



# ASBOA

ASSOCIATION OF SCHOOL  
BUSINESS OFFICIALS OF ALBERTA

## Introduction to Educational Law - Winter Cohort

Instructor: Dr. J. Kent Donlevy

All classes will be held WEEKLY via Zoom platform on Wednesday throughout December, January and February. Participants will be able to use the SAME zoom link for each class so be sure to add it to your calendar.

In the event you are unable to attend a class, please contact the instructor to arrange for a makeup class prior to the next regularly scheduled class.

Group assignments will be made at the first class and a schedule of pre-reading and assignments will be provided. The number of group presentations are determined by class size.

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### Special Note

This course is provided exclusively to representatives of ASBOA under the aegis of its office and is not associated with a university, hence university credit does not accompany the successful completion of this course. However, the level of scholarly work required, and the intellectual rigor required to be successful in this course is equivalent to a Master's Degree courses on this topic. Indeed, the material in this course mirrors such courses. Dr. J. K. Donlevy

### Course Purposes

1. To provide the student with a basic overview of negligence, administrative procedural fairness, examples of criminal Law, and to facilitate a discussion regarding the rudiments of the *Canadian Charter of Rights and Freedoms* within the Canadian educational context.
2. To inculcate the ability to analyze complex fact patterns in a legal manner.

### Course Objectives

The student will demonstrate the following:

1. A working knowledge of basic legal concepts; negligence, administrative procedural Fairness, and examples of criminal Law within the educational context.
2. The ability to analyze, synthesize, and extract the appropriate principles of law from, and evaluate the significance and implications of, particular legal cases.

### Suggested Text:

Brown, F.A., & Zucker, M.A. (2007). *Education law* (4<sup>th</sup>). Scarborough Ontario: Carswell. Available from Carswell <http://www.carswell.com/description.asp?docid=4339>

### Additional Resources:

da Costa, J., Adams, P., Donlevy, J.K., Kutsyuruba, B., & Walker, K. D. A Guide to Alberta School Law. June 2021  
<https://www.amazon.ca/Guide-Alberta-School-Law/>

### Reference Sites

Write with Clarity, Precision, and Inclusion

Publication Manual APA (Latest Edition - See: <http://www.apastyle.org/>)

Students are advised to view the following website from the Federal Department of Justice which describes the various levels of court in Canada:

<http://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/>

## COURSE STRUCTURE AND PRESENTATION SCHEDULE

All cases which do not have www sites will be provided to students using a [GOOGLE FOLDER](#).

All class assignments should be posted in the [ASSIGNMENT FOLDER](#)

All class will be held using the ZOOM PLATFORM. It is up to the individual to ensure that they have the most recent updates to Zoom to allow full participation. We will be using Breakout Rooms as well as share screen for presentations.

DATE AND TIME	CLASS TOPIC
<p><b>CLASS #1</b> <b>DECEMBER 8, 2022 – FULL DAY</b></p> <p><b>9:00 – 11:00 am</b></p> <p><b>Jurisprudence, Judicial Hierarchy &amp; A Dual School System</b></p> <p><b>BREAK</b></p> <p><b>RESUME - 1:00 – 3:00 PM</b></p> <p><b>The Legal Brief &amp; Negligence</b></p>	<p>Overview of the Course and Expectations</p> <p>The Nature of Law</p> <p>Constitutional Aspects</p> <p>The Estate Case: The Nature of Law</p> <p>The Hierarchy of the Courts in Canada</p> <p>The Constitution Act 1867 The Canada Act 1982 The Alberta Act, 1905</p> <p>Separate Schools Constitutionally Protected Hall (Litigation Guardian of) v. Powers (2002), 213 D.L.R. (4th) 308 (Ont. S.C.J.). <a href="http://www.samesexmarriage.ca/docs/MacKinnon_Hall.pdf">http://www.samesexmarriage.ca/docs/MacKinnon_Hall.pdf</a></p> <p>Bain v. Calgary Board of Education 1993 Carswell Alta 194 Alberta Court of Queen's Bench</p>
<p><b>CLASS #2</b> <b>December 15, 2022 - 11:00-1:00</b></p> <p><b>Negligence</b></p>	<p>Hoar v. Nanaimo School District 68 1984 CarswellBC 756 British Columbia Court of Appeal</p> <p>Myers v. Peel (County) Board of Education 1981CarswellOnt 579 17 C.C.L.T. 269, [1981] 2 S.C.R. 21, 123 D.L.R. (3d) 1, 37 N.R. 227</p>

