



LAWS13010 Evidence and Proof

Term 1 - 2017

Profile information current as at 19/04/2024 07:06 pm

All details in this unit profile for LAWS13010 have been officially approved by CQU University and represent a learning partnership between the University and you (our student). The information will not be changed unless absolutely necessary and any change will be clearly indicated by an approved correction included in the profile.

General Information

Overview

This unit is concerned with issues of evidence and proof. The topics covered in the unit include sources and acceptability of evidence. This requires you to access Evidence Acts to understand the technical rules covering evidentiary matters such as hearsay, admissions and confessions, res gestae and evidence obtained by illegal means.

Details

Career Level: *Undergraduate*

Unit Level: *Level 3*

Credit Points: 6

Student Contribution Band: 10

Fraction of Full-Time Student Load: 0.125

Pre-requisites or Co-requisites

Pre-requisites: LAWS11057 Introduction to Law LAWS11059 Statutory Interpretation LAWS11060 Criminal Law Practice and Procedure

Important note: Students enrolled in a subsequent unit who failed their pre-requisite unit, should drop the subsequent unit before the census date or within 10 working days of Fail grade notification. Students who do not drop the unit in this timeframe cannot later drop the unit without academic and financial liability. See details in the [Assessment Policy and Procedure \(Higher Education Coursework\)](#).

Offerings For Term 1 - 2017

- Distance

Attendance Requirements

All on-campus students are expected to attend scheduled classes - in some units, these classes are identified as a mandatory (pass/fail) component and attendance is compulsory. International students, on a student visa, must maintain a full time study load and meet both attendance and academic progress requirements in each study period (satisfactory attendance for International students is defined as maintaining at least an 80% attendance record).

Website

[This unit has a website, within the Moodle system, which is available two weeks before the start of term. It is important that you visit your Moodle site throughout the term. Please visit Moodle for more information.](#)

Class and Assessment Overview

Recommended Student Time Commitment

Each 6-credit Undergraduate unit at CQUniversity requires an overall time commitment of an average of 12.5 hours of study per week, making a total of 150 hours for the unit.

Class Timetable

[Regional Campuses](#)

Bundaberg, Cairns, Emerald, Gladstone, Mackay, Rockhampton, Townsville

[Metropolitan Campuses](#)

Adelaide, Brisbane, Melbourne, Perth, Sydney

Assessment Overview

1. **Written Assessment**

Weighting: 30%

2. **Written Assessment**

Weighting: 30%

3. **Examination**

Weighting: 40%

Assessment Grading

This is a graded unit: your overall grade will be calculated from the marks or grades for each assessment task, based on the relative weightings shown in the table above. You must obtain an overall mark for the unit of at least 50%, or an overall grade of 'pass' in order to pass the unit. If any 'pass/fail' tasks are shown in the table above they must also be completed successfully ('pass' grade). You must also meet any minimum mark requirements specified for a particular assessment task, as detailed in the 'assessment task' section (note that in some instances, the minimum mark for a task may be greater than 50%). Consult the [University's Grades and Results Policy](#) for more details of interim results and final grades.

CQUniversity Policies

All University policies are available on the [CQUniversity Policy site](#).

You may wish to view these policies:

- Grades and Results Policy
- Assessment Policy and Procedure (Higher Education Coursework)
- Review of Grade Procedure
- Student Academic Integrity Policy and Procedure
- Monitoring Academic Progress (MAP) Policy and Procedure – Domestic Students
- Monitoring Academic Progress (MAP) Policy and Procedure – International Students
- Student Refund and Credit Balance Policy and Procedure
- Student Feedback – Compliments and Complaints Policy and Procedure
- Information and Communications Technology Acceptable Use Policy and Procedure

This list is not an exhaustive list of all University policies. The full list of University policies are available on the [CQUniversity Policy site](#).

Previous Student Feedback

Feedback, Recommendations and Responses

Every unit is reviewed for enhancement each year. At the most recent review, the following staff and student feedback items were identified and recommendations were made.

Feedback from Course satisfaction survey.

Feedback

Students value detailed feedback that is personalised to their needs.

