

LAWS 1003 FUNDAMENTALS OF PUBLIC LAW

Professor Sheila Wildeman

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Office Hours (First Term): Tuesdays 1:30-2:30 or by appointment.

(Second Term): Thursdays 3:00-4:00 or by appointment

COURSE DESCRIPTION

This class provides students with an understanding of the constitutional and administrative structures of Canadian law and government. An emphasis is placed on developing the skills required of lawyers whose public law work may range from appearances before administrative tribunals, to giving advice on the formulation and articulation of policy. Primary among the emphasized skills is the ability to work with and interpret constitutional, statutory and regulatory texts. A perspective on the administrative model of decision making will also be developed. As a necessary background for the development of these skills and for the general study of law, this class introduces students to the Canadian governmental and constitutional system. Students will explore the legislative process, statutory interpretation, and the administrative system using human rights legislation as a model. Further, students will develop an understanding of the analytical framework of the *Canadian Charter of Rights and Freedoms*, through the study of the interpretation and development of equality rights.

REQUIRED MATERIALS

1. Documents Supplement, Fundamentals of Public Law (red cover, campus bookstore -- or purchase 2nd hand version – not altered in 2 years)
2. Fundamentals of Public Law, Course Materials
Volume I is required for Term 1 (green cover, available in the campus bookstore)
Volume II is required for Term 2 (green cover, available in the campus bookstore)
3. *Canadian Human Rights Act*, provided courtesy of the Canadian Human Rights Commission (distributed in class)

CLASSES

Two 1½ hour classes per week (minus holidays) for 12 weeks in the fall term and 9 weeks in the spring term.

Fall term: Weds 1:00pm – 2:30pm (room 305) & Fridays 9:00am – 10:30am (room 104).

Winter term: Mondays 1:30pm – 3:00pm (room 204) & Weds 1:00pm – 2:30pm (room 204).

EVALUATION

1. 30% failsafe **closed book** exam in December (i.e. it counts for 30% of your final grade if it helps you and not at all if it does not help you)
2. Final **closed book** exam in the spring, worth either 100% or 70%, depending on whether it is higher than the December mark.

EXPECTATIONS FOR THE FIRST CLASS: (Weds, September 15)

1. Read “Course objectives” (handout)
2. Read chapter 1, Section A, “The Development of Human Rights Legislation”, pp. 1-9 (up to and including: *Christie v. York*)
3. Also, please prepare a brief bio containing the following information: your name, where you lived before coming to law school, your studies prior to law school, why you came to law school (“I’d exhausted all other options” is perfectly appropriate) and something interesting about yourself or important to you (*e.g.*, you are a dedicated gardener / former municipal counsellor / former alien abductee. . .).

OTHER IMPORTANT INFORMATION:**FORMAT OF THE DECEMBER AND APRIL EXAMS**

Examinations will be administered using Exam4 software. Instructions for downloading the software to your laptop computers will be provided by the Associate Dean’s office in due course. The law school has a limited number of laptops that will be made available for exam purposes to students who do not have one. Students who wish to handwrite their exams must notify the Associate Dean’s office in accordance with instructions that will be sent to all students.

PLAGIARISM POLICIES**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 the law school regulations (available in hard copy from the Associate Dean's office and online at http://law.dal.ca/Current_Students/Course_Selection_Materials/Regulations_Handbook/Plagiarism_Policy/index.php)

Any paper or assignment submitted by a student at Dalhousie University Schulich School of Law 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.

Ignorance of the policies on plagiarism will not excuse any violation of those policies.

ACCOMMODATION

Students with Special Needs/Requests for Accommodation

Students seeking special accommodation with regard to course evaluation, such as exam deferral and extensions to deadlines, should consult with Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes as soon as possible, and before an exam is scheduled to be written or an assignment is due. Requests for special accommodation for reasons such as illness or personal circumstances will require an application to the Law School Studies Committee. Students should contact Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes if they require more information about the Studies Committee process. Students wishing to discuss arrangements for classroom assistance should see Professor Wildeman, the law faculty advisor to students with disabilities.

Students may request accommodation as a result of barriers related to disability, religious obligation, or any characteristic under the Nova Scotia Human Rights Act. Students who require academic accommodation for the writing of tests, quizzes and exams should make their request to the Office of Student Accessibility & Accommodation (OSAA) prior to or at the outset of each academic term (with the exception of X/Y courses). Please see www.studentaccessibility.dal.ca for more information and to obtain Form A – Request for Accommodation. Students may also contact the Office of Student Accessibility & Accommodation directly at 494-2836, and they may contact Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes for more information.

