LEGAL PROCESS (LW 1300) 2016-2017: Course Overview

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# Faculty and Staff Information

**Coordinator** (September - April)**:** Professor Shelley Kierstead

**Phone**: 416-736-5365

**Email:** [skierstead@osgoode.yorku.ca](mailto:skierstead@osgoode.yorku.ca)(I aim to return messages received on business days within 24 hours. I will respond to emails received during weekends and holidays by the next business day.)

**Office Location:** Osgoode - Room 3018

**Office Hours:** I find it generally works best to find a time that is mutually convenient. Please feel free to send me an email to set up an appointment.

**Assistant:** Elena Maizel: [legalprocess@osgoode.yorku.ca](file:///C:\Users\shelleym\Dropbox\My%20Documents%20Drive\Documents\Legal%20Process\2016-2017\Syllabi\legalprocess@osgoode.yorku.ca); Telephone 416-736-5044

**Fall Term Small Group Instructors** (September – April):

**Section A:** Julie Falck and Ian Stedman  
 **Section B:** Tamera Burnett and Leslyn Lewis  
 **Section C:**Matthew Dylag and Joanne Prince   
 **Section D:** Shen Goh Groups and Aviv Gaon

**Winter Term Professors\*** (November – April: for contact information, please see professors’ course websites):

**Section A -** Professor Mosher

**Section B –** Professor Chiodo

**Section C –** Professor Kierstead

**Section D –** Professor Vayda

**\*Please see your Individual Winter Term Professor’s Syllabus of Readings**

# Course Structure

Welcome to Legal Process! In this course, you will learn fundamental skills that are critical to success in all of your other courses and in legal practice. Legal Process is a full year course that gives you the opportunity to interact with a variety of faculty members. It is taught using a blended learning format. Students will be expected to participate in the online learning components of the course as well as the in-person lectures and seminars. During the fall term, Professor Kierstead will be primarily responsible for lecture and online learning delivery while seminars will primarily be facilitated by Legal Process Instructors [**“Small Group Instructors”**]. Please see the course site for your allocated seminar group, and consult your section schedule for your seminar time and location. It is important to be attentive to the course site, since it is the location for many of the course learning activities and all of the evaluation components. Please note that there are three potential learning settings for the Legal Process class time. They may occur in various combinations for any given week. Please check the course site for an indication of the learning settings for each week.

* Online Class (Instead of meeting in the Moot Court, all students are expected to complete the assigned online learning activities)
* In-class Seminar (Students attend a small group seminar led by their Small Group Instructor)
* In-Class Lecture (Students from all sections meet in the Moot Court)

During the winter term, the teaching team will include the course Coordinator – Professor Kierstead, a Legal Process professor [**“Winter Term Professor”**] for each first year section, and Small Group Instructors. (A detailed Winter Term syllabus for materials covered with your Winter Term Professor will be distributed by that Professor.) Large group lectures (either online or in person) with Professor Kierstead and small group classes with Small Group Instructors continue during the winter term while individual section lectures will also occur twice weekly with Winter Term Professors.

# Course Materials

Required materials for the fall term:

1. McCarney, Moira, *et al*, *Comprehensive Guide to Legal Research, Writing and* Analysis, 2nd ed (Toronto: Emond Montgomery, 2016) [*Text*].
2. McGill Law Journal, *Canadian Guide to Uniform Legal Citation*, 8th ed (Scarborough: Carswell, 2014) [*Citation Guide*].
3. Supplementary Materials Posted to Professor Kierstead’s Moodle course website.

# Course Methodology and Learning Objectives

The materials and evaluation methods for the Legal Process course are designed to: (1) encourage students to consider lawyers’ professional and ethical responsibilities; (2) assist students to develop ways of thinking about and resolving legal problems that will be applied both during and after law school; and (3) assist students to understand and critically assess various dispute resolution mechanisms. During the course of the academic year, students will have the opportunity to complete a number of assignments and tests which incorporate various important skills-oriented and substantive aspects of the course. Students will write a final examination at the end of the winter term.