Recommendation

Continue to provide a combination of whole-of-class overall feedback as well as personalised individual feedback sheets for each assessment tasks. Continue to ensure that these individual feedback sheets provide constructive feedback of both a positive and negative nature.

Action

I did not use feedback sheets, but provided whole of class overall feedback and personalised individual feedback in writing or through an oral presentation.

Feedback from Course satisfaction survey, coupled with anecdotal feedback from students at approximately the time tasks were due.

Feedback

Students want clarity on precisely what is required of them in assessment tasks. Some students struggled with precisely what was required of them in assessment tasks.

Recommendation

Ensure that assessment task questions are 100% error free. Make assessment task questions comprehensive in setting out the expectations of students. Continue to offer question time on assessment tasks during tutorials, and offer recordings of those sessions to ensure fairness for students who cannot make the tutorial time. The remainder of negative feedback in this field may be attributable to student panic or overwhelm upon approaching deadlines, rather than a tangible deficit in the information provided. That the assessment task was achievable and the information provided clear was demonstrated by the high-quality answers many students were able to produce.

Action

I am satisfied with the assessment task questions were presented 100% error free and student expectations were made clear.

Feedback from Student feedback.

Feedback

Students valued having a course coordinator who was accessible.

Recommendation

Continue to provide daily email responses, and continue to offer additional support to students by phone or Zoom where students find it of assistance. Continue to invite student questions in tutorials.

Action

I attempted to remain accessible to students throughout the course and I encouraged students to ask questions in UCROO

Unit Learning Outcomes

On successful completion of this unit, you will be able to:

1. Interpret and apply common law and statutory rules of evidence in the Queensland and Commonwealth jurisdiction, including indigenous perspectives
2. Identify and discuss ethical challenges in the application of Evidence Law, particularly in relation to cross-examination technique, and the use of privilege
3. Critically analyse a body of evidence and discuss its admissibility and probative value
4. Research and present relevant cases and statutory sources, to utilise evidence law and its authoritative interpretation to respond to realistic legal problems
5. Use creative and analytical thinking skills to identify appropriate evidence to support legal propositions in a trial setting.

LAWS13010 Evidence and Proof meets the Priestley 11 requirement for Evidence.

Alignment of Learning Outcomes, Assessment and Graduate Attributes



Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes				
	1	2	3	4	5
1 - Written Assessment - 30%	•	•	•	•	•
2 - Written Assessment - 30%	•	•	•	•	•
3 - Examination - 40%	•	•	•	•	•

Alignment of Graduate Attributes to Learning Outcomes

Graduate Attributes	Learning Outcomes				
	1	2	3	4	5
1 - Communication					•
2 - Problem Solving	•	•	•	•	•
3 - Critical Thinking	•	•	•	•	•
4 - Information Literacy					•
5 - Team Work					
6 - Information Technology Competence					
7 - Cross Cultural Competence					
8 - Ethical practice					

Graduate Attributes	Learning Outcomes				
	1	2	3	4	5
9 - Social Innovation					
10 - Aboriginal and Torres Strait Islander Cultures					

Alignment of Assessment Tasks to Graduate Attributes

Assessment Tasks	Graduate Attributes									
	1	2	3	4	5	6	7	8	9	10
1 - Written Assessment - 30%	•	•	•	•						
2 - Written Assessment - 30%	•	•	•	•						
3 - Examination - 40%	•	•	•	•						

Textbooks and Resources

Textbooks

LAWS13010

Prescribed

Queensland Evidence Law

Edition: Third (2014)

Authors: Field, David

LexisNexis Butterworths

Chatswood , NSW , Australia

ISBN: 9780409337419

Binding: Paperback

LAWS13010

Supplementary

Rules of Evidence in Australia, Text and Cases

Edition: Second (2007)

Authors: Arenson, Kenneth and Bagaric, Mirko

LexisNexis Butterworths

Chatswood , NSW , Australia

ISBN: 9780409324204

Binding: Paperback

Additional Textbook Information

The textbook by Field is absolutely essential for the study of LAWS13010. The casebook by Arenson and Bagaric is recommended, but not essential.

