



LAWS13010 Evidence and Proof

Term 3 - 2019

Profile information current as at 20/04/2024 07:39 am

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

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 - 2019

- Online

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: 20%

2. **Written Assessment**

Weighting: 20%

3. **Examination**

Weighting: 60%

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 Unit Evaluation Comments

Feedback

Students appreciated the change in layout of study guides.

Recommendation

The study guide format, which has clear indicators of what to read/view/do and a weekly checklist of these items, be retained and substance continually updated.

Feedback from Unit Evaluation Data

Feedback

Students particularly rated the Moodle site highly for usability.

Recommendation

The Moodle site format be retained in the future.

Feedback from Self-evaluation and student feedback

Feedback

Assessment items need to returned quicker.

Recommendation

The two written assignments are to be reduced in length and weight so that marking turnaround times are reduced. Further, more focus will be provided on the generic feedback document, with less need then for specific individual feedback and an option for students to ask for further individual feedback.

Feedback from Previous unit evaluations

Feedback

The unit materials require overview to reflect changes in cases and legislation.

Recommendation

The unit materials continue to be progressively updated to reflect recent developments in case law and legislation.

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

Alignment of Learning Outcomes, Assessment and Graduate Attributes

 N/A Level Introductory Level Intermediate Level Graduate Level Professional Level Advanced Level

Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes			
	1	2	3	4
1 - Written Assessment - 20%	•	•		
2 - Written Assessment - 20%			•	•
3 - Examination - 60%	•	•	•	•

Alignment of Graduate Attributes to Learning Outcomes

Graduate Attributes	Learning Outcomes			
	1	2	3	4
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 - 20%	•	•	•	•			•			
2 - Written Assessment - 20%	•	•	•	•						
3 - Examination - 60%	•	•	•							

Textbooks and Resources

Textbooks

LAWS13010

Prescribed

Queensland Evidence Law

Edition: 4th (2017)

Authors: David Field

LexisNexis Butterworths

Chatswood , Australia

Binding: Paperback

Additional Textbook Information

Copies can be purchased from the CQUni Bookshop here: <http://bookshop.cqu.edu.au> (search on the Unit code)

[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, 4th ed](#)
For further information, see the Assessment Tasks.

Teaching Contacts

Olasupo Owoeye Unit Coordinator

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Schedule

Week 1 - 11 Nov 2019

Module/Topic	Chapter	Events and Submissions/Topic
Introduction: Basic Principles of Evidence Law; Onus and standards of proof	David Field, Queensland Evidence Law (LexisNexis Butterworths, 4th edn, 2017) chapter 1 [1.1]-[1.9], [1.45]-[1.105]	

Week 2 - 18 Nov 2019

Module/Topic	Chapter	Events and Submissions/Topic
Relevance and Admissibility: Proof without Evidence, and Judicial Discretion	David Field, Queensland Evidence Law (LexisNexis Butterworths, 4th edn, 2017) chapter 1 [1.9]-[1.44], chapter 2 [2.1]-[2.61], Chapter 12 [12.1]-[12.36], [12.54]-[12.62]	

Week 3 - 25 Nov 2019

Module/Topic	Chapter	Events and Submissions/Topic
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Methods of Proof
Competence and Compellability

David Field, Queensland Evidence Law
(LexisNexis Butterworths, 4th edn,
2017) chapters 3-4

Week 4 - 02 Dec 2019

Module/Topic	Chapter	Events and Submissions/Topic
Oral Evidence Special Witnesses Privilege	David Field, Queensland Evidence Law (LexisNexis Butterworths, 4th edn, 2017) chapter 5, chapter 6 [6.93]- [6.117], chapter 8 [8.39]-[8.53]	

Vacation Week - 09 Dec 2019

Module/Topic	Chapter	Events and Submissions/Topic
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Week 5 - 16 Dec 2019

Module/Topic	Chapter	Events and Submissions/Topic
Examination of Witnesses	David Field, Queensland Evidence Law (LexisNexis Butterworths, 4th edn, 2017) Remainder of chapter 6	

Week 6 - 23 Dec 2019

Module/Topic	Chapter	Events and Submissions/Topic
The rule against hearsay	David Field, Queensland Evidence Law (LexisNexis Butterworths, 4th edn, 2017) chapter 9	

Week 7 - 06 Jan 2020

Module/Topic	Chapter	Events and Submissions/Topic
Exceptions to the Hearsay Rule (Common Law, Res Gestae)	David Field, Queensland Evidence Law (LexisNexis Butterworths, 4th edn, 2017) chapter 9	Written Assignment: Indigenous Perspectives Due: Week 7 Friday (10 Jan 2020) 11:45 pm AEST