<p><b>CLASS #3</b>  <b>January 12, 2023 - 11:00-1:00</b></p> <p><b>Negligence &amp; Administrative Law</b></p>	<p>Thomas et al. v. Board of Education of the City of Hamilton et al (1994) (Ontario Court of Appeal) 20 Ontario Reports (3d)</p> <p>Board of Education of Indian Head School Division No. 19 of Saskatchewan v. Knight [1990] 1 S.C.R. 653, 106</p>
<p><b>CLASS #4</b>  <b>January 19, 2023 - 11:00-1:00</b></p> <p><b>Administrative Law</b></p>	<p>Rochon v. Board of School Trustees Spirit River School Division # 47 [1994] 111 D.L.R. (4th) 452 Alta. C.A.</p> <p>Baker v. Canada (Minister of Citizenship &amp; Immigration) 1999 Carswell Nat 1124  Supreme Court of Canada, 1999  <a href="https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1717/index.do">https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1717/index.do</a></p>
<p><b>CLASS #5</b>  <b>January 26, 2023 - 11:00 – 1:00</b></p> <p><b>Criminal Code of Canada</b></p>	<p>R. Audet [1996] 2 S.C.R. 171  <a href="https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1387/index.do">https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1387/index.do</a></p> <p>R. v. M. (M.R.), [1998] 3 S.C.R. 393  <a href="https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1387/index.do">https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1387/index.do</a></p>
<p><b>CLASS #6 – FULL DAY</b>  <b>February 2, 2023 - 9:00 – 11:00 am</b></p> <p><b>Private Lives- Public Values</b></p> <p><b>Break</b></p> <p><b>Resume - 1:00-3:00 pm</b></p> <p><b>Canadian Charter of Rights and Freedom, (In particular: Sections 1,7, 15,33,29)</b></p> <p><b>REVIEW</b></p>	<p>Casagrande v. Hinton Roman Catholic Separate School District No. 155, 1987 CarswellAlta 89</p> <p>Abbotsford School District 34 v. Shewan 1986 CarswellBC 272  British Columbia Supreme Court (Trial), 1986</p> <p>Abbotsford School District 34 v. Shewan 1987 CarswellBC 413  British Columbia Court of Appeal, 1987</p> <p>Trinity Western University v. College of Teachers [2001] 1 S.C.R. 772, 2001 SCC 31  <a href="https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1867/index.do">https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1867/index.do</a></p> <p>Constitutional Law  Tort Law: Negligence, Administrative Law  The Canadian Charter of Rights and Freedoms</p>
<p><b>February 9, 2023</b>  <b>Oral Exams</b></p>	<p>Instructor</p>
<p><b>February 16, 2023</b>  <b>Oral Exams</b></p>	<p>Instructor</p>

Evaluation (See Appendixes A, B, C & D)

This course has three points of assessment:

1. Participation (25%) - The efficacy of this course relies heavily upon student participation. It is therefore crucial that everyone reads the material before class in order to fully participate in the discussion. Students (in groups) will be assigned cases to present in classes.
2. Legal Briefs presented by each group (25%)
3. Oral Examination (50%)

**Appendix "A"**

**Seminar Participation (Assessment 25 %)**

Students are expected to have read and have given thought to the assigned cases before class. As this program is based on a seminar graduate class format, students will be expected to be actively involved as participants.

