



# LAWS13010 Evidence and Proof

## Term 1 - 2024

Profile information current as at 28/04/2024 05:58 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

Evidence and Proof examines the statutory and common law principles of the law of evidence and procedure and meets the LPAB requirements for 'evidence'. This unit explores the concept of a fair trial; proof and adversarialism; evidentiary issues to be addressed prior to trial; evidentiary principles and rules and their exceptions; the bases for privilege; judicial warnings, comment and directions; mandatory and discretionary exclusions; and the limitations on evidence.

#### 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 - 2024

- 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. **Online Quiz(zes)**

Weighting: 20%

#### 2. **Written Assessment**

Weighting: 30%

#### 3. **Take Home Exam**

Weighting: 50%

### 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 UC

**Feedback**

Incorporate more practical examples in the unit content

**Recommendation**

In the live zoom sessions more discussion of the practical application of evidence law from the media and the profession will be referred to.

#### Feedback from UC

**Feedback**

Incorporate more discussion on the ethical issues which may arise in practice.

**Recommendation**

The learning materials will highlight some of the ethical issues faced by solicitors and barristers in practice

## Unit Learning Outcomes

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

1. Synthesise and evaluate the relevant legal principles of evidence law as they apply to problem fact scenarios.
2. Conduct research, critically analyse sources and compare evidence law from multiple sources.
3. Critically evaluate and reflect upon ethical issues which may arise in the context of applying evidence law in practice.
4. Critically reflect upon cross cultural perspectives which may arise in the context of the implementation of evidence law in practice, including issues relating to Aboriginal & Torres Strait Islander peoples.

## Alignment of Learning Outcomes, Assessment and Graduate Attributes



### Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes			
	1	2	3	4
1 - Online Quiz(zes) - 20%	•	•	•	•
2 - Written Assessment - 30%	•	•	•	•
3 - Take Home Exam - 50%	•	•		

### 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				•

## Textbooks and Resources

### Textbooks

LAWS13010

#### Prescribed

#### Queensland Evidence Law

6th Edition (2022)

Authors: David Field, William van Caenegem and Clair Duffy

LexisNexis

Chatswood, NSW, Australia

ISBN: 9780409355338

Binding: Paperback

[View textbooks at the CQUniversity Bookshop](#)

### 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

**Victoria Lambropoulos** Unit Coordinator

[v.lambropoulos@cqu.edu.au](mailto:v.lambropoulos@cqu.edu.au)

## Schedule

### Week 1 - 04 Mar 2024

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

### Week 2 - 11 Mar 2024

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

### Week 3 - 18 Mar 2024

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

**Week 4 - 25 Mar 2024**

Module/Topic	Chapter	Events and Submissions/Topic
Oral Evidence Privilege	David Field, <i>Queensland Evidence Law</i> (LexisNexis Butterworths, 5th ed, 2020), Chapters 5 & 6	Quiz Due: Week 4 Friday (29 Mar 2024) 11:59 pm AEST

**Week 5 - 01 Apr 2024**

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

**Vacation Week - 08 Apr 2024**

Module/Topic	Chapter	Events and Submissions/Topic

**Week 6 - 15 Apr 2024**

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

**Week 7 - 22 Apr 2024**

Module/Topic	Chapter	Events and Submissions/Topic
Exceptions to the Hearsay Rule (Common Law, Statutory, Res Gestae)	David Field, <i>Queensland Evidence Law</i> (LexisNexis Butterworths, 5th ed, 2020), Chapters 9 & 10	Written Assessment Due: Week 7 Friday (26 Apr 2024) 11:59 pm AEST

**Week 8 - 29 Apr 2024**

Module/Topic	Chapter	Events and Submissions/Topic
Admissions and Confessions	David Field, <i>Queensland Evidence Law</i> (LexisNexis Butterworths, 5th ed, 2020), Chapter 12	

**Week 9 - 06 May 2024**

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

**Week 10 - 13 May 2024**

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

**Week 11 - 20 May 2024**

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

**Week 12 - 27 May 2024**

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

**Review/Exam Week - 03 Jun 2024**

Module/Topic	Chapter	Events and Submissions/Topic

## Exam Week - 10 Jun 2024

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

## Assessment Tasks

### 1 Quiz

**Assessment Type**

Online Quiz(zes)

**Task Description**

Students will have 60 minutes to complete a series of online multiple-choice questions. Students may be quizzed on any topics covered in weeks 1 to 4.