The primarily exercise and assignment-based nature of the Legal Process course requires a significant and “steady” time commitment throughout both the fall and winter semesters. The individuals instructing the course assume that students will approach the course, and the assignments required as part of the course, in a professional manner. In part, this includes paying close attention to course requirements, timely submission of required participation exercises and assignments, and respectful communication with faculty members and fellow students.

In terms of legal content, by the end of the Legal Process course, students should be able to:

* discuss ways in which disputes are shaped;
* demonstrate an understanding of the role of *stare decisis* within a common law regime;
* find, understand and use primary and secondary legal sources in problem solving contexts;
* analyze judicial decisions, synthesize a principle or principles from multiple decisions, and identify analytical tools such as analogy and distinction;
* brief cases, and demonstrate the use of legal reasoning in predictive writing and persuasive writing exercises;
* draft an “office” memorandum;
* demonstrate an understanding of the range of dispute resolution processes that co-exist within the Canadian legal system, and of the assumptions and values underlying different processes;
* demonstrate a working knowledge of ways that different perspectives can shape the law;
* understand the limits of legal solutions;
* describe the respective qualities and relevance of negotiation, mediation, and adjudication within a legal setting;
* understand how a new paradigm of dispute resolution is emerging in response to growing burdens on trial courts and a concern with issues of access to justice;
* demonstratea broad grasp of the fundamental and distinctive legal structures, doctrines and processes which govern civil procedure;
* demonstrate technical facility with *The Rules of Civil Procedure* which govern the conduct of civil litigation in Ontario;
* discuss the distinctive regime of civil procedure within the broader social, political and ethical context of legal norms, theory and practice;
* recognize circumstances which give rise to ethical questions and issues of professionalism, and demonstrate an ability to assess appropriate responses to these issues;
* engage effectively in introductory written and oral advocacy exercises.

# Accessibility and Learning Accommodations

York University is committed to principles of respect, inclusion and equality of all persons with disabilities across campus. The University has a range of resources to assist students with physical, mental, psychiatric and learning disabilities in achieving their educational objectives. Students with disabilities requiring accommodation in the classroom or in the examination or evaluation process are encouraged to identify themselves to York’s Counselling & Disability Services office (N110, Bennett Centre for Student Services or 416-736-5297) or Osgoode’s Office of Student Services as soon as possible. All requests for accommodation will be kept confidential. Requests for examination accommodation must be approved by Mya Rimon (Assistant Dean, Students).

# Grading

## ****All-Sections Evaluation****

Fall term:

1. The Written Predictive Analysisassignment will be assessed on a pass/resubmit basis and will be completed in groups of 2 or 3 students. It will graded by either Professor Kierstead or your Small Group Instructor.
2. Research, Analysis and Citation Test: You will write a test to demonstrate your understanding of legal analysis, the research process, and core legal citation. The test will be graded by either Professor Kierstead or your Small Group Instructor. It is worth **10%** of the overall course grade.
3. The Research Memorandumassignment will be graded by either Professor Kierstead or your Small Group Instructor. It is worth **10%** of the overall course grade.
4. *Quizzes and Exercises*: You must complete each of five (5) quizzes and/or exercises assigned throughout the term. In total, they are worth **5%** of the overall course grade. You must also complete the Academic Integrity Quiz. While no grade is allocated for completion of the quiz, two (2) marks will be deducted for non-completion.
5. *Participation*: Attendance at fall term seminars will be worth **2%** of the overall course grade. Missing more than one fall term seminar without an acceptable, documented reason will lead to a deduction of 0.5% for each missed seminar (to a maximum of 2 marks). Significant failure to participate, or serious disruption of seminars, may lead to a reduction in your attendance grade. (See below for more details about the seminar attendance policy.)

