

LAW 104 - LAW LEGISLATION AND POLICY (SECTION A01) FALL 2011 [CRN 12707]

PROFESSOR CHERYL CRANE

COURSE DESCRIPTION

*"When I use a word," Humpty Dumpty said, in a rather scornful tone, "it means just what I choose it to mean – neither more nor less." "The question is," said Alice, "whether you can make words mean so many different things." "The question is," said Humpty Dumpty, "which is to be master – that's all." Lewis Carroll, *Alice's Adventures in Wonderland*, (1865), cited in *The Columbia World of Quotations*. 1996*

*All meanings, we know, depend on the key of interpretation. George Eliot (Mary Anne Evans) *Daniel Deronda*, (1876), cited in *The Columbia World of Quotations*. 1996.*

*In the beginning, Judges created the Literal Rule of Construction. And the Rule was without form, and void, and darkness spread across the face of the law. And the Judges said, "let there be contextual and purposive interpretation," and new theories of construction were created. The Judges looked upon the interpretive doctrines they had fashioned and were pleased with what they saw. The rest of us were absolutely baffled." Randall Graham, *Statutory Interpretation: Theory and Practice* (Toronto: Edmond Montgomery, 2001) at p. 1.*

COURSE INFORMATION AND OBJECTIVES

UNIT VALUE:	1.5 units
TERM OFFERED	Fall 2011 (course ends in December with a final exam)
CLASSES PER WEEK	Tuesdays and Thursdays 11:00 to 12:30 p.m.* *Classes will normally be 1.5 hours. However, some classes will be extended to 2 hours. These classes will commence at 10:30 a.m. See note below.
LOCATION:	Room 142
INSTRUCTOR	Cheryl Crane, Room 228 Telephone: 853-3167 Email: mcrane@uvic.ca

EXTENDED CLASSES

Students are advised that, at the discretion of the professor, several LLP classes during the term will meet for 2 hours rather than 1.5 hours in order to meet the University's and the Faculty's requirements regarding the number of class hours. At least one week's advance notice of the date of an extended class will normally be provided. Extended classes will run from 10:30 to 12:30 p.m.

COURSE WEBSITE AND CLASS LIST-SERVE

Everyone enrolled in the class is automatically subscribed to a Moodle course website (<http://moodle.uvic.ca/>) which all students must be able to access and use. The website will be used to post class handouts, overheads, additional course readings, announcements, etc. Students who have concerns about using the website, or difficulties accessing it, must contact me immediately to discuss the matter and to make alternate arrangements if necessary.

A list-serve for the course will also be used, as needed, to provide notices and updates.

MAJOR EDUCATIONAL GOALS/COURSE OBJECTIVES

This course seeks to accomplish the following objectives:

- (1) to familiarize students with the processes by which legislation (both primary and subordinate) is developed and enacted;
- (2) to equip students with an ability to analyze and interpret legislative materials;
- (3) to examine and be able to use the various interpretive approaches and tools concerning statutory interpretation that have been developed at common law and by statute; and
- (4) to consider the roles of, and interplay between, the legislature, the judiciary, and others who administer and interpret legislation, in giving meaning to legislative language.

SUBJECT MATTER TO BE COVERED

The course covers three main subject areas:

- a. The Legislative Process
- b. Statutory Interpretation
- c. Subordinate Legislation

a. Legislative Process

The first portion of the course provides a brief overview of the process by which statutes are enacted at the federal and provincial levels.

b. Statutory Interpretation

This component, which forms the bulk of the course, concerns theories of interpretation and the variety of approaches, techniques, rules, and conventions that are employed in the interpretation of legislation. Development of the knowledge and skills necessary to read and interpret legislative texts effectively, and to frame cogent and persuasive arguments about how legislative language should be understood in a given context, is emphasized. Judicial approaches to the task of statutory interpretation are examined, as well as the role of the *Interpretations Acts* of British Columbia and Canada.

c. Subordinate Legislation

The final section of the course deals with the origin and types of subordinate legislation, the legal requirements relating to such legislation, and the means by which this type of law can be controlled, including, primarily, control through judicial review.

REQUIRED MATERIALS

Law 104 Law Legislation and Policy Coursebook, Fall 2011 (Crane, Deckha, Kodar, and Richards) [the “LLP Coursebook”]

Beverly Nash, *Legislation Made Easy*, 3rd ed., B.C. Government Publications Service, 2010 [“Nash Booklet”]

Such other cases, articles or materials as may be assigned from time to time.

OTHER RESOURCES (The following books are on Reserve in the Law Library. You will also find links to various relevant websites posted on the Moodle course website.)