[View textbooks at the CQUniversity Bookshop](#)

IT Resources

You will need access to the following IT resources:

- CQUniversity Student Email
- Internet
- Unit Website (Moodle)
- UCROO
- Zoom access will be required for the first assignment

Referencing Style

All submissions for this unit must use the referencing style: [Australian Guide to Legal Citation, 3rd ed](#)
For further information, see the Assessment Tasks.

Teaching Contacts

John Milburn Unit Coordinator
j.a.milburn@cqu.edu.au

Schedule

Week 1 - 06 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
Principles of Evidence	Compulsory: Field Ch. 1. Optional: Casebook pp. 14-27.	

Week 2 - 13 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
Relevance and Admissibility	Compulsory: Field Ch. 1, pp. 4-17. Optional: Casebook pp.1-12.	

Week 3 - 20 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
Methods of Proof	Compulsory: Field Ch. 2, pp. 52-27 and Ch. 3. Optional: Casebook pp.28-34.	

Week 4 - 27 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
Oral Evidence	Compulsory: Field Ch. 5 and Ch. 6, pp. 199-206. Optional: Casebook pp.34-104.	

Week 5 - 03 Apr 2017

Module/Topic	Chapter	Events and Submissions/Topic
Examination of Witnesses	Compulsory: Field Ch. 6 up to page 199. Optional: Casebook pp. 110-192.	

Vacation Week - 10 Apr 2017

Module/Topic	Chapter	Events and Submissions/Topic
		Oral evidence assignment Due: Vacation Week Thursday (13 Apr 2017) 11:45 pm AEST

Week 6 - 17 Apr 2017

Module/Topic	Chapter	Events and Submissions/Topic
Documentary and Real Evidence	Compulsory: Field Ch. 10. Optional: Casebook pp. 363-384 and 387-405.	

Week 7 - 24 Apr 2017

Module/Topic	Chapter	Events and Submissions/Topic
Hearsay	Compulsory: Field Ch. 9, pp. 275-286. Optional: Casebook pp.408-414.	

Week 8 - 01 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
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Admissions and Confessions
Compulsory: Field Ch. 9, pp. 296-299.
Optional: Casebook pp. 453-468 and Ch. 12.

Week 9 - 08 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Other exceptions to the Hearsay Rule	Compulsory: Field Ch. 9, pp. 286-296. Optional: Casebook Ch. 10.	

Week 10 - 15 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Circumstantial Evidence	Compulsory: Field Ch. 7. Optional: Casebook Ch. 5.	

Week 11 - 22 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Opinion Evidence	Compulsory: Field Ch. 11, pp. 343-364. Optional: Casebook Ch. 11.	Experiential Assignment Due: Week 11 Thursday (25 May 2017) 11:45 pm AEST

Week 12 - 29 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Criminal Procedure and Evidence	No reading for this week	

Review/Exam Week - 05 Jun 2017

Module/Topic	Chapter	Events and Submissions/Topic
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Exam Week - 12 Jun 2017

Module/Topic	Chapter	Events and Submissions/Topic
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Assessment Tasks

1 Oral evidence assignment

Assessment Type

Written Assessment

Task Description

Students will be required to form groups of two, and to make a 30 minute appointment with the lecturer by Zoom, at a convenient time in Week 5 or the Vacation Week.

One student will be the prosecutor and one student will be the defence counsel, in relation to a witness.

The witness statement and briefing will be posted in Week 2 of term.

Each student is to develop between ten and twenty questions to put to that witness, following the rules of evidence.

Those questions must be submitted through Moodle by the due date. Students will then question the witness, played by the Lecturer, in realtime via Zoom.

Assessment Due Date

Vacation Week Thursday (13 Apr 2017) 11:45 pm AEST

Return Date to Students

Monday (24 Apr 2017)

Weighting

30%

Assessment Criteria

An assessment rubric will be posted to the Moodle site. The criteria are:

1. Understanding of the brief and facts.
2. Understanding of the concept of relevance, and application to the formulation of questions.
3. Demonstrated understanding of the rules applying to different forms of examination.
4. Ability to use oral examination to assist with the formulation of a case.