Winter term:

1. The Dispute ResolutionAssignment will be graded by either Professor Kierstead or your Small Group Instructor will grade this assignment, and it is worth **10%** of the overall course grade.
2. The Factumassignment will be graded by either Professor Kierstead or your Small Group Instructor. It is worth **5%** of the overall course grade.
3. The Mootingassignment itself will be assessed on a pass/resubmit basis and will be graded by either your Small Group Instructor or Professor Kierstead. You will then be required to complete a 500 word paper reflecting on the mooting exercise. Your reflection paper will be worth **3%** of the overall course grade. Either Professor Kierstead or your Small Group Instructor will grade the reflection paper.
4. *Quizzes and Exercises*: You must complete each of three (3) quizzes and/or exercises assigned throughout the term. In total, they are worth **3%** of the overall course grade.
5. Attendance at winter term seminars will be worth **2%** of the overall course grade. Missing more than one winter term seminar without an acceptable, documented reason will lead to a deduction of 0.5% for each missed seminar (to a maximum of 2 marks). Significant failure to participate, or serious disruption of seminars, may lead to a reduction in your attendance grade. (See below for more details about the seminar attendance policy.)

Both Terms – Seminar Attendance Policy:

We strictly enforce our seminar attendance policy. For each term, you may miss one seminar without being required to provide a reason. For any other subsequent missed seminars, 0.5% will be deducted from your attendance grade (to a maximum of 2 marks per term). You may petition for relief from the penalty based on based on medical (including mental health), compassionate or equitable grounds that would have a significant impact on your performance.

You may submit their request for relief from the penalty for a seminar absence directly to Professor Kierstead. Requests must be:

* made in writing;
* barring exceptional circumstances, received by Professor Kierstead before the seminar date for which you anticipate being absent; and
* accompanied by supporting documentation

If your petition is accepted, your relief may be: a waiver of all or part of the penalty; permission to attend a different Small Group Instructor’s seminar for the week in question; or the opportunity to complete an alternative exercise to ensure that you have engaged with the seminar concepts.

Small Group Instructors may also recommend a reduction in your participation grade if you consistently fail to participate in class activities and discussions, or if you are disruptive of class activities and discussions. If there is a risk of such a reduction in your participation grade, the Small Group Instructor will request that Professor Kierstead organize a meeting with you, the Small Group Instructor, and Professor Kierstead. The purpose of the meeting will be to discuss the participation problem and possible strategies for its rectification. If the problem is not subsequently remedied, your participation grade will be reduced.

## ****Section Specific Evaluation****

Possible written assignment(s) and a final course examination (total percentage of course grade value - 50%) will be graded by your Winter Term Professor. Your Winter Term Legal Process Professor’s Syllabus (which will be provided early in the winter term) will provide a more detailed description.

## ****Evaluation at a Glance****

|  |  |  |  |
| --- | --- | --- | --- |
| Evaluation Component | Weight | Release Date | Due Date |
| All Sections Evaluation |  |  |  |
| Fall Term |  |  |  |
| Academic Integrity Quiz | Mandatory Completion – 2 marks will be deducted for non-completion | Thurs., Sept. 6 | Fri., Sept. 9 by 8:30 am |
| Legislative Analysis Quiz | 1% | Fri., Sept. 16 | Mon., Sept. 19 by 8:30 am |
| Material Facts and Issues Exercise | 1% | Fri., Sept. 23 | Mon., Sept. 26 by 8:30 am |
| Analytical Skills and CREAC Quiz | 1% | Fri., Sept. 30 | Mon., Oct. 3 by 8:30 am |
| Written Predictive Analysis Assignment | Pass/Resubmit | Fri., Sept. 30 | Tues., Oct. 11 by 8:30 am |
| Primary and Secondary Source Research and Citation Quiz | 1% | Fri., Oct.21 | Mon., Oct. 24 by 8:30 am |
| In-Class Research, Analysis and Citation Test | 10% | Fri., Nov. 4 | Fri., Nov. 4 (10:30 am – 12:20 pm) |
| Communication Basics Quiz | 1% | Fri., Nov. 18 | Mon., Nov. 21 by 8:30 am |
| Research Memorandum | 10% | Wed., Nov. 9 | Mon., Nov. 28 by 8:30 am |
| Attendance | 2% | - | - |

|  |  |  |  |
| --- | --- | --- | --- |
| Winter Term |  |  |  |
| Dispute Resolution Exercise | 10% | TBA | TBA |
| Mooting Assignment | Pass/Redo | TBA | TBA |
| Mooting Assignment Reflection | 3 | TBA | TBA |
| Factum Assignment | 5 | TBA | TBA |
| Quizzes and Exercises | 3 | TBA | TBA |
| Attendance | 2 | - | - |
| Section Specific Evaluation |  |  |  |
| Winter Term  Possible written assignment(s) and final examination (See Winter Syllabus released in the Winter term) | 50 | TBA | TBA |
| Total | 100% |  |  |

