



LAWS13010 Evidence and Proof

Term 1 - 2018

Profile information current as at 18/04/2024 08:30 pm

All details in this unit profile for LAWS13010 have been officially approved by CQUniversity 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

LAWS13010 Evidence and Proof examines the major features of evidence law and procedure, both statutory and common law, and the major sources of judicial interpretation relevant to a general study of the role, sources and foundation of the law of evidence and a trial procedure, of pre-trial obligations and of rules concerning the burden and standard of proof. Specific topics include: The relevant sources of the law of evidence and procedure; fair trials, proof and adversarialism, including principles underpinning accusatorial justice; Evidentiary issues to be addressed before trial: disclosure, notices and requests; forms of evidence; evidentiary principles and rules, and exceptions to the rules; the bases for privilege including legal professional and client privilege; judicial warnings, comment and directions; and mandatory and discretionary exclusions and the limitations on evidence. This unit meets the LPAB requirements for evidence. This unit also carries content to support Criminal Procedure.

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

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 - 2018

- 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 John Milburn

Feedback

In term 1, 2017 for LAWS13010, I used UCROO as the primary online discussion platform for students. UCROO is an online discussion platform that is, in my view, more user-friendly and interactive than Moodle discussion forums. I believe students received UCROO well, although it was a new learning experience for many students.

Recommendation

Consider the ongoing use of UCROO as a supplementary discussion forum to Moodle.

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 jurisdictions, 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 authentic legal problems
5. Use creative and analytical thinking skills to identify appropriate evidence to support legal propositions in a trial setting.

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

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					
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: 4th (2017)

Authors: David Field

LexisNexis Butterworths

Chatswood , NSW , Australia

ISBN: 9780409345629

Binding: Paperback

LAWS13010

Supplementary

Evidence Laws in Qld, SA and WA

Edition: 1st (2017)

Authors: Andrew Hemming and Robyn Layton

Thomson Reuters (Professional) Australia Limited

Pymont , NSW , Australia

ISBN: 9780455237862

Binding: Paperback

Additional Textbook Information

The textbook by Field is essential for the study of LAWS13010. The supplementary text book by 'Evidence Laws in Qld, SA and WA' by Hemming and Layton 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)
- Access to UCROO
- ZOOM

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 Principles of Evidence 05/03/2018 - 05 Mar 2018

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

Week 2 Relevance and Admissibility 12/03/2018 - 12 Mar 2018

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

Week 3 Methods of Proof 19/03/2018 - 19 Mar 2018

Module/Topic	Chapter	Events and Submissions/Topic
Methods of Proof	Compulsory: Field Ch. 2, pp. 53-58 and Ch. 3. Optional: Casebook pp.28-34.	

Week 4 Oral Evidence 26/03/2018 - 26 Mar 2018

Module/Topic	Chapter	Events and Submissions/Topic
Oral Evidence	Compulsory: Field Ch. 5 and Ch. 6 pp. 207-215. Optional: Casebook pp.34-104	

Week 5 Examination of Witnesses 02/04/2018 - 02 Apr 2018

Module/Topic	Chapter	Events and Submissions/Topic
Examination of Witnesses	Compulsory: Field Ch. 6 up to page 207. Optional: Casebook pp. 110-192	

Vacation Week - 09 Apr 2018

Module/Topic	Chapter	Events and Submissions/Topic

Week 6 Documentary and Real Evidence 16/04/2018 - 16 Apr 2018

Module/Topic	Chapter	Events and Submissions/Topic
Documentary and Real Evidence	Compulsory: Field Ch. 10. Optional: Casebook pp. 363-384 and 387-405.	Oral evidence assignment Due: Week 6 Thursday (19 Apr 2018) 11:45 pm AEST

Week 7 Hearsay 23/04/2018 - 23 Apr 2018

Module/Topic	Chapter	Events and Submissions/Topic
Hearsay	Compulsory: Field Ch. 9, pp. 285-297. Optional: Casebook pp.408-414	

Week 8 Admissions and Confessions 30/04/2018 - 30 Apr 2018

Module/Topic	Chapter	Events and Submissions/Topic
Admissions and Confessions	Compulsory: Field Ch. 9, pp. 307-311. Optional: Casebook pp. 453-468 and Ch. 12.	

Week 9 Other exceptions to the Hearsay Rule 07/05/2018 - 07 May 2018

Module/Topic	Chapter	Events and Submissions/Topic
Other exceptions to the Hearsay Rule	Compulsory: Field Ch. 9, pp. 297-307. Optional: Casebook Ch. 10.	

Week 10 Circumstantial Evidence 14/05/2018 - 14 May 2018

Module/Topic	Chapter	Events and Submissions/Topic
Circumstantial Evidence	Compulsory: Field Ch. 7. Optional: Casebook Ch. 5.	Experiential Written Assignment Due: Week 10 Thursday (17 May 2018) 11:45 pm AEST

Week 11 Opinion Evidence 21/05/2018 - 21 May 2018

Module/Topic	Chapter	Events and Submissions/Topic
Opinion Evidence	Compulsory: Field Ch. 11, pp. 356-381. Optional: Casebook Ch. 11	

Week 12 Criminal Procedure and Evidence 28/05/2018 - 28 May 2018

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

Review/Exam Week 04/06/2018 - 04 Jun 2018

Module/Topic	Chapter	Events and Submissions/Topic
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Exam Week 11/06/2018 - 11 Jun 2018

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 6. One student will be the prosecutor and one student will be the defence counsel, in relation to a witness. Each student is to develop between ten and twenty questions to put to that witness, following the rules of evidence.

Assessment Due Date

Week 6 Thursday (19 Apr 2018) 11:45 pm AEST

The online assessment is completed with me and a fellow student. We will find a mutually suitable time.

Return Date to Students

Week 8 Monday (30 Apr 2018)

Written feedback.

Weighting

30%

Assessment Criteria

I assess students on their ability to demonstrate advocacy and writing skills, to comprehend the material and to provide a clear demonstration of the law. Students are required to communicate in a clear and logical manner. I expect you to present your advocacy and paper in a professional manner. Please paginate your paper and use correct spelling and grammar. You must appropriately reference and attribute the work of others.

Referencing Style

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

Submission

Online

Submission Instructions

I will only accept online submission of your written work. Upload your work in a Word document (not PDF).

Learning Outcomes Assessed

- Interpret and apply common law and statutory rules of evidence in the Queensland and Commonwealth jurisdictions, 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 authentic 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 Written Assignment

Assessment Type

Written Assessment

Task Description

To complete this assignment, you will need to obtain a copy of the 1957 movie 'Witness for the Prosecution'. It is available for purchase through retailers such as JB Hi-Fi for about \$7. Many DVD hire outlets will also have a copy in the Classics section.

Assessment Due Date

Week 10 Thursday (17 May 2018) 11:45 pm AEST

I expect students 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, 26 May 2018 at 11:45 PM.

Return Date to Students

Week 12 Monday (28 May 2018)

Student satisfaction surveys in the past indicate student concerns when a unit coordinator does not provide assessment feedback 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

I assess students on their ability to demonstrate thinking and writing 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 an answer clearly and logically and in a concise manner. I expect you to present your paper in a professional manner. Please paginate your paper and use correct spelling and grammar. You must appropriately reference and attribute the work of others.

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 students 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 jurisdictions, 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 authentic legal problems
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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

Dictionary - non-electronic, concise, direct translation only (dictionary must not contain any notes or comments).

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