**Fundamentals of Public Law
2010-11
Section A (Wildeman)
Tentative Term 1 Readings**

- All Readings refer to Volume I of the course materials (2010-11), except for those specifically referencing the *Canadian Human Rights Act* [CHRA].

- Please bring your CHRA to each class. Reference to the Supplementary Materials will be made on an *ad hoc* basis this term; I will advise you as to whether you need to bring them for an upcoming class.

- Finally, please note our two scheduled make-up classes and one guest lecture, each of which are on dates / times different from our regular schedule:

- Tues Nov 2, Mon Nov 15, and Mon. Nov. 22

Chapter I – Introduction to Human Rights and Legal Interpretation

Sept 15 “Course Description / Objectives” (handout), & Ch. I.A, pp. 1-9.

Sept 17 Ch. I.A, pp. 9-23 and ss. 1-15 of the *Canadian Human Rights Act* (CHRA). Skim the rest of the Act to get a sense of its overall structure and Parts.

Chapter II - The Canadian Constitutional and Legal System

Weds. Sept 22 Ch II Introduction & II.A: Federalism (pp. 24-54)

Fri Sept. 24 *****No class today*****

Weds Sept. 29 II.B: The Legislative Process (pp.55-70); II.C: The Executive and the Development of Responsible Government (pp.71-97)

Fri Oct 1 II.D: The Judiciary – to end of Nedelsky reading (pp. 98-116)

Wed Oct 6: II.D: The Judiciary – to end of *Arsenault-Cameron* (pp. 117-131)

Fri Oct 8: II.D: The Judiciary – to Chart at end (pp. 132-163).

Chapter III – Human Rights Commissions as a Response to Discrimination

Wed Oct 13: Introduction to end of Vizkelty reading (pp. 164-182)

Fri Oct 15: CHRC Annual Report 2006 to end of chapter (pp.183-209);
ALSO READ CHRA, Parts II and III.

Chapter IV – Interpreting and Applying the Law: Human Rights Case Studies

Wed Oct 20: Introduction and IV.A: Approaches to Interpretation, to end of *Rizzo Shoes* (pp. 210-241)

Fri Oct 22: IV.A: “Note: The Bonnie Robichaud case chronology” to end of *Mossop* (pp.241-274); ALSO Prepare Problem at p.274

Wed Oct 27: IV.B: “Disability” as an Exercise in Interpretation (pp. 275-304)

Fri Oct. 29 *****No class today*****

Tues Nov 2

Make-up class 3-4:30, rm 105 IV.C: “Sex” and “Sex/Race” as Exercises in Interpretation – to end of Colleen Sheppard reading (pp. 305-341)

Wed Nov 3 IV.C (to end of *Baylis-Flannery*) & IV.D: “Services Offered to the Public” as an Exercise in Interpretation (pp.341-369)

Chapter V – Evolving Responses to Discrimination

Fri Nov 5: Introduction and V.A: Characterizing and Justifying Discriminatory Practices, to end of Renaud (370-394)

Wed Nov 10: V.A continued: *Meiorin & Grismer* cases (pp.394-420)

Fri Nov 12: Study Break (No classes university-wide)

Mon Nov 15

Make-up class 3-4:30 rm 105 V.A continued: *McGill University Health Centre* to Problems (pp.420-439) **Prepare Problems at pp.438-39**

Wed Nov. 17 V.B: Systemic Discrimination, Affirmative Action, and Remedies (pp.440-466) [If needed: continue discussion of Problems]

Chapter VI – The Role and Function of Administration

Fri Nov. 19: Introduction & VI.A: Executive Intervention: Elaborating the Law (pp.467-487) **Prepare Problems at pp. 486-87**

Mon Nov. 22

Guest speaker 3-4:30, rm 105 (all sections) Joy Noonan addresses **VI.B: The Role of Human Rights Commissions and Tribunals, to end of NS Reg. 221/91 (pp.488-518).**

Fri Dec. 1 Follow-up from guest lecture on VI.B. Plus: *Blencoe* case (pp.518-528) & “When Rights Collide” (529-546). Please have in mind our earlier discussion of administrative changes made by the CHRC and legislative changes made in B.C. and Ontario.

Wed Dec. 3: Review

Dec. 17: Exam