Pierre-André Côté, *The Interpretation of Legislation in Canada* (3rd. ed.), (Scarborough Ont.: Carswell, 2000)

R.N. Graham, *Statutory Interpretation: Theory & Practice*, (Toronto: Emond Montgomery Publications, 2001)

Ruth Sullivan, *Sullivan on the Construction of Statutes*, 5th ed. (Markham, Ont.: LexisNexis, 2008)

Ruth Sullivan, *Statutory Interpretation*, 2nd ed. (Toronto: Irwin Law, 2007). Electronic copy accessible online at <http://site.ebrary.com/lib/uvic/docDetail.action?docID=10200634>.

METHODOLOGY

Methodology will include lectures, classroom and group discussion, and problem analysis.

Students are expected to attend all classes, to have read assigned materials before class, and to be prepared to engage in discussions of them.

EVALUATION

Evaluation will consist of two components **both of which are mandatory**:

(1) A **mid-term, open book examination on Friday October 28, 2011 that will be worth 30% of the final grade in the course, if the mid-term exam is higher than the grade on the final exam.** (If the grade on the final exam is higher than the mid-term grade, the mid-term grade will not count towards the final grade.) Mid-term code names will be used in writing this exam. (you must obtain your code name from the main office **before** the exam.)

(2) A **final open book examination on Monday, December 5, 2011, worth either 70% or 100%** (depending on whether or not the mid-term exam counts). Final code-names will be used for the final exam. (You must obtain your code name from the main office before the exam.)

GRADING

The Faculty's grading system will be used to translate final numerical grades to letter grades. The chart below describes the grading system, including the relevant equivalencies between numerical and letter grades:

Letter Grade	Grade Point Value	Percentage Value	Narrative Description	
A+	9	90-100%	Exceptional	Grades in this range are normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
A	8	85-89%	Outstanding	
A-	7	80-84%	Excellent	
B+	6	75-79%	Very Good	Grades in this range are normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or excellent grasp in one area balanced with satisfactory grasp in the other area.
B	5	70-74%	Good	
B-	4	65-69%	Solid	
C+	3	60-64%	Satisfactory	These grades indicate a satisfactory performance and knowledge of subject matter.
C	2	55-59%	Minimally Satisfactory	
D	1	50-54%	Marginal	A student receiving this grade demonstrates a superficial grasp of subject matter.
F	0	49 and below	Unsatisfactory	Unsatisfactory performance.

CLASSROOM CLIMATE

The University of Victoria and the Faculty of Law are committed to promoting, providing and protecting a positive, supportive and safe learning and working environment for all its members. As an instructor, my goal is to establish an inclusive, respectful, and diverse classroom environment in which all class members feel welcomed and equally able to contribute to class discussions. If concerns arise about the climate of the class, please feel free to discuss them with me or with Associate Dean Heather Raven (lawassoc@uvic.ca).

Students using laptop computers are asked to extend to me and to your fellow students the courtesy of not displaying on your laptops during class time material that is not related to the class.

Without my express prior permission, laptops or other devices may not be used to tape or otherwise record a class, or any portion thereof.

ILLNESS, DISABILITY, FAMILY CIRCUMSTANCES, AND RELIGIOUS OBSERVANCE ACCOMMODATION

The Faculty of Law provides reasonable accommodation to students on the basis of factors such as illness, disability, family circumstances, family or personal emergencies or affliction, or other similar special needs, when such factors interfere with the ability of a student to attend and participate, or to complete assignments or examinations on the regularly scheduled dates, or in other circumstances.

Accommodation to enable religious observance is also provided in accordance with University policy (see <http://web.uvic.ca/calendar2011/GI/GUPo.html>). Students should feel free to consult me or the Associate Dean of Academic and Student Relations Heather Raven (lawassoc@uvic.ca) regarding such matters.

ACADEMIC INTEGRITY

As part of the academic community of both the Faculty of Law and the University as a whole, academic integrity is centrally important in the work of faculty and students. Please consult the University Calendar for policies respecting paraphrasing, plagiarism, and cheating. The relevant policy can be found here: <http://web.uvic.ca/calendar2011/FACS/UnIn/UARe/PoAcl.html>. If you have any concerns or questions, or require clarification, do not hesitate to drop by my office or to send me an e-mail. You may also, of course, consult Associate Dean Raven (lawassoc@uvic.ca) regarding such matters.

OTHER FACULTY REGULATIONS AND POLICIES

Students should also ensure that they are familiar with all regulations and policies pertaining to their status as students. The University's regulations and policies for undergraduates appear in the University Calendar at: <http://web.uvic.ca/calendar2011/FACS/UnIn/UARe/index.html>.

The academic regulations of the Faculty of Law are included in the University Calendar at <http://web.uvic.ca/calendar2011/FACS/FoLa/FARe.html> and are also posted on the Faculty of Law website at: http://law.uvic.ca/current/academic_regs.php

More detailed information about Faculty policies and practices regarding various matters related to students, including examinations and grades, can be found on the Associate Dean's Page on the Faculty of Law website at: <http://law.uvic.ca/current/associatedean.php>. You are strongly encouraged to familiarize yourself with this information.