



# **LAWS13010 Evidence and Proof**

## **Term 1 - 2021**

Profile information current as at 27/04/2024 10:11 am

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.

### Corrections

#### **Unit Profile Correction added on 14-04-21**

Due to physical distancing requirements relating to COVID-19 pandemic, invigilated exams have been replaced with an equivalent take-home exam.

## 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-requisite: 48 credit point of 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 - 2021

- 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 Students' comments

##### Feedback

Course evaluation survey

##### Recommendation

Students gave generally positive comments on the course and the manner of delivery. There is however a comment on the timely release of results. It is important to be very clear on when assignments results will be release. This will be done in subsequent offerings.

## 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



### Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes			
	1	2	3	4
1 - Written Assessment - 20%	•	•		
2 - Written Assessment - 20%			•	•
3 - Take Home Exam - 60%	•	•	•	•

### Alignment of Graduate Attributes to Learning Outcomes

Graduate Attributes	Learning Outcomes			
	1	2	3	4
1 - Communication	•	•	•	•

Graduate Attributes	Learning Outcomes			
	1	2	3	4
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 - Take Home Exam - 60%	•	•	•							

## Textbooks and Resources

### Textbooks

LAWS13010

#### Supplementary

##### Queensland Evidence Law

5th Edition (2019)

Authors: David Field

LexisNexis

ISBN: 9780409350401

Binding: Paperback

#### Additional Textbook Information

If you prefer to study with a paper copy, you can purchase one at the CQUni Bookshop here: <http://bookshop.cqu.edu.au>

### IT Resources

#### You will need access to the following IT resources:

- CQUniversity Student Email
- Internet
- Unit Website (Moodle)

## 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  
[o.owoeye@cqu.edu.au](mailto:o.owoeye@cqu.edu.au)

## Schedule

### Week 1 - 08 Mar 2021

Module/Topic	Chapter	Events and Submissions/Topic
Introduction: Nature and source of evidence law Onus and Standards of Proof	David Field, <i>Queensland Evidence Law</i> (2020, 5th edn, LexisNexis Butterworths), Chapter 1	

### Week 2 - 15 Mar 2021

Module/Topic	Chapter	Events and Submissions/Topic
Relevance and Admissibility Presumptions Judicial Notice Judicial Discretion	David Field, <i>Queensland Evidence Law</i> (2020, 5th edn, LexisNexis Butterworths), Chapters 1 & 2.	

### Week 3 - 22 Mar 2021

Module/Topic	Chapter	Events and Submissions/Topic
Methods of Proof Competence and Compellability	David Field, <i>Queensland Evidence Law</i> (2020, 5th edn, LexisNexis Butterworths), Chapters 3, 4 & 5	

### Week 4 - 29 Mar 2021

Module/Topic	Chapter	Events and Submissions/Topic
Oral Evidence Privilege	David Field, <i>Queensland Evidence Law</i> (2020, 5th edn, LexisNexis Butterworths), Chapters 5 & 6	<b>Written Assessment</b> Due: Week 4 Friday (2 Apr 2021) 12:00 am AEST

#### Week 5 - 05 Apr 2021

Module/Topic	Chapter	Events and Submissions/Topic
Examination of Witnesses	David Field, <i>Queensland Evidence Law</i> (2020, 5th edn, LexisNexis Butterworths), Chapter 6	

#### Vacation Week - 12 Apr 2021

Module/Topic	Chapter	Events and Submissions/Topic

#### Week 6 - 19 Apr 2021

Module/Topic	Chapter	Events and Submissions/Topic
The Rule against Hearsay	David Field, <i>Queensland Evidence Law</i> (2020, 5th edn, LexisNexis Butterworths), Chapter 9	

#### Week 7 - 26 Apr 2021

Module/Topic	Chapter	Events and Submissions/Topic
Exceptions to the Hearsay Rule (Common Law, Statutory, <i>Res Gestae</i> )	David Field, <i>Queensland Evidence Law</i> (2020, 5th edn, LexisNexis Butterworths), Chapters 9 & 10	

#### Week 8 - 03 May 2021

Module/Topic	Chapter	Events and Submissions/Topic
Admissions and Confessions	David Field, <i>Queensland Evidence Law</i> (2020, 5th edn, LexisNexis Butterworths), Chapter 12	<b>Experiential Written Assessment</b> Due: Week 8 Friday (7 May 2021) 11:45 pm AEST

#### Week 9 - 10 May 2021

Module/Topic	Chapter	Events and Submissions/Topic
Documentary and Real Evidence	David Field, <i>Queensland Evidence Law</i> (2020, 5th edn, LexisNexis Butterworths), Chapter 3	

#### Week 10 - 17 May 2021

Module/Topic	Chapter	Events and Submissions/Topic
Circumstantial and Character Evidence	David Field, <i>Queensland Evidence Law</i> (2020, 5th edn, LexisNexis Butterworths), Chapters 3 & 8.	

#### Week 11 - 24 May 2021

Module/Topic	Chapter	Events and Submissions/Topic
Opinion Evidence	David Field, <i>Queensland Evidence Law</i> (2020, 5th edn, LexisNexis Butterworths), Chapter 11	

#### Week 12 - 31 May 2021

Module/Topic	Chapter	Events and Submissions/Topic
Criminal procedure and Evidence	Refer to Week 12 Study Guide	

#### Review/Exam Week - 07 Jun 2021

Module/Topic	Chapter	Events and Submissions/Topic

Module/Topic	Chapter	Events and Submissions/Topic
Take Home Examination		

## Assessment Tasks

### 1 Written Assessment

#### Assessment Type

Written Assessment

#### Task Description

This assessment will be an essay designed to test students' knowledge of the course based on topics covered in the first 2 weeks of the term.

