLABUS Fall 2009

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or anytime by appointment

Course Description from Dalhousie Calendar

This required 3rd year class examines various aspects of the nature and organization of the legal profession in Canada, including its history and evolution, the legal and ethical responsibilities of lawyers and the influences of the adversary system on the pursuit of justice. In particular, the class covers specific ethical rules which affect all lawyers in their practices and also the wider public protection issues which face the organized legal profession.... Serious attention will be given to dilemmas facing lawyers and the legal profession today.

Course Format

We meet once a week on Tuesdays from 9:00-10:00 a.m. for a lecture and whole class discussion, followed by one-hour group discussions on the same day, at either 10:00 or 11:00 a.m. Each group will discuss that day's lecture topic.

There are various questions and scenarios provided throughout the course text, *Lawyers' Ethics and Professional Regulation*. These will form the basis for the group discussions. Other problems and questions may also be introduced as the course proceeds.

Course Objectives

This course is intended to develop students':

- awareness of and ability to resolve ethical problems in law
- understanding of the different possible roles for lawyers, the legal profession, and the legal system
- knowledge of the relevant legislation, regulations, rules of professional conduct and common or case law
- knowledge of legal and quasi-legal responses to unethical conduct and professional incompetence

Upon successful completion of the course, it is hoped that students will be able to:

- meet articling and Bar Admission professional responsibility requirements
- make informed and reasoned decisions when they are confronted with ethical issues after graduation
- make informed and reasoned contributions to the development of the legal profession and legal system
- express and defend positions on a range of issues in professional responsibility

Evaluation

Option A

90% - Final exam (open book)

10% - Participation (based on small group attendance)

Option B

60% - Final exam (open book)

10% - Participation (based on small group attendance)

30% - Paper (20 pages, including footnotes and bibliography)

The paper topic must be approved by me by October 23rd, 2009 and is due on or before December 7th, 2009, at 4:30 p.m.

Required Reading

Alice Woolley, Richard Devlin, *et al.* eds. *Lawyers' Ethics and Professional Regulation* (Lexis Nexis, 2008)

Documentary Supplement: The Nova Scotia *Legal Profession Act*, the *Nova Scotia Barristers' Society Regulations* passed under the *Act*, and the rules of legal ethics in *Legal Ethics and Professional Conduct: A Handbook for Lawyers in Nova Scotia*. [Available at the Bookstore or at the Barristers' Society home page, <http://www.nsbs.ns.ca>]. You also have the option of purchasing a copy from the Materials Room (See Geordie Lounsbury).

See the Law Library Reserve for a list of other relevant and useful books.

Students with Special Needs/Requests for Accommodation

Professor Dianne Pothier is the faculty advisor to students with disabilities. Students wishing to discuss in-class accommodation or in-class study assistance needs should see Professor Pothier.

Students seeking special accommodation with regard to any aspect of course evaluation

(including exam deferrals and extensions to deadlines) must make an application to the Studies Committee. Academic regulations require such requests to be made as soon as possible and, in any event, no later than the date on which the exam is to be written or the paper or other assignment is to be submitted. Students should contact Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes for more information about requests for accommodation and about the Studies Committee process.

Pandemic H1N1 Influenza Advisory in Relation to Academic Continuity

In the event of an escalation of the pandemic H1N1 influenza virus, the University may need to authorize Academic Units to change elements of class schedules and/or evaluation plans as outlined in course syllabi. Any change is intended to support the primary goal of reducing the risk of spreading a pandemic influenza among students, faculty and staff.

Although it is difficult to predict the severity of the pandemic, the University is committed to minimizing the impact on student's academic progress. Therefore, every effort will be made to provide students with options for continued learning and for continued fair evaluations.

Changes may include but are not limited to:

- Adjustments to course assignments;
- Changes to the dates of exams;
- Arrangements for alternative evaluations for students affected by H1N1;
- Adjustments to work terms;
- Modification of marks awarded for participation;
- Adjustments to attendance policies.

Any alternative plan made in individual courses may be superseded by University-wide or government measures to reduce the spread of the pandemic H1N1 influenza virus.

Plagiarism

All students in this course must read the University policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the plagiarism.dal.ca website; and the Law School policy on plagiarism, as set out in our regulations, available in hard copy from the Associate Dean's office and online at:
http://law.dal.ca/Current_Students/Course_Selection_Materials/RegulationsHandbook/index.php

Any paper or assignment submitted by a student at Dalhousie Law School may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the Law School, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above.

CLASS SCHEDULE & READING LIST

- Sept. 15 **Introduction to Legal Ethics**
Text: Chapter 1
Handbook: Foreword, Chapters 1, 13, 14, 18, 21, 23 and 24
- Sept. 22 Class cancelled
- Sept. 29 **The Legal Profession and Lawyer Regulation in Canada**
Text: Chapter 2
Handbook: Chapters 18, 19 and 24
Act: Scan whole Act, pay particular attention to 4-5, 16-26 and 27-54
Regs: Scan all regulations, pay particular attention to 2.9 3.1, 3.3, 3.6, 3.7, 3.9 and 5.6
- Oct. 6 **Formation and Termination of the Lawyer-Client Relationship**
Text: Chapter 4 sections A, B, D and E
Handbook: Chapters 11, 12, 15 and 20
Regs: 7.6.1-7.6.9
- Oct. 13 **Competency and Quality of Service**
Text: Chapter 4 section C
Handbook: Chapters 2, 3, 4, 18 and 19
Act: 4(1), 4(2), 5(2), 28(1), 28(2), 33, 45(1)(c)
Regs: 3.1.1, 3.3.2, 3.3.3, 3.3.4, 8.2.1, 8.2.2, 8.3.2, 8.4.1, 8.4.2, 9.1.3, 11, 12, and 13.2
- Oct. 20 **Ethics in Advocacy**
Text: Chapter 5
Handbook: Chapters 1, 10, 13, and 14
- Oct. 27 **Confidentiality/Privilege**
Text: Chapter 6
Handbook: Chapters 5 and 14, especially Guiding Principles 14(b) and (e) and Commentaries 14.2, 14.3. See also 4.21, 9.5, 9.7, 11.11, 14.13, 16.10, and 22.2

- Nov. 3 **The Duty of Loyalty and Conflicts of Interest (Part 1: client-client conflicts)**
Text: Chapter 7 sections A and B
Handbook: Chapters 4, 5, 6, 6A, 11.1(c) and 16
- Nov. 10 **The Duty of Loyalty and Conflicts of Interest (Part 2: lawyer-client conflicts)**
Text: Chapter 7 section C
Handbook: Chapters 7, 8, 9, 11, 4.14-4.22 and Chapter 6, Guiding Principles 10, 11, and 12 and Commentaries 6.9 to 6.11
- Nov. 17 **Counseling and Negotiation**
Text: Chapter 9
Handbook: Chapter 2, 3.3 (k), 3.7, Chapter 4, Chapter 6, Guiding Principles 6 and 7, 10.2, 10.2A
- Nov. 24 **Ethics and Criminal Law Practice**
Text: Chapter 8
Handbook: Chapters 10, 14 and 17
- Dec. 1 **Access to Justice**
Text: Chapter 11
Handbook: Chapters 12, 15, 19, 20, 21, and 22
Act: 4(1)

Examination: Monday, December 14th

A review class will be scheduled.