# Academic Honesty

All assignments for the Legal Process course must be completed in accordance with York University’s Senate Policy on Academic Honesty. Osgoode students are required to maintain high standards of academic integrity and are subject to the York Senate Policy on Academic Honesty and the relevant Osgoode Academic Rules. The Senate Policy can be found at <http://www.yorku.ca/secretariat/policies/document.php?document=69>. The York University academic integrity website can be found at [http://www.yorku.ca/academicintegrity.](http://www.yorku.ca/academicintegrity) The Senate Policy and Osgoode Academic Rules are also found in the Student Handbook, which is available on the MyOsgoode website, under the Key Documents tab.

# Legal Process Topics and Readings

# Week 1 (August 29-September 2)

## ****August 29****

Location: In-Class (Moot Court)

Topic: Legal Systems and Sources of Law; Court Structures

Preparation: Read Text 1:14-1:21

## ****August 30****

Location: In-Class (Moot Court)

Topic:Reading and Briefing Cases

Preparation: Read Text 10:14-10:19; Read *Patrong v Banks*; Review Case Brief Template

## ****September 1****

Location: In-Class (Moot Court)

Topic: Case Briefing

Preparation: Read and brief *Sabourin v McKeddie*

# Week 2 (September 5-September 9)

## ****Evaluation**:**

Complete course contract and the Academic Integrity quiz from the September 6 online session by Friday, September 9 at 8:30 am. Please note that while no grades are awarded for completion of the Academic Integrity Quiz, two (2) marks will be deducted for non-completion.

## ****Seminar****

Location: Online (Available from Tuesday, September 6 at 8:30 am to Friday, September 9 at 8:30 am)

Topic: Course Contract; Academic Integrity

Preparation: None – simply complete the course contract, access the academic integrity video and complete the academic integrity quiz.

## ****Lecture****

Location: In-Class (Moot Court)

Topic: Cultural Competency; Perspectives on Law; Accessibility and Law

Preparation: Read Text 1:10-1:11; 10:20-10:26

# Week 3 (September 12-September 16)

## ****Evaluation****

There is no evaluation component for this week.

## ****Seminar****

Location: In-Class (Check schedule for room number)

Topic: Perspectives on Law

Preparation: Read *Audet (Litigation Guardian of) v Bates* and *Crawford v Penney*

## ****Lecture****

Location: Online

Topic: Introduction to Statutes, Statutory Interpretation and Statutory Citation

Preparation: Read Text 3:3-3:18 and 10:3-10:13

# Week 4 (September 19-September 23)

## ****Evaluation****

Submit legislative analysis quiz by 8:30 am on Monday, September 19.

## ****Seminar****

Location: In-Class (Check schedule for room number)

Topic: Statutory Interpretation and Citation

Preparation: Read and prepare Week 3 Seminar Exercise

## ****Lecture****

Location: Online

Topic: Introduction to Analytical Skills

Preparation: Read Text 2:3-2:12 and 11:6-11:28

# Week 5 (September 26-September 30)

## ****Evaluation****

Submit material facts and issues exercise by 8:30 am on Monday, September 26.

## ****Seminar****

Location: In-Class (Check schedule for room number)

Topic: Applying Analytical Skills

Preparation: Read and prepare Week 5 Seminar Exercise

## ****Lecture****

Location: Online

Topic: Writing up Legal Predictions; Citation; Introduction to (Group) Predictive Analysis Assignment

Preparation: Read text 12:20-12:23; Review Predictive Analysis Assignment Instructions

# Week 6 (October 3-October 7)

## ****Evaluation****

Submit analytical skills and CREAC quiz by 8:30 am on Monday, October 3.