5. General skills of advocacy.
6. General understanding of evidence law.

Referencing Style

- [Australian Guide to Legal Citation, 3rd ed](#)

Submission

Online

Learning Outcomes Assessed

- Interpret and apply common law and statutory rules of evidence in the Queensland and Commonwealth jurisdiction, including indigenous perspectives
- Identify and discuss ethical challenges in the application of Evidence Law, particularly in relation to cross-examination technique, and the use of privilege
- Critically analyse a body of evidence and discuss its admissibility and probative value
- Research and present relevant cases and statutory sources, to utilise evidence law and its authoritative interpretation to respond to realistic legal problems
- Use creative and analytical thinking skills to identify appropriate evidence to support legal propositions in a trial setting.

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Information Literacy

2 Experiential Assignment

Assessment Type

Written Assessment

Task Description

Word limit: 2000 words (absolute maximum – do not exceed 2000) excluding footnotes.

To complete this assignment you will need to obtain a copy of the 1957 movie *Witness for the Prosecution*, starring Charles Laughton and Marlene Dietrich. It is available for purchase on iTunes for about \$12, or can be purchased through retailers such as JB Hi-Fi. Many local DVD hire places will also have a copy in the Classics section.

*If obtaining a copy of the DVD is beyond your means then please contact me. We can either make arrangements for you to borrow mine, or I have an alternative assignment question available. I am not making that question public at this time because I don't want to seem like I am offering a choice – my strong preference would be for everyone to do the *Witness for the Prosecution* assignment. When this subject has been run previously, all students have been able to get a copy of the movie. If you wish some additional resources, the screenplay for the movie can readily be located online in PDF form.*

It is important to cite authorities for your answers.

Questions (Answer BOTH)

Part A (10 marks): Prior to the trial, Sir Wilfred proofs two witnesses: Leonard Vole and Christine Vole/Helm. What are the rules which legal practitioners must follow when proofing witnesses? Do you think those rules were followed in relation to these witnesses?

Part B (20 marks): Analyse each objection made during the trial. If the trial had occurred in Queensland, what rules of law supported each objection? Ensure you provide authorities for your answer. If possible, rephrase the question to make it unobjectionable. If that is not possible, explain why not.

Assessment Due Date

Week 11 Thursday (25 May 2017) 11:45 pm AEST

I expect student to present their assignment work on time. Please note that I will not consider any request for an extension of time unless you upload an application in the appropriate manner, supported by documentation and made prior to the due time/date. I will impose a penalty deduction of 5% per day for late work until the nominated cut-off date, Saturday, 3 June 2017.

Return Date to Students

Monday (5 June 2017)

Student satisfaction surveys in the past indicate student concerns when a course coordinator does not provide feedback in a timely manner and does not return assignments quickly. Generally, I release the feedback and marks the day after the final cut-off date (that is I provide feedback and marks 10 days after the due date).

Weighting

30%

Assessment Criteria

The criteria and weighting are as follows.

- Identification of primary issues (5 marks)
- Demonstrated understanding of the subject matter (10 marks)
- Application of facts to law (5 marks)
- Clear conclusion and answer to each question (5 marks)
- Analytical ability (2 marks)
- Use of reference sources (1 mark)
- Vocabulary and grammar (2 marks)

I assess students on their ability to demonstrate thinking, writing and presentation skills, to comprehend the material, to process the material and to provide a critical analysis and logical discussion of the law. Students are required to communicate clearly, logically and in a concise manner. I expect you to present material in a professional manner. Please paginate shall paper and used correct spelling and grammar. You must appropriately reference and attribute the work of others.

Fail

You will have shown evidence of the following:

- the written expression is poor and difficult to understand
- the answer is poorly organised
- referencing is generally inadequate
- lack of familiarity with the legislation and its application
- failure to identify and address the issues in the question
- reasoning and application demonstrated is poor

Pass

You will have:

- made a conscientious attempt to address the topic and/or answer the question
- shown evidence of having done the required reading and of having understood the reading
- presented a reasonable argument to back up your conclusions
- demonstrated a reasonable level of spelling and grammatical usage
- used referencing but this may need improvement
- issues that may need to be identified and addressed in more depth

Credit

You will have:

- addressed the topic and/or answered the question directly
- presented soundly based arguments and backed these up with reasons
- gone beyond description to analysis of key issues
- used the English language well
- shown evidence of reading widely
- demonstrated understanding of the reading
- used referencing that is satisfactory