**Number of Quizzes**

1

**Frequency of Quizzes**

Other

**Assessment Due Date**

Week 4 Friday (29 Mar 2024) 11:59 pm AEST

Exact date and time TBA on moodle

**Return Date to Students**

Week 6 Friday (19 Apr 2024)

Results will be released online

**Weighting**

20%

**Assessment Criteria**

There will be one correct answer from a series of choices. The style of question is modelled on the quizzes in the Study Guide.

**Referencing Style**

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

**Submission**

Online

**Submission Instructions**

Results are released online

**Learning Outcomes Assessed**

- Synthesise and evaluate the relevant legal principles of evidence law as they apply to problem fact scenarios.
- Conduct research, critically analyse sources and compare evidence law from multiple sources.
- Critically evaluate and reflect upon ethical issues which may arise in the context of applying evidence law in practice.
- Critically reflect upon cross cultural perspectives which may arise in the context of the implementation of evidence law in practice, including issues relating to Aboriginal & Torres Strait Islander peoples.

### 2 Written Assessment

**Assessment Type**

Written Assessment

**Task Description**

This task will test students' knowledge of topics covered from Weeks 1 - 6 and may be made up of hypothetical problem-based questions and some essay style questions.

The word count will be 1500 words.

**Assessment Due Date**

Week 7 Friday (26 Apr 2024) 11:59 pm AEST

to be submitted online

## **Return Date to Students**

Week 10 Monday (13 May 2024)

to be returned online

## **Weighting**

30%

## **Assessment Criteria**

Students will demonstrate the following in written form through an application of the relevant evidence law principles:

1. Synthesise and evaluate the relevant legal principles of evidence law as they apply to problem fact scenarios.

Synthesise means to combine or bring together and evaluate means to appraise or assess. Students should be able to explain the relationship between the different legal evidentiary principles and then assess them by selecting the relevant legal principles which apply to a fact scenario.

2. Conduct research, critically analyse sources and compare evidence law from multiple sources. Students should be able to first locate the law (research) and then also be familiar and analyse the law from multiple sources including from legislation and case law.

3. Critically reflect upon ethical issues that may arise in the questions or problems.

4. Reflect upon cross cultural perspectives which may arise in the context of the implementation of evidence law in practice, with a focus upon relating to Aboriginal & Torres Strait Islander peoples.

84.5%+

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%

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.

64.5-74%

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.

49.5-64%

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.

Less than 49.5%

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

## Submission Instructions

To be submitted online

## Learning Outcomes Assessed

- Synthesise and evaluate the relevant legal principles of evidence law as they apply to problem fact scenarios.
- Conduct research, critically analyse sources and compare evidence law from multiple sources.
- Critically evaluate and reflect upon ethical issues which may arise in the context of applying evidence law in practice.
- Critically reflect upon cross cultural perspectives which may arise in the context of the implementation of evidence law in practice, including issues relating to Aboriginal & Torres Strait Islander peoples.

## 3 Exam

### Assessment Type

Take Home Exam

### Task Description

Students will demonstrate the following in written form through an application of the relevant evidence law principles to problem fact scenarios:

1. Synthesise and evaluate the relevant legal principles of evidence law as they apply to problem fact scenarios. Synthesise means to combine or bring together and evaluate means to appraise or assess. Students should be able to explain the relationship between the different legal evidentiary principles and then assess them by selecting the relevant legal principles which apply to a fact scenario.
2. Conduct research, critically analyse sources and compare evidence law from multiple sources. Students should be able to first locate the law (research) and then also be familiar and analyse the law from multiple sources including from legislation and case law.

### Task Description

1. This unit has an invigilated take-home examination of 2.5 hours (150 minutes) duration. Students should consult the Invigilated Take-home Examination Guidelines, College of Law, Criminology and Justice, available from the Laws Moodle site.
2. A requirement of these guidelines is that students must obtain a student card for verification purposes
3. Students must also have access to a reliable and adequate internet connection, and a computer, tablet, or laptop equipped with a working webcam, working microphone, Zoom installed and access to the unit Moodle site via an Internet browser.
4. No extensions are permitted for invigilated take-home examinations.
5. Submissions after the deadline has passed will not be accepted and will receive a mark of zero.
6. Failure to attend the invigilated take-home examination will result in a mark of zero.
7. Exam conditions apply to all invigilated take-home examinations.

### Assessment Due Date

Exam date and time will be advised on Moodle

### Return Date to Students

The result of the final assessment will not be released until certification of grades. Please ignore above dates

### Weighting

50%

### Assessment Criteria

84.5%+

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%

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.

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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.

49.5-64%

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.

Less than 49.5%

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**

- Synthesise and evaluate the relevant legal principles of evidence law as they apply to problem fact scenarios.
- Conduct research, critically analyse sources and compare evidence law from multiple sources.

## 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