



# LAWS13010 Evidence and Proof

## Term 3 - 2018

Profile information current as at 19/05/2022 09:26 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 3 - 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

The unit materials are of high quality but require a comprehensive overview to reflect recent developments in case law and legislation. Specifically, the materials need to reflect the current law of evidence in the federal criminal law jurisdiction.

##### Recommendation

Undertake a comprehensive overview of the study guides and online resources in this unit.

## 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

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#### Supplementary

##### Evidence Laws in Qld, SA and WA

Edition: 1st (2017)

Authors: Andrew Hemming and Robyn Layton

Thomson Reuters (Professional) Australia Limited

Pyrmont , NSW , Australia

ISBN: 9780455237862

Binding: Paperback

#### Additional Textbook Information

The textbook by Hemming and Layton is highly 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)
- 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](mailto:j.a.milburn@cqu.edu.au)

## Schedule

### Week 1 Principles of Evidence 05/11/2018 - 05 Nov 2018

Module/Topic	Chapter	Events and Submissions/Topic
Principles of Evidence	Field chapter 1	

### Week 2 Relevance and Admissibility 12/11/2018 - 12 Nov 2018

Module/Topic	Chapter	Events and Submissions/Topic
Relevance and Admissibility	Field chapter 1	

**Week 3 Methods of Proof 19/11/2018 - 19 Nov 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Methods of Proof	Field chapters 2 and 3	

**Week 4 Oral Evidence 26/11/2018 - 26 Nov 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Oral Evidence	Field chapters 4, 5 and 6	

**Vacation Week - 03 Dec 2018**

Module/Topic	Chapter	Events and Submissions/Topic

**Week 5 Examination of Witnesses 10/12/2018 - 10 Dec 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Examination of Witnesses	Field chapters 6 and 8	

**Week 6 Documentary and Real Evidence 17/12/2018 - 17 Dec 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Documentary and Real Evidence	Field chapter 10	<b>Oral evidence assignment</b> Due: Week 6 Thursday (20 Dec 2018) 11:45 pm AEST

**Week 7 Hearsay 31/12/18 - 31 Dec 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Hearsay	Field chapter 9	

**Week 8 Admissions and Confessions 07/01/2019 - 07 Jan 2019**

Module/Topic	Chapter	Events and Submissions/Topic
Admissions and Confessions	Field chapters 9 and 12	

**Week 9 Other exceptions to the Hearsay Rule 14/01/2019 - 14 Jan 2019**

Module/Topic	Chapter	Events and Submissions/Topic
Other exceptions to the Hearsay Rule	Field chapter 9	

**Week 10 Circumstantial Evidence 21/01/2019 - 21 Jan 2019**

Module/Topic	Chapter	Events and Submissions/Topic
Circumstantial Evidence	Field chapters 7 and 8	<b>Experiential Written Assignment</b> Due: Week 10 Thursday (24 Jan 2019) 11:45 pm AEST

**Week 11 Opinion Evidence 28/01/2019 - 28 Jan 2019**

Module/Topic	Chapter	Events and Submissions/Topic
Opinion Evidence	Field chapters 11 and 12	

**Week 12 Criminal Procedure and Evidence 04/02/2019 - 04 Feb 2019**

Module/Topic	Chapter	Events and Submissions/Topic
Criminal Procedure and Evidence	<b>No prescribed reading this week</b>	

**Exam Week - 11 Feb 2019**

Module/Topic	Chapter	Events and Submissions/Topic

## 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 (20 Dec 2018) 11:45 pm AEST

The online assessment is completed with a fellow student and the unit coordinator in a live session. We will find a mutually suitable time.

**Return Date to Students**

Week 7 Saturday (31 Dec 2022)

I will provide oral feedback at the completion of the live session.

**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**

In this assessment, you will view a classic movie. You complete either Part A, which is based on the 1957 movie 'Witness for the Prosecution', OR Part B, which is based on the 1957 movie '12 Angry Men'. To complete this assignment, you will need to obtain a copy of either movie. *You may find it difficult to source the movie Witness for the Prosecution. You should have no difficulty in sourcing the movie 12 Angry Men.*

**Assessment Due Date**

Week 10 Thursday (24 Jan 2019) 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, 2 February 2019 at 11:45 PM.

### **Return Date to Students**

Week 12 Monday (4 Feb 2019)

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
- 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

### **Details**

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