#### Assessment Due Date

Week 4 Friday (2 Apr 2021) 12:00 am AEST

#### Return Date to Students

Vacation Week Friday (16 Apr 2021)

#### Weighting

20%

#### Assessment Criteria

Mark	General Criteria
85%+	Excellent writing style – concise, clear and well-organised. Appropriate structure – including strong introduction, logically constructed body and conclusion. Clearly identifies scope of topic. Displays very high-level understanding and analysis of the law of evidence as it applies to all of the issues raised in the question. Presents a compelling reasoned argument supported with strong authority and sophisticated engagement with the literature. Very few or no spelling or grammatical errors. Very few or no errors in referencing style. Displays excellent research skills.
75-84.5%	Very good writing style, with only a few expression issues. The assignment is logical and structured. Keeps to task after identifying the topic clearly and accurately. Displays high level of understanding and analysis of the law of evidence as it applies to most of the issues raised in the question. Presents a reasoned argument, largely supported by good authority and sophisticated engagement with the literature. Few spelling and grammatical errors and few errors in referencing style. Displays very good research skills.
65-74.5%	Good writing style. May be some grammar and spelling errors and/or some errors in referencing. Defines topic adequately. Does not include much in the way of extraneous material. Demonstrates a good understanding and analysis of the law of evidence as it applies to some of the issues raised in the question but at times addresses them superficially or gives them inappropriate weight. Some gaps in reasoning, but largely supported by good authority and good engagement with the literature. Displays good research skills.
50-64.5%	Generally adequate writing style. Some grammar and spelling errors and/or some errors in referencing. Attempt to define topic but sometimes fails to keep to task. Inclusion of extraneous unnecessary material. Demonstrates an adequate understanding and analysis of the law of evidence as it applies to some of the issues raised in the question. At times the analysis is incorrect, and although there may be adequate engagement with the literature there are gaps in reasoning and at times the issues identified need to be addressed in more depth. Largely descriptive with little analysis. Too much reliance on secondary sources. Displays adequate research skills.
<50%	Poor writing style, poorly organised and difficult to understand manner of expression. Long convoluted sentence structure, numerous grammar and spelling errors. Numerous errors in referencing. Inadequately defines topic. The assignment may be significantly shorter than required length. Displays fundamental flaws in understanding of the law of evidence. Displays misunderstanding of the issues raised in the question and engages superficially (eg. By only repeating material from study guide/lecture material). Research skills require improvement. Inadequate research demonstrated, insufficient or incorrect authority – either due to lack of authority or reliance on inappropriate authorities. Largely descriptive effort with very little analysis and inadequate engagement with the literature.

#### Referencing Style

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

## Submission

Online

## 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

### Assessment Type

Written Assessment

### Task Description

This task will test students' knowledge of topics covered in Weeks 3 to 6 and it will be made up of hypothetical problem-based questions.

### Assessment Due Date

Week 8 Friday (7 May 2021) 11:45 pm AEST

### Return Date to Students

Week 10 Friday (21 May 2021)

### Weighting

20%

### Assessment Criteria

Mark	General Criteria
85%+	Excellent writing style – concise, clear, logical and well-organised. You have identified all the correct issues, demonstrated an exceptional understanding of the relevant law (and always support your accurate statements of law with the most appropriate authority); applied the law to the facts in a manner that is outstandingly thorough, precise, and focused; arguing with clarity; and including in your answer an insightful analysis of the more difficult or obscure aspects of the problem. Very few or no spelling or grammatical errors. Very few or no errors in referencing style. Displays excellent research skills.
75-84.5%	Very good writing style, with only a few expression issues. You have identified the correct issues frequently, have explained the relevant law thoroughly and precisely (frequently supporting your statements of law with the most appropriate authority); applied the law to the facts of the problem in a way that demonstrates an ability to very competently use the law to solve problems; and made a clear argument. The assignment is logical and structured. Few spelling and grammatical errors and few errors in referencing style. Displays very good research skills.
65-74.5%	Good writing style. You have identified most of the correct issues, have explained the relevant law thoroughly and precisely (usually supporting your statements of law with the most appropriate authority); applied the law to the facts of the problem in a way that demonstrates an ability to competently use the law to solve problems; and made an appropriate argument. May be some grammar and spelling errors and/or some errors in referencing. Displays good research skills.
50-64.5%	Generally adequate writing style. Some grammar and spelling errors and/or some errors in referencing. You have identified the main issues, but at times you have dealt with irrelevant issues or expressed them inaccurately or unclearly or in insufficient depth; you have explained the main relevant laws (usually supported by relevant, but not necessarily the most appropriate authority); made a satisfactory attempt to apply the law to the facts of the problem (but sometimes inconsistently); and made a competent argument. Displays adequate research skills.
<50%	Poor writing style, poorly organised and difficult to understand manner of expression. Long convoluted sentence structure, numerous grammar and spelling errors. Numerous errors in referencing. The assignment may be significantly shorter than required length. You missed the main issues and have explained the relevant law in a way that is completely or partially incorrect; you may have misunderstood the facts or failed to satisfactorily apply the law to the facts of the problem; and/or presented an unjustified, illogical, inappropriate or impractical conclusion. Research skills require improvement.

## 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

360 minutes

### Exam Conditions

Open Book.

### Materials

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

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## 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

## 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