Assessment Criteria:

- (1) Evidence of having read the material for the classes;
- (2) Evidence of having given thoughtful, positive critical analysis of the materials;
- (3) Active participation in the discussion on the presentations.

**Appendix "B"**

**Case Brief (Assessment 25 %)**

A written legal brief of the case of no more than four pages (1000 words) will be provided to the class. A copy will be placed into the appropriate Google folder and also e-mailed to the instructor the night before the day of group presentation. The legal brief will contain the following.

- (a) The issues for determination.
- (b) The relevant facts.
- (c) The substance of the arguments.
- (d) The resolution.
- (e) The significance of the case to the institution of education.

Assessment Criteria:

- (1) Clarity of expression in presentation.
- (2) Succinctness of presentation.
- (3) Clear and logical analysis of the case or article presented.
- (4) Application of the presentation to problems to the institution of education.
- (5) Overall organization of material.
- (6) Presentation - Grammar, form & style, using A.P.A. format.

**Appendix "C"**  
**Oral Examination (Assessment 50 %)**

At the end of the course, a 30-minute open book oral examination will be given to each student.

**Appendix "D"**  
**Grades**

Upon successful completion of the assignments a certificate of completion will be provided to participants.

ASBOA members may use this certificate to meet the Education Law requirements when applying for the Certified School Business Official designation.

**NOTE: The recording of teleconference sessions is prohibited for privacy reasons. Participants should ensure that they are in a private location when participating in the teleconference sessions. This course may not be attended or listened into by others unless properly registered. These restrictions have been put into place to ensure a safe space for registered participants to engage in open dialogue with the instructor and other participants.**

Rules of Engagement:

- Please allow everyone an opportunity to participate in the conversation.
- Feel free to ask questions, share ideas, perspectives, experiences.
- Please remember to mute your microphone when you are not speaking.
- If you must be absent from a class, please let the instructor know in order that an arrangement can be made to bring you up to date on the materials.

## References

[Please note that students should seek access from public libraries on-line and when they are unable to access a particular article, they should contact the instructor.]

1. Bob Jones University v. United States (1983), 461 (U.S.S.C.). Retrieved August 31, 2004, from <http://laws.findlaw.com/us/461/574.html>
2. *Canadian Charter of Rights and Freedoms*, Part I of the Constitution Act, 1982, being Schedule B to the *Canada Act 1982 (U.K.)*, 1982, Chapter II. Retrieved March 01, 2007, from <http://laws-lois.justice.gc.ca/eng/const/page-15.html>
3. *Canadian Human Rights Act*. S.C. , 1985, c. H-6. Retrieved March 01, 2007, from <http://laws-lois.justice.gc.ca/eng/acts/h-6/>
4. Criminal Code, [R.S. 1985, c. C-46] Retrieved March 01, 2007, from <http://www.canlii.org/ca/sta/c-46/>
5. Donlevy, J. K. (2005). Value Pluralism and Negative Freedom: The Surrey and Trinity Cases. *McGill Journal of Education* 39 (3) pp. 305-325.
6. Walker K. W. & Donlevy, J.K. (2006) Beyond Relativism to Ethical Decision-Making. *Journal of School Leadership*. Vol. 16, No. 3.
7. Etzioni, A. (1996) *Community and morality in a democratic society*. New York, Basic Books.
8. Fulmer, J. (2002). Dismissing the immoral teacher for conduct outside the workplace – Do current laws protect the interests of both school authorities and teachers? *Journal of Law and Education*. Vol. 31, No.3, p. 271.
9. Galston, W.A. (1999). Value pluralism and liberal political theory. *American political Science Review*, 12/1/1999
10. MacKay, A.W., & Sutherland, L. (2006). *Teachers and the Law*. Emond Montgomery Publications Limited: Toronto. ISBN 1-55239-200-7.
11. Publication Manual APA (Latest Edition - See: <http://www.apastyle.org/>)