## ****Seminar****

Location: In-Class (Check schedule for room number)

Topic: Writing up Legal Predictions; Citation

Preparation: Read and prepare Week 6 Seminar Exercise

## ****Lecture****

Location: In Class (Moot Court – 10:30-11:20) and online

Topic: Predictive Analysis Assignment Q&A; Planning and Starting Legal Research; Purposes of Citation and Secondary Source Citation

Preparation: Prepare questions for predictive analysis assignment; Read Text Chapter 9 (all) and 7:3-7:22; 7:40-7:50.

# Week 7 (October 10-October 14) – Library tour

## ****Evaluation****

(Group) Predictive Analysis Assignment - due by 8:30 am on Tuesday, October 11.

## Seminar

Location: In-Class (Check schedule for room number)

Topic: Secondary source searching and citation

Preparation: Read and prepare Week 7 Seminar Exercise

## ****Lecture****

Location: Online

Topic: Legislative Research and Citation

Preparation: Skim text chapters 4 and 5

# Week 8 (October 17-October 21)

## ****Evaluation****

There is no evaluation component this week.

## ****Seminar****

Location: In-Class (Check schedule for room number)

Topic: Legislative source searching and citation

Preparation: Read and prepare Week 8 Seminar Exercise

## ****Lecture****

Location: Online

Topic: Caselaw Research and Citation

Preparation: Read text chapter 6 (all)

# Week 9 (October 24-October 28)

## ****Evaluation****

Submit primary and secondary source research and citation quiz by 8:30 am on Monday, October 24.

## ****Seminar****

Location: In-Class (Check schedule for room number)

Topic: Caselaw research and citation

Preparation: Read and prepare Week 9 Seminar Exercise

## ****Lecture****

Location: In-Class (Moot Court)

Topic: Research, Analysis and Citation Test Review

Preparation: Read Notes and Exercises for Weeks 1 to 9

# Week 10 (October 31-November 4)

## ****Evaluation****

Research, Analysis and Citation Test will be held during the lecture period (10:30 am to 12:20 pm) on Friday, November 4.

## ****Seminar****

Location: In-Class (Check schedule for room number)

Topic: Research, analysis and citation review exercises

Preparation: Read Notes and Exercises for Weeks 1 to 9

## ****Lecture****

Research, Analysis and Citation Test will be held during the lecture period (10:30 am to 12:20 pm) on Friday, November 4. You will be notified of the room location approximately one week prior to the test.

# Week 11 (November 7-November 11)

## ****Evaluation****

There are no evaluation components due this week, though the memorandum assignment will be distributed on Wednesday, November 9.

## ****Seminar****

No Seminars this week

## ****Lecture****

Location: Online

Topic: Introduction to Memo Writing

Preparation: Read Text 13:2-13:10; Read posted memorandum framework

# Week 12 (November 14-November 18)

## ****Evaluation****

There are no evaluation components due this week, though you should be working steadily on your memorandum assignment.

## ****Seminar****

Location: In-Class (Check schedule for room number)

Topic: Memorandum Construction

Preparation: Read and prepare Week 12 Seminar Exercise

## ****Lecture****

Location: Online

Topic: Memo Writing – Communication Basics; Editing Strategies

Preparation: Read Text 12:4-12:6; 12:12-12:17;

# Week 13 (November 21-November 25)

## ****Evaluation****

Submit Communication Basics Quiz by 8:30 am on Monday, November 21.

## ****Seminar****

Location: In-Class (Check schedule for room number)

Topic: Memorandum Editing

Preparation: Read and prepare Week 13 Seminar Exercise

## ****Lecture****

Location: In-Class (Moot Court)

Topic: Memorandum Assignment Q&A

Preparation: Bring Assignment Related Questions to Class

# Week 14 (November 28-December 2)

## ****Evaluation****

Submit Memorandum Assignment by 8:30 am on Monday, November 28.

## ****Seminar****

There will be no seminars this week.

## ****Lecture****

There will be no lecture this week.