Week 8 - 13 Jan 2020

Module/Topic	Chapter	Events and Submissions/Topic
Admissions and Confessions	David Field, Queensland Evidence Law (LexisNexis Butterworths, 4th edn, 2017) chapters 9 [9.73]-[9.81] and 12 [12.1]-[12.97] Hemming and Layton, Evidence Law in Queensland, Western Australia and South Australia (Thomson Reuters, 2017) [11.200], [11.215]-[11.270], [11.280]	

Week 9 - 20 Jan 2020

Module/Topic	Chapter	Events and Submissions/Topic
Documentary and Real Evidence	David Field, Queensland Evidence Law (LexisNexis Butterworths, 4th edn, 2017) chapter 10 Hemming and Layton, Evidence Law in Queensland, Western Australia and South Australia (Thomson Reuters, 2017) [9.240]-[9.335]	

Week 10 - 27 Jan 2020

Module/Topic	Chapter	Events and Submissions/Topic
Circumstantial and Character Evidence	David Field, Queensland Evidence Law (LexisNexis Butterworths, 4th edn, 2017) chapters 7 and 8	Experiential Written Assessment: Pre-Trial Application Due: Week 10 Friday (31 Jan 2020) 11:45 pm AEST

Week 11 - 03 Feb 2020

Module/Topic	Chapter	Events and Submissions/Topic
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Opinion Evidence

David Field, Queensland Evidence Law
(LexisNexis Butterworths, 4th edn,
2017) chapter 11

Week 12 - 10 Feb 2020

Module/Topic	Chapter	Events and Submissions/Topic
Criminal Procedure and Evidence		

Exam Week - 17 Feb 2020

Module/Topic	Chapter	Events and Submissions/Topic
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Assessment Tasks

1 Written Assignment: Indigenous Perspectives

Assessment Type

Written Assessment

Task Description

You will be assigned a research question (via an assignment instructions document that will be released in Moodle in Week 1). The question will require you to research and consider principles of the law of evidence and Indigenous perspectives in analysis and response to the question. You will be required to submit a written response of 1500-2000 words in a Word document uploaded via a Moodle link.

Assessment Due Date

Week 7 Friday (10 Jan 2020) 11:45 pm AEST

Return Date to Students

Week 9 Friday (24 Jan 2020)

The assessment feedback will be returned approximately 2 weeks after all students in this unit, including those with an approved extension, have submitted their assessment.

Weighting

20%

Assessment Criteria

You will be assessed according to the rubric provided with the assignment instructions. Particularly, you will be assessed on:

- the comprehensiveness of your research and your ability to interpret the principles of evidence;
- your ability to write accurately, clearly and concisely and to structure your response logically;
- your knowledge of Indigenous perspectives related to the question and demonstration of cultural humility in your expression;
- your ability to comprehend and critically analyse the material and present a well-supported, reasoned argument; and
- your ability to reference correctly.

Referencing Style

- [Australian Guide to Legal Citation, 4th ed](#)

Submission

Online

Submission Instructions

You must submit the assignment online via Moodle.

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

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Information Literacy
- Cross Cultural Competence

2 Experiential Written Assessment: Pre-Trial Application

Assessment Type

Written Assessment

Task Description

You will be assigned a problem question (via an assignment instructions document that will be release in Moodle in Week 1), which will require you to research the law of evidence and apply the law to the facts. You will be required to submit (in a Word document uploaded via a Moodle link) a written submission of 1500-2000 words for a pre-trial application related to the admissibility of evidence.

Assessment Due Date

Week 10 Friday (31 Jan 2020) 11:45 pm AEST

Return Date to Students

Week 12 Friday (14 Feb 2020)

The assessment feedback will be returned approximately 2 weeks after all students in this unit, including those with an approved extension, have submitted their assessment.

Weighting

20%

Assessment Criteria

You will be assessed according to the rubric provided with the assignment instructions. Particularly, you will be assessed on:

- your ability to identify the correct issues and the correct rules of evidence in Queensland to be applied to the problem;
- your ability to present an accurately, clearly and concisely written submission and to structure it logically;
- your ability to comprehend the law, apply it to the facts, and present a well-supported, persuasive argument about the admissibility of the evidence; and
- your ability to research (particularly case law and statutory sources) and reference correctly.

Referencing Style

- [Australian Guide to Legal Citation, 4th ed](#)

Submission

Online

Learning Outcomes Assessed

- 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

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

60%

Length

120 minutes

Exam Conditions

Open Book.

Materials

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.

Calculator - all non-communicable calculators, including scientific, programmable and graphics calculators 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