Distinction

You will have:

- met the above criteria for a credit
- demonstrated the attainment of a high degree of understanding of the concepts of the course
- demonstrated deep insight into the application of knowledge and skills acquired to complex theoretical and practical situations
- used referencing correctly
- made reference to all appropriate legislation

High Distinction

You will have:

- met the above criteria for a distinction
- demonstrated the attainment of an outstanding level of achievement regarding the objectives of this course
- demonstrated an interesting and/or original approach/idea/argument
- demonstrated mastery of the relevant referencing system

- ensured your conclusions are backed by well-reasoned arguments demonstrating a detailed insight and analysis of issues
- ensured your references are made to the appropriate legislation for particular issues

Referencing Style

- [Australian Guide to Legal Citation, 3rd ed](#)

Submission

Online

Submission Instructions

I will only accept online submission of your work. Upload your work in a Word document (not PDF). I expect student to present their assignment work on time. Take care with your submission. Avoid obvious mistakes, such as basic spelling and grammatical errors. Read your paper out aloud, word by word. It is slow however; it may be a productive exercise. Alternatively, or in addition, ask a friend to read your material. Generally, you should submit one document (even if the assessment is in two or more parts) and ensure that your name is included in the name of the saved document.

Learning Outcomes Assessed

- Interpret and apply common law and statutory rules of evidence in the Queensland and Commonwealth jurisdiction, including indigenous perspectives
- Identify and discuss ethical challenges in the application of Evidence Law, particularly in relation to cross-examination technique, and the use of privilege
- Critically analyse a body of evidence and discuss its admissibility and probative value
- Research and present relevant cases and statutory sources, to utilise evidence law and its authoritative interpretation to respond to realistic legal problems
- Use creative and analytical thinking skills to identify appropriate evidence to support legal propositions in a trial setting.

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Information Literacy

Examination

Outline

Complete an invigilated examination.

Date

During the examination period at a CQUniversity examination centre.

Weighting

40%

Length

120 minutes

Exam Conditions

Open Book.

Materials

No calculators permitted

Law dictionaries, Business and Law dictionaries (discipline specific dictionaries) are authorised.

Academic Integrity Statement

As a CQUniversity student you are expected to act honestly in all aspects of your academic work.

Any assessable work undertaken or submitted for review or assessment must be your own work. Assessable work is any type of work you do to meet the assessment requirements in the unit, including draft work submitted for review and feedback and final work to be assessed.

When you use the ideas, words or data of others in your assessment, you must thoroughly and clearly acknowledge the source of this information by using the correct referencing style for your unit. Using others' work without proper acknowledgement may be considered a form of intellectual dishonesty.

Participating honestly, respectfully, responsibly, and fairly in your university study ensures the CQUniversity qualification you earn will be valued as a true indication of your individual academic achievement and will continue to receive the respect and recognition it deserves.

As a student, you are responsible for reading and following CQUniversity's policies, including the [Student Academic Integrity Policy and Procedure](#). This policy sets out CQUniversity's expectations of you to act with integrity, examples of academic integrity breaches to avoid, the processes used to address alleged breaches of academic integrity, and potential penalties.

What is a breach of academic integrity?

A breach of academic integrity includes but is not limited to plagiarism, self-plagiarism, collusion, cheating, contract cheating, and academic misconduct. The Student Academic Integrity Policy and Procedure defines what these terms mean and gives examples.

Why is academic integrity important?

A breach of academic integrity may result in one or more penalties, including suspension or even expulsion from the University. It can also have negative implications for student visas and future enrolment at CQUniversity or elsewhere. Students who engage in contract cheating also risk being blackmailed by contract cheating services.

Where can I get assistance?

For academic advice and guidance, the [Academic Learning Centre \(ALC\)](#) can support you in becoming confident in completing assessments with integrity and of high standard.

What can you do to act with integrity?



Be Honest

If your assessment task is done by someone else, it would be dishonest of you to claim it as your own



Seek Help

If you are not sure about how to cite or reference in essays, reports etc, then seek help from your lecturer, the library or the Academic Learning Centre (ALC)



Produce Original Work

Originality comes from your ability to read widely, think critically, and apply your gained knowledge to address a question or problem